

**ABERDEEN BOARD OF COMMISSIONERS  
MINUTES OF REGULAR BOARD MEETING  
AUGUST 11, 2008**

The Aberdeen Board of Commissioners met Monday, August 11, 2008, at 6:00 p.m. for their regular Board meeting. Members present were Mayor Pro-tem Robbie Farrell and Commissioners Pat Ann McMurray, Jim Thomas, Donna Shannon and Walter Wright. Mayor Elizabeth Mofield was unable to attend the meeting. Others in attendance were Town Manager Bill Zell, Town Clerk Nancy Matthews, Planning Director Kathy Liles and Deputy Planner Patti Jilson.

**1. Call to Order**

Mayor Pro-tem Robbie Farrell called the meeting to order and welcomed all those in attendance.

Parks & Recreation Director Leigh Baggs introduced to the Board and the public Mr. Ryan Gordon, the new Program Coordinator for the Parks & Recreation Department. She commented briefly on Mr. Gordon's education and work experience with programming, athletics, summer day camps, administration and budget preparation and maintenance. She stated the department looks forward to working with Ryan.

**PUBLIC HEARINGS**

**a. 2008 CDBG Revitalization Grant – Bethune Street Redevelopment Project.**

Mayor Pro-tem Farrell opened the Public Hearing on the 2008 CDBG Revitalization Grant – Bethune Street Redevelopment Project – for public comments and Board discussion.

Mr. Ray Manieri with All American Associates briefly spoke, stating the Town desires to submit another application for this particular grant. He stated this is the second of two Public Hearings related to the submission of a 2008 CDBG Community Revitalization grant. He stated the application will be for \$850,000 in CDBG funds to implement the Bethune

Street Redevelopment Project. He stated the project will be located along the section of Bethune Street between NC Highway 211 and Keyser Street. He stated the application will involve such basic redevelopment activity as land acquisition, demolition, disposition, housing rehabilitation and street, sewer and drainage improvements, which will be funded with the \$850,000 CDBG grant and \$90,000 in Town funds. He stated the application and project will also involve innovative housing development activity by Habitat of Moore County, in which Habitat will build seven new houses for low income households on lots purchased by the Town and donated to Habitat. He stated in building these houses, Habitat will use \$382,000 of its own construction financing and the Town will be responsible for providing a \$38,200 building contingency fund if needed. He stated Habitat will provide affordable financing with \$56,000 of Federal Home Loan Bank funds and \$168,000 in North Carolina Housing Finance Agency funds.

With no questions from public or Board discussion, Mayor Pro-tem Farrell declared the Public Hearing on the 2008 Revitalization Grant – Bethune Street Redevelopment Project closed.

- b. Application for Rezoning RZ#08-01 by Dave Thomas for property located on the south side of Dogwood Drive, containing .41 acres be rezoned from R-20 Residential to HC Highway Commercial.**

Mayor Pro-tem Farrell then opened the Public Hearing on Application for Rezoning RZ#08-01 by Dave Thomas for property located on the south side of Dogwood Drive containing .41 acres be rezoned from R-20 Residential to HC Highway Commercial for public comments and Board discussion.

Planning Director Kathy Liles gave a brief PowerPoint presentation showing the area in question. She stated the property in question is a gravel lot which Thomas Tire uses for their overflow parking.

Planning Director Liles stated the Planning Board had reviewed and recommended denial to the Town Board because it was not consistent with the land use plan. She stated if this project does move forward as commercial, then the property owner would have to install a six-foot opaque screen/fence with shrubbery placed along the outside perimeter of the fencing. She stated if the Board proceeds, there would need to be two motions: Adoption of a Resolution regarding consistency with the Town of Aberdeen Land Use Plan and; a decision whether to rezone this property from R-20 Residential to Highway Commercial.

Mrs. Audrey Bobbitt, 403 Dogwood Drive, briefly spoke stating she is not happy about the rezoning request and asked the Board to consider denying the request. She stated she did not have any problem with Thomas Tire, she just did not want any further property on Dogwood Drive being rezoned to Highway Commercial.

Ms. Brenda McMillan, who owns a large parcel of vacant land adjacent to this property, stated she had concerns with the drainage. She felt this would only increase the water running across her property.

With no further public comments or Board discussion, Mayor Pro-tem Farrell declared the Public Hearing on Application for Rezoning RZ#08-01 by Dave Thomas closed.

**c. Voluntary non-contiguous annexation petitioned by David and Rebecca Watts for property located at 120 Longleaf Circle.**

Planning Director Liles stated this is a request for a non-contiguous annexation. She stated this project was moved up on the annexation schedule due to the previous activity by the legislature, where a bill was pending to consider a moratorium on annexations.

