



**MINUTES OF THE
TOWN COUNCIL MEETING OF THE
TOWN OF PINEVILLE, NORTH CAROLINA
MARCH 13, 2012**

The Town Council of the Town of Pineville met in regular session on Tuesday, March 13, 2012 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: Debbie Fowler, Melissa Davis and Les Gladden
Town Administrator: Mike Rose
Planning Director: Kevin Icard
Town Planner: Travis Morgan was absent
Town Clerk: Barbara Monticello

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Fowler introduced Girl Scout Troop 537 and asked them to lead the group in the Pledge of Allegiance. After the flag salute, each of the girls introduced themselves.

MOMENT OF SILENCE

Mayor Fowler called for a moment of silence for the following individuals: Thelma Crump (passed); Council Member Gladden's mother, Pat (doing well); County Manager Harry Jones (cancer); Bobby Gums (open heart surgery) and Leon Neely (passed).

ORDER OF BUSINESS

Adoption of the Agenda:

Mayor Fowler noted that a revised agenda had been distributed with two additional items added under staff updates. He asked if there were any other changes to the agenda. Council Member Les Gladden asked that the Audit Contract be taken off the Consent Agenda. There being no other changes to the agenda, Mayor Pro Tem Phillips moved to adopt the agenda with the change. Council Member Melissa Davis seconded the motion and there were ayes by all to approve the agenda with the change.

Approval of Minutes for the Regular Session of February 14, 2012: Mayor Fowler called for a motion on the minutes from the Regular Council Meeting of February 14th. There being no corrections to the minutes, Council Member Les Gladden moved to approve the minutes with Mayor Pro Tem David Phillips seconding the motion. There were ayes by all to adopt the minutes as is.

Special Recognition:

1. *Proclamation Celebrating the 100th Year Anniversary of Girl Scouts of the USA*

1. Proclamation Celebrating the 100th Year Anniversary of Girl Scouts of the USA

Mayor Fowler once again recognized Girl Scout Troop 537 and Troop Leader, Debbie Arney. He read the proclamation in its entirety and thanked the girls for attending the meeting.

2. Introduction and demonstration of the Pineville Police Dog

Town Administrator, Mike Rose, introduced Police Chief, Rob Merchant, who in turn, introduced Officer Todd Bradshaw and his canine companion, Raffa. Officer Bradshaw stated that Raffa, a Belgian Malinois from Holland, had completed all but one certification. He has been trained in apprehension, article and drug searches and tracking. He has already found narcotics and drug paraphernalia and was successful in clearing 22 rooms in 46 seconds. He has already proved to be a great addition to the Pineville Police Department.

Adoption of the Consent Agenda: The following items are included: a) *Board of Adjustment Appointments*; b) *Proclamation in Honor of World Tai Chi Day*; c) *Tax Refunds*; d) *Contract for Audit Services (pulled from agenda)*; and e) *Set Public Hearing Dates*. Per an earlier request from Council Member Gladden, the Contract for Audit Services was pulled from the agenda. The remainder of the consent items was left on the agenda. There being no additional changes to the Consent Agenda, a motion was made by Council Member Les Gladden and seconded by Mayor Pro Tem David Phillips to approve the Consent Agenda with the change. There were ayes by all.

OLD BUSINESS:

A. Rezoning Request RZ 2012-01 -- submitted by Harold F. Griffiths Revocable Trust (Durand Builders) for a portion of property owned by Jack Miller to be rezoned. The applicant is requesting to rezone a portion (5.01 acres) of a larger tract of land (94.97 acres) identified as Parcel ID 205-081-02 from RMX to G-I. The intent is to provide a buffer for the existing business to the residentially zoned property.

Planning Director, Kevin Icard, stated that the Public Hearing for this item was held last month and that no additional information could be provided or questions asked by the public at this time. He indicated that the Planning Board had recommended approval of this rezoning request and that staff was also recommending approval, adding that the applicant wanted to be a good neighbor by providing a buffer with ample space between them and residents of the Traditions neighborhood. Any issues regarding erosion or storm water would be monitored and approved by the county as well as staff.

Mayor Pro Tem Phillips asked if it had been determined if the complaints about the noise was actually coming from the applicant's business. Mr. Icard said he could not really determine if noise was being generated from Wirco but did note that another company had some noisy compressors. Council Member Gladden stated that he had driven by the business but the noise was not being generated by them. Council Member Davis asked what the hours of operation were for the applicant and if the noise ordinance pertained to them. Mr. Icard did not know what the hours of operation were for Wirco but Mr. Rose indicated that the noise ordinance would apply to them and that Pineville Police would conduct zone checks when the Code Enforcement Officer was not on duty to monitor noise levels.

Council Members asked about putting restrictions on the rezoning. Mr. Icard stated that they could and the zoning designation would then be GI-CD, General Industrial with Conditional District, and added that the applicant would have to accept the conditions. With that stated Council Member Les Gladden moved to approve the rezoning with the condition that a six foot berm be constructed on the outer edge of the property in addition to plantings. Council Member Debbie Fowler seconded the motion and there were ayes by all to approve the rezoning with conditions. Mr. Icard wanted to clarify that the berm would go across the length of the property but considered complete at the point the height reached six feet as it would be difficult to maintain a six foot high berm stretching 1,000 feet across.

