

**CITY OF LAURINBURG
COUNCIL MEETING
SEPTEMBER 18, 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 on September 18, 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, Kenton T. Spencer, Andrew G. Williamson, Jr. and J. D. Willis.

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

Mayor Parker called the meeting to order at 7:00 p.m.

The invocation was given by Councilmember Leak.

APPROVAL OF AGENDA

The City Manager requested that Item 10, Update on Automated Meter Reading System, be removed from the agenda because due to weather, the Datamatic representative was unable to fly out of Texas.

Motion was made by Councilmember Williamson, seconded by Councilmember Spencer, and unanimously carried to adopt the agenda as amended by removing Item 10, Update on Automated Meter Reading System.

PUBLIC COMMENT

Mr. Mark English appeared before Council and expressed his concern regarding substandard housing in Laurinburg and requested Council find funding to remove additional substandard houses.

Upon question by Mayor Parker, Mrs. Deese explained that the City had demolished and removed at least 15 substandard houses and several more would be demolished in the near future.

Mr. Douglas Bowen of 201 McRae Street appeared before Council and expressed concern regarding substandard housing and the need for Council to consider additional funding for demolition.

Mr. Bert Beacham appeared before Council and expressed his concern regarding substandard housing, particularly a house on McRae Street.

Mr. Russ Chiles appeared before Council to express his concern regarding substandard housing, particularly a house on Laurelcrest Road.

Mr. Frank Lea appeared before Council and expressed his concern regarding substandard housing and the negative impact on neighborhoods.

Ms. Louisa Martin appeared before Council and expressed concern that Council continue to fund the Youth Council as more opportunities needed to be provided for youth in the City and County.

Mayor Parker explained that Council had budgeted \$30,000.00 for demolition and removal of substandard housing which has been expended. He added that this matter would be a topic for a retreat. He thanked the citizens for attending and voicing their concerns.

PRESENTATION

Mayor Parker presented former Councilmember Herbert M. Rainer, Jr. with a plaque as follows:

CITY OF LAURINBURG
CERTIFICATE OF APPRECIATION
TO
HERBERT M. RAINER, JR.
COUNCILMEMBER
NOVEMBER 1997 – AUGUST 2012

This special tribute to Herbert M. Rainer, Jr. is for his outstanding service to the City of Laurinburg and its citizens as a dedicated public servant. As a member of the Laurinburg City Council for 15 years, he ensured that the best interests of all citizens were protected and championed. His dedicated efforts to provide a better quality of life for everyone throughout this community have made him a most valuable public servant and have helped to make Laurinburg a better place for all of its citizens.

This 21st day of August, 2012.

Thomas W. Parker, III
Mayor

Kenton T. Spencer
Mayor Pro Tem

Mary Jo Adams
Councilmember

Curtis B. Leak
Councilmember

Andrew G. Williamson, Jr.
Councilmember

Former Councilmember Rainer thanked the voters that supported him throughout the years.

CONSENT AGENDA

The City Manager presented the consent agenda as follows:

- a) Set public hearing to be held on October 16, 2012 at 7:00 p.m. in the council room of the Municipal Building located at 303 W. Church St. for potential CDBG application for 2012 cycle of funding
- b) Consider Resolution No. R-2012-22 approving application for Grant from Governor's

Highway Safety Program in the amount of \$10,870.00

c) Consider Resolution No. R-2012-23 amending the City's Solid Waste Policy

d) Consider Ordinance No. O-2012-31 amending Chapter 30 Solid Waste Management, Article I In General, Section 30-1, Definitions, and Article II Collection Service, Section 30-45 Removal of Containers

e) Award 5 Scholarships to the Young Entrepreneurs Academy (YEA) for a total of \$1,475.00 with funds coming from the Youth Council budget

Following a brief discussion, Councilmember Adams requested that Item D be removed from the Consent Agenda and be discussed under City Manager Reports.

