

Regular Monthly Council Meeting
201 Main Street, Hamlet, NC 28345
Tuesday, November 12, 2013- 7:00 PM
Minutes

Present:

Governing Body Present:

Mayor Jeff Smart	Jeff Smart
Mayor Pro Tem	Tony Clewis
Council Member	Pat Preslar
Council Member	Abbie Covington
Council Member	Johnathan Buie
Council Member	Dewey Brower

Staff Present:

City Manager	Marchell Adams-David
City Attorney	Steve Futrell
City Clerk	Tammy Kirkley
Finance Officer	Jill Dickens
Police Chief	Amery Griffin
Fire Chief	David Knight
Zoning Officer	Gail Strickland
WTP Supt.	Robert Brown
Public Works Dir.	Billy Stubbs

Others Present: RCDJ Representative, Tommy McGirt, Lee Anne McGirt, Burnell McGirt, Vide and Nancy Kirkley, Sr., Bill and Linda Bayless, Gloria Mask, Joy Smart, Debbie and Mac Stegall, David and Kim Lindsey, Steven Rabb, Jimmy Stricklin, Mr. & Mrs. Orlando Molina, Sarah Haywood, Dominique Boyd, Julia Roberson, Beth Brown

- 1. Call to Order.** Mayor Smart called the meeting to order and welcomed everyone.
- 2. Invocation.** Mayor Pro-Tem Tony Clewis gave the invocation.
- 3. Adoption of Agenda.** Staff has asked for Attendees Comments to be moved to the end of the meeting to allow for NCDOT presentation. Council Members Preslar and Covington motioned to adopt the agenda as amended. All were in favor 5-0.
- 4. Approval of Minutes.** Regular and Closed Session minutes to the October 8, 2013 meeting were unanimously approved by motions of Council Members Covington and Brower. Vote 5-0.
- 6. Presentation by NCDOT Dominique Boyd.** Mr. Boyd, NCDOT Project Engineer for the CIP with Richmond County presented council to explain and give an update on the Comprehensive Thoroughfare Plan. He noted the benefits of having a CTP and reported that they are forming a CTP Steering Committee and want to get public involvement. After going thru the process it is expected to end in 2015. Mr. Boyd noted the affected highways and areas within the highway corridor initiatives.

Ms. Julia Roberson with the Lumber River Steering Committee presented council to explain the survey. Ms. Roberson stated the survey will go out in January and will be placed in public areas of local traffic and said it will also be placed on the web. The survey is in an effort to get the public's input on the matter. She talked about the importance of public involvement.

7. Public Hearing #1. Molina Annexation. Mayor Smart explained that Mr. & Mrs. Orlando Molina presented council last month with a petition to annex their property located off of Hwy. 74 east near the old bread store and the public hearing was scheduled to take place tonight. He then opened the floor to the public hearing and invited comments or questions concerning the annexation request. No comments were presented and the hearing was then closed. Mr. Molina presented council and explained that water and sewer services are needed on the property and that is why they are requesting to be annexed. Mr. Clewis raised the concern about the road being accessed by the city on the subject property to get to and from the city's landfill. Mr. Molina confirmed that he and his wife will sign easement of right-of-way for this purpose. The manager stated the city will draw up an easement for permanent access for the Molinas to sign.

8. Consideration of Ordinance No. 13-03. Ordinance No. 2013-03 is to extend the corporate limits of the City of Hamlet by contiguous annexation for the Molinas. Council Members Clewis and Buie motioned to adopt the ordinance and the vote passed 5-0.

