

**STATE OF NORTH CAROLINA
COUNTY OF GASTON
TOWN OF CRAMERTON**

March 14, 2005

The Board of Commissioners for the Town of Cramerton met in duly called Special Session at 5 p.m. on Monday, March 14, 2005 at 5 p.m. in the G.M. Michael Commission Chamber.

BOARD MEMBERS PRESENT: Mayor Cathy Young; Mayor Pro Tempore Jeff Ramsey; Commissioners Joel Lineberger, Ronald Murphy and Jacque Sumner.

BOARD MEMBERS ABSENT: Commissioner Willie Carter.

OTHERS PRESENT: LuAnn A. Ellis, Interim Town Manager/Town Clerk; Greg Ratchford, Chief of Police; Charles Hastings, Water Department Supervisor; Cam Carpenter, Recreation Director; Jamie Shytle, Wastewater Department Supervisor; Steve Baucom, Town Planner and Bill Brown, Town Attorney.

Mayor Young called the meeting to order. She stated that the purpose for the meeting was to discuss Board responsibility and conduct. She stated that she had called the meeting because there was some inappropriate communication going on and that she believed that it was accidental rather than intentional.

Mayor Young read Section 9 of Article V of the Town Personnel Policy as follows:

Town employees shall not directly contact elected officials concerning any work-related functions, except via the established supervisory chain as depicted in the Town's Organizational Chart, or by special permission of the Town Manager.

Any Town employee contacted directly by an elected official concerning Town functions, other than a routine service call or contact made via the established supervisory chain, shall immediately report the nature of the contact through his or her supervisory to the town manager.

Town employees shall not refer any citizen to an elected official in order to resolve a complaint or request. If the citizen's request cannot be effectively resolved, the employee shall take the matter to his or her supervisor.

Mayor Young stated that each Board member had been provided a copy of the section as well as an organizational chart for the Town.

Mayor Young stated that things were different with an interim manager at this time, but she would like to have these problems solved before the new manager comes in. She stated that the communications had no reflection on the job that the interim town manager was doing at this time.

Mayor Young stated that Commissioner communication with outside entities had to stop. She stated that she had received phone calls from two developers in reference to contact they had from a member of the Board. She stated that the Board had not discussed these matters and had

not authorized the board member to discuss this with the developer. She stated that this contact must stop. She stated that it was appropriate for any board member to bring items to the Board for discussion, and the Board would choose who would relate this information back to the developer.

Mayor Young stated that in addition, there could not be a single elected official meeting with employees or contractors to set up meetings without board approval. Mayor Young stated that the Board members had wonderful ideas and she would encourage them to bring the ideas before the Board. She stated that the Town had changed the charter to change to the manager form of government. She stated that Commissioners no longer could act as if they were over departments within the town.

Commissioner Sumner stated that she was also upset that something that she had said in closed session had been quoted to her from an outside person who was not present at the closed session.

Commissioner Lineberger stated that in looking at Section 9, that an employee was not to refer a complaint to an elected official. He asked if the complaint should go to the supervisor first and follow the chain of command. He was advised that this was the correct way to handle the problem.

Commissioner Sumner stated that things should be taken through the manager.

Mayor Young stated that the Board did not need to micro-manage the manager or go to department heads.

Commissioner Lineberger asked if the board could not interact with staff if they had to go through the manager. Mayor Young stated that it was better to call the manager, but not to go to a point that would be ridiculous. She stated that the manager should be called about problems.

Commissioner Sumner asked if there was a remedy for repeating something that was said in closed session outside the closed session.

The Town Attorney stated that if the information was used inappropriately for personal gain that it was a violation of the law. Other than that, it was a code of trust. He stated that minutes of closed sessions are unsealed when they can be and become public. He stated that some charters set up rules and have remedies for removal or reprimand. He stated that this board did not have those options in the charter.

Mayor Young stated that this type of behavior could continue and all that would be lost would be trust among the board members. The Town Attorney stated that it was the board's responsibility to monitor and they could not disclose. He stated that if the Mayor Pro Tempore was the one in question, they could be removed from offices. He stated that others could be removed from committees, but no other actions could be taken.

The Town Attorney stated that what concerned him was the type of items that were discussed in closed session. He stated that things such as personnel matters, if discussed would be a violation of the personnel privacy act. He stated that matters relating to real estate and economic development were matters that were very sensitive and could poison the transaction. He stated that they call few closed sessions and the reason for the closed sessions were cited.

Commissioner Sumner stated that she spoke candidly in closed session and it bothered her that it was let out in the public.

The Town Attorney stated that if confidentiality was breached, there was little that could be done. He stated that these actions could chill the confidential matters that were discussed and if something that he discussed with the board was discussed, he would stop giving the board as much information as he had in the past. He stated that they could open up the Town to civil action and a violation of the law. He stated that they all took an oath to agree to uphold the law and they were expected to do so.

