

**CITY OF LAURINBURG
COUNCIL MEETING
MAY 19, 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 May 19, 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, and Herbert M. Rainer, Jr. Councilmember Tomas W. Parker, III. was absent.

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 Rainer gave the invocation.

Mayor Block recognized former Mayor Ann Slaughter who was in attendance at the meeting.

APPROVAL OF MINUTES

Motion was made by Councilmember Leak, seconded by Councilmember Faulk, and unanimously carried to approve the proposed minutes from the special meeting held March 30, 2009, the special meeting held April 14, 2009, and the regular meeting held April 21, 2009.

PUBLIC HEARING

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

Mayor Block explained that in March of this year, Congressman Kissell advised the Laurinburg Police Department that it was going to receive \$62,042.00 in stimulus money. He added that the proposed working application is a requirement for this particular funding, and an additional requirement is that City Council receive citizen comment on the application; therefore the purpose of this public hearing.

Police Chief John Evans explained that Congressman Kissell's office had contacted the Police Department about one (1) month ago notifying it that this grant had already been awarded to the Department but that an application had to be filed. He added that the funds will be used for equipment.

A discussion ensued concerning the equipment to be purchased. Chief Evans explained that the Stinger Stun Guns are different from the Taser guns the Sheriff Department uses and are less expensive than the Taser guns. The Interim City Manager added that there are no matching funds required for this grant.

There was no one present to speak for or against this grant.

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

Mayor Block explained that Ms. Barbara Cluck is requesting an amendment to Article X, Section 146 of the Unified Development Ordinance to allow indoor kennels by conditional use permit in the Residential-15 zoning district. He added that the Laurinburg Planning Board met on April 14, 2009 and by a vote of 3-3 was unable to make a

recommendation to Council. He further added that the City Clerk advertised the notice of public hearing in The Laurinburg Exchange and also notified all adjacent property owners by first class mail. The public hearing was then called to order.

Ms. Barbara Cluck appeared before Council and explained that her kennel is behind her house on a 1.87 acre tract of land and is surrounded by woods on three sides. She described the indoor kennel facility. She added that she had received approval from the State for her license earlier in the day to operate her kennel. She further added that she has no intention of expanding her business. She stated that she hauls water from her residence to the kennel and disposes of feces in her shrubbery. She then described the improvements to her kennel she made in order to obtain her State license.

There was no one present to speak in opposition to this request.

Mrs. Brandi Deese, City Planner/Zoning Officer, appeared before Council and stated that by definition kennels are a commercial operation that provides food and shelter for the care of animals and engages in the breeding of animals for sale. She added that staff feels that allowing this operation in the Residential-20 and General Business zoning districts by conditional use permit would be appropriate, but not in the Residential-15 district. She further added that the Residential-15 zoning district is the City's most restrictive zoning district. She further added that if Council approves the amendment, staff feels that it should be done with supplemental regulations that would apply to every indoor kennel in the Residential-15 district.

Upon question by Councilmember Rainer, Mrs. Deese explained that Ms. Cluck was in violation of the zoning ordinance by operating her kennel since July 2008 without a permit.

Upon question by Councilmember Leak, Ms. Cluck stated that her house and kennel are located on a 1.87 acre tract and she owns the 4.009 acre tract adjacent. She added that her cousin owns the large lot on the other side of her 1.87 acre tract.

Upon question by Councilmember Leak, Mrs. Deese explained that if Council adopts the amendment, supplemental regulations suggested by staff include: the use shall comply with all state and local regulations; the use shall be permitted only as an accessory use to a single family residential use; minimum setbacks for indoor kennels shall be the same as for primary structures; and that a limit on the maximum number of animals should be imposed.

Upon question by Councilmember Faulk, Ms. Cluck explained that she brings water from her house to the kennel because she does not have a hot water heater or a bathroom inside the kennel. She added that she had a septic tank for her house.

Mrs. Deese explained that she thought having running water was required by the Department of Agriculture. She added that this could be an additional requirement.

Upon question by Mayor Block, Mrs. Deese explained that Planning Board was unable to make a recommendation to Council on this request. She added that currently kennels are allowed by conditional use permit in the Residential-20 Mobile Home zoning district, and some members of Planning Board did not think it was a good idea to allow kennels in Residential-15, but that perhaps it would be appropriate to allow them in the Residential-20 or General Business districts.

There was no one present to speak against this request.

