

**CITY OF LAURINBURG
COUNCIL MEETING
FEBRUARY 21, 2012
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 February 21, 2012 at 7:00 p.m. in the council room of the Municipal Building with the Honorable Thomas W. Parker III, Mayor, presiding. The following Councilmembers were present: Mary Jo Adams, Curtis B. Leak, Herbert M. Rainer Jr., Kenton T. Spencer, and Andrew G. Williamson, Jr.

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

Mayor Parker called the meeting to order at 7:01 p.m.

The invocation was given by Councilmember Williamson.

APPROVAL OF AGENDA

Councilmember Williamson moved to adopt the agenda as presented. Councilmember Adams seconded the motion and it unanimously carried.

PUBLIC COMMENT PERIOD

There was no one present to speak.

CONSENT AGENDA

The City Manager reviewed the consent agenda.

- a) Approve minutes of the December 13, 2011 agenda workshop/retreat and minutes of the December 20, 2011 regular meeting
- b) Set public hearing to be held March 20, 2012 at 7:00 p.m. in the council room of the Municipal Building located at 303 W. Church St., Laurinburg, NC on request to rezone from Residential-15 to Office/Institutional property on N. Wilkinson Dr. to construct a church
- c) Set public hearing to be held March 20, 2012 at 7:00 p.m. in the council room of the Municipal Building located at 303 W. Church St., Laurinburg, NC on request to rezone from General Business to Industrial a 3.4 acre tract on McColl Rd. at its intersection with Barnes Bridge Road
- d) Set public hearing to be held March 20, 2012 at 7:00 p.m. in the council room of the Municipal Building located at 303 W. Church St, Laurinburg, NC on request for a Conditional Use Permit request for an off-premises sign on McColl Road at its

intersection with Barnes Bridge Road

e) Approve Tax Releases and Discoveries

f) Authorize Interim Tax Collector to advertise tax liens on March 16, 2012

Councilmember Leak moved to approve the Consent Agenda as presented. Councilmember Spencer seconded the motion and it was approved by the following vote:

Ayes: Leak, Spencer, Adams, Rainer, Williamson

Nays: None

PUBLIC HEARINGS-ASSISTANT CITY ATTORNEY

Mayor Parker explained that the Assistant City Attorney would discuss procedures for conducting public hearings.

The Assistant City Attorney explained that City Council will conduct two (2) separate public hearings to consider requests for Conditional Use Permits: one (1) request is to operate a carnival at 900 US 401 Bypass and the other is to operate a photovoltaic solar array on a 64.78 acre tract of land off US 401 South across from Tartan Road. He further explained that a public hearing for a Conditional Use Permit request is similar to a court proceeding in that sworn testimony and other competent evidence will be presented for Council's consideration to determine if the application for the Conditional Use Permit should be allowed. He added that Council is to consider only evidence presented during the hearing, either through testimony, documents, reports or prior testimony incorporated into the hearing. He further added that the purpose of the hearings is not to solicit general public comment, but instead to determine the facts necessary to make a decision on the specific permit requests made. He explained that all parties to the requests, both the applicant and the adjoining landowners and others that might be adversely affected by the issuance of the permit, have the right to testify, to be questioned and to ask questions of other parties. He explained that Council has a right to make reasonable limitations on the evidence presented including the length of time each speaker may speak and that Council is only allowed in a hearing of this nature to consider competent evidence which means Council will not consider opinions by non-experts or hearsay evidence that is testimony about what someone else said or wrote. He added that at the conclusion of each hearing, Council will decide whether to approve or deny the requests. He stated that if Council concludes that: first, the development is within the planning jurisdiction of the City; second, the application is complete; and third, the development is in substantial compliance with the regulatory provisions of the City of Laurinburg Unified Development Ordinance, it will approve the request for the Conditional Use Permit unless it finds and makes specific findings of fact that more probably than not, 1) the request will materially endanger the public health or safety; or 2) the request will substantially injure the value of adjoining or abutting property; or 3) the request will not be in harmony with the area in which it is to be located; or 4) the request will not be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by the Council. He stated that the burden of proof to establish that the development is within the planning jurisdiction of the City, the application is complete, and that the development is within substantial compliance with the regulatory provisions of the Unified Development Ordinance are on the applicant. He stated that the burden of proof as to whether the request will materially endanger the public health or safety, or the request will substantially injure the value of adjoining or abutting property, the request will not be in harmony with the area in which it is to be located,

or the request will not be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by the Council is on the party seeking denial of the application. He further explained that if Council denies the request, this finding must be with specificity as to what evidence proves the basis for the denial.

