

TOWN OF TRYON
BOARD OF COMMISSIONERS
SPECIAL MEETING
JANUARY 28, 2015 3:30 P.M.

TRYON FIRE STATION

Present: Mayor Jim T. Wright Mayor Pro Tem Roy Miller

Commissioners: Happy McLeod, Bill Ingham, George Baker

Staff Present: Town Manager Joey Davis Town Clerk Susan Bell
Police Chief Jeff Arrowood

CALL TO ORDER

Mayor Wright welcomed everyone and called the meeting to order. He then asked Attorney Nager to explain the noticing of the meetings.

Attorney Nager stated that the Board has regular meetings once a month, the third Tuesday of each month. Any other meeting that is held during the month is called a special meeting. Different rules apply to a special meeting. The requirements for notice is that the town, at least 48 hours before the special meeting commences must post the notice on the meeting door, provide notice to anyone who has asked to receive all notices of meetings. To his knowledge the Tryon Daily Bulletin is the only one that has requested this. Town Clerk Bell stated yes. The Bulletin was noticed and all five commissioners were notified of the meeting at least 48 hours in advanced. This is the only requirement for noticing. The Town Clerk gave notice and talked to someone at the Bulletin office.

Mayor Wright stated that purpose of the meeting is to hold a closed session for attorney-client privilege pursuant to N.C.G.S. 143.318-11(a)(3). Before he asks for a motion to go into closed session, due to the number of people here today, would anyone like to speak?

Eunice Whitmire asked if the Board could tell the audience why they were going into closed session. Mayor Wright asked if they could be told why. Attorney Nager stated that it is not required that is the purpose of closed session. Everyone knows that we are here because of your residence and feels that is enough said. If other people want to say that is fine.

Mayor Wright asked Ms. Whitmire about the last time that they met to discuss proposals and counter proposals relative to your home you were represented by Bob Duetsch, an attorney from Asheville, to his understanding he is no longer your attorney. Ms. Whitmire stated yes. Wright asked is there someone else who represents you other than yourself? Sonya Glover stated not yet, they are waiting to see the outcome of this meeting first. Wright asked then who do we address if we have a proposal for Ms. Whitmire. The e-mail that we received last week came from Ms. Glover. Ms. Glover stated herself.

Mayor Wright asked if there were anyone else who had questions or wanted to make comments.

Pamela McDougal stated that this is only her second time attending a town hall meeting. She would like to speak on behalf of Ms. Whitmire and the things that she has heard in regards to her property. She

has been on an environmental board in Asheville and from what she understands, it has taken a really long time for the Town of Tryon to do anything about this and she has seen pictures of the sewage that was coming into her house. It is a bit disturbing to a citizen of the town, to think that the people here and in our government that are looking after people didn't do anything about it, from what she understands. She is appalled that this dear lady had to leave her home. She has heard that she's been offered a house or an incredibly low amount of money to purchase a house. She stated that if the town would have taken care of the sewage problem when it started it would not have ruined her house. That is just her perspective.

Patti D'Arbanville stated that she has been to several town council meetings where Ms. Whitmire has sit patiently. This has been going on for 14 years and she has to say that if the sewer blew up on her on Melrose Circle she wondered how long it would have taken the town to fix.

Commissioner Ingham stated that he hasn't been on council but a year. This problem hasn't been ignored. He knows it seems like it. The state was asked for recommendations and the town did what had been recommended. There were efforts made. In the last year there was \$600,000 spent on a sewer line that is supposed to take care of the problem and that is where we are now. To his knowledge it wasn't totally ignored. The recommendations were given by experts, these were not just guesses.

Ashley Quinn asked why doesn't anyone know about the \$600,000. Commissioner Ingham stated that articles have been in the paper, along with pictures as it has been going on for eight months. It's complete now.

Mayor Wright stated that it was more like \$800,000 and everyone in that area knew this was going on. It was a huge pipeline project.

Patti Otto stated that she has heard a lot of the problems because of the family, some of them work for her. She has seen the pictures. She is very happy the project is complete. Obviously after 14 years it should've been fixed. Sewage can make people sick. Losing your home must be devastating, but your health is another problem. She wished she would have known about this 14 years ago. If the community was that involved 14 years ago and it wasn't rectified, then your predecessors should have a lot on their shoulders. She hopes the board's decision is not taken lightly.

Ann Douglas asked what the state recommended doing to the house with the sewage in the house and in the bath tub. There must be bacteria still in there.

Mayor Wright stated that before he became a member of the board he had some knowledge of Ms. Whitmire's problem. He had sit in on a couple of meetings where the board had negotiated with Ms. Whitmire and her then attorney (Mr. Johnson) the terms of relocating Ms. Whitmire. There had been previous plans and previous attempts to solve the problem. Recommendations by professionals were tried and failed. As soon as there was an opportunity to fix it with the \$800,000, construction started and now is complete. That process seems to be working adequately. A couple of months ago people on behalf of the town, along with Ms. Whitmire and her then attorney inspected the home and found it to be clean and livable, except for a couple of issues associated with a leak in the roof. Then a couple of weeks ago they met with Ms. Whitmire, family and others in this room and entered into good faith negotiations. Both made proposals, monetary and non-monetary. His personal view is that they are negotiating about the level of compensation for Ms. Whitmire.

