

**COMMISSIONERS OF POOLESVILLE
MEETING OF JUNE 7, 2010**

PRESENT: LORI GRUBER, LINK HOEWING, JIM BROWN, JERRY KLOBUKOWSKI AND EDDIE KUHLMAN. ALSO PRESENT WAS TOWN MANAGER, WADE YOST, AND TOWN ATTONREY, JAY GULLO.

Call To Order

Mr. Kuhlman: Good evening ladies and gentlemen we will call the June 7, 2010 Commissioners Meeting to order. For the record all Commissioners are present as well as Town Manager Mr. Yost and Town Attorney Mr. Gullo. First order of business will be the Pledge of Allegiance, please rise, Jerry.

Pledge of Allegiance

Mr. Klobukowski: Sure.

All: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible with liberty and justice for all.

Mr. Kuhlman: All right thank you very much.

Mr. Klobukowski: You are welcome.

Announcements

Mr. Kuhlman: All right announcements we have I forgot to put on here Wade we need to figure what we are going to do for July's meeting schedule because our first meeting should be July 5th but that will be the holiday for the 4th of July. So we could do the 12th and 26th.

Mr. Yost: We really don't have right now we don't forecast any huge amount of workloads at this point for next month so if you just want to have one meeting.

Mr. Kuhlman: The 19th?

Mr. Klobukowski: I will be out of town then.

Mr. Brown: I will be out of town the following week.

Mr. Kuhlman: All right how bout the 12th?

Mr. Klobukowski: That is fine with me.

Mr. Kuhlman: Ok then we will have one meeting on the 12th next month. Ok also if anybody, any Commissioner has any ideas about a legislative action request to put in to MML we have the form and this has to be in no later than July 2nd, so if we have any ideas of any legislative action request we want to ask MML to get behind we need to do that. Any other announcements?

Mr. Klobukowski: Yeah I've got a couple here one on behalf of the Town and the community we gave Mark Gochenour the retiring Librarian at Poolesville Library a Proclamation from the Town and we will also be giving one to Mr. Daugherty whose been a math teacher up at the High School for approximately 39 years, that will be presented to him next week and one other thing I don't know how many Commissioners got it or whether it has been put in the paper but there is a public information meeting on the replacement of Whites Ferry Road bridges over Broad

Run Tributary and that is on the 9th of June which is Wednesday night 7:30 at Poolesville Elementary School All Purpose Room.

Mr. Kuhlman: All right thank you. Anything else? All right the Referendum petition that the Town has received it, we are in the process of verifying the signatures on it and we will be adjourning to an Executive Session tonight to discuss legal advise with the Town Attorney and we will have an announcement probably and our decision and what we are going to do at the June 21 meeting and I would also like to remind everybody that on June 21 we will have a guest, County Executive Ike Leggett will be here to say some words and do a question and answer session with the residents of the Town.

Approval of Minutes

Mr. Kuhlman: With that we will move on to approval of the minutes of the May 17 meeting. Is there a motion for approval?

Mr. Brown: So moved.

Mr. Kuhlman: Is there a second?

Mr. Klobukowski: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries the minutes are approved.

Open Forum & Citizen's Comments on Agenda Items

Mr. Kuhlman: Open forum we have nothing on the agenda tonight, is there any comments in general from anybody? Seeing no hands we will move on to, pardon me Sir.

Mr. Briancon: Is it question and answer session now or is the questions at the end on the citizen forum?

Mr. Kuhlman: If you have anything you want to say now is your time.

Mr. Briancon: Alain Briancon, 19328 Cissel Manor Drive. I would like to understand what is the significance of the announcement that the petition has been received, does it mean that the Town Clerk has received it, does it mean that the Town Clerk has passed it to the Board of Elections, does it mean that the Board of Elections has rendered a judgment on the validity, what does it mean?

Mr. Kuhlman: The Commissioners have received the petition, Town Staff is in the process of verifying the signatures.

Mr. Briancon: Let me ask a question again, did the Town Clerk receive the petition?