Planning Director Liles stated the Watts have a house under construction and they desire to be annexed into the Town limits.

With no public comments or Board discussion, Mayor Pro-tem Farrell declared the Public Hearing on voluntary non-contiguous annexation petitioned by David and Rebecca Watts closed.

## **2. Setting of the Agenda**

Manager Zell requested that the following items be added under New Business as 7-i – Consideration to accept a petition for voluntary contiguous annexation by RHA North Carolina, Inc. for property located at 928 Magnolia Drive and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31; 7-j – Accept the Clerk’s Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31; 7-k – Consideration to approve to erase Board meeting tapes from May 10, 1999 to August 1, 2002; Agenda Item 9 - Closed Session: Property Acquisition.

A motion was then made by Commissioner Shannon, seconded by Commissioner Wright, to approve the Setting of the Agenda as amended. Motion unanimously carried.

## **3. Approval of the Consent Agenda**

- a. Minutes: Regular Board Meeting June 9<sup>th</sup>; Special Called Meeting June 16<sup>th</sup>; Closed Session June 16<sup>th</sup>; Work Session July 31<sup>st</sup> and August 1<sup>st</sup>; Closed Session August 1<sup>st</sup>.**
- b. Dedication of Columbus Avenue and South Hill Road to the Town of Aberdeen.**
- c. Additions to the fee schedule for permit plan review prior to submittal for actual building permits.**

Motion was made by Commissioner Thomas, seconded by Commissioner McMurray, to approve the Consent Agenda as presented. Motion unanimously carried.

#### **4. Informal Discussion and Public Comment**

Mayor Pro-tem Farrell stated that there would be a Blood Drive on August 26<sup>th</sup> at the Aberdeen Lake Park Building. He urged people to come out and donate blood.

#### **5. Financial Report**

Manager Zell stated there would be no financial report due to no revenues being received. He stated there would be a report given at the September 8<sup>th</sup> Board meeting.

#### **6. Old Business**

There were no items for consideration under Old Business.

#### **7. New Business**

- a. Consideration of a decision on an appeal to the Board of Commissioners from the Planning Board's decision of May 15, 2008, to deny the Application for Subdivision Preliminary Plat PLP#08-01 for the Devonshire Subdivision as submitted by the Basil Group, LLC.**

Planning Director Liles stated she would recreate the presentations that had been given to the Planning Board since this is an appeal item. She stated there would also be an opportunity for the applicant to speak and for the public to speak. She informed the Board of the items they had received in their agenda packets pertaining to e-mails, staff reports, transportation studies and the subdivision submittal. She then reviewed this material with the Board and gave them an update on where this issue stands. She then gave a PowerPoint presentation for the Board and the public.

Mr. Doug Gill, Attorney for the applicant, briefly spoke stating the records before the Board state that the applicant has met all the requirements as set forth in the Town ordinances. He stated the application should be approved. He stated the applicant did go beyond the requirements of the Town by

having a thorough traffic study performed to make sure the additional traffic would not impede the safety of residents on Devonshire Trail.

Ms. Valerie Harris, 1114 Devonshire Trail, briefly spoke giving her concerns on the amount of extra traffic on this street. She stated the developer should seek permanent access off NC 211 Highway.

Ms. Dede Frye, 800 Midmar Street, spoke stating there is already a traffic problem and asked the Board to deny the developer access onto Devonshire Trail. She stated the street is not safe anyway and it cannot handle any more traffic. She asked the developer to add the extra expense of an entrance off NC 211 Highway be added to the cost of the houses.

Mr. Mike Frye, 800 Devonshire Trail, spoke stating the icing of the street during the winter and having no sidewalks for the pedestrians has already made his street unsafe. He stated there is already a traffic problem. He asked the Board to deny this access onto Devonshire Trail. He asked the Board not to let this issue become a monetary gain. He stated to let this neighborhood be a place where the children can grow up in and not just live in.

Mr. Jerry Vaughan, 707 Midmar Street, distributed to the Board a copy of the Town's Land Use/Subdivision Regulations. He stated there is an autistic group home located on this street and these young children walk this street. He stated it is just not safe. He also stated the proposed subdivision does not conform to the Town's ordinance. He also stated, if the Town does approve this request, then he does not want speed bumps installed. Also, he stated he does not want construction traffic going through this development. He stated a sign should be placed at the entrance of Devonshire for construction traffic. He stated if the Board does approve this subdivision request and construction traffic begins to use Devonshire Trail, then there will be numerous calls daily to the Town and the police department.

Mr. Charles Campbell, 1102 Devonshire Trail, briefly spoke and encouraged the Board not to allow the access traffic on Devonshire Trail. He stated Devonshire Trail already does not meet DOT requirements. He stated this will just create a more dangerous situation. He requested this item be tabled for further review in hopes for another alternative to using Devonshire Trail as the primary exit and entrance into this proposed development.

