



**MINUTES OF THE
TOWN COUNCIL MEETING OF THE
TOWN OF PINEVILLE, NORTH CAROLINA
TUESDAY, FEBRUARY 12, 2019**

The Town Council of the Town of Pineville met in Regular and Closed Session on Tuesday, February 12, 2019 at 6:30 p.m. at the Hut Meeting Facility in Pineville.

ATTENDANCE

Mayor: Jack Edwards

Mayor Pro-Tem: David Phillips

Council Members: Debbie Fowler, Melissa Davis and Joe Maxim

Town Manager: Ryan Spitzer

Planning & Zoning Director: Travis Morgan

Planner: Brian Elgort

Town Clerk: Barbara Monticello

Planning Board Members: Jim Knowles, Eric Fransen, Thomas White and William Chaney

CALL TO ORDER

The meeting was called to order by Mayor Jack Edwards at 6:33 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Council Member Melissa Davis, led the group in the Pledge of Allegiance.

MOMENT OF SILENCE

Mayor Edwards asked for a general moment of silence for our police, fire and first responders and our military men and women. He noted that the Fire Department recently held their Awards Banquet which was phenomenal.

ORDER OF BUSINESS:

Adoption of the Agenda:

Council Member Melissa Davis moved to adopt the agenda as is, with Council Member Debbie Fowler seconding the motion. There were ayes by all and agenda was adopted as is.

Approval of the Minutes from the Regular Meeting of January 8, 2019 and the Work Session Minutes of January 28, 2019.

A correction regarding the discussion on the town's HRA policy was requested. The minutes should clarify that the HRA benefit will no longer be offered to retirees beginning 7/1/19. Council Member Debbie Fowler moved to approve both sets of minutes with the above correction. Mayor Pro Tem Phillips seconded the motion and there were ayes by all.

Consent Agenda:

The Consent Agenda consisted of the following items: a) *Financial Report as of January 31, 2019*. Mayor Pro Tem David Phillips moved to approve the Consent Agenda as is. Council Member Debbie Fowler seconded the motion and there were ayes by all. Motion passed 4-0.

PUBLIC COMMENT:

Jane Shutt –Jane Shutt of the Pineville Neighbors Place provided an update on their activities to date: they served 77 people in need during the month of January with assistance in food, rent and utility bills. Pineville Neighbors Place will be holding their first fundraiser dinner on March 7th from 6:30 p.m. to 8:00 p.m. at Pineville United Methodist Church. Contact Jane for tickets or to be a sponsor.

PUBLIC HEARINGS:

a) Joint Public Hearings with Planning Board for Proposed Text Amendments (*Travis Morgan*):

- 1. Applicant Request for Off-premise Signage – Text Amendment Request for Off-premise Signage for Landlocked Parcels.** Planning and Zoning Director, Travis Morgan, stated that the request was being made by the applicant, Sherri Hartsell, who was representing a company proposing to go into the old Dick's Sporting Goods location just off of NC51 between Office Depot and Jerod's. Dick's Sporting Goods is relocating into the space at the Carolina Place Mall vacated by Macy's. The address of the old parcel of land is 9600 Pineville-Matthews Road and it sits back off the street so the site is land-locked with no street frontage to utilize to advertise their business so the request is being made to allow a sign on Jerod's property.

Mr. Morgan noted that Dick's went into the location prior to Jerod's being built. Our ordinance doesn't currently allow for a sign so the request is being proposed as a text amendment to apply not only to this property but to similar land-locked parcels. He wanted to be sure to craft something that was fair and reasonable while limiting any liability to the town so the amendment would apply only to the B4 zoning district. Any sign that might be erected at the site would be a ground-mounted monument sign. Mr. Morgan went on to review proposed guidelines from his staff report.

A motion was made and seconded to open the Joint Public Hearing with the Planning Board at 6:46 p.m. Mr. Morgan stated that Sherri Hartsell was in attendance to answer any questions should council have any. Council Member Melissa Davis asked if an agreement between Jared's and the new tenant was reach. Mr. Morgan indicated that they had worked something out. Mayor Edwards asked if approved would other similar situations have to go through Council. Mr. Morgan indicated that it would just need to go through him for approval. Mayor Pro Tem David Phillips wanted to know how it would affect Jared's allotment of signage. Mr. Morgan stated that the old Dick's sign would have to come down but Jared's should be fine as long as they agreed on the ground-mounted monument sign. Responding to a question by Council Member Davis, Sherri Hartsell stated that Jared's and Dick's were not owned by the same entity.