Mr. Kuhlman: Yeah.

Mr. Briancon: Ok.

Mr. Kuhlman: As long as the Commissioners received it she would...

Mr. Briancon: No, no, no the Town Clerk received the petition, did the Town Clerk proceed to forward the petition or a copy of the petition to the Board of Elections?

Mr. Kuhlman: No.

Mr. Briancon: Why not?

Mr. Kuhlman: She verifies the signatures.

Mr. Briancon: So it is your interpretation and I will ask Council to tell me, it is your interpretation that it is the Clerk, which verified the petition?

Mr. Kuhlman: As I said we are in the process of verifying the signatures.

Mr. Briancon: I would like to learn what the process is, I would like to understand where the Board of Election is in this process.

Mr. Kuhlman: It isn't anywhere right now.

Mr. Briancon: Why not?

Mr. Kuhlman: Because it is not.

Mr. Briancon: The Town Charter calls for the Clerk to transmit "immediately" the petition to the Board of Election, I would like to understand, if I understand this process correctly.

Mr. Kuhlman: Well this is the first chance we have had to meet since the petition has been turned in, we will have an Executive Session tonight to discuss with our Attorney how this matter is to be handled, and we will be prepared to answer more questions on the 21st.

Mr. Briancon: I would like to ask then what is the Town Charter process?

Mr. Kuhlman: We will have an Executive Session tonight to discuss it, until we come to a decision there is nothing to report.

Mr. Briancon: I would like for you to read me out of the Town Charter the process that is to be used for the election, for the petition.

Mr. Kuhlman: I don't have the Charter with me.

Mr. Briancon: Do you have the Charter Council?

Mr. Kuhlman: No we are not doing that tonight Alain.

Mr. Briancon: I would rather tend to it tonight.

Mr. Kuhlman: It doesn't matter we are not doing it tonight ok.

Mr. Briancon: Then you are in violation of the Town Charter.

Mr. Kuhlman: Ok. That is your opinion.

Mr. Briancon: That is my opinion.

Mr. Kuhlman: Ok.

Mr. Briancon: So I would like to go one more time through what is the process?

Mr. Kuhlman: We will be discussing that tonight.

Mr. Briancon: You will discuss that tonight and then what happens to the Board of Elections?

Mr. Kuhlman: I don't know I will let you know on the 21st.

Mr. Briancon: So you basically are changing the Town Charter rules willy-nilly.

Mr. Kuhlman: I don't know.

Mr. Briancon: You don't know.

Mr. Kuhlman: No.

Mr. Briancon: You are running this Town, you are directing Staff...

Mr. Kuhlman: Mr. Briancon you have received the answers that you are going to receive this evening.

Mr. Briancon: (Inaudible).

Mr. Kuhlman: Whatever.

Mr. Briancon: So I would like to go one more time to what is the process as you see it now going forward that you will have on this petition.

Mr. Kuhlman: We will have an Executive Session tonight with our Council to discuss how to proceed.

Mr. Briancon: And when will the Board of Elections verify the petition?

Mr. Kuhlman: I don't know.

Mr. Briancon: And you don't feel compelled to predict a date, if it is a month, three months from now, six months from now.

Mr. Kuhlman: I don't know.

Mr. Briancon: You can't predict a date?

Mr. Kuhlman: I don't know. Anything else Sir?

Mr. Briancon: No.

Mr. Kuhlman: All right thank you. Anybody else have any questions? Mr. Barnes?

