

MINUTES  
TOWN OF PITTSBORO  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
MONDAY, NOVEMBER 9, 2009  
7:00 PM

Mayor Randy Voller called the meeting to order at 7:00 p.m. and asked for a brief moment of silence, asking that those who recently died needlessly at Fort Hood, Texas be remembered.

**ATTENDANCE**

Members present: Mayor Randy Voller, Commissioners Pamela Baldwin, Gene T. Brooks, Clinton E. Bryan, III, Hugh Harrington, and Chris Walker.

Staff present: Town Manager Bill Terry, Town Clerk Alice F. Lloyd, Attorney Paul S. Messick, Jr., Planner David Monroe, and Assistant Planner Paul Horne.

**CEREMONIAL AGENDA**

**1. Resolution Honoring Veterans and Men and Women Currently Serving in the Armed Forces of the United States of America.**

Mayor Voller read into the record the Resolution honoring Veterans and men and women currently serving in the Armed Forces:

WHEREAS, The United States of America was founded on the principles of liberty, opportunity and justice for all; and

WHEREAS, America has called on her men and women in uniform to protect our national security, to advance our national interests and to preserve our rights and freedoms; and

WHEREAS, on Veterans Day we recognize the men and women of our Armed Forces past and present, who have valiantly defended these values throughout our Nation's history; and

WHEREAS, on Veterans Day we also remember and pay tribute to the millions of patriots whose courage and sacrifice have secured our freedom, beginning with those who suffered through the harsh winter at Valley Forge and up to those who are keeping the peace and defending our values around the globe today; and

WHEREAS, we honor all men and women currently serving in the military for their sacrifices; and

WHEREAS, the Town of Pittsboro currently has one employee and several citizens that are currently serving overseas;

NOW, THEREFORE, BE IT RESOLVED that the Town of Pittsboro Board of Commissioners does hereby recognize all veterans and the men and women that are currently serving in our Armed Forces around the world.

Adopted this the 9<sup>th</sup> day of November, 2009.

Motion made by Commissioner Brooks seconded by Commissioner Baldwin to approve the resolution.

Vote Aye-5 Nay-0

**A RESOLUTION HONORING VETERANS AND MEN AND WOMEN CURRENTLY SERVING IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 182**

## **AGENDA**

Motion made by Commissioner Walker seconded by Commissioner Harrington to approve the Agenda as submitted.

Vote Aye-5 Nay-0

## **CONSENT AGENDA**

The Consent Agenda contains the following item:

1. Approve minutes of the October 26, 2009 regular meeting.

Mayor Voller noted an error on page 5, indicating that it should read Dr. Mark Edwards of Virginia Tech, rather than Dr. Mare Edwards.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to approve the Consent Agenda as amended.

Vote Aye-5 Nay-0

## **REGULAR MEETING AGENDA**

### **Citizens Matters**

There were no citizens who expressed a desire to speak at this time.

### **OLD BUSINESS**

#### **1. Manager's Update on Capital Projects.**

Manager Bill Terry provided the following update on Capital Projects:

- Disinfection Byproducts Reduction Project – All major elements completed with punch list phase ongoing. Agreement has been obtained in principle with the project engineer from Hobbs and Upchurch and with the grant administrator from the Rural Center to keep the project open for a few more weeks as they continue to look at alternatives with regard to achieving further reductions in TTHMs levels.
- 3M Reclaimed Water System Project – Construction progress meeting held on November 3<sup>rd</sup>. Painting of the storage tank was scheduled for completion on November 12, but due to

rainy weather that has been delayed for a few days. The transmission line is completed and awaiting disinfection and final testing. The change order for the electrical work at the WWTP was processed this week and the electrical work should be completed by the end of November or early December. The grant administrators for the Clean Water Management Trust Fund have agreed to allow the Town to use some of those grant funds for the paving of East Cornwallis Street where a ditch was cut down the centerline of the road. Accordingly, a change order in the amount of \$50,200 was approved for that work, and paving should be completed by the end of November.

Mayor Voller asked if they were going to be able to pave the graveled section, although that might require annexation of some of it. Mr. Terry stated the contract did not cover that section, noting it covered only the damaged section of the pavement.

Jay Johnston of Hydrostructures said that the graveled part of the road was a DOT road.

Mayor Voller agreed, but said it was odd to have such a small section of road surrounded by Town-maintained roads. He said he believed years ago the intention had been to do that paving when grants were applied for, and would like to pursue that during the next budget process. Mayor Voller said it made no sense to have a graveled section between two paved sections, which virtually was a State road between two Town roads.

Mr. Terry continued his update:

- 3M Reclaimed Water System Project, continued – A meeting with a representative of the USDA was held on November 4 to discuss how the Town could use the \$200,000 USDA REDLG zero interest loan for this project to assist 3M in the completion of the modifications to their plant needed to accept reuse water from the Town. With agreement in principle from the Town Board, they will begin work on a pass-through loan agreement that will have no cost to the Town. USDA will loan the money to the Town and the Town will loan it to 3M. The implementing documents will spell out a repayment schedule agreeable to all parties. The USDA is encouraging the Town to use the money in this fashion so that they do not lose the appropriation.

Commissioner Harrington said then this would simply give 3M some financing at zero percent interest in order to hook in to the lines. Mr. Terry stated that was correct, noting that if the funding was not used it would be turned back in to the federal government and lost forever. But, he said, if it was used locally then when repaid it could be re-loaned to other communities in the State. Mr. Terry stated that was the motivation for USDA in suggesting this process.

Commissioner Brooks asked if the 3M project involved any extension of lines. Mr. Terry responded no, it was for 3M to modify their plant in order to accept reuse water from the Town.

Commissioner Walker asked if the original loan had a defined payback period for the Town. Mr. Terry stated if the Board agreed in principle then he would proceed with getting those details worked out. He said before any agreement was executed it would come before the Town Board.

