

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

July 14, 2008

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
Alderman Napoleon Hogans
Alderwoman Fredricka Sutherland

There was a vacant seat on the Board due to the death of Alderman Jack Vannoy on June 13, 2008.

Others Present:

Larry Faison, Town Manager
A.C. Brown, Police Chief
Danny Gerald, W&WR Director
Ken Metcalf, Recreation Director
Rhonda Webb, Town Clerk

John Jackson, Town Attorney
Debbie Disbrow, Human Resources Officer
Paul Hoover, Director of Inspections
Tom Spinks, Planning Director

2. Invocation.

Alderman Hogans gave the Invocation.

3. Pledge of Allegiance.

Mr. Kevin McLamb, Boy Scout Troop 205, Pine Burr Council, led the meeting in the Pledge of Allegiance.

4. Additions or Deletions to Agenda and Approval of Agenda and Consent Items.

The Board approved a motion to approve the agenda and approve the consent items.

Motion by: Alderman Higgins

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.)

5. Public Forum.

Mr. Daniel Goins, 1551 North Bragg Boulevard, addressed the Board. He wanted to know how the sewer lines would be run to Manchester Road. He has heard that the sewer line

would go behind the Pantry Store and cut through his property. Mr. Gerald explained that the sewer line would run in front of the Pantry Store and would not cut across his property. He also asked what the timetable is for annexation. The Board clarified that there has not been a Resolution of Intent to annex that area. There will be plenty of notice if the Town decides to annex that area. He stated that he understood that the tap would be free if he allowed the Town the easement. Mr. Gerald stated that is a possibility. It depends on where they decide to put the line. Mr. Goins asked what is different now than from 20 years ago when the Town tried to annex their property and his grandfather fought it. Mayor Clark stated that the money was not available 20 years ago to run sewer lines to that property. Mr. Jackson clarified that they are discussing two different issues. He stated that the Board has made it clear that at this time the Town has not made a decision to annex that area. The sewer is a totally different subject. Mr. Goins stated that he doesn't see that they will get anything for being annexed except higher taxes. Mayor Clark assured him that there are no immediate plans to annex his area and if they decide to proceed in that direction, he will know well in advance.

Mayor Clark closed the Public Forum.

6. New Business.

a. Fayetteville Area System of Transit Interlocal Agreement.

Mr. Hoover presented the Interlocal Agreement and requested the Board to select the option for the level of service that they wish to provide the citizens and authorize the Mayor to execute the agreement.

Alderman Higgins made a motion to approve option 2A and authorize the Mayor to sign the agreement. Alderman Hogans seconded the motion for discussion purposes.

Alderman Higgins asked if we budgeted for this in the current budget. He stated that to tack on money in the first month after we worked so hard to get the budget approved just doesn't seem right. Mr. Faison stated that additional money was not budgeted, we would have to take money from fund balance to keep services the way they are now.

Alderman Hogans expressed concerns about reducing services at this time with gas prices so high. He suggested that the fare be increased to keep the service at the same level. He requested the Manager keep that on his radar when it is reviewed again. He stated that he was led to believe that money is available to make this happen.

Mayor Pro Tem O'Garra stated that we need to make sure we put money toward this next year because if we have to cut it anymore, we will not have a bus service. He stated that the cost will go up next year too.

Mr. Jackson asked if the funds are already appropriated and Mayor Clark stated that it is not in the budget. Mr. Faison clarified that a budget amendment would have to be made and we would have to draw from fund balance.

Action: A motion to approve option 2A and authorize the Mayor to sign contract was

defeated with a three to one vote.

Motion by: Alderman Higgins

Second by: Alderman Hogans

Vote: 3-1	Aye	No
	Alderman Higgins	Mayor Pro Tem O'Garra
		Alderman Hogans
		Alderwoman Sutherland

Mayor Pro Tem O'Garra made a recommendation for the Manager to discuss it further with FAST.

There was discussion about the need for a Budget Amendment to reconcile the agreement with the money available in the budget.

Action: The Board approved a motion to approve option 1 and direct staff to bring back an interlocal agreement and a budget amendment that reflects option 1 in the budget with funds to cover the cost.

Motion by: Alderman Hogans

Second by: Mayor Pro Tem O'Garra

Vote: 3-1	Aye	No
	Mayor Pro Tem O'Garra	Alderman Higgins
	Alderman Hogans	
	Alderwoman Sutherland	

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

b. Board of Aldermen Policy, Public Comment at Board Meetings.

Ms. Webb presented a Policy governing public comments at the Board meetings. She stated that the policy formalizes the process that the Board uses now to govern the public comment portion of the Board meeting. She stated that the policy includes two forms that will be used, an updated sign up sheet for public forum and a form that will be used to request to be on the Board agenda.

Action: A motion to approve the Public Comment at Board Meetings Policy was defeated with a three to one vote.