Mr. Barnes: We the people, these are the first three words of the US Constitution. We are a government by the people, of the people, and for the people. There is no surprise that the Constitution in Maryland, Article 16 exert power to the people to affect the legislative process, this is known as a Referendum for Petition. The Poolesville Town Charter embraces this power in Section 82.4-A-B and the Poolesville Master Plan says, the Town of Poolesville prides itself on being a caring community with small town values and character which endeavors to ensure that present and future residents will be able to enjoy this lifestyle and the residents of Poolesville have expressed a strong desire that this small town character not be diminished. At the Commissioners of Poolesville meeting, excuse me, at the Commissioners of Poolesville meeting on March 15, 2010 Mr. Kuhlman articulated the Town's resolve to protect the people's right to petition for referendum, quote once the Charter Amendment Resolution, Charter Amendment Resolution No. 001-10 is adopted it would be posted at the Town Hall for 40 days, it will also be published in newspapers of general circulation not less than 4 times weekly at weekly intervals immediately after the date of adoption the Charter Amendment shall become effective on the 50th day unless on or before the 40th day of the petition day a petition for referendum has been submitted. Resolution No. 001-1 was adopted on April 12, 2010, with a given timeline on May 21, 2010 a petition for referendum from registered voters was submitted to the Town, there are 776 signatures, 108 more than required, this precludes this procedure is in accordance with the covered announcement of the Charter Amendment Resolution 001-10. The petition for referendum is clearly written as to its intent and is valid and the absence of specific charter language relevant to referendum the petition requirements the following procedure for recall may guide us through the process. According to the Town Charter 82.4A.B.3 the Town Clerk shall immediately notify the Chairman of the Board of Elections of the filing of a recall petition and shall deliver the petition to the Board of Elections within 15 days of the recall petition, finally the Board shall ascertain whether or not the petition is signed by the requisite number of voters, voters registered with the Town and shall attach a dated certificate showing the result of its examination and whether or not the petition is sufficient and forward them to the Town Clerk. One can only assume that the Board of Election has received the petition, we want to work with the Board of Elections to verify the signatures to chart a path forward, if this has not taken place then the situation is evident and the course forward will be turbulent. I object to tonight's closed meeting, discussion concerning the petition for referendum for a title 10.508.D.3, there does not need to be a closed session, the discussion needs to be open and responsive to the public. Give the petition for referendum to the Board of Election

so they can do their job, allow the citizens of Poolesville to vote up or down on Resolution 001-10, thank you.

Mr. Kuhlman: Thank you Sir. Anybody else. Seeing no hands on to Committee Reports, Planning Commission Mr. Coakley.

Committee Reports

Mr. Coakley: George Coakley, Chairman of the Planning Commission. The Planning Commission has not had a regular meeting since the last Commissioners Meeting, however we did have a mock Planning Commission Meeting last week that entailed the teacher Jan Maloney and a number of her students in her Architecture Class did like mock ups or sketch plans of what they would put on the parcel where the 3 acre parcel where the skatepark is going, and there were 5 presentations that we went through and asked them questions and went over it and we were very impressed with their presentation skills, they did a very good job.

Mr. Kuhlman: Good thank you Sir. Parks Board Mr. Brown?

Mr. Brown: We will be meeting this Wednesday.

Mr. Kuhlman: All right CEDC Lori?

Ms. Gruber: We met last Wednesday and Karen Micheals came up with a business newsletter for the local businesses, I believe the Town has a section in it, it is a really neat idea, it is in development right now and I am sure when she, I think she put out the final today but I haven't had a chance to look it over, I would like to get you guys a copy of it.

Mr. Kuhlman: Thank you. Town Manager's Report.

Town Manager's Report

Mr. Yost: We have street sweeping Wednesday, June 9th and that is really about it for right now, all the projects are going on as scheduled, we are looking to have the bandshell complete and have our first concert with Mr. Brian Gross on Friday the 18th and we have the Skatepark opening scheduled for July 10, at 11:00 AM, we have Senator Garagiola and the Delegates as well as some vendors with food and Pitcrew will be here doing some demonstrations and have some trick contests and other things, it should be a fun day.

Mr. Klobukowski: What day is that again?

Mr. Yost: That would be July 10th a Saturday.

Mr. Kuhlman: Anything else?

Mr. Yost: That is it.

Mr. Kuhlman: All right.

Mr. Klobukowski: I have one thing I meant to bring up but I won't bring it up at this meeting but it has come to my attention by a resident with respect to the cost that they were charged to mow their lawn because they let it get out of hand and they wanted to know when the amount was raised from \$75.00 to \$200.00 and I think that whole aspect of that plus our other fees I think we ought to have on the agenda sometime to look at and determine whether or not all our fees are in line or need to be raised due to inflation, increased gas cost, etc., etc., etc.