Motion made by Commissioner Brooks seconded by Commissioner Walker to authorize the Town Manager to go ahead with the 3M project loan and report back to the Town Board.

Vote Aye-5 Nay-0

Mr. Terry continued his update:

- 3.22 MGD Wastewater Treatment Plan Construction – The notice of the public hearing on the EIS will be published in the Chatham Record on November 5, 12, and 19. A copy of that notice has been forwarded to the appropriate offices of the State, and the EIS has been posted on the Town's Website and was also available at Town Hall.
- Short-term Wastewater Treatment Plant Improvement Project – Staff met with ARRA grant authority representatives on October 28 to work out the details of a change order necessary to cover the cost of electrical changes to resolve conflict between this project and the 3M Water Reuse Project. The project engineers from Hobbs Upchurch, Hydrostructures and Stearns and Wheler attended the meeting and worked out a satisfactory solution, and a preconstruction meeting is scheduled for November 12. They were waiting to sign the contract until the official letter from the State was received, and an advanced copy of that letter was hand delivered by Mr. Brinkley who was present this evening, noting it was signed, dated, and mailed to the Town today. Assuming all went as planned they should be able to begin as early as Friday, November 13.
- Powell Place Park (Pittsboro Town Park) – Work continues on schedule. The rough-in plumbing has been installed for the future restroom facilities. We are negotiating a change order with the contractor to compensate the Town for about 19 trees that were marked for preservation but were cut down by the contractor.

Commissioner Harrington asked how many were perhaps 80 foot trees. Assistant Planner Paul Horne responded about 6.

Mayor Voller said the whole point of how the plan was drawn was to utilize those trees, and they had put together a landscape plan based on having those trees that had now been cut down. He said there needed to be some redress. Mr. Terry stated that message had been delivered quite sternly to the contractor, but it was hard to place a value on older trees. He said they would do the best they could to address the error, noting it was under negotiation. Mr. Terry said some of the trees cut down were quite large, large enough that he could not get his arms around them and they had obviously been around for quite some time.

Commissioner Harrington said those trees were wanted for their aesthetic value. Mr. Terry agreed, noting they would do their best to come to a conclusion with the contractor regarding that error.

Mayor Voller asked what the excuse was. Mr. Terry said there was no excuse that he had found acceptable, noting the contractor had only said they had found the markings to be unclear. He said he did not accept that, noting that Mr. Horne had walked the area with the engineer and tree protection fencing and tape had been placed around the area to be protected.

Commissioner Baldwin said she was glad Mr. Terry had let the contractor know that it was not acceptable, agreeing with Commissioner Harrington that there was a purpose in preserving those trees.

Commissioner Brooks said he would bet the contractor could put a value on those trees. Commissioner Baldwin agreed, noting that type of error was not acceptable and the contractor needed to pay better attention. Mr. Terry said he would relay those comments to the contractor.

Commissioner Harrington stated he would like to see the Town receive a large payment of funds that could go towards the cost of the restrooms. Mr. Terry said at this juncture the contractor had admitted full responsibility, and they would continue to work with him to come to some agreement.

Mayor Voller said he could understand a few, but removing 19 trees that were to be preserved sounded like a lot to lose because someone was not paying attention. Mr. Terry said as additional information, Mr. Horne had discovered while investigating the incident that the tree clearing contractors' compensation was no cash but solely the trees that were forested.

Commissioner Harrington said then that put a new light on the issue, noting that explained why those trees were removed. Mr. Terry agreed that had explained a lot.

Mayor Voller agreed as well, noting that species trees that were 80 to 100 years old were a "big deal" and some people in Town would be very unhappy to learn about it. He said they could not let the contractor off lightly. Mr. Terry agreed, noting they would do their best to come to a satisfactory conclusion.

Mr. Terry concluded his update:

- Downtown Area Water System Improvement Project – During the meeting regarding the 3M project staff was informed that the USDA has a large sum of loan/grant money available for small town utility system projects. Hydrostructures had been asked for a fee proposal to prepare an application for a USDA Rural Development loan/grant to fund this project.

Commissioner Harrington asked was that money for hard core infrastructure such as for this project. He said he knew they could not rebuild the sewer plant to make it all reuse quality, but he believed they could add a modular unit that was connected to the stream that fed 3M so that in a second process everything that went there was of reuse quality. Mr. Terry said the problem was they did not currently have a project such as that just described in their Capital Improvements Plan that could be identified as a project eligible for that funding. He said that was why he was directing the application for funding to projects already identified. Mr. Terry said if the Board wanted to include such a project on the list for future funding that would certainly be possible.

Commissioner Harrington said he would like to know what the ballpark cost would be of such a project. Mr. Johnston said if such a project had been identified, then it would be fundable under USDA grants/loans. Commissioner Harrington said the type of project he was describing used

the input/output streams, and would like to know what such a project would likely cost. Mr. Johnston said the project they were doing now was about \$2.5 million, and believed the project Commissioner Harrington had described would likely be in that same ball park.

## **2. Manager's Update on Efforts to Reduce TTHMs.**

Mr. Terry stated this was the second in a series of reports detailing their efforts to reduce TTHMs at the Water Treatment Plant. He said on the recommendation of NCDENR, they would be completing a Disinfectant Contact Time (CT) Study at the Water Treatment Plant which was necessary to validate the effectiveness of the recent changes made to the chlorination process. Mr. Terry said the study would be funded from the available balance in the Disinfection Byproducts Reduction Project budget. He said that study would begin in the next few days.

Mr. Terry stated that over the last two weeks three of their operators visited the OWASA water treatment plant to look at their alum and sodium hypochlorite feed systems. He said that OWASA staff had been very cooperative and provided any and all technical advice asked for. Mr. Terry stated that Water Plant staff continued to work with Mike Hicks about the upcoming ferric sulfate trials, and work was progressing on an operating plan for the plant trial to set up protocols for the testing, with the trials expected to begin on or about November 10<sup>th</sup>.

Mr. Terry said the good news was that the results of their last set of samples taken on October 27<sup>th</sup>, which was after the revised chlorine application procedure had begun, showed that most of the readings were well below the .080 standard, with one reading at .063. He said that they attributed that improvement to the chlorination process and hoped that the ferric sulfate change would help them realize even further reductions.

Commissioner Harrington said that was great news, but that was also the first samples they had taken since the chloramination and cold weather. Mr. Terry said that was correct, although it was not dramatically cooler than when samples were taken in September. Commissioner Harrington stated he believed that the cooling weather would be a contributing factor.

## **NEW BUSINESS**

### **1. Wastewater Capacity Reservation Contract for Westmoore Subdivision**

Mr. Terry stated that the resolution would authorize the Mayor to execute the contract at Exhibit (A) wherein the Town would agree to reserve 50,000 gallons of wastewater capacity for the use of Moore's Grove, LLC for the purpose of beginning development of the Westmoore Subdivision. He stated that the Board had approved the preliminary subdivision plat for the Westmoore Subdivision in July, but at that time there was no available wastewater capacity to allocate to the project. Mr. Terry stated that the development moratorium was recently extended for an additional two years, but since the MUPD Master Plan for the Westmoore Subdivision was already approved it was declared exempt from the development moratorium and eligible for the reservation of wastewater capacity at the discretion of the Board.

Mr. Terry said that on June 9, 2008 the Board considered an item entitled “Moore’s Grove, LLC and Ricky Spoon Builders’ proposal to fund improvements to the Pittsboro Wastewater Treatment Plant.” He said at the conclusion of that discussion, the Board had voted unanimously to “refer this issue to the Manager for appropriate action.” He said the contract at Exhibit (A) was the result of the combined efforts of the Town Manager, the Town Attorney and the developer’s attorney to reach an agreement that would be acceptable to all parties.

Mr. Terry said during the original discussion circumstances were different, in that they were looking at ways to pay for a project that would upgrade the Town’s wastewater treatment plant. He said they had been awarded an ARRA Grant for \$2.65 million for that project and expected to award the construction contract during November, so they no longer had need of advanced funding from the developer to pay for the wastewater treatment plant improvement project. However, he said, the developer continued to have an interest in having capacity reserved for the Westmoore Subdivision.

Mr. Terry stated that the contract basically contained four key provisions:

1. The Town would reserve 50,000 gallons of sewer capacity for Moore’s Grove, LLC for the purpose of beginning development of the Westmoore Subdivision.
2. Moore’s Grove, LLC agrees to pay \$200,000 for the reservation of wastewater treatment capacity not later than one year after execution of the contract.
3. Moore’s Grove, LLC’s obligation to pay \$200,000 will be secured by a deed of trust or other adequate security as agreed upon by the parties.
4. Three years after final plat approval, any unused portion of the reserved 50,000 gallons of sewer capacity would be returned to the Town, and the Town would reimburse Moore’s Grove, LLC the remaining balance of any of the \$200,000 advance payment that had not yet been applied to pay capital recovery fees and/or access fees that had come due.

Mr. Terry stated his belief that the reservation of 50,000 gallons of wastewater capacity for the development of Westmoore was consistent with the goals and objectives of the American Reinvestment and Recovery Act in that it would stimulate the local economy by allowing the construction of about 140 new residential units and about 17,600 square feet of commercial space in the Town.

Mr. Terry said if the Board was to approve this reservation of capacity as well as the reservation of capacity requested by Bellemont Station which was next on the agenda, then that would leave about 25,000 gallons of wastewater available for the Town to apply to other smaller projects. He said he was comfortable recommending that the Board approve the contract for Moore’s Grove, LLC.

Commissioner Harrington asked what had been approved before the moratorium for that project. He said he remembered that in June of 2008 during the moratorium the Board had approved the project but with no guarantee of sewer. Planner David Monroe stated what had been approved was the Master Plan which was a part of the MUPD rezoning request. He said as a part of the language of the moratorium, any project which had an approved preliminary plat, final plat, commercial site plan or Master Plan was exempt from the terms of the moratorium.

Commissioner Harrington asked what had come forward with the rezoning. Mr. Monroe said it was the Master Plan.

Commissioner Brooks asked wasn't that a moot point since the Legislature had passed a law concerning that very topic. Mr. Monroe said what the Legislature had done was extend the period of time to allow developers to get construction financing without having their approvals expire.

Commissioner Brooks asked when they had discussed the original approval, what was the estimate of the amount of wastewater capacity that would be needed for each of the two developments being discussed tonight. Mr. Monroe responded he did not remember exactly, but believed it was phased for each of the developments and was estimated to be 50,000 gallons but the overall capacity exceeded 100,000 gallons for each. He said that Patrick Steele's development was for 380 dwelling units and 60,000 square feet of commercial. Mr. Steele responded the commercial was 80,000 square feet of commercial. Mr. Monroe said that Mr. Spoon's development was in a similar range.

Commissioner Harrington stated then the 50,000 gallons was for one phase and included the commercial square footage. Mr. Monroe responded that was correct.

Commissioner Baldwin asked were those the only two projects approved at that time. Mr. Monroe replied no, that the 64 Crossing was also approved but they had not requested any capacity at the present time. He said that Pittsboro Place had been approved and 15,000 gallons of capacity had been transferred from a property south of Horton School to the Pittsboro Place property with the Board's approval.

Mayor Voller asked what the status was of that capacity, noting he had thought there was some linkage. Mr. Monroe said there was a linkage with the Horton School property, in that at least 1,000 gallons of the 5,000 gallons attributed to that property had to be used for a restaurant. He said the plans submitted by the developer indicated no restaurant so the 5,000 gallons had been reduced to 4,000 gallons for that site.

Commissioner Walker said for Pittsboro Place he believed there was a limitation on the sewer so that it would expire at some point. Mr. Monroe said there was a contract. Commissioner Walker said he believed the date was 2011. Mr. Monroe agreed, adding that the Legislature's actions affected only the plat approval.

Commissioner Harrington asked if they truly had 125,000 gallons, and were they in a position where they could allocate only 90% of that or all of it. Mr. Monroe responded it was his understanding that all of it could be allocated.

Commissioner Bryan asked could it be more than 125,000 gallons. Mr. Brinkley, of Stearns and Wheler stated the flow of the plant was 400,000 gallons, and if they added 125,000 it would take them to 525,000 gallons which was below the average of 550,000 per day that they wanted to achieve. He said that would leave them some additional capacity after adding the 125,000 gallons.

Mr. Monroe said they needed to take into consideration that Powell Place still had paper capacity that was not tributary as yet and had to be added into the flow total.

Mayor Voller asked how much paper capacity had come back to the Town from that agreement. He said that project had received 200,000 gallons when approved in 2002. Mr. Monroe said his estimate was that they had used about 60,000 gallons at this point in time, but had approvals for commercial development that would add another 10,000 gallons.

Mayor Voller said when the sewer was allocated in this case and in others, the State made you allocate at 120 gallons per bedroom but they knew from experience that people were not using at that rate. He said with low flow toilets and people being more cognizant of how much water they were using, the average usage was well below 120 gallons per bedroom. Mr. Monroe said they should have had some adjustment to the tributary flow at Powell Place as particular phases were closed out. He said at this point in time the first two phases were completed and there should be tributary adjustments that reduced the flow amount that was assigned to Powell Place.

Mayor Voller asked Mr. Johnston if that reconciliation had been done. Mr. Johnston stated that as of December 2008 he believed there was about 75,000 gallons left and attributed to Powell Place that they could apply. But, he said, he would need to have the information in front of him to see what was considered tributary. Mayor Voller asked had the books for Potterstone Village been closed out. Mr. Johnston said if not they were close enough to call it closed, with perhaps 2,000 gallons of capacity left. Mayor Voller said so there was going to be some capacity available because they were clearing out some older projects. Mr. Johnston stated not a lot, but some.

Commissioner Harrington said then the outcome of what was being requested tonight was that three years from now they were handing back \$200,000 and tying up 50,000 gallons of sewer capacity. Town Attorney Paul Messick responded no, it was three years from the final plat and they could not get a final plat until at least 40% of the infrastructure had been completed.

Commissioner Harrington said then they were talking about much longer than 3 years, which meant they could be tying up that capacity for quite a long time. Mr. Monroe said the developer could not begin construction of houses or commercial structures until the final plat was recorded, so they would have a great incentive to get to the point where they could record the final plat. He said once they reached completion of 40% of the infrastructure, they could petition the Town to allow them to record the final plat and begin building houses and stores. Mr. Monroe said there would be a time where the developer would gain no income from the project until the structures were being constructed and sold.

Commissioner Walker said the key issue was that the developers could delay asking for the final plat to be recorded, noting they could carry it no infinitum or until they were 100% complete before it was brought before the Town. Mr. Monroe said they could, but it was his experience that did not happen. Commissioner Walker agreed it would not make sense, but in theory it could happen.

Commissioner Brooks said that Mr. Spoon had done everything he said he would do in every instance when the Town had had dealings with him, and Mr. Steele had a very attractive proposal on paper. But, he said, he was very much concerned about properties inside the Town that did not have sewer at the present time, or infill. Commissioner Brooks said there were people in Town without Town sewer, and there was likely some need for commercial wastewater that they may not know about. He said he was concerned that 25,000 gallons was not enough.

Commissioner Harrington stated he shared those concerns, noting what could happen tonight was that a year from now they could begin building, then two years from now they were 40% done and they were getting their final plat. So, he said, conceivably they had tied up essentially all the foreseeable sewer capacity for easily five years. He asked was that conceivable? Patrick Bradshaw, the attorney for the developer, said once the Town approved a final plat for a lot then essentially that capacity was permanently allocated. He said if a developer put in 40% or more of their infrastructure and they recorded a final plat, they would first have to give the Town some security for completion of the rest of the infrastructure. Mr. Bradshaw said once the Town approved that final plat and it was recorded, then that was a lot that was available to be sold to the public that the Town had agreed to provide the service to. He said as well, at the time that final plat was approved and recorded the developer had to pay the capital recovery fees, and those fees for the first phases of the two projects would easily eat up the \$200,000 credit that would be paid approximately one year from now. Mr. Bradshaw said for Mr. Steele's project, the first phase of capital recovery fees would be on the order of \$200,000 to \$250,000.

Commissioner Harrington said he understood that, but for instance in Chatham Forest they had lots where people had paid all the fees but the lots were sitting vacant. He said what he wanted to hear was that the Town would be approving the allocation and it would not be to the exclusion of other projects that might come along. Commissioner Harrington said that would make it an easy decision, but the problem was that the Town would have only 25,000 gallons of capacity left. He said Chatham Mill would likely want some allocation, but what they were saying was that the 25,000 gallons would be it for five years. Mr. Terry said he hoped it was not five years providing everything kept moving, noting it could be as early as 2012 or 2013. He said he hoped that before they reached the end of that five year period that they would be able to get capacity from the 3.22 MGD project.

Ricky Spoon, the developer, said at that point the Town could allocate 90% capacity, but after they had a plant with engineering they could then go to 100% capacity. He said his point was that the other 10% could be used at that point while the plant was being built.

