

**CITY OF BELLEVUE
REGULAR COMMISSION MEETING
MINUTES**

**BELLEVUE CITY HALL
COMMISSION CHAMBERS**

**January 6, 2004
7:00 PM**

Mayor STEVE BAIRSTOW
Seat 1 EMERY ABSHIER
Seat 2 TAMMY MOORE
Seat 3 PAULA CHAFFIN
Seat 4 PAUL ANDERSON

PRESENT: MAYOR BAIRSTOW; COMMISSIONERS: ABSHIER, ANDERSON,
MOORE; ATTORNEY LANDT, CHIEF STRICKLAND; PUBLIC WORKS
DIRECTOR MONROE; INFORMATION TECH. TOWNE; CITY
CLERK/ADMINISTRATOR McKAMEY, DEPUTY CITY CLERK
DeGENNARO
ABSENT: COMMISSIONER CHAFFIN

1. APPROVAL OF MINUTES

12/16/03 Regular Commission Meeting

Commissioner Moore made a Motion to Approve the Minutes and Commissioner Abshier seconded the Motion.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow
The Motion passed with a 4-0 vote.

2. PUBLIC HEARING - CDBG

Pulled from the agenda.

3. CDBG - CONSULTANT AGREEMENTS

a) Mark Brewer, Angie Brewer & Associates, came forward and explained the Consultant Agreement for the Project Planning & Application Services in the amount of \$4,500. Mr. Brewer stated that the maximum amount that the City could apply for in the grant application is \$700,000 which would be used to help low to moderate income individuals. This contract comes from the request for a proposal process that was recently completed by the COB.

Mayor Bairstow asked PWD Monroe and Attorney Landt if they had reviewed the contract and both stated they had reviewed it and had no problems with this contract.

Commissioner Anderson asked Mr. Brewer when the grant cycle begins and ends and Mr. Brewer stated in opens in January 2004 and closes in March 2004.

Commissioner Moore made a Motion to Approve awarding Angie Brewer & Associates the Consultant Agreement for the Project Planning & Application Services in the amount of \$4,500 and Commissioner Abshier seconded the Motion.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow
The Motion passed with a 4-0 vote.

b) Mark Brewer, Angie Brewer & Associates, came forward and explained the Consultant Agreement for the Project Administration Services in the amount of \$49,250. This contract was also in response to the RFP process that was conducted recently and included the Administration upon a successful grant application. Rule 90-43 provides not to exceed 8% of the grant money and normally that is only for Administration. However, in this case, the amount would not exceed that amount between the two contracts so there is a discount being provided to the City. Those are Federal dollars being passed through the State and it would be during the full term of the construction contract. So if you end up with a 12 month contract or an 18 month contract, AB will maintain the requirements throughout that construction contract period so there is no additional amount for an extended project.

PWD Monroe stated that the money only gets paid if the City is successful in obtaining the grant and it would be paid from grant funds. Mr. Brewer stated that is correct. Commissioner Moore stated that fee is provided we obtain a \$700,000 grant and Mr. Brewer stated that is correct. The big factor was the RFP response which states at no time would it exceed the 8% and that is on the assumption that the City gets a full grant, then it would be that amount.

Attorney Landt stated he had two concerns about this contract: 1) if the money becomes available and the City pursues a project, immediately upon signing, the work would begin. If the City terminates for a reason of convenience (i.e. not accepting the loan), the City will owe money. 2) If the City applies for \$700,000 and gets an 8% fee that would equal \$56,000 and then gets a 4% discount, the combined total would be the \$53,750 and not \$49,250 as stated in the contract. Attorney Landt stated both of these items need to be addressed.

The Attorney stated that the contract should read that the resulting combined total for AB Services, if the City accepts the loan, will not exceed \$53,750. This would be the amount accepted, the amount spent x 8%, less the 4% discount which equals whatever that number comes out to. Mayor Bairstow asked Mr. Brewer if he had any objections to making those changes to the Agreement and Mr. Brewer stated he had no objections to the changes.

Commissioner Moore made a Motion to Approve awarding Angie Brewer & Associates the Consultant Agreement for the Project Administration Services subject to Attorney Landt's changes and Commissioner Abshier seconded the Motion.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow
The Motion passed with a 4-0 vote.

