

**MINUTES OF THE
TOWN COUNCIL MEETING OF THE
TOWN OF PINEVILLE, NORTH CAROLINA
February 9, 2010**

The Town Council of the Town of Pineville met in regular session on Tuesday, February 9, 2010 at 6:30 p.m. at The Hut Meeting Facility in Pineville.

ATTENDANCE

Mayor: George C. Fowler
Mayor Pro-Tem: David Phillips
Town Council Members: Libby Boatwright, Debbie Fowler, 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 6:25 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

Presentation of the Colors and the flag salute was lead by Cub Scout Pack 502. After the pledge of allegiance concluded, Mayor Fowler introduced the scouts stating that they were chartered by the Harrison Methodist Church. Each scout gave their name and made a brief statement about their scouting experience. Mayor Fowler announced that a proclamation had been signed at the last Council meeting in honor of the Boy Scouts of America who were celebrating their 100th anniversary this month. He presented the proclamation to the pack and encouraged citizens to help recognize and celebrate the occasion. He thanked them for attending and for all the good work they do.

MOMENT OF SILENCE

Mayor Fowler called for a moment of silence for the following individuals:

Eva Honaker (father passed); Leon Neely (ill); Johnny Mack Satterfield (ill); Gaynell Crump (fell); Kathy Herman (cancer); Tim Jacobs (open heart surgery); and former town employee, Cliff Hunt (brain tumor).

ORDER OF BUSINESS

Adoption of the Agenda: There were changes to the agenda that included the addition of two more resolutions which were distributed to each council member. Council Member Debbie Fowler moved to approve the agenda with the changes. Council Member Libby Boatwright seconded the motion. There were ayes by all and the agenda was adopted unanimously with the changes.

Approval of Minutes for the previous Regular Town Council Meeting of January 12, 2010 and the Executive Session: Mayor Fowler called for a motion on the minutes from the last Regular Council Meeting and the Executive Session. Mayor Pro Tem David Phillips moved to approve both sets of minutes as is, with Council Member Jim Eschert seconding the motion. There were ayes by all to approve both sets of minutes from the January 12th meetings.

Special Recognition: Mayor Fowler stated that Miss Pearl Satterfield, grandmother of former Councilman Les Gladden, was celebrating her 100th birthday on February 11th. A proclamation was before Council honoring this milestone event. He also noted there would be a birthday luncheon in her honor Thursday afternoon at the Belle Johnston Community Center and recognition at the annual Valentine's Banquet scheduled for Friday, February 12th. Council Member Libby Boatwright moved to approve the proclamation in her honor with Council Member Debbie Fowler seconding the motion. There were ayes by all.

CONSENT AGENDA

The following items are included: a) *Telephone Board Appointments;* b) *Tax Refunds for Direct Print Imaging, Kenna Crane & Hoist, LLC, Chase Home Finance LLC, Sharon W. Thomas;* c) *Set Zoning Public Hearing Dates.* A motion was made by Council Member Debbie Fowler and seconded by Libby Boatwright to adopt the Consent Agent as is. There were ayes by all to adopt the consent agenda as is.

PUBLIC HEARINGS

- A. Conditional Use Permit (CUP-2010-01) – submitted by Andrew Whiteaker, Zoning Manager for PetSmart, Inc. to allow for indoor only animal boarding at 10200 Centrum Parkway, zoned Office Commercial (O-C) requiring a Conditional Use Permit.** Council Member Libby Boatwright moved to open the hearing at 6:45 p.m. which was seconded by Council Member Debbie Fowler. There were ayes by all to open the public hearing. Mayor Fowler administered the oath to town employees, Kevin Icard and Travis Morgan, along with Mr. Andrew Whiteaker of PetSmart.

Town Planner, Travis Morgan, stated his name and affirmed that he had been sworn in. He stated that the first Conditional Use Permit for the year was for PetSmart who was requesting to add an indoor boarding facility of 6,000 sq. feet at the rear of the store. He added that there would be no additions or changes to the façade of the building and that the Pineville Zoning Ordinance requires conditional approval and a public hearing. Mr. Morgan introduced the applicant, Mr. Andrew Whiteaker who was present to address any

questions regarding the proposed facility.