Mr. Johnston said that was almost right, noting that the 90% rule would come into play when the Town hit 80% of its capacity, which at that time they had to have a certain level of action plan. He said when you hit 90% the State would give you an action plan which basically revolved around long term planning such as that described by Mr. Terry. Mr. Johnston said there was a finite amount of capacity at the existing plant, and you could decide to allocate to these two projects or to others, but the amount was still finite. He said they could also sell that capacity to customers of the Town. Mr. Johnston said that eventually they would outgrow that capacity and eventually they would need more, and the 3.22 MGD project should respond to that.

Commissioner Brooks said that when he had taught at Northwood High School they had had major problems with the wastewater, and they had run sewer lines out there to respond to the problem. He said then the Autism facility wanted to benefit from that so they had connected to the lines and a pump had been installed. Commissioner Brooks said Northwood had undergone some major expansions, and he had been told that the pump would likely not be adequate for much longer. He said that indicated to him that they were having other demands for wastewater, and would assume that if the high school was growing then other schools were as well and that caused him some concern. Commissioner Brooks said he was not opposed to these projects, but was concerned that they did not have enough sewer for people who had been in the Town for a very long time.

Commissioner Baldwin said she shared those same concerns, noting that all they had at present was 125,000 gallons and if they allotted 100,000 gallons that left only a small amount for everyone else. She said there may be other projects that might need sewer, and was concerned about how you balanced that. Commissioner Baldwin said she also supported these two projects, but there were other things approved and ready to go that may have need of sewer allocation as well.

Commissioner Bryan remarked that he also shared those concerns, but on the flip side was that Mr. Steele and Mr. Spoon had been around quite a while and had spent a lot of money on taxes for the last several years on their property. He said he shared the concern about the sewer capacity but at the same time he believed they needed to give Mr. Steele and Mr. Spoon some consideration, noting they had brought quite a bit of development to the Town. Commissioner Bryan said perhaps the answer would be to ask them to live with a somewhat reduced amount of capacity, but did not know if that would be feasible.

Commissioner Walker asked Mr. Bradshaw if he had developed the time tracks for both parties. Mr. Bradshaw responded yes, that he had worked with Mr. Messick over a long period of time. Commissioner Walker said that as Mr. Terry had reported, the contract said that each party would pay \$200,000 for reservation of the wastewater capacity no later than one year after the execution of the contract. He said it then said that obligation to pay would be secured by a deed of trust or other adequate security as agreed upon by the parties. Commissioner Walker asked where had that come from, and why. Mr. Bradshaw responded that the idea of placing a lien on the developer's property was Mr. Messick's just to give the Town security for their obligation to pay the money. He said during the period that the money had not yet been paid the Town had collateral for that.

Commissioner Walker asked what kind of property they would give the Town for \$200,000, noting he certainly did not want to be the second lien holder behind the first one on the property. Mr. Bradshaw said the Town would be in good shape for \$200,000. Commissioner Walker said he would prefer that if they did not pay the money, then they would not get the capacity. He said that the contract said a deed of trust or other adequate security would be provided, and believed that was a minor issue.

Mayor Voller said then other security might be a letter of credit or a bond. Mr. Bradshaw said that was correct, noting there were other alternatives. He said why not just sign the contract and if the project was not built then they would not get the sewer.

Mr. Spoon agreed, noting he would like to keep things as simple and neat as possible.

Mr. Bradshaw said he understood that the Town Board was wrestling with serious issues, but they held the life of these two projects in their hands. He said these were difficult times, and he would caution the Board that they might not want to compare these two things that they could see and touch against things that they did not know about as yet. Mr. Bradshaw said there were no other projects that were similarly situated, noting these were two Master Plan communities that had site plans already approved and in both cases the Board had already approved preliminary subdivision plats. He said in this environment it should not be a surprise that the Town's difficulty with wastewater capacity was an issue, and a developer in the Town could not go to a lender and talk about financing without some assurance that they would be able to get wastewater capacity allocated. So, he said, the Board was comparing the two things that they knew against things that might or might not come along. Mr. Bradshaw said as well, these projects had been approved for several years, noting that Mr. Steele's MUPD had been approved in 2005 and his property had been annexed and he had been paying taxes. He said that Mr. Spoon's property had also been approved, annexed, and he had been paying taxes for about the same amount of time. Mr. Bradshaw asked that the Town weigh that in when they considered the requests.

Commissioner Walker said that other Commissioners had touched on his next concern, and asked for a yes or no answer from both Mr. Spoon and Mr. Steele. He said if the Board were to decide to limit the amount of gallons allocated, did that put them in a position where they could still obtain financing.

Mr. Spoon said that required a two-tiered response. He said the reason he had requested 50,000 gallons was because that would get him the first 84 lots on the hill, and would get him the affordable housing he had planned. Mr. Spoon said in the alternative he could delay the affordable housing for a couple of years and try to use some of the capacity for the commercial. He said that was why he had asked for the 50,000, so that he could get the first 84 lots as well as the affordable housing.

Mr. Steele said it would make it harder for him to obtain financing without having adequate sewer allocation for the lots that would need to be sold in order to begin paying the bank back.

Mr. Bradshaw asked the Board to allocate a number that made sense, noting that the 50,000 for Westmoore would do the first phase which involved something like 68 residences and 17,600 square feet of commercial. He said if they were going to only build half, which half should they choose.

Mr. Steele said the bank had to have some reassurance that there was enough viability, noting that if they ran out of sewer and they had to wait for the new plant to come on line, then the bank would not fund the project.

Mayor Voller said that Commissioner Brooks had brought up the issue with Northwood High School, and he believed that Powell Place was initially supposed to enhance the size of that line coming down 15-501 when they reached the 200,000 gallons. He asked how that played into this. Mr. Johnston responded that Powell Place upgrading would upsize a small portion of the force main where the two flows combined.

Commissioner Brooks asked was the statement he had made accurate. Mr. Monroe said he believed it was accurate, noting when Powell Place was approved by the Board the question was asked in reference to the 200,000 capacity being reserved if it was the aggregate total for what was proposed, and the response by the engineer was no, that they would need somewhere in the neighborhood of over 300,000 gallons. He said Mr. Johnston had alerted him to the fact that with the pump station at the Autism Center and the pump station at Northwood both feeding into the pump station at Powell Place, and adding a pump station at Lowe's feeding into that same line, that at some point in time when Powell Place built out they could have manhole covers being blown off.

Mayor Voller asked if the pump stations were owned by the Town or owned privately. Mr. Johnston replied they were owned by the Town. Mayor Voller said that since the school system and the County Commissioners had realigned priorities and investments, they should be brought into this discussion separate from these developers. He said certainly the school system and the County Commissioners should be putting some funding into the system, noting that at Northwood they had recently gone from 800 to 1,200 students. Mr. Monroe said they certainly needed to be thinking about upsizing the size of the pump station. He said the most recent construction at Northwood had not generated the increase in students, noting that those students had been generated by the portable classrooms added each year.

Mayor Voller stated that Mr. Johnston had begun a vacant lot analysis, and asked if they had any numbers that spoke to if the lots were developed what kind of draw that would place on the wastewater system. Mr. Johnston said that was the annual paper flow reconciliation, and the last one prepared was at the end of the year last year. He said it was complete and accurate, and very little had changed since that time.

Mr. Monroe said there was a model prepared by Mr. Johnston that took into account the zoning of vacant land and the potential for development of all that land, and that would generate somewhere in excess of 6 million gallons of needed capacity.

Commissioner Brooks said when the Main Street Station had been proposed, there was a person who spoke out about his concern that several of the houses on Small Street did not have sewer. He said there were other areas that he knew of that were without sewer.

Commissioner Walker said he did not disagree, but countered by saying there was nothing to stop those people on Small Street from coming forward and hooking on to Town sewer. He said even though they did not have sewer, they also had not come forward and requested it. Mr. Monroe said there was a house on the corner of Martin Luther King and Thompson Street that had hooked on because their septic system failed.

Mr. Johnston said that for the last 6 to 8 years they had kept track of their average daily flow at the plant, which was their real life demand. He said their annual average daily flow, which was the flow of the plant, was only running at about 15,000 gallons more over the last five years.

Commissioner Walker asked if they could attribute some of that to the fact that the Town for close to 8 years had been working on the I&I. Mr. Johnston replied yes, and they continued to knock that down.

Commissioner Walker asked exactly how many houses would the 50,000 gallons requested accommodate. Mr. Steele said a little over 100, and then there was the commercial. Commissioner Walker asked in the current real estate market how many years did he believe it would take him to build those units and then sell them. Mr. Steele did not have an answer.

Commissioner Walker said another thing the Board should probably consider was if they did “push the envelope” and grant both projects 50,000 gallons each, then they could possibly have another plant up and running in 3 to 4 years, and these two projects would not even be close to using that 50,000 gallons so it became a moot point. He said Commissioner Harrington had given them the worst case scenario, and this would be the best case scenario.

Mayor Voller said he believed they should have maximum flexibility in the process of allocation. He said he would like to be able to allocate to these two projects and to Mr. Murray whatever they needed along with everyone else, so they needed to be as flexible as possible to address all parties. Mayor Voller said as Commissioner Walker pointed out, they were not going to be drawing that sewer capacity out in 1 or 2 or 3 years. He said when Chatham Forest was built they had been allocated 72,000 gallons and they had not used that allocation until ten years. Mayor Voller said as Mr. Spoon had mentioned the State based its calculations on the number of bedrooms, but those calculations were very conservative and not reflective of current technology.

Commissioner Walker agreed, noting he had done the math on his 4 bedroom house, which would be 480 gallons a day times 30 days which would equate to 14,400 gallons of sewer he should be using each month. He said the highest usage he had had all year was 5,000 gallons, so one of the things the Town ran up against was that paper flow and the State’s conservative calculations.

Commissioner Harrington agreed that was what they were up against, noting if they could give the developers what they would actually use in the next 3 or 4 years, it would be an easy decision. He said he just had to think there must be a better way to do that.

Commissioner Walker said when they had first started these discussions, the original number was 150,000 but now it was 125,000 gallons. Mr. Terry stated he had begun using the number 125,000 almost a year ago when Mr. Johnston had helped him with the analysis. He said their flow then was about 370,000 gallons per day, and the additional outstanding permits if all had been built out would have run the total up to 550,000 gallons, so he had added the 125,000 to get to 675,000 gallons. Mr. Terry said if you did the math that would put them at about 80%

capacity. He said there was a time they had used 150,000, but he had believed that was too aggressive.

Commissioner Harrington said when it was built and they studied it a while, they could determine that it turned out to be 115,000 or 165,000, and asked at what point did you know. He said their problem was they were giving away something that they did not have and did not know what it would be. Mr. Johnston said they would not know until it was constructed and occupied and it was measured at the plant.

Mayor Voller asked if they could write the contract to say that the Town would guarantee to provide adequate sewer to handle what was built without placing a figure on it, and would that be adequate for the bank to provide a loan. He asked could they just change the language so that they were not nailing the Town down to a specific figure but still guaranteed them what they needed. Mayor Voller said he believed they would not need the full 50,000, but understood they needed assurance that they would have enough to cover the units and the commercial when built. He said if they were using the proper technology they would not be using 120 gallons a day for each bedroom. Mayor Voller said at his household they averaged 3,000 per month, so for three people they were using only about 100 gallons per day. He said it seemed that they could change the language but still give them what they needed, and retain the flexibility to offer capacity to others that may come forward. Mr. Spoon said you would have to measure it in some way. Mayor Voller said the State did that, but they also allowed you to use alternative methods, noting they could say that instead of using 120 gallons per day per bedroom it would be only 75, but the Town would need to provide some data to assist them with that proposal.

