

Minutes  
Regular Board Meeting  
Aberdeen Town Board

May 9, 2011  
Monday, 6:00 p.m.

Robert N. Page Municipal Building  
Aberdeen, North Carolina

The Aberdeen Town Board met on Monday, May 9, 2011 at 6:00 p.m. for their regular Board Meeting. Members present were Mayor Pro-tem Robbie Farrell, and Commissioners Pat Ann McMurray, Alan Parker, Jim Thomas, and Walter Wright. Mayor Elizabeth B. Mofield was absent from the meeting. Staff members in attendance were Town Manager Bill Zell, Planning Director Kathy Liles, Planner Pam Graham, Attorney T.C. Morphis, and Town Clerk Regina Rosy. The room was packed with interested citizens.

1. Call to Order

Mayor Pro-tem Farrell called the meeting to order at 6:00 p.m. Mayor Pro-tem Farrell thanked everyone in attendance and appreciated their interest in agenda items.

Public Hearings

- a. Consideration of a conditional use permit for a home daycare as requested by Sherry Carter to be operated at 1304 N. Poplar Street on the second lot southeast of the intersection of 2<sup>nd</sup> Avenue and N. Poplar Street.

Mayor Pro-tem Farrell opened the public hearing Consideration of a conditional use permit for a home daycare as requested by Sherry Carter to be operated at 1304 N. Poplar Street on the second lot southeast of the intersection of 2<sup>nd</sup> Avenue and N. Poplar Street.

Town Clerk Regina Rosy swore in Planner Pam Graham, Sherry Carter, and Planning Director Kathy Liles. Planning Director Liles went through a powerpoint presentation. Planning Director Liles stated on April 21, 2011 the Planning Board reviewed this request and recommended approval subject to conditions including the following:

- Home daycare is limited to five preschool age children including preschoolers living in the home and up to three school age children. The Conditional Use Permit does not provide for licensing as a child care center (6 or more preschoolers).
- No signage shall be placed on the exterior of the building.
- A copy of the license as issued by the Division of Child Development, NC Department of Health and Human Services shall be provided to the Planning and Inspections Dept. before operation begins.
- The child care operation is limited to not more than 25% of the square footage of the gross floor area.

- Adequate parking is required in the drive including parking for all personal vehicles belonging to those living and working in the home and one space for drop offs.
- Building and Fire Inspections and Town of Aberdeen Business License to be required prior to beginning operation, all to be coordinated through the Planning and Inspections Department.

Sherry Carter stated she turned her carport into a building addition to her home which is where her daycare will be located. Ms. Carter stated she has had a daycare for the past four years and didn't realize she needed approval. Ms. Carter stated her yard is fenced in and she has lots of toys.

Commissioner McMurray asked how many preschoolers she plans to have. Ms. Carter stated four is the most she plans to keep. Commissioner McMurray asked if she had any children of her own. Ms. Carter stated her children are all grown. Mayor Pro-tem Farrell asked again if the yard was fenced in. Ms. Carter stated yes, the yard is fenced in.

Mayor Pro-tem Farrell asked if anyone else from the public wanted to comment.

With no further discussion, Mayor Pro-tem Farrell closed the public hearing on Consideration of a conditional use permit for a home day care as requested by Sherry Carter to be operated at 1304 N. Poplar Street on the second lot southeast of the intersection of 2<sup>nd</sup> Avenue and N. Poplar Street.

- b. Zoning Code Text Amendment ZA #11-02 submitted by Ron Stewart for an amendment to allow athletic/instructional facility and associated accessory uses in the Commercial Industry, Light District as a Conditional Use Permit.

Mayor Pro-tem Farrell opened the public hearing on Zoning Code Text Amendment ZA #11-02 submitted by Ron Stewart for an amendment to allow athletic/instructional facility and associated accessory uses in the Commercial Industry, Light District as a Conditional Use Permit.

Planning Director Liles stated Mr. Stewart had originally filed for a request to allow for all retail services in this district. Planning Director Liles stated the Planning Board did not believe that was an appropriate range of services. Planning Director Liles stated the Planning Board felt this amendment would be consistent with the 2030 land development plan and recommended approval.

Commissioner Thomas asked what kind of parking situation there is in this particular area. Planning Director Liles stated a particular use is not requested at this time, an amended site plan would have to be filed. Planning Director Liles stated this is just the first step to allow the use in that district.

Mayor Pro-tem Farrell reiterated that the Planning Board recommended this as a conditional use.

Lorraine Flenoir, asked where this particular area is located. Planning Director Liles displayed a map that showed the location of this area.

