

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
SPECIAL MEETING
FRIDAY, MAY 4, 2012
5:00 P.M.

Mayor Randolph Voller called the meeting to order at 5:58 p.m.

Attendance: Mayor Randolph Voller, Commissioner Pamela Baldwin, Jay Farrell, Michael Fiocco and Beth Turner.

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

Mayor Voller stated the purpose of this meeting is to approve a Resolution Urging North Carolina Voters to vote against the ballot measure known as Amendment One as follows:

A RESOLUTION URGING NORTH CAROLINA VOTERS TO VOTE AGAINST THE BALLOT MEASURE KNOWN AS AMENDMENT ONE

WHEREAS, North Carolina State Constitution sets forth in its Declaration of Rights the “great, general, and essential principles of liberty and free government,” among them that “all persons are created equal” and that “no person shall be denied the equal protection of the laws”; and

WHEREAS, North Carolina Law already defines marriage as between a man and a woman the proposed amendment would only serve to express hostility against a minority group; and

WHEREAS, LGBT individuals are entitled to rights and privileges consistent with all other members of society and deserve the freedom to enjoy these rights free from discrimination that would diminish their humanity and equal status under the law; and

WHEREAS, Pittsboro proudly embraces the diversity of its residents; and

WHEREAS, the Town of Pittsboro has adopted a policy of promoting equal rights and opportunities for employees and citizens of Pittsboro without regard to race, religion, age, gender, disability, national origin, color, marital status, sexual orientation, or gender identity and expression; and

WHEREAS, a proposal to amend the North Carolina Constitution will be on the ballot on May 8, 2012 and the proposed Amendment states: “Marriage between one man and one woman is the only domestic legal union that shall be valid or recognized in this state”; and

WHEREAS, this section does not prohibit a private party from entering into contracts with another private party; nor does this section prohibit courts from adjudicating the rights of private parties pursuant to such contracts; and

WHEREAS, the proposed Amendment, however, would reach beyond the current prohibition against same-sex marriage by barring the state from recognizing any “domestic legal union” other than heterosexual marriage; and

WHEREAS, this difference in language could expand the Amendment’s impact far beyond current North Carolina law and could also cause this Amendment to have much broader effects than similar amendments that have been enacted in other states; and

WHEREAS, Most of these states’ amendments bar same-sex marriage and some of them also bar the state from creating other statuses that give unmarried couples rights that approximate marriage; however, very few would restrict the state from giving more limited protections to unmarried couples; and

WHEREAS The Town of Pittsboro seeks to join other North Carolina municipalities, counties, and boards who have voted to oppose “Amendment One” due to its potential to disrupt families, hurt classroom performance, ban same sex marriage and civil unions, weaken domestic violence protection for unmarried couples, eliminate health coverage for some citizens and hinder business recruitment. The aforementioned North Carolina municipalities, counties, and boards who have voted to oppose “Amendment One” include, but not limited to, Asheville, Carrboro, Chapel Hill, Durham, Greensboro, Greenville, Raleigh, Mecklenburg County and the State Board of Education; and

WHEREAS a bi-partisan group of business and political leaders from across the state have publicly stated their opposition to this amendment including, but not limited to, Governor Bev Perdue, Attorney General Roy Cooper, United States Senator Kay Hagan, Congresswoman Renee Ellmers of the 2nd District, Congressman David Price of the 4th District, NC Speaker and current minority leader Joe Hackney of NC House District 54 and Senators Ellie Kinnaird and Bob Atwater of NC Senate District 23.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro urges North Carolina voters to vote against the proposed amendment on May 8, 2012 and affirms its commitment to equal rights and opportunities for Town employees and for all residents of Pittsboro.

Commissioner Turner stated we should change the last sentence because it does say “we urge voters to vote against it”.

Commissioner Farrell said it is not right for the Town Board of Pittsboro to request the voters of North Carolina to vote against or even for it. It is not our place.

Mayor Voller asked Commissioner Farrell if as Commissioner Turner stated that you eliminated the language that this is a statement and nothing about voting what would be your thoughts.

Commissioner Farrell stated he is not for a resolution for it or against it by no means at all. He said he doesn’t care what it says or what paragraph you take out his opinion is it is not our responsibility as Town Commissioners to urge people how to vote.