CONSIDER REQUEST FOR A CONDITIONAL USE PERMIT TO OPERATE A CARNIVAL AT 900 US 401 FROM MARCH 1, 2012 TO MARCH 11, 2012

Mayor Parker explained that a request had been submitted for a Conditional Use Permit to operate a carnival at 900 US 401 from March 1, 2012 to March 11, 2012.

Mrs. Brandi Deese, first duly affirmed, explained that the Unified Development Ordinance requires that a carnival operator obtain a Conditional Use Permit for events of duration of greater than seven (7) days. She added that Mr. Robert E. Lee, representing Michael's Amusements, has requested a Conditional Use Permit to operate a carnival at 900 US 401 in the vacant Winn Dixie parking lot from March 1, 2012 through March 11, 2012. She further added that staff has reviewed the request and found that:

- the proposed development is within the planning jurisdiction of the City of Laurinburg,
- the application is complete, and
- the proposed development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance.

Mayor Parker opened the public hearing.

Mr. Robert E. Lee, first duly sworn, explained that he represents Michael's Amusements located out of Fayetteville. He explained that because of logistics and with the rising cost of fuel, the owner of the company was attempting to have carnivals closer to Fayetteville. He added that in the past, he had assured Council that the owner is a strict and disciplined man who will not tolerate drugs or alcohol on the premises. He further added that the carnival had conducted itself in a manner that the Council and the City required, and that police officers were employed by the carnival to ensure safety of everyone.

There was no one present to speak against the request.

Mayor Parker closed the public hearing.

Motion was made by Councilmember Spencer, seconded by Councilmember Leak, and unanimously carried to approve the request for a Conditional Use Permit to operate a carnival at 900 US 401 from March 1, 2012 to March 11, 2012 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;
- and**
- The request will not materially endanger the public health or safety; and
 - 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

CONSIDER REQUEST FOR A CONDITIONAL USE PERMIT TO OPERATE A PHOTOVOLTAIC SOLAR ARRAY (SOLAR FARM) ON A 64.78 ACRE TRACT OF LAND OFF US 401 SOUTH/MCCOLL ROAD ACROSS FROM TARTAN ROAD

Mayor Parker explained that this public hearing is to consider a request for a Conditional Use Permit to operate a photovoltaic solar array (solar farm) on a 64.78 acre tract of land off US 401 South/McColl Road across from Tartan Road.

Mrs. Brandi Deese, being duly affirmed, explained that Mr. Brian Bednar of Birdseye Renewable Energy has requested a Conditional Use Permit to develop a photovoltaic solar array on a 64.78 acre tract of land along McColl Road. She added that the property is currently used for agricultural purposes. She further added that this is the same request that came before Council in 2009 and was approved by Council at that time; however, circumstances occurred that prohibited Mr. Bednar from beginning construction during the two (2) year time period allowed by the Conditional Use Permit; therefore a new Conditional Use Permit must be granted. She further added that staff has reviewed the request and found that:

- the proposed development is within the planning jurisdiction of the City of Laurinburg,
- the application is complete, and
- the proposed development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance.

Mayor Parker opened the public hearing.

Mayor Parker requested that the minutes of the September 22, 2009 public hearing and the October 20, 2009 public hearing be entered as evidence. A copy of said minutes are attached to these minutes and incorporated herein.

Mr. Brian Bednar of Birdseye Renewable Energy, being first duly sworn, explained that he appeared before Council over two (2) years ago with this request; however, financing and merger discussions delayed the project. He further explained that construction had begun on the solar farm off US 74 on Stewartville Road which was the same size as the one proposed on McColl Road. He added that the site is primarily in a former burrow pit and has been laying fallow for 15 years. He then described the solar panels as being 8-foot high fixed-tilt photovoltaic array which would continuously face south. He added that the solar farm would not make noise except for a slight buzz from transformers on the site, there would be no glare from the panels and no odor emitted. He added that a 6-foot chain link fence with barb wire would be erected around the perimeter of the site. He explained that the site would be safe and pose no threat to life. He further added that his company has already confirmed with Progress Energy that if the system is project is approved, it could safely connect to the grid. He also discussed the following:

- An entrance will be provided after application with North Carolina Department of Transportation.
- Environmental and wetland studies have been completed.

