

**MINUTES OF THE MEETING OF THE
TOWN COUNCIL
TOWN OF PINEVILLE, NORTH CAROLINA
SEPTEMBER 9, 2008**

The Town Council of the Town of Pineville met in regular session on Tuesday, September 9, 2008 at 6:30 p.m. at The Hut Meeting Facility in Pineville.

ATTENDANCE

Mayor: George Fowler

Mayor Pro-Tem: Libby Boatwright

Town Council Members: Les Gladden, Jim Eschert, and David Phillips

Town Administrator: Mike Rose

Town Clerk: Barbara Monticello

Planning and Zoning: Kevin Icard and Travis Morgan

Planning Board Members: Jim Knowles, Terie Davis, and Paul Sullivan. Kelly Turner was absent.

CALL TO ORDER

Mayor Fowler called the meeting to order at 6:34 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 the Pledge of Allegiance to the Flag.

Mayor Fowler called for a moment of silence for the following people: Long time resident of Pineville and Planning Board member, Charles Baker (ill), David King (passed), Terie Davis' father-in-law, Jim Davis (ill), Council Member Eschert's co-worker, Jerry Woods (ill) Johnnie Mack and his family and wife, Ollie (ill) Jimmy Childers (ill), and Bobby Crump (surgery). Mayor Pro Tem Libby Boatwright asked that we remember the victims of the "9/11" attack in 2001.

ORDER OF BUSINESS

Adoption of the Agenda: Upon the motion of Council Member Les Gladden, seconded by Council Member Jim Eschert, Council voted unanimously to adopt the agenda for the September 9, 2008 meeting. There were ayes by all.

Approval of Minutes for the previous Regular Town Council Meeting of August 12, 2008 and the Executive Session Minutes: Mayor Fowler called for a motion on the minutes from the August 12, 2008 Regular Council Meeting and the Executive Session held afterward. Mayor Pro Tem Libby Boatwright moved to approve the minutes with a correction to Margaret Long's sister's last name. The name should be Yarborough, not Yarnell. Council Member David

Phillips seconded the motion and there were ayes by all to approve the minutes with the correction.

Special Recognition: a) *Pineville American Legion Baseball:* Town Administrator, Mike Rose, passed out an article that appeared in the *South Charlotte Sports Report* about the Pineville American Legion Post 337 Baseball Team. He wanted to recognize the team for having a 30-8 record. The team was very honored to represent Pineville and offered to assist with community service projects.

b) *Proclamation in Honor of Public Power Week – October 5th – 11th:* Mr. Rose also wanted to acknowledge the Pineville Electric Company for the service they provide. A proclamation was presented to Council to honor public power companies during the week of October 5th through October 11th. Mayor Pro Tem Libby Boatwright moved to proclaim October 5th – 11th Public Power Week. Council Member Les Gladden seconded the motion and there were ayes by all.

CONSENT AGENDA

The following items are included: a) *Planning Board Appointment;* b) *Fee Schedule Amendment;* and c) *Set Zoning Public Hearing.* Council Member Les Gladden stated that he had talked with Town Administrator, Mike Rose about the difficulty of collecting a deposit for cleanup of the park shelter rentals. He wanted to know if there was some way to better regulate the cleanup if a deposit couldn't be done. Mr. Rose stated that with the new Park Aides in place, it should help improve relations with park goers in getting them to clean up after their parties. He also offered to look into making the rental agreement rules stricter. Council Member Gladden added that he was in favor of the fee schedule as presented but would like to see stricter rules for shelter rentals. Mayor Pro Tem Libby Boatwright moved to remove the planning board appointment off of the current agenda and onto the October agenda. Council Member Jim Eschert seconded the motion and there were ayes by all to accept the agenda with that change.

PUBLIC HEARINGS

- A. *Amendment to Conditional Use Permit (CUP-2008-03)* – submitted by Coogan's Landscaping Company (Thomas Coogan) the owner of the property located at 800 Main Street. The applicant is requesting to amend the Conditional Use Permit for the following tax parcel #205-021-02 to allow for storage of equipment and vehicles on the property. Mayor Fowler called upon the following individuals to be sworn in: Mr. Thomas Odom, Sr., Mrs. Louise Hair, Mr. Tom Coogan, Mike Rose, and Kevin Icard. Mayor Fowler swore all individuals in.

