

**CITY OF LAURINBURG
COUNCIL MEETING
APRIL 20, 2010
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 April 20, 2010 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: Amanda F. Doerffel, Curtis B. Leak, Thomas W. Parker, III, Herbert M. Rainer, Jr. and Kenton Spencer.

Also present were: Edward F. Burchins, City Manager, Dolores A. Hammond, City Clerk, and William P. Floyd, Jr., Assistant City Attorney.

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

CONSENT AGENDA

City Manager Edward F. Burchins presented the Consent Agenda indicating all items were considered to be routine and could be enacted simultaneously with one motion and a roll call vote. If a Councilmember so requests, any item(s) can be removed from the Consent Agenda and discussed and considered separately. In that event, the remaining item(s) on the Consent Agenda would be acted on with one motion and roll call vote.

The items on the Consent Agenda were as follows:

- a. Minutes from the meetings of December 22, 2009; January 11, 2010; January 19, 2010; January 21, 2010; and January 23, 2011
- b. Resolution No. R-2010-08 authorizing the Mayor, City Manager and City Clerk to execute any documents related to the FY 09 Community Development Block Grant #09-C-2015
- c. Contracts for Professional Services of a preliminary plan for architectural drawings for a proposed Recreation/Community Center
- d. Set public hearing to be held May 18, 2010 at 7:00 p.m. in the upstairs council room of the Municipal Building on a request to rezone from Industrial to General Business property located at 10301 McColl Rd./US 15-401 South
- e. Municipal Environmental Assessment Coalition Participation
- f. North Carolina Rural Water Association, Inc.-Annual Business Voting and Alternate Voting Delegates

Councilmember Parker asked that item c, Contracts for Professional Services of a preliminary plan for architectural drawings for a proposed Recreation/Community Center, be pulled for discussion and placed under Manager's Reports.

Councilmember Leak moved for the approval of the Consent Agenda with the exception of item c. Councilmember Parker seconded the motion, and it was approved by the following vote:

Ayes: Leak, Doerffel, Rainer, Spencer, Parker

Nays: None

ORDINANCE TO REZONE FROM RESIDENTIAL-15/GENERAL BUSINESS TO RESIDENTIAL-6 A 44.08 ACRE TRACT OF LAND ADJACENT TO THE COLLEGE PARK SUBDIVISION ALONG EMILY DRIVE

Mayor Block informed Council that this is a public hearing on a request by Mr. Donald Barringer to rezone from Residential-15/General Business to Residential-6 a 44.08 acre tract of land adjacent to the College Park Subdivision along Emily Drive.

Mayor Block suggested that during the public hearing, due to the number of people attending the meeting on this request, the main spokespersons for each side be heard with a 15-minute time limit and that others limit their comments to three minutes.

Mr. Bill Peele explained that the development firm of Withers & Ravenel, on behalf of Donald Ray Barringer, property owner, has requested that a 44.08 acre tract of land located adjacent to College Park subdivision be rezone from Residential-15 and General Business to Residential-6. This zoning change would accommodate the development of an 86-lot single family subdivision on the property. The Laurinburg Planning Board considered this request at its March 9, 2010 meeting and by a vote 6-1 vote recommends approval of the rezoning request.

Upon question by Councilmember Spencer, Mr. Peele stated that Residential-15 is restricted to single family dwellings with a minimum lot size of 15,000 square feet per lot. He explained that Residential-6 is single family and multi-family zoning district with a minimum lot size of 6,000 square feet. He stated the primary difference is the reduction of lot size and the allowable use of multi-family dwellings.

The Planning Department reviewed this request, looked at the impact it would have on the surrounding property and recommended to Planning Board that the request was favorable and that it be approved.

Mayor Block then declared the public hearing open.

Mr. Donald Barringer spoke in favor of this request. He stated he is the owner of the property in question known as Bridge Creek Subdivision. He explained how he purchased the property and then the development of his desire to develop the property as a housing subdivision. He stated he had discussed this idea with several people and that with the indication was that the market for single family dwellings was not good. He then stated that this assessment led him to consider changing the zoning so as to allow the development of single family patio style homes. He explained that his original development plans had been modified to make them more in harmony with the surrounding property. He concluded by stating that he hoped the City Council would view this project as desirable for the neighborhood and vote to rezone the property from Residential-15/General Business to Residential-6.

Mrs. Melinda Pate spoke in favor of this request stating that she resides in a patio style home and finds it to be very accommodating to her family's needs.