Commissioner Harrington said then they did not have to go to the State and use its calculation of 120 gallons per bedroom. Mayor Voller said that was correct, noting that the provision alternative methods were included in the Code.

Commissioner Walker said the State knew what the limitations were but bankers may not. Mr. Spoon agreed that the Town Board had been ultra conservative in its allocation of sewer. He asked how many gallons per week the plant was averaging. Mr. Johnston replied the average daily flow was about 366,000 gallons per day. Mr. Spoon said the plant was designed to do 750,000 gallons daily, and 80% of 750,000 equaled 600,000 gallons. He said if the Town granted Mr. Steele and him 100,000 gallons tonight they would not be anywhere near that in 3 years. Mr. Spoon said in 3 years when the 3.22 MGD plant was financed and ready to go, at that point the Town could go to 90% of that 750,000 which was 675,000 gallons per day. He said when the Town actually began construction of the new plant they could ask permission from the State to go to 100% of that 750,000 gallons per day. Mr. Spoon said the Town did not have anyone other than himself, Mr. Steele, and Mr. Murray who was asking for allocation. He said the Town had been too conservative in its allocation, and that he and Mr. Steele both needed the allocation. Mr. Spoon said if they were both given the 50,000 they were asking for, he would bet that in 3 years the plant would not even be at the 80%. He said the Town Board was being much too conservative.

Commissioner Harrington said but in 3 years they would have nothing to give to anyone else. Mr. Steele said the developers in Town had been pushing for quite a while to get a new sewer

plant, and nothing was done until Mr. Terry had joined the Town and had gone after financing. He said the developers had been proactive to get the situation resolved.

Mr. Bradshaw reminded the Board that on June 9, 2008 the Board had voted unanimously on the concept to refer the issue to the Manager and the Attorney to work out terms. He said at that point the economy was not in crisis and the federal government was not writing \$2.6 million dollar checks so they had not known where the money was coming from. Mr. Bradshaw said then these two developers had stepped forward and offered to work with the Town to figure out a way to pay for it.

Mayor Voller said he would like to work this out so that everyone would get what they needed. He said it was a function of getting the State to understand that the flows using the State's calculations were more than they would need. He said the Town needed to guarantee that they would have what they needed while at the same time protecting others that may come forward and said he believed there was a way to accomplish that. Mayor Voller said his point was he would like the Town to be in the business of helping the community to get ahead, but they had to do it in a way that it did not hurt other parts of the community. He said he understood that Mr. Spoon and Mr. Steele needed an asset in order to go forward and he wanted to provide them that asset, but he did not necessarily think they needed to have it in a confirmed number but needed it as a guarantee that they would be able to build the project.

Commissioner Walker said he liked that idea.

Commissioner Harrington asked if they as a Town could say that they could safely allocate, for instance, 200,000 gallons of paper flow because they knew that it would take 5 years to get to that point. He asked could they give the two developers the 100,000 gallons total and likely still be safe in 5 years.

Commissioner Walker said that was what he was alluding to earlier.

Mayor Voller said when the State asked the Town to sign that there was available capacity for what was noted on the plans; there was always a specified figure that was based on that 120 gallons per bedroom or a certain number of seats in a restaurant, or whatever. Mayor Voller said but it still allowed you to use alternative methods as long as the developer and the Town agreed to it. He said if the Town guaranteed they would have what they needed at the end of the day, they may only use 20,000 gallons.

Commissioner Bryan said he was worried about the banks at this point, not the State.

Commissioner Harrington proposed that they work on how much paper flow they could hand out for people to go to the bank and be very certain that they could meet that. He said paper flow was really what they were allocating tonight, and suggested that they sit down and analyze that based on historical data, being very conservative, and make sure they could hand out that amount of paper flow and then come back and analyze all of that together to make sure of what they were doing. Mr. Johnston said that the Town needed to be conservative in the way they granted

sewer capacity because they did not want overflows to pay for every month and they did not want to incur any violations that would have to be paid for.

Mayor Voller asked when the flow numbers he was using had been gathered. Mr. Johnston responded October, 2006. He said at that time the monthly average flow was 382,000 gallons a day, and the average from October 2006 to October 2009 was 397,000 gallons a day. Mayor Voller said then they had only added a small amount, but in the last 18 months they had added over 600 registered voters in Town but they were not adding usage that was commensurate with the population increase.

Commissioner Baldwin said if they could find some medium in terms of flexibility, then that would be the key in getting this issue resolved. Mr. Terry said he believed they had already done that a year ago, in that they had arrived at a number that they were comfortable with that was a real paper flow number, which was when they had settled on the 125,000.

Commissioner Harrington said when he heard that the plant could do "X" gallons, then that was something they could plan. But, he said, what Mr. Terry was saying was that that had already been converted to paper flow. Mr. Terry said that was correct, noting they had gone through a fairly elaborate exercise to graphically represent available capacity. He said they could repeat that exercise, but did not believe the number would change much.

Commissioner Harrington said if Mr. Terry was saying they would only get 125,000 paper flow, even if it was real flow they likely would not use but 70%, and that was a high estimate. Mr. Terry said they could request that the developers go back and re-examine their plats and come back with revised figures of what they would need for the first phase of their projects. He said for instance, the figures might be around 45,000 instead of the 50,000 being requested. Commissioner Harrington said if they could come back with a request for less that would be great, but he was saying if they could get only 125,000 gallons from the plant, he believed the Town could actually hand out about 180,000 gallons in paper flow.

Mayor Voller said he believed what Commissioner Harrington was saying was that if the Town were to allocate 50,000 to each of these two projects, they would still have 80,000 gallons left in paper flow. He said if they did that then the documents would have to reflect that to the State in a way that would be acceptable. Mayor Voller said he believed the Board wanted to move forward with the contracts, but wanted to do it in a way that was a win-win for everyone, not just for those present today but for others not in the room.

