

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

The Town Council of the Town of Pineville met in regular session on Tuesday, December 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 Attorney: Robin Currin
Town Clerk: Barbara Monticello

CALL TO ORDER

Mayor Fowler called the meeting to order at 6:27 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: Johnny Mack Satterfield (ill with cancer); Peggy Vick (passed); and Lyghtie McCoy (passed). Mayor Pro Tem Boatwright also asked that her co-worker, Alicia Robinson be recognized (ill with cancer).

ORDER OF BUSINESS

Adoption of the Agenda: There being no changes to the agenda, Mayor Pro Tem Libby Boatwright moved to approve it with Council Member Eschert 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 November 10, 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 as is. The motion was seconded by Council Member Jim Eschert and there were ayes by all to approve the minutes from the November 10, 2009 meeting.

CONSENT AGENDA

The following items are included: *a) Budget Amendment – Police Department b) Set Zoning Public Hearing Dates.* A motion was made by Mayor Pro Tem Libby Boatwright and seconded by Council Member David Phillips to adopt the Consent Agent as is. There were ayes by all.

OLD BUSINESS

Netherby Subdivision Request – *Submitted by the Town of Pineville as required by the NC*

Superior Court, to rehear the Subdivision Request by Mr. Earl Coulston/Blue Ridge Company for the Netherby Subdivision located off Lakeview Drive, Pineville, NC. Following is a direct quote from Mayor Fowler:

“We are back to consider the Netherby at Regent's Park Subdivision Application. A rehearing was held last month pursuant to the Court's order. The hearing was closed and it is now time for the Council to bring the matter back to the table for discussion.

As you know, there are essentially two issues before you. Specifically, the Applicant was required to present evidence that would establish that it had met the requirements of Section 6.150 of the Subdivision Ordinance. You are all familiar with the Ordinance, but in sum, Section 6.150 states as follows:

- **‘Subsection (1)** All subdivisions ... approved under these regulations should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities.’

and

- **‘Subsection (2)** All proposed subdivisions should be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas with existing development, new subdivisions should be planned so as to protect and enhance the stability, environment, health and character of the neighboring area. . . .’

Prior to the rehearing, and also as proscribed by the Court, the Town provided two Memos to the Applicant so they would have notice of the criteria the Council would rely upon in reviewing the Application under Section 6.150. These Memos are in the record and the Applicant's attorney has acknowledged they were timely received.

One Memo provided a list of the specific adopted plans and policies in effect for the area that the Council would consider, and the Applicant was also given copies of the plans and policies themselves. The second Memo listed the criteria the Council would consider when reviewing the Application under the Conformity standard in 6.150.

The Applicant has presented its case and both proponents and opponents have been given the opportunity to state their positions. Now, is there any discussion or does anyone want to make a motion?”

Councilman Les Gladden spoke stating:

“ I have reviewed the transcript and the exhibits and do not believe the Applicant has met its burden under Section 6.150 (1) or (2).

Specifically, as stated in the Town's March 10, 2009 Memo relating to "Plans and Policies on File," the Applicant was required to show compliance with the Town of Pineville Future Land Use Plan and the Little Sugar Creek Greenway Master Plan. Among other things, the lack of sufficient greenway and active open space lead me to the conclusion

that the requirements of Section 6.150 (1) were not met. Moreover, in my opinion, not only did the Applicant not meet its burden under this Section, but the evidence showed the Application was actually inconsistent with the Town's adopted plans and policies.

Additionally, the Town's March 10, 2009 Memo relating to "Conformity" set forth the factors the Council would consider under Section 6.150 (2). I do not think the Applicant met its burden under this Section either for various reasons. For example, because there is only one entrance to the proposed subdivision and there would be substantial increase in the number of cars on Lakeview Drive and other nearby streets, a key concern was the effect the additional automobile traffic would have on the existing Lakeview neighborhood's character, and quality and way of life. Based on the evidence, I do not think the Petitioner showed the proposed subdivision was planned to protect and enhance the neighboring area's stability, health or character. Instead, the evidence showed there would be an adverse effect because of the additional traffic, higher density and other characteristics of the Application.

