

**MINUTES OF THE
TOWN COUNCIL MEETING OF THE
TOWN OF PINEVILLE, NORTH CAROLINA
SEPTEMBER 8, 2009**

The Town Council of the Town of Pineville met in regular session on Tuesday, September 8, 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.

Mayor Fowler recognized Boy Scout Troop 165 from Living Savior Lutheran Church. He asked each of the three Scout Masters and each scout to introduce themselves. The scouts were in attendance to fulfill requirements for earning a badge.

Mayor Fowler introduced Mr. Tim Morgan, candidate for the school board. Mr. Morgan spoke briefly on his background, qualifications and interest in running for this position.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Fowler called upon Mayor Pro Tem Libby Boatwright to lead us into the Pledge of Allegiance.

Mayor Fowler called for a moment of silence for the following individuals: George Thrower (ill with cancer); Tammy Watson's dad, Wayne Duvall (ill); and town employee, Jaymes Holden who was back at work but still attending rehab twice a week.

ORDER OF BUSINESS

Adoption of the Agenda: There being no changes to the agenda, Council Member David Phillips moved to adopt the agenda with Mayor Pro Tem 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 August 11, 2009
Mayor Fowler called for a motion on the minutes from the last Regular Council Meeting.

Council Member Les Gladden moved to approve the minutes which were seconded by Council Member Jim Eschert. There were ayes by all to approve the minutes as is.

Special Recognition: Mayor Fowler called for motions on three proclamations:

- a) *Proclamation in honor of Constitution Week – Sept. 17th – Sept. 23rd*
- b) *Proclamation in honor of Public Power Week – Oct. 4th – Oct. 10th*
- c) *Proclamation in honor of Textile Heritage Week – first week of Oct.*

Mayor Pro Tem Libby Boatwright moved to approve all three proclamations. The motion was seconded by Council Member Les Gladden. The vote was unanimous to approve all three proclamations.

CONSENT AGENDA

The following items are included: a) *Set Zoning Public Hearing Date to October 13th to Rehear Subdivision Request by Mr. Earl Coulston/Blue Ridge Company for Netherby Subdivision;* b) *Tax Collector's settlement for Fiscal year 2009;* c) *Budget Amendment for Police Radios.* A motion was made by Councilman Eschert and seconded by Mayor Pro Tem Boatwright to adopt the Consent Agent as is. There were ayes by all.

OLD BUSINESS

- A. Public Hearing for Amendment to Conditional Use Permit** – *submitted by Egan Realty Services on behalf of Clearwire, for the real property located at 12109 Lancaster Highway, identified as Tax Parcel ID 221-511-03. This property is located behind the Waldhorn Restaurant and is owned by the Town of Pineville. The request is to allow for the co-location of services on the existing cell tower, including the addition of ground equipment facilities.* Planning Director, Kevin Icard stated that the amendment was to add a co-location on an existing cell tower. Council must make a decision based upon a list of Findings of Fact which he provided a sample of. He added that the Planning Board no longer reviews CUP amendments and this one met all the requirements of our Zoning Ordinance. Once a decision is made, a written statement is sent to the applicant. Town Administrator Mike Rose added that the amount of the rent would be determined through the AT&T Agreement currently in place.

Mayor Pro Tem Libby Boatwright moved to approve the amendment to the CUP based on the following Findings of Fact:

- 1) The Town of Pineville is the owner of the parcel at 12109 Lancaster Highway, in Pineville, NC.
- 2) The current use of the property is an electrical sub-station used by Pineville Electric Company, and a cell tower used by AT&T.
- 3) The leased area is 85' X 85'.
- 4) The property is currently zoned B-4 (Highway Business District) which allows for cell towers with a Conditional Use Permit.
- 5) The additional antennas & microwave dish will be located at 122'(feet) and are no taller than 24"(inches).
- 6) A portion of the interior fence will be relocated to allow for an additional cabinet.
- 7) The additional cabinet measures 3' X 3' (feet) wide and is no taller than 5' (feet).
- 8) Eagan Realty Services submitted an application on June 11, 2009, for the right to

co-locate an additional dish and antenna.

- 9) The original Conditional Use Permit from 1996 requires that all additions to the Tower come before the Planning Board for approval. However, since the Planning Board no longer reviews CUPs, it falls back to Town Council to review and make a decision on the plan.
- 10) On August 11, 2009 the Pineville Town Council held a Public Hearing for the co-locate for Clearwire.

Councilman David Phillips asked about the high growth of the vegetation around the tower. Mr. Icard indicated that the Public Works Department had cut and trimmed some of the growth but he still needed to contact AT&T about some of the additional growth that was theirs to maintain. He added that the shrubs needed to be kept as screening. Council Member Jim Eschert then seconded the motion and there were ayes by all in favor of amending the CUP for the additional co-locate.

- B. Acceptance of Roads in Carolina Crossing/Agreement with Developer --** *Consideration of accepting roads in the Carolina Crossing Subdivision contingent on final repairs to the roads as per approved agreement.* Mr. Icard stated that he, the town's Public Works Director, a representative from Asphalt Construction, David Jarrett with Rhein Development Group and Heath Nestor with NR & Associates all met at Carolina Crossing to review the issues with the roads. They started at one end of the development and worked their way to the other end identifying and photographing all the problems and documenting the repairs needed to correct them. All parties agreed to the required improvements needed on the "punch list" that was drawn up and identified as "Exhibit A". There are two roads by the town homes with no garages that are private and will not be maintained by the town.