Sonya Glover stated that before you were Mayor you met with her mother. Now being on the council she asked why no one here knowing her mother's issue has checked up on her mother. No one has called. You know where she lives. You have this seat on council and that's it. You say now the house is clean and livable. When Mr. Nager came down, he had his foot propped up on the pipe and as soon as he found out what came out of the pipe he stepped back. You think that you are doing her justice, but all you are doing is just enough. This is not just inverse condemnation, her mother's civil rights are being violated, because of who she is and where she lives. She has looked at the reviews on line of Tryon. They are not good.

Commissioner Ingham stated that he has been to every Eastside Advisory Committee meeting since he has been on council and no one has ever brought up your mothers issue. He stated that they are trying to work everything out.

Wright stated that they called this meeting to discuss an e-mail that you had sent last Friday. They could've waited until the next council meeting to give you a response. They are trying to act prudently as leaders.

Patti D'Arbanville asked who provided the money for the sewer line. Mayor Pro Tem Miller stated the state (DENR) and the Town provided \$167,000. Most came from the CDBG. The town is required to keep a certain amount in fund balance. If we would have taken the money for this project we would have been in trouble with the state. He sits here knowing that Ms. Whitmire has been having problems. We are trying to come up with some type of an agreement. The Board is not taking this lightly.

Ms. D'Arbanville asked if the \$800,000 was the only grant for this project. Miller stated yes and it includes the administration and engineering fees. D'Arbanville asked if the state has signed off on the grant. Miller stated that the state has a monitor that will sign off on this grant before March. Any grant that the state provides has to be signed off on by the town and the state.

Pam McDougall asked if that area is environmentally safe for anyone to be there. Miller stated that the environmental study that was done by an independent company stated that the fecal matter was no more than what could be found on a cafeteria floor. Fecal matter does naturally go away. He would say that a 1,000 feet from her house was the old landfill and he would be more worried about that. They could test it again as has been agreed upon.

Commissioner Baker asked how many times soil testing had been done. Miller stated twice. Commissioner McLeod stated that an appraisal was done by a local appraiser. The figure that the town based what to give Ms. Whitmire was based on that appraisal. Ms. D'Arbanville asked if this was the only appraisal done. McLeod stated no. Mayor Wright stated that Ms. Whitmire had several of the appraisals done. McLeod stated that the board went with the local one, because knowing the area and someone who lives here would be better than someone that lives out of state.

Ms. Glover stated that you had an appraiser from Village Properties and First Citizens.

McLeod stated that she is a realtor. An appraiser comes up with an appraisal by going to recent sales and none had been done recently, so they expanded their area to Columbus. There are three values to a house, an assessed value, the tax value and what someone will actually give you for it.

Commissioner Baker stated that he came on the board three years ago and Ms. Whitmire came before the board then. He was shocked that it had taken so long. Many fixes were tried backflow preventer, double backflow preventers, sewer covers and looking at the need to replace the line. In August 2013 the board offered to move her into a home while the sewer line was being installed, the town paid her rent, cleaned her furniture, paid for utilities and moved her furniture to the new residence. Tests were done on her home on numerous occasions, by an outside testing firm, tested the ground twice. Permission had to be granted from Ms. Whitmire before the company could do the testing. The results are public knowledge. Point being the town paid for everything even utilities for her house. Ms. Whitmire was told that when the sewer line was finished the town would move her back at the Town's expense and make sure the home was clean at the town's expense so that she could move in with confidence. That was three years in the making. It has rained several times since the pipe was put in and it hasn't backed up into the house. Will this solve the problem, we hope so, but there is no guarantee. Could the town guarantee that there will never be a problem at his house, no. He doesn't have the privilege of having sewer. The Town wants her to remain here, because she is a citizen of this town. She will receive the same help that anyone else would get. The Town has paid her rent for approximately 18 months for a total of about \$20,000. She told the board she couldn't move back into the house. Talked to her then lawyer to get her passed this situation and this is where we are now. He didn't know what went on before he became part of this board.

Miller stated that it took one board to work this out. This board attacked the issue. He along with Doug Arbogast told her to get an attorney.

Ms. Whitmire asked about the testing of the soil now that the line has been fixed. She stated now she is going to have to fix everything in the house and under the house.

Baker stated the original agreement was for us to do testing. Your lawyer wouldn't let us go in to test. The town agreed to do retesting, clean your home and furniture. Miller stated that testing was agreed upon and they talked about doing some landscaping. There is not anything that the board can do to make it right, but we are going to try. Ms. Whitmire asked if the board would have wanted their mother to go through what she has went through. Everyone said no. Wright stated that the board made an offer to purchase your home and then we received an e-mail from your daughter that you want to go back into your home. They are trying to do the right thing.

Mayor Wright entertained a motion to convene to closed session for attorney-client privilege pursuant to N.C.G.S. 143.318-11(a)(3). Mayor Pro Tem Miller so moved. The motion carried unanimously.

After closed session Commissioner Baker made a motion to reconvene regular session. The motion carried unanimously.

Mayor Wright entertained a motion to adjourn. Mayor Pro Tem Miller so moved. The motion carried unanimously.

Attest:

Susan B. Bell, Town Clerk

Jim T. Wright, Mayor