Mr. Yost: Ok.

Mr. Kuhlman: Make a note of that and we will put it on the agenda here soon. Anything else? All right...

Mr. Hoewing: Eddie I have just got a question all right and I want to assure Mr. Barnes and Mrs. Barnes that I have no problem with a vote on the petition, that is democracy, I have said that in my blog post and everything else so nobody is trying to stop a vote of petition if it is valid, if the signatures on it are valid, I do want to say that I saw a lot of emails sent around about the petition and I thought a lot of them were very misleading and mischaracterized what the entire set of resolutions that we adopted were all about but that is beside the point because --- statute says that it doesn't matter how you portray it, it matters that you ask people that you want a vote on the petition for a referendum and you did do that so that is valid even though you did in my view misrepresent what the amendments were that we adopted. That said Eddie I don't see any reason why you can't tell people what the process is going forth, why can't we tell them that, what is the process going forth, can you tell us that?

Mr. Gullo: Sure would you like me to do it today?

Mr. Hoewing: Good thank you.

Mr. Gullo: I will address that with maybe some of the comments that were said tonight but I think some of the legal advise we need to do in closed session, as far as that. I think that one of the misleading things that was said tonight is that everybody decided to jump to Section 82.4 about recall because you saw the word petition there and didn't see it anywhere else and decided that was what was required, but that is not required, the petition section in there is not applicable to the petition at hand here. The section that deals with that isn't in the Town Charter at all, the petition is dealt with by Section 23.A, Section 13, and the following Sections of State Law and that tells you exactly what has to happen, that is where you came up with your 20%, that is where you came up with your 40 days, you got all that information from that section, you can't just decide to just get rid of that section and go to another section. With regards to the State Board of Election they are not involved either at this point in time and they likely won't be involved because Section 23.A, Section 13 of the Code basically says the legislative body is the one who makes the determination. Since we have not had a meeting since you received the petition this is the first time you are a legislative body tonight, you haven't even gotten any instructions and I would press to you because you know what the procedure is, you don't, I print the memo on it but you haven't had any time to opportune or talk to me, at least the petitioners you all and the people involved have the chance to research this, get advice, do whatever you want but you don't expect the same is fair for the Board to do this, and I would think that is important for the Town to do this right, and to do this right you need to know exactly what the procedures are and exactly how to do it. Haste is not the important part here, in fact the section of law that you all quote and talk about specifically says it becomes effective 50 days after enactment unless you submit a petition 40 days, which you did, so the law is not effective at this point in time until it is dealt with and so therefore there is no harm, there is no anything going on, everything is in limbo until they move forward. To move forward what has to happen is the petition has to be verified and that verification happens through the Town, the Town Staff, and that verification even though that you submit that it is fact that it has the right number of signatures I would imagine that we all would want to make sure that it is

