

MINUTES  
TOWN OF PITTSBORO  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
OCTOBER 6, 2010  
7:00 P.M.

**ATTENDANCE**

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

Staff present: Town Manager Bill Terry, Town Clerk Alice F. Lloyd, and Town Attorney Paul S. Messick, Jr.

**1. North Carolina Department of Commerce Small Cities Community Development Block Grant (CDBG).**

Mayor Voller stated that he, Mr. Terry, and Jay Johnston of Hydrostructures had attended a meeting on Friday with Vanessa Blanchard with the State to receive as much information as was possible regarding the CDBG grant and process. He said if the Board wanted to apply for the grant by the deadline of October 29, 2010 that would be a daunting task. Mayor Voller said they had discovered that the Town would not be required to conduct a community survey because it was a community need that would serve the whole Town. But, he said, these were block grants that were somewhat onerous because of the amount of paperwork involved, and they would likely have to hire someone to oversee the grant administration. Mr. Terry agreed, noting that grant administration was not something that an inexperienced person should undertake, because if the paperwork was not done correctly the Town would likely not get reimbursed. He said as well, once they got started a plan of action for dealing with the low-income housing needs of the community would be necessary.

Mayor Voller said he had asked if it would be sufficient that the County had already done such a plan County-wide, and the Town was a part of that. He said he had not gotten a straight answer but believed they would likely want to submit the Wooten study to show that the Town was already working on that because they were a member of the County's task force. Mr. Terry commented that that study was not required until much later in the course of the grant.

Mayor Voller said once all the information was shared, they had spent a short time talking among themselves in which it became apparent that if the Town was to move forward the advantage was that it was a grant and not a loan, but they should try to get as much funding as possible. He said there was \$750,000 that could be allocated, so they had talked with Mr. Johnston about putting together a project to replace all of the water lines down to the Courthouse

at the traffic circle. Mayor Voller said that made the project larger but also benefited the entire Town and was something that needed to be done.

Mayor Voller said they had originally submitted a pre-application but that was not in the checklist they were required to submit now. He said that Mr. Johnston had provided what was called a PER to the State yesterday, and they would know if they would receive the grant by Friday assuming they could get the grant application filed by October 29, 2010.

Commissioner Fiocco said the problem was that the grant authority would not supply the grant application until they reviewed the PER and deemed the Town worthy of submitting an application. Mayor Voller said that was correct.

Mr. Terry said that was somewhat problematic, in that they had asked was there a Website where they could view the application form that would need to be filled out, and the answer was that those forms were not on the Website and would not be provided to them until the PER had been reviewed and it had been determined that the Town's project was eligible. He said because Mr. Johnston could not review what kinds of forms would need to be filled out he would not be able to estimate the number of hours required to do that work.

Mayor Voller said they had all seen the USDA application Mr. Johnston had provided, and they had shown that to Ms. Blanchard who indicated she did not want something that thick. He said what she wanted was for him to extract out seven to eight pages that she found relevant and submit that, which they had done. Mayor Voller said he had spoken to Ms. Blanchard today, and essentially if they supplied the information with the PER that talked about the public health aspect and the fact that there were fire hydrants out of service, then Ms. Blanchard believed that would indicate that the project would address a very important public need and would be approved. He said Mr. Johnston would likely have to provide a page of information to Ms. Blanchard about water line breaks and perhaps other issues the Town had experienced over the last five to ten years.

Mayor Voller said if they were to get the grant, the Town would have to commit to a 5% match. He said if they were approved for \$750,000 then the Town's commitment would be \$37,500. He said if the Town received \$500,000 then the Town's commitment would be \$25,000. But, he added, they would apply for the full \$750,000. Jay Johnston said that he presumed from the meeting last Friday that the grant would be for the maximum amount of \$750,000 based on the project they had described.

Mayor Voller said the initial project would stop on Launis Street was about \$350,000, so on Friday they had decided that if they had to commit to having a grant administrator they may as well apply for the full amount and include the water line all the way downtown. He said Mr. Johnston had provided a very high estimate to do the entire project. Mr. Johnston explained that the Town had authorized Hydrostructures to begin designing the project that was called the Downtown Water System Improvements Project, and there were five pieces or five pods of work within that project. He said one of those pods would go from the 1 million gallon tank to Launis Street which would replace the last part of the asbestos cement transmission line. Mr. Johnston

said that stimulus funds had been applied for to do the improvement project, and the budget estimate for just that one pod of the project had been \$350,000.