Mayor Voller said what if it said NOW, THEREFORE, BE IT RESOLVED....Commissioner Farrell said it is not right. Mayor Voller said so essentially you are saying you are not going to support it. Commissioner Baldwin stated he does have a valid point because basically you are urging people to vote in a certain manner and it is actually a personal decision. She stated what you are doing is trying to dictate someone's morality in her opinion.

Commissioner Baldwin stated you can't urge North Carolina voters to vote against or for it – they just need to come out and vote.

Attorney Messick said if you want to do it in the form of a proclamation you could say that the undersigned Commissioners of the Town of Pittsboro urge the voters to vote against the proposed amendment if you were inclined to do that, that way it would not be a resolution of the Town Board.

Commissioner Turner stated she still would not want it say "urging to vote" because that does seem a bit coercive to her.

Attorney Messick said you could just urge the people to vote concerning the proposed amendment.

Commissioner Farrell asked Attorney Messick where he was looking at. Attorney Messick said the end where it says NOW, THEREFORE, he said instead of saying be it resolved say the undersigned Commissioners urge North Carolina voters to vote concerning the proposed amendment and affirms its commitment to equal rights and opportunities for Town employees and for all residents of Pittsboro.

Attorney Messick said you could either do it as a Resolution or as individual Commissioners taking that position.

Commissioner Fiocco said instead of urging voters to vote, Jay I agree, it is a personal decision and it is a referendum therefore everyone has the responsibility and freedom to make it a private vote. But is this board in a position where it wants to make a statement about the proposed constitutional amendment. Do we support it or do we not support it and leave any discussion about voting out of it. But do we simply say we do not support the proposed amendment? Is that something we are in a position to say?

Commissioner Farrell said you are picking sides.

Commissioner Fiocco said to Commissioner Farrell when it comes down to the constitutional amendment, yes; that is what he thinks this board is doing in this action. It is going to take sides and he is prepared to take the vote that says this constitutional amendment is a bad idea and as a board member he is going to make that vote too.

Commissioner Fiocco said he agrees he does not want us to try to coerce other voters to do so by asking them to do anything but if they take a lead from our action, then he is happy about that because he doesn't think the constitutional amendment is a good idea. He said he doesn't think it is good for the State of North Carolina, he doesn't think it is good for individuals, individual freedoms, he thinks it has far reaching affects that will go far beyond the stated purposes of limiting marriage to a man and woman. When they introduced other language it went far beyond that and he thinks it will be damaging to the State and it could be damaging to the Town of Pittsboro and for that reason he would like to take a stand that we make a statement against the amendment and let folks know.

Commissioner Farrell stated that is your opinion and that is fine but that is supposed to be up to the voters of North Carolina not to Commissioner Fiocco. And that is where he stands, this is not the Town of Pittsboro there may be Town of Pittsboro people that might not want to be against or for it. Commissioner Farrell said he is not going to sign anything whether it is for or against. He is not going to sit up here and tell/urge somebody how to vote because the next thing you know what is going to happen in November.

Mayor Voller said that is a totally different thing. Commissioner Farrell stated he knows it is. Mayor Voller said this could have far reaching effects on our Town, County and State we already have a law that bans same sex marriage and they have added other things to this amendment that could have problems for many citizens and our job is to be leaders.

Mayor Voller said he agreed to Commissioner Farrell we should not be urging people on political issues but this is a legal issue. This is asking someone to amend the constitution of our state. The Speaker of the House from 2007-2011 Joe Hackney who is from Chatham County took a very dim view of this for precisely that reason. The reason was among other things we already have laws on the books and to amend the constitution is to walk down a path that is very tricky and people don't necessarily understand all the unintended consequences. You can't easily undo this and this is where we can show leadership. If people want to have a law opposing it he may or may not agree with it, but that is a law the general assembly passes and if they want to amend our constitution now we are getting down to an area where you are potentially setting precedence and causing all kinds of havoc in the court system and everywhere else.

Mayor Voller said he doesn't think we should be amending our constitution willy-nilly. He asked Attorney Messick what is the ramifications for an amendment versus the law. Attorney Messick stated we need to try to reach a consensus here.

Attorney Messick stated the way the resolution is worded it is asking that the board take a position encouraging people to vote against, Commissioner Fiocco is saying that the board should take a position to declare against the amendment not to try to promote people to vote one way or another and Commissioner Farrell doesn't want the Town to take a position at all.

Commissioner Turner said she thinks the way Commissioner Fiocco put it is less of a command and more of an option. Mayor Voller said this language comes from other resolutions so we can make our own this is just a sample document.

