



**MINUTES OF THE
TOWN COUNCIL MEETING OF THE
TOWN OF PINEVILLE, NORTH CAROLINA
TUESDAY, MARCH 10, 2015**

The Town Council of the Town of Pineville met in Regular Session on Tuesday, March 10, 2015 at 6:30 p.m. at the Hut Meeting Facility in Pineville.

ATTENDANCE

Mayor: Jack Edwards

Mayor Pro-Tem: Melissa Davis

Town Council Members: Les Gladden, Debbie Fowler and David Phillips

Town Administrator: Haynes Brigman

Planning Director: Travis Morgan

Town Planner: Julia Zweifel

Town Clerk: Barbara Monticello

CALL TO ORDER

Mayor Edwards called the meeting to order at 6:30 p.m. and welcomed those in attendance. Those wishing to speak were invited to sign the speaker list. Several individuals that were in attendance for the Public Hearing signed up to speak.

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Council Member Debbie Fowler.

MOMENT OF SILENCE

Mayor Edwards called for a moment of silence for the following individuals: Eiko Rogers (passed); Emily Whitesides (passed) and Helen Stewart (passed). Mayor Edwards also asked everyone to recognize the service men and women who put their lives on the line for us each day.

Mayor Edwards asked Chiefs Merchant and Gerin to come forward. They presented Sgt. Nick French with a recognition award for saving a woman's life that went into cardiac arrest on February 13th.

ORDER OF BUSINESS:

Adoption of the Agenda:

Mayor Pro Tem Melissa Davis moved to adopt the agenda with no changes, seconded by Council Member Debbie Fowler. There were ayes by all and the agenda was adopted as is.

Approval of Minutes for the Regular and Closed Session Meetings of February 10, 2015: Mayor Edwards called for a motion on the Regular and closed Session minutes of the February 10, 2015 Council Meeting. Two changes were noted: on page 3 under "Set Date for Public Hearing" the date 20105 needed to be corrected to 2015 and under "Staff Update" the word "Bocci" was spelled incorrectly and should be spelled "Bocce". Council Member Debbie Fowler moved to approve both sets of minutes with the changes. Council Member Les Gladden seconded the motion; there were ayes by all and the minutes were approved with the noted changes.

Consent Agenda: The following items were included: a) *Financial Report ending 2/28/15 (provided by Richard Dixon)*; b) *Approval of Tax Refunds (Karen Bennett)*; c) *Resolution No. 2015-04 for Surplus Items (Barbara Monticello)*; d) *Candidate Filing Fees (Barbara Monticello)*; and e) *Retention Schedule Changes (Barbara Monticello)*. Council Member David Phillips moved to approve the Consent Agenda as is, with Council Member Les Gladden seconding the motion. There were ayes by all and the consent agenda was adopted as is.

PUBLIC COMMENT: None.

PUBLIC HEARINGS:

A. Public Hearing for a Request to Increase the Height of Cell Tower. A motion was made and seconded to open the Public Hearing at 6:40 p.m. Planning Director, Travis Morgan, stated that this was a quasi-judicial hearing, based on facts presented. Each person that was going to speak on the subject was asked to come forward to be sworn in. Mayor Jack Edwards swore in Mr. Morgan and three representatives for the applicant were all sworn in.

Mr. Morgan stated that the original CUP (Conditional Use Permit) was from 1996 and that the tower, which is located behind the Waldhorn Restaurant on S. Polk St., was approved at 160 feet high at that time. Two additional co-locates were added to the tower in 2009 and any additional layers of co-locates would be required to go before the board for approval. Tower owner, Crown Castle, was seeking to add an additional 20 feet to the tower as well as an expansion to the base pad for additional mechanical equipment.

Mr. Morgan noted that safety was a concern because "should the tower ever fall", it would take out half of the Waldhorn Restaurant. An increased height of the tower would also increase the threat of it hitting the restaurant. Mr. Morgan was also concerned about the engineering report that was provided. He thought it looked as though the signature on the engineering data sheets was "photo-shopped" into it. He called the engineering firm to speak with the engineer who signed the document but was told that the individual did not work in their office.

Mr. Morgan also pointed out that the load capacity for the tower was at 106.1%. He added that engineering-wise, that figure was still acceptable but staff was not recommending an increase in height. Mr. Morgan stated that the police communications tower was offered as an alternate because it still had plenty of room for co-locates and posed no danger to anyone or anything but it was turned down by the applicant.