Mr. Whiteaker affirmed that he had been sworn in and that he was from Phoenix, AZ. He stated that PetSmart was a specialty retailer looking to set up a pet hotel inside their current facility in the Centrum Shopping Center. He made a short presentation stating that the hotel would be made up of suites for both cats and dogs. The suites would consist of ceramic tiled units throughout making easy to clean and maintain. Staff would be made up of certified, pet-trained employees. There would be no odor or sound issues from the outside of the building.

A slide of the existing floor plan showed approximately 26,000 square feet of floor space which Mr. Whiteaker stated would be consolidated for the sale of the pet products reserving about 6,100 square feet for the pet hotel. Council Member Boatwright wanted to know if there would be any outside activities and Mayor Pro Tem Phillips asked what they would do with any excess inventory they had. Mr. Whiteaker replied that there would be no outside activities. Pet-walking would take place through the atrium area with an area on the floor plan indicated in blue that would be utilized for excess inventory.

There were further questions from Council including the number of pet hotels currently in operation, number of employees, the parking situation and drop off and pick up times. Mr. Whiteaker addressed all questions stating that there were about 150-160 other PetSmart pet hotels in operation with approximate 40 employees at a typical store. The pet hotel facility would add approximately 25 additional employees and there was sufficient parking. Although the store hours were from 9:00 a.m. to 9:00 p.m. Monday through Saturday and 10:00 a.m. until 6:00 p.m. on Sunday, the store would allow for early drop-off of pets between 7:00 a.m. and 9:00 a.m. He did not think this would pose a problem since the building is located in the very back of the shopping center away from the other stores. He also addressed concerns about care for the animals should they need medical attention. Two pet care specialists would stay overnight to care for the animals. PetSmart always takes the pet owners vet information but also partners with Banfield Vet Services and they have a 24 hour emergency facility they utilize in case of emergencies.

Hearing no further questions or comments, Council Member Jim Eschert moved to close the public hearing which was seconded by Council Member Debbie Fowler. There were ayes by all to close the public hearing. Town Administrator, Mike Rose, stated that the issue would be brought back before Council next month to render a decision.

B. Joint Public Hearing: Small Area Plan – *Submitted by the Town of Pineville for the "Western" portion of Pineville including land that is bound by (North of Highway 51, (West of) Downs Circle, (East of) Nations Ford Road & (South of) Amon Lane. Majority of land is zoned General Industrial but Town Council will hear draft proposal from Centralina Council of Governments as contracted by the Town to help with future growth plans for the area.* Council Member Fowler moved to open the Joint Public Hearing for a Small Area Plan. Council Member Boatwright seconded the motion with ayes by all to open the hearing at 7:00 p.m. Mr. Icard stated that the Town had contracted with COG for a small area plan and Mr. Bill Dustin was in attendance to make a presentation of the

findings.

Mr. Dustin noted that the Stakeholders, owners of the properties within the study area, were all notified of the study and asked for their feedback. From that, a Steering Committee was formed that included stakeholders, Planning Board Members and Elected Officials. If Pineville Town Council adopts the plan, nothing will change as it would be just a plan. However, if any changes to the Zoning Code or map were needed, that would have to be done through a separate process. Mr. Dustin pointed out that most of the study area was undeveloped except for business parks and it was currently zoned General Industrial with two overlay districts in place: Neighborhood and Corridor.

Mr. Dustin stated that the study was comprised of three areas with the southwest corner being Area 1, north of it between Nations Ford Rd. and Downs Rd. was Area 2, and the remaining section was Area 3, comprised mostly of flood plain with a few residences and a DOT facility. The Steering Committee was recommending that there be showcase development with mixed use in Area 1, almost like Birkdale in Huntersville or Ballantyne in South Charlotte. This area would be where the most development would take place and introduce the potential for a residential component. It would consist of destination-type uses such as grocery stores or banks. The committee proposed new roads to connect the areas and a greenway along the creek to Sugar Creek. The main access would be from NC51 but it would not be the only access.

