

**CITY OF LAURINBURG
COUNCIL MEETING
JUNE 16, 2009
MUNICIPAL BUILDING
303 WEST CHURCH ST.
LAURINBURG, NC
7:00 P.M.**

Minutes

The City Council of the City of Laurinburg held its regular monthly meeting June 16, 2009 at 7:00 p.m. in the council room of the Municipal Building with the Honorable Matthew Block, Mayor, presiding. The following Councilmembers were present: Rembert DeBerry, Amanda B. Faulk, Curtis B. Leak, Thomas W. Parker, III, and Herbert M. Rainer, Jr.

Also present were: Dolores A. Hammond, Interim City Manager, Jennifer A. Tippet, Deputy City Clerk, and Charles L. Hicks, Jr., Assistant City Attorney.

Mayor Block called the meeting to order at 7:00 p.m. Councilmember DeBerry gave the invocation.

APPROVAL OF MINUTES

Motion was made by Councilmember Leak, seconded by Councilmember Rainer, and unanimously carried to approve the proposed minutes from the special meeting held May 12, 2009, minutes of the regular meeting held May 19, 2009, minutes of the special meeting held May 27, 2009 and the minutes of the special meeting held May 28, 2009.

PUBLIC HEARINGS

REQUEST TO REZONE FROM RESIDENTIAL-6 TO GENERAL BUSINESS PROPERTY LOCATED AT 10160 TURNPIKE RD.

Mayor Block explained that Mr. James Graham is requesting that property located at 10160 Turnpike Road be rezoned from Residential-6 to General Business, and he plans to operate a nursery at this location. He added that the Laurinburg Planning Board recommended to Council to deny this request by a 4-1 vote. He further added that the adjacent property owners were notified about the public hearing by first-class mail as required, and a public hearing notice was placed in the local newspaper was also required.

Mayor Block stated that a protest petition was received by the Deputy City Clerk on Thursday, June 11, 2009. He explained that the petition was valid according to requirements by General Statute 160A-385 which is (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. He added that there are 10 property owners within the 100-foot wide buffer, and 40 percent of the property owners have signed the petition. He explained that with the protest petition, this requires a two-third (2/3) majority vote totaling four (4) votes either in favor or opposed to the request. Mayor Block declared the public hearing open.

Mr. James Graham appeared before Council to request that the property located at 10160 Turnpike Road be rezoned from Residential-6 to General Business in order to operate a nursery at the site. He explained that prior to his purchasing the property 16 years ago, the property was the site for a pant nursery, first as Mintz Nursery and then as Sinclair Nursery. He then briefly described several options he had considered for developing the property and zoning of property in the vicinity of his property. He concluded his comments by stating that the infrastructure for a nursery is located on the property and that a nursery would complement the area.

Upon question by Mayor Block, Mrs. Brandi Deese, City Planner/Zoning Officer, explained that Mr. Graham could

have requested an amendment to the Unified Development Ordinance to allow nurseries without sales on the premises in the Residential-20 zoning district. She added that currently nurseries with sales on site are allowed by conditional use permit in the Residential-20 Mobile Home zoning district. She added that if the rezoning request is approved, any use permitted in the General Business district would be allowed which staff considers harsh for a residential area, such as motor vehicle sales and a convenience store.

Mr. A. B. Chavis appeared before Council to oppose this request. He expressed concern about the possibility of a business being located in a residential neighborhood. He also expressed concern about the possible business that could be located on the property if the rezoning was approved.

At 7:19 p.m. Mayor Block asked to be excused and turned the meeting over to Mayor Pro Tempore DeBerry.

Mr. Richard Hafler of 10560 Turnpike Road appeared before Council to oppose this request.

Mrs. Jennifer Taylor appeared before Council stated that her concern is that rezoning this property would open the door to rezone other property along Turnpike Road.

Mayor Block returned to the meeting at 7:21 p.m.

Mrs. Deborah Cashwell of 10100 Turnpike Road appeared before Council and explained that she opposed this request because the area is residential and should be preserved as a residential neighborhood.

