

**MINUTES OF THE
TOWN COUNCIL MEETING OF THE
TOWN OF PINEVILLE, NORTH CAROLINA
JULY 14, 2009**

The Town Council of the Town of Pineville met in regular session on Tuesday, July 14, 2009 at 6:30 p.m. at The Hut Meeting Facility in Pineville.

ATTENDANCE

Mayor: George C. Fowler
Mayor Pro-Tem: Libby Boatwright
Town Council Members: Les Gladden, David Phillips, and Jim Eschert.
Town Administrator: Mike Rose
Zoning Administrator: Kevin Icard
Town Planner: Travis Morgan
Town Clerk: Barbara Monticello

CALL TO ORDER

Mayor Fowler called the meeting to order at 6:28 p.m. and welcomed those in attendance. Town Administrator Mike Rose invited anyone wishing to speak on an agenda item to sign the speaker list.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Fowler called upon council member Les Gladden to lead us into the Pledge of Allegiance.

Mayor Fowler called for a moment of silence for the following individuals: town employees, Jaymes Holden who is making great progress and due to leave the hospital on Friday and Cliff Hunt who recently sold his house to move closer to relatives; Tilly Boatwright (doing better); George Thrower (doing much better); Ollie Satterfield (doing better); and Councilman David Phillips' sister, Van Wingate, (hospitalized for head injury).

ORDER OF BUSINESS

Adoption of the Agenda: There being no changes to the agenda, Council Member Les Gladden moved to adopt the agenda with Mayor Pro Tem Libby Boatwright seconding the motion. There were ayes by all and the agenda was adopted unanimously.

Approval of Minutes for the previous Regular Town Council Meeting of June 9, 2009, and the June 18th Called Meeting: Mayor Fowler called for a motion on the minutes from the last Regular Council Meeting and the Special Called Meeting. Council Member David Phillips moved to approve both sets of minutes which were seconded by Council Member Jim Eschert. There were ayes by all to approve both sets of minutes as is.

SPECIAL RECOGNITION

Mayor Fowler stated that several months ago Pastor Scott and his wife were celebrating their 20 year anniversary with the South Charlotte Baptist Church. He wanted to recognize them for this milestone event but was unable to attend services that weekend. A Proclamation in honor of the Scotts was drawn up and before Council for consideration. Mayor Pro Tem Boatwright moved to approve the proclamation for the Scotts. The motion was seconded by Councilman Gladden and there were ayes by all to approve the proclamation.

CONSENT AGENDA

The following items are included: a) *Set Zoning Public Hearing Date.* Mayor Fowler asked Town Administrator, Mike Rose, to explain the request for a Public Hearing. Mr. Rose explained that Egan Realty Services was requesting an additional “co-locate” to be added to the existing cell tower located at 12109 Lancaster Highway. Egan Realty Services is the agent for Clearwire Services. The cell tower, owned by AT&T, is located on town-owned property and the original Conditional Use Permit from 1996 requires that any additions to the cell tower are required to be brought back before Council for approval. Council Member Jim Eschert moved to set the Public Hearing date to August 11, 2009 and to approve the Consent Agenda with no changes. The motion was seconded by Mayor Pro Tem Boatwright and there were ayes by all.

PUBLIC HEARING

- A. Public Hearing for Proposed Financing Agreement** – *requested by the Town of Pineville to review and consider a financing agreement for the renovations of Jack D. Hughes Memorial Park, Phase II.* Mayor Fowler called for a motion to open the Public Hearing. The motion was made by Mayor Pro Tem Boatwright and seconded by Councilman David Phillips to open the Public Hearing at 6:38 p.m. There were ayes by all to open the Public Hearing. Town Administrator, Mike Rose, indicated that no one had signed up to speak at the hearing and pointed out that the hearing was being held to consider awarding a bid for the financing of Phase II of Jack D. Hughes Park to Branch Banking and Trust Co. (BB&T). An RFP was put out in June and two banks had replied back: BB&T and RBC bank. The financing was not to exceed 4.2 million dollars over a ten year period. BB& T came back as the lowest bidder with an interest rate of 4.23% and attorney fees of \$2,700. RBC bank offered a 4.93% interest rate with \$7,000 attorney fees.