Commissioner Baldwin stated she think it would be better to say against the amendment to the constitution which does have ramifications. However, a lot of this stuff still urges people to vote a certain way and she thinks a proclamation would be better.

Mayor Voller said he could do the proclamation now and he can do the proclamation to this (resolution). The question is who wants to sign it, if Commissioner Fiocco and himself sign it, then they sign it and you and Commissioner Turner can sign it if you would like and Commissioner Farrell could choose not to sign it. A resolution is a different ballgame.

Commissioner Fiocco stated to Commissioner Baldwin that he thinks only the conclusion deals with the voting. Commissioner Baldwin stated Commissioner Turner had already said to strike that anyway. Mayor Voller said the conclusion is all that matters everything else is essentially information.

Manager Terry said if you were to change the leading title to “A Resolution Opposing the Ballot Measure known as Amendment One” would that feel better. Commissioner Fiocco said he didn’t see that. Manager Terry said that is getting the voting thing out of it. Commissioner Fiocco agreed.

Attorney Messick said it could be a proclamation as well “Opposing the Ballot Measure known as Amendment One”. He said he thinks Commissioner Farrell’s position is that it is not appropriate for the Town to take a position if you all as individual Commissioners and as individual citizens want to take a position that is fine and good that is your prerogative. Commissioner Farrell thanked Attorney Messick and that is exactly what he was talking about.

Mayor Voller asked Commissioner Farrell at what point did he think the Town should take a stand on anything. Commissioner Farrell said when it involves the Town of Pittsboro directly. This is a statewide vote. Mayor Voller said it involves our citizens of the Town too and potentially it could involve the economic viability of our town and there are a lot of ramifications to this. He said he understood Commissioner Farrell’s reasoning and he was not going to rebuke him for it, but he does think there is no time like the right time to make the right choice. Mayor Voller said what if the resolution was we don’t believe that the earth is round and we have an amendment to our constitution. What if it is we are going to amend to constitution that we don’t believe in quantum mechanics are we going to say wait a minute there is a lot of science that says that is wrong. Are we going to always have a blind eye and he (Mayor Voller) agrees we can strike anything in there about the vote. He thinks Commissioner Fiocco’s point about the amendment amending the constitution is probably the better way to do it without saying anything about voting.

Mayor Voller said most people aren’t going to vote. Commissioner Baldwin said she would not say that. Mayor Voller said you think it’s going to be 100% turnout. Commissioner Baldwin said it will not be 100% turnout but you are going to have a lot of people vote. Mayor Voller said there will be a lot of people that won’t vote. Commissioner Fiocco said he agreed that we should not tell people how to vote, but he has spoken to a lot of people who have expressed to him their dissatisfaction with the amendment.

Commissioner Farrell stated he was not for this resolution either way whether it was for or against the amendment. He does not feel it is the Boards place to tell people how to vote. He feels that is a personal choice.

Commissioner Baldwin stated she agrees with Commissioner Farrell.

Commissioner Fiocco said to Commissioner Farrell that he shared his opinion about asking people to vote a certain way, but he has spoken to a lot of people in this town who has expressed to him their dissatisfaction with the amendment.

Commissioner Farrell said he is not saying whether he is for it or against it (he hasn’t even voted yet), he is just saying it’s not our place to tell people how to vote.

Commissioner Fiocco said he agreed, for that reason he thinks we should strike that line.

Attorney Messick said there are two options: 1) that you delete the “urging North Carolina voters to vote against the proposed amendment” and just put oppose the proposed amendment. It may satisfy

others to do it as a proclamation saying the undersigned commissioners oppose the proposed amendment.

Commissioner Fiocco stated he think he has made it clear where he stands.

Commissioner Baldwin said she felt it should be a proclamation and the commissioners that wanted to could sign it.

Mayor Voller asked Commissioner Baldwin what the difference was between the resolution and proclamation. He asked her was she going to sign it?

Commissioner Baldwin stated she didn't know because it is still a personal decision. It is her opinion that to have an amendment to the constitution does have a lot of ramifications however, people have to do what they think is best and basically if we are going to say anything it should just say we oppose this particular amendment to the constitution. We don't need to specify we can just say we oppose it because it does not promote equal opportunities... we don't need to go into that much detail to her. She still feels we should just do a proclamation.