Staff recommended that Council authorize the Town Administrator to conditionally agree to accept the roads by entering into an agreement. They would have 90 days to complete the work with a 30 day extension if needed. There were still some concerns about what the consequences would be if roads were not completed, if handicapped access was required there, and if the weather would affect the timeframe for completion. Mr. Rose stated that if the work did not get completed, the town could hold back whatever it could at that point. The town has since implemented stronger holds on bonds and stronger demands on better construction of roads. He agreed to check on the ADA requirements to be sure they were included and with the weather moving into the fall season, they should be able to complete the work without too many inclement weather problems.

Councilman Les Gladden was very concerned about the timeframe for completion. In his estimation the work that was indicated on the sheet should take no more than a week and that 120 days was too long to allow for the repairs. He believed that they should be given no more than 60 days total to complete all the work. With that said, he moved to authorize an agreement for acceptance of the roads contingent upon the work being completed within 60 days. Councilman Phillips seconded the motion and there were ayes by all.

- C. CONNECT – A presentation by COG and resolution for consideration in support of their regional vision.** Town Administrator Mike Rose reminded council that at last month's meeting, they opted to table the CONNECT Resolution that was part of the presentation as there was some concern as to whether the City of Charlotte would be

participating. Although Charlotte was considering joining the effort, a decision would not be forthcoming until the end of the year. Although there was nothing new to report, he wanted to let Council know that they could continue to table this item until the beginning of the New Year to see what happens at that time or they could choose to adopt, endorse or simply be in support of the resolution with the signatures currently obtained. Mr. Rose provided a list of the other towns that had already signed on to the CONNECT program. A discussion followed with the Planning Director indicating that he had already begun to go to some of the meetings and found them to be helpful especially as a means of networking with parts of South Carolina like York and Lancaster Counties. Even though these counties are located just to the south of us, nothing had been known about their master plans or zoning ordinances prior to these meetings in which a lot of information had been exchanged. Council Member Eschert reasoned that since the town was already attending such meetings, it may as well sign on to the CONNECT vision. He motioned to approve Resolution No. 2009-04 to adopt the regional CONNECT vision. Mayor Pro Tem Libby Boatwright seconded the motion and there were ayes by all.

NEW BUSINESS

- A. Discussion of Ordinance Regarding Cars for Sale** (*information item*). Town Administrator, Mike Rose stated that he was starting to see a number of cars for sale on street corners and in commercially zoned vacant lots. He had done some research and found that some of these cars that are for sale are actually being sold by unscrupulous merchants of used cars that are trying to circumvent the legal, financial and ethical obligations that licensed dealers are required to meet. Multiple cars along the commercial corridor can also become unsightly and a target for crime. Mr. Rose was seeking feedback from Council as to whether a formal ordinance should be drawn up. Mayor Fowler was in favor of it and Councilman Les Gladden noted there were at least 8 vehicles for sale from Main Street to I485, with some sitting for as long as several months.

Discussion continued with Councilman Phillips inquiring about the effect this would have on individuals who wanted to legitimately sell their vehicles. Mr. Rose indicated that the ordinance could be done in any number of ways from very strict to very lenient with leeway to tailor it to the town's needs. The general consensus of the Town Council was to proceed with a more formal ordinance to present at the next meeting.

- B. Staff Updates** – Mayor Fowler asked for an update on the Historical Landmarks Commission and the possibility of getting the “mill village” section of town listed in the National Registry. Mr. Rose stated that he contacted Ms. Ann Swallow who indicated that Pineville had been on a study list since 1989. She thought that both the Main St. and the “mill village” could be done at the same time but wanted to come and see both areas for herself. She will be unable to get to this area until sometime in mid October.

Mayor Fowler then asked about the meetings for the Jack D. Hughes Park renovations. Mr. Rose stated that there will be a meeting every other week on the 1st and 3rd Wednesday of each month. He will be in the meetings with Woolpert as well as Bobby Howington.

(1) *Fall Fest* – Mr. Rose reminded Council that the town will have a booth at this year's Fall Fest which is October 16th and 17th. Pineville Telephone and Electric will also be

included, with the hybrid electric vehicle on display in front of the booth. He also reminded Council of the upcoming NCLM Annual Conference which will be held October 25th and 26th in Greenville, NC. The annual Fishing Tournament sponsored by the Pineville Volunteer Fire Department will be held on October 24th at Pineville Lake Park and Textile Heritage Day was being celebrated on October 9th. He added that the Daughters of the American Revolution were holding their September 9th meeting at the Pineville Telephone/Electric Building and the Proclamation for Constitution Week would be presented to them at that time.

There were no further comments or discussion. Council Member David Phillips moved to adjourn the meeting, which was seconded by Council Member Les Gladden. There were ayes by and the meeting adjourned at 7:47 p.m.

George C. Fowler, Mayor

Barbara Monticello, Town Clerk