Council Member, Les Gladden, suggested postponing the hearing until Mr. Morgan had an opportunity to review new material that was presented. Mayor Edwards stated that the applicant could put it off or the Council could make a decision that evening; it was their choice. Council Member David Phillips wanted to know why the applicant could not use the other tower. Mr. Tony Stewart of Crown Castle responded that they were seeking to increase the coverage on the south side of the Carolina Place Mall and the tower behind the restaurant was in the prime location to do that. The other tower would simply be duplicating coverage they already had. He added that the tower at its current height of 156' would still hit the restaurant if something were to happen and it fell over.

Mayor Edwards explained that all of council had read and digested the material that was provided to them and that it was unacceptable but Mr. Stewart maintained that the application met the construction standards of the NC Building Code and that a new study had been conducted with the capacity load reported at 104.8%. Council Member Debbie Fowler asked if it were possible for Crown Castle, the tower's owners, to supply a copy of their insurance on the structure. Town Manager, Haynes Brigman, asked the applicant if additional engineering done on the tower could bring the capacity load to under 100%. Mr. Stewart responded that they would check on that as well as supply a copy of the insurance on the tower.

Council Member Gladden wanted to know how many tenants were currently on the tower and if all of them had been approved. Manager Brigman responded that there were five tenants and Mr. Morgan replied that all of them had been approved. Mr. Gladden again suggested that the hearing be continued to next month. The owner of the restaurant, Thomas Maier, was sworn in and given the opportunity to speak. His main concern was for his customers because he

felt that the responsibility would fall back on him as the restaurant's owner. He would like to avoid any chance of anything happening to any of his customers. Therefore, he was against increasing the height of the tower. Council Member Debbie Fowler moved to continue the public hearing until next month with Mayor Pro Tem Davis seconding the motion. There were ayes by all and the public hearing was continued until the next Council Meeting in April.

OLD BUSINESS:

Presenting Ordinance Regulating Massage Parlors and Related Businesses (*Rob Merchant/Haynes Brigman*).

Mr. Brigman stated that the intent of the ordinance was to provide safety to customers and to increase law enforcement's ability to prosecute offenders. He had received feedback from citizens and businesses particularly as it pertained to business licensing. Massage Therapists are currently exempt from having to obtain a Business License and there will soon be a change in the law to do away with Business Licenses altogether. Massage Therapists are required to post their individual licenses, however.

The intent was not to add more fees but to address illegitimate businesses operating without the proper training and licensing. Council Member Gladden added that state statutes still applied and that this ordinance didn't do anything to change any of that – it just gives our officers a way to charge those responsible for operating illegitimately. Hearing no further questions or comments, Council Member Debbie Fowler moved to adopt the ordinance with Council Member Melissa Davis seconding the motion. There were ayes by all and the ordinance passed unanimously.

- A. **Presenting Ordinance Prohibiting Lewd Behavior** (*Rob Merchant/Haynes Brigman*). Town Manager, Haynes Brigman, stated that currently our Town Code did not address issues relating to lewd behavior. He was presenting a proposed ordinance that would address lewd acts taking place in public, including those taking place with clothes on. This would be considered a Class 2 Misdemeanor. Mayor Edwards added that a lot of lewd activity currently takes place at the Carolina Place Mall and that there were no state laws in place to address this behavior. Council Member Gladden moved to adopt the ordinance with Council Member Debbie Fowler seconding the motion. There were ayes by all and the ordinance was adopted.

NEW BUSINESS:

- A. **Update from James K. Polk Historic Site** (*Sharon Van Kuren*). Ms. Van Kuren was in attendance to provide an update on the James K. Polk Historic Site. She gave a report on the renovations that would be starting in April: first to the kitchen house, then on to the barn house and finally culminating by the end of the summer with renovations to the main house. There will be a fundraiser held on May 14th with author, John Bicknell, in attendance to review his new book, *America 1844*. Polk staff met with Representative Jeff Jackson in January, who seemed impressed with the grounds, and they are planning a meeting with Representative Jacqueline Schaeffer as well. Ms. Van Kuren thanked Pineville for their continued support.
- B. **Update on Downtown Merchants Association** (*Bill McConnell*). Mr. Bill McConnell was in attendance to provide an update on the Downtown Merchants Association. He thanked Town Manager, Haynes Brigman and Council Member Les Gladden for attending their last meeting. He pointed out that a new tenant, Unwind Coffee and Tea, would be moving into 109 Dover St., that the Merchants Association was working with Grower's Outlet to add some greenery and flowers to the downtown area, and that they had gotten a fresh fish vendor for the Farmer's Market. Mr. McConnell pointed out that with their new website, the coming of their spring event and the addition of flowers along Main St., that there was a "funding gap" until the new budget was adopted. He requested \$1600 from Council to help offset the costs of these things.