Jim Gothier, asked what the applicant was hoping to rezone the area for. Planning Director Liles stated the applicant is looking to allow another type of use in that district, such as a cheer camp or athletic facility. Planning Director Liles stated a daycare would also be helpful for the applicant due to the nature of the business.

With no further public comments or discussion, Mayor Pro-tem Farrell closed the public hearing on Zoning Code Text Amendment ZA #11-02 submitted by Ron Stewart for an amendment to allow athletic/instructional facility and associated accessory uses in the Commercial Industry, Light District as a Conditional Use Permit.

- c. Consideration of adoption of new Unified Development Ordinance, map representing the ETJ boundaries of the Town as were established and placed on record with the Register of Deeds in 1986 and 1990, and new Zoning Map for the Aberdeen Town limits and extraterritorial jurisdiction.

Mayor Pro-tem Farrell opened the public hearing on Consideration of adoption of new Unified Development Ordinance, map representing the ETJ boundaries of the Town as were established and placed on record with the Register of Deeds in 1986 and 1990, and new Zoning Map for the Aberdeen Town limits and extraterritorial jurisdiction.

Planning Director Liles stated she knows this issue has created a lot of confusion for the public due to the recent annexation that have taken place. Planning Director Liles stated this issue is not about annexation. Planning Director Liles reiterated that this item is to consider adoption of the new UDO, map representing the ETJ boundaries, and a new Zoning Map.

Planning Director Liles stated the proposal is to take existing legal boundaries and place them on a map, that would then go to the Register of Deeds to be recorded. Planning Director Liles stated the UDO was initiated in 2006 and the purpose was to consolidate and combine ordinances such as zoning and subdivision regulations, watershed protection ordinance, flood damage and prevention ordinance, historic preservation, and others. Public input was solicited in 2009 and the Planning Board has worked with the document since then. Planning Director Liles stated the revised UDO will be much more user friendly and staff friendly.

Planning Director Liles went over what has changed: new map with district changes, table of permissible uses, open space requirements for new

subdivisions, revised procedures for project approvals (Planning Director Liles stated in the past everything went to the Town Board, but with the revised UDO some staff approvals can be made to simplify the process), conditional zoning, and special exceptions (a type of variance to be used for simple things). Planning Director Liles showed the public how large the UDO is and how the UDO is organized. Planning Director Liles stated there are 21 articles, driven by the table of contents (locate property first, determine zoning district, determine uses allowed, and apply relevant chapters).

Planning Director Liles explained some of the map changes proposed to take place which include:

- R-10MH to R-10-10
- R-6 MH to R-6-10
- R-10 to R-10-10
- R-6 to R-6-10
- R-15 to R-15-12
- R-20 to R-20-16
- R-16 to R-20-16
- R-20A to R-30-18
- Created R-18-14
- Ray's Mill Pond to RA
- Hwy 211 between Collinswood and County line to GC
- Corrected B-3 parcels along Poplar St. that were incorrectly on the map

Planning Director Liles stated the RA district will become an agricultural/Conservation district. The R-16 district will be converted to R-20-16, and lots will be zoned to R-15. The R-6-MH district will be merged into the MH district. Planning Director Liles stated manufactured homes have been eliminated from the R-10-MH district 100 feet lot width in R-20, and PUDs have become conditional zoning instead of conditional use permits.

Planning Director Liles stated all uses are placed in a table of permissible uses to ensure consistency in decision from district to district. Planning Director Liles stated the three types of codes are Z (zoning), S (special use), and a C (conditional use). Planning Director Liles stated the zoning administrator may require a Special Use Permit if a use by right may have an extraordinary impact on adjoining properties. Planning Director Liles stated this allows for staff to assign similar uses to categories. Planning Director Liles stated the most restrictive permit applies to combined uses.

Planning Director Liles gave a brief overview of the differences between conditional uses and special uses. Planning Director Liles gave an example of Speight Construction located on Highway 5. Planning Director Liles stated it was a use by right, and the site plan and zoning permit approval would be by Planning staff only. Banks in commercial districts would be special use permits by Planning Board.

Planning Director Liles stated conditional zoning is a rezoning, not a permit and allows the Board to change the zoning district but only with conditions. An example would be: rezone from R-20 residential to B-3 neighborhood commercial; restrict the use only to offices instead of all allowed uses, a permit is still required to ensure it is consistent with the rezoning.

Planning Director Liles stated because this is a rezoning, the Town Board could just say no.

Planning Director Liles stated special exceptions would be heard by the Board of Adjustment, which is the Town Board, minus the Mayor, and the level of approval standard is somewhat lessened.