- An endangered species study is being conducted.
- Soil testing has been completed.
- The project will be completed to meet State Building Codes and will be built to withstand 110 mile per hour wind load.
- No inhabited structures will be on the property.
- There will be no significant traffic to the site except during construction.
- Construction should take three (3) to four (4) months.
- There are no known hazards of solar energy.
- Concerns were discussed with one (1) neighbor who owns adjacent property that is in disrepair. Owner offered to sell the property to Birdseye Renewable Energy which Mr. Bednar declined.

Upon questions by Councilmember Adams, Mr. Bednar explained that in 2009 he requested Conditional Use Permits for two (2) sites, this site on McColl Road and the site on Stewartsville Road which was under construction. He added that the two (2) sites were investigated in 2009 because of the process so that there would be a back-up site in the event the first location did not meet all requirements. He further added that because of the interest in utility companies for more solar power and because of the decline in price of solar has dramatically declined, the investors have requested that Birdseye Renewable Energy build a second project in Laurinburg. He stated that there are other sites under consideration in Scotland County, Hoke County and Robeson County. He explained that there is a process of determining whether a site is viable, but none that are ready for zoning approval.

Upon question by Councilmember Leak, Mr. Bednar explained that the solar arrays will sit behind the road and trees on the McColl Road property and will be visible only when looking straight into the entrance to the site. He added that the natural buffer, the fence and some additional plantings will provide the buffering required by the City's regulations.

Upon question by Councilmember Rainer, Mr. Bednar explained that his company has one complete site in the state, the Stewartsville Road site under construction, and is working on eight (8) others across the State. He added that he is working with a company in St. Pauls on a large solar system to heat water which would be the largest of this type project in the United States.

Mr. Lessie Hale, being first duly sworn, explained that he lived on Tartan Road and has been attempting to gather information regarding this project. He expressed concern about the affect of solar radiation and the environmental impact. He also expressed concern that neither he nor many of his neighbors had been contacted.

Mrs. Mary Evans, being first duly sworn, explained that she lived near the solar farm under construction, and she expressed concern that she had received no notification of any public hearings on the project. She questioned what benefit the City would receive from such projects. She also expressed concern about the site selection and possible harmful effects on vegetation, animals and humans.

The City Manager stated that there was no benefit for the City of Laurinburg. He added that a private developer had made the request to develop a resource, and that the City conducted due diligence from the zoning perspective in accordance with the Unified Development Ordinance. He further added that property owners within 100 feet of the property were notified of the

hearings conducted by the Planning Board and the public hearings conducted by the City Council, and that the property was properly posted, which posting included the hearing dates.

A discussion ensued concerning the prior public hearings conducted in 2009 for the Stewartsville Road site. Councilmember Spencer expressed concern regarding information taken from the internet and the importance of conducting a thorough fact check.

Councilmember Leak explained that several property owners from Stewartsville Road, including Mr. John McNair and Mr. Boatwright, were present at the 2009 public hearings.

Mayor Parker explained that there had been lengthy testimony at the September 22, 2009 public hearing on the request for a Conditional Use Permit to operate a photovoltaic solar array on Stewartsville Road, and that in order to provide people the opportunity to conduct research, the public hearing was continued until October 20, 2009.

Upon question by Mayor Parker, Mrs. Deese explained that State law requires that property owners within 100 feet of the property are notified of the hearings, and that in 2009, property owners within 100 feet of the Stewartsville Road site were mailed notices. She added that the property was also posted as required by State law. She concluded by stating that 31 property owners within 100 feet of the McColl Road site were properly notified and the property was properly posted.

Upon question by Mrs. Evans, the City Manager explained that at the October 20, 2009 experts from the North Carolina Solar Center at North Carolina State University provided expert evidence about the contents of the solar panels and that there was no potential harm to the environment.

Councilmember Rainer stated that extensive research was conducted and there was nothing presented that gave Council any reason to believe that the project would be unsafe. He added that there were concerns expressed about manufacturing of the panels; however the panels would not be manufactured on the site, they would be manufactured elsewhere.

Upon question by Mayor Parker, Mr. Bednar explained that an environmental assessment is part of the process of developing a photovoltaic solar array facility.

Mayor Parker stated that solar panels are common on people's homes. He further stated that he appreciated Mrs. Evans concerns.

There being no other persons to speak against the request, Mayor Parker closed the public hearing.