actually verified with the voter rolls since it is only fair and if there is any discrepancy your Board will then decide the discrepancies and it will become public at that point in time of who was wrong or who was right. So after the verification of the signatures to make sure you have the right number the form of the petition is looked at and Commissioner you have the exact language there is basically the advise memo I gave is you have to ask for a referendum which is what happened, you asked for a referendum, there were a lot of extraneous things in that petition that didn't really deal with the petition and I guess the question to everyone is the petition should be talking about what you want not why you want it, your petition has both, but at least it has what you want in it, you can't really jump to any other petition section for referendum because you picked the one in the Charter but why did you pick the one in the Maryland Constitution I mean that one has a referendum section in there and that also doesn't apply because that deals with taking things to referendum with the General Assembly, so you can't pick and choose the ones you want, you have to follow the ones that are laid out and there is a specific way to deal with that. After we verify the form of the petition and the number of that then the Board here has the absolute discretion of whether you are going to have a special election or whether you are going to have it at the next general election and that is regardless of what was in the petition that is absolute power in 23.A section 13 that you have. Once you decide that decision, if you have a special election there is a time period that it must occur in, not less than so many days and not more than so many days when you make that decision. At the same time you make the decision of when the election is going to occur you have to decide what is going to be put on the ballot, the actual question, the exact wordage of that, this is something that takes a little bit of time and thought because you have to convey what is going on to the voters when they receive this, you have 23 or 4 different things that need to be conveyed and it is not simply sufficient enough to say yes or no to whatever, so that has to be thought out and done. So after you answer all those questions and deliberate what the best pros and cons, the best interest of the Town is, than you need to pass the Resolution and that is the official act that must happen in public session, you can read Section 23.A.13 it tells you a Resolution is passed, that Resolution is set for the election day and that Resolution also sets the exact wording for what is going to be on the ballot and then you have your election and I am assuming you will get to that point, but there is a whole section in there of how you deal with the election but you deal with the election like you deal with any other election and the result of the ballot question is a majority of people voting for over the minority that votes against of whether it gets enacted or not and then there is things that happen after that as well. That is general procedure.

Mr. Hoewing: This is what I want to get on the record, I said it in my blog post numerous times that I support if enough people sign the petition, they were valid and they wanted to vote on it that is fine that is democracy you are right about that Mr. Barnes, what I don't like is the grandstanding, we are not trying to hide the --- or anything, we do want it to go forward if it is valid signatures and the process is done the right way we want to go forward with the vote, I am not against that and that is true Mrs. Barnes I said that in my blog post I am not against it, I do think people ought to be able to vote, I am just saying grandstanding and talking about

democracy and eyeing the ball is not valid, we are not trying to do that, we do want the process to go forth but in the proper way, that is all we are saying, and I think that helps you understand the process, did it not?

Mr. Briancon: I can tell you however that I signed the petition which I care about and (inaudible) and I think you are grandstanding right now by talking about grandstanding and your blog...

Mr. Hoewing: It's not grandstanding I am just telling you what I feel.

Mr. Klobukowski: Gentlemen, gentlemen lets no...

Mr. Brown: Just let him go.

Mr. Briancon: (Inaudible) I think it is a great process that we are going through and I appreciate that, what I don't appreciate is what seems to be and sorry for using the devil word (inaudible) there are many times in my business I don't know and I look to people that work with me to tell me what the stuff is, what surprised me to this petition and I have not circulated a petition for years and years, what surprised me is the --- is very different from petitions way back when about 10 years or 12 years ago and that is why it surprised me and maybe (inaudible). What my concern was is that something bad was --- because in the past when a petition --- it went very, very quickly (inaudible) I don't believe that the statute should be from the State of Maryland (inaudible). If I can learn from others --- the facts are going to be wrapped up and that is well, thank you.

Adjournment

Mr. Kuhlman: All right need a reading of the motion for adjournment to an Executive Session please.

Ms. Gruber: I motion to adjourn to Executive Session as provided for by the Annotated Code of Maryland, State Government Article: Section 10-508(a)7 to consult with Counsel to obtain legal advise on the Referendum Petition.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: We are adjourned to an Executive Session.

Executive Session Minutes
June 7, 2010

The Commissioners adjourned to Executive Session as provided for by the Annotated Code of Maryland, State Government Article: Section 10-508(a)7 to consult with counsel to obtain legal advice on the referendum petition.

Present: Commissioners Eddie Kuhlman, Jerry Klobukowski, Link Hoewing, Jim Brown, Lori Gruber, Town Attorney Jay Gullo and Town Manager Wade Yost.

The Town Attorney briefed the Commissioners on State law, time requirements and options to consider. After a discussion, the Commissioners decided the petition met the legal requirements and satisfied the 20% of registered voters requirement. They also decided that the election shall be held in November with the general election.

The Commissioners also instructed staff to develop 24 ballot questions that would represent each of the 24 amendments contained in the Charter Revision Resolution. These questions would be reviewed and attorney's legal advice on each would be obtained in an Executive Session on June 21, 2010.