Mayor Block explained that the Unified Development Ordinance contains a section on supplemental use regulations which imposes additional zoning requirements on a number of specific uses. These additional requirements go beyond normal zoning requirements to ensure that certain land uses are compatible with surrounding property. Staff has suggested that, if R-15 is amended to allow kennels by conditional use permit, any conditions placed on this request should be done as supplemental regulations. This would ensure that if another request for kennels is made, the conditions of interest to Council are already in place to be enforced.

Councilmember Leak motioned to approve Ordinance No. O-2009-03 which amends Article X, Section 146 of the Unified Development Ordinance to allow indoor kennels in the Residential-15 zoning district by conditional use permit and amends Article XI, Section 178, Kennels by imposing additional requirements for the operation of kennels as follows: The use shall comply with all state and local regulations including the licensing agency, the North Carolina Department of Agriculture; for indoor kennels, the minimum set backs shall be the same as for primary structures; and indoor kennels in the Residential-15 zoning district are permitted only as an accessory use to a single family residential use. The motion was seconded by Councilmember DeBerry, and the vote was as follows:

Ayes: Leak, DeBerry

Nays: Faulk, Rainer

Mayor Block cast an affirmative vote to break the tie; therefore the motion carried with a 3-2 vote.

(Ordinance No. R-2009-03 on file in the City Clerk's office)

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

Mayor Block explained that Ms. Barbara Cluck is requesting a conditional use permit to operate an indoor kennel at 12501 Blue's Farm Road. The public hearing was called to order.

The Assistant City Attorney explained that Ms. Cluck would have to state her request including information presented during the previous public hearing under oath and only information presented under oath could be considered.

Mayor Block expressed concern about the lack of running water at the kennel and the disposal of animal waste.

Ms. Barbara Cluck, first duly sworn, discussed her methods of animal waste disposal. She explained that the examiner from the State who inspected her kennels did not express concern about her transporting water from her house to the kennels. She further explained that she is requesting to operate an indoor kennel in a 1,000 square foot cottage located behind her residence at 12501 Blues Farm Road. She added that her facility has a heating and cooling system, adequate lighting and other features required by State regulations.

Upon question by Councilmember Faulk, Mrs. Deese, first duly affirmed, explained that Council could place a requirement on the conditional use permit that running water be located at the kennels or any other stronger rules that Council desired.

Upon question by Mayor Block, Mrs. Deese stated that the State regulations state that a kennel has to have running potable water at the location as well as a waste disposal system.

Mrs. Brandi Deese explained that Ms. Barbara Cluck has requested a Conditional Use Permit to operate an indoor kennel at 12501 Blues Farm Road. She added that the application for the conditional use permit has been reviewed by staff where it was determined that:

- The subject property is located within the planning jurisdiction of the City of Laurinburg.
- The application is complete.
- The proposed development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance.

She further added that Planning Board by a vote of 3-3 was unable to make a recommendation to Council for Ms. Cluck's first request and the second was approved by a vote of 4-2 with Mr. Thomas voting for it.

Upon question by Councilmember Leak, Mrs. Deese explained that Planning Board recommended approval of the conditional use permit because the Board felt that Ms. Cluck's location was a better match than any other in the

Residential-15 zoning district due to the size of her lot and the wooded lot around it that Ms. Cluck owns.

Ms. Cluck stated that she would be willing to run water to the kennel even though the inspection by the North Carolina Department of Agriculture did not specify that it was required. She added that she would also start a composting pile for the animal waste.

Mr. Charles Parker stated that a letter had been presented to Council opposing the request.

The Assistant City Attorney stated that the letter could not be considered because any information considered by Council had to be sworn testimony.

Mr. Charles Parker, first duly affirmed, explained that the individual who sent the letter to Council had expressed her concerns to him. He added that her primary concern is that by changing the ordinances, Council is doing so not for just Ms. Cluck's location, but for all property in the City located in a Residential-15 zoning district.

Councilmember Leak motioned to approve the conditional use permit for a conditional use permit to operate an indoor kennel at 12501 Blue's Farm Road based on the following findings of fact:

- The development is within the planning jurisdiction of the City of Laurinburg;
- The application is complete;
- The development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance;
- The request will not materially endanger the public health or safety;
- The request will not substantially injure the value of the adjoining or abutting property;
- The request will be in harmony with the area in which it is to be located; and
- The request will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by Council

In furtherance of the foregoing, the development and use should be subject to the following conditions:

- Running water be located at the kennel site;
- A compost pile for animal waste must be developed.