Mayor Edwards asked why the association couldn't start asking its members for monthly dues. Mr. McConnell responded that they were looking into it but that it was a sensitive subject. Mr. Brigman added that if the town did help out with the cost of hanging flower baskets, the merchants would have to do their share to care for the plants. Mr. McConnell agreed and added that there were about a dozen street poles out there that could support the baskets. Mr. Brigman reminded all that a few months ago, the Council had appropriated \$2400 to the Downtown Merchants

Association and now they needed to consider appropriating an additional \$1600. Council Member Les Gladden moved to approve an additional \$1600 for the Downtown Merchants Association with Council Member Debbie Fowler seconding the motion. There were ayes by all to appropriate \$1600 more to the Downtown Merchants Association.

- C. **Charlotte Water** (*Barry Gullet*) – Mr. Barry Gullet from Charlotte Water (formerly CMUD) was given the opportunity to present an update on the department and any current projects. He announced an official name change to the department from Charlotte-Mecklenburg Utilities Department to Charlotte Water. He noted that they were working with the Charlotte City Council on the upcoming fiscal year budget and would be seeking a rate increase.

He last visited Pineville a year ago when the town had expressed concern over the odor issues from the McAlpine Creek Waste Water Facility located on So. Polk St. He acknowledged that the odors haven't stopped altogether but hoped that they were at least getting better. The plans for an odor control facility were coming together, he advised, but it was still another 9 to 12 months before the building would be constructed.

He continued stating there had been a lot of sewers backing up in the Cone Mill area due to some pipes that were laid years ago that were smaller than they should have been. The current plan consists of replacing 5600 feet of pipe in that neighborhood. Bids for this project were received last week so the project would begin sometime in the near future.

- D. **Mecklenburg County Request for Easement at Lake Park** (*Haynes Brigman*) – Town Manager, Haynes Brigman, stated that Mecklenburg County was requesting approval for R-O-W access at the end of Lake Drive by the cul-de-sac as an entrance point for the Carolina Thread Trail. Council did not have to take action right at that moment but he wanted them to consider how it might impact the plans for a future dog park. He will need direction from Council by the time the Part F Grant was announced in July because construction plans would need to be developed about that time.

Council Member Les Gladden was concerned that there would only be a certain amount of parking that could be developed in the cul-de-sac area and suggested using the parking lot at the Belle Johnston Center and utilizing the sidewalk to access the trail that way. Mr. Brigman stated that the concerns regarding parking, lighting and any other infrastructure would be on Mecklenburg County and at no cost to the town.

- E. **Police Department Request to Purchase New Vehicle** (*Haynes Brigman/Rob Merchant*) – Mr. Brigman identified that a Police Cruiser had been lost due to flooding in the roadway on Town Centre Drive. Since the police department was down one newer vehicle, they were requesting the use of the remaining Capital funds that were budgeted for three new police vehicles, plus the insurance check that was received, to purchase a new cruiser. The total funds would equal \$29,907.87 which would be enough to purchase a vehicle for a supervising officer that doesn't require it to be fully outfitted with equipment. Chief Merchant would likely get the new vehicle, while his current one will be put into service as a patrol car.

Mayor Pro Tem Melissa Davis wanted to know if the vehicle that was in the flood was a total loss. Chief Merchant replied that it was. Council Member Gladden thought that scrapping the sedans was a good idea as it was difficult for some of the officers to get in and out of them. Plus, with SUV's, there was a better resale value in them as well as more cargo room for any additional equipment needed. Mayor Pro Tem Davis asked if the Dodges were recently purchased. Mr. Brigman responded that the town had purchased three of them because they were cheaper. However, their maintenance costs were higher and their resale value poor which was why they wanted to move away from them. He added that the vehicles were being purchased off the state contract. Ms. Davis wanted to be sure that the town's mechanic, who was primarily a Ford mechanic, was able to work on whatever vehicle was chosen. Chief Merchant responded that he would be able to handle the work on it. Council Member David Phillips moved to approve the purchase with Council Member Les Gladden seconding the motion (as long as it's not a Ford sedan). There were ayes by all and the motion passed unanimously.

- F. **Pineville Telecommunications Request for Video-on-Demand** (*Gary Creech/Haynes Brigman*) – Mr. Brigman

explained that upon installation of the "On Demand" services for IPTV, it was discovered that our billing software was not compatible with the service. The town had already invested in half the project but in order to move forward with the entire package, an update to the billing software was needed at an estimated cost of \$20K. This was an unexpected capital item that was not planned for but since the "On Demand" service was a revenue generator, Mr. Brigman felt it would be good for residents.