Councilmember Spencer moved to amend the Consent Agenda by removing Item D and to approve the Consent Agenda as amended. Councilmember Williamson seconded the motion and it was approved by the following vote:

Ayes: Spencer, Williamson, Willis, Leak, Adams

Nays: None

PUBLIC HEARINGS

INITIAL PUBLIC HEARING FOR CDBG APPLICATION

Mrs. Brandi Deese, Planning and Community Development Director, explained that in accordance with the regulations of the North Carolina Department of Commerce, two (2) public hearings must be held to discuss the City's intent to submit an application for Community Development Block Grant funds and this is the first of two public hearings. This permits the City to be able to apply for funding in the 2012 program year. She added that Mr. Adrian Lowery of the Lumber River Council of Governments would discuss the grant application at the second public hearing to be held in October.

Mayor Parker opened the public hearing.

There being no one present to speak in favor of or in opposition to this matter, Mayor Parker closed the public hearing.

CONSIDER REQUEST TO REZONE PROPERTY LOCATED AT 304 US 401 HWY BYPASS FROM INDUSTRIAL TO GENERAL BUSINESS

Mrs. Brandi Deese explained that Turangi Investments, Inc. has requested that 304 US Hwy. 401 Bypass be rezoned from Industrial to General Business in order to rent office and storage space. She added that this building is the former Wilson Golf Course Construction, and the trend around this location has been for uses that the General Business zoning district would support more so than the Industrial zoning district. She further added that if this property is rezoned to General Business it would increase the chances of securing a quality tenant. She concluded by stating that staff recommended approval of this request and that Planning Board heard this request on August 14, 2012 and unanimously recommended approval.

Mayor Parker opened the public hearing.

Mr. Tony Morgan of Turangi Investments appeared before Council and explained that his company has rented the building to a company that conducts training for Occupational Safety and Health Agency (OSHA). He further added that the company will conduct training for four (4) states and will bring in

more than 1,000 people per year for training which should bring in more money for the City and County.

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

Mayor Parker closed the public hearing.

Councilmember Adams moved to approve Ordinance No. 0-2012-32 which rezones from Industrial to General Business the property located at 304 US Hwy 401 Bypass as it is:

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

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

Ayes: Adams, Spencer, Leak, Willis, Williamson

Nays: None

(Ordinance No. O-2012-32 on file in the City Clerk's office)

CONSIDER REQUEST FOR A CONDITIONAL USE PERMIT TO ERECT AN OFF-PREMISES SIGN ON A 3.4 ACRE TRACT OF LAND AT THE INTERSECTION OF MCCOLL ROAD AND BARNES BRIDGE ROAD

Mrs. Brandi Deese, first duly affirmed, explained that Mr. Lee Howell of Scotland Motors, Inc. has requested a Conditional Use Permit for an Off-Premises Sign (Billboard) at the intersection of McColl Road and Barnes Bridge Road. She added that the Billboard will display advertisement for Scotland Motors, Inc. She further added that staff reviewed the proposal and made the following determinations: (a) The application for a Conditional Use Permit is complete; (b) The proposed site is located within the planning jurisdiction of the City of Laurinburg; and (c) The signage proposal is in substantial compliance with the regulatory provisions of the Unified Development Ordinance. She further added that Planning Board heard this request on August 14, 2012 and unanimously recommended approval.

Mayor Parker opened the public hearing.

Mr. Lee Howell, being first duly sworn, explained that he was requesting approval to erect a billboard on his property.

There was no one present to speak against this request.

Mayor Parker closed the public hearing.

Councilmember Spencer motioned to approve the conditional use permit to erect an off-premises sign on a 3.4 acre tract of land at the intersection of the McColl Road and Barnes Bridge 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;
- The request will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by Council;

Councilmember Leak seconded the motion and it unanimously carried.

APPEAL FROM ZONING OFFICER'S DECISIONS

Mr. Harold Mercer, being first duly sworn, appeared before Council and stated that he and his wife had been harassed by Mrs. Deese and the City of Laurinburg. He described an incident on June 2, 2012 whereby Mrs. Deese appeared at his residence, 607 Azure Court, with a search warrant. He stated that he rode by his property at 706 West Blvd. and noticed a white sticker on the window of a 2004 Dodge Intrepid. He then accused Mrs. Deese of stealing \$14,000.00 from a vehicle located on his property at 706 West Blvd.