The motion was seconded by Councilmember DeBerry, and the vote was as follows:

Ayes: Leak, DeBerry

Nays: Faulk, Rainer

Mayor Block cast an affirmative vote to break the tie; therefore the motion carried with a 3-2 vote.

LAURINBURG/SCOTLAND COUNTY AREA CHAMBER OF COMMERCE

Mayor Block explained that Mr. Allen McLaurin, Chairman, and Ms. Theresa Lamson, President of the Chamber, will present the Chamber's request for funding. This request will be considered during the budget workshop sessions.

Mr. Allen McLaurin, Chairman of the Laurinburg/Scotland County Area Chamber of Commerce, appeared before Council and explained that the Chamber is requesting funding in the amount of \$12,500.00 for fiscal year 2009-2010. He thanked Council for its support and its consideration of this request.

Ms. Theresa Lamson, President of the Laurinburg/Scotland County Area Chamber of Commerce, appeared before Council to thank it for considering the request. She added that she enjoys the collaboration with Council and hopes that it will continue to grow stronger. She explained that the request breaks down to less than \$1.00 per City resident and that she feels such is reasonable.

Councilmember Faulk praised the Chamber for its growth and new projects, such as the new job website.

Mayor Block stated that the Chamber is doing a great job and that he is especially pleased that the focus has turned to looking for alternative ways for economic development.

Upon question by Councilmember Rainer, the Interim City Manager explained that in 2007 Council chose to partially fund the Chamber, and this past year provided \$12,000.00 to the Chamber for economic development.

LAURINBURG/MAXTON AIRPORT COMMISSION

Mayor Block explained that Ms. JoAnn Gentry, Interim Executive Director of the Laurinburg/Maxton Airport (LMA) Commission, will present the LMA Commission 2009-2010 proposed budget. He added that the proposed budget has been approved by the Airport Commission. He further added that the budget must be jointly approved by the City and the Town of Maxton. He explained that the proposed budget includes a 10% increase in water and sewer rates and does not include a cost of living increase for employees.

Ms. JoAnn Gentry, Interim Executive Director of the LMA Commission, appeared before Council and presented the proposed 2009-2010 budget. She recognized Mrs. Ann Slaughter, member of the LMA Commission Board, and Mr. Terry Garner, attorney for the Commission. She stated that the Commission Board approved the proposed budget at its April meeting. She explained that the budget includes a 10% increase in water and sewer rates and no increase in employee salaries. She added that the Commission has received 21 resumes applying for the Executive Director position and will begin reviewing the applications in June.

Ms. Gentry explained that two (2) industries have closed at the airport, but fortunately, the Gryphon Group has leased the two (2) buildings and has made extensive renovations.

Ms. Gentry then discussed the following completed projects: installation of a Minimum Intensity Approach Lighting System (MALSER) with a rail of flashers, renovation of hangar roofs, and terminal upgrades. She added that future projects are repaving of the main runway, repairs to the secondary runway and drainage repairs.

Upon question by Mayor Block, Ms. Gentry explained that the amount committed by the Airport for the lobbyist is not included in the proposed budget because she was not sure when payment would be due. She added that it would probably come out of the Engineering Fees line item.

Upon question by Mayor Block, Ms. Gentry explained that the Retirement line item increased due to the fact that the former Director was past retirement age and it was anticipated that the Airport would have to make retirement contributions for the future Director.

Upon question by Councilmember Rainer, Ms. Gentry explained that the Town of Maxton was considering the proposed budget at its meeting tonight.

A discussion ensued concerning the involvement of the former City Manager in the budget process. The Interim City Manager explained that the City Manager was appointed to attend meetings of the Airport Commission but was not involved in the budget process.

Motion was made by Councilmember DeBerry, seconded by Councilmember Leak, and by a 3-1 vote carried to accept the 2009-2010 Proposed Budget for the Laurinburg/Maxton Airport Commission. Councilmember Rainer cast the dissenting vote.

CONSIDER REQUEST FROM THE RETAIL RECRUITMENT COMMITTEE

Mayor Block explained that Mr. Greg Icard, Scotland County Economic Development Director, on behalf of the Retail Recruitment Committee is requesting that the City participate in a Building Reuses Redevelopment Grant from the Rural Center.