Mr. Earl Deese of Turnpike Road appeared before Council to oppose this request.

Mr. Graham explained that with a church, Optimist Ballpark and a horse farm in the area, the neighborhood is not residential. He added that Mrs. Taylor's property and the lots around Mrs. Taylor are in a subdivision that has restrictive covenants that prohibit a business from being located on the property. He explained that he felt the people speaking in opposition to his request opposed it based on their perceived affect on property values the rezoning might have. He cited the area around the Municipal Building, the area around Wal-Mart, and the Colony as examples where locating a business did not negatively affect property values. He stated that the current zoning is not suitable.

Mayor Block closed the public hearing.

Councilmember Rainer motioned to deny Ordinance No. O-2009-05 which rezones from Residential-6 to General Business property located at 10160 Turnpike Road as it is

- Not consistent with other development in the area
- It does not advance the public health, safety or welfare
- It does not provide a positive impact to the public at large

The motion was seconded by Councilmember Leak, and carried as follows:

Ayes: Rainer, Leak, Parker, Faulk, DeBerry

Nays: None

(Ordinance No. O-2009-05 on file in City Clerk's Office)

CONSIDER RESOLUTION WHICH ORDERS THE CLOSING OF A PORTION OF AN UNOPENED STREET KNOWN AS HUNTLY ST.

Mayor Block explained that Huntly St. was a part of the 1996 redevelopment area of Cooper and Britt Streets. He added that Ms. Brandi Deese, City Planner, found that the street was not formally closed during the redevelopment of the area, and there is no documentation or resolution that formally closes this particular street that was considered to be closed. He further added that all abutting property owners have been advised of the public hearing by first-class mail and the notice has been advertised in the local newspaper. He concluded his comments by stating that the proposed

resolution orders the closing of the street. He then opened the public hearing.

There was no one present to speak in favor of or against closing a portion of an unopened street known as Huntly Street. Mayor Block closed the public hearing.

Councilmember Parker motioned to approve Resolution No. R-2009-14 which closes a portion of an unopened street known as Huntly Street. The motion was seconded by Councilmember DeBerry, and carried as follows:

Ayes: Parker, DeBerry, Leak, Faulk, Rainer

Nays: None

(Resolution No. R-2009-14 on file in City Clerk's Office)

PUBLIC INPUT ON PROPOSED 2009-2010 FISCAL YEAR BUDGET

Mayor Block explained that the public hearing has been advertised for input on the City's proposed 2009-2010 Fiscal Year Budget. He added that since the budget is not finalized, the public hearing will be continued.

The Interim City Manager stated that once Council has set a date for continuation of the public hearing, she will advertise the same.

DELEGATION

Mayor Block stated that Mr. Dennis Locklear is purchasing land on Jackson Street that has a lot cutting fee of \$1,554.36. He added that it was discovered on June 10, 2009 that Mr. Locklear also has a solid waste charge of \$377.10 for yard waste that was picked up on June 2, 2009 per his request. He further added that Mr. Locklear is requesting that Council waive the lot cutting fee of \$1,554.36

Ms. Ruth Beers appeared before Council and explained that she lived at the subject property on Jackson Street for many years and would like to give the property to Mr. Locklear. She discussed the difficulties in her life that prevented her from taking care of the lot. She added that Mr. Locklear has cleaned up the lot, paid the taxes, and would like to upgrade the area.

Mr. Dennis Locklear appeared before Council and stated that he owns rental property in Hoke County and he intended to place mobile homes on the property and lease them. He stated that he had not yet received a bill for the solid waste fee.

Councilmember Leak expressed concern about the \$150,000.00 outstanding lot cutting fees owed the City.

Further discussion ensued concerning the outstanding lot fees and the lot cutting fees on Ms. Beer's property. Councilmember Parker stated that he would like more information concerning how the debt accrued before making a decision on this matter.

The Assistant City Attorney cautioned that Council needs to be very careful in waiving fees and needs to develop a policy about enforcement of fees.

