

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
JULY 11, 2005
7:00 P.M.

Mayor Nancy R. May called the meeting to order and gave invocation.

ATTENDANCE

Members present: Mayor Nancy R. May, Commissioners Max G. Cotten, Clinton E. Bryan, Jr., Gene T. Brooks and Chris Walker. Commissioner Burnice Griffin, Jr. was absent.

Other staff present: Manager David Hughes and Clerk Alice F. Lloyd.

AGENDA APPROVAL

Motion made by Commissioner Bryan seconded by Commissioner Walker to approve the agenda as presented. Vote Aye-4 Nay-0

CONSENT AGENDA

Motion made by Commissioner Walker seconded by Commissioner Bryan to approve the consent agenda.

- Minutes of June 27, 2005 Board of Commissioners regular meeting.
- Schedule a public hearing on July 25, 2005 for a rezoning request by Heath Williamson. The property is parcel number 7850, PIN 9741-87-7618, located at the corner of E. Salisbury Street and Small Street directly north of the Pittsboro Ice and Fuel property. Mr. Williamson is requesting a change in zoning from R-10 to C-2.
- Amend the Sewer Use Ordinance (SUO) by adding section 2.1.1 Grease Removal.
- Approve the North Carolina League of Municipalities Membership Agreement and Resolution. Agreement and Resolution are required for participation in the League's Municipal Insurance Trust which is the health benefits program administered by NCLM. The Town's short term disability policy is the only program currently provided by the MIT.

Vote Aye-4 Nay-0

AN AMENDMENT TO THE SEWER USE ORDINANCE IS RECORDED IN THE BOOK OF ORDINANCES NUMBER ONE, PAGE 98

AGREEMENT/RESOLUTION NCLM AND MIT PROGRAMS IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES 118-133

NONE

OLD BUSINESS

WATER/WASTEWATER AGREEMENT WITH TOLL BROTHERS

Consider a possible water and wastewater capacity agreement with Toll Brothers, Inc.

Commissioner Cotten stated he had a couple of questions for Mr. Hughes before he goes into his speech.

Commissioner Cotten asked what is the status of the discharge into the Haw River Application.

Manager Hughes stated we are still involved in the EA. Goldstein & Associates is looking at the expanded wastewater treatment site down around the wastewater treatment plant. We just got permission to go on that property. We have to finish the EA and send it to the state for approval.

Commissioner Cotten asked if he had a feel as to what the State will do with it.

Manager Hughes said no sir.

Commissioner Cotten asked the status of the reuse project.

Manager Hughes stated we just received bids a couple of weeks ago and they were significantly over budget. They are looking at a way of changing the piping materials to bring the cost down.

Motion made by Commissioner Walker seconded by Commissioner Bryan to approve the capacity agreement with Toll Brothers.

Commissioner Cotten stated he would like to point out a few things:

- In his opinion the approval of the spray field on Ricky Spoon's property is going to be doubtful because of the location next to the Haw River. There are some streams in there and the terrain is rough. If it is approved it is going to be expensive.
- Addition to current plant the reuse project is designed to take up to 750,000 gallons per day. Any additional we put down there would not be able to tie into the reuse project.
- The 6.8 million dollars is really a loan in his opinion where the fees are being the collateral. What will happen if future board cannot meet the contract promises? He would have to say that in the 38 years of reviewing/writing contracts this is the first time he has felt he needed to seek outside advice. He has sent a copy of the agreement for outside advice to the IOG and the League of Municipalities and requested pros and cons of the agreement.

Commissioner Brooks stated on the Summary page, bullet 3 which reads: "Because Toll has much experience and expertise in utility construction, and because Toll is advancing a large amount of money and has a significant stake in the completion of River Oaks, Toll will have the right to review and approve plans and specifications, contractors, contract terms and bonds related to the Town Wastewater Improvements. Toll's approval of those items must not be unreasonably withheld or delayed." He feels they should only have input when it is something related to what will be serving them.

Patrick Bradshaw said he had thought that would be a concern so he has prepared tonight a change which reflects that "...necessary to serve Toll's use of the Property as permitted by the Master Plan."

Commissioner Brooks asked Commissioner Walker/Bryan if they would amend their motion to include this change and they both did.

The motion now reads: Motion made by Commissioner Walker seconded by Commissioner Bryan to approve the capacity agreement with Toll Brothers to include the corrections presented by Attorney Bradshaw tonight.

Commissioner Cotten stated he had two more points.