Mr. Greg Icard, Scotland County Economic Development Director, appeared before Council and explained that this \$25,000.00 grant requires a \$5,000.00 match. He further explained that he is requesting \$1,000.00 from the City, \$2,000.00 from the County, \$1,000.00 from the Chamber and \$500.00 each from the Towns of Gibson and Wagram. He further explained that the grant would be used to study vacant buildings in Laurinburg, Gibson and Wagram to determine the best use of the buildings. He added that he would work in conjunction with UNC Pembroke and St. Andrews Presbyterian College to conduct the study.

Motion was made by Councilmember DeBerry, seconded by Councilmember Faulk, and unanimously carried to participate in the Building Reuse Predevelopment Grant by allocating \$1,000.00 to fulfill the requirements of matching funds.

CLOSING A PORTION OF HUNTLY STREET

The Interim City Manager explained that Huntly Street was a part of the 1996 redevelopment area of Cooper and Britt Streets. She added that Mrs. 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. She further added that each property owner on each side of the street would gain an additional 25 feet of property. She explained that this is a dirt street with no utilities and staff sees no problem with Council closing this street. She stated that the proposed resolution sets a public hearing to be held June 16, 2009 and other legal requirements as required by GS 160A-299.

The Assistant City Attorney recommended a correction to the description of the portion of Huntley Street to be closed.

Councilmember Faulk motioned to approve Resolution No. R-2009-12 as amended which acknowledges the intent to close a portion of an undeveloped street, Huntly Street, and directs the City Clerk to publish a Resolution of Intent once a week and notify abutting property owners. The motion was seconded by Councilmember Rainer and it was approved by the following vote:

Ayes: Faulk, Rainer, Leak, DeBerry

Nays: None

(Resolution No. R-2009-12 on file in the City Clerk's office)

REQUEST TO REZONE PROPERTY LOCATED AT 10160 TURNPIKE ROAD

The Interim City Manager explained that Mr. James Graham is requesting that property located at 10160 Turnpike Road be rezoned from Residential-6 to General Business. She added that Mr. Graham plans to operate a plant nursery at this location. She further added that the Laurinburg Planning heard this request at its Tuesday, May 12, 2009 meeting and by a 4-1 vote recommends to City Council denial of this request. She explained that Council would need to consider this request and set public hearing to be held Tuesday, June 19, 2009 at 7:00 p.m. in the upstairs council room of the Municipal Building.

Motion was made by Councilmember Faulk, seconded by Councilmember DeBerry, and unanimously carried to set a public hearing to consider the request to rezone property located at 10160 Turnpike Road to be held Tuesday, June 16, 2009 at 7:00 p.m. in the upstairs council room of the Municipal Building.

CONSIDER ORDINANCE DIRECTING HOUSING INSPECTOR TO DEMOLISH PROPERTY LOCATED AT 315 DOUGLAS STREET

The Interim City Manager explained that Mr. Bill Peele, City Housing Inspector, is requesting that the dwelling at 315 Douglas Street be demolished. She stated that he started receiving complaints about the dilapidated condition of the dwelling in August 2008.

She added that heirs to the property were contacted and there has been no response from them.

The Assistant City Attorney suggested a change in wording in the ordinance.

Upon question by Mayor Block, Mr. Peele explained that the heirs live in Philadelphia and have been unresponsive to correspondence. He added that he has tried to contact the heirs by phone, by regular mail, by certified mail and by publication. He further added that there are also outstanding taxes and lot cuttings placed as liens on the property.

Upon question by Councilmember Faulk, Mr. Bill Riemer, Director of Administration and Development, explained that the estimate of \$5,500.00 to demolish the dwelling included disposal and testing for asbestos; however, if asbestos is found, there will be an additional cost for remediation.

Councilmember Faulk motioned to approve Ordinance No. O-2009-04, as amended, which directs the housing inspector to demolish property located at 315 Douglas Street. The motion was seconded by Councilmember Leak, and it was approved by the following vote:

Ayes: Faulk, Leak, Rainer, DeBerry

Nays: None

(Ordinance No. O-2009-04 on file in the City Clerk's office)

SET PUBLIC HEARING ON BUDGET APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2009-2010

The Interim City Manager explained that according to NC General Statute 159-12 Council needs to set a public hearing for citizen input on the 2009-2010 Proposed Budget Appropriations Ordinance to be held Tuesday, June 16, 2009 at 7:00 p.m. in the upstairs council room of the Municipal Building. She added that a copy of the proposed budget is on file in the City Clerk's office.

Motion was made by Councilmember Faulk, seconded by Councilmember Leak, and unanimously carried to set a public hearing for citizen comment on the 2009-2010 Proposed Budget Appropriations Ordinance to be held Tuesday, June 16, 2009 at 7:00 p.m. in the upstairs council room of the Municipal Building.