4. CONSUMER CONSTRUCTION ALLIANCE INC.

Pulled from agenda.

5. BILL MURRY, WATER PIPE PROBLEM

Mr. Bill Murry came before the Commission and discussed his excessive water bill which was caused by a water pipe leak. Mr. Murry stated that the City credited the bill for \$518.70 which was the sewer rate. Mr. Murry asked that his November bill be adjusted to a rate of 15,000 gallons.

PWD Monroe stated that the policy has been that the City responsibility for our system is up to and through the water meter and after that it is the individual's responsibility. We did everything we could for this individual, and the water went through the meter and we know it was a leak on the customer's side and we know where the water went.

Commissioner Moore stated that the City has given one lifetime adjustment for overuse of water and she stated that she would not have a problem letting him use his one lifetime adjustment.

Commissioner Moore made a Motion to Allow Mr. Murry to use his once in a life time adjustment and to adjust the monthly bill to 15,600 gallons and Commissioner Abshier seconded the Motion.

**On roll call vote, YES: Abshier, Moore, Anderson
NO: Bairstow**

The Motion passed with a 3-1 vote.

6. CITY OF BELLEVIEW 2004 ELECTION

The City Clerk read the Proclamation and Mayor Bairstow stated that March 2, 2004 has been declared as COB Election Day. The Clerk stated that the qualifying period starts on January 20, 2004 and runs through February 11, 2004 and that Commissioner Moore and Commissioner Anderson are up for re-election this year.

a) Clerk McKamey discussed the possibility of changing the date of the COB election from March to November when the general elections are held. She stated that at one point the City had a 30% voter turnout, but there has been less than 8% over the last two elections. The Clerk stated that it is costly to run an election for so few voters. The Florida Statutes and Attorney General Opinions stated that from 1995 forward municipalities could change the date of the election by Ordinance of the City Commission.

The Clerk also stated she would recommend changing the COB's qualifying period. Presently the qualifying date is 45 days before the election to 20 days before the election. This long qualifying period causes problems getting the ballots printed which is now done out of state and getting them back and out to shut-ins, handicapped and military people who want to vote. The Florida Statutory timeframe is one week to qualify and goes from 56th day to 46th day out from the election.

Mayor Bairstow asked the Clerk if there was a cost savings and the Clerk stated not a lot of costs savings per the Supervisor of Elections, but there would be a higher voter turn out. The Clerk stated that Commissioner Chaffin was concerned by the dwindling numbers of voters and by moving the date the City would see more people turn out for the election.

Attorney Landt stated that regarding the City changing the election date - Florida Statute states not withstanding a charter provision to the contrary, municipalities can change the date of their elections to coincide with the Federal and State elections by Ordinance rather than Charter amendment when first came up A turning point was whether you had amended your charter between 1973 and before 1995. The most recent Statute does away with the concern of changing

your charter between 1973-1995 timeframe. The Attorney advised that the Statute which states that you can disregard your charter regarding rescheduling election dates and do it by ordinance. This opinion has not been challenged and therefore, the Attorney General's opinion is considered advisory and not controlling. It is possible if it goes to the Supreme Court they will state that the legislator went beyond its authority, but you would have already amended your election date by Ordinance. Attorney Landt stated that since the Attorney General's opinion is not controlling, and there is no court decision that says you can rely on that statute despite what you Charter says, therefore there is an element of risk. Mayor Bairstow asked the attorney if he was saying the City could not change the election date and Attorney Landt stated the City could change it, but his recommendation would be to do it through a referendum then you would be sure.

Mayor Bairstow asked the Commission if they were interested in changing the date of the election either by ordinance or referendum. Commissioners Abshier and Moore stated that they were interested and Commissioner Anderson stated that he could not come to a decision yet. Commissioner Anderson stated that he feels the City would lose the small town atmosphere by combining with the general election in November.

Mayor Bairstow stated that the response he has heard from other individuals is that if you change the date to November our election would be overshadowed by more important elections. At the present time, our elections are overshadowed by other events because there is not a strong interest in voting which is demonstrated by the voter turn out.

Commissioner Moore made a Motion to proceed with the concept to change the election date from March to November and Commissioner Abshier seconded the Motion.