Planning and Zoning Director, Kevin Icard, provided some background information regarding the CUP for the address located at 800 Main St. The CUP was obtained in the year 2000 to operate a business from the residence and an amendment was sought in 2007 but because of some filing issues, it has taken a year to get to this point. In June of this year, Mr. Thomas Odom, representative for Mr. Coogan filled out and filed all the necessary paperwork correctly.

Mr. Icard noted that the applicant had to provide the burden of proof for the request, must comply with the small area plans, and cannot endanger the health or safety of residents in

any way. He then passed the floor to Mr. Odom.

Mr. Thomas L. Odom, Sr. introduced himself, stating that he had been sworn in and was also known as Fountain Odom. Mr. Odom stated that a mutual mistake had been made 9 years ago with the zoning of the property. The property, based upon the name of the business, was classified as R7C for a lawn and garden business with no onsite storage permitted but Mr. Coogan is actually a general contractor and the property should have been zoned to allow for storage of vehicles. The company located next door has outside storage and Mr. Coogan was requesting an amendment to allow for storage of vehicles on his property. Mr. Odom passed out postcards and photographs of the property and displayed a map of the property showing 2.4 acres, which would be large enough to store vehicles.

Several documents were submitted into evidence:

- 1) Copy of Property Deed
- 2) Application for CUP filed on 12/31/99
- 3) An appeal and variance dated 09/05/07 and later abandoned
- 4) Letter from Odom Firm to Pineville dated 01/03
- 5) Copies of Land Use Application – reasons for requesting the change dated 06/13/08
- 6) Letter from Thomas L. Odom, Jr. to Robin Currin

Mr. Odom pointed out that the storage of equipment should not exceed one acre and there currently is a thick tree buffer which would remain and a fence would be put up as well. The company located across the street from Coogan's also stores equipment but it can be seen from the road. What Mr. Coogan is proposing should not have any impact on views from the road.

Mrs. Louise Hair stated that she had been sworn in and that she holds the Power of Attorney for the Down's family who live next to the Coogan property. Mrs. Hair stated that Mr. Coogan has been a good neighbor that keeps his property looking beautiful. There was no objection from the Downs Family to what Mr. Coogan was requesting. Council Member David Phillips wanted to know how many vehicles would be stored on the property. Mr. Odom responded that about five vehicles would be stored there.

Mr. Coogan then stepped up to the podium to testify. He stated that he had been sworn in. Council Member Jim Eschert wanted to know the type of vehicles that would be stored there. Mr. Coogan indicated that small dump trucks, skid steers and bobcats would most likely be among the equipment to be stored but no tractors. Then Mr. Eschert asked what type of materials would be stored there and who would deliver the materials. Mr. Coogan indicated that brick, stone, mulch and dirt in small amounts would be stored there but larger quantities of material would most likely be delivered directly to the client at the job site as well as have any large equipment stored there.

Other concerns were addressed by Mr. Coogan. He indicated that the fence would be six feet high and go all around the area in the back. Planting would be on the outside of the fence which would be locked up in the evening. Hours of operation are normally 7:00

a.m. until 7:00 p.m. with an occasional Saturday worked.

It was also noted that because most of the property is within a flood plain, certain restrictions would apply to such things as tree removal, construction on the property, and the need for special vents should a shed be erected on the site. Council Member Jim Eschert wanted to know if partitions could separate the piles of materials being stored to prevent it from floating away since the area was in a floodplain. Mr. Coogan indicated that something would be used to prevent the materials from floating away. Mr. Icard also noted that a fence of up to 12 feet could be installed.

Mr. Odom stated that the proposed use of the property would not endanger the health or safety of anyone. It would be consistent with the uses of the properties to the east and across the street and it would not adversely affect any of the neighbors. Council Member Les Gladden asked what would happen if the company went out of business and another general contractor moved into that spot with even bigger equipment. Mayor Fowler agreed that there were concerns about future uses. Mike Rose indicated that since the property was not zoned for general contractors, that shouldn't happen but the Town would have to be sure that adequate restrictions were in place to prevent it from happening. A motion was made by Council Member Gladden and seconded by Mayor Pro Tem Boatwright to close the first Public Hearing. There were ayes by all.