9. Public Hearing No. #2. Thomas and LeeAnne McGirt have filed a rezoning petition for Tax Map 749117 Blk 20, Lot 2996 located on Hwy 38, Louis Breeden Blvd. One portion of the parcel is located in the city limits and is currently zoned Neighborhood Business (B-3); the remaining portion is located in the ETJ and is currently zoned Residential Agriculture 20 (RA-20). The request is to rezone the entire parcel to Light Industry (I-1). The previous pine straw business closed and remained closed for 180 days, and future use has to meet current zoning standards. Pine straw baling is now permitted in the Light Industry (I-1) and Heavy Industry (I-2) zoning districts only. The owners want to rezone the property to I-1. Mrs. Strickland reported that this area was a grandfathered use and it now has to go thru current zoning. Mayor Smart opened the floor to the public hearing. Tommy McGirt presented council and explained the request to bail pine straw; he noted they want to go back to what they were doing for 40 years. Mr. McGirt confirmed there are plans to lease the property. With no other comments being made, the hearing was closed.

10. Consideration of Rezoning Request. Council Members Brower and Clewis motioned to rezone the property to Light Industrial (I-1) as requested. The vote passed unanimously with a 5-0 vote.

11. Review of Boyd Lake Park Plans. A preview meeting was held prior to the council meeting tonight to discuss potential plans for the Boyd Lake Park. Ms. Patt Crissman with The Wooten Company presented council. She reported that last year council voted to apply for the Parks and Recreation Trust Funds grant (PARTF). The cost for the park is under \$2.3 million and there is an option of including a splash park/pad as recommended by the Parks and Recreation Trust Fund Representative to serve as a revenue generating facility. The cost for the splash pad will range from \$ 150,000 - \$275,000. Ms. Crissman informed council that the grant application is due at the end of January, which means if council would like to move forward with the application, a resolution will be needed by the January meeting. Mr. Clewis asked if the city has the option to scale back the park plans and Ms. Crissman confirmed to the affirmative and noted council will have to make that decision before submitting the application.

12. Consideration of Resolution No. 2013-15. Council Member Buie suggested tabling the matter if council is not comfortable with the current figures for the Boyd Lake Park in order to come up with other options to lower the cost. Council Member Preslar asked if the new council have ample time to review it. It was suggested to discuss the matter during next month's meeting during "New Business". Mr. Preslar then suggested to get input from both councils so as to make it privy to all involved. Council Members Preslar and Buie motioned to table Item 12 & Item 13 for new council. The vote passed 5-0.

13. Implementation of CIP-Boyd Lake Road Park. This item was tabled as a part of Item No. 12.

14. Addendum #2 to Resolution No. 2013-12 - Surplus of City Property. The following items have been requested to be added as surplus items to Resolution No. 13-12, with certain items to be sold per NCGS 160A via private sale and per NCGS 160A-270(b) via public auction.

Public Works	Two 1897 Fire Hydrants- private sale
Water Treatment Plant	56 – 50 lb. bags of activated water carb – private sale
Public Works	John Deere 355 Lawn Mower – SN M00355B085489 – public auction

Council Members Covington and Buie motioned to add the submitted items to Resolution No. 13-12. The vote passed 5-0. The city clerk gave the details for the public auction scheduled for November 16, 2013 at 10:00 am. The items will be available for preview beginning at 9:00 a.m.

15. Approval of Tax Releases. Council Members Clewis and Covington motioned to approve the tax releases as submitted for November 2013. The vote passed in favor with a 5-0 vote.

16. Mayoral Proclamation for "Giving Tuesday". Mayor Smart read aloud the proclamation and encouraged all to participate in Giving Tuesday on December 3rd.

Other Business

5. Comments from Attendees. The Mayor welcomed comments.

Mack and Deborah Stegall asked if a decision has been made about the city settling with the people whose cars were taken with the police department. Ms. Stegall said her son was told that he could get his car back when he got his license and insurance, which they knew would be a while and they were never notified of anything about the car until it was recently in the paper. They never knew what happened with the car, no one contacted them. Chief Griffin stated from the information he found all of the charges were voluntarily dismissed by the state. Mr. Stegall said the first they knew that it had been taken by the Hamlet Police Department was when they read it in the paper. Ms. Stegall explained that there was no tow truck called and an officer got in the car and drove it away. The police chief confirmed the charges were all traffic charges, not felony charges and they were all voluntarily dismissed. Ms. Stegall said she knew they took the car but at the time, her son was told he couldn't get it back until he got his license and insurance. She said she thinks one of the officers was Mr. Veach. Mrs. Covington referenced the types of letters that were supposedly sent out to these people, i.e. - a storage amount of \$15,300 has been accrued for 765 days at \$20 per day. She said this is 705 days over the limit as Mr. Haywood reported last month that they only keep them for 60 days. It was also reported that the city is not positive that the letters actually went out to the car owners.