Hearing no further questions or comments, Council Member Debbie Fowler moved to close the public hearing, seconded by Mayor Pro Tem Phillips. There were ayes by all and the Joint Public Hearing ended at 6:52 p.m.

At this point, Chair Jim Knowles called the Planning Board to order at 6:53 p.m. He asked for questions or Comments of which there were none. Board Member William Chaney moved to recommend approval of the text amendment to allow off-premise signage for land-locked parcels. Board Member Eric Fransen seconded the motion and there were ayes by all. Mayor Pro Tem David Phillips moved to approve the text amendment for signage, seconded by Council Member Debbie Fowler. There were ayes by all and the motion passed unanimously.

- 2. Proposed Text Amendment for Non-Conformities** – Mr. Morgan indicated that the next item was more a matter of general house-keeping to clean up the section of the zoning ordinance pertaining to non-conformities. There was no real change but more clarification on non-conforming uses. He provided an example that if any new car dealerships want to set up shop on Polk St., they would need to go before council. If one of the other auto shops on Polk St. moves out, there is a 90-day limit to put another auto use in that spot before they are no longer permitted to do so. Most other towns give businesses a limit of one year so this was stricter than most. Additionally, if more than 50% of the tax value of a

nonconforming structure is damaged, it may not be repaired or replaced except in accordance with current zoning requirement and as approved by the Planning Director. The Zoning Ordinance was vague and these changes just make it clearer. Having no additional comments, Council Member, Melissa Davis moved to open the Public Hearing at 7:00 p.m., seconded by Council Member Debbie Fowler. There were ayes by all and the second Public Hearing was opened. Council Member Davis asked if these changes had anything to do with properties on Polk St. and NC 51 that, after one year, still have not put in the required side-walks, lighting, landscaping and screening. Mr. Morgan indicated that it did. Ms. Davis then asked if it would apply to Fifth/Third Bank property. Mr. Morgan stated that the property would be in a holding pattern until they came in for a permit to start construction. At that time, they would not be able to obtain a permit until they came into compliance with current zoning requirements such as landscaping, streetscaping, and signage before the non-conforming property can be built on or a nonconforming structure is reoccupied.

Council Member Joe Maxim asked about our ordinance being in conflict with properties with historical designation. Mr. Morgan responded that if the property was an historical conditional property, it would not be affected unless it goes back in front of council but if there was more than 50% of damage to the property, it would need to go in front of council but as long as they made sustained, continuous progress, they would be fine.

Using the tax value of a piece of property or structure to determine the percentage of damage is fine until it comes to signage. Since signs do not hold a tax value, the actual value of the sign will be used in determining the percentage of damage to a nonconforming sign. Therefore, nonconforming signs damaged by more than 50% of their value, shall not be rebuilt or repaired unless in conformance with zoning regulations.

Mayor Pro Tem David Phillips wanted to know if text amendments were dated. Mr. Morgan replied that they weren't. Mayor Pro Tem Phillips moved to exit the Public Hearing with Council Member Melissa Davis seconding the motion. There were ayes by all and the Public Hearing concluded. Planning Board Chair, Jim Knowles, asked if there were any comments or questions before making their recommendation. Hearing none, Board Member, Eric Fransen, motioned to recommend the proposed changes to nonconformities, seconded by William Chaney. There were ayes by all to recommend the proposed changes regarding nonconformities.

Council Member Joe Maxim, moved to approve the proposed changes for nonconformities with Council Member Melissa Davis seconding the motion. There were ayes by all and the changes were approved unanimously.

