

January 11, 2010

The Middlesex Governing Body met in regular session in the Conference Room of the Town Hall. Mayor Luther H. Lewis, Jr. called the meeting to order at 7:30p.m. and gave the invocation. Members present were Commissioners Harold Meacombs, Luke Robinson, Derek Bissette, and J.W. McClenny. Commissioner Fred Hough was absent. Police Chief Ferrell was present and the only guest was Scott Pollard, an applicant for the full time police officer's position.

Mayor Lewis opened the floor for a Public Hearing to hear comments or questions regarding the joint land purchase (with the Town of Bailey) for 65.5 acres on Stoney Hill Church Road for the Bailey Middlesex Community Park and the deed of trust required by property owner Fred Lamm. No citizens were in attendance and the hearing was closed.

Mayor Lewis then opened the floor for public comment session. Being no public questions or comments, Mayor Lewis closed the session.

The December minutes were approved in a motion by Commissioner Robinson, seconded by Commissioner McClenny, and carried unanimously.

With no requested changes, Commissioner Meacombs moved to approve the agenda as presented. His motion was seconded by Commissioner Bissette and carried unanimously.

In a motion by Commissioner McClenny, seconded by Commissioner Robinson, and carried unanimously, the December financial statements were accepted as correct as presented by Clerk Lambert.

Mayor Lewis reported that the hanging and taking down of the Christmas lights by the Utility Department personnel went well, so the town saved about \$4,000 on this project.

Commissioner Bissette asked about the recycle schedule and Administrator Bissette clarified that the schedule was every other Thursday, not the first and third Thursdays of each month, and she added that the participation level is great.

Administrator Bissette gave the following project updates:

NEW WELL: Michael Acquesta called last Wednesday and advised that he still has not received all the water sample tests from the newly drilled well and advises us not to begin on the well house until we have these results.

TOWN BUILDING ROOF REPAIRS: The town's building occupied by Angela's Closet has a substantial leak and damaged some clothes. Jeff and Dale went into the attic and verified the leak. The roofer has been called to repair.

NEW METER INSTALLATION: No meters have been installed since the December meeting. The Utility Department has been busy with two water main breaks, repairing sewer lift station pumps, taking down Christmas lights, and were behind due to the holidays. When we replace the vacancy left by Shawn Pond, hopefully Dale Bachmann and the new person can start installing meters all day each day of the week. If the Board would agree to hire another man on a part time basis just for the duration of the meter installation, perhaps this project could be finished by the end of March or first of April. The Board agreed to hire the extra part time person for the duration of meter installation only, and everyone also agreed with Mayor Lewis that we should schedule a special meeting specifically for the purpose of interviewing and hiring for the two positions, if possible, and not wait until the February 8th meeting.

ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT: We received the final energy audit report. We were advised that we did not have the 85 (eighty five) points needed for the grant and recommended that we file a joint application with three other towns to meet the 85 points. Upper Coastal Council of Governments (COG) is coordinating, writing, and submitting the grant and has asked for price quotes for completing the work. If approved, the work will be completed and paid for by the town and we will be reimbursed.

SANITATION: Recycling continues to pick up and more than doubled from November to December. The town has not been billed by the recycling center nor have we received any funds.

Mayor Lewis reviewed the Resolution approving the joint land purchase of 65.5 acres of land for \$460,000 and approve to sign a deed of trust for the Bailey Middlesex Community Park. The land will be paid for by two payments scheduled in 2009, which will be paid once the paperwork is completed, one payment in 2010, and the final payment in 2011. The land owner requested a deed of trust instead of a promissory note and the deed of trust will be good for three years, at which time the land will be paid in full. The Resolution was presented as follows:

R2010-1043a

RESOLUTION

The governing body for the Town of Middlesex, North Carolina, held a regular meeting at the town hall, the regular place of meeting, on January 11, 2010, at 7:30 pm.

Present: _____

Absent: _____

Also Present: _____

* * * * *

_____ introduced the following resolution which was read:

RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY, ALONG WITH THE TOWN OF BAILEY, TO BE USED AS A COMMUNITY PARK FOR THE PURCHASE PRICE OF \$460,000.00, TO BE PAID OVER THREE YEARS, HALF OF WHICH WILL BE REIMBURSED TO THE TOWNS BY THE PARKS AND RECREATION TRUST FUND (PARTF) GRANT APPROVED BY THE STATE OF N.C., AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE NECESSARY DOCUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

BE IT RESOLVED by the governing body for the Town of Middlesex, North Carolina (the "Unit"):

Section 1. The governing body of the Unit does hereby find and determine:

- a) The Unit proposes to purchase 65.45 acres located on Stoney Hill Church Road (the real property) by an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended;
- b) Pursuant to Section 160A-20, the Unit is authorized to purchase real property, by entering into an installment contract and a deed of trust or other security instrument that creates a security interest in the property being purchased to secure payment of the purchase price;
- c) As required by Section 160A-20, on January 11, 2010 the Unit held a public hearing with respect to the purchase of the real property through an installment contract, after notice of such hearing was published at least ten (10) days prior to the hearing;
- d) The sellers of the real property have agreed to enter into an Installment Contract with the Unit pursuant to which the sellers will be paid \$460,000.00 as follows: \$160,000.00 at closing, and three annual payments of \$100,000.00 principal, together with accrued interest on the outstanding principal balance at the rate of four per cent (4%) per annum, with the first principal payment being due on October 30, 2010, to be secured by a Deed of Trust and Security Agreement with respect to the Project.
- e) The Unit and the Town of Bailey are the recipients of a PARTF matching funds grant in the amount of \$500,000.00. The Town of Bailey will pay one-half of the purchase price to the sellers and both Units will be reimbursed one-half the amounts paid. The total contribution by each Unit will be \$250,000.00.

Section 2. The governing body hereby authorizes and directs the Authorized Officer, Mayor Luther H. Lewis, Jr., to execute, acknowledge and deliver the Installment Contract and the Deed of Trust on behalf of the Unit in such form and substance as the person executing and delivering such instruments on behalf of the Unit shall find acceptable. The Clerk is hereby authorized to affix the official seal of the Town of Middlesex to the Contract and the Deed of Trust and attest the same.

Section 3. The proper officers of the Unit are authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution.

Section 4. Notwithstanding any provision of the Installment Contract or the Deed of Trust, no deficiency judgment may be rendered against the Unit in any action for breach of a contractual obligation under the Installment Contract, or the Deed of Trust and the taxing power of the Unit is not and may not be pledged directly or indirectly to secure any moneys due under the Installment Contract, the security provided under the Installment Contract and the Deed of Trust being the sole security for the sellers.

Section 5. This Resolution shall take effect immediately upon its passage.

Upon motion of _____, seconded by _____, members of the governing body, the foregoing resolution entitled "**RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY, ALONG WITH THE TOWN OF BAILEY, TO BE USED AS A COMMUNITY PARK FOR THE PURCHASE PRICE OF \$460,000.00, TO BE PAID OVER THREE YEARS, HALF OF WHICH WILL BE REIMBURSED TO THE TOWNS BY THE PARTF GRANT APPROVED BY THE STATE OF N.C., AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE NECESSARY DOCUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**" was passed by the following vote:

Ayes: _____

Nays: _____

PASSED AND ADOPTED this ____ day of _____, _____.

Luther H. Lewis, Jr., Mayor

* * * * *

I, _____, Clerk for the Town of Middlesex, North Carolina DO HEREBY CERTIFY that the foregoing has been carefully copied from the actual recorded minutes of the governing body of said Town of Middlesex at a regular meeting held on _____, _____, the record having been made in the minutes of said governing body, and is a true copy of so much of said minutes as relates in any way to the passage of a resolution providing for the authorization of the Installment Contract referred to therein.

Witness my hand and corporate seal of said Town of Middlesex, this ____ day of _____, _____.

Clerk, Town of Middlesex

[SEAL]

Commissioner Bissette moved to adopt the resolution as presented. Commissioner Robinson seconded his motion and the vote was unanimous.

Clerk Lambert presented two 2009 property tax discoveries received by Nash County; one for Paulina Lyman Decampos totaling \$234.86, and one for Adrian Sanchez totaling \$6.05. In a motion by Commissioner Meacombs and seconded by Commissioner McClenny, the discoveries were approved by a unanimous vote.

Commissioner Bissette moved to adopt the following Resolution approving the 2009 Water Shortage Response Plan which has been submitted to NC DENR:

R2010-1043B

**RESOLUTION FOR APPROVAL OF
WATER SHORTAGE RESPONSE PLAN
FOR THE TOWN OF MIDDLESEX**

WHEREAS, North Carolina General Statute 143-355 (I) requires that each unit of local government that provides public water services or plans to provide such services shall, either individually or together with other such units of local government, prepare and submit a Water Shortage Response Plan; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Water Shortage Response Plan for the Town of Middlesex has been developed and submitted to the Middlesex Board of Commissioners for approval; and

WHEREAS, the Middlesex Board of Commissioners finds that the Water Shortage Response Plan is in accordance with the provisions of North Carolina General Statute 143-355 (I) and that it will provide appropriate guidance for the future management of water supplies for the Town of Middlesex, as well as useful information to the Department of Environment and Natural Resources for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Middlesex, that the Water Shortage Response Plan entitled, Water Shortage Response Plan Town of Middlesex, NC, dated December 2009, is hereby approved and shall be submitted to the Department of Environment and Natural Resources, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Middlesex Board of Commissioners intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the _____ day of _____, 20____.

Signature: _____
Luther H. Lewis, Jr., Mayor

ATTEST:

Town Clerk

Commissioner Bissette's motion to adopt the resolution was seconded by Commissioner Meacombs and the vote was unanimous.