Mr. Dustin also stated that since the new McCullough is zoned for mixed use with a 25,000 sq. foot commercial component planned, other development should be kept in line with it. Areas with employment or commercial centers should be high quality, well-planned, and aesthetically-pleasing to the eye. The Corridor Overlay District should remain in place. The Neighborhood Mixed Use Overlay District that is currently in place, however, may need to be reworked as it would be impractical to build that close to the right-of-way. A new designation may need to be considered such as Employment Center or some sort of light manufacturing district.

Area 3 should include a residential component, possibly townhomes or condos. Downs Road should be developed with upscale commercial uses with residential in the interior. This would allow for the current, Neighborhood Mixed Use Overlay to remain in place as long as it is reworked to allow for less stringent build-to lines and a greater front setback requirement.

Mayor Pro Tem Phillips asked about a small parcel of land south on NC51 and what was recommended for that parcel. Mr. Dustin replied that the Steering Committee recommended Retail Commercial. Mayor Pro Tem Phillips remembered that a property owner in the study area had once asked to have the zoning changed for his property. Mr. Rose responded that he did but that there were no plans in place for what they wanted developed there so no changes were made. He added that the plan would go back before the Planning Board in February for their recommendation. Motion was made by Council Member Boatwright and seconded by Council Member Eschert to close the Public Hearing at 7:35 p.m. There were ayes by all to close the hearing.

OLD BUSINESS

None

NEW BUSINESS

- A. Parks and Recreation Evaluation Report** – *Andrew Pack of Woolpert and Dan Wells of Recreational Consultants, LLC, will present preliminary findings of the Parks and Recreation Evaluation Report.* Mr. Rose stated that Andrew Pack along with an outside consulting firm performed an evaluation of Pineville's Parks and Recreation Department and they were on hand to present their recommendations. Mr. Andrew Park spoke briefly on the need for an evaluation now that the renovations of Jack Hughes Park were taking place. He called upon an independent company, Recreational Consultants, LLC, to perform the evaluation. He introduced Mr. Dan Wells who was not only a consultant, but the Town Manager for Kingstree, South Carolina.

Mr. Wells explained that he was a recreational consultant who was asked to participate as an impartial third-party to review and evaluate the Parks and Recreation Department of Pineville. There were a variety of programs that the town offers its residents, including Camp Pineville, which is a tremendous service to the community. He noted that while a successful Parks and Recreation Department needed to have a "signature" event which he concluded was the town's FallFest celebration, it was lacking a program to commemorate the July 4th holiday. He suggested developing something around this holiday.

Mr. Wells observed that the department had remained much the same for the past 13 years and it was time now to evaluate it and make necessary changes. Staff, as it exists today, was being over-extended, noting that it takes a lot of hours to prepare for even the simplest of events. Using an Easter Egg Hunt as an example, he explained the months of planning and preparation that takes place prior to the event which only lasts a few minutes. Proper staff is needed for varied programs especially if baseball and other sports are offered along with arts and crafts. Position descriptions haven't been updated since 1997 so they will need to be reviewed and updated.

He also stated that with the renovation of Jack Hughes Park underway, it will be important to plan now for the future. It will be a unique center, different than any place in Mecklenburg County so it will be necessary to concentrate and capitalize on it. He stated that it was imperative to start partnering with other organizations and resources such as a AA or AAA team, along with adding an events or sports-type employee to the staff very soon. He also recommended that the Parks and Recreation Department have its own maintenance crew, separate from the town's Public Works Department, because they would be more informed, involved, and engaged in park programs and the grounds. Policies and procedures must be established, written out, and become public knowledge so that staff can ensure they are carried out consistently and fairly.

