

City of New Ellenton
Special Meeting of City Council
City Hall Council Chambers
Minutes

Monday, May 11, 2009

Welcome

Mayor Dunbar welcomed everyone to and called the meeting to order at 6:10 pm.

Invocation

Councilman Braswell offered the invocation.

Pledge of Allegiance

Mayor Dunbar thanked Councilman Braswell.

Roll Call for the Record

Present: Rex Nordeen, Terence Williams, Vernon Dunbar, Daniel Braswell

Others Present

City Clerk Vernel Sanders, City Administrator L.C. Greene, Mike Simons, Vicki Simons

Mayor Dunbar again welcomed everyone. Mayor Dunbar stated that Councilwoman Maddox was not coming. Mayor Dunbar stated that the reason the meeting was to discuss approval of a bond ordinance after having approved a resolution allowing the Commission of Public Works (CPW) to enter into a revenue bond for some upgrades to the system. Mayor Dunbar stated that the next step was passage of the bond ordinance.

Councilman Braswell asked City Administrator Greene about a paper. City Administrator Greene replied that there were three things and referred Councilman Braswell to page 2 which read May 5th, but should read May 11th. Councilman Braswell asked if it was number 5 and stated that it should say May 11th instead of May 6th. City Administrator Greene continued that page 7 should bring the interest and page A-1 should have the same change. City Administrator Greene continued that he noticed that there is a form that includes a word about withdrawal of money being submitted to the Mayor and the Mayor approves or disapproves of it. Councilman Nordeen stated that on page A-1 there were some blanks. Ms. Simons stated that the section about the Mayor signing off on withdrawals may be changing. City Administrator Greene stated that other than the aforementioned changes, the ordinance looked good to him. City Administrator Greene stated that where the ordinance lists "town" that designates the residents and "town Council" is the Council. Councilman Nordeen asked if this ordinance replaced the old one. City Administrator Greene stated that this is a new ordinance for a new bond issue.

Mayor Dunbar asked what topics were being discussed in the work session. City Administrator Greene indicated that the Fire, Police, Streets and Roads and Recreation budgets had to be addressed. City Administrator Greene stated that a meeting with Ann was needed. City Clerk Sanders stated that Ann would help with breaking down the categories. City Administrator Greene added that it was for accountability in case someone comes in wanting to know who spent what in what area. Mayor Dunbar suggested taking a long recess until CPW representatives arrived.

Motion to recess until CPW representatives arrive by Councilman Braswell, second by Councilman Williams. All in favor. Approved.

Motion to resume meeting by Councilman Braswell, second by Councilman Williams. All in favor. Approved.

Mayor Dunbar stated for the record that Councilwoman Maddox was present.

New Business

First Reading: Consideration of Bond Ordinance for CPW – Mayor Dunbar stated that Chairman Sammie McDuffie and Vice-Chairman Charlie Duvall of the CPW along with the CPW attorney, Eric Shytle, were in attendance. Mr. McDuffie thanked the mayor and Council and stated that the CPW wished to present the resolution drawn up by the attorney. Mr. Shytle stated that the resolution was being given to the City Clerk and Council was being supplied with the ordinance Council is asked to consider which he believed Council had already seen. Mr. Shytle stated that this was the most recent version which only had a date change. Mayor Dunbar asked if it was the same thing. Mr. Shytle indicated that it was the same thing with a date change on page 2 of May 6th to May 11th. Mr. Shytle asked to give a three minute presentation. Mr. Shytle stated that the CPW is undertaking a project, whose details he deferred to the CPW representatives. Mr. Shytle continued that the CPW intends to borrow the money from the United States Department of Agriculture Rural Development. Mr. Shytle stated that the advantages were a 40 year term and a lower interest rate, making the borrowing more affordable. Mr. Shytle continued that under State Law the CPW needs Council approval to incur debt, borrow money. Mr. Shytle stated that the reason for this is that because the Town of New Ellenton is a sovereign government, a political subdivision of the State of South Carolina. Mr. Shytle stated that the general town functions are governed by Town Council in terms of police, fire and everything else. Mr. Shytle continued that due to historical precedence circa the 1950s, many South Carolina towns have a separate governing body for the water function. Mr. Shytle continued that this was the set-up in New Ellenton with a separate CPW that runs the water. Mr. Shytle continued that it is still the Town of New Ellenton, but a separate governing body, controlling the utility function while City Council controls general governmental function. Mr. Shytle stated that the CPW does everything to run the water system with the exception of one thing under State Law that is committed to Council approval. Mr. Shytle continued that one of the things that Council has to approve is borrowing and debt. Mr. Shytle stated that when this happens, a resolution is passed which is essentially a petition that comes to the Town Council asking for an ordinance that allows the CPW to incur a debt. Mr. Shytle stated that the borrowing is not a loan, adding that Rural Development does not allow borrowing until the work is completed. Mr. Shytle stated that the question is then how does a project get finished if the money cannot be borrowed. Mr. Shytle stated that the solution is going to a local bank, which in this case is Regions Bank, to obtain a short-term loan which is a one-year Bond Anticipation Note. Mr. Shytle stated that the note is drawn on to pay construction costs until the project is done and then there is a Take-Out Loan by Rural Development that pays of the local bank and initiates the permanent 40-year financing. Mr. Shytle stated that even though the name on the Note is the Town of New Ellenton, this is constitutionally revenue debt. Mr. Shytle explained that debt could only be incurred by GO debt secured by taxes or revenue debt secured by a special designated source of revenue. Mr. Shytle stated that the only source of repayment is the revenue of the water system. Mr. Shytle stated that if the water system has no revenue to pay it, the Town has no responsibility to pay it. Mr. Shytle stated that this is termed non-recourse debt, adding that the only way to pay it back is through water revenue. Mr. Shytle stated that the only remedy the bond-holder has is to tell the CPW to raise water rates, not use taxes, City revenue or sewer revenue. Mr. Shytle also mentioned that Rural Development requires that Town's sign off on withdrawals and illustrated this with some values. Mr. Shytle stated that the CPW would draw up a requisition and a Town representative, in this case City Administrator Greene or Mayor Dunbar, would sign off on it saying that there is a legitimate construction expense for which there is an invoice. Mr. Shytle indicated that the reason for this is so that Rural Development knows the money is being spent on the project. City Administrator Greene pointed out the CPW Chairman as a signer. Mr. Shytle stated that it required one CPW representative, the Chairman, and one Town representative, either City Administrator Greene or Mayor Dunbar. Mr. Shytle stated that it goes to Rural Development for approval and then to Regions Bank to pay, so that all three affected parties, the Town, the CPW and the federal government, sign off on everything. Mr. Shytle stated