Ms. Cindee Wolfe, professional landscape architect and surveyor with the firm of Withers & Ravenel, spoke in favor of this request. Ms. Wolfe explained that research today indicates that changing demographics have resulted in smaller lot cluster housing outpacing the demand for houses on large lots.

She stated that this proposed rezoning complies with the City's policies for growth and development encouraging safe and affordable housing. She continued by stating that rezoning this property is a good planning principal of in-filling vacant property where existing utilities and services are already available. She explained that, because of concerns expressed by surrounding property owners, several plans have been presented to the zoning department and that every time there was a concern expressed, the concern had been addressed. The plan before Council is a single family development just like the single family development adjacent to the proposed property. The only difference is that the lots are smaller. This rezoning request change, if approved, will be followed by a conditional use permit that allows the construction of the single family patio homes. The proposed plan that will be addressed in the Conditional Use Permit request is the plan that will be followed. Any variations would have to go before Council for approval.

Ms. Wolfe provided information regarding traffic control. A study was conducted concerning traffic issues, and the conclusion was that there is adequate capacity on both subdivision streets and the large public roadways. She also addressed the concerns regarding the property being in the flood plain and stormwater management. She explained the requirements for the flood plain and explained that the project is downstream of all existing development and that none of the grading or improvements will alter the natural drainage patterns that currently exist.

She concluded by stating that the first question to Council is whether the change in zoning is appropriate for the location requested.

A discussion ensued concerning the possible phases to be developed in the subdivision. All phases before constructed would have to be built or bonded.

Mr. Alden Webb, attorney from Rockingham, NC, and representing Mr. Donald Barringer spoke in favor of this request. He explained that Mr. Barringer employed him to draft restrictive covenants for the proposed subdivision; he was instructed to include provisions that would ensure both a pleasing appearance and well maintained homes and yards. He went beyond the requirements of restrictive covenants and included a homeowner's association and an architectural and landscaping review committee. Mr. Webb highlighted some of the restrictive covenants.

Upon question by Councilmember Spencer, Mr. Barringer stated that he was employing local contractors for construction of the subdivision.

Mr. Richard Boles, owner/operator of Richard Boles Funeral Service and a resident in the College Park Subdivision, spoke against the proposed rezoning request. He cited concerns over the number of times the subdivision plat had been revised; driveway concerns into the subdivision; traffic concerns; lot square footage; the buffer requirements; and the cost of patio homes in the proposed subdivision. Mr. Boles asked that Council reconsider the proposal in front of them and suggested that, if Council were inclined to approve it, that Council start by

rezoning only ten acres. He concluded by asking Council to deny the rezoning request.

Ms. Theresa Gordon spoke in opposition of the proposed request. She cited concerns regarding traffic; the cost of patio homes when there are vacant single dwelling homes available for purchase; and landscaping concerns.

Upon question by Mayor Block, Mr. Boles stated that one of the original plans submitted to the Laurinburg Planning Board by Mr. Barringer was to rezone ten acres. He then stated that he would like the original plan to rezone ten acres of this property to be considered.

A discussion then ensued concerning the size of the proposed lots and driveways.

Mayor Block declared the public hearing closed.

Upon question by Councilmember Parker, the Assistant City Attorney stated that Council could not impose any restrictions on the rezoning request. The restrictions would need to be considered during the conditional use permit request if the rezoning request is approved.

Upon question by Councilmember Leak, Mr. Peele stated that Council is not encumbered by any conditions that the Laurinburg Planning Board did or did not place on the request. If Council would like stipulations about phasing or residential covenants when the conditional use permit is heard, Council may then impose certain conditions.

A question by Councilmember Spencer was answered by Mr. Peele in that the rezoning would remain the same if the property was sold, but the conditional use permit request would need to come back before Council if there was a change in the proposed use.

Councilmember Leak moved for the adoption of Ordinance No. O-2010-07 which rezones from Residential-15/General Business to Residential-6 a 44.08 acre tract of land adjacent to the College Park subdivision along Emily Drive as such rezoning is:

- Consistent with other development in the area;
- Advances the public health safety or welfare; and
- Provides a positive impact to the public at large.

Councilmember Spencer seconded the motion, and it was approved by the following vote:

Ayes Leak, Doerffel, Rainer, Spencer, Parker

Nays: None

(Ordinance No. O-2010-07 on file in the City Clerk's Office)

A REQUEST FOR A CONDITIONAL USE PERMIT TO DEVELOP A SINGLE FAMILY SUBDIVISION ON A 44.08 ACRE TRACT OF LAND ADJACENT TO THE COLLEGE PARK SUBDIVISION

Mayor Block informed Council that this is a public hearing on a request for a conditional use permit to develop a single family subdivision on a 44.08 acre tract of land adjacent to the College Park Subdivision.

