

**TOWN OF ABERDEEN
BOARD OF COMMISSIONERS
MINUTES OF REGULAR MEETING
OF SEPTEMBER 10, 2007**

The Aberdeen Board of Commissioners met Monday, September 10, 2007 at 6:00 p.m. for their regular Board meeting. Members present were Mayor Elizabeth Mofield and Commissioners Pat Ann McMurray, Arthur Parker, Robbie Farrell and Walter Wright. Commissioner Donna Shannon was not in attendance. Others in attendance were Town Manager Bill Zell, Town Clerk Nancy Matthews, Planning Director Kathy Liles, Deputy Planner Patti Jilson and Mary Griffin, Reporter for the Pilot Newspaper. There were approximately twenty people also in attendance for the meeting.

1. Call to Order

Mayor Mofield called the meeting to order. She stated there were three Public Hearings to be held.

PUBLIC HEARINGS

- a. Application for General Purpose Amendment GP#07-06 to amend the Town of Aberdeen Code of Ordinances to include a new Chapter 117: Sales of Sexually Explicit Materials.**

Mayor Mofield opened the Public Hearing on Application for GP#07-06 to amend the Town of Aberdeen Code of ordinances to include a new Chapter 117: Sales of Sexually Explicit Materials - for public comments and Board discussion.

Planning Director Kathy Liles spoke briefly stating the Town attorney has reviewed and the language is appropriate pertaining to this issue. She stated this proposed ordinance does not prevent the sale of sexually explicit materials but will enforce method as to displaying the material.

Mr. John D. McRae of Aberdeen, who had initiated the need for this ordinance, briefly spoke and thanked the Board for moving forward with this proposed ordinance. He stated this would be the

first town in Moore County to adopt an ordinance and would hope that other towns would follow suit.

Mrs. Marva Kirk, 465 Roseland Place, Aberdeen, briefly spoke in support of the Board's adoption and enforcement of this proposed ordinance. She stated as a member of the community, she did not purchase from businesses that sell this kind of material.

M. Ged Taylor, 201 2nd St., Aberdeen, also spoke in support of adoption and enforcement of the ordinance. He stated this type of material should not be where children are exposed to the pictures or wordings.

With no further public comments or Board discussion, Mayor Mofield declared the Public Hearing on Application for General Purpose Amendment GP#07-06 to amend the Town of Aberdeen Code of Ordinances to include a new Chapter 117: Sales of Sexually Explicit Materials closed.

b. Application for General Purpose Amendment GP#07-07 to amend the Town of Aberdeen Code of Ordinances: Section 10.18 Extraterritorial Jurisdiction for Enforcement of Certain Ordinances, Sections 153.02, 153.20(H), 153.21, 153.52(A)(B)(1), 153.56 of the Minimum Housing Code.

Mayor Mofield then opened the Public Hearing on Application for General Purpose Amendment GP#07-07 to amend the Town of Aberdeen Code of Ordinances: Section 10.18 Extraterritorial Jurisdiction for Enforcement of Certain Ordinances, Sections 153.02, 153.20(H), 153.21, 153.52(A)(B)(1), 153.56 of the Minimum Housing Code for public comments and Board discussion.

Planning Director Liles stated the Board had asked if the Town's Code of Ordinance can be used as a basis to require the clearing of junk, trash and weeds from properties within the Town's extraterritorial jurisdiction. She stated that staff has examined the language contained within the Minimum Housing Code and drafted new language to address the issue. She stated this new language will grant authority for extending the Minimum Housing Code and will

give staff the authority to cleanup unsightly areas within the Town's ETJ.

Maurice Holland of Midway Road, which is in the ETJ, asked the Board if the property owners will be given ample time to remove old vehicles and cleaning up unsightly property.

Planning Director Liles stated the Town would have to show that the property poses a threat to public safety before enforcement proceedings would begin. She stated the Planning Department would certainly give property owners ample time to correct the particular situation and that the Town will work with the property owner.

With no further comments from the public or Board discussion, Mayor Mofield declared the Public Hearing on Application for General Purpose Amendment GP#07-07 closed.

c. Application for Zoning Code Text Amendment ZA#07-05 submitted by Park at Clearwater to amend Section 155.043 R-6 Residential District of the Town of Aberdeen Zoning Code.

Mayor Mofield then opened Public Hearing on Application for Zoning Code Text Amendment ZA#07-05 submitted by Park at Clearwater to amend Section 155.043 R-6 Residential District of the Town of Aberdeen Zoning Code for public comments and Board discussion.

Planning Director Liles stated an application has been submitted to revise Section 155.043, Subsection (C)(10) of the Zoning Ordinance to reduce the rear yard setback from 5 feet to 0.1 feet in the R-6 Zoning District. She stated the Board approved an amendment to Section 155.043 adding this subsection on March 12th of this year. She stated after the previous amendment was approved, the property was resurveyed and it was discovered that several of the buildings were actually closer than 5 feet from the rear property line. She stated as a result, the previously approved amendment will not remedy this situation and the request was filed for a new text amendment.

Planning Director Liles also stated the developers are in the process of selling the apartment complex and this cannot transpire until this issue is resolved.

With no further comments from the public or Board discussion, Mayor Mofield declared the Public Hearing on Application for Zoning Code Text Amendment ZA#07-06 closed.

2. Setting of the Agenda

With no changes, motion was made by Commissioner Parker, seconded by Commissioner McMurray, to approve the Setting of the Agenda as presented. 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 of August 13, 2007; Regular Work Session of August 30, 2007.