Mrs. Covington said the city is going to have to compensate for wrongful procedures. Mr. Preslar stated there should have been an option for the owner to get the car the next day. Mrs. Stegall asked if any of the funds collected with all of the car incidents were accounted for and the Mayor replied yes, some of it was. Mrs. Stegall then asked and was confirmed that all of the funds were not accounted for and that the funds did not go through the city. Mack Stegall, who is the Finance Officer for Richmond County, then explained if the money is not appropriated through the budget and is spent in an individual department without that appropriation, is a misappropriation of funds. Mrs. Stegall asked if there were any charges for that, and the Mayor said the city really doesn't know. She asked when they will hear from the city about the matter. The police chief stated the city has to determine the value of the cars and he explained that some vehicles had custom stereos, a new motor, custom paint and such. Mrs. Covington said the city will have to come to a mutual agreement.

The city attorney confirmed that whatever value is determined, council will have to approve it. He stated council may set up a procedure for each individual transaction or agree on a value and make a budget amendment each time. Mr. Futrell said ultimately council is charged and responsible for budgeting expenditures, as well as revenues. The mayor stated the city will be back in touch with the Stegalls as soon as possible.

Mr. Clewis asked the chief if it's legal for a police officer to drive a car with no tags and insurance on it and the chief confirmed that it is ok for the officers to move it off to the side of the road in order to get it out of the road. The attorney reminded council that there was a Towing Ordinance that should have been followed.

Mr. ONeal Patrick presented council and reported that he had at least three cars taken, one was confiscated and they wouldn't give it back. Graves had the vehicle for two years and he was told he could not get it back until he got insurance on it, he then got insurance on it and still couldn't get it back. Mr. Patrick noted he was stopped one time for the inspection sticker being expired by two days, the police made him get out and walk and they called a wrecker to get his car. He said he also had a black Euro Sport that was taken from him by Veach, it was kept for two weeks and he had to pay out about \$700 to get it back. One time he paid \$500 for a car and he asked where all of this money was going. Mr. Patrick confirmed that he paid cash both times to the former police chief. Mr. Haywood told him \$700 was for storage fee. Chief Griffin has a receipt where Mr. Patrick paid \$660 for towing and storage; he said the charge was for displaying an expired registration plate. Pat Preslar asked if we seize for expired plates and Chief Griffin said no. Mr. Patrick said he was able to get the truck back. Discussions continued about seizing the vehicle for a two day expired tag and the various fees Mr. Patrick paid to the police department and to Graves, and that the police chief gave the permission for his car to be held.

Mr. ONeal Patrick said he went to the police department several times to see about getting his vehicle back and he was told by the police if he didn't stop harassing them that he would never get it back. Mr. Patrick said he then stopped going in checking on it and yet he still didn't get the vehicle back. It was stated that the car was crushed.

Mrs. Covington apologized to Mr. Patrick saying this should never have happened. The mayor confirmed that the city will be in touch with Mr. Patrick as well.

Council Member Covington said the city has got to make it right. She said we have to establish the value of the vehicle and write them a check and she made it in the form of a motion.

Council Member Buie confirmed Mrs. Covington's motion, which is to establish the value of the vehicle at the time it was seized. He asked if there would be no discussion on the value once the city comes up with what it is such as the conditions of the vehicle and such. Mrs. Covington suggested determining the value of the vehicle that the owners are willing to accept based on Kelly Blue Book- she doesn't know who can be the authority on car values would be. She said if an owner can establish that they put a \$1,200 new motor in the vehicle and they have proper receipts, or if they have receipts where they put a \$2,000 worth of radio work in it, the city will just have to consider it.

Council Member Preslar confirmed since he presented the motion to investigate the matter last month, eleven people have come forward about their vehicles.

The mayor confirmed that there is a motion on the floor to proceed with addressing the owners who have come forward to make it right financially via the Kelly Blue Book.

Additional discussion followed on the illegally seized cars. The city manager recommended the city determine the amount for all of the cars and put the money in a fund and allow for the statutes of limitation to run. It was confirmed by the chief that the total right now for the eleven vehicles is roughly \$15,000, which is today's value. Mrs. Covington said we are going to have to look at the value like Mr. O'Neill's car in 2007.

The mayor then reconfirmed the motion on the floor - Motion to proceed with the financial reimbursement for the ones who come forth and can substantiate ownership that the city arrive at some kind of settlement. Mr. Buie seconded the motion. The vote passed 5-0.

Mr. Preslar said he talked with Tommy Stogner on the phone about his vehicle. He said firstly, this is not a blanket statement against the entire or the current police department. Mr. Stogner's car was seized because there was no tag on the back of the car, he had a paper tag; like the other ones - the car was seized and stored. Per Mr. Stogner he came to PD, he tried to get in touch with the manager and she wasn't in that day, and talked to the Assistant Chief, and even hired an attorney due to the way it was seized. He tried to get his car back to no avail. The car was seized June of 2011, court date was July 27th, and the car was titled, quitclaimed, in someone else's name before Mr. Stogner's court date. Mr. Stogner had to watch the vehicle being driving around Hamlet as a service car and is still on the road.

Mr. Preslar then made the motion for the city to formally contact the US Attorney's Office for an inquiry of the violation of people's constitutional rights; regarding illegal arrest, search, and seizure of property. Mrs. Covington seconded the motion.

Mr. Preslar noted that he personally received a threatening letter and said he will not be threatened. The mayor then called for a vote on the motion presented and the vote passed with a 4-1 vote to proceed. Mr. Clewis did not vote, which is an affirmative vote, and Mr. Buie was the opposing vote.

Mrs. Covington said she is not comfortable doing this but when you listen to individuals tell the kind of stories here tonight it is embarrassing and this is put on the city as a result of inappropriate behavior by a few of the police officers. She said the thing to do is to make it right; they need to arrive at a procedure to establish the value of the cars at the time they should have been returned and arrive at an agreeable financial settlement.

Mrs. Covington said we need to establish the value of the vehicle and write the owners a check and she made that in the form of a motion. Mr. Buie confirmed the motion is to establish the value of the vehicle from the time it was seized; he asked if there should be any discussions on the conditions of the vehicle. Mrs. Covington noted there isn't any room to be arbitrary. She suggested using something like Kelly Blue Book to get a value and if the owners have receipts for radios or new motors then the city will have to consider it. Since last month's motion to investigate the wrongful seizing of cars, eleven people have come forward.

The mayor called for the motion on the floor which is to proceed to make it right with owners who have come forward, and to use Kelly Blue Book and other sources to get a value. Johnathan Buie confirmed that this is for the eleven people who have come forward and that their vehicles were illegally seized. Council had continued discussions of the illegally seized vehicles and the violation of constitutional rights. Mr. Preslar said the owners will have to have something that will show ownership of the vehicles and he didn't know if we can put a timeframe on making it right. When asked by Mr. Buie, Mr. Preslar confirmed that the wrecker company could be implicated in this thing too.

Mayor Smart then confirmed with Mrs. Covington her motion; she said it is to proceed with the financial settlement for the ones who come forward and can substantiate ownership at the time of the seizing. Mr. Buie made a second to the motion. The vote passed 5-0.

Department Head Report. Fire Chief David Knight commented on a recent tragic incident. He said retired employee Mr. Frank Floyd and his wife Inez, who were in their 80's in age, died from the house fire. The chief noted that this was a great family and asked everyone to keep the family in their prayers. The mayor thanked the chief for him and his department.

17. City Manager's Report.

Marchell said she was at a conference in Chapel Hill and made an attempt to visit Mr. Lloyd. She said the Lloyd family lost both their mother and father and said her heart goes out to the family.