Motion was made by Councilmember Spencer, seconded by Councilmember Rainer, and unanimously carried to approve the request for a Conditional Use Permit to operate a Photovoltaic Solar Array (Solar Farm) on a 64.78 acre tract of land off US 401 South/McColl Road across from Tartan 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;

and

- The request will not materially endanger the public health or safety; and
- 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

DELEGATIONS

Mr. Harold Mercer-concern about enforcement of the junk vehicle ordinance

Mayor Parker explained that Mr. Harold Mercer had requested to speak to Council regarding his concerns about enforcement of the City's junk vehicle ordinance; however, Mr. Mercer was not present to speak.

Presentation by Brent Webb – Walking with Awareness

Mr. Brent Webb explained that April 14, 2012 is the tenth anniversary of his being sober. He discussed his struggles as a former drug addict until he attended the Teen Challenge Program in Greensboro. He stated in honor of his anniversary and to give back to Teen Challenge, he planned to walk 350 miles from the Outer Banks to Southern Pines and then to Greensboro, locations of Teen Challenge Program. He added that he wanted to make himself available to anyone that can benefit from his experiences. He thanked Council for the opportunity to speak.

Mayor Parker presented Mr. Webb with a City pin.

Ms. Wanda Bethea explained that she had dealt with problems similar to Mr. Webb, and she requested that the community use Mr. Webb as a resource and support him in his walk.

CITY MANAGER REPORTS

Highway 74 Lighting Project

The City Manager explained that Council had heard a request from Corey Hughes of the Tourism Development Authority (TDA) to consider participating with North Carolina Department of Transportation (NCDOT) and the TDA to light the interchanges of US 74 and US 401 Bypass and US 74 and US 401 Business. He added that since the end of the fiscal year is approaching, perhaps Council consider its position on this matter.

Councilmember Leak explained that Council had appropriated \$500,000.00 to the Laurinburg-Maxton Airport Commission (LMAC) for the runway project and that LMAC had not used all of those funds. He suggested taking \$200,000.00 from those funds to apply towards the lighting project.

Upon question by Councilmember Williamson, the City Manager explained that traditionally, the City has used funds from the Electric Fund to pay capital costs of electric projects, and that the

electric costs are paid from the General Fund. He added that Council previously had been provided an analysis on financing since interest rates are low. He provided the following information:

- Council has not appropriated any money from Fund Balance or from Cash Reserves this fiscal year
- The General Fund had \$2,900,000.00, the Electric Fund had \$2,198,000.00 and the Water/Sewer Fund had \$1,756,000.00 at the end of Fiscal Year 2010-2011.
- The General Fund has the least amount of debt. The Electric Fund and the Water/Sewer Fund have indebtedness because of the Automated Meter Reading Project in the amount of \$2,400,000.00. In addition, the Water/Sewer Fund is completing payment of an \$8,500,000.00 indebtedness from the 1994 annexation.
- Currently the Electric Fund has operational coverage of 83%. If the funds for the lighting project were taken from the Electric Fund, the ratio would be reduced to 74% operational coverage.
- The Local Government Commission (LGC) does not have benchmarks for the Electric Fund as it does for the General Fund for retaining cash or reserving cash on hand.
- The LGC does not want a city or county to go below 8% of expenditures to Fund Balance. The City is at 29.4% of Fund Balance.
- The loan to LMAC came out of the Electric Fund.

Councilmember Spencer explained that the loan was more of a line of credit versus a loan. He added that LMAC will be repaying part of that with money it will receive from easements to a gas utility. He discussed developing a strategic plan for LMAC. He stated that if Council decided to use the remainder of the funding appropriated to LMAC for the lighting project this would not inhibit LMAC.

Upon question by Councilmember Rainer, the City Manager explained that the Fund Balances had not changed since the end of Fiscal Year 2010-2011 since no Fund Balances were appropriated in the 2011-2012 budget.

Following a brief discussion, the City Manager suggested that Council consider a resolution committing the City appropriate \$255,000.00 for the lighting project and a budget amendment would be prepared for the March Council meeting.

Upon question by Councilmember Rainer, Councilmember Spencer explained that negotiations were underway for the County to pay the electric costs.