Administrator Bissette asked the Board if they would be interested in applying for another recycling grant to enhance our program. The maximum grant amount is \$40,000 and the town's share will be about 6%. Bissette checked into purchasing a 40 cubic yard dumpster and placing it on a concrete slab and ramp. The Utility Department could dump recycles in the dumpster twice a month, or more if possible, and Waste Industries would come and pick up the recycle once a month at \$175 per pull. Bissette stated that construction of the concrete pad, ramp and the dumpster would be covered by the grant.

There was a brief discussion comparing the cost of town employees driving to the recycling center in Raleigh every other Thursday versus paying Waste Industries for pickup. Commissioner Bissette stated according to the going rate of \$3.00 per loaded mile, Waste Industries would be slightly higher, but he pointed out that Waste Industries pick up would relieve the town of the liability for our truck traveling back and forth to Raleigh, an employee would not be driving to Raleigh every other Thursday, plus that employee would be free to do other things.

Mayor Lewis questioned if the recycle dumpster would need to be covered by a shelter, and if so, the concrete would also have to be a certain height, and the shelter would need to be very tall to drive under and dump. Commissioner Meacombs also questioned if the recycle materials had to be kept dry because if it gets wet, it would expand, the dumpster would hold less, and Waste Industries may not accept wet recycling materials. The Board requested Administrator Bissette to present these answers at the February meeting and they would decide if they would like to pursue the grant.

Administrator Bissette presented two corrections to the Personnel Policy, Article III, Pay Plan, Section 1, Definitions. The first change would be to remove the words "or non-probationary rate" due to the fact that every person hired is on a one year probation. The second change would be in Section 3, Starting Salaries, to insert the word "hiring" between the word "minimum" and the word "salary". This appears to have been an omission error. All persons employed are not hired at the minimum pay rate for the position, but are hired within the hiring range for the pay class. However a highly qualified new hire with many years experience in the field they are being hired could be hired at the minimum pay rate for the position. Commissioner McClenny moved to change the wording as presented. The motion was seconded by Commissioner Robinson and it carried unanimously.

Administrator Bissette responded to a previous request by the Board to define an exempt employee. After contacting the personnel law expert at the League of Municipalities, Hartwell Wright, he stated that exempt means that an

employee is exempt from overtime pay. However, any benefits offered by the town must cover all employees regardless of exempt or non-exempt status. Bissette added that this is conflicting to what she has been told by other people in the field in the past, stating that she had always been told that exempt employees were paid at the same rate every pay period regardless of hours worked. She added that Chief Ferrell, the only town employee in the exempt status, has been accumulating vacation and sick leave, but holidays are not automatically added by the computer program. Therefore, she will research the time sheets and present to the Board any holiday pay the town may owe Chief Ferrell. The Board advised Bissette that if the town owed Ferrell, that they definitely wanted to pay him. Mr. Wright also stated that if an exempt employee worked any part of a day, that he/she was to be paid for the full day and charge the absent hours to accumulated time. However, if the employee had no accumulated time, the town must pay the employee for the full day. On the other hand, if the employee works any hours over the regular schedule, the town is not required by law to pay the exempt employee. The Board briefly discussed the fairness of this situation. Commissioner Meacombs added that even though the law does not require you to pay excess hours worked, the Highway Patrol always paid these hours. The Board agreed they would like to discuss this matter further at a later date.

Commissioner McClenny moved to go into Closed Session under G.S.143-318.11(a)(6) to interview a police department applicant and to discuss other personnel matters. His motion was seconded by Commissioner Meacombs and carried unanimously.

Back in Open Session, Commissioner Bissette moved to hire Scott Pollard as a full time Police Officer at a salary of \$24,500 effective upon completion of the psychological and drug testing and the required paperwork. Commissioner Robinson seconded the motion and it carried unanimously.

In a motion made by Commissioner Bissette, seconded by Commissioner McClenny, and carried unanimously, Sammy Drake was hired as a part time Police Officer at the part time salary of \$10.61 per hour.

Due to the fact that Shelly Woodruff was hired as a trainee below the minimum hire rate for her pay class and she has proven to be qualified for her position, Commissioner Meacombs moved to adjust her salary to \$25,500 per year. This adjustment will bring her to a point above the mid-hiring range for her pay class. Commissioner Bissette seconded the motion and it carried unanimously.

Commissioner Bissette moved to accept the verbal resignation of part time Police Officer Robert Elsey. Commissioner Robinson seconded the motion and it carried unanimously.

In a motion by Commission Robinson, seconded by Commissioner McClenny, and carried unanimously, part time Police Officer Michael Marshall was terminated.

Being no further business, Commissioner Robinson moved to adjourn.

Jennifer Lambert
Clerk

Mayor Luther H. Lewis, Jr.
Commissioners
Harold Meacombs
Luke Robinson
Derek Bissette
J.W. McClenny