Mrs. David gave a report for the garbage pickup for the Thanksgiving holiday. She then announced upcoming events for the next month.

18. Comments from Council.

Dewey Brower attended a workshop in Hickory and he hopes the incoming council will attend as well. He explained how it will help with duties .

Johnathan Buie wished all a happy Thanksgiving.

Pat Preslar stated another thing needs to be resolved which deals with the group that was overseeing the South Hamlet concession stand. He said the people over the project attended a meeting saying they had \$17,500 to go towards the project. When it was all over, the city didn't see the \$17,000. He said they indicated with their \$17,500, they wanted \$18,000 from the city, a matching grant basically to build a turn-key concession stand and noted all that would be included. In the end, the city paid \$18,000 to the builder and the city got an empty building.

The idea was sold with a \$17,500 and a matching \$18,000 from the city to get a turn-key concession stand. He proposed to contact the organization and either (a) get half of the \$18,000 from them or (b) ask for the \$17,500 back into that project. They were misled by \$17,500. Mr. Buie asked if the

Cole Foundation investigated the matter and Mr. Preslar said he didn't know but he knows we paid \$18,000 for four walls, a concrete floor and a roof. The group said that the concession stand would cost \$38,000. He feels like the city is off either \$17,500 or half the price that we paid. He said he would like to collect the funds from the Friends of Hamlet or contact the Cole Foundation to make it right. The manager noted a correction, she said there were stainless steel tables and such inside, the only thing missing for the concession stand was the ansul system that would not fit in logistically, it was too large to go inside building. She said the additional work included was irrigation, which was put in by city staff. Mr. Preslar asked who we gave the money to and the manager replied it was given to the contractor Wilkes Construction. Mr. Preslar said we gave \$18,000 in hopes of getting \$2,500 from CSX and a grant of \$15,000 from the Cole Foundation. When asked by Mr. Preslar, the manager confirmed when the city was pursuing the project they received a quote for about \$24-25,000 for all but an ansul system. The city ended up going with the bids recommended by David Lindsey who came to council and presented the request for his plans. Mr. Preslar asked if we had to buy appliances and the manager replied the city ended up moving around appliances from other area concession stands to go in the new one.

Mr. Preslar recommended the city to write a letter and find out where the remaining funds of \$17,500 went and/or to offer a remedy for the remaining funds that we were promised when we agreed to go with the group in this matter. He said if council just wants to leave the matter alone, it is fine but he didn't want to leave it for new council to tackle. The mayor said the issue to consider is- did you get what was called for in the original agreement. Mr. Preslar said in his opinion they did not. The attorney confirmed that staff can make the inquiry and a motion is not needed. The mayor then directed staff to make the inquiry as requested and report back to council at the next meeting.

Tony Clewis said it's not easy to make tough decisions. He noted that there is a lot of hatred in this town. He thanked the citizens for supporting his business while it was functioning. Mr. Clewis added until the hatred is gone; the issues are not going to go anywhere.

Abbie Covington said she would like to request to go into closed session to discuss a personnel matter.

19. Mayor's Comments.

The mayor congratulated the newly elected officials. He noted there are some real passionate people in Hamlet. He said it's not easy making hard decisions and it's no fun. When put in a leadership role, some people will like you and some will not. He said it's about loving this place. The mayor said he will take the negative comments about him as passion. The decisions he has had to make have been forced.

Closed Session. At 8:44 pm, motions were made to go into closed session to discuss a personnel matter per NCGS Section 143.318.11 (a) (6) by Council Members Covington and Preslar. The vote passed 5-0.

Open Session reconvened at 9:16 pm by motions of Council Members Covington and Buie and the motion passing with a 5-0 vote. Mayor Smart reported that no action was taken during closed session.

20. Motion to Adjourn. Council Members Covington and Clewis motioned to adjourn the meeting at approximately 9:17 pm. The vote passed 5-0.

Respectfully submitted,

Tammy Kirkley
Tammy Kirkley, City Clerk