Motion by: Alderwoman Sutherland

Second by: Alderman Hogans

Vote: 3-1	Aye	No
	Alderman Higgins	Mayor Pro Tem O'Garra
	Alderman Hogans	
	Alderwoman Sutherland	

Alderman Hogans stated that the policy gives the impression that it is not citizen friendly. He believes that we should accommodate citizens as much as we can. He has concerns with how rigid items 5 and 6 are and the time restraint prior to the meeting allowed for

sign-up. Mr. Jackson stated that the Board has the freedom to suspend the rules to allow more time or to allow more people to speak. Alderman Hogans does not want to "handcuff" the Board in any way. He would like the policy to be more citizen-friendly.

c. Board of Aldermen Policy, Voting By Telephone or Other Remote Means.

Ms. Webb presented a policy that formalizes the allowance of individual members, physically absent, to be recognized by the Mayor through electronic media such as a telephone. She stated that before the policy can be adopted, the Town's Charter would need to be amended to include the definition of "present" that aligns with what the policy represents.

Mr. Jackson stated that this is not a recommended procedure. He, as well as two authorities at the Institute of Government, believes that it is legally insufficient. There is no enabling legislation in place to allow this.

Mayor Pro Tem O'Garra stated that he recalls the meeting from the 19th where Mr. Jackson stated that it was illegal for the Board to do what they were getting ready to do. Mr. Jackson clarified that he stated there was no legal basis for it. Mayor Pro Tem O'Garra stated that it appears that we are now trying to clean up what we messed up. Mr. Jackson inquired if he was speaking about the ratification in the consent agenda. He stated that it was his recommendation that, when Ms. Sutherland returned, the entire Board ratify their actions so as to give a second defense in the event it was challenged. Mayor Pro Tem O'Garra stated that we made a decision on a large financial effect on the Town that we will never recover from. He sees it as \$420,000 for fifteen years as opposed to \$600,000 for fourteen years. That is a big difference. He stated that he feels like we "stepped on it a little" and requested that the next time Mr. Jackson feels that we are doing something illegal he might want to beat on the table a little harder.

It was clarified by Mayor Clark that Mr. Jackson recommended that the Board not adopt this policy.

Alderman Hogans stated that you can observe Cumberland County's Board and Fayetteville City's Board allowing Board members to participate via conference call and that does not mean they are doing anything illegal. He stated that the scenario that was presented tonight is the only way to make sure we are doing it legally. In this electronic age, he sees this as the only way to get it done.

Mr. Jackson stated that there is no legal basis to allow this action. He stated that if you go to court and it is challenged and found to be void, you will then have a big problem. The legislature has not authorized this. Some town and cities have taken the provision from the open meetings law and used that as the basis to allow this type of action. However, the open meetings law is only specifying what constitutes a public meeting. It is stating that it is ok to include a Board member in the meeting but it does not allow the member to vote on items. He also stated that the County operates under a different statute and that he is only speaking to his knowledge of municipalities.

Alderman Hogans stated that we need to have some provisions in case of hurricane, flood, or whatever else keeps a member from getting to the meeting. Otherwise, we will just have to sit on our hands.

Alderwoman Sutherland stated that at the time we had no choice. As she understands it we don't know if we did anything wrong or right only that it could be legally challengeable. She stated that we need to have something in place in case something does happen like the current situation. She clarified that no one ever said they were doing anything illegal. She doesn't want it put out that the Board did anything illegal because they did not do anything illegal, only that the actions were legally challengeable.

Mayor Clark asked Mr. Jackson what constitutes a quorum when you have a vacant seat. Mr. Jackson responded that the Charter states that vacant seats are to be subtracted from the normal board membership to determine the actual membership. He stated that to hold a meeting the quorum would be two members plus the Mayor. However, you have to look at the thing being voted on to determine if you have enough votes. Some things require a majority vote while other things require a 2/3 vote. It depends on what you are voting on.

Mayor Pro Tem O'Garra stated that we were dealing with big dollars back then and maybe illegal might not be the proper term to use, but when the attorney tells us not to do something, we should not do it. Somewhere along the line we need to take responsibility.

Action: A motion to put the policy on the back burner and not adopt the policy was defeated by a 3-1 vote.

Motion by: Mayor Pro Tem O'Garra

Second by: Alderman Higgins

Vote: 2-2	Aye	No
	Mayor Pro Tem O'Garra	Alderman Hogans
	Alderman Higgins	Alderwoman Sutherland

Mayor Clark voted against not adopting the policy and broke the tie to defeat the motion.

Action: The Board approved a motion to proceed as recommended by staff to amend the Charter and then proceed with a policy.

