

City of Boiling Spring Lakes
Minutes
Board of Commissioners Regular Meeting
April 5, 2011
City Hall - 6:30 p.m.

1. Call to Order – Mayor White called the meeting to order at 6:30 p.m. and asked Terry Stilwell to lead the Pledge of Allegiance.

2. Attendance: In attendance were Mayor White, Commissioners Caster, Kinney, Troscianiec and Carroll, City Manager David Lewis, City Clerk Linda Merry and UDO Administrator Becky Cummings.

3. Approval of Monthly Agenda

A motion was made by Commissioner Caster and seconded by Commissioner Carroll to approve the monthly agenda with the following changes:

Remove 14(b), Twin Lakes Drive directional signs

Move 13(a) Hazard Mitigation Plan Resolution to immediately after approval of the minutes

Vote: 5-0

4. Public Hearing - Brunswick County Hazard Mitigation Plan

A motion was made by Commissioner Carroll and seconded by Commissioner Caster to open the public hearing for the Brunswick County Hazard Mitigation Plan

Vote: 5-0

Kirstie Dixon of the Brunswick County Planning Department explained that the Hazard Mitigation Plan is required by N. C. Emergency Management in order to receive FEMA funds after a disaster. After the City passes the resolution to adopt the plan, the plan will go to the County Board of Commissioners for final approval.

There were no public comments.

A motion was made by Commissioner Carroll and seconded by Commissioner Caster to close the public hearing for the Brunswick County Hazard Mitigation Plan

Vote: 5-0

5. Public Hearing - UDO Amendments for Vending Machines

A motion was made by Commissioner Carroll and seconded by Commissioner Caster to open the public hearing for UDO amendments for outdoor vending machines

Vote: 5-0

Public Comments:

Commissioner Carroll presented pictures of the ice machine which prompted the proposed amendments to the UDO. He believes the recommended landscaping regulations are too restrictive and expressed his wish to be "business friendly".

Art Williams - The ice machine in question looks fine. The area is neat and clean, and we don't need to regulate. The ice machine is an asset to the City.

Elva Jess, City Attorney suggested that skirting around the unit would solve the issue.

Rick Murdaugh - Skirting would bring rodents. Lattice would be a better solution.

David Giera - Skirting would only be required on the front side of the unit. The Planning Board was concerned that the plumbing and electrical parts could be seen underneath the unit.

Commissioner Troscianiec - We need to be business friendly, but we should consider following the recommendations of the Planning Board. We might be setting ourselves up for problems down the road.

A motion was made by Commissioner Carroll and seconded by Commissioner Caster to close the public hearing regarding UDO amendments for outdoor vending machines

Vote: 5-0

6. Public Comments

Barbara Glidden, 402 North Shore Drive - The water system was approved by the citizens. The excess money was for maintenance and upgrades and should be returned to the people.

Gerri Sovak, 443 South Shore Drive, wanted to know how many parcels are owed money, how many multiple lot owners existed, how many people had moved, and how many people had been located. She explained that she knew a way to find people for free and offered her services to locate refund recipients.

7. Rick Rygg - 267 Holly Drive Flooding Issues - Mr. Rygg presented a map and pictures to the Board, explaining flooding problems at his home. He explained that water flows to his property from Crabapple and Juniper roads, due to two planned drainage areas between Walnut and Holly and between Holly and Crabapple that were never installed. He was not sure if this was the responsibility of Reeves Telecom or the City.

He asked for the City's help in solving his flooding problems. He suggested an engineering study to determine how the water could be diverted either to a large pump or to the lake.

8. George Ball - Mr. Ball did not attend the meeting.

9. Charles Bunten - Request to add North and South Directional Signs back to Twin Lakes Drive - Mr. Bunten did not attend the meeting.

10. Approval of Minutes – February 26 Retreat, March 1 Regular Meeting

A **motion** was made by Commissioner Carroll and seconded by Commissioner Kinney to approve the minutes from the February 26 Retreat

Vote: 5-0

A **motion** was made by Commissioner Kinney and seconded by Commissioner Carroll to approve the minutes from the March 1 Regular meeting.

Discussion: The Mayor asked for the minutes to be amended to include that he had asked for Board input regarding the formation of the Committee to Protect the Integrity of the Water Fund.

Commissioner Troscianiec commented that the Mayor had not asked for Board input.

Commissioner Carroll made a motion to approve the minutes as amended by Mayor White. There was no second.

A **motion** was made by Commissioner Kinney and seconded by Commissioner Troscianiec to approve the minutes from the March 1 Regular meeting as written

Vote: 3-2 (Mayor White and Commissioner Carroll opposed)

11. Resolution to Adopt the Brunswick County Hazard Mitigation Plan

Commissioner Kinney found several errors in the plan that needed correction. The plan refers to the recycling area at the Community Center and to the City's Water Department, and both are no longer in existence.

