

Minutes
Special Called Meeting
Bluff City Board of Mayor and Aldermen
July 12, 2010
7:00 P.M.

Alderman Robert Miller made a motion to call the meeting to order 7:03 p.m. Second by Alderman Mark Weaver. All members present. All in favor.

Also present City Manager Don Weaver.

Motion for Alderman Miller to chair the meeting was made by Alderman Weaver. Second by Alderman Melvin Carrier. All in favor. Motion carried.

Prayer was given by Alderman Miller followed by the Pledge of Allegiance.

Alderman Miller presented Ordinance 2010-003 – First Reading, to the BMA for consideration. Alderman Miller explained that this was a rezoning ordinance for property adjacent to the B & B Campground from R-1 to B-3. Mr. Miller asked for comments. Alderwoman Wells stated that she had had calls from her neighbors and they attended the Planning and Zoning meeting and she advised them if they had other complaints or concerns they should attend the meeting tonight. Alderman Miller stated that he had attended the last meeting of the Planning and Zoning Commission and there was some discussion between the property owners and the adjacent property owners and the best that he recalls, they seemed to be at ease at the end when it was determined that the Board would have final say on future businesses to be built on that property. Mr. Miller explained that the property owners of the campground wanted to expand one island of parcel he has from Residential to B-3 so it can also be a campground. Motion to rezone the parcel from R-1 to B-3 was made by Alderman Miller. Second by Alderman Carrier. Vote went as follows:

Alderman Carrier – Yes
Alderman Miller – Yes
Alderman Weaver – No
Alderwoman Wells – No

Alderman Miller stated that the ordinance was tabled for the future and if the property owner wanted to bring it back up, they would address it. Alderman Weaver stated yes.

Alderman Miller asked if any of the other applicants for City Attorney were there that they had not previously interviewed. Rob Starnes with Starnes and Glenn introduced himself. Danny Bartley with B & B Campground addressed the Board and asked if he could speak. Alderman Miller stated that technically he missed it as they had opened the floor for public comment and nobody (sentence ended). Mr. Bartley stated that he did not hear him open it. Alderman Miller apologized and said if it was okay with his fellow board members (sentence ended) Alderman Weaver stated that he had no problem with it and he would listen to him. Alderman Carrier stated that he wanted to hear from him.

Mr. Bartley stated that all they did was tore an old house down and everybody there would have to agree that it looks a lot better and they were talking about a piece of property not much larger than this room if they are looking at the size of it. Mr. Bartley stated that he did not understand the decision that was made on that piece of property. Mr. Bartley stated that all the property was rezoned from M-1 to B-3, except the section where a small house set. Mr. Bartley stated that they tore the house down and all they want to do is put three campsites there and they mow it and it looks nice and he thinks it is an addition to Bluff City. Alderman Weaver stated that it was basically three campsites. Mr. Bartley stated that that was all it was, and it was zoned business right behind it. Citizen (Julie Venable Carty) stated that she agreed with him as their property adjoins him and Kevin Smiths property adjoins the front and neither of them have any problem with the campsites being there and she feels that it looks better with the house gone. Alderman Weaver stated that he would like to research it a little bit and would like for him to bring it back up and he was not saying no indefinitely, and he would just like to talk to a few, you know (sentence ended). Alderman Miller asked when the next race was. Mr. Bartley stated in August. Mr. Bartley stated that he did not think that they were bound not to put campers on there anyway because on residential property across from City Hall there were campers sitting there on the lake bottom. Mr. Bartley asked if that was understood and was he going to have a problem with that. Alderman Miller stated that he was no expert on what he could and could not do on residential property. Mr. Bartley said (unclear) residential property all over Bristol Tennessee and also residential property in Bluff City that campers are allowed on. Mr. Bartley stated that he just wanted to rezone all that so it would be one piece of ground. Alderman Miller stated that he recalls the reasoning. Mr. Bartley said he did not see the issue. Mr. Bartley stated that there were some other things that had been done down there that there was leniency given to. Alderman Weaver stated that he would be more than happy to bring it back up. Alderman Miller stated that it would have a second reading. Mr. Bartley stated that if they go look at the piece of property (sentence ended). Alderman Weaver stated that he would like to go look at the property. Mr. Bartley asked if it would be brought up at the next meeting. Alderman Weaver stated yes that's fine. Alderman Miller stated that it had to go through two votes. Alderman Miller stated that we would have a string of Special Called Meetings in August for the budget and they could put that on there. Alderman Weaver stated that they could put that in there. Mr. Bartley stated that they made it look a lot better by tearing that house down, and they could rent that campsite for the next four years and not get his money back. Sandy Harkleroad addressed Chairman Miller stating that she felt that they needed to rescind the decision two to two because that makes it dead in the water. Mrs. Harkleroad said that they could pass it tonight and not pass it on the second reading but she feels that the way it is now it will have to be resubmitted all over again. Alderman Miller said that he sees what Mrs. Harkleroad was saying. Mrs. Harkleroad stated that it was their option if they wanted to revue it again and if not he will have to go through the whole process and start from scratch at the next meeting if

