

Town of Spring Lake  
Regular Meeting of the Board of Aldermen  
Municipal Building  
300 Ruth Street  
Spring Lake, NC 28390

January 12, 2009

MINUTES

7:00

p.m.

The Spring Lake Board of Aldermen held a regular scheduled meeting in the Grady Howard Conference Room of the Spring Lake Municipal Building with Mayor Ethel T. Clark presiding.

**Board Members Present:** Mayor Pro-Tem James O'Garra  
Alderman Richard Higgins  
Alderwoman Nellie McCoy  
Alderwoman Fredricka Sutherland

Alderman Napoleon Hogans was absent.

**Others Present:**

Larry Faison, Town Manager	John Jackson, Town Attorney
Alvin Brown, Police Chief	Allen Coats, Finance Director
Debbie Disbrow, Human Resources Officer	Robert Doberstein, Fire Chief
Danny Gerald, W&WR Director	Paul Hoover, Director of Inspections
Ken Metcalf, Recreation Director	Tom Spinks, Planning Director
Rhonda Webb, Town Clerk	

**2. Invocation.**

Alderwoman Sutherland gave the invocation.

**3. Pledge of Allegiance.**

Mayor Clark led the meeting in the pledge of allegiance.

**4. Additions or Deletions to Agenda**

Two items were added to the agenda. The PARTF grant application was added as 7a

**Motion by:** Alderman Higgins  
**Second by:** Alderwoman McCoy  
**Vote:** Unanimous

and the ice cream man violation was added as 7d

<b>Motion by:</b> Mayor Pro Tem O'Garra	
<b>Second by:</b> Alderwoman Sutherland	
<b>Vote:</b> Yes	No
Mayor Pro Tem O'Garra	Alderwoman McCoy
Alderman Higgins	

**Alderwoman Sutherland**

**5. Approval of Agenda and Consent Items.**

The Board approved the agenda as amended

**Motion by: Alderwoman Sutherland**

**Second by: Alderman Higgins**

**Vote: Unanimous**

and approved the minutes of the December 8, 2008 Workshop and Board meeting.

**Motion by: Mayor Pro Tem O'Garra**

**Second by: Alderwoman Sutherland**

**Vote: Unanimous**

(A copy of the agenda and consent items is hereby incorporated by reference and made a part of these minutes – see attachment one.)

**6. Public Forum**

Ms. Denise Russ, 2350 Lillington Highway, Spring Lake, complained about the Police Department driving through her bar parking lot, Fubar on Lillington Highway. She stated that the police are in essence harassing her patrons, stopping them as they leave and sitting and waiting on them to leave. She has asked them to leave. She stated that she has filed a verbal complaint with the Police Department and is now going to put it in writing.

Mr. Bell, 404 Crystal Spring Drive, Sanford, NC, stated that he feels his civil liberties and his civil rights have been violated. He stated that he received a ticket for a law that is not even on the books. He stated that the Police Chief told him that he was the "last stop" and that Mr. Bell has no other authority to appeal. He requested that the Board do something about what is going on. He stated that there are other ice cream vendors everywhere and you can hear them three and four blocks away. The only thing that is different about him is his type of music. He stated that he should not be harassed for trying to sell ice cream to the children.

Mr. Donald Miller, 504 Thalia Road, Spring Lake, requested status on the land on Odell Road. He stated that it has been a while since they have heard anything and he wanted to find out what is going on.

Mr. Leon Lucas, 732 Goodyear Drive, Spring Lake, stated that he wants to understand what is going on with Ice Creamgate. He stated that the whole thing has become an embarrassment to the entire Town of Spring Lake. He is tired of defending the Town and the people of this Town. He wanted to know what we can do to get this thing resolved.

Ms. Peggy Moore, 309 Elaine Street, Spring Lake, spoke in support of the Town and the Spring Lake Police Department. She stated that we do have a noise ordinance and wants to see the citation stand. She doesn't want everyone playing loud music in the neighborhoods. She suggested that the ice cream man go to Mr. Kirby's neighborhood and sell ice cream there.

Ms. Margo Baker, 1404 Fay Avenue, Spring Lake, spoke in support of the Spring Lake Police Department. She questioned why the ice cream man is playing loud music and selling ice cream at 8:00 p.m. at night.

**7. New Business.**

**a. PARTF Grant Application.**

As requested at the workshop on January 12, 2009, the Board added this item to the agenda to publicly state their intention concerning the PARTF grant application.

**Action:** The Board approved a motion to authorize staff to prepare application for the Parks and Recreation Trust Fund Grant that reflects option 2 as presented at the workshop in the amount of \$1,176,750 and to present that application to the Board at their January 26<sup>th</sup> meeting for consideration.

**Motion by:** Alderwoman Sutherland

**Second by:** Mayor Pro Tem O'Garra

**Vote:** Unanimous

(A copy of the supporting documentation is hereby incorporated by reference and made a part of these minutes – see attachment two.)

**b. Case 08-184 Site Plan Review, USA Autowash Systems.**

Mr. Spinks presented the site plan for USA Autowash Systems. He stated that the property is located near Wal-Mart on the Murphy Oil gas station property. He stated that the Cumberland County Planning Department and Town staff recommends approval. He clarified that this is a one bay automated carwash.

**Action:** The Board approved a motion to approve the site plan as recommended by staff.

**Motion by:** Mayor Pro Tem O'Garra

**Second by:** Alderwoman McCoy

**Vote:** Unanimous

(A copy of the supporting documentation is hereby incorporated by reference and made a part of these minutes – see attachment three.)