The Assistant City Attorney interjected that the issues before Council were not about the alleged theft; therefore what Mr. Mercer had discussed was irrelevant information. He then added that the burden is on the City to present evidence regarding the vehicles. He suggested that Mrs. Deese present evidence of her findings, and then allow Mr. Mercer to ask questions, call witnesses and present his evidence.

Mrs. Brandi Deese, being first duly affirmed, explained that City staff had received multiple complaints regarding vehicles at two (2) properties owned by Mr. Mercer, 706 West Blvd. and 607 Azure Court. She added that upon inspection, violations were found to be in existence. She requested that her Summary of Findings be entered into evidence; therefore, a copy of said Summary of Findings is attached to and incorporated into these minutes.

Mrs. Deese then discussed each vehicle as follows:

- 1979 Dodge Van 100, grey in color. Declared junked and nuisance vehicle.
- 1981 Dodge Van 100, white in color. Declared nuisance vehicle.
- 1985 Dodge Caravan DE, beige in color. Declared junked and nuisance vehicle.
- 1993 Ford F-250, beige in color. Declared junked and nuisance vehicle. Two of these vehicles.
- 1996 Oldsmobile Ciera, white in color. Declared junked vehicle.
- Early 1980's Dodge Rampage, beige in color. Declared a nuisance vehicle.

Mrs. Deese stated that the 1990 Ford F-150, white in color, listed at 607 Azure Court had been repaired and this vehicle was no longer considered a junked motor vehicle.

Mrs. Deese explained that a letter had been sent to Mr. and Mrs. Harold Mercer on July 24, 2012 for each of the vehicles that was declared a junked or nuisance vehicle. She added that the letter provided details of the determination and evidence leading to the determination. She further added that the letter provided a date of August 8, 2012 as deadline for bringing each vehicle into compliance with the City's regulations. She concluded by stating the Mr. Mercer delivered a letter of appeal to the City Clerk on August 7, 2012.

Upon question by Mayor Parker, the Assistant City Attorney explained that a copy of the Summary of Findings presented to Council was available for Mr. Mercer. Mrs. Deese stated that all of the findings had been shared with Mr. Mercer on the Vehicle Inspection Forms.

Upon questions by Councilmember Leak and Councilmember Spencer, Mrs. Deese explained that she found no evidence of current registration with the State of North Carolina.

A discussion ensued concerning the necessity of vehicles being registered and displaying current license plates. The Assistant City Attorney stated that one of the prerequisites of the definition of a junked motor vehicle is that it does not display a current license plate. He added that the other prerequisites involved the condition of the vehicle.

Upon question by Councilmember Spencer, Mrs. Deese stated that she did not specifically request Mr. Mercer present current registrations for the vehicles in question during this process; however, she had inquired during previous investigations regarding the subject vehicles.

Upon questions by Mr. Mercer, the Assistant City Attorney explained that for a junked vehicle, the first requisite is not having a current license plate. He added that a vehicle can be declared a nuisance vehicle even if it has a current license plate.

Upon question by Mr. Mercer, Mrs. Deese confirmed that she had requested Mr. Mercer demonstrate that the vehicles in question could move. She added that she would provide Mr. Mercer copies of that documentation.

Mayor Parker cautioned Mr. Mercer to be respectful and allow Council to look at the evidence and make a determination on the Code Enforcement Officer's findings regarding his vehicles. He added that when he was a Councilmember, he became involved with trying to provide a working agreement to clear up this matter. He further added that Mr. Mercer made no progress and citizens are wondering why the City is not enforcing its ordinance regarding junk, nuisance and abandoned vehicles.

Upon question by Councilmember Spencer, Mr. Mercer explained that because he has an automobile dealer's license, he is not required to have a tag and registration on each of his vehicles. Mr. Mercer further added that the vehicles are insured.

Upon question by Councilmember Spencer, Mr. Mercer stated that he could not attest that his vehicles are fit for sale.