B. Text Amendment Request TX2012-01 – Submitted by Carolina Sportsplex, LLC requesting a text amendment of the Pineville Zoning Ordinance to allow private recreational uses. The following sections are proposed for amendment: **(Section 3.3 Definitions)** Amend definition of Recreation Center, add definition

Special Regulation in the following districts – Downtown Core (DC), Downtown Neighborhood (DN), Residential Mixed Use (RMX), Highway Business (B-4), Planned Business (B-P), General Industrial (G-I).
(Special Regulations) Add 6.5.40 Recreation Complex.

Mr. Icard again noted that the Public Hearing had been held, was closed and that no additional comments could be made regarding the text amendment request submitted by Carolina Sportsplex. He stated that the "unapproved" minutes from the February 23, 2012 Planning Board Meeting were included in the Council packets which the board had requested at the prior Council Meeting. The Planning Board had recommended approval of the text amendment request. Staff was also recommending approval of it, noting that the Zoning Ordinance was not perfect and needed to be corrected.

He stated that the Country Club Classification was not appropriate so staff came up with a new use. Prior to the proposed text amendment, the Zoning Ordinance did not allow any type of recreational group to operate in Pineville so the text change would then allow that use. This amendment would not be site-specific; it would be for any organization that came to town and wanted to establish recreational services.

Council Member Les Gladden noted that if this text amendment were approved, it would be centered around the applicant but if in two years, someone else decided to occupy the space, they could put in any sport they wanted including baseball or football. Mr. Icard acknowledged that was correct. Mr. Gladden felt it might be detrimental to the people living nearby if 100 kids were hollering and screaming while playing during the weekend. He wanted to see more restrictions with buffering put into place. Council Member Fowler moved to approve the text amendment but wanted the use removed from the RMX classification but kept in all the other classifications. There was no second on the motion so it died.

Mayor Pro Tem Phillips then asked why it couldn't be tagged as "conditional". Mr. Icard stated it could be either a Conditional Use Permit (CUP) or a Conditional District, which was more of a legislative process and not as restrictive as a CUP. Mr. Rose agreed, stating that CUP's require "Findings of Fact" which becomes a longer, more drawn out process. A "Conditional District" could be done across the board or with specified districts. With that said Mayor Pro Tem David Phillips moved to approve the text amendment with the condition that a "Conditional District" be noted in the use table. Council Member Gladden seconded the motion. There were three ayes in favor of the motion and one nay (Debbie Fowler) opposing the motion.

NEW BUSINESS

A. Proposed Town Code Amendment/Youth Curfew – Consideration of revisions to Pineville's Code of Ordinances, Chapter 130, *Youth Protection: Curfew*. Town Administrator, Mike Rose, commented that several Council Members had expressed concerns about youths being out later. Changes to the ordinance were necessary to tighten the hours and ages to better protect youths. One of the proposed changes focused on differentiating curfew times between children 12 and younger and those that are ages 13, 14 and 15. The other change being proposed was to increase the age of an authorized adult from 18 to 21.

For ages 12 and younger, the proposed change would not allow them out on any day of the week between the hours of 10:00 p.m. and 6:00 a.m. of the following day. Youths that were 13, 14 and 15 could not be out between the hours of 11:00 p.m. and 6:00 a.m. of the following day on any given day of the week. Additionally, a juvenile that is out during these restricted hours would now have to be accompanied by an adult 21 years of age or older as opposed to 18.

Council Member Les Gladden asked that under section 130.38, entitled, *Exceptions*, that letter C be stricken altogether. He did not believe that any youth under the age of 16 should be out unaccompanied on an errand late at night. He moved to approve the changes to the ordinance in addition to eliminating item C under section 130.38. Mayor Pro Tem David Phillips seconded the motion with the additional change and there were ayes by all.

B. Proposed Town Code Amendment/Camping on Public Property Prohibited – Consideration of addition to Pineville's Code of Ordinances, Chapter 130, *Camping on Public Property Prohibited*. Mr. Rose explained that with the recent "Occupy Wall Street" and "Occupy Charlotte" groups making headlines, it was important to strengthen the town's rules to further provide for the health, safety and welfare of its citizens. Additionally, with the Democratic National Convention coming to town in a few months, there is greater potential for protestors and demonstrators. By adopting an ordinance similar to what the City of Charlotte recently did, it would make things more consistent throughout the area causing less confusion for visitors. Mayor Pro Tem David Phillips moved to adopt the proposed ordinance, which was seconded by Council Member Debbie Fowler. There were ayes by all.