**c. Budget Amendment #9.**

Mr. Coats presented Budget Amendment #9 to budget for fall sports sponsorship revenue.

**Action:** The Board approved a motion to adopt Budget Amendment #9 in the amount of \$2,075.

**Motion by:** Alderman Higgins

**Second by:** Mayor Pro Tem O'Garra

**Vote:** Unanimous

(A copy of the supporting documentation is hereby incorporated by reference and made a part of these minutes – see attachment four.)

**d. Ice Cream Man Violation.**

Mr. Jackson stated that the noise Ordinance has been under consideration for several weeks. He reminded the Board that the current Ordinance has a 30-foot standard as to sound emanating from a vehicle. He is working on updating the Ordinance and suggests other measures to determine violations such as a decimal meter. He stated that it needs to be modernized and he and the staff have been working on that. It is unfortunate that the ice cream man violation occurred during the time that the Ordinance has been under review.

Mayor Pro Tem O'Garra wanted to make a motion to dismiss the citation but Mr. Jackson clarified that that motion would be out of order because the Board does not have the authority to by motion not enforce the law. He stated that Mr. Bell will have a forum, if we choose to enforce it as a civil penalty, in the Magistrate's Court. Mayor Pro Tem O'Garra expressed his concern about the situation. He expressed that he has reservations about the facts that have been stated concerning the situation and that he does not believe the ice cream man was given a warning. He gave a timeline overview of what he understood had occurred. On December 21, 2008 Mr. Bell received a citation in the Old Holly Hills area. On December 22, 2008, Mayor Pro Tem O'Garra went to see the Town Manager and requested that he look into the situation. The Town Manager, at that time, stated he would look into it and requested that Mayor Pro Tem O'Garra not talk with the Police Chief about this. Mayor Pro Tem O'Garra stated that he understood and agreed. On December 23, 2008 Mayor Pro Tem O'Garra again spoke with the Town Manager and was not satisfied with his response and went to see the Police Chief. He stated that he spoke to him briefly, about five or ten minutes, and the Chief did not say anything about a warning citation being issued. Mayor Pro Tem O'Garra felt that the Chief would take care of this situation. Later that same day, Mr. Bell stopped by Mayor Pro Tem O'Garra's home and played the music that he was playing when he received the citation. Mayor Pro Tem O'Garra requested Mr. Bell to go see Chief Brown and play the music for him. He stated that later that evening Mr. Bell called him and told him that Chief Brown said the citation would stand. He stated that it

was only at a later date that he was told by Mayor Clark that Mr. Bell had received a warning by the Police. This upset Mayor Pro Tem O'Garra because the President of the NAACP was told by Chief Brown that Mr. Bell had received two warnings. Alderwoman Sutherland told Mayor Pro Tem O'Garra that the Town Manager informed her that Mr. Bell had received one warning. The stories do not match and Mayor Pro Tem has concerns about what really happened. The newspaper article makes us look like we don't know what we are doing.

He would like to see this situation go away. It is going to cost us quite a bit of money to follow through on the citation. He would like to see in the future that something so minor be stopped before it gets this far. He would like us to keep this situation in mind when we change the Ordinance. He is not sure he is satisfied with the charge. When he spoke with the Police Chief early on there was no mention of a warning.

Alderwoman Sutherland stated that the most important people in Town are the citizens.

She has concerns about the way the Police Department has been doing their job. She stated that she has researched the ice cream man and listened to his music. She has been approached by people everywhere she goes about what has been going on in Spring Lake. She feels that Mr. Bell did everything he could do to try to be heard. If we are going to enforce the 30-foot stipulation we should do it across the board. She wanted to personally apologize for what has happened. She stated that if he was warned he should have turned the music down but it is her understanding that is not what happened. Something is going on somewhere with the Police Department because too many citizens are saying the same type of things.

Alderwoman McCoy wanted to know what the facts are. She asked if he was warned, how many times, what he did when he received the citation. She would like him to talk with her after the meeting because she will not make any decisions until she hears the facts. She also asked Ms. Russ to see her after the meeting to learn the facts.

Alderman Higgins stated that he can not comment on the situation until he learns the facts. He is also embarrassed about the situation and the Board has worked hard to bring the Police Department up to standard. He stated that sometimes common sense goes a long way.

Mr. Jackson stated that he would ask that the Board members get all the facts before they make a decision.

Mayor Clark stated that she too is embarrassed. The Town has been unfairly labeled which we have no control over. It is unfortunate that everything has happened. The media coverage has been to deliberately embarrass the Town.

#### **8. Board and Staff Comments:**

**Mayor Pro Tem O'Garra**

- Thanked everyone for being at the meeting.

**Alderwoman McCoy**

- It is a pleasure to see as many people here. She invited the public to come more often.

**Alderwoman Sutherland**

- Chief Brown has been a fine man and thanked him for what he does for the community.
- Thanked everyone for coming out.

**Alderman Higgins**

- Good to see everyone out.

**Mr. Jackson**

- Happy to be here.

**10. Adjournment.**

**Action:** There being no further business to come before the Board, the meeting was adjourned at 7:58 p.m..

**Motion:** Mayor Pro Tem O'Garra

**Second by:**

**Vote:** Unanimous

Rhonda D. Webb, CMC  
Town Clerk

**ATTEST:**

Ethel T. Clark  
Mayor