A **motion** was made by Commissioner Kinney and seconded by Commissioner Carroll to approve the Resolution to Adopt the Brunswick County Hazard Mitigation Plan with the following exceptions:

- a) Under BSL P-15, change status to "on-going", remove information referring to the recycling area
- b) Under BSL P-22, change the Responsible Party to Brunswick County Water Department, and change the Funding Source to Brunswick County

Vote: 5-0

12. Consent Agenda

- a. Budget Amendments
- b. Department Reports
 - 1. Tax
 - 2. Public Works
 - 3. Public Safety
 - 4. Building Inspections/Code Enforcement
 - 5. Parks and Recreation
 - 6. Buildings & Grounds
 - 7. Planning Department

A motion was made by Commissioner Kinney and seconded by Commissioner Carroll to approve the Consent Agenda

Vote: 5-0

13. Committee Reports

- a. Community Appearance Commission - Ann Hollingsworth reported that they are working on the calendar and should have figures for the Board next month.
- b. Planning Board - David Giera reported that the Planning Board is working on the Long Range Plan and also plans to discuss Economic Development at a workshop planned for June.
- c. Parks and Recreation Advisory Board - Barbara Glidden reported that the Parks and Recreation Advisory Board had voted to recommend to the Board of Commissioners to change their meeting time to 6:30 p.m. They have also been discussing participation in Founders Day.
- d. Special Events - Mary Stilwell reported that the Bike Run was a big success, with seventy-one motorcycles participating. Founders Day plans are coming together. Thirty-six vendors have already signed up to participate.
- e. Library Committee - Audrey Carathanasis had nothing new to report.
- f. Preserve Advisory Committee - Commissioner Kinney reported that the next meeting will be held on April 14.
- g. ABC Board - There was no report.

14. Unfinished Business

a. Approval of UDO Amendments for Outdoor Vending Machines

A motion was made by Commissioner Carroll and seconded by Commissioner Caster to approve recommended amendments to the UDO for outdoor vending machines with the following changes:

Section 6.47.4 Standards

(g) The foundation of each unit shall be screened by skirting, lattice or plantings and landscaping, if the unit or units are stand alone and/or the primary use of the property

Section 6.47.6 Landscaping

(a) Where a self-service ice vending unit or other similar use is proposed as an accessory to an existing business location, that has an approved site plan on record with the UDO Administrator, either lattice or landscaping shall be provided around the foundation of the unit. If the landscaping option is chosen, the plantings shall be at a rate of one planter or pot per three feet in all areas visible from the public right of way. Requirements of UDO Article 9, Landscaping, Buffering, Screening and Tree Protection shall apply.

Vote: 5-0

b. Water Assessment Refunds

Resolution Required for Legislation - David Lewis

Mr. Lewis reported that Representative Starnes, Chairman of the Finance Committee for the State Legislature, would not allow the water refund legislation to move beyond committee, without a resolution from the Board of Commissioners that included a specific date for the end of the water refund process. Mr. Lewis recommended June 30, 2012 as a realistic date for the work to be completed.

A motion was made by Commissioner Carroll and seconded by Commissioner Caster to approve the resolution to be sent to the state legislature, setting a completion date of June 30, 2012 for the water assessment refund process

Vote: 5-0

Commissioner Troscianiec - Formal Vote to Refund Unused Water Assessments

Commissioner Troscianiec reported that the Board had never voted to refund the unused water assessments, only to seek legislation that would allow a refund.

A motion was made by Commissioner Troscianiec and seconded by Commissioner Carroll for the Board to adopt a policy to refund to Phase 1 and Phase 2 customers, unused water assessments less expenses incurred to process the refunds. The motion was amended by Commissioner Troscianiec and seconded by Commissioner Carroll to add that specific expenses to be deducted would be determined by the Board of Commissioners at a later date.

Vote: 5-0

Discussion:

There was a long discussion about the expenses that should be charged to the water assessment refund project.

Commissioner Carroll suggested that postage and the cost of checks should be charged to the project, but not staff time of any current staff, unless there was overtime involved.

Commissioner Caster suggested that all attorney fees related to the refund issue should be deducted from the water fund. He added that assessments collected after the project was complete should go to the General Fund.

Commissioner Kinney suggested that all staff time allocated to the project should be charged to the project.

Commissioner Troscianiec was concerned that taxpayers not entitled to a refund, or not included in the water system would be paying for expenses of the refund project.

Commissioner Carroll commented that one employee used 436 sick hours last year, so there must be adequate staff to do the work.

Mayor White commented that the money is owed to the people and there is adequate staff to complete the project. The money should be returned to the people in whole, not in part.