C. Farmer's Market Update – Staff will discuss the upcoming Farmer's Market plans including location and activities. Mr. Icard stated that the town had planned to once again hold a farmer's market. Mr. Eury and Mr. Thrower had both come to town hall to discuss possible locations to hold it and different strategies to operate it. A number of locations were discussed from Jack Hughes Park to the vacant lot next to Luna and the vacant lot across from Town Hall. Even though Jack Hughes Park would be the ideal location, there are issues with parking because on Saturdays the lot is full and it would be difficult to add another event there. Issues with visibility were also discussed and the consensus was that the parking lot of the old police building was still the next best location. However, after being in the summer heat for 4 and 5 hours at a time on the blacktop pavement, it became excruciatingly hot for the vendors and some dropped out of the market.

Mr. Icard stated that perhaps the town could look into investing in a good, quality tent to house the vendors under – one that would be anchored permanently all season with fans blowing to make it more comfortable for the vendors. Staff wanted to see this market succeed and was before Council requesting approval to move forward with this idea. He did some preliminary research noting that good, quality tents can run anywhere from \$5,000 and up. Both Mr. Eury and Mr. Thrower were in attendance. Mr. Eury noted that the parking lot of the police station was not his first choice but since Jack Hughes Park could not be used, he was willing to try the lot again, especially if tents and fans were provided.

Additional ideas and suggestions were brought up as the discussion continued. Mr. Icard noted that the tent could be used for other things such as outdoor weddings or other town events but they would definitely get good use out of it. The use of way-finding signs was also discussed but Council Member Gladden reminded staff that we had to be careful not to violate our own ordinances. Mayor Fowler asked if staff was looking for approval to budget money for the Farmer's Market at this meeting. Mr. Rose replied that they were. Mayor Pro Tem Phillips recommended getting at least two or three different bids for tents while Council Member Les Gladden suggested they consider getting two smaller tents, maybe 20 ft. x 50 ft. instead of one big tent. Mayor Pro Tem Phillips moved to designate a budget of up to \$10,000 for tents and fans for the market. Council Member Melissa Davis seconded the motion and there were ayes by all.

D. Staff Updates – a) Calendar of Events; b) PCC Luncheon; c) Vehicle Nuisance; and d) Budget Amendment. Mr. Rose reminded all that a Special Olympics fund-raiser breakfast was being held on Saturday as well as the Pineville 100 Miler kick-off at Lake Park. The town's Easter Egg Hunt was being held on Saturday, March 31st and the annual Junk Run through town was going to be held during the week of April 23rd through the 27th. He added that he would like to have a pre-budget workshop to go over plans for 2013 and asked for preferences as to when Council would like to have one. Mayor Pro Tem Phillips suggested having it on a Saturday and Mayor Fowler asked Mr. Rose to propose some dates. Mr. Rose stated that a live webinar for Ethics training would be held on May 16th from 10:00 a.m. until noon and if interested, to let him or the clerk know so that arrangements could be made.

Mr. Rose also noted that two additional items were added to Staff updates – Vehicle Nuisance and a Budget Amendment. The Budget Amendment was because the expenses to accessorize the K-9 vehicle were a lot more than was anticipated. He was requesting up to \$20,000 to upfit the vehicle and noted that the money would come out of drug forfeiture funds that must be used for police items. Council Member Les Gladden moved to approve the budget amendment, seconded by Council Member Debbie Fowler. There were ayes by all in favor of the budget amendment.

Mr. Icard reminded Council of the upcoming PCC Luncheon on April 20th. He noted that Council should have received an E-vite to RSVP to but if they hadn't gotten it yet, to let him know. The luncheon will be held in Cornelius this year. He also stated that there were complaints and concerns regarding the address of 212 Mallard Dr. Council Member Gladden stated there had been numerous complaints about the vehicles being used to house cats. Mr. Icard added that several cat traps had been purchased by the town and were being located in the area to help trap some of them. Animal Control had also been notified of the situation but no residents were willing to testify to the problem. In order to have action taken, residents must come forward to let the town know.

There have already been some cats trapped and he has been dealing with Mecklenburg County Animal Control but each call made to them costs \$115. Additionally, the wait for them to pick up a trapped cat can be upwards of six hours so he was inquiring to see if he could drop the cats off himself once they were caught. A call was put in to Animal Control but he has not received a call back as yet. He added that cats that are household pets are required to be licensed and have current tags. If they do and one is trapped, he is making an attempt to contact the owner.

Discussion continued with questions from Council Members regarding both the vehicles and the cats. Mr. Icard explained that 7-9 days notice would be given to the homeowner to remove the vehicles. If the person appeals, they would need to put it in writing and appear before Council but it was Council's decision to declare the vehicles a nuisance and direct him to proceed with the action. The town must also have the homeowners' permission to place traps on their property so letters will be sent to homeowners in the area requesting their authorization to do so. Council Member Les Gladden moved to declare the vehicles a nuisance and to proceed with sending out the notice. Council Member Melissa Davis seconded the motion and there were ayes by all.

At 8:33 p.m. Council Member Debbie Fowler moved to exit Regular Session and enter into Executive Session. Mayor Pro Tem Phillips seconded the motion and there were ayes by all. There was a short break.