she was correct on that. Alderwoman Wells stated that she would like to hear back from the property owners that were complaining. Alderman Miller made a motion to rescind the previous vote on Ordinance 2010-003 and table that ordinance until the next regular meeting in August. Second by Alderman Weaver. All in favor. Motion carried. Previous vote rescinded.

Alderman Miller opened the floor to Mr. Starnes to interview for city attorney. Rob Starnes reported that he was an attorney in Kingsport Tennessee and had been practicing law for about ten years, and he does have city attorney experience as he was city attorney for the Town of Gate City Virginia for one and a half to two years. Mr. Starnes stated that he worked for Attorney Terry Kilgore who was the attorney of record but he handled primarily most of the duties of town attorney whenever Terry Kilgore had it. These duties included court, attending town meetings and advising the board on the Sunshine Law. Mr. Starnes reported that he had read Bluff City's Charter and he has read the duties of the Town Attorney and he was fully ready and capable to handle the Town Attorney's position if they choose him. Mr. Starnes stated that as a matter of good will so that they would know that he has read the town charter, article seven section eight, he is asking twenty two thousand and five hundred dollars (\$22,500.00) and asks the board that if they hire him, the first resolution that they make is to allocate the additional twenty five hundred dollars (\$2,500.00) however they so choose. Mr. Starnes stated that he prosecuted for about a year for Marcus McClung in Scott County Virginia, primary civil litigator for Wolfe, Williams, Rutherford and Reynolds from 2001 to December, 2005 with a case load of about three hundred cases and chose to start his own practice in 2006 in Kingsport Tennessee. Mr. Starnes stated that his practice had grown and he had hired another attorney, Andrew Glenn who has been practicing law about six years, and worked for Wilson, Worley and Gamble as primary defense experience in employment discrimination case and civil litigation cases which would come in handy for the town. Mr. Starnes would attend every meeting and make sure that every resolution they pass meets the United States and Tennessee constitution along with the Charter of Bluff City, Tennessee. Mr. Starnes stated that he did not have a regular municipal or corporate client right now so the City would be very important to him and he would be available for any special meetings that they have and with the additional attorney, if he could not attend the additional attorney could so it would be rare that they would miss one of the city's meetings. Mr. Starnes stated that before becoming an attorney, he was a city planner for about four years writing community development block grants that were funded, had a water project that was funded, worked with a business incubator project that was funded, and dealt with the economic development administration in Atlanta Georgia. MR. Starnes stated that he would be happy to serve at their pleasure.

Alderman Miller asked if there were any other attorneys present.

Thomas Shields stated that he was an applicant for the City Attorney's position. Mr. Shields stated that he was without a doubt the youngest applicant that they have. Mr. Shields stated that he will be thirty one years in August and had been practicing law in Johnson City for approximately six years. Mr. Shields stated that his partner was Brick Bearfield and they are primarily a real estate and litigation firm and they don't handle any criminal type work, but have been involved in civil forfeitures which do implicate criminal work and things of that nature, along with imminent domain and construction law which may be applicable to things that the city would need. Mr. Shields stated that he will not have the kind of time depth in his resume that many of the other people have but he does not think that his experience had been limited during the period of time that he had been practicing. Mr. Shields stated that to his knowledge they had never had a municipality as a client, but they had been involved in many things with municipalities as far as condemnations, real estate and things like that. Mr. Shields stated that he felt that they had encountered all of the issues that they would encounter in representing a municipality, it just happens to have been on the opposite side of the playing field. Mr. Shields stated that he hoped that they would give him consideration. Mr. Shields stated that the twenty two thousand five hundred dollars (\$22,500.00) afore mentioned by Mr. Starnes would be in line with his expectations as well. Mr. Shields stated the he appreciated the board's time.