Motion by: Alderman Hogans

Second by: Alderwoman Sutherland

Vote: 3-1	Aye	No
	Alderman Hogans	Mayor Pro Tem O'Garra
	Alderman Higgins	
	Alderwoman Sutherland	

Alderman Higgins stated that he would be willing to see if amending the Charter would be sufficient to allow this type of voting in the future.

d. Spring Lake Flag and Motto.

Ms. Webb presented the findings of the investigation concerning the creation of the Spring

Lake flag and motto. She stated that there was no evidence found to support Ms. Archie's requests. Her recommendation was to leave the official minutes from January 23, 1978 and June 12, 1978 unchanged and to approve and adopt a Proclamation concerning the creation of the Spring Lake flag and motto.

Action: The Board approved a motion to follow the recommendations of staff and approve the Proclamation.

Motion by: Alderman Hogans

Second by: Alderman Higgins

Vote: Unanimous

e. Sidewalk Requirement, Spring Lake Business & Industrial Center.

Mr. Spinks presented a request from Crawford Design Company and RLM to consider delaying the construction of the sidewalk along Manchester Road and the Industrial Drive (roadway into the Business and Industrial Center) for two years from the date of project approval or to delay construction of the sidewalk on Industrial Drive for one year and eliminate the sidewalk requirement along Manchester Road. The Town's development construction standards require a five-foot sidewalk along E. Manchester Road and a four-foot sidewalk along Industrial Drive. Staff does not recommend eliminating the sidewalk standards along Manchester Road. Of the two options, staff recommends delaying sidewalk construction for two years.

Action: The Board approved a motion to follow staff recommendations.

Motion by: Alderman Hogans

Second by: Mayor Pro Tem O'Garra

Vote: Unanimous

Mayor Clark requested the Clerk to read the Proclamation for the Spring Lake Firefighter Appreciation Month that was contained in the consent agenda. The Clerk also read the memo overview at the request of Alderman Hogans. Alderman Hogans stated that MDA's fundraisers have been up, even in this time of the bad economy. He thanked the Spring Lake Fire Department for their diligence over the years in their "Fill the Boot" campaigns.

7. Board and Staff Comments:

Alderwoman Sutherland

- Glad to be back. Had a wonderful vacation.
- Growth of Town in the time she was gone is wonderful.
- Received a call from Ms. Archie concerning the flag and motto issue. Requested that someone contact Ms. Archie.

Mayor Pro Tem O'Garra

- Thank you to everyone for showing up.
- I know I need to put this thing to rest, but I feel like the Town of Spring Lake took it in a bad way, Spring Lake gets 30% and Fayetteville gets 70%, now I'm looking at Fayetteville right here at Butner Road, soon I will be able to throw a rock across the road and hit Fayetteville – that's getting too close. Fayetteville actually went around us and went to Raleigh without informing us. They were trying to get this passed without us even

knowing what was going on. We found out because someone called and let us know. Fayetteville is putting in a water line that will cost the citizens of Spring Lake \$3,000,000 that they will not recoup. The water line is a \$12,000,000 deal and Spring Lake has nothing to do with it. It has been said that if we did not go along with this deal we would look bad in the newspaper. I think the newspaper should have taken a look at it. 70%-30% is a lopsided deal, and then they had the audacity to come back and ask us to help pay for a water line that they are going to make money on once it is paid for. We made a telephone call and passed that and it was wrong. That is a lot of money that the Town of Spring Lake is going to miss out on.

Aldermen Higgins

- Good to see RLM here. Hope construction will start soon.

Alderman Hogans

- Hope we can take a look at the Town's merit pay system.
- Would like to review our financial situation and come back with a COLA increase for the employees before the end of this budget cycle.
- Holly Hills Community Watch is raffling a 32" LCD HDTV for \$1.00 as a fund raiser.

Rhonda Webb

- Reminded Board that Mid-Carolina Council of Governments quarterly meeting is scheduled for July 17, 2008.
- NCBEMO Summer Conference is scheduled for August 8-9, 2008. Please let the Clerk know if you want to attend. Deadline for registration is July 31, 2008.

Mayor Clark

- Thanked everyone for coming out.
- Believes that what we did so far as the interlocal agreement with Fayetteville was the best thing to do and in the best interest of Spring Lake.

8. Closed Session, G.S. 143-18-11(a)(3) – Attorney-Client Privilege.

Action: The Board approved a motion to go into Closed Session and excuse Mr. Higgins from the Closed Session at 8:20 p.m.

Motion by: Alderman Hogans

Second by: Alderwoman Sutherland

Vote: Unanimous

The Mayor called the meeting back into Open Session at 8:37 p.m.

9. Adjournment.

Action: There being no further business to come before the Board, the meeting was adjourned at 8:38 p.m.

Motion: Alderman Hogans

Second by: Mayor Pro Tem O'Garra

Vote: Unanimous

Rhonda D. Webb, CMC
Town Clerk

ATTEST:

Ethel T. Clark
Mayor