Mr. Johnston said they knew from years of evaluation and modeling that the rest of that line from Launis Street to the traffic circle in front the Courthouse needed to be replaced because it was old cast iron that had broken several times and had tuberculated and was causing a great amount of head loss that contributed to the diminished fire protection ability. He said based on the meeting on Friday, the State needed a project that benefited the entire community in order to be eligible for their program. Mr. Johnston said Ms. Blanchard had understood that what they were talking about was a transmission main and the single pipe that fed treated water to the Town and was therefore eligible. He said so, they had kept the focus on the transmission main so they could maximize what they could apply for. Mr. Johnston said on Monday he had generated a preliminary engineering report that elaborated on the remainder of that line from Launis Street to the traffic circle, and provided a budget estimate for that work.

Mr. Johnston said that was reasonably expensive work because it was a developed area and shared space with other utilities already in the ground, and it became more expensive as you reached more urbanized areas because there was more curb and gutter and more traffic as well as the fact that the pipe was in the road instead of on the shoulder. He said for those reasons, he had provided a budget estimate of \$971,000 for the entire project. Mr. Johnston said he had been very generous, or safely high, on his budget estimate for the construction, and felt confident that the project would cost at least \$750,000 thereby maximizing what the Block Grant would provide.

Mayor Voller said the Board needed to decide whether to apply for the area that stopped at Launis Street, noting they would only have to hire Hydrostructures to prepare the application plus the 5% match. Or, he said, they could apply for the entire amount to replace the line that needed to be replaced all the way to the traffic circle.

Commissioner Fiocco said he believed there were some costs that were hidden, because there was a policy that the grant would not pay for anything over an 8" pipe and he believed the project called for a 12" pipe. So, he said, that would be an additional expense for the Town. Commissioner Fiocco asked was grant administration a maximum of 10% of the grant amount, or was that construction administration. Mr. Johnston replied he believed that was for each. Commissioner Fiocco said then each of those was allocated 10%, and then grant and construction administration would be fully funded. Mr. Johnston said that was what he had understood.

Mayor Voller said the other aspect of this was that Hydrostructures had already engineered the project to Launis Street and the Town had already paid for the plans and received the permits. He said if they were to move forward with the entire project they would want to bid it out and have Hydrostructures do the work, and through the process the Town would be reimbursed for that.

Mayor Voller said that he wanted Mr. Messick to clarify one issue he had raised, in that he had said the Town could be eligible to exempt up to \$30,000 having done it properly on the CMAQ grant. Town Attorney Paul Messick they were entitled to a certain amount of repair work which did not need to be advertised for bid. Mayor Voller said he had thought that would be a way the Town could be reimbursed as long as the work had not already been done. Mr. Messick said this was federal money so they had to adhere to federal rules regardless of what the State rules were.

Mr. Terry said that since Mr. Johnston was hired with a non-competitive process based on his relationship with the Town as their resident engineer and with the most knowledge of the Town's system, they could simply hire him. He said they had been told that they could hire Mr. Johnston to do the grant administration or the construction administration but his fees would not be reimbursable. Mr. Terry said they could bid out the project and hire a different engineer to execute Mr. Johnston's plans and to administer the grant, and then the construction administration would be reimbursable. But, he said, that was not something he was sure he would recommend; that is, to have a different engineer try to execute another engineer's plans.

Mr. Johnston said he believed Ms. Blanchard had said they could go through the process and that Hydrostructures could apply. Mr. Terry said that struck him as likely being illegal and if not then at the least unethical.

Commissioner Harrington said they could not get the application until after the State reviewed the PER. Mr. Johnston said that was correct, in that the State had to determine that the project was worthy.

Commissioner Bryan said they would not know that until Friday. Mayor Voller said that was correct.

Commissioner Harrington said until they received the application they could not get started, so why were they meeting tonight? Mr. Johnston said it sort of did not matter how the Board voted tonight, because the Board had already committed to what it had committed to. He said the Board could vote yes tonight and they really would not have committed to anything else. Mr. Johnston said they could decide on Friday afternoon whether they wanted to fill out the application and file it, and even when the Town received the funding they could opt not to use it.

Commissioner Harrington said as far as he knew they really had no idea what would have to be done between now and October 29<sup>th</sup> until they actually saw the application. Mr. Johnston said he could not tell them what would be required to be done until he saw the application. He said it was his impression from the meeting that the application was relatively simple and straightforward, and the difficulty came into play when you actually got into the project and the grant administration. Mr. Johnston said he was under the impression that if Ms. Blanchard let them know on Friday that the project was eligible, that they would be able to get the application prepared by the deadline. He said the unknown was how many hours it would take and what the cost estimate would be.