The Assistant City Attorney reminded Mayor and Council that Council should consider only evidence and testimony presented at this hearing.

Mayor Block then opened the public hearing.

Mr. Bill Peele, first duly sworn, explained that the development firm of Withers & Ravenal on behalf of Mr. Donald Barringer is requesting that a conditional use permit be granted to develop a single family dwelling subdivision on a 44.08 acre tract of land located adjacent to College Park Subdivision.

The development will consist of 86 individual lots and approximately 2,700 linear feet of public streets. The application for the conditional use permit to develop the 86 lot subdivision adjacent to College Park Subdivision was reviewed by the planning 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.

The Laurinburg Planning Board considered this request at its March 9, 2010 meeting and by a unanimous vote recommends approval of the conditional use permit request.

Ms. Cindee Wolfe, first duly sworn, a registered landscape architect representing Mr. Donald Barringer stated she will be giving testimony on approval of the conditional use permit request. Ms. Wolfe stated that the use will not materially endanger the public health or safety; there is access to existing public streets; internal drives within the site will provide turn-arounds within each phase of the development for adequate fire, emergency, and large service vehicles; and residential lots will be serviced by water and sanitary sewer utilities by public extensions from existing public mains and serviced by the City. She explained that all design permitting and construction will be in conformance with City, County, and State standards, requirements and regulations. She also stated that the use will not injure the value of the adjoining or abutting property and that the proposed development is consistent with the adjacent residential properties as detached single family lots/subdivisions. She continued by explaining that although the lot sizes are smaller, the buildable area within the limits of the setbacks will allow construction of residences of similar size to the existing homes in the neighborhood; an open space area has been provided to act as a transitional buffer to the residences immediately adjacent; the development is planned as an internal unit with controlled architectural features; and that these are part of the conditions being offered as part of the plan. The restrictive covenants have been provided to Council; a homeowners association will be formed with comprehensive restrictions to assure maintenance of common elements and a complementary quality of life for the community. She then stated that the use will be in harmony with the area. It is located between a busy commercial corridor and the established single family neighborhood of College Park. The rezoning of this property, which allows for a slightly higher density of residential development, is consistent with the concept of transitioning uses while still maintaining the residential use as single family. It has a gross density of only two units per acre with a net density of 2.8 which is comparable to a Residential-15 development where all the land is taken up rather than left as green space. The use is in conformity with the City's land use plan, thoroughfare plan or other plans that the City of Laurinburg has. She explained that the conditional use permit request for

this plan is consistent with the transition of uses and allows flexibility for the subdivision layout and exhibits good planning principles and smart growth principles.

Upon question by Mayor Block, Ms. Wolfe stated that the drainage basins will be maintained by the homeowners association and that there will be some vegetation along the banks as a buffer.

Ms. Wolfe stated that there is no request that the City help with the project other than routine City services.

Mr. Alden Webb, first duly sworn, stated that he would like to introduce into evidence a copy of the restrictive covenants and make them a part of these minutes. He explained that there will be an addition to the covenants which will include a description of the property both of the common areas and the subdivision. These descriptions will not be ready until the survey has been completed. The budget of the homeowners association will have to establish what the initial dues will be and they will then be inserted into the restrictive covenants.

Mr. Richard Boles, first duly sworn, spoke in opposition of the proposed request. He stated that he and others in the area hoped that Council would continue to keep the zoning of Residential-15 in place. He explained that, as a homeowner of College Park, he felt that a buffer to protect the established neighborhood needed to be put in place.

Mr. Donald Barringer, first duly sworn, upon question by Councilmember Parker, stated that the yards will be landscaped and that he does not see the need for any buffering of the homes.

Ms. Wolfe suggested that, as a compromise along Emily Drive and the three other lots along the same area, street trees be planted every thirty feet on center.

Ms. Becky Synder, first duly sworn, spoke in opposition of this request. She stated that she is not opposed to change. She explained that any change should be orderly and systematically done. She suggested that the developer construct Phase I and see how it goes. This would let the neighborhood know that the subdivision will be developed as proposed.

Ms. Wolfe stated that she has suggested to Mr. Barringer that he agree as a condition that Phase II would not start for a period of one year. Economics and business sense are what controls this decision. Phasing of the project would be best.