Commissioner Harrington said he was uncomfortable saying that what they were allocating would be it for the next 3 to 4 years, but if they could do it in some other way that would leave them some capacity that could be allocated during that period that would be preferable.

Commissioner Walker said he believed what the Board was saying was they did not want to give all of their capacity to these two projects, and wanted to make sure there was something left for others.

Commissioner Harrington said his request would be to come back and confirm how much paper flow they had to hand out, and, would they get into trouble with the State regulatory wise by doing such a thing.

Mr. Spoon said his suggestion would be to table this and have Mr. Johnston come back and let the Board know how much capacity they actually had.

Mr. Johnston said if they did a conservative calculation and ended up with one figure and then backed off some, then what was backed off of that conservative calculation might be enough to serve every vacant lot in Town.

Motion made by Commissioner Walker to table the Wastewater Capacity Reservation Contract for Westmoore Subdivision until the next meeting.

Mr. Terry said they would be happy to do that, but they may have to struggle with the numbers and meet with Mr. Johnston to discuss it. He said he would be happy to crunch the numbers again, but believed they had already worked through that. Mr. Johnston said he believed the number the Board was seeking was 125,000 gallons. Mr. Terry said they would recheck their calculations, but noted the State would only let them go to that 80% mark.

Mayor Voller said he believed that could be negotiated with individual property owners in that the Town could guarantee that they would have the sewer they needed without specifying a number. He said the paper flow was different than the actual numbers. Mr. Terry said he would work with Mr. Johnston, but they had been down that path before and did not believe the numbers would change. He said he was willing to do some more work on it in hopes that he could be convinced otherwise.

Mr. Johnston said that the chart they had prepared was the math Mr. Terry had referred to, and that was what had given them the confidence to do the wet weather flow improvement project at the plant, which was to boost the functional capacity of what was treated.

Commissioner Harrington said he believed that functional capacity was estimated to go up 125,000 gallons. Mr. Johnston said the real treating capacity of that plant was in the 400,000 to 450,000 gallons per day range. He said once the flow got about that it did not have the hydraulic capacity to handle more. Commissioner Harrington said but that 125,000 gallons was a true figure of the extra flow that could be sent through the plant. Mr. Johnston said it was way above that, noting it took them to the permit limit which was 750,000 gallons. Commissioner Harrington said then the 125,000 gallons was very safe in real flow amounts. Mr. Johnson said that was correct. Commissioner Harrington said then certainly paper amounts that the Town could hand out would be more than that. He said what he had heard from Mayor Voller was that the State would allow alternatives, but if that was not true then they were stuck with the 125,000.

Mayor Voller said he knew that alternatives were included in the Code and he wanted that verified. He said whatever the Board did here they wanted to cover all the bases with these developers and for others in the community.

Commissioner Walker said it was not just the new sewer plant; it was also the reuse project. He said he understood they supposedly could not count that, but that was 200,000 gallons not going into the creek.

Commissioner Harrington said it did go into the creek eventually because it was in the same basin. He said if they could send true reuse quality, then they could say that did not count.

Commissioner Walker said he believed the final product was steam. Mr. Terry said it was not going in the creek, but because it was a customer that could cancel the order on any given day they could not treat it in that manner.

Commissioner Brooks said the State had not given the Town any additional capacity because of the reuse project.

Commissioner Harrington said if they could spray reuse water on the ground, then that would not count.

Mayor Voller agreed, noting if they were doing integrated water strategies along that line that would be correct because it would be going to another use. He said they should be looking at all of those things as possibilities.

Commissioner Harrington seconded the motion to table the issue until the next meeting.

Mr. Terry said he would attempt to bring the information back at the next meeting, and would alert the Board should more time be needed.

Commissioner Walker said he did not believe the developers should be strung along any longer than they had been already. He asked that Mr. Terry try to get the information in time for the next meeting.

Mayor Voller asked that they move as expeditiously as they could within the constraints already noted.

Vote Aye-5 Nay-0

## **2. Wastewater Capacity Reservation Contract for Bellemont Point/Bellemont Station Subdivision**

Mayor Voller asked Rick Murray if he understood the action the Board had taken, which applied to this issue as well. He asked if he had any remarks other than the letter he had provided to the Board. Mr. Murray agreed that the number in the contract was a conservative number.

Mayor Voller confirmed that the Town Clerk had a copy of Mr. Murray's letter, noting it should be entered into the record.

## **Mayor Updates**

Mayor Voller indicated that there was an EDC meeting tomorrow morning.

Mayor Voller mentioned that Commissioner Brooks had been working on the parking situation brought forward by the Pittsboro Merchants Association. Commissioner Brooks said it appeared to him that the Merchants Association should take the lead on that, and the Town could offer its services to try to facilitate that. Mayor Voller said he could send them a letter stating if they would take the lead that the Town would be the facilitator between the various parties.

Commissioner Brooks said he believed they should send thank you letters to the people helping with the water plant situation, noting they had really helped the Town out. Mayor Voller agreed.

Mayor Voller asked if everyone had seen the letter from the UNC School of Government, and asked if there was any action the Board wanted to take. The Board made no comment.

## **Commissioner Concerns**

None of the Commissioners offered any concerns at this time.

FYI

1. Contract with Camp Dresser & McKee for a Disinfectant Contact Time Study at the Pittsboro Water Treatment Plant.
2. UNC School of Government letter of October 14, 2009; RE: Funding Campaign for the David M. Lawrence Distinguished Professorship.

## **ADJOURN**

Motion made by Commissioner Walker seconded by Commissioner Baldwin to adjourn the meeting at 8:50 p.m.

Vote   Aye-5   Nay-0

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Randolph Voller, Mayor

ATTEST:

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Alice F. Lloyd, CMC, Town Clerk