Mayor Edwards asked how the ball got dropped with this. Mr. Brigman replied that the vendor didn't expect it but he was afraid that if the town tried to return the server, it would lose money on it. Council Member David Phillips stated his concern that someone needed to be responsible for the marketing of the telecommunication services or get out of the business. Mr. Brigman stated that the department did meet their goal for the first two years but had not quite met it for this third year although they were very close at 290 customers.

Discussion continued with no one really sure whether the server could be returned, whether there was a real demand for this service or what the expected revenue will be. Council Member Gladden thought that the monthly \$500 fee could be negotiated down. Before anyone could make a decision, they wanted to know more and requested that Department Head, Gary Creech be present at the next Council Meeting. Council Member Les Gladden moved to table this item until next month. The motion was seconded by Council Member David Phillips and there were ayes by all to table the item.

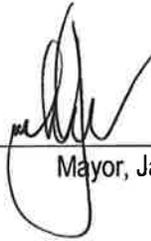
- G. Railroad Improvements at Rodney St. and Industrial Ave. (Haynes Brigman)** – Mr. Brigman informed Council about potential improvements at the railroad crossing on Industrial Dr. Currently there are no lights or RR crossing arms at this crossing to prevent an accident and the NCDOT was looking to make the needed improvements at an estimated cost of \$250K with the town's portion set at 10% of the costs or roughly \$25K. Mr. Brigman recommended that the improvements be done as it would make the crossing much safer and he recommended using Powell Bill funds for the project. He noted there was about \$226K in Powell Bill Reserve funds currently. After some clarification on the agreement was provided to Council, Council Member Les Gladden moved to approve the agreement and the use of Powell Bill funds to make the railroad crossing improvements. Council Member Debbie Fowler seconded the motion and there were ayes by all.
- H. Wheels for Wishes Request for Website Link (Haynes Brigman)** – Mr. Brigman explained that a company called "Wheels for Wishes" was requesting that we add a link from our website to theirs. He added that we typically did not have private links on our website but wanted to check with Council first before doing anything. Mr. Brigman further explained that he checked the company's website and it appeared legitimate. No one had heard of this organization and didn't want to make a decision without more information. Mayor Pro Tem Davis moved to table this item until April to give the manager some time to check into them. Council Member Gladden seconded the motion and there were ayes by all to table the request.
- I. Acceptance of Roads in the Traditions Neighborhood (Travis Morgan)** – Mr. Morgan informed Council that there was still a portion of roads in the Traditions Neighborhood that needed to be accepted by the town. The 5th and final map was the most problematic because the developer had walked away from the project before it was completed. There was bond money still in place but it was not enough to cover all the repairs that were needed for this last section of road to be completed. The town used a lot of its own equipment, along with the bond money, to complete the roads as best as possible with the funds available but it would still get ranked and scheduled to be put on the list with other town roads in need of repair. Council Member David Phillips moved to accept the roads which was seconded by Council Member Debbie Fowler. There were ayes by all and the last of the roads in the Traditions Neighborhood were accepted by the town.
- J. Staff Update: 1) Manager's Report; 2) Calendar of Events** – Town Manager, Hayne Brigman, stated to Council that one of our volunteer firemen, Brent Strong, had requested using the empty PD parking lot as a starting point for a motorcycle run on March 28th at around 2:00 p.m. He was expecting about 30 to 40 riders. Council Member Gladden explained that his son was diagnosed about three years ago with juvenile diabetes and was having a rough time. He wanted to do this as a fundraiser for his son. There were no objections from any council members.

Closed Session: At 9:05 p.m. Mayor Edwards called for a ten minute recess before moving to closed session. A motion was made and seconded at 9:25 p.m. to enter Closed Session *pursuant to NCGS 143-318.11(6)*. Discussions took place for the next 2 hours pertaining to the Town Manager and his performance after a little more than a year on the job. Each Council Member provided feedback to the manager regarding his performance.

Regular Session: Council Member Debbie Fowler moved to enter back into Regular Session with Council Member David Phillips seconding the motion. There were ayes by all and Council moved back into Open Session. Once in Open Session, Council Member Gladden moved to raise the manager's salary to \$97K per year with Council Member Fowler seconding the motion. There were ayes by all to raise the manager's salary. Mayor Edwards requested a list of goals for the manager from each Council Member due to him by March 24th.

ADJOURNMENT

At 11:35 p.m. a motion was made and seconded to adjourn the meeting. There were ayes by all and the meeting adjourned.



Mayor, Jack Edwards

ATTEST:



Barbara Monticello, Town Clerk