Commissioner Fiocco said he had understood that Ms. Blanchard needed a commitment from the Board to provide the matching funds before she would entertain whether the project was worthy of submitting an application. Mr. Terry said that was correct.

Commissioner Harrington said then this was just part of getting them to supply the application. He said he thought they had called the special meeting tonight because they were so short of time that they needed to get started.

Commissioner Bryan added he also thought they needed to approve Hydrostructures as their engineer. But, he said, if they did not have the application then Mr. Johnston could not provide an estimate of the cost, so how could the Board vote.

Commissioner Fiocco said he understood that if they wanted to go forward they would have to at least take the one step to commit to the 5% match, but for the other they would not get confirmation until Friday and the Board would be meeting on Monday, so they did not have to take the second step now unless they wanted to.

Commissioner Harrington said committing to the 5% seemed reasonable to him, but it was the other expenses going forward that were of concern. He said they may be putting in money that they would not get back.

Mayor Voller said there were three things they had to provide in order to get the project approved, and he believed they were likely to receive that approval. He said first, the Town Clerk would have to certify that the public hearing had been held. Mayor Voller said second, they had to provide certification that the Board had committed to the 5% match. He said third, Mr. Johnston had to provide the PER which had already been done. Mayor Voller said that once Mr. Johnston provided the additional information about the fire flow and line breaks in the past that would provide enough information to have the entire project approved. So, he said, they only needed to commit to the 5% match tonight and the rest could wait until Monday's regular meeting.

Commissioner Baldwin asked how they knew they would receive the grant. Mayor Voller responded because this was 2009 money that had been committed but apparently was not used, and it appeared that the Town was the next one in line to receive the funding. He said that was why the deadline was so tight.

Commissioner Baldwin said then Ms. Blanchard had said if the Town submitted the application that they would receive the money. Mayor Voller said she had said that in August when he and Becky Smith had met with her. Commissioner Baldwin asked had Ms. Blanchard indicated that again at the meeting on Friday. Mayor Voller said yes, because they needed to get rid of the money, but the Town had to prove it was eligible in order to receive the funds.

Commissioner Harrington said there were likely other local governments having the same type of discussion to get even more money.

Mayor Voller said he did not know how much funding was available, only that the Town had been told they were eligible for \$750,000. He said the Town was one of the jurisdictions who had submitted a pre-application in 2009, and because the funding from 2009 had been committed but not used, the Town's application had become eligible for those remaining funds. Mayor Voller said Ms. Blanchard had been very clear that this was a 2009 application and not a 2010. Mr. Terry said it was his recollection that when they had pressed them that they had indicated there were no guarantees, in that the funding was not approved until all requirements had been met. Mayor Voller agreed, but he believed based on the information that the Town was in a very favorable position and would receive the funds.

Commissioner Brooks said from the memo he had received late this afternoon it seemed that there were some open ended parts that he was unsure of in regards to cost and how the project would be managed as far as oversight. He said if the Town received the \$750,000, then the Town would need to provide \$37,500. Commissioner Brooks said because of the tight deadline they would have to have additional funds to pay Mr. Johnston to complete the application but they could not estimate that cost because they had not yet seen the application form and could not judge how involved it would be.

Mayor Voller said that was correct, but Mr. Johnston had provided an open ended estimate of \$10,000. Mr. Terry said that Mr. Johnston could not provide a number, and so he had included 80 hours of preparation time as a placeholder, not as an estimate. Mayor Voller said that the cost could be less.

Commissioner Brooks asked was there any other possibilities of expenses other than the \$37,500 match and the unknown cost of grant administration.

Mayor Voller said the cost for securing the grant would be up to \$10,000, the match was \$37,500, and the administration of the grant would be reimbursable through the grant. He said the only other would be the cost of including a 12" line all the way downtown rather than the 8" line that the grant would cover.

Commissioner Brooks said he would like to know what that cost would be.

Mayor Voller said that could be estimated using linear feet, and Mr. Johnston would need to estimate a cost for that.

Commissioner Brooks said it was very difficult for him to vote on something when he did not know what cost it would carry. Mr. Johnston said he had estimated a total construction cost at the high end of \$971,000 and that included the 12" line.

Commissioner Fiocco said then the cost would be the difference between the 12" pipe and the 8" pipe and all the other work would be the same. Mr. Terry said there would be a difference in the materials cost but they did not know that number tonight. He said Mr. Johnston would need to calculate the cost of that length of pipe at 8" and at 12". Mr. Johnston commented it was about 6,400 linear feet of pipe.