Mr. Rose opened the floor for discussion and questions regarding the financing through BB&T. Mayor Fowler wanted to be sure that the \$4.2 million covered the cost of construction and money already spent on the project. Mr. Rose indicated that it would. That figure would also include the amount we would have to pay Woolpert, plus any change orders or unforeseen issues that may arise. Also, the town could use this money to reimburse itself for money already spent, should it decide to do that. There were no further questions and the motion was made by Councilman Eschert to close the Public Hearing at 6:42 p.m. Motion was seconded by Mayor Pro Tem Boatwright and there were ayes by all to close the Public Hearing.

Mr. Rose stated that along with holding the Public Hearing for financing, Council had to take action on two resolutions: the first resolution was to award the bid to BB&T bank and the second was to give the direction to file an application with the Local Government

Commission for approval of the financing agreement. Details of the agreement were discussed including discussion of the interest rate, penalty fees for early payoff of the loan and the possibility for negotiation on penalty fees. Discussion ended and Mayor Pro Tem Boatwright moved to approve Resolution No. 2009-15 to award the bid to BB&T Bank, seconded by Councilman Eschert. There were ayes by all to award the bid to BB&T.

Mr. Rose stated that Resolution No. 2009-16 also needed to be adopted directing the Town to file an application with the Local Government Commission for approval of financing. In order to file, nine findings of fact needed to be read into and made part of the minutes of the July 14, 2009 Town Council Meeting. Those findings of fact were stated as such:

- a) That the proposed undertaking is necessary and expedient;
- b) That the proposed undertaking is preferable to a bond issue for the savings in time and closing costs;
- c) That the amount of the agreement will be sufficient but is not excessive for the proposed financing of the construction;
- d) The Town is in compliance with the Local Government Budget and Fiscal Control Act;
- e) That the construction is feasible;
- f) That the Town's debt management procedures and policies are good;
- g) That no increase in taxes will be necessary to meet the sums to fall due under the proposed agreement;
- h) That the Town is not in default in any of its debt service obligations;
- i) That the Town's attorney has rendered an opinion that the proposed construction is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

Once the findings of fact were read into the minutes, Council Member Phillips moved to approve Resolution No. 2009-16 directing the Town to file an application with the Local Government Commission. The motion was seconded by Councilman Eschert and there were ayes by all to approve the resolution.

OLD BUSINESS

A. Proposed Zoning Text Change – *submitted by the Town of Pineville changing the length of non-conforming uses of structures and land and providing further information about allowable Sight Triangles on Town Maintained Streets.*

Zoning Director, Kevin Icard, stated that the Planning Board voted unanimously to recommend approval of the text changes. A couple of things were added per the recommendations of the Planning Board: when a property line is not clearly defined, the sight triangle will be determined by measuring a line 10 feet back from the back curb and all future graphics relating to sight triangles shall be to scale. Besides the timeframe changing from 180 to 90 days for non-conforming uses for structures and land, the Planning Board also recommended changing the word "abandoned" to "discontinued".

Mayor Fowler wanted to know how the town would make business owners aware of the changes. Mr. Icard responded that the changes would be posted on the town's website

and when the business was no longer being used as it was, the owner would be notified by first class mail. Council Member Phillips asked about those non-conforming uses that are currently going through the process. Mr. Icard indicated that if the process has already started, they would be grandfathered in and the 180 day rule would still apply to them. Regarding sight triangles, Mayor Fowler asked how he would survey the town to determine if areas were in compliance. Mr. Icard admitted they would not be able to catch everything but if anyone from the town were out and noticed it they would check into further as well as check on any complaints called in by residents. Mayor Fowler requested that he check the entrance to where the Purple Picket was and Mayor Pro Tem Boatwright asked him to check Reid Lane coming out on to Route 51.

Mayor Pro Tem Libby Boatwright moved to approve the text changes for both sight triangles and non-conforming uses. Council Member Les Gladden seconded the motion and there were ayes by all.

NEW BUSINESS

- A. Presentation of Bids** – Town Administrator, Mike Rose, handed out bid tabulation forms to each Council Member for reference in discussing the bids received for the proposed renovations of Jack D. Hughes Memorial Park, Phase II. He stated that a Pre Bid Meeting was held on July 2nd for those contractors that pre-qualified and the bid opening took place on July 9th at the Hut. Seven bids were received out of nine who pre-qualified. T.K. Browne was the lowest bidder coming in at \$2,993,508 and the highest bid at just over \$4 million. The Town must go through the Local Government Commission before the bid can actually be awarded but hopefully everything will be in place by August so it can be awarded at that time.