Councilmember Rainer motioned to deny the request to waive the lot cutting fees for the property on Jackson Street. Councilmember Leak seconded the motion and the vote was as follows:

Ayes: Rainer, Leak, Faulk, DeBerry

Nays: Parker

REQUEST TO AMEND ARTICLE X, SECTION 146 OF THE UNIFIED DEVELOPMENT ORDINANCE TO ALLOW INDOOR KENNELS IN THE RESIDENTIAL-15 ZONING DISTRICT BY CONDITIONAL USE

PERMIT AND ARTICLE IX SECTION 178 BY IMPOSING ADDITIONAL RESTRICTIONS

The Interim City Manager explained that at last month's Council meeting, a request for an amendment to the Unified Development Ordinance to allow indoor kennels in the Residential-15 zoning district by conditional use permit was considered. She added that the Assistant City Attorney informed staff that the amendment as an ordinance must be voted on a second time because on the first vote it did not pass by a two-thirds vote. She further added that this requirement is based on General Statute 160A-75 that states when an ordinance is first introduced it must be adopted or denied by a two-thirds (2/3) majority vote. She further added that because the vote at the May meeting was a split vote with the Mayor voting to break the tie, the first vote did not meet the requirements. She explained that this amendment will need to be voted on once again, and the second vote requires a simple majority vote.

A lengthy discussion ensued concerning the necessity to hold a second vote on this ordinance and the General Statute requirements for ordinance approval.

Councilmember Rainer requested a copy of every set of Council minutes when an ordinance was voted on by Council.

Motion was made by Councilmember Faulk, seconded by Councilmember Parker, and unanimously carried to table this matter to the next Council meeting.

CONSIDER REQUEST FOR A CONDITIONAL USE PERMIT TO OPERATE AN INDOOR KENNEL AT 12501 BLUE'S FARM ROAD

The Interim City Manager explained this was a request for a conditional use permit to operate a kennel at 12501 Blue's Farm Road dependent upon approval of the amendment to the Unified Development Ordinance to allow indoor kennels in the Residential-15 zoning district.

Motion was made by Councilmember Parker, seconded by Councilmember Leak, and seconded to table this matter to the next Council meeting.

AWARD BID FOR MCKAY STREET SEWER PROJECT

The Interim City Manager explained that bids were opened on Thursday May 14, 2009 bids for the 2009 Inflow/Infiltration Improvement Project on McKay Street. She added that there were a total of four (4) bids ranging from a low of \$426,617.50 to a high of \$501,340.00. She further added that the apparent low bidder was Southeast Pipe Survey, Inc. from Patterson, Georgia in the amount of \$426,617.50. She explained that the City's consulting engineers, Hobbs, Upchurch & Associates recommends that Southeast Pipe be awarded this project in the amount of \$426,617.50. She further explained that this is a grant awarded in 2008 from the North Carolina Rural Center in the amount of \$675,000.00 with a match from the City of \$175,000.00.

Motion was made by Councilmember Parker, seconded by Councilmember DeBerry, and unanimously carried to award bid to Southeast Pipe Survey, Inc. in the amount of \$426,617.50 for the 2009 Inflow/Infiltration Improvement project on McKay Street and also to allow the Public Utilities Director to identify additional utility improvements in order to maximize the grant amount provided the legal specifications of the grant are met.

The Interim City Manager explained that she will clarify with Mr. Riemer on the specifications of the grant to determine if additional improvements other than the Inflow/Infiltration Improvement Project on McKay Street can be completed with this grant.

ADOPT MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE

The Interim City Manager explained that the Local Records Unit of the Government Records Branch has published an updated Municipal Records Retention and Disposition Schedule. She further explained that this schedule informs local governments the length of time a public record is to be kept and when it should be disposed. She stated that the Governing Board must adopt this updated schedule in an open meeting.

Motion was made by Councilmember Parker, seconded by Councilmember Rainer, and unanimously carried to adopt the Municipal Records Retention and Disposition Schedule and authorize the Mayor to sign the adoption of the Municipal Records Retention and Disposition Schedule.

