MINUTES OF THE
TOWN COUNCIL MEETING OF THE
TOWN OF PINEVILLE, NORTH CAROLINA
AUGUST 10, 2010

The Town Council of the Town of Pineville met in regular session on Tuesday, August 10, 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
Planning Board Members: Jim Knowles, Paul Sullivan, Terie Davis and Tristan McMannis. Jack Lee was absent.

CALL TO ORDER

Mayor Fowler called the meeting to order at 6:30 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

The Pledge of Allegiance was lead by Council Member Libby Boatwright.

MOMENT OF SILENCE

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

Sam Long (passed, owner of gun shop); town employee, Eureka Bidgood's sister (passed from cancer); Jerry Cook (ill); George Thrower (hospitalized); Tilly Boatwright (passed); Margaret Feist (passed); Council Member Jim Eschert's brother (fell); sister (broken hip but doing better).

ORDER OF BUSINESS

Adoption of the Agenda: There being no changes to the agenda, Council Member Boatwright moved to adopt it with Council Member Fowler seconding the motion. There were ayes by all to approve the agenda with no changes.

Approval of Minutes for the previous Regular Town Council Meeting of June 8, 2010: Mayor Fowler called for a motion on the minutes from the last Regular Council Meeting. Council Member Debbie Fowler moved to approve the minutes with Mayor Pro Tem Phillips seconding the motion. There were ayes by all to approve the minutes as is.

CONSENT AGENDA

The following items are included: *a) Tax Collector's Settlement for FY 2010; b) Order for Collection of Taxes; c) Proclamation for Lyme Disease Awareness; d) Budget Amendment; e) Set Zoning Public Hearing Date; f) Police Vehicles.* After reviewing the first item on the Consent Agenda, Mayor Fowler commented on the great return rate on the payment of taxes by residents. A motion was made by Council Member Libby Boatwright and seconded by Council Member Debbie Fowler to adopt the Consent Agenda as is. There were ayes by all.

JOINT PUBLIC HEARING: ***Text Change (TX-2010-01)*** Submitted by Pavilion 51, LLC, for proposed changes to the Zoning Ordinance to allow for Automotive Service Stations in the B-4 District as a Conditional Use with Special Regulations. Changes are proposed to Section 6.4.1 Table of Uses, Table 6.1 Use Classifications, Automobile Service Stations in the B-4 District from "___" to "CS" and 6.5.9 Automobile Service Station.

Council Member Debbie Fowler moved to open the Public Hearing which was seconded by Council Member Jim Eschert. Mayor Fowler introduced Kevin Icard, Planning and Zoning Director, who reviewed the proposed changes to the Zoning Ordinance. He stated that the applicant, Pavillion 51, LLC, was seeking a change to the Zoning Ordinance to allow for service stations in the B-4 Highway Business District. He read the definition of 'Automobile Service Station' from the town's ordinance, noting that the primary function is the sale of fuel but other products may be sold as well, including lubricants, batteries, tires, and convenience items. Mr. Icard also handed out a map that showed the location of all other gas stations and tire stores in Pineville. He then introduced Mr. Wesley Walls of Pavilion 51.

Mr. Walls made a brief Power Point presentation of what Pavilion 51 was proposing which included the following:

- No overnight outside storage of vehicles
- Hours of operation are from 7:00 a.m. until midnight
- Fully enclosed tire containers
- No service bays facing major or minor thoroughfares
- Building height shall not exceed 35 feet
- Exterior of building façade shall meet minimum requirements of overlay district

Mr. Walls also stated that there would be full circulation around the building, everything would be stored inside the building, and the building would be at the front by the sidewalks with the bays and pumps at the rear of the building. Additionally, there would be no test drives of vehicles on residential streets nor would there be a public address system. Mr. Walls concluded his presentation with a rendering of a design example of what the building would look like. He thanked Council for considering the proposal.

Council addressed some concerns they had. Council Member Boatwright asked where the building was going to be located. Mr. Walls responded that a location had not yet been

determined. Mayor Fowler thought it unusual that the applicant would come before the board before having a location in mind. Mr. Icard replied that it was not unusual but the last time it happened was probably sometime in 2004. He clarified that before the applicant can apply for a Conditional Use Permit which would specify all the details including the address, a change to the zoning text needed to be done first because the classification did not exist. The applicant had to be careful to present just enough information so that the meeting didn't become quasi judicial in nature. Council Member Boatwright asked if that meant if anyone came in they could request a Conditional Use Permit for the same use. Mr. Icard indicated that was correct – once the text had been changed to allow that use, anyone could request a Conditional Use Permit.