- The issue of eminent domain – in today's Legislative Bulletin it says that NC municipalities and counties do not have authority to use eminent domain to acquire and convey property to a private developer for general economic purposes. That

ruling in Connecticut is not pertinent to NC because the laws in NC are so different from Connecticut.

- The other thing that gave him concern and he understands the reason for it is the fact that it fixes the rates that are enforced when the contract is approved. That is the reason he said it appears to him that it is a loan. He is not so sure Pittsboro can incur that much debt.

Commissioner Brooks stated he respect Mr. Cotten's concerns and comments, but what that business in the Legislative Bulletin is based on is a supreme court decision within the last couple of weeks. Courts have recognized the right of municipalities/counties use of eminent domain to take people's property for economic development. Here we are talking about easements. To him that is different. It would be for infrastructure.

Manager Hughes stated he doesn't think it is illegal to do what we are doing. The Town is well within it's right to use commendation to extend its infrastructure, that is his opinion.

Commissioner Walker stated on page 13 – second sentence down reads:that Toll shall not be entitled to transfer credits provided pursuant to this Agreement for the benefit of property outside the Property in increments of less than \$166,500.00 or the total balance of such credit remaining, whichever is less. If he is reading this correctly and Toll Brothers decides for some reason that project does not happen they stand to transfer this credit. It is possible they may not recoup all of their 6.8 million dollars and there is no loan payable by the Town. They are relying on other growth to come this way to get credit back, not from the Town of Pittsboro. But from other projects that might be built. Toll Brothers are actually putting 6.8 million dollars at risk if it does not happen. It is not a loan to the Town it is an advance from Toll Brother if he is understanding correctly.

Mayor May asked Attorney Bradshaw if that was correct.

Attorney Bradshaw stated he would agree with Commissioner Walker the only provision for credits/payment is if the Town requires Toll Brothers to oversize the water/wastewater/reuse lines, infrastructure or facilities in connection with the Toll Water and Wastewater Improvements that are larger than would otherwise be required to provide adequate water, wastewater and reuse water service to the property. There is no obligation for the Town to pay in the contract.

Vote Aye-3 Walker/Brooks/Bryan
Nay-1 Cotten

A COPY OF THE CHANGES PRESENTED BY ATTORNEY BRADSHAW IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES 75-78

A WATER AND WASTEWATER CAPACITY AGREEMENT WITH TOLL BROTHERS IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES 79-115

NEW BUSINESS

TOWN CODE CHANGE

Consider adding the following after the second sentence of Chapter 11 paragraph 203.1 of the Town Code concerning refuse collection.

“Grass clippings shall be deposited curbside in biodegradable paper bags.”

The remainder of the paragraph is unchanged.

Motion made by Commissioner Bryan seconded by Commissioner Walker to add “Grass clippings shall be deposited curbside in biodegradable paper bags” to Chapter 11 paragraph 203.1 of the Town Code.

Commissioner Cotten would like to make every effort to notify residents.

Vote Aye-4 Nay-0

A COPY OF THE CHANGE TO CHAPTER 11 OF THE TOWN CODE IS RECORDED IN THE BOOK OF ORDINANCES NUMBER ONE, PAGE

COMMISSIONER CONCERNS

Commissioner Bryan thanked Manager Hughes for getting the sidewalks done on the Sanford Road and he stated they look good.

Mayor May stated she has received comments from several residents that they are enjoying them.

Commissioner Brooks stated in reference to the letter from the Postal Service inviting us to a briefing session to discuss how the Postal Service can better serve your community. He does not know if anyone will be able to attend but he feels that the Board should at least respond. He stated he does not know of anything in this town he hears more complaints about than the post office. The lines are long and backed up out of the door just to get stamps. People do not get mail and they lose mail. They need to have more people working. The people working the counter are doing the best they can, they just need more help.

The Board agreed to send a letter to the postal service regarding customer service.

Commissioner Brooks stated he has had people speak to him about the large amounts of monies that are coming into Town and he would like to keep the money in local banks. He has noticed that there is not a big differential in earnings when we go outside of town.

Manager Hughes stated the monies that will be coming in from River Oaks will be spent as it comes in and no additional monies for investing.

Commissioner Walker stated as he has stated before he feels we should get other banks within Chatham County to bid on the monies and not just limit it to in-town banks.

The Board agreed to have it on the agenda at the next meeting for discussion.

ADJOURNMENT

Motion made by Commissioner Bryan seconded by Commissioner Cotten to adjourn.

Vote Aye-4 Nay-0

Nancy R. May, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk