

MINUTES OF
CITY OF CREEDMOOR
BOARD OF COMMISSIONERS
REGULAR MEETING
NOVEMBER 23, 2010
7:00 P.M.

PRESENT

Mayor Darryl D. Moss, Mayor Pro-tem Jimmy Minor, Commissioner Tim Karan, Commissioner Otha Piper, Jr., Commissioner John Stallings and Commissioner Herman Wilkerson. Also present were Mr. Tom Mercer, City Manager, Ren Wiles, Finance Officer/City Clerk, and Attorney Tom Currin.

INVOCATION and PLEDGE OF ALLEGIANCE

Mayor Moss called the meeting to order and offered the Invocation. Commissioner Karan led the Board in the Pledge of Allegiance.

At this time Commissioner Karan asked for a few moments to address the Board of Commissioners. Commissioner Karan took this time to acknowledge the need for him to resign from the Board of Commissioners in order to accept his newly elected position as Granville County Commissioner. He recognized his wife and daughter for their support. He thanked the citizens of Creedmoor as a whole and the Board of Commissioners for their support and latitude in bringing his daughter to meetings. Commissioner Karan offered his resignation, effective noon, Monday, December 6, 2010. Commissioner Karan offered a motion to name former Commissioner Larry Robinson as his replacement. The motion was seconded by Commissioner Piper. City Attorney Currin offered his comments about the appropriateness of this motion, referring to General Statutes and the City Charter. Based on available guidance, Attorney Currin offered the opinion that the Mayor, as chair of the Board, could determine if the motion was in or out of order. Mayor Moss indicated that he believed the motion was in order and cited work by former School of Government faculty member and attorney David Lawrence. Mr. Lawrence's opinion was that, subject to the timing of the resignation's effective date, it is possible for a board member to participate in determining his/her replacement. Attorney Currin acknowledged Mr. Lawrence's reputation and opinion. He also offered the observation that the case law cited as support was all from outside North Carolina. Mayor Moss listened but indicated he was ruling the motion in order. The Mayor called for a vote on the motion.

Motion to appoint Larry Robinson to the seat that will become vacant at noon on Monday, December 6, 2010. Voting Aye: Commissioners Karan and Piper. Voting No: Commissioners Stallings, Minor and Wilkerson. The motion failed.

After some procedural discussion, motion by Commissioner Piper that Ralph Seagroves be appointed to fill the vacant seat of Commissioner Karan. Seconded by Commissioner Stallings. Attorney Currin offered the addition that Mr. Seagroves would sit for the remainder of Commissioner Karan's term. The Mayor confirmed the motion and called for a vote. The motion received a unanimous vote.

After recognizing and congratulating Commissioner-Elect Seagroves, the Mayor recognized the Karan family. The Mayor thanked Mrs. Elizabeth Karan for her support and sacrifice. He also thanked Mr. Karan's daughter, Madison, and presented her with an award.

The Mayor referred to a meeting from two years ago, establishing the policy of rotating the position of Mayor Pro Tem and stated that the transition of Commissioner Herman Wilkerson as Mayor Pro Tem should occur at the December meeting.

REQUESTS TO ADDRESS THE BOARD

The Mayor announced that no one had requested to address the Board by the usual deadline (publication of the agenda) but that someone who would speak under public comment and that he would allow the speaker some latitude regarding time length.

ADOPTION OF AGENDA

Motion by Commissioner Stallings to approve the agenda as presented. Seconded by Commissioner Minor. The motion received a unanimous vote.

ADOPTION OF MINUTES

Motion by Commissioner Karan to approve the minutes from the October 26, 2010 Board of Commissioners Regular Meeting and the November 8, 2010 Board of Commissioners Work Session. Seconded by Commissioner Piper. The motion received a unanimous vote.

PUBLIC COMMENTS

- a. Mildred Goss, 322 Aiken Drive, reminded everyone that the Christmas Tree lighting will be on 12/3/10 at Lake Rogers and that the Christmas Parade will be on 12/4 at 11:00 AM.
- b. Mr. John Watson, attorney from Oxford, NC, came to speak on behalf of Mr. Dave Pollard of Creedmoor. Mr. Watson provided bound documentation for the board. No copy was provided to the Clerk. The document is intended to address the issue of duck hunting at Lake Rogers in Creedmoor. Mr. Watson opened with a recap of how Mr. Pollard became familiar with the area in 1958. In 1985, Mr. Pollard bought the farm he had been hunting on. Mr. Watson referred Commissioners to a map showing locations of duck blinds, reportedly in place since 1958. Mr. Watson continued with a history of City regulation of duck hunting. The Mayor reminded Mr. Watson of the time limit. Mr. Watson referred to a past criminal charge against Mr. Pollard, of which he was reportedly cleared. Mr. Watson indicated that Mr. Pollard wishes to avoid a repeat of those events. Mr. Watson points out that Mr. Pollard has put a conservation easement in place on his land. Mr. Watson sums up that Mr. Pollard has been a good citizen, wants to enjoy duck hunting the 20 to 30 days that duck hunting is allowed, and work with the Board.

Mayor Moss responded that the Public Safety Committee had been asked to review the issue. The Committee will respond later in the evening.

MANAGER'S REPORT

Manager Mercer indicated that during his reporting time, he would be calling other staff to make presentations.

- a. The Mayor made a presentation to the full Board regarding the Fontaine Property Development. The Mayor indicated that this project has gone "back and forth" with Granville County. The Mayor indicated that the current proposal involves donations to the City of Creedmoor. The Mayor referred to a map showing various areas donated/to be donated to the City. The City will own the land; it will be available to the City for certain recreation purposes. The Mayor used a

second map to show a larger version of the land coming to the City for conservation purposes, with some allowable recreation use. The Mayor indicated that the Board needed to approve the City's payment of legal fees related to the donation and transfer of the land to the City of Creedmoor. Motion by Commissioner Karan to direct the City Manager to find \$60,000 to pay expected legal fees. Seconded by Commissioner Minor. In discussion, Commissioner Minor asked for a report of where Manager Mercer finds the money. Commissioner Wilkerson asked if there as a timetable associated with this project. The Mayor indicated that the assisting agency, the North America Land Trust, would provide a final amount of legal fees after the holidays. The Mayor called for a vote. The motion received a unanimous vote.

- b. Manager Mercer called Planning staff member Gary Fankhouser to make a presentation about Lake Rogers. Mr. Fankhouser presented a draft conceptual sketch for the lake area. The drawings are not intended to be final plans but are intended to be a guide for future development. Key points of the plan are to take advantage of the waterfront nature of the park, to incorporate sustainability elements such as parking pavement designed to minimize rain runoff, to be part of the City's greenway system, and to serve as a gateway to Creedmoor. Discussion and comments followed, including Attorney Currin pointing out that if the City were to develop this area, there are buffer and easements to be considered to the north and west. Business Development and Transportation Manager Wilkins pointed out that actual plans in place may be beneficial to the City in seeking future grant funds. Commissioner Karan raised a concern for posting city limits signs around the lake property.
- c. The Mayor asked if there were additional questions for Manager Mercer beyond his written report. Attorney Currin noted that several of the items on the report addressed legal matters. Attorney Currin responded with a written memo, no copy provided to the Clerk. Attorney Currin addressed the signage issue at the Butner/Creedmoor municipal limits. After a summary of the issue, Commissioner Minor asked if Butner and Creedmoor were allowed to work out this issue on their own. Attorney Currin replied that the two municipalities are allowed to try to resolve the issue on their own. The City Attorney continued, addressing the electric franchise tax revenue and Duke Power. State law provides guidelines for receipt of franchise tax revenue to municipalities. The original agreement specifically between Duke Power and Creedmoor has expired. Attorney Currin indicated that he could begin negotiations with Duke Power about a new, specific franchise agreement, if that is the Board's desire. Attorney Currin reported that easement agreement acquisitions for the CMAQ Cross-town Trail project and the USDA water and sewer rehabilitation project are in process. Regarding the Hester Road water line project, the City has made a proposal about how the transfer agreement should be phrased. Granville County has made a counter proposal, which will be reviewed. The basic point of the agreement is to assign their warranties to the City. Attorney Currin indicated that Manager Mercer needed direction from the Board as to what he may be authorized to do in the transfer of the water line. Manager Mercer indicated that he was ready to go, i.e. start pumping water. Attorney Currin indicated that he would review the County's proposal and advise the Manager. If the review by the Attorney reveals no problems, Attorney Currin indicated that he would inform the City Manager. Finally, Attorney Currin reported that a technical deficiency had been discovered regarding the posting of the old Alamo building. A second posting at the property has been done. The required posting time will be met on 12/1/2010. Commissioner Wilkerson asked for details on the posting issue and Attorney Currin explained that the original posting was not long enough to meet statutory requirements.
- d. Mayor asked about an upcoming meeting with the Upper Neuse River Basin association and inquired about attendance. Commissioner Karan indicated that with changes in legislation, Creedmoor's membership in this organization may not be useful to the City.

Action items from the Manager's Report.

- The Manager is instructed to find sufficient funds to allow the City to pay legal expenses associated with the Fontaine Project (see “a” above).

OLD BUSINESS

The Mayor made reference to and the Manager confirmed an upcoming meeting with the Home Owners Association and Timberstone in the week of November 29th. Commissioner Minor questioned if construction had started on play areas. Manager Mercer replied that clearing of one lot had begun. Commissioner Minor asked for confirmation that Timberstone was aware that no Certificates of Occupancy are expected to be issued until the play/recreation issue in the subdivision has been resolved. Manager Mercer cited an e-mail communication to Timberstone Homes, documenting this point.

NEW BUSINESS

The Mayor indicated that he placed on the agenda Resolution 2010-R-17, Honoring Ronald Alligood, Pete Averette, and James Lumpkins for their service as Granville County Commissioners. He indicated that this resolution was intended to honor the full body of work of these Commissioners. Motion by Commissioner Wilkerson to adopt Resolution 2010-R-17, honoring the retiring Granville County commissioners. Seconded by Commissioner Stallings. The motion received a unanimous vote.

MAYOR'S REPORT

The Mayor reported that in the previous week, the Falls Lake Rules were adopted. He noted that the two creeks bounding Creedmoor have been declared “green” (healthy) streams. The Mayor reported that he sees this as a product of the work that staff is trying to do. The Mayor went on to request Commissioners’ input on topics for the 1-8-2011 off site meeting. Regarding the Butner/Creedmoor/Stem joint council meeting, he expressed his opinion that it was a success. The Mayor addressed the question about why Manager Mercer did not attend the joint meeting stating that it was his judgment call to have only the Creedmoor Board of Commissioners present. He reported that he did this intentionally to show that Creedmoor had no hidden agenda coming into the meeting. Commissioners Stallings, Minor, and Wilkerson expressed their opinion that the Manager should be in attendance at future joint meetings. The Mayor agreed that as more specific items may be on the agenda, the Manager and other staff may need to attend.

COMMISSIONERS' REPORT

- Commissioner Karan (FAIR). No report.
- Commissioner Wilkerson (TI). Commissioner Wilkerson indicated that he had informed Manager Mercer earlier about certain streets needing attention. He raised a question about having a Sunrise Service at Lake Rogers at Easter. The Mayor responded that he did not believe it would be proper for the Board to be the driving force for such an event, because of the tradition of separation of church and state. Commissioner Wilkerson continued, clarifying that if a private organization wanted to have a service there, it would be possible. The Mayor indicated that he had no objections. The Mayor turned to the City Attorney. Attorney Currin did not object to that possibility.
- Commissioner Minor (EENR). Commissioner Minor urged the acquisition of easements to move as speedily as possible. Attorney Currin responded that all easement letters have gone out except for those where the exact location of the easement is still subject to technical changes. A general discussion about what technical questions still remained and the processes employed at this stage to reach a cost effective agreement with any landowners yet to reach agreement on the required easements. Commissioner Minor went on to report that the Joe Peed Booster Pump Station

project and the Hester Road Water Line project are on schedule and are in the wrapping up phases.

- Commissioner Stallings (CED). Commissioner Stallings requested that the three nuisance buildings (commonly referred to as the Alamo building, the 4-Way Quick Stop, and the burnt building on Highway 56) be standing agenda items. No commissioners objected to this request.
- Commissioner Piper (PS). Manager Mercer made a presentation on behalf of the Committee. City Staff has gone out to Lake Rogers and taken the Global Positioning System (GPS) coordinates of seven (7) existing duck blinds around the Lake. Staff then overlaid those coordinates on a GPS map from Granville County. The resulting map shows that all seven duck blinds are within City jurisdiction. The Mayor asked a confirmation question about the County information. Manager Mercer replied that this was the same location database used by the County tax office for taxation purposes. Commissioner Minor questioned the accuracy of the GPS equipment used. Manager Mercer indicated it was accurate to within a foot. Mayor Moss asked Commissioner Minor to provide a summary of the issue up to this point. Commissioner Minor reported that on Saturday, November 20th, he observed hunting activities at Lake Rogers, with the hunters directing their gunshots towards the Lake. He and the Mayor discussed the controlling City ordinances, which prohibits hunting within the city limits. Attorney Currin offered his opinion that there is also a city ordinance prohibiting the discharge of firearms within the city limits. City Attorney Currin summarized that with the current ordinances, hunting in or over the Lake is illegal. He acknowledged that many changes and revisions have happened over the years. Motion from Commissioner Minor that within thirty (30) days, the duck blinds be removed from City property. Seconded by Commissioner Wilkerson. Attorney Currin interjected to clarify that the motion is intended to address the seven duck blinds identified on 11-23-2010. Mr. Watson, attorney for Mr. Pollard, attempted to ask a question. He asked when the map used in the presentation was developed. Attorney Currin indicated that the City charter does not expect the Board of Commissioners to take public comment when a motion is under discussion, except if there is a motion to allow additional public comment/information and that motion carries in a vote of the Board. Commissioner Minor indicated that he would like to amend his previous motion to read, motion by Commissioner Minor to allow Mr. Pollard 30 days to remove his duck blind(s) or the City will remove them. Commissioner Wilkerson accepted this amendment and reaffirmed his Second. The Mayor asked if there was further discussion. Commissioner Karan questioned what distance was involved to move the duck blinds out of city limits. This prompted a discussion about how to ensure that the blinds are moved outside of city limits with no posting signs apparently in place, as well as the overall nature of duck hunting. After this, the Mayor asked the Board if there was a motion to allow Mr. Watson to speak to the duck blind removal motion before the board. Motion by Commissioner Piper to allow Mr. Watson to ask questions related to the motion. Seconded by Commissioner Stallings. The motion received a unanimous vote.