Clarification of Board Expectations - David Lewis

The City Manager explained that there are thirty boxes of check copies and receipts that must be verified. There have been two part time people working on the project, along with members of City Hall staff when available. The first box of check copies required 300 hours of labor. He reported that additional staff would be needed to complete the project.

As the refund process has progressed, staff has encountered several issues that will need to be addressed, such as who would receive the refund in cases of death, divorce, multiple payers, and assessments paid at real estate closings through attorney trust accounts.

The City Manager added that the auditor, Mr. Wayne Berry, would need to be hired to determine the refund amount.

The City Attorney explained that there must be a good faith effort by the City to locate all individuals eligible for a refund. This will include searching for heirs in cases where the person who paid is deceased.

The City Attorney suggested that the Board, with input from the City Manager and Mr. Berry, calculate a reasonable amount to be deducted for project costs and then calculate a refund amount.

Commissioner Carroll suggested a workshop. The Board will set a workshop date at the May meeting.

**Committee to Protect the Integrity of the Water Fund -
Commissioner Kinney**

A motion was made by Commissioner Kinney and seconded by Commissioner Troscianiec to disband the Committee to Protect the Integrity of the Water Fund

Vote: 3-2 (Mayor White and Commissioner Carroll opposed)

Discussion:

Commissioner Kinney explained that the Committee was not consistent with the City's Ordinances and exceeded the Mayor's authority. Mayor White did not seek required direction from the Board to appoint the Committee. She added that the Committee undermines the integrity of city staff. Under the direction of our competent City Manager, staff will complete the task assigned with pride, efficiency and in good faith to the citizens.

Commissioner Caster commented that City staff does not need people looking over their shoulders and he was not aware of any instance where staff had to answer to a committee. He added that the Board had just voted to approve the expenses to be charged to the project.

The Mayor commented that he had appointed three competent citizens to approve the expenditures, and now the Board is considering hiring an auditor.

Commissioner Carroll commented that he had no problem with citizen oversight and supported the committee. He did not consider the committee to be a slap to the City Manager and City Hall staff.

Commissioner Troscianiec commented that formation of the committee suggested that city staff might mismanage funds. He referred to the instructions to the committee to verify spending funds for a postage stamp.

Mayor White commented that he formed the committee because Commissioner Troscianiec had estimated it would cost \$ 61,000 to hire additional staff to process the refunds. He felt that citizen oversight was necessary, and added that the citizens did not have any input into the new city hall building.

Commissioner Troscianiec commented that city staff did not vote to build the new city hall.

The Mayor commented that Gerri Sovak had offered to help with the refund project.

Commissioner Kinney replied that she had also offered to help, but only City staff can legally view confidential customer information.

c. City Assistance to Flooding Victims - Commissioner Troscianiec

Commissioner Troscianiec expressed his concern that flooding issues in the area of Souchak Road and Trevino Road had not received proper consideration. The ditches in that area drain water directly into people's yards. He suggested that the City should make efforts to ensure that the grades of the drainage ditches are correct.

The City Attorney reminded the Board that the City cannot go onto private property.

A motion was made by Commissioner Troscianiec and seconded by Commissioner Carroll for the City to commit resources to ensure that city maintained drainage ditches are flowing properly. The motion was later amended by Commissioner Troscianiec and the amendment was seconded by Commissioner Carroll to determine the amount of resources to be committed to this effort during budget discussions.

Vote: 5-0

d. Sewer Update – David Lewis reported that there was no meeting in March.

e. Finance Report – David Lewis reported that the City will receive \$ 10,200 additional Powell Bill funding this year. He also reported that Summer Camp is completely filled after April 2nd registration.

f. Spillway Project Update - Barbara Glidden reported that Mayor White had applied to the offices of Senator Burr and Senator Hagan for consideration of possible grant funding for the spillway project.

15. New Business

a. Approval of changes to Ordinance for Parks and Recreation Board

A motion was made by Commissioner Carroll and seconded by Commissioner Caster to approve changes to Section 2-113.1, changing the Parks and Recreation Advisory Board meetings to the third Wednesday of each month at 6:30 p.m. at City Hall

Vote: 5-0

b. Ordinance Review for Committees

A motion was made by Commissioner Kinney and seconded by Commissioner Carroll to ask the City Manager to review the meeting requirements for all committees and to recommend ordinance changes that would make meeting requirements more general, eliminating the need for ordinance changes.

Vote: 5-0

c. Publication of Entire Agenda Package Online - Commissioner Carroll

Commissioner Carroll would like for the City to publish the entire agenda package on the City's website.

The City Manager explained that this would involve new software and costs to update the website.

Commissioner Caster suggested that this issue be considered as part of the budget workshops.

15. Adjourn

A motion was made by Commissioner Caster and seconded by Commissioner Kinney to adjourn the meeting

Vote: 5-0

Linda Merry, CMC, City Clerk

Richard White, Mayor