**On roll call vote, YES: Abshier, Moore, Bairstow
NO: Anderson**

The Motion passed with a 3-1 vote.

Commissioner Anderson asked if this would be changed for the 2004 election and the Mayor stated that he did not think there would be time for this election.

Commissioner Anderson made a Motion to table the issue until there is time to think about it and Commissioner Abshier seconded the Motion for discussion.

Commissioner Abshier stated that the change will increase the voter turnout because the turnout for the general election is much greater than the City election. In the past, there was a greater duty for individuals to participate in the local elections. Commissioner Abshier stated that he feels that that obligation still exist in the county and statewide and national elections. The Commissioner stated that if Commissioner Anderson could give him a benefit for waiting that would be fine, but Commissioner Abshier feels the date change would increase the voter turnout.

Commissioner Anderson stated he wanted to take two weeks and then bring it up at the next Commission meeting.

Commissioner Anderson amended his Motion to table the issue to include a deadline of two weeks

Commissioner Anderson stated that the Clerk has stated it is not going to be a big savings to the City so why do we want to make a change that would not give the City savings. Commissioner Abshier stated for Commissioner Anderson to amend the Motion to include a deadline of the next Commission meeting. Attorney Landt stated to Commissioner Abshier that Commissioner Anderson amended his motion and that Commissioner Abshier would have to second the amendment.

Commissioner Abshier seconded the amendment to the Motion.

Commissioner Moore asked if there would be enough time to put this on the ballot for a referendum on the upcoming election, but which would not go into effect until the next COB election. The Clerk stated that she would have to have the information to the Supervisor of Elections for the ballot by the end of the qualifying period.

On roll call vote, YES: Abshier, Moore, Anderson
NO: Bairstow

The Motion passed with a 3-1 vote.

Mayor Bairstow stated that we have rescinded the previous motion and now we have taken it off of the Agenda for tonight and in effect no action has been made on this issue. We have postponed this issue until the next Commission meeting and procedurally that is what we have accomplished. The Mayor asked the Commission what they thought happened and three Commissioners stated that they tabled the action until the next meeting.

Commissioner Abshier stated by majority or referendum you would need to insert whose term would be extended or shortened. Attorney Landt stated that the Attorney General's opinion states that you extend not shorten the term. Commissioner Abshier stated he would like to put it on the November 2004 general election ballot for consideration because you would have the increased participation. By being on the ballot in November, it would still give the City enough time to do what it needs to do for those Commissioners who are up for re-election the following March (2005). The Clerk stated that she would check with the Supervisor of Elections on getting it on the November 2004 ballot, but the changes would not go into effect until the 2005 election.

b) Qualifying Period - The Clerk stated that presently 40 days out from the election to 20 days out from the election gives us just under 3 weeks to get a ballot printed out of state and in hand to distribute to the military, invalids, and shut ins that request them.

The Clerk stated that the City should be more in accordance with the State Statute which is 50 to 46 days from the election date. By moving it out further from the date of election you have a shorter qualifying period, but longer campaign time. Commissioner Abshier stated that as it is there is not a lot of time for the citizens to get to know the people who are running and not much time for the candidates to campaign.

Commissioner Moore stated that her last election was a problem because someone qualified the last hour of the qualifying period. The Commissioner stated that she agreed with Commissioner Abshier that there is little time to campaign. The Clerk stated that the candidates wait until that

last hour of the last day to see if anyone is going to oppose them before putting money out to campaign.

The Clerk stated that her recommendation would be to go with the State Statute which has a qualifying time from noon of the 50th day to noon of the 46th day before the election, which would give the candidate six weeks of campaign time.

Attorney Landt stated that it is obvious that the intent of the Florida Statute was to allow cities to move their election date to November when the general elections are and you would, therefore, move your qualifying period as well. The problem is to taking a charter provision and shorten the qualifying period without a charter action. Attorney Landt stated that if you can move the time by an ordinance that is fine, but shortening the qualifying time is a different matter and might need to be done by charter.

Clerk McKamey stated that the Statute states “except for the election dates and qualifying periods for candidates”. Mayor Bairstow stated that the Clerk’s recommendation is to change and shorten the qualifying period and how to implement the proposal for the 2005 election.