Mr. Watson, suggests that the City not rely on the County supplied map to determine the removal of the duck blinds. He also asserted that he knows of no deed giving title of the land to the City. He asserted that the City is considering an unconstitutional taking of property without due process. Mr. Watson asks that no action be taken until deeds to the land have been examined. Mr. Watson urged the Board to work with Mr. Pollard. Commissioner Minor asked when the last survey of the land occurred. 15 to 20 years ago was the answer from Mr. Pollard. Mr. Pollard continued, expressing his personal feelings about the issue. Mayor called for question. The Mayor asked Commissioner Minor to restate his motion for clarity. Commissioner Minor stated that his amended motion is to give Mr. Pollard 30 days to remove his duck blind(s) from city property. If the duck blinds are not moved at that point, the City will take action to move the blinds. The Mayor confirmed that Commissioner Wilkerson still stood by his Second of the

amended motion. The Mayor asked if there was any more discussion. Commissioner Piper asked the City Attorney if he was comfortable with the diagram (i.e. the GPS map) presented by the Public Safety Committee tonight. City Attorney Currin replied that approximately 60 years ago, the City acquired the land around the Lake by deeds from multiple owners. At that time the Lake area was surveyed by a Mr. Taylor. Referring to the map of the Lake, Attorney Currin indicated that the exterior lines on the map which about the Lake are taken from the "Taylor Survey" which is 60 years old. Attorney Currin asserted that the City does have deeds to the Lake property parcels represented on the map.

Commissioner Karan asked if there were any due process procedures that needed to be followed. He also questioned how the City's ownership of the land might affect any due process procedure protections the citizen might be entitled to. Attorney Currin replied that a private citizen does not have the right to erect a private structure on city property. He continued that assuming the GPS locations of the duck blinds were done correctly, the structures are on city property and no other notification needs to be given. He also advised that if they may be removed with no or minimal damage, that is what city officials and staff should do. A discussion of the logistics of removing the duck blinds followed. The Mayor called for a vote. Voting Aye: Commissioners Stallings, Wilkerson and Minor. Voting No: Commissioners Karan and Piper.

Following the vote, the Mayor addressed Mr. Watson and Mr. Pollard. He encouraged them to work with Creedmoor City staff members. The Mayor indicated that City staff members felt confident in the information gathered but would be willing to review any new or contrary information that Mr. Pollard might have. Commissioner Stallings asked a clarifying question about the survey information. He wanted to be sure that the same survey information was available to any surveyor. The Mayor replied that it was and should be considered public information.

Commissioner Karan stated that future town meetings, held quarterly in Creedmoor City Hall will now also address South Granville issues also making the meetings more regional affairs.

The Mayor also reminded the Board and the Staff that Creedmoor's designation as a Rural Area may be revised in the wake of the 2010 Census. This designation has been beneficial to the City in applying for grant and loan funding.

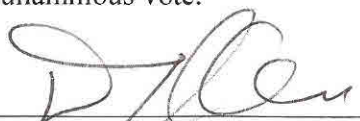
ADJOURN

With nothing more to come before the Board, Commissioner Stallings made the motion to adjourn; seconded by Commissioner Wilkerson. The motion received a unanimous vote.

ATTEST:



Ren E. Wiles, Finance Officer/City Clerk



Darryl D. Moss, Mayor