Mr. Tom DiTomasso, 902 Devonshire Trail, spoke stating all the traffic passes by his home every day. He stated there is only one way in and one way out. He stated the traffic would increase by 50%, which Devonshire Trail cannot handle. He also stated that by not having an entrance off NC 211 Highway, the developer's savings will be at the expense of Devonshire Trail property owners.

Ms. Barbara Reynolds, 1019 Devonshire Trail, expressed her concerns stating the street is not wide enough due to curves and hills to handle anymore traffic. She stated she will be continually cleaning up everyone else's trash due to the increased traffic. She asked the Board to please consider the developments safety.

Ms. Wilma Laney, 1301 Devonshire Trail, stated there are no sidewalks in their community and it is just not safe. She stated she does not want to see the increased traffic on her street.

Mr. Gene Peterson, 1004 Devonshire Trail, asked the Board what is going to stop NC 211 Highway traffic from coming through this development and then on through Devonshire Trail. He stated that traffic is already heavy and if this happens, it will only increase the probability of accidents or even a death. He asked the Board not to approve this application request.

With no further comments from the public, Mayor Pro-tem Farrell asked Planning Director Liles to state the choices of the Board in considering this issue.

Planning Director Liles stated the three choices were: (1) vote to approve the subdivision request; (2) vote to approve the subdivision request with conditions, provided the conditions support the standards in the ordinance; or (3) deny the subdivision request on the basis that the plat does not comply with the requirements of the ordinance.

Mayor Pro-tem Farrell then read a statement to the public pertaining to the Devonshire Subdivision Plat Appeal Procedure stating the ordinance allows an applicant to file a preliminary plat approval of appeal to the Board of Commissioners if the Planning Board denies a preliminary plat, which has occurred in this case. He stated since the ordinance does not provide otherwise, we believe the Board of Commissioners has only the same discretion to evaluate the preliminary plat application as did the Planning Board, i.e. to approve the application if the plat demonstrates compliance with all ordinance requirements, to approve it subject to conditions designed to bring it into compliance, or to deny it if the plat does not comply with the requirements of the ordinance. He stated the plat may not be denied on the basis of any standard or requirement not set forth in the ordinance.

A motion was then made by Commissioner Thomas, seconded by Commissioner Wright, to approve the Application for Subdivision Preliminary Plat PLP#08-01 for the Devonshire Subdivision as submitted by the Basil Group, LLC and adopt a Resolution Regarding Plan Consistency that the described amendment is consistent with the Town of Aberdeen 2030 Comprehensive Land Development Plan.

Commissioner Thomas stated he was especially proud of the residents in attendance. He stated this was a difficult decision to make as he also lives in the development across the road from Devonshire Trail. He stated the Board has to consider the knowledge of the professionals who evaluated this situation. He stated the Board has been advised by the Town attorney that we have no choice in this matter but to approve.

Commissioner McMurray asked if the developer could give assurance that the construction entrance will be gated so that traffic cannot get through on 211 Highway. She also asked if there were some other option so traffic will not impede on the safety of the residents on Devonshire Trail.

Commissioner Shannon stated she understood the residents' concerns but the Board has no recourse but to approve this application request.

Commissioner Thomas asked to add to his motion that the developer will make sure that construction trucks, equipment and the workers will not go through the Devonshire Trail Subdivision, but use only the construction entrance off NC 211 Highway, and that a fence be installed, with a gate that will be locked during off hours and weekends.

Commissioners Thomas, Wright and Shannon voted YES. Commissioners Farrell and McMurray voted NO. Motion passed by a 3 to 2 vote.

**b. Consideration of approval of the Project Development Agreement between Johnson Controls, Inc. and the Town of Aberdeen to conduct an evaluation of the Town's buildings, facilities and operations in an effort to identify "energy savings".**

Manager Zell informed the Board this is only the project development agreement to see whether or not there will be a project. He stated Johnson Controls, Inc. will conduct an evaluation of the Town's operation. He then stated within 90 days of the approved agreement, JCI will deliver to the Town a written report providing a detailed description of the results of their evaluation and analysis of proposed energy savings for the Town.

Motion made by Commissioner Thomas, seconded by Commissioner Wright, to approve the Project Development Agreement between Johnson Controls, Inc. and the Town of Aberdeen to conduct an evaluation of the Town's buildings, facilities and operations in an effort to identify "energy savings." Motion unanimously carried.

**c. Consideration of approval of Water and Sewer Extension Policy and Code Amendment for the Town of Aberdeen's utility services.**

Commissioner Wright requested that under Chapter 50.31 – Abandonment of Septic Tanks – instead of "recommended", that it be "made mandatory that tanks be pumped empty and filled with sand or torn out."