Regarding the advertising of programs and events, Mr. Wells commented that the newsletter was good along with the website, which needed to be kept up-to-date with no typos. He suggested that a 4 x 8 or 5 x 10 foot digital message board at the park entrance

would be great advertising for events along with email blasts and stuffers in the utility bills. He noted that staff should be informed and engaged in all events and programs. He recommended the department adopt a mascot or some sort of branding and that the logo must be on everything. Concluding, Mr. Wells noted that a community vision is needed as well as developing a Comprehensive Master Plan in which to measure benchmarks and standards.

Both Mayor Fowler and Council Member Jim Eschert thanked Mr. Wells for his very informative presentation.

B. Presentation of Bids – *Consideration of bids received for the proposed construction of the Pineville Police Headquarters.* Mr. Rose stated that originally there were a total of 30 contractors interested in the project but a pre-bid meeting helped narrow down the field to those that were able to handle the project. Final bids were tallied with a total of 11 contractors submitting proposals for the construction of the new police facility. He explained that there was a total base bid listed for each contractor which included site work and the building construction. There were five additional design alterations that could be factored in or left out, depending on what features Council decided to go with. With all the features factored in, Randolph Construction was the low bidder. He added that the communications part of it would be bid out separately for an additional cost of \$152,000, along with \$325,000 in architectural fees, and another \$200,000 needed to furnish the building.

Mr. Rose indicated that staff was recommending all alternate features be removed, and with the additional costs he just mentioned, the total for everything to complete the project would be about \$6.1 million, adding that he wanted this to be a forty-year building and not one that the police department would grow out of in five years. He proposed that with a budget amendment and borrowing \$4.5 million with a very favorable interest rate, the project was doable without raising taxes or reducing the level of service currently provided to residents. Mayor Fowler added that \$4.5 million was the amount of debt service that the town could afford without raising taxes.

Mayor Pro Tem Phillips was surprised by the high price tag and questioned why a precast canopy was needed and what other alternatives could be used for a less expensive covering. Planning and Zoning Director, Kevin Icard, stated that the architects may have chosen that type of canopy to be consistent in the type of materials being used on the facility but it was not something that the town's Zoning Ordinance required. Mr. Rose noted that the town had asked the architects to design a functional building for now and years to come and because of its location on Main Street, it needed to be something that met or exceeded the town's own standards. He also added that a cheaper building could be constructed, but not on that lot.

Mayor Fowler asked what the process would be to get the price down. Mr. Rose stated that the architects would need to redesign the building, rebid all over again, and re-file the application with the Local Government Commission. The money that would be saved in constructing a scaled-down building would be offset for costs already incurred to date. He noted that with \$450,000 in capital needs this year other things would need to be put

off but by next budget cycle, it would be a lot less.

Council Member Eschert asked if someone would be present to oversee the project. Mr. Rose indicated that the town was looking to hire a new employee in the Public Works area that had his inspector's license from previous employment. With his background and knowledge, they were looking to utilize him to help oversee the project and to keep change orders to a minimum.

Mayor Pro Tem Phillips wanted to know if all the contractors that bid on the project were local. Mr. Rose stated that he believed all were located somewhere in North Carolina. He continued, stating that Council did not have to award the bid tonight but three different resolutions were before the board that did have to be voted on tonight to make the deadline for submission to the Local Government Commission:

- An application to the Local Government Commission for financing approval of the project
- An authorization to do business with Suntrust Equipment
- A budget amendment to offset the difference between the total amount needed to construct the building (\$6.1 million) and the amount the town was intending on borrowing for the project (\$4.5 million).

Council Member Fowler asked if anything could be changed. Mr. Rose responded that there was some room for negotiation but they had already eliminated what they could. In response to a question posed by Council Member Boatwright, Mr. Rose explained that the bid proposal requested references and that each were checked. That was the only way to determine if the companies that bid on the project were reputable. Several Council Members noted that one contractor had indicated that construction could be completed in 240 days, but they believed it would take longer than that especially if there were weather-related hold ups. Mr. Rose added that there was a contingency in the agreement that would force the contractor to pay liquidated damages to the town if they went beyond their estimated timeframes.