Alderman Miller asked if anyone else wanted to speak. Keith Bowers stated that he was at the last meeting and was pleased to be back and he would appreciate their consideration. Mr. Bowers stated that he had served Carter County as County Attorney for five years and also served as tax attorney and in a small county he served as Beer Board Attorney and Planning Commission Attorney as well. Mr. Bowers stated that he would have no problem in scheduling difficulties with his county meetings and our town meetings. Mr. Bowers stated that Tara Thomas, another attorney in his office represents the First Utility District in Carter County and any issues that involve public works or a water issue he would bring her in. Mr. Bowers stated that he had written manuals on the sunshine meeting act, ethics policies for counties and beer board hearings. Mr. Bowers stated that he was used to these things and that is what he does. Mr. Bowers stated that he knows that when an alderman calls they need his attention and they will get it. Mr. Bowers stated that he does not issue snap opinions, and if they ask a legal opinion and if it is something they have dealt with before then he will give a legal opinion right then and if not he will come back next month and give a legal opinion, because a quick opinion is sometimes a bad opinion. Mr. Bowers stated that his job would be to keep Bluff City out of litigation. Mr. Bowers stated that the fee they had talked about before was twenty five thousand dollars (\$25,000.00) annually, hourly rate on any litigation handled outside of and also do the tax work for the town. Mr. Bowers stated that he appreciated the opportunity to serve and asked each and every one of them for their vote and stated that he felt he could do a good job.

Alderman Miller asked if Attorney May and Attorney Frye if they would like to speak.

Mr. May stated that he could not really add much to what he said the last time and he was willing to serve and if they wish for him to do so, this is the kind of practice he has and this is the kind of practice he has engaged in for almost three decades and he thinks he can help Bluff City.

Paul Frye stated that he had serve as our city attorney for over fourteen years and his record and his reputation speaks for itself in the community. Mr. Frye stated that he would not have to learn about Bluff City and he would not have to learn about municipal government and he would not have to learn about municipal law. Mr. Frye stated that he would be able to assist them in bringing stability to Bluff City and he would appreciate their thoughtful consideration and thanked them for allowing him to interview for the position.

Alderman Miller stated that with no other attorneys present they would move on to the appointment of City Attorney.

Alderman Carrier made a motion to appoint Mr. Paul Frye. Alderman Miller stated that with fourteen years of experience with Bluff City he thinks that Mr. Frye is the natural selection especially being based in Bluff City. Alderman Miller made a second to the motion. Vote as follows: Melvin Carrier –Yes: Robert Miller – Yes: Mark Weaver – No: Irene Wells – No: Motion Failed.

Alderman Miller asked for any other motions for appointment for City Attorney. Mr. Miller asked if they wanted some more time. Alderman Carrier stated that they had taken too much time now. Alderman Weaver said the he did not feel that after they did all that to try to find one they could all agree on (unclear). Alderman Miller stated that there was no harm in trying to find one that they all could agree on but they all agreed when Mr. Frye was dismissed as City Attorney that he always did a fine job and gave the city sound legal advice and wasn't ever faulted for poor legal work. City Manager Don Weaver stated that we need an attorney tonight. Alderman Weaver stated that it would be hypocritical of him to vote for him when he was the main one, so he was not going to do that. Alderman Weaver said that's not good business. Alderman Miller stated no that he was entitled to change his mind, and he could count on him not refereeing to him as a hypocrite. Alderwomen Wells stated that they had some other good candidates and asked did they not have any other recommendation. Alderman Miller stated that he did not dispute that there were other good candidates in the room there today but he thinks Mr. Frye, being located in Bluff City, deserves first consideration and also has the support of an overwhelming number of townspeople that he has spoken to. Alderman Carrier stated that a lot of people in town had talked to him about wanting Mr. Frye. Alderman Miller stated not just him specifically because it is Mr. Frye, but wanting a City Attorney that