Mayor Pro Tempore Ramsey asked for clarification concerning the Town Clerk's position. The Town Attorney stated that she served at the pleasure of the Board and assisted the Manager. She helped to prepare for the meetings and the functions relating to meetings. He stated that she worked close with the manager and operated under the Board. She is the official record keeper and is the custodial of the town seal.

Mayor Pro Tempore Ramsey asked if they would have to consult with the manager prior to talking to the clerk. The Town Attorney stated that they should go through the manager but he would check to see for sure. He stated that the clerk here was also the finance director and the board was entitled to have information. He stated that both positions were appointed by the Board, but should work through the manager on day to day operations.

Mayor Young stated that she had been advised that an elected official had contacted a department head fourteen times within the two week period when the former manager left. She stated that was unacceptable.

Commissioner Sumner asked if she had a right to contact a department head, that she had contacted them from time to time and maybe had violated the policy unintentionally.

Mayor Young stated that to say all you can do about the problem is this, the Town Attorney then said that until the General Assembly changed the law, there was little that could be done. He stated that Commissioner micromanaging and unauthorized communication needed to be stopped. He stated that the manager could tell the commissioners to stop and that this was an uncharted period with an interim manager. He stated that once the full time manager came in, he could help stop the problem.

Mayor Young stated that commissioners should not set up meetings, to contact developers that they should come back to the Board and have them direct the manager to investigate. She stated that if a Commissioner was contacted by a developers, they should go to the manager about the contact. She stated that there should be no town business undertaking without board authorization.

Commissioner Murphy stated that he was free to talk about anything and bring it back to the board. He stated that he was an elected official and did not follow a chain of command. Mayor Young stated that he did follow the chain. Commissioner Murphy asked the Mayor to hush. Mayor Young stated that she was running the meeting and Commissioner Murphy was mistaken and that he needed to learn to follow the chain of command.

Commissioner Murphy stated that if he had an idea or proposal, he was free to discuss that item. He stated that if he needed information that he could ask for it. He stated that he was not obligating the board, that he was one of five and until the board voted, it was not finalized.

Mayor Young stated that she had received calls from developers that stated that they had been contacted by Commissioner Murphy as a representative of the Town.

The Town Attorney stated that gathering information or interest or a desire to have communication and acting without authority was different from gathering information and representing the town on business. He stated that there should be a disclaimer from the get-go. He stated that if there were opportunities, the board should brainstorm and direct the manager and staff.

Mayor Young stated that the Board members should bring items or ideas to the Board first and they would decide whether or not to have the manager and staff pursue the item. She stated that if individual Board members get out on their own, there is a lack of centralized communication.

Commissioner Murphy stated that when the negotiations with Mr. Benny Loftin for the service station were going on, that Mayor Pro Tempore Ramsey had met with Mr. Loftin and those meetings were not authorized. He stated that he was certain that Mayor Pro Tempore Ramsey had represented himself as an elected official to Mr. Pierce and Mr. Loftin.

Commissioner Murphy stated that he had been appointed by the Board to pursue the removal of the power lines from Highway 74 that had not been in service since 1974 and some of these conversations had involved different properties along the highway.

Commissioner Murphy stated that he had also pointed out things to Commissioner Lineberger before he was a Commissioner and a builder, but did not tell him that the Board asked him to do that.

Mayor Young asked why items could not be brought back to the Board and was concerned why a Board member would want to go out on his own. She stated that a Board member could not go out on Monday and undo what the Board has done on Sunday. She stated that she wanted all the Board members and the employees to be aware of the chain of command.

Mayor Young stated that she would like for the communication with developers to stop. Commissioner Murphy stated that he had made an inquiry. Mayor Young stated that what had been done could not be undone. Commissioner Murphy stated that if a mistake had been done, it could be changed.

Commissioner Murphy stated that recently the issue with the fire pump on Berry Mountain Road had come up. He stated that it would have been easier to tie in a dead line and did not understand why they wanted to use a force main for the project. Mayor Young stated that the issue was brought to the Board and the staff and engineer reviewed the project and approved it before it was adopted.

Commissioner Sumner stated that a Commissioner did not have the right to go out and talk for the Board if they were not authorized. Commissioner Murphy stated that they could talk to whoever they wanted to. Commissioner Sumner stated that Commissioner Murphy was not authorized to talk for the Board in this matter.

The Town Attorney stated that certain matters, if they would require a Conditional Use Permit and if the Board member had talked to the property owner prior to the hearing, the Board member would have violated due process. He stated that also, if a Board member would ask a property owner to submit an annexation, that would also violate due process.

Mayor Young stated that in closing, she would like to state that she wanted to explain and make sure the Board members understood the chain of command; that closed session conversations remain in closed session and that proposals by Board members were brought to the Board first and then re-directed to the manager and staff.

Commissioner Sumner stated that she did not feel that the matter was solved.

Mayor Young stated that the matter was brought out in the open with this meeting whether or not it was solved.

There being no further business, Mayor Young adjourned the meeting.

Mayor Cathy C. Young

ATTEST:

LuAnn A. Ellis, Town Clerk