Therefore, I would move that the Application be denied based on the Applicant's failure to establish compliance with Section 6.150 (1) or (2) of the Pineville Subdivision Ordinance."

With that stated, Mayor Pro Tem Libby Boatwright seconded the motion for denial. The vote was unanimous to deny the subdivision request. Also included as part of these minutes are attachments labeled, Exhibit A, Exhibit B and Exhibit C.

NEW BUSINESS

- A. Municipal Speed Limit Ordinance/NC 51 –(1) Consideration of a Municipal Speed Limit Ordinance prepared by NCDOT declaring 45 mph speed zone along NC 51 from the South Carolina State Line to a point 1.03 miles east.** Mr. Rose stated that with the widening of NC 51, the state now wanted to reduce the speed limit from 55 to 45 mph on a portion of the road from the state line to 1.03 miles east. Mr. Rose stated that the town agrees with the state especially with an increase of population with the new McCullough neighborhood going in. Staff recommended approval of the speed limit change. Councilman Gladden asked that they look into Dorman Road area around the state line as well. With the assisted living facility so close, he thinks a speed limit adjustment is needed.

Councilman Phillips added that something should go out in the newsletter to let residents know that the speed limit has been reduced. Mayor Pro Tem Boatwright then moved to approve the change which was seconded by Councilman Phillips. There were ayes by all to concur with the state to pass the speed limit change and to sign a Town Resolution No. 2009-20 in support of the change.

- B. Recognition of Councilman Les Gladden – Council and staff would like to recognize Councilman Gladden for 10 years of outstanding service to the Town of Pineville.** Mayor Fowler spoke about Les Gladden serving 5 terms as Councilman on the Town Council as well as serving on the Board of Adjustment. He was most impressed with how Councilman Gladden was involved with the design of the Mercedes dealership on North

Polk St. The Mayor has received a lot of positive comments on the building and people are quite impressed with the look of it. Mayor Fowler also mentioned that future Mercedes dealerships are being modeled after this one.

Mayor Fowler continued noting that Councilman Gladden was also involved with the design of the McCullough neighborhood and Carolinas Medical campus. His most recent idea was to install the "Pineville Welcomes You" sign on North Polk St. but he also recognized zoning issues along NC51 and has become part of the steering committee for a small area plan in that district. He was a strong advocate of better community appearance and the COPS program and has served as a volunteer fireman for Pineville for many years. He has truly dedicated his heart and soul to Pineville and the Mayor thanked him for his ten years of public service and presented him with a commemorative clock. Each council member also said a few words in recognition of Councilman Gladden.

There was no further business and a motion was made by Councilman Phillips to adjourn the meeting at 6:46 p.m. Mayor Pro Tem Boatwright seconded the motion and there were ayes by all to adjourn.

George C. Fowler, Mayor

Attest:

Barbara Monticello, Town Clerk

SWEARING IN CEREMONY

Mayor George Fowler opened the next meeting at 6:47 p.m.

ATTENDANCE

Mayor: Mayor George Fowler

Town Council Members: Libby Boatwright, Debbie Fowler, David Phillips and Jim Eschert

Town Administrator: Mike Rose

Planning Director: Kevin Icard

Town Clerk: Barbara Monticello

Town Clerk, Barbara Monticello, presented the Oath of Office to Mayor Fowler. The oath was signed and made part of these minutes.

Mayor George C. Fowler presented the Oath of Office to the Town Council Members while each placed their hand on the bible. Oaths for each Council Member were signed and made part of these minutes.

CALL TO ORDER

Mayor Fowler called the meeting to order.

Each board member said a few words of thanks and appreciation to the residents of Pineville and stated they looked forward to serving during the 2010 – 2011 term on the Pineville Town Council.

Mayor Fowler also expressed his appreciation for support over the years and was looking forward to working everyone on the Council as well. He added that Pineville was the smallest town in Mecklenburg County but the envy of a lot of other towns. He was very proud of Pineville. He thanked all who attended the Council meeting and welcomed them to enjoy refreshments.

ADJOURNMENT

A motion was made by Debbie Fowler, seconded by Libby Boatwright to adjourn the ceremony at 6:50 p.m. Ayes by all.

Barbara Monticello, Town Clerk

George C. Fowler, Mayor