Discussion continued regarding the different options available that can be added on to the base price. Bid amounts for options were all over the place with some negative amounts appearing on the tabulation form. Mr. Rose explained that even though there was a pre-bid conference beforehand, he didn't think all the contractors understood exactly what was needed so some of the amounts appear to be strange. T.K. Browne was the company who completed the first softball field in Phase I of the project. Both Councilman Phillips and Mayor Fowler asked Mr. Rose his opinion of the company since they completed the first phase. Mr. Rose felt they provided an overall good product but needed to have stricter demands for keeping on schedule. He also added that concrete had to be poured three times before it was done correctly and that by state law, the town was required to take the lowest bidder.

Mayor Fowler wanted to know who would be on site to make sure the work was getting done correctly. Mr. Rose indicated that Woopert was the agent for the town and would be available to ensure that the job was being done right. He added that the base bid included a chain link fence with an option to upgrade to a wooden fence. The base bid also included standard playground equipment and field lighting with options to upgrade as well. Even with all the add-on options that T.K. Browne offered, their total package was still less than the \$4.2 million originally estimated to complete Phase II of the project. Their total price with all upgrades was \$3,096,545.

Even with a 5% contingency fund and fee for Woolpert, which would probably be less than \$100,000, the overall grand total would be around \$3.3 million, still less than the original projected amount. It was the consensus of Council to go with the \$3.3 million figure as opposed to the \$4.2 million that was approved for financing the project.

B. Korean War Memorial – Mr. Rose explained that a North Carolina Korean War Memorial was being placed in the Town of Mint Hill. Information regarding the project and a color rendering of how it would look was included in the Council packets for all to see. He thought it was nice to remember the veterans of the Korean War with this memorial but the price tag to complete it would require donations from outside sources. Mr. Rose explained that there were different memorials for individuals and corporate sponsors depending on the amount given. A \$2,000 donation would get us a granite bench with engraving on it. Council Member Les Gladden then moved to approve up to a \$2,500 donation which was seconded by Council Member Jim Eschert. There were ayes by all.

C. Staff Updates – (1) Mr. Icard gave an update regarding the NC 51 Corridor Study explaining that staff met with the Council of Governments to discuss the first phase of the study which would be to generate a list of potentials for the Steering Committee. Mr. Icard started to give suggestions on the breakdown of committee members but Mayor Fowler thought it would be best if Council took some time to consider possible members for the committee and get the names to him at a later date. Council Member Phillips wanted to know when he needed the names by and how many steering committee meetings there would be in Phase I. Mr. Icard would like to have a list of names by the August Council Meeting. Mr. Rose added that there would likely be 2 to 3 steering committee meetings. Mayor Fowler agreed to get the names to Mr. Icard by next meeting.

(2) Mr. Rose stated that the Historic Landmarks Commission recommended putting Main Street on the National Historical Register for historical places. This would put added protection on the buildings along Main St. and give substantial tax credits to property owners of these buildings. He explained that there is an application process and a study would have to be done at the cost of about \$11,000. He would like to also have an historical designation to the town's mill houses and tie it in with Main Street in some way. He was looking for Council's feeling on this.

Mayor Fowler indicated that since there had been talk of putting the mill houses under an historical designation in the past, this should be discussed first. He believed that was more important and asked Mr. Rose to discuss this with Dan Morrill to determine why there was a rush to put the designation on Main St. Councilman Phillips asked if other towns had this designation to which Mr. Rose replied that he thought Waxhall did and possibly Matthews.

Mr. Rose let Council know that there were new renditions of the proposed police facility now available and suggested a Special Meeting be held on July 21st at 4:00 p.m. He was looking for their approval of the newly revised elevations. The meeting will be at the Telephone/Electric building as it was previously.

Mr. Rose also brought to the attention of Council, three issues presently being discussed in Raleigh that may have potentially negative consequences to the Town:

- 1) Repealing the business license tax which would result in losing \$600,000 for the Town's budget;
- 2) Some tax money would be refunded to us on certain purchases we make resulting in approximately \$75,000;
- 3) And repeal of the beer and wine tax which could have a \$30,000 impact to the town

That would result in a total of \$700,000 of our budget disappearing, about 6 cents on our tax rate which is a major blow to most cities. The City of Charlotte opposes these changes and Mr. Rose has been talking with our delegates in Raleigh as well as writing them about his concerns and what this would do to our towns and cities. The League of Municipalities also opposes these ideas and is coming up with strategies to fight them.

ADJOURNMENT

A motion was made by Libby Boatwright and seconded by David Phillips to adjourn the meeting at 8:03 p.m. There were ayes by all.

Barbara Monticello, Town Clerk

George C. Fowler, Mayor