Commissioner Bryan said he was not an engineer, but asked why the State's specs were for an 8" line but Mr. Johnston's specs were for a 12" line.

Mayor Voller said it was not that the State's specs was for an 8" line; the program only paid for up to an 8" feeder line. He said the Town needed to have the 12" line because it was a transmission line. Mayor Voller said it was simply the program for the grant and had nothing to do with Hydrostructures or Mr. Johnston. Mr. Terry said he believed the spec for an 8" line was because the program was focused on affordable housing and feeder lines going into development areas, not transmission lines.

Mayor Voller said if you used an estimate of \$10 per linear foot that would be a difference in cost of \$64,000. However, he said, since they were estimating costs way over the \$750,000 those costs could be attributed to the overage. Mayor Voller said to put it in perspective, if the Town went to the bank and got a loan at 4% interest on \$750,000 that would be \$30,000 a year in interest without paying back any principal. Mayor Voller said to him even though it was a lot of work if they could get the funding and not have to pay it back, then they were doing well by their citizens. He said as well, if they got the funding he believed they should approach the County and ask them to provide some funding since they needed that transmission line and that line would be benefiting the County campus.

Commissioner Brooks said his memory was that when the design was approved it was with the understanding that the County would pay for the lines in the area that they would connect to, including on Chatham Street.

Mayor Voller said he believed there was something like that said, but believed this would be a great opportunity to have the County participate. He said if the Town replaced those lines it would be a boom for the Town and make a lot of people happy.

Commissioner Brooks said he was a proponent of replacing the water line, but did not feel comfortable voting now because he did not have a complete grasp of what they were being asked to do.

Mayor Voller said if they adopted the resolution committing to the 5%, they would be confirming that the Town was committed to the project but it did not commit them to do anything else.

Commissioner Fiocco said assuming they got a positive response on Friday, the Board could decide on Monday whether to move forward.

Commissioner Harrington said if they adopted the resolution and agreed to provide the 5%, ultimately they could in the end not accept grant. He said if they got only the \$350,000, then they could do the one section of the project up to Launis Street. Commissioner Harrington said but, to go to the next level and if they did not get the USDA grant that would cost the Town at least \$150,000. He said if they got \$350,000 they could do the first stage of the project, but if

they went to the next stage that was where the \$150,000 cost to the Town came in. Commissioner Harrington said even if they did the entire project they would still be \$150,000 short. He said that went back to Commissioner Brooks' original question, in that the first part of the project may not cost the Town anything but the second part would cost them at least \$150,000 if they did not get the USDA grant.

Commissioner Brooks said if they oversized the line from 8" to 12" and they committed to the \$37,500, then they were looking at close to a quarter of a million dollars.

Mayor Voller said Mr. Johnston's estimate was \$971,000 which was high, and it was his thought that they would try to get everything done for the \$750,000. So, he said, the difference would be between the \$750,000 and what Mr. Johnston's cost would be.

Commissioner Harrington said they could also consider phasing the project. He asked when the Town would have to pay the 5%. Mr. Terry said it just had to be budgeted within the project and its expense shown with the project. Mr. Messick remarked the Town would likely pay the bills and then get reimbursed. Mr. Terry said the budget would show the revenue from the grant and the Town's 5% match, as they had done on other projects.

Mr. Terry said something to think about was that the Town was pursuing two grants for the same project, but some of the cost overruns could likely be rolled in to the USDA grant funding if they were successful in getting that. So, he said, some of those expenses would be included in what eventually became the USDA loan.

Mayor Voller asked when they had applied for the USDA funding was that line to the downtown included, noting he did not believe it had been. Mayor Voller said he believed replacing the entire line would provide the most benefit to the citizens because the line was very old.

Commissioner Fiocco said he believed the design work from the water tower to Launis Street was done, and the plans were permitted and ready to go. He said design work from Launis Street to the traffic circle had not been done, so that would carry an additional fee. Mr. Johnston said to clarify the budget for the project he had included in the PER was \$971,000 for construction costs. He said he had included a contingency of 10%, but he did not believe that would be needed because he had budgeted the project on the high end. Mr. Johnston said he had included 12% for planning and design, but they did not need all of that because half of the project was already designed.

Mayor Voller said that was reimbursable if they put it out to bid. Mr. Johnston said he also had included 8% for inspection, so the total project cost that had been provided to Ms. Blanchard was \$1.6 million, which was very high.