A motion was then made by Council Member Phillips to open the second Public Hearing. Mayor Pro Tem Boatwright seconded the motion and there were ayes by all.

- B. *Zoning Text Amendment (TX-2008-06)*** – submitted by the Town of Pineville proposing a change to the Pineville Zoning Ordinance at Article 5 regarding signs as it relates to real estate signage. Travis Morgan of the Planning and Zoning Department reviewed the proposed changes to allow builders to advertise new home sales on the weekends. Several Council Members expressed concerns that the amendment was too lenient, allowing too many signs per developer and per corner. They did not want to see so many signs popping up all over when the Town was just getting cleaned up and looking good. They were concerned, too, about how the signage would be controlled on the weekend when no employees would be working.

Mr. Morgan explained that this was a collaborative effort with the builders and the Town to allow them to promote new home sales since the real estate business has slowed down considerably. The proposal was geared for developers in Pineville only – no signs should be displayed by any other builders anywhere else. Along with Code Enforcement Officer Aaron Parks going out occasionally on the weekends, they intended to keep a close watch on the situation so it didn't turn into a free for all. They were also going to rely on feedback from residents to crack down on potential violators. Mr. Icard added that the intention was not to have signs popping up but to help promote the growth of Pineville. He stressed that the developers would be regulating themselves because they know that this would be a privilege for them that would easily be taken away if violated.

Several suggestions were made such as possibly requiring a license or posting a bond to permit signs, having a trial run to see how it went before agreeing to anything, or having one sign for all new home developments. All agreed, however, that the proposed

amendment needed to be reworked. Zoning Director, Kevin Icard, asked that the Public Hearing be continued until the next Council Meeting. Mayor Fowler agreed and Town Administrator Mike Rose restated that the issues that needed to be addressed were the amount of signs that would be permitted, controlling the signage, fees if any and fines for violations, the areas where signs can be posted, and the reason for allowing builders to have signs vs. other commercial establishments. Council Member Jim Eschert moved to continue the Public Hearing until the next meeting. Council Member Gladden seconded the motion and there were ayes by all.

OLD BUSINESS

A. Utility Right-of-Way Use Ordinance No. 2008-01 – *Proposed ordinance intended to provide for reasonable regulations for the use of public rights-of-way.* Town Administrator, Mike Rose, stated that the ordinance was being presented for adoption once again with changes made since the last meeting. He has had detailed conversations with Duke Power, had Electricities review it, and AT&T had just gotten back to him with comments. Most of the issues with AT&T were logistic in nature and would be addressed in the Standards and Provisions, not the general ordinance. The Standards and Provisions is a separate, more technically oriented document that goes along with the ordinance. A fine of \$500.00 had been added to Section 5.1 of the ordinance. Council Member Gladden suggested that the Civil Penalties in Section 38.88 be increased. Violations under this section should be combined to \$1,000, violations under section 38-89 should also be combined to \$1,000 and violations under section 38-92(a) should be amended to \$500.00. Mr. Gladden then motioned to adopt the ordinance with the noted changes. Council Member Jim Eschert seconded the motion and there were ayes by all.

B. Golf Cart Ordinance No. 2008-04 – *Ordinance proposing regulations for the use of golf carts/utility vehicles on public roads.* Mike Rose stated that the town attorney had reviewed the ordinance and made changes that were shown in ***bolded, italicized*** lettering. He recommended using the term “golf carts and similar vehicles...” as opposed to “utility vehicle”. A section was added allowing the carts to operate at night as long as it had headlights and red lights on the rear. Proof of insurance must be shown at the time of registration. Chief Merchant recommended the penalty be changed from \$25.00 to \$100.00 and noted that at the end of the ordinance there is a provision to revoke the registration for repeat violators if necessary. He also stated that a registration procedure would be developed and there was nothing in the ordinance prohibiting the use of gas-powered carts.