Mayor Pro Tem Phillips asked if the use and classification had been in the Zoning Ordinance at one time but taken out at some point. Both Mr. Icard and Mr. Rose stated that it had been included and taken out some time ago, perhaps in 2004. Back then there were already many automotive service stations in town with few regulations in place to address the style and design of buildings with that type of use and because they were unattractive, they were eliminated in certain places. Since that time, however, there have been a lot more ordinances adopted that address more of the site and architectural design of the building than the use. Architectural details are required to be more consistent and compatible with neighboring businesses and overlay district regulations.

Mr. Icard noted that automotive service stations are currently permitted in the BP and GI zoning districts with just a small paragraph of restrictions. He reviewed the remaining proposed text changes from the list in his staff report to Council which included:

- Proper circulation and stacking of vehicles
- No work performed outside
- No public address system which is audible off-site
- Garbage must be enclosed
- No test driving on residential streets
- Comply with state, local, and federal requirements regarding gasoline sales
- No storage of vehicles (for more than 7 days) or materials outdoors

Mr. Icard then reviewed some of the architectural requirements that were proposed as part of the text change, along with proposed text on regulations for existing facilities and gas stations as accessory uses. There were additional questions and concerns. Council Member Jim Eschert wanted to know if any food service would be allowed. Mr. Icard indicated that as an accessory use, the sale of packaged goods and small prepared food and conveniences would be allowed. Planning Board Member, Paul Sullivan, asked if staff would consider a change to the definition since most places listed on the map he previously distributed did not fit into the definition that was presented earlier. Mr. Icard stated that he could look into changing it; more text could be added to the amendment and the different classifications could be separated out. Mayor Fowler added that he thought there would be resistance when combining car wash use with tire use with gas station and convenience store use and the fact that there was no location chosen yet was another concern.

Mr. Icard suggested that the Public Hearing be continued to the September meeting so that he could rework the text amendment to add additional text and possibly a new definition and use. If Council chose to continue the Public Hearing, there would be no Planning Board Meeting held in

August. Mr. Rose added that a zoning map would also be made available to show where the B-4 sections are located. Council Member Libby Boatwright moved to continue the Public Hearing to September. Mayor Pro Tem David Phillips seconded the motion and there were ayes by all.

OLD BUSINESS:
None

NEW BUSINESS

A. **Police Facilities Update** – Status of redesign of the proposed Police Facility and request to release for bid.

Town Administrator, Mike Rose, stated that renditions for the redesigned police facility were included in the Council packets for their review and consideration. He stated that the plans before them were a modified design of the original plans and that Mayor Pro Tem Phillips had a lot of input on the redesign of the building. The building was decreased in size a bit and the elevation was changed somewhat to reduce some of the costs from the original plan. Mr. Rose was looking to get approval to release the plans for bid but wanted to allow a significant amount of time to collect bids. He did not expect to have anything to Council before the October meeting. He added that Mike Doyne was present to answer any questions that Council might have.

Council Member Jim Eschert wanted to know by how much the square footage was decreased. Mr. Doyne responded that the building was reduced by about 1800-2000 square feet making the overall building about 26,000 square feet. Council Member Libby Boatwright thanked Mayor Pro Tem Phillips for his involvement with the redesign. Mr. Phillips stated that he was very pleased with the outcome and that no useable space was lost. Mr. Rose noted that both Kevin Icard and Travis Morgan of the town's Planning Department were pleased with the end result as well and thought it would fit in well with the town's overall architectural plan. Mayor Fowler thanked Mr. Phillips as well. Mayor Pro Tem Phillips moved to approve the release of the plans for bid. Council Member Libby Boatwright seconded the motion and there were ayes by all.

B. **Solid Waste Management Plan Update** – Mecklenburg County officials will present a proposed minor revision to the 2009 Ten-Year Solid Waste Management Plan.

Mr. Rose introduced Mr. Bruce Gledhill from Mecklenburg County. Mr. Gledhill stated that the county was approached last fall by Forsite Development, Inc. about a new project called ReVenture, which would convert the county's residential trash into energy. In order to do this, however, the county would need to get approval to amend its Ten-Year Solid Waste Plan. He introduced lead counsel for the project, Jason Bria, who gave a short presentation of the proposed project.

Mr. Bria's Power Point presentation explained the project which will be located at the old Clariant site along the Catawba River just north of the Whitewater Center. This green energy project will include a state-of-the-art waste water facility, a solar farm with research facilities for green technologies, and a waste processing plant that can convert

50,000 tons of yard waste and 370,000 tons of solid waste into energy. Mr. Rose asked if any of the energy that was being created and sold back to the grid would be sold as credits and if it would include Electricities members. Mr. Bria replied that they were currently in negotiations but only with Duke Energy. Council Member Libby Boatwright moved to approve the amendment to the Solid Waste Plan. Council Member Jim Eschert seconded the motion and there were ayes by all.

C. **Main Street Sidewalk Improvement Plan** –Consideration and selection of bids received for the proposed Main Street Sidewalk Improvement Plan. Approval of bid and authorization to let the contract.