CONSIDER RESOLUTION AND LEASE AGREEMENT

The Interim City Manager explained that the proposed resolution authorizes the Mayor and City Clerk to execute a three-year agreement for lease of a tract of land and warehouse at the Laurinburg/Maxton Airport to Silgan Containers Manufacturing Corporation. The Laurinburg/Maxton Airport Commission approved a three-year lease with Silgan Containers Manufacturing Corporation at its March 26, 2009 meeting. Council will need to approve the resolution authorizing the Mayor and City Clerk to execute the lease agreement.

Mr. Terry Garner, attorney for the Laurinburg/Maxton Airport Commission, explained that the Assistant City Attorney had been sent a copy of the resolution and lease. He added that the lease agreement is very favorable for the Airport in that the rent includes an increase from the previous lease.

Following a brief discussion, Councilmember Faulk motioned to approve Resolution No. R-2009-13 which authorizes the Mayor and City Clerk to execute a three-year agreement for lease of a tract of land and warehouse at the Laurinburg/Maxton Airbase to Silgan Containers Manufacturing Corporation. The motion was seconded by Councilmember Leak, and it was approved by the following vote:

Ayes: DeBerry, Faulk, Rainer, Leak

Nays: None

(Resolution No. R-02009-13 on file in the City Clerk's office)

CONSIDER DATES AND TIMES TO CONDUCT BUDGET WORKSHOP SESSIONS

The Interim City Manager explained that Council will need to determine dates and times for budget workshop sessions.

Following discussion, it was consensus of Council to conduct a budget workshop on Monday, June 1, 2009 at 6:30 p.m. in the council chambers of the Municipal Building located at 303 West Church Street.

HIRING FREEZE

The Interim City Manager explained that at Council's April 21 meeting Mr. McQuage was asked to provide additional information regarding filling the vacant street maintenance worker position. Mr. McQuage has provided information about the duties of his department during the year. She added that he has also addressed the possibility of contracting out the rights-of-way mowing for which his department has responsibility. She further added that according to North Carolina Department of Transportation (DOT), its prices range anywhere from \$35.00 to \$50.00 per mile. She explained that the estimate to mow is \$78,300.00 for a mowing season which is April-September, using a middle ground figure of \$45.00 per mile and 10 mowings.

No action was taken on this item.

SCHOOLLINK, INC.

The Interim City Manager explained that she has had discussion regarding the lease for service providers for excess capacity space on the City's fiber optic network and the fiber optic lease agreement between the City of Laurinburg and Schoollink, Inc. She added that she had spoken with the Assistant City Attorney concerning this matter.

The Assistant City Attorney advised Council that, because there could be potential litigation involved, that Council should only discuss this matter in closed session to preserve attorney-client privilege.

BROWNFIELDS AGREEMENT

The Interim City Manager explained that this agreement involves the Richmond Community College/old hospital property at 600 McLean Street. She added that it will allow the State to limit the types of uses and put property restrictions on the land that are appropriate given the environmental issues with the property and allows the developer (that is the City) to develop the property without fear of punishment or legal action should new environmental issues arise. She further added that staff recommends that the City enter into this agreement.

The Assistant City Attorney stated that he had discussed some questions concerning the agreement with Mr. Bill Riemer, Director of Administration and Development. He stated that there were several recitations in the agreement that were incomplete, and there were several errors in the agreement. He suggested that if Council approves the agreement that such approval be subject to correction of the errors and final review by the City Attorney.

Upon question by Mayor Block, the Assistant City Attorney explained that the City will be protected from any environmental issues that arise in the future with the North Carolina Department of Environment, Health and Natural Resources. He added that there are advantages to entering into the agreement in that public disclosure is provided for what has been done on the property including remediation measures.

Motion was made by Councilmember Leak, seconded by Councilmember Faulk, and unanimously carried to enter into a Brownfields Agreement with the State of North Carolina and authorize the Mayor to execute the agreement subject to corrections thereto and final approval by the City Attorney.

PUBLIC COMMENT

There was no one present to speak during the public comment period.

ADJOURNMENT

Motion was made by Councilmember DeBerry, seconded by Councilmember Rainer, and unanimously carried to

adjourn the meeting.

The meeting adjourned at 8:38 p.m.

Matthew Block, Mayor

Dolores A. Hammond, City Clerk