that once the project is finished, the Town's responsibility ends and permanent financing and repayment begins. Councilman Nordeen asked about the one-year term from Regions Bank and its extendibility and questioned whether the project would be finished. Mr. Shytle replied that under State Law a Bond Anticipation Note cannot have a term of more than a year. Mr. Shytle stated that if after a year, the project is not completed, a Rollover Note is done with a new Bond Anticipation Note which the document allows CPW to do by extending for a year. Mr. Shytle asked for additional questions. City Administrator Greene asked about the interest rate. Mr. Shytle stated that CPW is waiting for confirmation from Regions Bank, but added that the blank on interest rate will be filled in before the next reading. Mayor Dunbar reminded that the next reading is Monday, and Mr. Shytle affirmed. Mr. Shytle stated that the interest rate on the permanent financing is 4 ¾% on the first piece and 5 1/8% on the second. Mr. Shytle stated that this represented a true interest cost of around 4.8% which he felt was a very good rate for a 40-year financing in today's market. Mr. Shytle added that the longer term financing are more expensive, because everyone is worried about the economy. City Administrator Greene asked if the only change was the date. Mr. Shytle affirmed giving the page number and section. [Inaudible] City Administrator Greene stated that when it says "Town" it is designating the citizens and where it says "Town Council" it means Council. Mr. Shytle agreed and gave an example using a corporation with a Board and shareholders. Mayor Dunbar read from number 7 and asked what it meant. Mr. Shytle stated that since this is an ordinance of Town Council, this gives the expectation of the Town, and stated that as a practical matter, before withdrawals are made a take-out letter addressed the CPW saying that the CPW is incurring debt under specified terms and Rural Development pledges to make a loan after one year is prepared. Mr. Shytle stated that he did not want to have Council recite it in the ordinance because the letter is not addressed to Council and is not on the table now. Mr. Shytle stated that the transaction will not close until the letter is received and is a CPW question. Mr. Shytle offered to update the ordinance but stated that his preference was to not have Town Council make statements about the Take-Out Letter because it is between the CPW and Rural Development. Mr. Duvall stated that a copy would be provided to Council. Mayor Dunbar asked for additional questions and thanked Mr. Shytle. Ms. Simons stated that her understanding from a CPW meeting was that the Town did not have to sign off and she wanted Chairman McDuffie's view. Chairman McDuffie stated that he thought Ms. Simons was discussing payments and that these would require a CPW and Town signature. [Inaudible] Mayor Dunbar asked for additional questions and called for a motion. *Motion to approve the Bond Ordinance for CPW on first reading by Councilman Braswell, second by Councilman Williams. All in favor. Approved.* Mr. Shytle offered to come back, and Mayor Dunbar indicated that there were no questions now, so he did not anticipate questions later. Mr. Shytle stated that he could be called if questions did come up. Chairman McDuffie asked if it would be signed after second reading. [Inaudible] Mayor Dunbar stated that this concluded the agenda for the Special Meeting and called for a motion to adjourn to Budget Work Session.

Adjournment

Motion to adjourn by Councilman Braswell, second by Councilwoman Maddox. All in favor. Approved.

Mayor's Signature

Date

City Clerk's Signature

Date