Commissioner Abshier made a Motion to change the procedures that were discussed this evening moving the qualifying dates per State Statutes and was seconded by Commissioner Moore.

Attorney Landt stated that if the Motion passes and at the next meeting you decide to change the election date by Ordinance and then that Ordinance failed, you would still have a shorten qualifying period in March 2005 or whenever the general election period is. This shortening of the qualifying dates, will stand alone.

Mayor Bairstow stated that the motion as he understood it is to change the qualifying period per the Clerk’s recommendation to become effective 2005. When we take action which he did not expect that to be at the next meeting, but if we keep the election date in March we will still shorten the qualifying period. Attorney Landt stated that he did not mean to imply that the Commission would decide at the next meeting, but whatever happens at the next meeting on the other issue, this issue would stand alone whether shorter in March or shorter in November. Mayor Bairstow stated that is his understanding also.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow

The Motion passed with a 4-0 vote.

7. CODE ENFORCEMENT OFFICER, ANGILIA PITTSLEY

Clerk McKamey stated that by practice Ms. Pittsley responds to the Code Violations and does the work up, but the citation has to be written up by a designated police officer instead of her. When they go to court, both the police officer and Ms. Pittsley have to go because they both took part in the process. The judge could state that there is a problem between the workup and the procedure and it could become a liability in court.

Commissioner Moore made a Motion to Approve delegating Ms. Pittsley as a Code Enforcement Officer in COB and Commissioner Abshier seconded the Motion.

Commissioner Anderson asked what the reason was for doing this and Attorney Landt stated that Ms. Pittsley would be authorized to write citations. At the present time, the Chief of Police is the designated Code Enforcement Officer and the Court requires that the Police Chief and Ms. Pittsley go to court on cases. However, if Ms. Pittsley is designated as a Code Enforcement Officer, she would be able to issue the citations and go to court without the Police Officer. Clerk McKamey stated this is not replacing law enforcement, but rather adding her as a supplement.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow
The Motion passed with a 4-0 vote.

8. FIRST READING, ORDINANCE 2004-01, SYSTEM DEVELOPMENT FEES

Mayor Bairstow stated that this is the first reading of Ordinance 2004-01. Clerk McKamey read the First Reading of Ordinance 2004-01, System Development Fees.

Mayor Bairstow asked if anyone in the audience who was in favor or opposed to the proposed Ordinance wanted to come forward. No one came forward.

Commissioner Abshier stated that he wanted to discuss this issue with the staff before he votes on it.

Commissioner Abshier made a Motion to table this issue until the next Commission Meeting and Commissioner Anderson seconded the Motion.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow
The Motion passed with a 4-0 vote.

Clerk McKamey stated that there will be another First Reading of this Ordinance at the next meeting.

9. ST. JOHN'S WATER MANAGEMENT DISTRICT

Clerk McKamey stated that this is a request from St. John's Water Management District who is applying for grant funding over several fiscal years. St. John's is asking all the local agencies in the area that would benefit from these programs to send support letters on their behalf so the COB and Marion County have been asked. Clerk McKamey read the sample support letter that was in the Agenda packet.

Commissioner Abshier made a Motion for the COB to send a support letter and Commissioner Moore seconded the Motion.

Commissioner Moore stated her concern that this might be a ploy to South Florida. The Clerk stated that it sounds like St. John's wants to develop more alternative water sources. Commissioner Abshier stated he read it and he felt it was saying that St. John's wants grant money to explore alternate options. Commissioner Anderson stated that on Pg. 1, it states that it

would stay in this area and help the counties in this area. Commissioner Moore stated that she just wanted to be sure we are not endorsing sending water to South Florida.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow

The Motion passed with a 4-0 vote.

10. RELOCATION OF SEWER LINE C-25

PWD Monroe stated that this is more than just relocating a sewer line. The letter in the agenda packet from Marion County requests the use of a portion of an undeveloped City right of way for additional retention area on C-25. The County is in the process of finalizing plans for three lanes of C-25 from R.R. out to the where County Road 9 branches off. This is part of the Storm Water Management Project and the county has purchased the triangle property between Babb, C-25 and SE Arthur Rd. The part we are talking about is an extension of SE Arthur Rd. from C-25 over to Babb.