- 3. Proposed Text Amendment for Determining Parking Calculations** – Mr. Morgan stated that he was proposing a text amendment to the way parking requirements for new businesses, etc. have been calculated in the past. Previously, staff had to take the word of the applicant regarding the number of employees working in a facility which was the method used in calculating the number of parking space required for that use. Mr. Morgan was uncomfortable with that method and proposed eliminating employee-based calculations. Instead, he was proposing to use square footage of the gross floor area and easily measured characteristics such as the number of bedrooms in a hotel, etc. He broke it down into categories to make it easier to find in the ordinance including calculations for residential uses, commercial uses, industrial and civic uses and tried to make it as thorough as possible.

Council Member Melissa Davis moved to open the Public Hearing regarding off-street parking calculations. Mayor Pro Tem Phillips seconded the motion and there were ayes by all to open the public hearing at 7:17 p.m.

Mayor Pro Tem Phillips asked if the new method of calculating parking spaces was used for a recently approved warehouse on Downs Road. Mr. Morgan responded that it was. Planning Board Chair, Jim

Knowles asked if the new calculation process was for new facilities and existing ones like the Lakeview Living Center. Mr. Morgan stated that moving forward it would be for new facilities; the Lakeview Living Center was currently a nonconforming. Additionally, it did not pertain to conditional approvals.

Mayor Pro Tem Phillips moved to close the Public Hearing at 7:22 p.m. Council Member Melissa Davis seconded the motion and there were ayes by all to close the Public Hearing. The Planning Board made their recommendation in favor of the new calculation method with Mr. Chaney moving to approve the new plan as presented and Mr. Fransen seconding his motion. There were ayes by all. Council Member Melissa Davis then moved to approve the text amendment revising the method of calculating off-street parking. Mayor Pro Tem Phillips seconded the motion and there were ayes by all to approve the change.

4. **Proposed Amendment to the Town Code for On-Street Parking** – Mr. Morgan stated that the next text change was both for the Zoning Ordinance and the Town Ordinance regarding on-street parking. Mr. Morgan stated that the town recently made some changes to the regulations pertaining to parking on the front yard and now he was proposing changes to clarify on-street parking to prohibit vehicles larger than 80" wide from parking on the street. Regular passenger vehicles can continue to park on the street. Trailers, material and equipment are also prohibited from being parked on the street.

There has to be a line to distinguish between residential and commercial vehicles and since vehicles seem to be increasing in size, the weight limit was increased from 5,000 lbs. to 7,000 lbs. Cars parked on the street are one thing but some of the larger vehicles and trucks are difficult to see around. The intent is not to deny people a place to park but for safety reasons, restrictions need to be in place. The 15 feet of unobstructed clearance still needs to be maintained.

Mayor Pro Tem David Phillips moved to open the Public Hearing, seconded by Council Member Joe Maxim. There were ayes by all and the Public Hearing was opened at 7:31 p.m.

Mayor Pro Tem David Phillips stated that pickup trucks were being made bigger now and some families will feel the affect if they are not allowed to park on the street. He asked if there was 15 feet of clearance on Cone Ave. Mr. Morgan stated that he thought there was but some other streets like Eden don't have the 15 feet of clearance for emergency vehicles to pass through. Mr. Phillips stated he understood the concern but there were some people out of compliance and he was concerned that they would need to get new vehicles. Mr. Morgan stated that the town has tried to allow for more vehicles to be parked in the front yard and has enlarged the area that vehicles are permitted to be parked on in the front.

Planning Board Member, Thomas White, added that Pineville was in a transitional period and there was more of a need now, than in the past, for larger vehicles. He asked if Powell Bill funds allowed for expanding the size of the road. Mr. Morgan stated that if we had a new road being built or a repair to a road, that's when we would look at widening a road but it would be ranked with other road projects and then decided upon which projects require immediate attention vs. those that may be more of a wish than a need.

Mayor Jack Edwards stated that the town code already had the 80" rule that did not permit vehicles over that size to be parked on the street. He added that the town was not going after anyone but simply clarifying the rules and enforcing them. There are also concerns with ladder trucks trying to get through the street and it just becomes more difficult. Mr. Jim Knowles of the planning Board understood the concern about vehicles parked on the road but safety is the biggest concern here. Neighbors just need to be aware of where they are parking since some of our streets are so narrow. Mr. Morgan reiterated that it was a difficult situation and he tried to remedy it by allowing more parking in the front yard.