Mr. Mercer then stated that Council is attempting to make an example of him. He added that he would see the City in court.

Mayor Parker stated that this proceeding is a quasi-judicial hearing with Council acting as jury. He added that Council wants to give Mr. Mercer ample opportunity to present his case, and if Mr. Mercer walks away, Council would have no choice other than to support the Code Enforcement Officer's findings on his vehicles.

Mr. Mercer stated that whatever Council did would determine what he did next.

The Assistant City Attorney explained that the evidence was presented by Mrs. Deese and Mr. Mercer was provided an opportunity to ask questions and present evidence, but chose not to present evidence. He further explained that the evidence was before Council to either affirm or reverse the Code Enforcement Officer's determinations regarding the vehicles in question. He further added that if Council decided to affirm the Code Enforcement Officer's determinations, they need to be done with specific statements on each vehicle.

Upon question by Councilmember Williamson, the Assistant City Attorney explained that if the Code Enforcement Officer's determinations are upheld, enforcement would begin immediately.

Upon question by Councilmember Spencer, Mrs. Deese explained that the two (2) properties where the vehicles in question are located are zoned for residential purposes. She added that Mr. Mercer did have a dealer license for 324 McKay Street.

Upon further question by Councilmember Spencer, Mrs. Deese explained that she had received numerous phone calls from different neighbors of Mr. Mercer but had received no written complaints.

Upon question by Councilmember Leak, Mrs. Deese explained that she had investigated another property in the vicinity of Mr. Mercer's 607 Azure Court residence owned by Mr. John Speller. She added that none of the vehicles on Mr. Speller's property were deemed to be junked or nuisance.

Upon request by Councilmember Williamson, the Assistant City Attorney defined "junked vehicle" and "nuisance vehicle" as follows:

Junked vehicle

- Does not display a current license plate
- Is partially dismantled or wrecked;
- Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- Is more than five years old and appears to be worth less than \$500.00

The Assistant City Attorney added that in order to be declared a junked vehicle, there must be a finding that the costs to the citizen for removing the vehicle are outweighed by the benefits to the City at large in terms of property values, tourism, economic development, protection of public health and safety, and etc.

Nuisance vehicle

- Does not have to display a current license plate
- A breeding ground or harbor for mosquitoes, rats or other pests;
- A point of heavy growth of weeds or other noxious vegetation over 8 inches in height;
- So situated that there is a danger of the vehicle falling or turning over;
- Determined to be a health or safety hazard and/or a public nuisance, etc.

He concluded by stating that Mrs. Deese include such findings in her Summary of Findings packet.

Motion was made by Councilmember Williamson and seconded by Councilmember Adams to affirm the City Zoning Officer's determinations that the vehicles identified in the Summary of Findings presented to Council are either junked or nuisance as identified in those findings, and that with regard to the junked vehicles, the benefits to the City outweigh the cost to the citizen of removing the vehicles. The vote was as follows:

Ayes: Williamson, Adams, Willis, Spencer

Nays: Leak

DELEGATION

LUMBER RIVER COUNCIL OF GOVERNMENTS-ADRIAN LOWERY

Mr. Adrian Lowery of the Lumber River Council of Governments (COG) appeared before Council and explained that he had been working with Mrs. Deese and the City Manager concerning various grants from the Department of Commerce of which the City could apply. He discussed the North Carolina Catalyst Grant which will allow the City to conduct several activities. He further discussed improvements in Glen Acres and Newtown neighborhoods.

Mayor Parker expressed appreciation for Mr. Lowery attending the meeting and for the assistance the COG provides the City and other municipalities in the region.

CITY MANAGER REPORTS

UPDATE ON AUTOMATED METER READING SYSTEM

The City Manager explained that he wanted a representative from Datamatic to provide Council with an update on the Automated Meter Reading System. He added that there was no danger of the project failing; however, he wanted the company to explain why the project has taken longer than expected.

Motion was made by Councilmember Leak, seconded by Councilmember Williamson, and unanimously carried to move this item to the October 16, 2012 regular council meeting agenda.