Safety concerns regarding children, seating, reflectors and fines were brought up again for discussion. Eric Stout, a resident of Pineville, asked to speak. He stated that he, his wife and child may be the cause of this ordinance since they do drive around town in a golf cart. Being a CharMeck Police Officer, he knows that a child restraint system is not required by law. He stated that the top speed of his golf cart is 13 miles per hour and he and his wife are very careful with their child. Mayor Fowler thanked him for his comments.

Council Member David Phillips remarked that if the three issues of fines, reflectors and seating could be resolved at this meeting, it could be adopted without delaying it yet again. Discussion continued and the consensus was to keep the seating to one person per seat, raise the fines to \$100.00 and have two red lamps on the back of the cart. Mike Rose added that the ordinance would not be effective until November 1st to give the Town a chance to communicate it to the

residents. Mayor Pro Tem Libby Boatwright moved in favor of adopting the ordinance with the changes noted. Council Member David Phillips seconded the motion and there were ayes by all.

NEW BUSINESS

A. Jack D. Hughes Memorial Park: Phase II – *Presentation by Andrew Pack of Woolpert LLC on the proposed design of the next phase of redevelopment of Jack D. Hughes Memorial Park.* Town Administrator Mike Rose introduced Andrew Pack who made a Power Point Presentation regarding the design of the second phase of Jack Hughes Park. Phase II would include parking for 140 cars, a concession stand with restrooms, bleacher seating, picnic shelters, playgrounds, a batting cage and two ball fields. He showed conceptual renderings of the proposed area and handed out booklets so Council Members could follow along with the presentation. After the presentation, Mike Rose said a few words about this being a great opportunity to make a unique facility that has the potential to be something big. He just wanted to be sure they were headed in the right direction and Council was still on board with Phase II of the project.

B. Ordinance Prohibiting Sex Offenders from Entering Town Parks No. 2008-05 – *A review of the recent ordinance adopted by Mecklenburg County prohibiting registered sex offenders from public parks and recreation centers.* Town Administrator Mike Rose stated that Mecklenburg County had adopted an ordinance that would be in place for the next couple of months to prohibit sex offenders from entering parks until the Jessica Lunsford Act becomes effective on November 30th. He asked if Council was interested in pursuing a similar ordinance for the town. If so, he would have the Town Attorney work up an ordinance but it would only be in effect for the next 45 days or so. Both Chief Merchant and Mr. Rose recommended waiting until the Jessica Lunsford Act becomes effective but Council Member Gladden asked if Council could just adopt the county ordinance in the meantime to have something in place for the next couple of months. There was no objection so Council Member Gladden moved to adopt the Mecklenburg County Ordinance as the Town's own. Mayor Pro Tem Libby Boatwright seconded the motion and there were ayes by all.

C. Potential Rezoning of Land along NC 51 and Cadillac Street. Zoning Director Kevin Icard explained what would be involved in rezoning the area in question. It would be a large undertaking that would take time and money to complete – similar to the Master Plan that was just completed. Council Member Gladden stated that it made no sense to have light industrial in this area with the rest of the master plan and just couldn't comprehend how these types of businesses were able to get in this area. Mike Rose stated that the Council on Government could look at the project and what it would involve along with the approximate cost. All agreed that it needed to be done quickly but properly. A proposal would be done by Kevin and presented to Council.

D. Staff Update – 1) FBINA Fall Conference: Chief Merchant was happy to announce that Pineville was hosting the North Carolina Chapter of the FBI National Academy Associates in October. He extended an invitation to Council Members to attend the opening ceremonies on Friday, October 3rd.

2) *NCLM Annual Meeting*: Town Administrator Mike Rose reminded Council of the upcoming annual meeting. He asked that if anyone was interested in attending to let him or the Town Clerk know so registration could be completed and sent in.

ADJOURNMENT

There were no additional comments and a motion was made by Libby Boatwright and seconded by David Phillips to adjourn the meeting at 9:39 p.m. Ayes by all.

Barbara Monticello, Town Clerk

George C. Fowler, Mayor