Mr. Icard stated that staff had been working on the sidewalk improvement project for over a year and was excited to say that the project had gone out to bid and there were two bidders on the project: Blythe Development and United Construction. He explained that the project would be broken down into three phases: Phase I includes grading, paving and marking of parking lot adjacent to and in the rear of the building on the north side of Main Street; Phase II to complete all sidewalk work on the north side of Main Street; and Phase III to complete all sidewalk work on the south side of Main Street. The expectation was to have the north side completed before the annual Christmas Tree Lighting event.

Council Member Boatwright asked if the project included plans for College Street. Mr. Icard indicated that currently there were no plans but that it could be something for the future or done as a separate project. Mr. Rose added that they would check into it and may be able to work something out. Mayor Fowler directed Mr. Rose to check into the cost for the additional work.

Mr. Icard continued, explaining that the estimates appeared higher than expected compared to what the County had projected the cost to be, but the County admitted that the contractor's numbers were more accurate because they had neglected to include all the fees in their calculations. Discussion continued regarding the options for materials and colors that could be used including plain concrete, stamped concrete and paver bricks. Mr. Rose's recommendation was to take the lowest base price but budget for some detailing to keep costs lower but still have some nice accents. He also noted that they were not allowed to do any work on the railroad but that Norfolk Southern Rail was planning to do some work in the spring and was hoping they would coordinate their work around what the town did.

There were a few more questions from Council on how the work would affect Main Street traffic. Mr. Rose admitted that the work would certainly cause issues but that staff planned to meet with business owners before the work gets underway. Traffic would be down to two lanes, the majority of the work would be done during the day with paving being done at night but all lanes would have to be open by 4:00 p.m. to avoid gridlock during rush hour traffic. He added that Mr. Icard had worked with DOT to get the plans in place for minimal disruption. They expected the project to take about four months to complete. Council Member Libby Boatwright moved to accept the base bid from Blythe Development, which was seconded by Council Member Jim Eschert. There were ayes by all.

D. Ethics Policy – Consideration of Resolution No. 2010-11 adopting a Code of Ethics as required by NCGS 160A-86.

Mr. Rose reminded Council that at the last meeting staff agreed to have a draft of an Ethics Policy to present to them for August. The policy was being presented in the form of a resolution along with a sign off sheet indicating that each Council Member received a copy of the policy. He also reminded them that the next step would be to complete the required two hours of ethics training which would be done via webinar. There were no questions, comments or changes regarding the policy so Mayor Pro Tem Phillips made a motion to adopt the resolution. Council Member Libby Boatwright seconded the motion and there were ayes by all.

E. Temporary Event Permit – Town Planner, Travis Morgan was before Council to advise them of some proposed changes to Yard Sale Permits. Staff was proposing changes to allow only one yard sale per quarter, limit yard sales to no more than 3 days, and to eliminate the fee for a 10' X 10' tent so as to allow shelter for individuals. The section on the form pertaining to alcohol permits for outdoor events applies to establishments that already have a license and permit in place. Mr. Morgan stated that he keeps a spread sheet of those who have applied for yard sales so he can track how many a particular residence has had during the year.

Council Member Boatwright suggested giving copies of the yard sale permits to the community police so they can address sign problems. Council Member Eschert wanted to know if there was a limit on how many garage sale permits could be done on one street. Mr. Morgan indicated that there was no limit set. Mayor Pro Tem Phillips questioned the three day allowance for a yard sale. After some discussion on it, Council asked that it be changed to allow a one day sale with a provision for a rain date. Council also wanted to know what the penalty would be if a resident exceeded the amount of yard sales permitted. Mr. Icard stated that there was a specific section in the ordinance that addresses the problem – a warning would be sent first and then the individual would be fined. Mayor Fowler asked that there be specific timeframes for yard sales as well. Council agreed that 7:00 a.m. until 5:00 p.m. would be sufficient. Council Member Libby Boatwright moved to approve the revised yard sale permit along with the changes discussed. Council Member Debbie Fowler seconded the motion and there were ayes by all.

F. Staff Updates – *a) Electricities Conference b) Community Meeting August 17th*

Mr. Rose reminded Council that the Electricities Conference was at the end of the week and the next Community Meeting was scheduled for Tuesday, August 17th, at the Hut. He noted that Dan Morrill from the Historic Landmarks Commission was going to be making a presentation from both the residential and commercial aspects of the town. He also reminded them of CMC Pineville's groundbreaking ceremony at 10:00 a.m. the next day.

ADJOURNMENT:

There being no further questions or comments, Mayor Fowler stated that a break would be held at 8:35 p.m. before the Closed Session began.

George C. Fowler, Mayor

Attest:

Barbara Monticello, Town Clerk