Commissioner Harrington said assuming they went forward tonight, he asked what kind of a burden it would place on Town staff. Mr. Johnston responded basically none. Mr. Terry said he would not say none, but it would be minimal because Mr. Johnston would carry the bulk of the load. Commissioner Harrington said he asked the question because he was concerned about

Town resources once the application was accepted. Mr. Terry said that Hydrostructures would do the lion's share of the work.

Commissioner Fiocco said assuming the Board voted to commit the 5% match tonight, he wondered if there was a way to get that information to Ms. Blanchard tomorrow morning. He said she had been in possession of the PER since Tuesday and they could quickly provide the proof that the public hearing was held, so perhaps they could press her to alert them earlier than Friday afternoon so that Mr. Johnston could look over the application and provide a clear estimate to the Board of the application cost at its meeting Monday night.

Mayor Voller said they could certainly try.

Commissioner Baldwin said basically what they needed tonight was to authorize the commitment of the 5% match so that they could apply for the grant.

Commissioner Brooks said then they could adopt the resolution and wait until Monday night to decide whether to move forward. He asked Mr. Messick to remove his legal hat and weigh in on the matter, noting that Mr. Messick had more experience with local government than anyone else present. Commissioner Brooks said he felt like they were breaking new ground. Mr. Messick said they really were not breaking new ground because the Town had done CDBG grants in the past. He said the Town would be hiring someone to administer the grant so they did not need to worry about the details. Mr. Messick said the question was if they only received \$750,000 and it was going to cost \$950,000, what would they do about the other \$200,000.

Mayor Voller said the question for the Board was whether to just go for the initial part of the project up to Launis Street at a cost of 5% of \$350,000 and hiring Mr. Johnston to be the grant administrator. But, he said, for the amount of work required to do that it just seemed they ought to try to get as much of the project done as possible. Mayor Voller said the USDA funding was a loan and a grant and the Town would have to pay some of that back. He said that was why they should be trying not to have to pay it back.

Commissioner Fiocco said it seemed the more they talked about the USDA funding the more it had seemed to be a loan rather than a grant and would be weighted more heavily towards the loan portion than the grant portion. Mr. Terry said he believed that was a fair statement. He said they had been told that once the USDA received the application they would make a judgment of what part of the funding would be a loan and what part would be a grant.

Mr. Messick said he believed if the Town got a grant of \$750,000 from somewhere else the USDA would be more inclined to make their funding a loan.

Mayor Voller said even if they were to try to get the \$1.6 million from USDA, whatever became a loan would be at a very low interest rate. He said it was his opinion that if they could get a grant it would be much cheaper than having to pay back a loan.

Commissioner Bryan said if they received the \$750,000, he would like to know how far that would take them. Mr. Johnston said they would not know that until later on.

Commissioner Harrington said if they got the CDBG grant, the USDA could decide to give the Town a loan and no grant, so that was a risk but they had no way of knowing what might happen.

Mayor Voller said fortunately for the Town it was two different pots of money, but it was a risk.

Motion made by Commissioner Harrington seconded by Commissioner Baldwin to approve the resolution providing a 5% match not to exceed \$37,500 as required in order to apply for the CDBG grant for the Downtown Water System Improvement Project.

Vote Aye-5 Nay-0

**A RESOLUTION AUTHORIZING THE TOWN MANAGER TO APPLY FOR A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) IN AN AMOUNT NOT TO EXCEED \$750,000 FOR THE DOWNTOWN WATER SYSTEM IMPROVEMENTS PROJECT AND FURTHER OBLIGATING THE TOWN TO PAY THE REQUIRED 5% MATCHING FUNDS IN AN AMOUNT NOT TO EXCEED \$37,500 IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 115**

Mr. Terry called attention to the fact that the second “Be It Further Resolved” clause authorized him to amend Mr. Johnston’s contract so that he could be paid for the work he would do with \$10,000 as the starting point.

Mayor Voller said he believed the Board had wanted to wait until Monday evening to make that decision. He also noted that in the fourth “Whereas” clause, the word “potion” should be corrected to read “portion.” Mr. Terry said he would correct the resolution to reflect the Board’s wishes.

Mayor Voller said he would make sure that the certification that the public hearing was held as well as the adoption of the resolution regarding the 5% match was supplied to Ms. Blanchard.

**ADJOURN**

Motion made by Commissioner Baldwin seconded by Commissioner Bryan to adjourn the meeting at 7:55 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