Mayor Voller said he was just going to come out and say that if as elected leaders we can't actually take a stand – and he understands where Commissioner Farrell comes from on telling people how to vote – but he has relatives in his family that were on both sides of WWII and he has relatives that people took stands and ended up tossed in the ovens and there where people that said we are not going to take a stand. Commissioner Baldwin said that is a whole different thing. Mayor Voller said is the same thing. Commissioner Baldwin said it is you are talking about murdering people opposed to... she further stated a constitutional amendment has a lot of ramifications and she doesn't think we need to specifically indicate that we oppose this and that you can just specifically say we oppose this amendment to the constitution you can say it in a resolution or in a proclamation.

Mayor Voller said he could prepare it as a proclamation without involving the board to do it. He could sign it and say he made a proclamation however it is stronger if the board actually makes a statement and he is listening to Commissioner Farrell's point of view on urging voters, but he doesn't think the amendment is the right thing for this state. We already have a law that says what people can and can't do. Making that amendment is a whole different statement. It is codifying a second class citizenship and that is exactly what happened in 1933. Commissioner Baldwin said she knows what happened in 1933, people turned their heads on a lot of things, but this is not the same thing.

Manager Terry asked if we could get a straw vote on whether you want a proclamation or resolution.

Commissioner Turner stated if it is a proclamation each one that wants to can sign it can.

Commissioner Fiocco said he has shared Commissioner Farrell's opinion or position throughout the debate not just at this meeting but for the last couple of weeks and speaking to a lot of people in town and reading a lot of material, going to speaking events and debates he has a better understanding for himself what the ramifications of this amendment are. He said he thinks it creates second class citizens, has far reaching unintended circumstances and consequences that he doesn't think anyone can identify right now. There is a lot of talk about in other states lawsuits haven't happened, and in other states they have found a work-a-round to preserve people's freedom.

Commissioner Fiocco said he doesn't think we should be supporting the idea that we are going to support an amendment that infringes upon people's rights only to tell them, look you have another way to do this. His position is this is a strong enough matter that he is willing to take a stand as a resolution, and vote on that resolution. He said the majority of the people he has spoken to in town support that position. So that is why he feels he has the ability to vote on a resolution and would like for us to pass a resolution because he thinks it carries more weight as a resolution than a proclamation and he thinks this is an important matter and lots of other counties and municipalities have taken a stand and he would like for us to take a stand.

Manager Terry suggested the following changes that might make it more acceptable to the others:

Commissioner Fiocco stated to do what you said for the title – change the heading to A Resolution Opposing the ballot measure known as Amendment One.

Manager Terry said that would be the only change on the 1st page (paragraph 3 was deleted earlier) and on the second page, paragraph 2 would read "WHEREAS, the Board of Commissioners of the Town of Pittsboro opposes "Amendment One" due to its potential to disrupt families, ban same sex marriage and civil unions, weaken domestic violence protection for unmarried couples, eliminate health coverage for some citizens and hinder business recruitment. The aforementioned North Carolina municipalities, counties and boards who have voted to oppose "Amendment One" include, but not limited to, Asheville, Carrboro, Chapel Hill, Durham, Greensboro, Greenville, Raleigh, Mecklenburg County and the State Board of Education; and

Manager Terry said the last change would be to the last paragraph which would read: NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro that we affirm our commitment to equal rights and opportunities for Town employees and for all residents of Pittsboro and that they oppose the ballot measure known as Amendment One.

Commissioner Fiocco said all we have to do to accomplish that exact same language is to strike "urging North Carolina voters to vote against the proposed amendment on May 8, 2012".

Commissioner Fiocco said it would read "NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro that they oppose the proposed amendment and affirms its commitment to equal rights and opportunities for Town employees and for all residents of Pittsboro.

Commissioner Farrell stated he wanted to add in where it says Board of Commissioners to say "the undersigned Board of Commissioners".

Manager Terry asked if that is appropriate for a resolution. Attorney Messick said if the majority votes for it, it is the act of the Town as a board. Mayor Voller asked what the difference is, Attorney Messick said if you say we the undersigned are in favor of this then it is not a resolution of the board it is a proclamation.

Mayor Voller said Commissioner Foley has already called in and she is in support of the resolution.

Commissioner Fiocco said he will put it on the table that he wants it to be a resolution. So, if the board doesn't want it to be a resolution we can talk about it being a proclamation.