REQUEST TO REZONE FROM RESIDENTIAL-6 TO OFFICE/INSTITUTIONAL PROPERTY LOCATED AT 901 ALEXANDER AVE. AND ADJOINING LOTS

The Interim City Manager explained that Ms. Sabrina Fox, on behalf of New Greater St. James Holiness Church, is requesting that 901 Alexander Avenue and two (2) adjoining lots be rezoned from Residential-6 to Office/Institutional in order to construct a picnic shelter. She added that the Laurinburg Planning Board heard this request at its June 9, 2009 meeting and recommended approval of this request by a 5-1 vote. She further added that the Council will need to set a public hearing on this request to be held Tuesday, July 21, 2009 at 7:00 p.m. in the upstairs Council room of the Municipal Building located at 303 West Church St.

Motion was made by Councilmember Parker, seconded by Councilmember Rainer, and unanimously carried to consider request to rezone from Residential-6 to Office/Institutional property located at 901 Alexander Avenue and two (2) adjoining lots and set a public hearing to be held on Tuesday, July 21, 2009 at 7:00 p.m. in the council chambers of the Municipal Building located at 303 West Church Street.

ORDINANCE AMENDING 2008-2009 BUDGET APPROPRIATIONS ORDINANCE

The Interim City Manager explained that the Finance Department is requesting amendments to the 2008-2009 Budget Appropriations Ordinance (O-2008-12) which transfer money from the Governing Body to cover the unanticipated vacation expenditure of the former City Manager; to transfer money in the Electric Fund to cover unanticipated expenses of the increased power purchases that were approved after adoption of the budget ordinance; transfer money to the Solid Waste Fund from the General Fund because Solid Waste does not have a fund balance. She explained that the reason that there is not a Solid Waste fund balance was to cover an estimated fund balance that was adjusted after audit to a lower than anticipated amount and the estimate was reduced by \$135,700.00 after final audit; and to transfer money to the Water/Sewer Fund to cover unanticipated expense due to water construction on Lauchwood Drive and Mallard Creek. She added that in the sewer dept. unanticipated expenses were due to rehab on Pine and Church Sts., Midland Way and Mallard Creek and the Consumer Billing Department has money to cover this because there have not been any additional water meter purchases this past year. She stated that in order to remain compliant with the Local Government Commission, the City is required to make an amendment to the current budget

A discussion ensued concerning the unanticipated vacation accrual of the former City Manager.

Mr. Bell explained that as part of the employment contract, the former City Manager was granted the seniority he had accumulated in his career, thus his vacation and sick time accrued at greater rate.

Upon question by Councilmember Parker, Mrs. Carpenter stated that accrued vacation is shown in the Audit Report each year in the Liabilities section.

Motion was made by Councilmember Parker, seconded by Councilmember DeBerry, and unanimously carried to table this matter until the next Council meeting.

RESOLUTION AMENDING THE CITY OF LAURINBURG PERSONNEL POLICY (R-1996-19) ARTICLE III; SECTION 6-MERIT PAY AND SECTION 7-MERIT PAY BONUS

The Interim City Manager stated that as discussed during Council's Budget Workshops, Council directed Staff to not budget cost of living increases or merit pay within the proposed 2009-2010 Fiscal Year Budget. She added that with the suspension of merit pay for the 2009-2010 Fiscal Year, a resolution will need to be passed to suspend this section of the City's Personnel Policy. She explained that this resolution will suspend merit pay, but the resolution states that

it will be considered as part of the 2010-2011 Fiscal Year budget.