Discussion continued amongst Council Members with additional questions asked about the contractors, financing, and consequences if they voted for more time. Mr. Rose stated that initially there were over 30 contractors that were interested in the project but with the pre-bid qualification meeting, some had to be eliminated because they were not capable of handling the project. He noted that one contractor, Randolph, had previously constructed a police department elsewhere and that he was in possession of portfolios for each of the companies that put final bids in on the project.

Realizing that there was some hesitation from Council, Mr. Rose explained that Council still had the option of voting no on moving forward with the project at the next Council Meeting on March 9th without any penalty to the town. The reason for the urgency to move forward tonight was really to secure the financing at the interest rate quoted at the time the proposal was sent to us. Finance Director, Ann Wilson, explained that most financial institutions would not guarantee their interest rate for more than 60 days due to the ever-changing market but the application still had to be submitted to the Local

Government Commission for approval. She added that the commission only met once a month and was planning its next meeting very soon. In order to be put on their agenda, all paperwork had to be submitted to them by noon tomorrow.

C. Proposed Financing Agreement – *requested by the Town to review and consider a financing agreement for the Police Headquarters Facility (ACTION ITEM).* Council Member Debbie Fowler moved to open the Public Hearing for proposed financing of the new police facility. The motion was seconded by Council Member Jim Eschert. There were ayes by all to open the public hearing. Town Administrator, Mike Rose, explained that the bid for financing of the new police facility had gone out in January and there were three bids received with Suntrust Equipment Finance & Leasing Corporation coming in the lowest with a 3.58% interest rate on a loan of 4.5 million dollars over a course of ten years. Mr. Rose read into the record, the following nine findings that the Council has determined to be correct:

- (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) No increase in taxes will be necessary to meet the sums to fall due under the proposed agreement;
- (h) The Town is not in default in any of its debt service obligations;
- (i) 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.

Council Member Libby Boatwright moved to close the public hearing which was seconded by Mayor Pro Tem David Phillips. There were ayes by all to close the public hearing.

D. Resolution No. 2010-02—*Consideration of resolution to award bid for construction financing of new police facility*

E. Resolution No. 2010-03 – *Consideration of resolution to file application with Local Government Commission for approval of financing agreement*

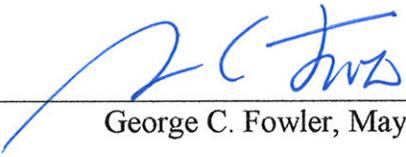
F. Resolution No. 2010-04 – Resolution for a Budget Amendment

With the nine findings stated, Town Administrator Mike Rose, explained that three resolutions were before Council: Resolution No. 2010-02 is to award the financing of the project to Suntrust, Resolution No. 2010-03 was for authorization to file application with the Local Government Commission, and Resolution No. 2010-04 was to adopt a budget amendment in conjunction with the financing for this project.

Council Member Boatwright moved to adopt all three resolutions with the understanding that Council still had the right to cancel plans for the construction. She wanted to be sure the town stays financially secure with no tax increases. Council Member Jim Eschert seconded the motion. Council Members Boatwright, Eschert and Fowler voted aye to adopt all three resolutions. Mayor Pro Tem David Phillips voted nay. The vote was 3-1 in favor of adopting all three resolutions. Council Member Eschert added that the reality is that eventually taxes would need to be raised not because of this project but because of other factors, along with a tough economic situation.

G. Staff Update – Sanitation RFP. Mr. Rose stated that the current contract for waste removal was due to expire on June 30th of this year. He was working up an RFP to shop around to see what options were out there and expected to have it completed by next week. He was going to be sending it out to prospective companies. He added that he was going to include in the RFP that the company provide a rollout container similar to what is currently used for regular trash, to be used for single stream recycling which would be collected every two weeks in lieu of every week. He wanted to be sure Council was comfortable with that before sending the RFP out. He noted that the City of Charlotte was also moving to single stream recycling and using the larger rollout containers.

There being no further questions or comments, Mayor Fowler stated that the regular meeting had concluded at 9:45 p.m. with a short break before the start of the Executive Session.


George C. Fowler, Mayor

Attest:


Barbara Monticello, Town Clerk