Mr. Dewey Pittman, first duly sworn, resides at 1107 Liza Lane. He stated that there are two drainage lines that go onto Mr. Barringer's property, and his concern is that when the lake level builds up and the lines on the property do not function properly, who is responsible for insuring that the lake is draining properly.

Mr. Stacey McQuage, Utilities Director for the City of Laurinburg, first duly sworn stated that there is a main drain and an emergency overflow. He then stated that the City has worked on the overflow some but that Mr. Barringer is working with engineers to try and re-design it to be sure that it is sufficient. If there is a threat of overflow on the road, the City will work on it and clean it out.

Ms. Wolfe stated that typically, along the corridor of the ditch, they would assign a public utility easement when the lots and the plat are recorded. It is still the homeowners' responsibility because it is on private property, but she concluded that the City could force the homeowners association to maintain the ditch.

Mayor Block then declared the public hearing closed.

Councilmember Parker motioned to approve the conditional use permit to develop a single family subdivision on a 44.08 acre tract of land adjacent to the College Park Subdivision based on the following findings and conditions:

- 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;
- The request will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by Council; and
- In furtherance of the foregoing, the development and use should be subject to the following conditions:
 - Subject to the Declaration of Covenants, Conditions and Restrictions as offered by Attorney Webb;
 - There will be trees at least every thirty-five feet along Emily Drive;
 - Phase II cannot be started until Phase I is 60 percent complete;
 - Phase III cannot be started until Phase II is 45 percent complete;
 - Phase IV cannot be started until Phase III is 30 percent complete; and
 - A public drainage easement is offered and the homeowner's association realizes there is a State law that governs the discharge

The City Attorney questioned the definition of "complete". Councilmember Parker explained that if there are twenty lots in Phase I, there needs to be twelve homes built before homes in Phase II could begin. The 45 percent criteria would require eight homes of seventeen; the other phases would depend on Phases I and II meeting their requirements.

Councilmember Leak seconded the motion and it passed by a 4-1 vote with Councilmember Rainer casting the dissenting vote.

CONTRACTS FOR PROFESSIONAL SERVICES OF A PRELIMINARY PLAN FOR ARCHITECTURAL DRAWINGS FOR A PROPOSED RECREATION/COMMUNITY CENTER

A discussion ensued regarding preliminary contracts for professional services for architectural drawings for a proposed recreation/community center.

Councilmember Rainer stated that he recalled that the proposed \$10,000.00 was put aside for the recreation committee to use for the above mentioned services.

Councilmember Leak proposed that in order to alleviate confusion, minutes of this meeting be provided to

the committee so as to avoid any misunderstanding and that proper minutes of the committee meeting be provided to Council.

Motion was made by Councilmember Rainer to use the allocated \$10,000.00 for professional services for a preliminary plan for architectural drawings for a proposed recreation/community center.

Councilmember Spencer expressed concerns about the process of the development of a recreation/community center citing funding, how the building will be utilized, and other issues.

The City Manager stated that he presented to the Parks and Recreation Advisory Committee, on behalf of the Recreation Committee, the architectural agreement by Oakley-Collier, Rocky Mount, NC, and that they unanimously approved recommendation to the Scotland County Board of Commissioners that this project move forward. The Commissioners then considered this issue at its meeting.

Councilmember Spencer stated that following the presentation to the County Commissioners there was not a meeting of the Recreation Committee to follow up.

Upon question by Councilmember Doerffel, Councilmember Spencer stated that he felt that there should be a Recreation Committee meeting in order to bring the committee up-to-date especially since the members have changed. This should then be reported to Council following the follow-up Recreation Committee meeting.

Councilmember Parker stated that the Recreation Committee could recommend suggestions to Council if they decide as a group where a proper location would be.

Councilmember Rainer withdrew his motion.

Councilmember Parker motioned to authorize the City Manager to sign the contract between the City of Laurinburg and Oakley-Collier Architects pending consensus opinion from the Recreation Committee through a meeting with minutes of the meeting being kept. Councilmember Spencer seconded the motion, and it unanimously was approved.

MOWING CONTRACT – US 401/501 BYPASS

The City Manager explained that this agreement between North Carolina Department of Transportation (DOT) and the City of Laurinburg is for mowing to cut 28 shoulder miles along US 401 and 6 interchanges in Laurinburg. The agreement will have DOT reimburse the City of Laurinburg a portion of the cost to cut the shoulder along US 401 and 6 interchanges. The reimbursement for this agreement is estimated to be \$6,267.00. The City has additional contracts to cut these areas at a cost of \$39,200.00 for 2009. The City Manager stated that the recommendation to Council is to terminate the contracts with outside sources and that the City use the saved funds to purchase equipment so that City staff can mow the areas mentioned. The Beautification Department is now combined with the Street Department and this sharing of responsibilities will allow the City to maintain the mowing without additional personnel.

