



Brunswick-Glynn County Joint Water and Sewer Commission
1703 Gloucester Street, Brunswick GA 31520
Friday, October 28, 2016 at 12:00 pm
Commission Chambers

SPECIAL CALLED COMMISSION MEETING AGENDA

Amended

Call to Order

Invocation

Pledge

PUBLIC COMMENT PERIOD

Public Comments will be limited to 3 minutes per speaker. Comments are to be limited to relevant information regarding your position and should avoid being repetitious. Individuals should sign in stating your name, address and the subject matter on which you wish to speak. Your cooperation in this process will be greatly appreciated.

EXECUTIVE SESSION

Potential Litigation

APPROVAL

- 1. Yacht Club and Palmetto/Village Holdings Cases – C. Dorminy**

Meeting Adjourned



Brunswick-Glynn County Joint Water and Sewer Commission
1703 Gloucester Street, Brunswick, GA 31520
Friday, October 28, 2016 at 12:00 PM

SPECIAL CALLED COMMISSION MEETING MINUTES

PRESENT: **Thomas A. Boland, Sr., Chairman**
 Donald M. Elliott, Commissioner
 Allen Booker, County Commissioner
 John A. Cason, III, City Commissioner
 Ronald Perry, Commissioner
 Robert Bowen, Commissioner (arrived late)
 Charlie Dorminy, Legal Counsel

ABSENT: **Clifford Adams, Vice-Chairman**
 Jimmy Junkin, Executive Director

Commissioner Boland called the meeting to order at 12:05 PM. Commissioner Booker provided the invocation and Commissioner Boland led the pledge.

Chairman Boland explained that this meeting is for Executive Session to discuss Potential Litigation issues. There is a possibility there may be a vote after the meeting.

PUBLIC COMMENT PERIOD

There being no citizens who wish to address the Commission, the Chairman closed the public comment period.

EXECUTIVE SESSION

Commissioner Cason made a motion seconded by Commissioner Perry to adjourn into Executive Session to discuss Potential Litigation. Motion approved 5-0-2 (Commissioner Adams and Commissioner Bowen were absent for the vote).

Commissioner Cason made a motion seconded by Commissioner Booker to excuse Commissioner Adams from the meeting today and noted that Commissioner Bowen will be arriving shortly. Motion approved 5-0-2 (Commissioner Adams and Commissioner Bowen were absent for the vote).

Executive Session ended.

Commissioner Cason made a motion seconded by Commissioner Booker to exit the Executive Session and return to the Regular meeting. Motion approved 6-0-1 (Commissioner Adams was absent for the vote).

Commissioner Booker made a motion seconded by Commissioner Elliott to add item #1 Yacht Club and Palmetto/Village Holdings to the agenda for approval. Motion approved 6-0-1 (Commissioner Adams was absent for the vote).

APPROVAL

1. Yacht Club and Palmetto/Village Holdings cases - Charlie Dorminy

Charles Dorminy read the memorandum prepared by Chairman, Thomas A. Boland, Sr. The memorandum read that the Yacht Club, LLC, Palmetto Building Group, LLC, and Village Holdings Associates, LLC filed separate actions seeking Mandamus and making damages claims against the JWSC. The Mandamus action essentially mirrored the injunctive relief Judge Wood declined to grant in the 2015 Mary Wan, LLC and Yacht Club Federal lawsuit that was ultimately dismissed by the plaintiffs just before hearings on the defendants' dispositive motions. The memo continued stating that the damages claim in the current lawsuits were also similar in that the developers sought damages for what the developers believed were "takings" by the JWSC of their "vested rights". The JWSC denied that any vested rights existed and denied that the developers were entitled to have the requested taps issues. Mr. Dorminy read that for months prior to the lawsuits being filed, the JWSC worked with these developers and others, to resolve the sewer capacity issues and attempt to find a way to avoid being an impediment to development while at the same time protecting the JWSC sewer system and the health and well-being of the citizens of Glynn County. Today, these developers and the JWSC were able to enter into an agreement in principle, subject to JWSC approval, that will resolve the capacity issues at stations 2001 and 2023 and resolve the lawsuits. This result is the culmination of months of hard work by JWSC staff in conjunction with these developers. The Consent Order and Final Judgment proposed provides that the developers will essentially pre-pay their tap fees at the current rates and will agree to delay their access to the system until dates certain. The pre-payment of over \$280,000.00 will provide capital to the JWSC enabling them to move forward with improvements to the stations that would have otherwise been delayed due to priority. It was noted that these two projects were not slated to be done according to the Master Plan for about five more years. The respective timelines agreed upon will provide the JWSC time to make the improvements before the developments are to the point of needing access to the system. The improvements, once made, will increase capacity at the stations beyond the current demands.