A motion was made by Commissioner Wright, seconded by Commissioner Shannon, to approve the Water and Sewer Extension Policy and Code Amendment for the Town of Aberdeen's utility services as amended. Motion unanimously carried.

**d. Consideration of approval of CDBG Application and Resolutions on 2008 CDBG Revitalization Grant – Bethune Street Redevelopment Project.**

A motion was made by Commissioner McMurray, seconded by Commissioner Wright, to approve the CDBG Application and Resolutions on 2008 CDBG Revitalization Grant – Bethune Street Redevelopment Project. Motion unanimously carried.

**e. Consideration to adopt Annexation Ordinance #44-309 as petitioned by David & Rebecca Watts for voluntary non-contiguous annexation of property located at 120 Longleaf Circle with effective date of annexation as August 11, 2008.**

A motion was made by Commissioner Wright, seconded by Commissioner Thomas, to adopt Annexation Ordinance #44-309 as petitioned by David and Rebecca Watts for

voluntary non-contiguous annexation of property located at 120 Longleaf Circle with effective date of annexation as August 11, 2008. Motion unanimously carried.

- f. Consideration of Application for Rezoning RZ#08-01 by Dave Thomas that the property located on the south side of Dogwood Drive containing .41 acres to be rezoned from R-10 Residential to HC Highway Commercial.**

A motion was made by Commissioner Wright, seconded by Commissioner McMurray, to deny Application for Rezoning RZ#08-01 submitted by Dave Thomas and adopt the Resolution Regarding Plan Consistency as the Board concludes that the proposed request is not consistent with the Town's 2030 Comprehensive Land Development Plan. Commissioners Wright, McMurray, Farrell and Shannon voted YES. Commissioner Thomas voted NO. Motion passed by a 4 to 1 vote.

- g. Consideration of approval of Ordinance GP#08-05 amending the Aberdeen Code of Ordinances to update the responsibilities of the Planning Board to conform with recent changes to the NC General Statutes.**

A motion was made by Commissioner Shannon, seconded by Commissioner Wright, to approve Ordinance GP#08-05 amending the Aberdeen Code of Ordinances to update the responsibilities of the Planning Board to conform with recent changes to the N. C. General Statutes. Motion unanimously carried.

- h. Consideration of acceptance of Surety Bonds for Legacy Lakes Phase I, Map 4 and Map 5.**

Planning Director Liles stated there were four Surety Bonds received by Legacy Lakes which include sidewalk improvements and 1" overlay and paving for Phase 1, Map 4, and sidewalk improvements and paving for Phase 1, Map 5 at a

total amount of \$183,632.74. She stated these Surety Bonds are to cover the costs to complete this project if Legacy Lakes does not fulfill their obligations.

A motion was then made by Commissioner Wright, seconded by Commissioner Thomas, to accept the Surety Bonds for Legacy Lakes, Phase 1, Maps 4 and 5 in the amount of \$183,632.74. Motion unanimously carried.

- i. Consideration to accept a petition for voluntary contiguous annexation by RHA North Carolina, Inc. for property located at 928 Magnolia Drive and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31.**

Planning Director Liles informed the Board this is another piece of property included in cleaning up the boundary lines on Magnolia Drive.

A motion was made by Commissioner Wright, seconded by Commissioner Thomas, to accept the petition for voluntary contiguous annexation by RHA North Carolina, Inc. for property located at 928 Magnolia Drive and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31. Motion unanimously carried.

- j. Accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G. S. 160A-31 for September 8, 2008.**

A motion was made by Commissioner Wright, seconded by Commissioner Thomas, to accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for September 8, 2008. Motion unanimously carried.

**k. Consideration of approval to erase Board meeting tapes from May 10, 1999 to August 1, 2002.**

Manager Zell stated that tapes of Board meetings are beginning to stack up and since these are six years old and over, they need to be erased so the tapes can be used again.

A motion was made by Commissioner McMurray, seconded by Commissioner Shannon, to approve to erase Board meeting tapes from May 10, 1999 to August 1, 2002. Motion unanimously carried.

**8. Other Business**

There were no further items or other business.

**9. Closed Session:**

A motion was made by Commissioner Wright, seconded by Commissioner Shannon, to go into Closed Session to consider property acquisition. Motion unanimously carried.

**10. Adjournment**

The Board returned from Closed Session to Regular Session. With no action taken, a motion was made by Commissioner McMurray, seconded by Commissioner Shannon, to adjourn the meeting. Motion unanimously carried.

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Nancy M. Matthews, Town Clerk

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Robert A. Farrell, Mayor Pro-tem

Minutes were completed in  
draft form on August 20, 2008

Minutes were approved  
on September 8, 2008