Councilmember Adams motioned to approve Resolution No. R-2012-06 requesting that the North Carolina Department of Transportation provide financial assistance in erecting lighting at two interchanges of US Highway 74. Councilmember Rainer seconded the motion and it was approved as follows:

Ayes: Adams, Rainer, Williamson, Spencer, Leak

Nays: None

(A copy of Resolution No. R-2012-06 on file in the City Clerk's Office)

CONSIDER IN-KIND ASSISTANCE TO LAURINBURG DOWNTOWN REVITALIZATION CORPORATION

The City Manager explained that he, Mayor Parker and Councilmember Williamson met with Mr. Jim Willis, Chairman of the Laurinburg Downtown Revitalization Corporation (LDRC) to discuss the possibility of the City providing in-kind assistance to improve facades of buildings downtown and to assist in developing the parking lot located behind the old Habitat Store and Value House Furniture.

Mayor Parker explained that in removing obsolete signage, City crews, on an as available status, would remove old signs or anything covering facades, off buildings downtown with permission of the property owner.

Motion was made by Councilmember Leak, seconded by Councilmember Adams, and unanimously carried to provide in-kind assistance on an as available basis to LDRC in removing obsolete signage and/or anything covering facades in the downtown area.

Mayor Parker explained that LDRC also requested in-kind assistance in patching the pavement of the parking lot behind the old Habitat Store and Value House Furniture. He added that the City Manager indicated that the entire parking lot needed to be resurfaced and the resurfacing would be considered in another budget year.

Upon question by Councilmember Spencer, the City Manager explained that property owners had executed a lease agreement to the City which was being reviewed by the City Attorney.

Following discussion, motion was made by Councilmember Williamson, seconded by Councilmember Spencer, and unanimously carried to provide in-kind assistance on an as available basis to LDRC by patching the pavement in the parking lot located behind the old Habitat Store and Value House Furniture pending approval of the lease agreement by the City Attorney.

DISCOUNT PRESCRIPTION CARD

The City Manager explained that at the urging of Councilmember Spencer, the City participated in the National League of Cities (NLC) Prescription Discount Card Program. He added that the program will be rolled out on February 27, 2012 with prescription discount cards being mailed to the City residents and a link will be added to the City's website. He further added that this is a partnership between the City and the NLC and it is a discount card, not an insurance card. He provided further information for residents on how to use the cards and the possible savings that could realize by using the cards.

Councilmember Spencer explained that the discount cards could be used for prescriptions not covered by insurance or used by individuals without prescription insurance coverage. He urged residents to utilize the prescription discount card.

APPOINTMENTS

Parks and Recreation Advisory Committee

Motion was made by Councilmember Adams, seconded by Councilmember Leak, and unanimously carried to appoint Councilmember Kenton Spencer to the Parks and Recreation Advisory Committee to a three-year term expiring September 1, 2014.

Lumber River Council of Governments Transportation Advisory Committee (recommendation-Scotland County appointment)

Councilmember Rainer stated that he would be willing to accept appointment to the Lumber River Council of Governments Transportation Advisory Committee.

Motion was made by Councilmember Williamson, seconded by Councilmember Adams, and unanimously carried to recommend to Scotland County that Councilmember Herbert M. Rainer, Jr. be appointed to the Lumber River Council of Governments Transportation Advisory Committee.

COMMENTS FROM MAYOR AND COUNCILMEMBERS

Councilmember Leak requested that as mentioned in an editorial in *The Laurinburg Exchange*, the City buy locally when possible.

The City Manager explained that the City has spent approximately \$1,700,000.00 with local vendors thus far in the 2011-2012 Fiscal Year. He added that the City will make every effort to spend money with local vendors.

Councilmember Adams stated that she attended the Chamber of Commerce's State of the City and County and that she felt that the City Manager did a good job.

Councilmember Leak stated that February was Black History Month.

Mayor Parker stated that he attended the Lumber River Council of Governments Advance recently and he hoped to share with Council a budget exercise.

At this time, the City Manager presented Council with a proposed schedule of budget meetings. No action was taken by Council.

CLOSED SESSION

At 8:43 p.m., Councilmember Spencer moved to go into closed session pursuant to NCGS § 143-318.11 (a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations.

Councilmember Rainer seconded the motion and it carried unanimously.

At 8:58 p.m. motion was made by Councilmember Williamson, seconded by Councilmember Spencer, and unanimously carried to resume open session.

ADJOURNMENT

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

The meeting adjourned at 8:59 p.m.

Thomas W. Parker III, Mayor

Jennifer A. Tippett, City Clerk