Planning Director Liles stated enforcement changes included stop work orders available for zoning orders, and the Town is considering a penalty matrix has been created to assess penalties based on degree of harm versus extent of deviation.

Planning Director Liles stated supplementary uses establish performance standards for manufacturing and processing plants, and incorporate multi-family regulations.

Planning Director Liles stated 20% open space would be required in each new residential development not subject to exemption criteria. Planning Director Liles stated narrow strips don't count, and the Town doesn't get to pick the open space area.

Bishop S. L. Utley, 120 Minnies Lane, stated some mistakes had been made on the map with the zoning. Mr. Utley stated he believes there is some kind of mistake because he thought his area was zoned R-10, not R-20.

Diane McAllister, 144 Guybo Road, stated she is representing the Midway area also. Ms. McAllister stated she is wondering if something happened to her home, could a modular home be placed on the property. Planning Director Liles stated a manufactured home with a HUD sticker could not be placed on the property, but a modular home could be placed on the property. Mayor Pro-tem Farrell asked for Attorney Morphis to differentiate between a modular and manufactured home. Attorney Morphis stated a single family dwelling includes stick built and modular. Ms. McAllister stated in the building, as far as extending out her porch, she said any time she comes to the Town there is some type of issue. She doesn't understand why she couldn't build a porch if she owns enough land to build it on. Planning Director Liles explained the setback requirements. The audience agreed with Ms. McAllister that they would prefer their area remain R-10 zoning, rather than R-20.

Doug Gill, stated he is representing PS Management, who owns properties in Aberdeen affected by this zoning. Mr. Gill stated he is here to speak on one of the properties on Saunders Boulevard. Mr. Gill stated it only makes sense to have this property R-6-10 rather than R-10-10. He is asking to change this one parcel's zoning to R-6-10. Mayor Pro-tem Farrell asked where the property is located. Mr. Gill stated it is the Southwick Apartments property. Mr. Gill stated he is looking forward to the Board's careful consideration of this issue.

Cedoin Odom Jr., 10441 Hwy 211 East, stated his property is on the north side of Hwy. 211 and those properties have always been zoned residential, and changing to GC doesn't make any sense. He stated military people are going to be moving in this area, and he thinks they will be looking for land. Mayor Pro-tem Farrell stated this is a public hearing, and the Board is here to listen to the public. Mr. Odom stated he doesn't want his property taxes going up. Several Board members had suggested doing a consistent zoning, versus just spot zoning.

Elizabeth Cox, with Habitat for Humanity, stated she has sat in for many of the work sessions. Mrs. Cox stated she knows how much work has been put into this issue. Mrs. Cox stated she believes that Aberdeen is a great model for other municipalities. Mrs. Cox stated she is speaking against the house size in R-20 to 1600 square feet. Mrs. Cox stated in 2010 the County gave lots of information on affordable housing and there were 0 vacant lots for R-15 in 2010 in Aberdeen. Mrs. Cox stated for R-14 and R-15 zoning, there are 0 vacant lots at this time. Mrs. Cox pointed out that there is a jump from 1,000 square feet homes to 1,600 square feet homes in Aberdeen, if this zoning map is changed. Mrs. Cox urged the Board, since Aberdeen is a working class community, to make more space available for affordable housing. The audience applauded Mrs. Cox for her comments.

Mayor Pro-tem Farrell called Mamie Hammond to speak, but she had already left the room.

Teresa Utley, 200 James Street, stated she is here representing herself. Ms. Utley stated she owns one of the homes, is an old lady and can't afford a modular home. Utley stated the Town Board is hurting people by telling people they can't put a manufactured home back on their property. Ms. Utley stated she would appreciate the Town Board thinking about all the old people and disabled people in the area. Attorney Morphis stated 180 days are allowed to replace a manufactured home. Ms. Utley stated 180 days is only 6 months, and is not enough time.

Teresa Jones, PO Box 394, Aberdeen, stated she thinks she misunderstood the meeting, and thought she was being zoned into the Town limits. Ms. Jones stated she still farms her land and wants to know if there would be any restrictions. Across from Burney Hardware, would be zoned HC.

Planning Director Liles confirmed Jones lives on the property, and plants crops for sales and consumptions. Planning Director Liles stated because agriculture activities are not normally allowed in the HC zoning district, but since the farming has been going on for years and years, it could continue as a non conforming use. Ms. Jones also asked about Town water, and she stated it comes to all buildings around her as well. Manager Zell stated Ms. Jones would need to come in at a later time to discuss the water situation. Ms. Jones asked for a list of restrictions this new zoning would place on her property. Planning Director Liles provided Ms. Jones with this list.