Staff also recommends approving the agreement between DOT and the City of Laurinburg for the reimbursement of an estimated \$6,267.00 for the year of 2009 and also requests that we receive reimbursement for the year of 2010 when completed. The staff also recommends using our staff with the correct equipment to cut these areas during the summer of 2010.

Motion was made by Councilmember Leak, seconded by Councilmember Rainer, and by a 4-1 vote carried to authorize the City Manager to execute documents between the City of Laurinburg

and the NC Department of Transportation for the mowing agreement to cut 28 shoulder miles along US 401 and six (6) interchanges in Laurinburg and to move forward on taking bids for new equipment in order that the City eliminate the current contracts with outside sources as of July 1, 2010 with City staff assuming responsibility to mow along these areas after June 30.

Councilmember Parker was the dissenting vote.

RECYCLING CART GRANT

Harold Haywood, General Services Director, explained that the City of Laurinburg is one of nine municipalities in North Carolina that was awarded a grant from the North Carolina Department of Environmental and Natural Resources (NCDENR). The amount of the grant is \$100,000.00 and it is to assist with the conversion from bins to carts in the recycling collection program. This will be based over a 3-year period. Each resident will be provided a 95-gallon roll-out cart for the purpose of recycling collection.

The total cost will be approximately \$267,750.00. After applying the grant award, the cost to the City will be \$167,750.00. This cost will be spread over a 3-year phase in.

Motion was made by Councilmember Parker, seconded by Councilmember Doerffel, and unanimously carried that the recycling cart grant be approved to allow for the conversion of bins to carts in the city's recycling collection program and authorizing the City Manager to execute documents.

DISCUSSION ON PROCESS AND PROCEDURES FILLING A VACANT COUNCILMEMBER SEAT

Mayor Block explained that Councilmember Doerffel announced that she will be relocating to Florida. He also thanked her for her service.

Councilmember Doerffel stated she will officially tender her resignation at the next Council meeting to be held May 18, 2010. She explained that she understands that there is not a policy on the process of filling a vacancy but a precedent had been set over the years. This precedent being that the person vacating the seat recommends to Council a potential Councilmember.

She stated that she has spoken with some of the Councilmembers and that is the process she would like to follow.

Councilmember Parker suggested that at this time the precedent be honored and if Council chooses to consider another approach for further vacancies that it be discussed at a Council retreat.

There was a consensus among Councilmembers to follow the previous process and that it consider adopting a formal policy at an upcoming retreat.

COMMENTS FROM MAYOR AND/OR COUNCILMEMBERS

Councilmember Parker stated that the City is involved with the Lumber River Council of Governments in discussing water concerns in the district. He explained that this is the beginning

of the discussions and that he will keep Council informed in order to take Council's direction to the meetings.

PUBLIC COMMENT

Mr. Eddie Carmichael, resident of Springbranch Drive in Laurinburg, spoke on the proposed Scotland County Landfill. He stated that the proposed Landfill is an issue that concerns him and others. He then stated that he feels that the City should take a stand on the proposed landfill because of the City's ownership of the Laurinburg/Maxton Airport. He concluded by stating that Council should keep the airport in mind when the proposed mega dump is discussed.

Councilmember Rainer asked for clarification on this issue.

The City Manager stated that the "County" received a call from Waste Management about locating a landfill in Scotland County. The County Manager asked that Waste Management forward information to him so that he could share it with the Commissioners. He then stated that the County has an engineer and is conducting an evaluation of a potential site and that is all staff is aware of at this point.

The City Manager stated that that he has asked Harold Haywood, who is in charge of the Sanitation Department, to run some numbers on how the proposed landfill would affect the City in dealing with our garbage collection. He stated that there are some alternatives but at this time there is no need to discuss.

Councilmember Spencer stated that when the County shares all relevant information, then City Council will consider all the facts and make a determination on the matter.

Mayor Block suggested that the County Manager, Kevin Patterson, attend Council's next agenda workshop and give an update on the landfill issue.

ADJOURNMENT

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

The meeting adjourned at 10:01 p.m.

Matthew Block, Mayor

Dolores A. Hammond, City Clerk