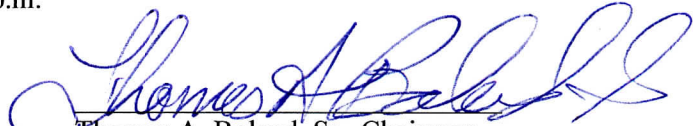
Commissioner Elliott made a motion seconded by Commissioner Perry to approve the two Consent Order and Final Judgment in the forms presented. Motion approved 6-0-1 (Commissioner Adams was absent for the vote).

Mr. Dorminy stated he will get the documents executed next week.

Commissioner Elliott stated that developers and builders need to do their own due diligence to understand the capacity of the water and sewer system to meet their requirements. It was adequately done by them in prior years and has been lost. They have a responsibility to understand the system.

Commissioner Cason made a motion seconded by Commissioner Booker to adjourn the Regular Meeting. Motion approved 6-0-1 (Commissioner Adams was absent for the vote).

Chairman Boland adjourned the meeting at 12:43 p.m.


Thomas A. Boland, Sr., Chairman

Attest: 
Sandra Egan, Clerk



Brunswick-Glynn County Joint Water and Sewer Commission

Memo

To: Joint Water & Sewer Commission
From: Chairman, Tom Boland
Date: 28 October 2016
Re: Yacht Club and Palmetto/Village Holdings cases

Background

Yacht Club, LLC, Palmetto Building Group, LLC, and Village Holdings Associates, LLC filed separate actions seeking Mandamus and making damages claims against the JWSC. The Mandamus action essentially mirrored the injunctive relief Judge Wood declined to grant in the 2015 Mary Wan, LLC and Yacht Club, LLC federal lawsuit against JWSC that was ultimately dismissed by the plaintiffs just before hearings on the defendants' dispositive motions. The damages claim in the current lawsuits were also similar in that the developers sought damages for what the developers believed were "takings" by the JWSC of their "vested rights". The JWSC denied that any vested rights existed and denied that the developers were entitled to have the requested taps issued.

For months prior to the lawsuits being filed, the JWSC worked with these developers, and others, to resolve the sewer capacity issues and attempt to find a way to avoid being an impediment to development while at the same time protecting the JWSC sewer system and the health and well-being of the citizens of Glynn County. Today, these developers and the JWSC were able to enter into an agreement in principle, subject to JWSC approval, that will resolve the capacity issues at stations 2001 and 2023 and resolve the lawsuits. This result is the culmination of months of hard work by JWSC staff in conjunction with these developers.

The Consent Order and Final Judgment proposed provides that the developers will essentially pre-pay their tap fees at the current rates and will agree to delay their access to the system until dates certain. The pre-payment of over \$280,000.00 will provide capital to the JWSC enabling them to move forward with improvements to stations that would have otherwise been delayed due to priority. The respective timelines agreed upon will provide the JWSC time to make the improvements before the

developments are to the point of needing access to the system. The improvements, once made, will increase capacity at the stations beyond the current demands.

Recommended Action

Approve the two Consent Order and Final Judgments in the forms presented.