Maurice Holland Sr., Midway Road, stated he is here to discuss the situation in Midway. Mr. Holland stated he, Mayor Pro-tem Farrell and Maurice Holland, Jr. went into the vault and pulled the ordinance to show that R-10 was the zoning for Midway. Mr. Holland stated he has no clue how this came to being R-20 zoning for part of Midway. Mr. Holland stated R-20 makes the land unusable, because there is not enough land to build back. Most lots are 10,000 square feet, or 15,000 square feet at the most. Mr. Holland stated realistically he should not be standing here tonight, because this issue had already been resolved. Mayor Pro-tem Farrell asked Planning Director Liles to address this issue. Planning Director Liles stated a motion was made previously by a commissioner in 2004, listing all LRK key #s, but does not match the ordinance because the properties in the south were not included. Planning Director Liles stated half of the previous situation was already fixed, and now it's apparent the other half needs to be fixed as well. Mr. Holland stated he thinks more research needs to be put into these issues, before creating more mistakes.

Reverend Shirley Gillis, 107 Meredith Street, stated some of the streets are not included. Ms. Gillis stated she has a piece of property on Harris St. she would like to put a modular home on. Ms. Gillis stated she is just wondering what the status would be for Harris St. Planning Director Liles stated the R-10-10 district does not provide for churches any more. Ms. Gillis asked what if something happened to the property, and they wanted to rebuild. Attorney Morphis stated if the structure is damaged to up to 60% the property owner can rebuild, but if there is more than 60% damage then the property owner can not rebuild. Attorney Morphis stated with the new ordinance, a property owner could rebuild after 60% damage with the permission of the Town Board, and if the property owner can show they have complied with the zoning as much as possible, which means the new ordinance would be more forgiving than the old ordinance. Ms. Gillis asked about a church on Keyser St. and if it could be restored to a church. Planning Director Liles stated a determination would have to be made that more than 60% damage has not taken place. Ms. Gillis stated it is looking beautiful in the Berkeley community and she commends all of those young people who are now property owners. Ms. Gillis recommended the Board consider making some of the vacant lots zoned for affordable housing.

Bonnie Baker, 340 Quail Run, Pinehurst, wanted to address the rezoning of Bonnie Brooke Apartments, and she stated it appears it has been rezoned to

R-10-10 and there is available property to build more apartments. Ms. Baker stated best use of the property would be to build 10 more apartments. Ms. Baker asked the Board to reconsider the zoning for this area and consider changing it from R-10-10 to B-3 to connect to other B-3 properties.

Cathy Hinton, stated she is in support of Midway and wants to be an advocate that she would like for Midway to be zoned R-10 rather than R-20. Ms. Hinton stated she also has property in the Berkeley Community and would like the zoning to stay as is. Ms. Hinton wanted to know if it would cost more to run water to commercial property, rather than to residential. Manager Zell stated residential costs less than commercial. Ms. Hinton stated she would also like her property on Hwy. 211 to remain residential, not commercial. Ms. Hinton asked if rezoning affects taxes. Manager Zell stated rezoning does not affect taxes, property values affect taxes.

Albert Thomas, 112 Midway Road, stated he is a member of the Midway Community, and he is opposing the R-20 zoning. Mr. Thomas stated if anything happens to any of those properties, then property owners would not be able to rebuild if zoning was changed. Mr. Thomas stated he is just asking for the zoning problem to be corrected so they can move on.

Barbara Allred, 10569 NC 211, stated before the UDO is passed, she wants to know if she wanted to give property to a grandchild to build a home in the future, would the Board have to rezone this property. Planning Director Liles stated yes, the Board would have to rezone. Mrs. Allred stated this property has been owned for many, many years, and she is really concerned about this property being rezoned. Mrs. Allred stated she owns 25 acres.

Mayor Pro-tem Farrell stated he really appreciated the Midway Community coming out tonight and uniting to speak on this issue. Mayor Pro-tem Farrell stated if the UDO was not right the first time, then that is what a public hearing is for, is to hear from the public.

With no further discussion, Mayor Pro-tem Farrell closed the public hearing on Consideration of adoption of new Unified Development Ordinance, map representing the ETJ boundaries of the Town as were established and placed on record with the Register of Deeds in 1986 and 1990, and new Zoning Map for the Aberdeen Town limits and extraterritorial jurisdiction.

d. Intent to Submit Applications for Community Development Block Grant Funds.

Mayor Pro-tem Farrell opened the public hearing for Intent to Submit Applications for Community Development Block Grant Funds.