CONSIDER ORDINANCE AMENDING CHAPTER 30 SOLID WASTE MANAGEMENT, ARTICLE I IN GENERAL, SECTION 30-1, DEFINITIONS, AND ARTICLE II COLLECTION SERVICE, SECTION 30-45 REMOVAL OF CONTAINERS

The City Manager explained that the current ordinance states that the garbage containers must be removed an hour after the garbage is collected. He added that staff felt this time limit was not realistic and was difficult to enforce; therefore, staff recommended providing citizens 12 hours to remove containers after collection.

Following a brief discussion, Councilmember Spencer moved to approve Ordinance No. O-2012-31 which amends Chapter 30 Solid Waste Management, Article I in General, Section 30-1, Definitions and Article II Collection Service, Section 30-45 Removal of Containers of the Code of Ordinances of the City of Laurinburg. Councilmember Adams seconded the motion and the vote was as follows:

Ayes: Spencer, Adams, Leak, Willis, Williamson

Nays: None

(Ordinance No. O-2012-31 on file in the City Clerk's office)

RELAY FOR LIFE

The City Manager explained that he had received an email requesting additional patrol by the Police Department during the Relay for Life being held the upcoming weekend.

Following discussion, it was consensus of Council that no additional security would be provided other than asking the Police shift covering the area where Relay for Life was being held to drive by more frequently.

APPOINTMENT

CRIME AND DRUG COMMITTEE

Mayor Parker explained that Mr. Stuart Blount represented the Scotland County School System on the Crime and Drug Committee. He added that Mr. Blount had relocated and the School System recommended Mr. Larry Johnson be appointed to the Crime and Drug Committee to replace Mr. Blount.

Motion was made by Councilmember Williamson, seconded by Councilmember Spencer, and unanimously carried to appoint Larry Johnson to the Crime and Drug Committee to replace Stuart Blount.

COMMENTS FROM MAYOR AND/OR COUNCIL

Councilmember Williamson explained that he had attended a Fly-In to Washington, DC along with Chamber, Scotland County, Tourism and Development Authority and Scotland Memorial Hospital representatives. He stated that the group met with Congressman Kissell and Senator Hagan along with Senator Byrd's staff. He concluded by stating that all attending felt it was worthwhile to talk about Laurinburg and Scotland County to our Washington representatives.

CLOSED SESSION

At 8:29 p.m. Councilmember Spencer moved to go into closed session pursuant to North Carolina General Statute 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 and pursuant to General Statute 143-318.11(a)(6) for the purpose of considering qualifications, competence, performance, character, fitness, conditions of appointment or conditions of initial employment of an individual public officer or employee.

The motion was seconded by Councilmember Adams, and unanimously carried.

At 8:52 p.m., motion was made by Councilmember Willis, seconded by Councilmember Williamson, and unanimously carried to adjourn the closed session and resume the open meeting.

RETREAT AGENDA

A discussion ensued concerning the process for hiring of the Human Resources Director. The City Manager explained that he was completing the arrangements for the Assessment Center and he would provide Council an update in his Weekly Report.

Mayor Parker explained that an agenda had been sent out to Council which he had decided on, and it is the privilege of Council to alter that agenda.

Discussion ensued concerning the agenda for the Retreat. Councilmember Willis explained that he thought the first part of the Retreat was to be in closed session so that Council could discuss specific measurable goals and objectives for the City Manager, and then move into prioritizing items for the Retreat Agenda.

Further discussion ensued concerning the Retreat Agenda.

Mayor Parker thanked the Assistant City Attorney for the manner in which he guided Council through the

quasi-judicial hearing held earlier in the meeting.

RECESS

Motion was made by Councilmember Willis, seconded by Councilmember Spencer, and unanimously carried to recess the meeting to Thursday, September 20, 2012 at 5:30 p.m. in the council room of the Municipal Building located at 303 W. Church St.

The meeting recessed at 9:04 p.m.

Thomas W. Parker III, Mayor

Jennifer A. Tippett, City Clerk