Motion made by Commissioner Fiocco seconded by Commissioner Turner to approve the resolution with the modifications that were made. (Changing the title of the resolution to read: A Resolution Opposing the Ballot Measure Known as Amendment One; deleting paragraph three which reads: WHEREAS, LGBT individuals are entitled to rights and privileges consistent with all other members of society and deserve the freedom to enjoy these rights free from discrimination that would diminish their humanity and equal status under the law; changing paragraph 11 to read as follows: WHEREAS, the Town of Pittsboro Board of Commissioners oppose "Amendment One" due to its potential to disrupt families, ban same sex marriage and civil unions, weaken domestic violence protection for unmarried couples, eliminate health coverage for some citizens and hinder business recruitment. The aforementioned North Carolina municipalities, counties, and boards who have voted to oppose "Amendment One" include, but not limited to, Asheville, Carrboro, Chapel Hill, Durham, Greensboro, Greenville, Raleigh, Mecklenburg County and the State Board of Education; and that paragraph 13 read as follows: NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro that it opposes the proposed amendment on May 8, 2012 and affirm its commitment to equal rights and opportunities for Town employees and for all residents of Pittsboro.)

Vote Aye-3 Fiocco, Turner, Voller (Mayor Voller had to break the tie)
Nay-2 Farrell, Baldwin

The Resolution is as follows:

A RESOLUTION OPPOSING THE BALLOT MEASURE KNOWN AS AMENDMENT ONE

WHEREAS, North Carolina State Constitution sets forth in its Declaration of Rights the "great, general, and essential principles of liberty and free government," among them that "all persons are created equal" and that "no person shall be denied the equal protection of the laws"; and

WHEREAS, North Carolina Law already defines marriage as between a man and a woman the proposed amendment would only serve to express hostility against a minority group; and

WHEREAS, Pittsboro proudly embraces the diversity of its residents; and

WHEREAS, the Town of Pittsboro has adopted a policy of promoting equal rights and opportunities for employees and citizens of Pittsboro without regard to race, religion, age, gender, disability, national origin, color, marital status, sexual orientation, or gender identity and expression; and

WHEREAS, a proposal to amend the North Carolina Constitution will be on the ballot on May 8, 2012 and the proposed Amendment states: "Marriage between one man and one woman is the only domestic legal union that shall be valid or recognized in this state; and

WHEREAS, this section does not prohibit a private party from entering into contracts with another private party; nor does this section prohibit courts from adjudicating the rights of private parties pursuant to such contracts; and

WHEREAS, the proposed Amendment, however, would reach beyond the current prohibition against same-sex marriage by barring the state from recognizing any “domestic legal union” other than heterosexual marriage; and

WHEREAS, this difference in language could expand the Amendment’s impact far beyond current North Carolina law and could also cause this Amendment to have much broader effects than similar amendments that have been enacted in other states; and

WHEREAS, most of these states’ amendments bar same-sex marriage and some of them also bar the state from creating other statuses that give unmarried couples rights that approximate marriage; however, very few would restrict the state from giving more limited protections to unmarried couples; and

WHEREAS, the Town of Pittsboro Board of Commissioners oppose “Amendment One” due to its potential to disrupt families, ban same sex marriage and civil unions, weaken domestic violence protection for unmarried couples, eliminate health coverage for some citizens and hinder business recruitment. The aforementioned North Carolina municipalities, counties, and boards who have voted to oppose “Amendment One” include, but not limited to, Asheville, Carrboro, Chapel Hill, Durham, Greensboro, Greenville, Raleigh, Mecklenburg County and the State Board of Education; and

WHEREAS, a bi-partisan group of business and political leaders from across the state have publicly stated their opposition to this amendment including, but not limited to, Governor Bev Perdue, Attorney General Roy Cooper, United States Senator Kay Hagan, Congresswoman Renee Ellmers of the 2nd District, Congressman David Price of the 4th District, NC Speaker and current minority leader Joe Hackney of NC House District 54 and Senators Ellie Kinnaird and Bob Atwater of NC Senate District 23; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro that it opposes the proposed amendment on May 8, 2012 and affirm its commitment to equal rights and opportunities for Town employees and for all residents of Pittsboro.

A RESOLUTION OPPOSING THE BALLOT MEASURE KNOWN AS AMENDMENT ONE IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES

Commissioner Farrell asked that it be noted that he voted against this for the record.

Motion was made by Commissioner Fiocco seconded by Commissioner Turner at adjourn at 6:30 p.m.

Vote Aye-4 Nay-0

Randolph Voller, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk