



City of Boiling Spring Lakes
Board of Commissioners Regular Meeting Minutes
October 1, 2013
City Hall – 6:30 PM

PLEASE TURN OFF CELL PHONES

1. Call to Order

The Mayor called the meeting to order at 6:30pm and asked George Ball to lead the Pledge of Allegiance.

2. Attendance: In attendance at the meeting were:

Mayor Richard White
Commissioner Mike Forte
Commissioner Barbara Glidden
Commissioner Craig Caster
City Manager Jeff Repp
City Clerk Jane McMinn

Not in attendance: Commissioner Charlie Carroll and Jim Nichols

- 3.** Mayor White requested Chief Shirley to introduce the new members of the Police Department
Chief Shirley ~ introduced Sam Alberti and Windy Wuchae as the newest members of the BSL Police Department. Sam has 2.5 years of experience and is a veteran of the US Navy, married with 3 children. Wendy comes with 1.5 years of experience in law enforcement and is currently working full-time at Brunswick Community College and will be working with the Police Department in Boiling Spring Lakes on a part-time basis.

4. Approval of Regular Agenda

Mayor White requested that item 12 on the agenda, annual performance evaluation of the City Manager be postponed due to the fact that Commissioner Carroll was not present. Mayor White requested to add to the agenda to look at ways to market the commercial corridor and appoint a committee as he mentioned at the last meeting. That could be added as 11 - f.

Motion to accept the agenda was made by Commissioner Caster and seconded by Commissioner Forte.

Vote ~ 4 ~ 0

5. Presentation: ABC Board Chairman George Ball ~ Annual Report

Our annual budget report under the direction of myself and our board members, Don Beckley who is Vice President, Donna Baxter is Secretary/Treasurer and Cheryl Riker our General Manager. We have made significant progress with the help of the City, staff and of course our citizens. As you recall there was significant damage done to the store in February 2012 which resulted in the store closing due to the extent of the damage. With the help of many people the Police Department, the Fire Department, employees, City Manager and contractors, we were able to open 2 months ahead of schedule in July 2012. We thought it would take a little longer to start to generate a profit, but as it turned out we generated a profit and we are able to give a check to the City. We also have the financial report for public record. There has been in-house customer service training lead by Cheryl Riker and our staff has done a wonderful job in the area of service.

In July 2011 we had a gross sale of \$39,000, the following year after the accident/fire we had a sale of \$41,000, but in July 2013 we had gross sales of \$57,000. The store has really increased the sales, when that happens there is more money for the State and more money for the City.

Mr. Ball then presented the Board the Annual Report and a check for \$864 to the City.

6. Public Comments: [Comment is limited to 3 minutes per speaker]

Jane Falor ~

Mrs. Falor stated that she has lived here for over 30 years and feels that the current lake level is something we should live with. Mrs. Falor commented that her bulkhead has been in place for most of 30 years and stated that the only time she did not have water up to her bulkhead was during a drought and after Larry Modlin started altering the discharge pipe in 2007. I feel it is time for the City to take a look at the flooding area and determine if the flooding is caused by poor engineering. Leave the elbow at its current level and let a qualified engineer review and make the recommendation. Leave the water level alone.

Ed Wilkie ~ 142 Pike Rd.

Mr. Wilkie stated that he was here to speak on behalf of the Spring Lake Home Owners Association. I am aware that Counsel cannot speak regarding the issue of Spring Lake because it is a legal matter. You have all received a copy of the letter today from the Eldridge Law Firm and Boiling Spring Lakes will be sued over the elbow on the Lake. I passed information to the Board regarding Inverse Condemnation. To clarify – Inverse Condemnation is when an entity takes your property without condemning it and not paying you for that property. The Town has raised the Lake level. You have taken my property and I cannot use it because it is under water. Now some people think that I have a permit to build a sea wall. I don't have a sea wall and I don't give a dam if you have a bushel basket full of permits, I do not have a sea wall and my property is under water. Here is the letter from the lawyer which you all have a copy of and the information I just furnished you where you have condemned my property and not paid me for it. The other homeowners have got the same problem. The rules in Boiling Spring Lakes states that a house has to be 50' from the Lake. Their house is not 50' from the Lake now because

you raised the Lake level. Mr. Wilkie asked the Board if they were going to buy his property because if they do they are buying lake front property. That means my property is lake view property. There is a big difference in the price. Mr. Wilkie again asked the Board if they were going to buy his property, are you going to take that elbow off and let everyone go back to being normal folks on Spring Lake. That is what you have to decide. It is not to be decided tomorrow or next week, it is to be decided now.

Marie Ramos ~ 125 Ash Rd.

Mrs. Ramos stated that she is strongly against lowering the lake. There was never any talk about lowering the Lake. Now that is all you hear. Mrs. Ramos commented that it is not her fault that people have built their homes to close to the water. When I moved here I had water behind my house, now all I have is stagnant water, which does not flow. I am strongly against lowering the Lake.

Ruthye Devlin ~ 137 Ash Rd.

Ms. Devlin stated she wants the Lake to stay where it is today. If you lower the water, it will kill the Picture Plants that are in danger. Our house is one of the only homes that still has the Picture Plants. Please leave the Lake where it is.

Mary Stilwell ~ 350 E. Boiling Springs Rd.

Mrs. Stilwell wanted to extend an invitation to the City of Boiling Spring Lakes to come out Thursday night to the Brunswick County Republican Headquarters to listen to your candidates. As Vice President of the Brunswick County Republican Woman it is a program that we have started this year and I am in charge of programs, and we have decided it is time to recognize our municipal candidates so we will ask each one of the candidates in all of the cities in the County to come out Thursday night and say a few words. Everyone is welcome. You may bring your friends and neighbors and anyone you know. There is a brief meeting at 6:30 and the speakers will start at 7:00pm.

Nancy Crawford ~ 241 Ash Rd.

Mrs. Crawford read from a statement ~ Currently the water level of Spring Lake is 2" below the level that was agreed upon on July 2nd and 4.5" below the August 6th level which is when the Board approved to lower the level 3". I feel the current level is something we should live with. Please take into consideration that our end of the Lake is only 2 to 3" deep and any reduction in the Lake level has a higher impact on us than in other areas. One indication the Lake is near normal level is the natural springs in the Lake seem to be flowing again. There has not been significant rainfall this month. Ditches have dried up, but water continues to be released from the outfall pipe. Mrs. Crawford questioned where that water was coming from. She mentioned that it has to be coming from somewhere. She stated that she believes that the lake level has some impact on the natural springs functioning properly. I ask that we leave the elbow at the current level. I also ask that we let a qualified engineer review and make recommendations on the water flow in and out of the Lake which also includes rain collection and drainage issues. I ask that the Board review the areas that are alleged to be flooded and determine if they are man-made issues.

Audrey Carathanasis ~ 1281 Spring Lake Dr.

Mrs. Carathanasis stated that she disagrees with Mrs. Crawford that people would flood their own property. The Lake is too high. I would like to ask the Commissioners and Jeff Repp the City Manager a question. You had an engineer come out and look at Redwood and Crabapple. Why didn't you have him look at Spring Lake as long as he was out here and give his evaluation? You could have killed two birds with one stone. Now I would like an answer to that question. Mrs. Carathanasis stated...no one knows the answer.

7. Approval of Minutes:

A **motion** was made to approve the September 3, 2013 minutes by Commissioner Caster and seconded by Commissioner Glidden.

Vote ~ 4 ~ 0

8. Consent Agenda

A **motion** was made to approve the Consent Agenda by Commissioner Caster and seconded by Commissioner Forte.

Vote ~ 4 ~ 0

9. Committee/Board Reports and Minutes

a. Community Appearance Committee

Ann Hollingsworth stated that the Committee has improved their welcome package by calling on our businesses. They have donated items to enhance the packets, we have found a way to reach the pre-owned homes and we will be welcoming them as well. The calendar sales are going well and have properties to recognize for October and many compliments about the blades for the new street signs.

b. Planning Board

Bill Clark stated that they discussed the RV camp site addition to the UDO and will have it ready at the next meeting for review by the Board. It is the opinion of the Planning Board that the Board of Commissioners consider the alternates to move up to open positions on the Planning Board. If you want to become a member of the Planning Board you must first serve as an alternate. The alternate serves the purpose of being able to create a quorum and also learns how the Board operates. It is the unanimous opinion that the Planning Board that we would like to see this happen and we will put this request in writing to the Board of Commissioners.

c. Parks and Recreation Advisory Board

Barbara Glidden stated that she was asked to read the report.

We met last week and we welcomed our new member, Scott LaRocca, we still need one additional member to the Parks & Recreation Committee. The Teen Task Force is progressing meeting with the teenagers. Suzanna Hicks is the

Chairman of that Committee, it has sub-divided a bit. The Board was given an update on the new boat ramp at Big Lake and Schneider's Park equipment. The Parks & Recreation Advisory Board will receive a special training during our November meeting from Steve Moler from the North Carolina Resource Services.

d. **Special Events**

Michelle Hennessey reported that the Bike Ride went well and raised \$520 for the Police Department. We are currently working on the hayride which will be October 19th we have some new scenes this year.

e. **Library Committee**

Marge Pennington reported that there were no new updates at this time. However during the last several weeks the Library Committee and its members' were unaware that a date had been set for a Meet the Candidates Night. We approached Mr. Repp to establish a candidate night in Boiling Spring Lakes and within several hours were informed that the Special Events Committee had already planned it, and I am a little bit concerned that it was not announced tonight. Michelle Hennessey then apologized that she forgot to make that announcement and stated the date for the Candidates night is October 22nd and the 24th at the First Baptist Church from 6:30 to 8:30pm.

f. **Spillway Committee**

Mayor White announced that Bob Brooks was out of town so there would be no report.

10. City Manager's Report and Presentation of Monthly Financial Report – Jeff Repp

City Manager Jeff Repp reported at the end of August the City had on hand \$2,333,082 in cash and investments with the various financial institutions that the City does business with. For the month of August the City received \$123,877 in sales tax revenue combined with what we received in July, we are about 10.4% ahead of schedule of what we would normally have received based on historical averages.

We currently have on the street paving and patching bids for various projects throughout the City. The paving projects are the ones that were approved by the Board at the last meeting, the patching I have distributed to the Board just the number of areas we are going to have patched. Potentially at the workshop we may be call later in the evening, we can schedule a special meeting around that workshop where we can possibly award those two bids at that meeting to get the work started before the November meeting.

During the week of October 21st the Schneider Park Playground equipment is scheduled to be installed. We have gotten a firm delivery date of October 15th so the equipment is scheduled to be installed the week of October 21, 2013.

This last week the phone system became active in the City. We had some minor issue where the old numbers were not available but they will continue to be available going forward. The 845-2614 for City Hall and the number for the Police and Community Center will remain in effect and those calls will just be transferred to our new system so

that our residents will not experience any inconvenience. If they have a certain ATMC plan they may in fact have a charge if they were to call the new number, so this will remove that from happening.

At the last meeting we talked about establishing a workshop to review engineering proposals and discuss some animal control issues that we have had come up since the budget time. Based on our request for qualifications we received 4 proposals from the 5 engineering firms. We have received 4 back. If the Board would like to schedule a workshop later this month we can review those engineering proposals and I will have a recommendation to you later this week with the proposals and we can then select a firm and then ask them for a formal proposal for the work we actually want them to be doing.

City Manager Repp reported on the Sales Tax Distribution Recommendation

The committee met two weeks ago and at the course of that meeting the committee has asked all the municipalities in Brunswick County to forward them their positions on the issues if there should be a change in the distribution of sales tax revenue. Just a little bit of history, there are two methods that the county commissioners have available to them to distribute sales tax revenue that they receive that is collected in Brunswick County, sent to the State and sent back to the municipalities and to the county. One is on a population base. Based on the number of people within your jurisdiction you receive X number of dollars. The other is on the ad valorem tax base which is based on the amount of ad valorem tax that you levy in your community. The current method is based on population, and there had been a request from Bald Head Island for the consideration of changing or modifying the current method that would provide them additional revenue, but at the detriment of other communities losing revenue. If we were to go to a straight ad valorem method, which is available to the Commissioners, that method alone would cost the City of Boiling Spring Lakes about \$800,000 or almost \$900,000 dollars in sales tax revenue that would get redistributed around the County. The Commissioners have to make a decision around the April 1st timeframe if they were to stay with either of those two methods for it to take effect next year. If they choose to go with the hybrid method which has been done in North Carolina in a couple of counties that would require local legislation to be passed through the general assembly which would probably defer the matter until 2015 if not 2016. At this point the committee that has been formed is to recommend to the Commissioners a course of action. In the course of that effort they have asked the municipalities provide to them their feelings on the issue whether nothing should be done, whether there should be a change or whether a hybrid method should be looked at. I placed it on the agenda because they are looking for that information at the end of this month so when they meet in November they can begin working on formulating a recommendation to the Commissioners. In your packet was a series of charts showing the financial effect of either going one way or the other way or some of the hybrid methods. Under all scenarios we lose money, sometimes to the tune of \$900,000 sometimes to the tune of \$500,000. Obviously any change to the method is going to reduce the amount of sales tax revenue we currently receive.

Commissioner Forte stated that he attended the meeting at the County Commissioners Building and Boiling Spring Lakes takes the second biggest hit in the entire County. Leland loses \$1.9 million we lose \$800,000. There is no way we can absorb that without passing it on to the citizens. I think we have no choice. We make a recommendation that

we stay per capita. If it goes to ad valorem we lose the equivalent of our entire Police Department and then some. I believe that a resolution by us should be signed forthwith and sent to the County Commissioner.