PWD stated within that right of way the City has City has utility lines: a gravity sewer line that serves the nursing home and 6" force main from Diamond Ridge Subdivision. This retention area will benefit the City because part of the water shed it serves is City property and City streets. The City has had some problems in that area with drainage in the past year. PWD recommended granting the county permission to use the right of way and there needs to be some provision made regarding relocating those existing utilities.

Commissioner Abshier stated the City can ask the County to pay for moving our utilities.

Commissioner Abshier made a Motion to allow the County to use the right of way and incur the expenses to move the utilities and Commissioner Moore seconded the Motion.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow

The Motion passed with a 4-0 vote.

11. DEPARTMENT HEAD COMMENTS

PWD MONROE: 2004-01 Paving Project's Notice To Proceed has been issued for January 20, 2004.

POLICE CHIEF STRICKLAND: Gave the monthly report:

Total cases worked 772

330 Traffic Citations

11 were assigned to CID and 8 were cleared by CID.

7 DUI arrests

18 D.L. Arrests

4 Drug arrests

19 Miscellaneous arrests

10 Juvenile arrests

58 people were taken to jail

25 accidents on the roadway

Commissioner Abshier asked Chief Strickland why the police vehicle he has seen around town has not been repaired. The Chief stated that it has been repaired, but it needs to be repaired again. Commissioner Abshier stated that the vehicle looks bad and wants it repaired. The Chief agreed with the Commissioner.

IT COORDINATOR TOWNE: Discussed the activity that has occurred in the IT Department: new leased copier was delivered and it will provide some cost savings by reducing the amount of paper, reducing the number of ink jet cartridges, and reducing the long distance calls that we can now go through the internet faxing capability of the copier. This copier has the ability for every computer in the City to print to it including the Police Department and will be used in document management system.

Mr. Towne stated that the fiber optic cable was completely installed and the new scanners for utility billing have also been installed and are functioning. Commissioner Abshier asked how this new copier lease payment compared to the old copier lease program. Mr. Towne stated that it is a little higher cost wise, but it will be used for the document management system where you convert documents into electronic format so some type of device would have to be purchased or leased at that time.

CLERK/ADMINISTRATOR McKAMEY: Stated that she has received a fax from Representative Baxley concerning the Bellevue Waste Water Utility Improvement Project that we submitted last year to the legislature and it is time for the City to re-submit our application for grant money for the Sewer Treatment Plant. The Clerk stated that she wanted the Commission to know that Representative Baxley was looking out for the COB in that regard.

Attorney Landt stated that this is the third consecutive meeting that Commissioner Chaffin has missed and under Section 3.07 of the COB's Charter it needs to be determined if the Commissioner should be excused or not by the City Commission. Mayor Bairstow stated that her mother is in the hospital in Tampa and she is taking care of her and the City Clerk stated that her mother is critically ill.

Commissioner Abshier made a Motion to excuse Commissioner Chaffin and Commissioner Moore seconded the Motion.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow
The Motion passed with a 4-0 vote.

13. UNSCHEDULED AUDIENCE

Al Dunse from the Bellevue Soccer Club came before the Commission and asked that the Soccer Club be allowed to use the COB parking lot for registration on January 10, 17 and 24, 2004 from 10:00 AM to 1:00 PM.

Commissioner Moore made a Motion to approve the request and Commissioner Abshier seconded the Motion.

On roll call vote, YES: Abshier, Moore, Anderson, Bairstow

The Motion passed with a 4-0 vote.

14. COMMISSION COMMENTS

Commissioner Abshier – Nothing at this time.

Commissioner Chaffin – Absent

Commissioner Moore - Nothing at this time.

Commissioner Anderson – Discussed using the CDBG grant money to help preserve the Grange Building. Clerk McKamey stated that the Citizens Task Force had its first meeting tonight and they are looking for ideas. Mayor Bairstow told Commissioner Anderson to contact the CATF with his suggestion.

Mayor Bairstow – Nothing at this time.

The meeting was adjourned at 8:40 P.M.

ATTEST:

Sandi McKamey
City Clerk/Administrator