Council Member Melissa Davis, asked who was responsible for enforcing the 15-foot rule. Mr. Morgan responded that if it were in the Town Code, generally it's a police matter. The first incident is usually a warning, not a citation. He thought both the Planning and Zoning Department and the Police Department

have issued warnings. Council Member Davis stated that a warning from the Police Department might carry more weight than one issued from the Code Enforcement Officer.

The floor was opened up to resident, Lane Wise, who stated he had a large family and drove a large, 12-passenger van which he's been parking on the street for 20 years but is now no longer able to. He also drives a pickup truck which is 91 inches wide, as well as a tractor trailer as he drives a truck for a living. He can't downsize with the size of his family and is concerned about the 80-inch rule and wanted to work something out. Mr. Morgan stated that the intent was to settle on a reasonably sized vehicle that could be parked on the road and not be a safety issue.

Town Manager, Ryan Spitzer, stated that Mr. Morgan would revisit the proposed text amendments to allow passenger vehicles to park on the road and would work on changing the wording for semi-trucks. Council Member Davis asked that he also revisit the section regarding parking of contractor vehicles performing repairs at a home or doing a painting or remodeling job on the home. Mr. Spitzer added that the town was trying to resolve the issue of neighbors parking on either side of the road, not leaving at least 15 feet of clearance between the them. The issue becomes who was parked there first and sometimes it can't be determined so both have to be written up with warnings.

Mayor Pro Tem David Phillips moved to close the public hearing at 8:04 p.m. seconded by Council Member Joe Maxim. There were ayes by all and the hearing was closed. Mayor Edwards recommended this item be tabled until the April Council Meeting.

PUBLIC HEARINGS:

- b) Public Hearing on Districting (Ryan Spitzer):** A hearing to obtain feedback on the proposal to increase the number of Town Council Members from 5 to 7 and to change the mode of election from "At Large" to "Districts".

Mayor Edwards announced that there were several people that wanted to speak on the issue so he was limiting each speaker to 3 minutes. He asked that each speaker identify who they were and give their address for the record. Town Manager Spitzer, added that no vote would be taken tonight but that it was just a hearing to obtain citizen comment. Mr. Spitzer reviewed the proposed ordinance with the audience and stated that the ordinance could be adopted no earlier than the next Council Meeting and no later than 60 days after the public hearing. Council Member Melissa Davis moved to open the public hearing, seconded by Council Member Debbie Fowler. There were ayes by all and the public hearing was opened at 8:07 p.m.

The following individuals on districting:

1. Barbara Manning – 415 Ridgely Green Dr.
2. Mike Deppen – 618 Ridgely Green Dr.
3. Alan Rosero – 8631 McCullough Club Dr.
4. Nikki Perry – 15724 Weeping Valley Dr.
5. Andy Waligowski – 15149 Country Lake Dr.
6. Toni Grove – 9811 Whispering Willow Ct.
7. Kevin Kendrick – 15712 Country Lake Dr.
8. Jim Eschert – 116 Mallard Dr.
9. Bill Ryan – 12503 Short Lane
10. Dan Sachs – 10149 Bishops Gate Blvd.
11. Andrea Blosser – 13119 Jacks Lane
12. Richard Carbonara – 13300 Old Compton Ct.
13. Bolyn McClung – 115 Olive St.

Comments from residents listed above included the following:

- Wait until the 2020 census before moving forward with districting
- Allow people to vote on it
- Support changing the number of board members
- Not enough information/feeling of being rushed into doing this
- Council can table a decision on street parking for months but ram districting down our throats
- Questioning whether it is fiscally responsible to do this now/why no mention of districting previously
- Pool of candidates already narrow; limiting it more by moving to districts
- Where is money coming from to hire consultants to draw districts
- What is driving this; why is this a burning issue
- You can achieve diversity in a more constructive way
- The system as it is does work; don't need to make it worse
- A thank you to Council for what they do; keep up the good work
- Why now, why the rush? No reason to rush this
- Districting never mentioned in any previous minutes
- Doesn't make sense not to wait until the 2020 Census; costlier to hire consultants to draw up districts
- Appalled at using rooftop count and not the Census count; halt the process and take time to understand the process

Mayor Edwards stated that Council may or may not respond to the comments and questions. Council Member Joe Maxim stated publicly that all four board members were for Pineville together; they were all working in the best interest of the town so that everyone benefits. It was pointed out that due to the actions of Council Member Melissa Davis, the DOT was looking at potholes and getting them fixed on the roads that are state-maintained and DOT has also agreed to do a study to improve Main St. to demonstrate that they were all working together for the betterment of Pineville.