11. Old Business

a. Spring Lake

Commissioner Caster commented that since our September meeting there has been numerous complaints about the lake level at Spring Lake. This is something that the Board of Commissioners created back in July by raising the water level and numerous homeowners feel that it is too high and it should be lowered, so at this time I would like to make a motion to remove the elbow in Spring Lake and restore the Lake back to its original level.

Commissioner Glidden asked by removing the elbow where would that bring the water level. City Manager Repp stated that it would be back to the pre-July level which was when the Board originally made the decision to raise it. So it would be another 5.5" reduced from where it is right now.

Commissioner Glidden stated that when the Board voted at the July 2nd meeting everyone was happy with the water level. City Manager Repp commented that it ended up being at the 8.5" level. Commissioner Glidden then responded that we had rain after it so if we take the elbow off we will be going back to the pre-July level.

Commissioner Forte stated that logic would dictate that up to and including June of this year there were zero complaints about the Lake and the water level. We then made a rash decision to raise the water level over the complaints of just a couple of people and we over shot our mark considerably. We lowered the water 3" and we have not had rain in 2 months. We have had less than 1 inch of rain in 2 months and some of these homeowners are still under water. It just seems logical to me to go back to where we were in June when no one was flooded, no one's property was damaged. Get the engineer in and decide what the safe level is to raise it without flooding people. I am in total agreement that an engineering study should be done, but let's do it from the level where we were in June when no one was under water.

Commissioner Glidden asked the City Manager if the letter that was received puts a different light on things.

City Manager Repp replied there will be a request for information based on the letter. There are some allegations in the letter that I am not aware of and hopefully we will have more information and I can probably answer your questions better then. Based on the letter itself as it is written today I don't really have anything to add.

Mayor White has stated that he has received complaints for over 1.5 years about the water level and I have sent them to the City Manager.

A **motion** was made by Commissioner Caster to remove the elbow and it was seconded by Commissioner Forte.

Vote ~ 2 ~ 2

Mayor White asked City Manager Repp if he would like to comment on the telephone billing problems. City Manager Repp replied that he covered that in his Town Manager Report about the three local numbers we were planning to cancel, we are not going to cancel now because that would result in some residents being charged for the call.

12. New Business

- a. Mayor White stated that he would like to entertain a motion that we make a resolution on the Sales Tax Distribution

A **motion** was made by Commissioner Glidden for a resolution opposing any change in the tax distribution to the municipalities and seconded by Commissioner Forte.

Vote ~ 4 ~ 0

- b. **Order** ~ Amending the Uniform Development Ordinance by creating Article 15 – Film / Video Taping Guidelines / Requirements

A **motion** was made by Commissioner Glidden to approve the changes and it was seconded by Commissioner Caster

Vote ~ 4 ~ 0

- c. **Order** ~ Amending the Uniform Development Ordinance Article 6, Section 6.51 and Article 6, Section 6.6.1 of the Supplemental Regulations

A **motion** was made by Commissioner Caster to approve the changes and was seconded by Commissioner Forte

Vote ~ 4 ~ 0

Bill Clark stated that by amending the UDO, in Article 15 there is a requirement for the City Attorney to complete the indemnification clause before the Article becomes part of the UDO.

- d. **Resolution** ~ Honoring S. Ellis Hankins

Mayor White read the Resolution to be made a part of the permanent records of the City of Boiling Spring Lakes, which was adopted this the 1st day of October, 2013 by the Board of Commissioners of the City of Boiling Spring Lakes

e. **Retail Business Development Committee**

Mayor White asked the Board if they have any suggestions of local business people to serve on this committee. Commissioner Caster commented that in the past there was a committee that was formed by professional business people to promote business down the main corridor.

Mayor White stated that he has come up with 5 people for the committee and stated that Dale Richardson, Rudy Dixon, Dale Siegfried who owns the BSL Motel, Jeff Repp our City Manager and Steve White who was out of town but City Manager Repp will contact him. Mayor White would like to appointment those 5 people. Mayor White then asked if anyone had any other suggestions and indicated that these 5 people are some of the largest stakeholders in property affected by the sewer line. Commissioner Forte suggested that Joyce Warner who owns a considerable amount of property in the City would also be a good committee member. Mayor White specified these 6 people as the committee members.

A **motion** was made by Commissioner Glidden to approve and seconded by Commissioner Caster.

Vote ~ 4 ~ 0

Commissioner Forte announced that in the back of the room is Ryan Smithwick who is running for District Attorney, he is a personal friend of mine and Commissioner Forte suggested that citizens take a moment to introduce themselves and get to know Mr. Smithwick.

A **motion** was made by Commissioner Caster and seconded by Commissioner Glidden to adjourn the meeting at 7:28pm.

Vote ~ 4 ~ 0

Richard D. White
Mayor

ATTEST:

Jane McMinn
City Clerk