Manager Zell stated the Division of Community Assistance which runs the CDBG funds requires the Town to hold a public hearing to show interest in applying for CDBG Funds. Manager Zell stated it is a requirement to have a

generic public hearing stating the Town will apply during the next cycle for funding. Manager Zell stated the CDBG funds have been instrumental in providing water and sewer for the Midway and Berkeley communities. Manager Zell stated once the Town submits for a particular grant, then a specific public hearing will have to be held on each of the grants.

Elizabeth Cox stated every time the Town applies for one of these grants it makes homes more affordable for people. Because then Habitat does not have to pass on the infrastructure costs.

Maurice Holland Sr. stated he would encourage the Town to submit for the generic grants so that they can all come back and ask for specifics. Mr. Holland stated Midway Gardens can use all the help they can get.

Albert Thomas thanked the Board for all the work they have done. Mr. Thomas stated his community encourages the Town to submit for grants.

Diane McAllister stated her driveway gets washed away by water, and there are some elderly family members that live in the area. Ms. McAllister stated she would like to put in a decent road where she lives on Guybo Road.

With no further discussion, Mayor Pro-tem Farrell closed the public hearing on Intent to Submit Applications for Community Development Block Grant Funds.

## 2. Setting of the Agenda

Manager Zell requested to remove Item 9, Closed Session from the agenda. A motion was made by Commissioner Parker, seconded by Commissioner Thomas, to approve the setting of the agenda as amended. Motion unanimously carried.

## 3. Approval of the Consent Agenda

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held except on request by a member of the Board of Commissioners.

- a. Minutes of Regular Board Meeting on April 14, 2011 and Work Session on April 28, 2011.
- b. Resolution to Lease the Aberdeen Alcoholics Anonymous Property and Building.
- c. Budget Amendments.
- d. Resolution to Accept Financing Terms for Police Vehicles.

A motion was made by Commissioner Wright, seconded by Commissioner Thomas, to approve the consent agenda as presented. Motion unanimously carried.

4. Informal Discussion and Public Comment

None

5. Financial Report

Manager Zell stated on the General Fund, the Town is in the black at \$182,526, and noteworthy revenues are getting smaller and smaller towards the end of the fiscal year. Manager Zell stated for the Water & Sewer Fund, the Town is currently \$177,000 in the red, but \$475,000 has been used from the Fund Balance for the Devonshire sewer line, Forest Hills, and purchase of the Sewer Vac.

6. Old Business

- a. Ordinance Ordering the Repair or Demolition of the House Located at 1402 Crest Drive, Aberdeen.

Planning Director Liles stated since the Board last met in the Work Session, the Hinesleys are now working with a general contractor to finish construction of the house, with the intent of selling the house to Mr. Ingram. Attorney Morphis stated the Board can either do nothing at all or adopt an ordinance to repair or demolish the house. Mayor Pro-tem Farrell asked if the property has been sold yet. Planning Director Liles stated to the best of her knowledge, the property has not changed hands.

Commissioner Wright asked if the Board can table this item for 30 days. Planning Director Liles stated she can bring a status update to the Board at the next Work Session. Mayor Pro-tem Farrell asked if there would be a time limit on the new owner for finishing the home. A motion was made by Commissioner Wright, seconded by Commissioner Parker, to table this item for 30 days and revisit issue after 30 days. Motion unanimously carried.

7. New Business

- a. Moore County Transportation Committee Appointments.

Planning Director Liles stated the Moore County Planning Staff has recently gone through some changes, and basically right now she is the only contact person listed. Planning Director Liles stated two representatives from the Board are needed to serve on this committee. A motion was made by Commissioner Parker, seconded by Commissioner Wright, to appoint Commissioner Pat Ann McMurray and Mayor Pro-tem Robert Farrell to the Moore County Transportation Committee. Motion unanimously carried.

Commissioner McMurray stated the 25<sup>th</sup> of May will be the next meeting for the Moore County Transportation Committee.

8. Other Business

Manager Zell reminded the Board there would be a Budget Meeting this Thursday at 5:30 p.m. Manager Zell also reminded the Board the Safety & Health Day will be held this Wednesday.

9. Closed Session pursuant to N.C.G.S. 143-318.11(a) (3) to consult with the Town attorney to preserve the attorney-client privilege.

Item Removed from the Agenda.

10. Adjournment

With no further items for discussion or review, a motion was made by Commissioner Wright, seconded by Commissioner Parker, to adjourn the Board Meeting. Motion unanimously carried.

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Regina M. Rosy, Town Clerk

Minutes were completed in  
Draft form on May 10, 2011

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Robert A. Farrell, Mayor Pro-tem

Minutes were adopted on  
June 13, 2011