is practicing law in Bluff City. Mr. Miller stated that that is usually named as the most important piece of the conversation. Alderman Carrier made a motion to re-nominate Mr. Frye. Alderman Miller asked if there was a second. Alderman Weaver stated that he was not going to overturn what went on and he was (unclear) so he did not have to be, I mean I don't know. Alderman Miller stated that he was not going over the top on it, and said Mrs. Wells no second. Alderwoman Wells stated no. Alderman Miller stated we do not have a second. Alderman Miller asked if there was anyone else that anyone would like to nominate for City Attorney. Alderwoman Wells stated that they two others that have quite a bit of experience and felt that they should look back over these two and see if they can't reach some type of agreement on one or the other. Alderman Miller asked to which two she was referring and how long did she want to look them over. Alderwoman Wells said tonight and think of other questions, if you have other questions to ask. Alderman Carrier asked if it was like the last one they got. Alderman Weaver asked is it like what. Alderman Weaver asked what two. Alderwoman Wells stated Keith Bowers and Joseph May. Alderman Weaver asked if he was the one that did not want to do a salary. Alderman Miller stated: Mr. May your stated rate was one twenty five (\$125.00) hourly with no salary. Mr. May said that was what he said. Alderwoman Wells asked how much was his salary. Alderman Weaver stated that he did not want (sentence ended) it was one hundred twenty five dollars an hour. Mr. May stated that all municipalities that he represents do not pay a retainer, they pay an hourly fee and if that is something Bluff City wishes to do which is to practice on a retainer basis (unclear) Alderwoman Wells asked if he was saying that he would agree to the twenty five thousand (25,000) Mr. May stated yes. Alderman Weaver stated what is comes down to does any of us like any of the two that were brought up. Alderman Miller stated that he had talked to Mr. May and Mr. Bowers and he likes them both and thinks that they are both well respected in their community but the citizens of Bluff City that he had spoken to wants Mr. Frye back and he feels that he would be doing them a disservice to nominate anyone else. Alderwoman Wells nominated Keith Bowers. Second by Alderman Weaver. Vote as follows: Melvin Carrier – No: Robert Miller – No: Mark Weaver – Yes: Irene Wells – Yes. Nomination failed. Alderman Weaver stated that it's looking like this (unclear) Alderman Weaver asked if they wanted to move this to the next meeting. Alderman Miller stated if that is a consensus, if they want a motion to table it until the next regular meeting in August. Alderman Weaver made a motion to table it until the next regular meeting in August because it is pretty obvious that tonight's (sentence ended) Second by Alderwoman Wells. All in favor. Motion carried.

Alderman Miller stated that continuing to have no City Attorney to review the Networks agreement he would make a motion to table that until August as well and hopefully they will be lenient and understandable. Second by Alderman Weaver. Vote was as follows: Melvin Carrier – abstained: Robert Miller – yes: Mark Weaver – yes: Irene Wells – yes: Motion carried.

Alderman Miller stated that in reference to the last item on the Agenda which is to discuss and take action to authorize two additional people to sign checks in the temporary absence of the City Recorder, he spoke to Judy yesterday and she informed him that this would not be necessary anymore because she would be available for signature and to oversee it from her house while she is on medical leave, and that that would be an unnecessary step for them to take. Alderwoman Well asked if she is on sick leave is it legal for us to do that and thinks that it is something they might should check into. Mrs. Wells stated that she doesn't think that if you are on sick leave, you shouldn't be performing any of your duties. Alderman Carrier stated that they voted against an attorney and they need an attorney. Alderman Weaver stated did you vote against one. City Manager Don Weaver stated that we needed an additional one anyway. Alderman Miller stated we have Mrs. (sentence ended) Mr. Weaver stated that she does not sign checks, it was voted for her to sign documents, and he does not believe that that includes checks. Mr. Miller stated that the City Recorder has assured him that it is unnecessary that she will be able to perform that function just as she has offered to make adjustments to the budget from home and prepare that for them. Mr. Weaver asked if he did not think that it would be beneficial to have one more in case something did happen. Mr. Miller stated that there was no other member of the city that's bonded to do that. Alderwoman Wells stated that she would like the City Manager to look into that. Mr. Weaver asked on what. Mrs. Wells stated about the signatures as well as her being on sick leave and us using her while she is on sick leave, she would like for him to check with MTAS or TML whichever one that would fall under. Mr. Weaver said are you talking about her doing work at home. Mrs. Wells stated right, I would like to have that checked into since she is on sick leave. Alderman Miller made a motion to table that issue as well. Second by Alderman Carrier. Vote was as follows: All in favor. Motion carried.

Alderman Miller stated that there was no other business on the Agenda but he would ask his fellow board members if they could go ahead and set a date for a budget workshop, with the pending issue in Nashville concerning water and sewer functions that the city does he would encourage them to come together on the budget and have that passed and done by the end of August. Mr. Miller stated that he thought the hearing date was set for September 9th, and if they could have that passed and in Nashville by the end of August he felt that was the biggest thing they could do to benefit themselves right now. Mr. Miller asked if Wednesday the 4th at 7 p.m. would be a good day for the workshop. Everyone agreed. Mr. Miller stated that that was definitely the biggest obstacle facing the city and the City Attorney is a close second. City Manager Don Weaver stated that they had another object that was critical as the longer they wait the less the bottom line in Water / Sewer is going to.

Alderman Miller adjourned the meeting at approximately 8:00 p.m.

Alderwoman Irene Wells

Attest: This 12th day of July, 2010

Sandy Harkleroad, City Clerk