Councilmember Rainer motioned to approve Resolution No. R-2009-15 which amends the City of Laurinburg Personnel Policy (R-1996-19) Article III, Section 6-Merit Pay and Section 7-Merit Pay Bonus. Councilmember Parker seconded the motion and the vote was as follows:

Ayes: Rainer, Parker, DeBerry, Leak, Faulk

Nays: None

(Resolution No. R-2009-15 on file in the City Clerk's Office)

2009-2010 SCHEDULE OF FEES

The Interim City Manager explained that during Budget Workshop sessions, Council was presented a proposal to levy tap fees based on the size of the tap. She added that Mr. McQuage asked Council to reconsider tap fees for taps larger than two (2) inches. She further added that the revised 2009-2010 Schedule of Fees reflected the revised tap fees as well as includes rates for fire lines, and the schedule includes a revision of the charge for a Fire Department report.

A discussion ensued concerning the fire line rates.

Motion was made by Councilmember Parker, seconded by Councilmember Faulk, and unanimously carried to table this matter until Friday, June 19, 2009 at the budget workshop session.

CONSIDER 2009-2010 BUDGET APPROPRIATION ORDINANCE

The Interim City Manager explained that this matter is for discussion of the 2009-2010 Budget Appropriation Ordinance. She further explained that Council needs to set a date to continue the public hearing to consider the Budget Appropriation Ordinance that appropriates funds for the operation of the City of Laurinburg government.

Following discussion, motion was made by Councilmember Parker, seconded by Councilmember Faulk, and unanimously carried to hold the public hearing on Tuesday, June 23, 2009 at 5:30 p.m. in the upstairs council room of the Municipal Building to consider the 2009-2010 Budget Appropriations Ordinance.

APPOINTMENTS

Laurinburg Planning Board

Mayor Block explained that Mrs. Sallie Jones' term will expire June 30, 2009 on the City of Laurinburg Planning Board and she has expressed interest to continue to serve.

Mayor Block stated that the other city appointees:

James Graham 6/30/2010

Kathy Williamson 6/30/2010

James Thomas 6/30/2011

Mayor Block stated that the county appointments (ETJ) and their expiration dates are as follows:

Hal Jernigan 6/30/2010

Charles Parker 6/30/2011

Ken Jackson 6/30/2012

Motion was made by Councilmember DeBerry, seconded by Councilmember Faulk, and unanimously carried to appoint Mrs. Sallie Jones to the Laurinburg Planning Board for a three year term expiring June 30, 2012.

Laurinburg/Maxton Airport Commission

Mayor Block explained that Mrs. Lucile Bridgeman has decided not to seek reappointment for her seat on the Laurinburg/Maxton Airport Commission. He added that the other City appointees and their expiration dates are:

Ella Morris 6/30/2010

Ann B. Slaughter 6/30/2011

Mayor Block added that one (1) committee interest application was submitted for this position. He further added that this appointment is for a 3-year term which would expire June 30, 2012.

Councilmember Leak stressed the importance of Council representation on this Commission board. He stated that he had asked Councilmember Parker to serve on this Commission and that he would be happy to attend the meetings if Councilmember Parker was unable to do so.

Councilmember Parker explained that he would be willing to serve on the LMA Commission on an interim basis.

Motion was made by Councilmember Leak, seconded by Councilmember Faulk, and unanimously carried to appoint Councilmember Parker to the Laurinburg/Maxton Airport Commission for a three year term expiring June 30, 2012.

PUBLIC COMMENT

There was no one present to speak.

CLOSED SESSION

At 8:44 p.m. motion was made by Councilmember DeBerry, seconded by Councilmember Parker, and unanimously carried that pursuant to North Carolina General Statute § 143-318.11(a)(3), Closed Sessions, council go into closed session in order to consult with an attorney in order to preserve the attorney-client privilege to discuss class action lawsuit against Carolina Transformers and potential litigation between the City of Laurinburg and Schoollink, Inc.

At 9:14 p.m., motion was made by Councilmember DeBerry, seconded by Councilmember Parker, and unanimously carried to adjourn the closed session and resume the open meeting.

ADJOURNMENT

Motion was made by Councilmember DeBerry, seconded by Councilmember Rainer, and unanimously carried to adjourn the meeting.

The meeting adjourned at 9:14 p.m.

Matthew Block, Mayor

Dolores A. Hammond, City Clerk