Mayor Pro Tem David Phillips stated that he did not intend to make comments but decided to. He explained that he's wanted to propose districting before he ended his career on Council and that it had nothing to do with the Census. It's a process that we are going through right now and there is a path that needs to be followed with timeframes and deadlines that have to be met. A petition can be signed by residents to put it to a vote; if people want this to go to a vote, then sign this petition. He apologized to the members of the audience if he came across as "scolding them but he wasn't. Mayor Edwards interjected and asked everyone to please calm down. Mayor Pro Tem Phillips continued stating that the process has to be done and completed within a certain timeframe and that is why everyone is feeling rushed. Once you begin the process, the timelines have to be adhered to. Council Member Melissa Davis moved to close the public hearing, seconded by Council Member Joe Maxim. There were ayes by all and the public hearing ended at 8:53 p.m. Mayor Edwards called for a short break.

OLD BUSINESS: None

NEW BUSINESS:

- A. **Audit Contract** (*Richard Dixon*) – Finance Director, Richard Dixon, stated he had two actions items, the first being the second-year renewal of a five-year contract with Martin Stames and Associates for audit services. Council Member Melissa Davis asked about the total cost for the year and if the amount in section C of the agreement represented the total cost for their services. Mr. Dixon indicated that it was. Mayor Pro Tem Phillips moved to approve the audit contract, seconded by council Member Davis. There were ayes by all and the audit contract was adopted.
- B. **Budget Amendment** (*Richard Dixon*) – Mr. Dixon's second item was a budget amendment to reallocate funds to adjust line items. Repairs to a sink hole had to be made; the town received grant money for an AMI study; and money was moved from Culture and Tourism to the Dog Park and Splash Pad. Council Member

Joe Maxim moved to approve the budget amendments as presented, seconded by Council Member Melissa Davis. There were ayes by all and the budget amendment was approved.

C. Staff Update: (Ryan Spitzer) – Town Manager, Ryan Spitzer, updated Council on the following items:

- He received comments on the EMP and is currently working on it; DEQ sent Brownfields Report with comments as well and DFA has confirmed that the developer will not have any liability
- Addressed comments on FaceBook regarding contaminated soil; there are no contaminants in the ground as of now; the only recommendation was that there be no residential development on the mill property
- CI has mobile unit at PD; new system was delivered today
- Splash Pad – still waiting for backflow to be signed off on – the person at the county that signs off on it is on vacation; still planning to be open by May 27th, Memorial Day weekend; all materials are here and being stored so as soon as approval is granted, we'll be ready to move on it. Council Member Joe Maxim asked if there had been any cost changes to which Mr. Spitzer replied that there hadn't been any

Mayor Edwards called for a ten-minute break before moving into Closed Session.

CLOSED SESSION: At 9:15 p.m. a motion was made and seconded to enter Closed Session. There were ayes by all and Council was in Closed Session. An on-going real estate transaction was discussed and a request considered by Council. At 9:51 p.m. Mayor Pro Tem Phillips moved to exit Closed Session and reenter Open Session. Council Member Debbie Fowler seconded the motion. There were ayes by all.

Once Council returned to Open Session, Council Member Debbie Fowler moved to approve the extension of Lending Tree's MOU another 60 days until 4/5/19. Council Member Melissa Davis seconded the motion and there were ayes by all to extend the contract another 60 days.

ADJOURNMENT: Having no further business, Council Member Debbie Fowler moved to adjourn the meeting with Mayor Pro Tem Phillips seconding the motion. There were ayes by all and the meeting adjourned at 9:53 p.m.



Mayor Jack Edwards

ATTEST:



Barbara Monticello, Town Clerk