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

4. Informal Discussion and Public Comment

Mr. John D. McRae spoke again asking if the Sexually Explicit Materials Ordinance would be complaint driven.

Mayor Mofield stated this ordinance would be complaints driven. She stated once a complaint is received, then the Town would take action in enforcing the ordinance.

Mr. Ben Lawson, Pastor of Calvary Chapel in Aberdeen, asked the Board concerning a time frame when the ordinance would come into effect.

Mayor Mofield informed Mr. Lawson once she signs the ordinance and the Clerk signs and places the Town seal on the ordinance, then becomes enforceable. She informed Mr. Lawson that he could pick up a copy of the ordinance on Tuesday morning.

5. Financial Report

Manager Zell informed the Board there was no financial report for September. He stated, due to the upcoming audit and the closing out of FY2006-2007 year's work, there was nothing to report at this time.

6. Old Business

There was not any Old Business for discussion or action.

7. New Business

a. Consideration to approve Application for General Purpose Amendment GP#07-06 to amend the Town of Aberdeen Code of Ordinances to include a new Chapter 117: Sales of Sexually Explicit Materials.

Motion made by Commissioner Parker, seconded by Commissioner McMurray, to approve Application for General Purpose Amendment GP#07-06 to amend the Town of Aberdeen Code of Ordinances to include a new Chapter 117: Sales of Sexually Explicit Materials. Motion unanimously carried.

b. Consideration to approve Application for General Purpose Amendment GP#07-07 to amend the Town of Aberdeen Code of Ordinances: Section 10.18 Extraterritorial Jurisdiction for Enforcement of Certain Ordinances, Sections 153.02, 153.20(H), 153.21, 153.52(A)(B)(1), 153.56 of the Minimum Housing Code.

Motion made by Commissioner McMurray, seconded by Commissioner Parker, to approve Application for General Purpose Amendment GP#07-07 to amend the Town of Aberdeen Code of Ordinances: Section 10.18 Extraterritorial Jurisdiction for Enforcement of Certain Ordinances, Sections 153.02, 153.20(H),

153.21, 153.52(A)(B)(1), 153.56 of the Minimum Housing Code. Motion unanimously carried.

- c. **Consideration to approve Application for Zoning Code Text Amendment ZA#07-03 submitted by Planning Staff to add/amend a Section 155.013: Roadside Stands to the Town of Aberdeen Zoning Ordinance.**

Motion made by Commissioner Parker, seconded by Commissioner McMurray, to approve Application for Zoning Code Text Amendment ZA#07-03 submitted by Planning Staff to add/amend a Section 155.013: Roadside Stands to the Town of Aberdeen Zoning Ordinance. Motion unanimously carried.

- d. **Consideration to approve Application for Zoning Code Text Amendment ZA#07-05 submitted by Park at Clearwater to amend Section 155.043 R-6 Residential District of the Town of Aberdeen Zoning Code.**

Motion was made by Commissioner Parker, seconded by Commissioner McMurray, to approve Application for Zoning Code Text Amendment ZA#07-05 submitted by Park at Clearwater to amend Section 1255.043 R-6 Residential District of the Town of Aberdeen Zoning Code. Motion unanimously carried.

- e. **Consideration to approval of Site Plan Review SP#07-06 submitted by Arthur Parker for property located on the north side of Sycamore Street approximately 300 feet north of Maple Street.**

Motion was made by Commissioner Farrell, seconded by Walter Wright, to approve Site Plan Review SP#07-06 submitted by Arthur Parker for property located on the north side of Sycamore Street. Commissioner Parker abstained from voting due to conflict of interest. Motion unanimously carried.

- f. Consideration of approval of Site Plan Review SP#07-07 submitted by Robert Carrington for property located at 416 Sycamore Street for retail/storage/warehouse use.**

Motion made by Commissioner McMurray, seconded by Commissioner Parker, to approve Site Plan Review SP#07-07 submitted by Robert Carrington for property located at 416 Sycamore Street for retail/storage/warehouse use. Motion unanimously carried.

- g. Consideration to accept a petition for voluntary contiguous annexation for 2.33 acres located along the north side of NC Hwy. 5 submitted by Harris Blake and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S. 160A-31.**

Motion made by Commissioner Farrell, seconded by Commissioner Wright, to accept a petition for voluntary contiguous annexation for 2.33 acres located along the north side of NC Hwy. 5 submitted by Harris Blake and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S. 160A-31. Motion unanimously carried.

- h. Consideration to accept the Clerk's Certificate of Sufficiency on a petition submitted by Harris Blake and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for October 8, 2007.**

Motion made by Commissioner Farrell, seconded by Commissioner Wright, to accept the Clerk's Certificate of Sufficiency on a petition submitted by Harris Blake and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for October 8, 2007. Motion unanimously carried.

- i. Consideration to accept a petition for voluntary contiguous annexation of Lots 36 and 37 of Hidden Valley Estates on Magnolia Road as submitted by Henry J. Watson and Jerry J. Lilly and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S. 160A-31.**

Motion made by Commissioner McMurray, seconded by Commissioner Wright, to accept a petition for voluntary contiguous annexation of Lots 36 and 37 of Hidden Valley Estates on Magnolia Road as submitted by Henry J. Watson and Jerry J. Lilly and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S. 160A-31. Motion unanimously carried.

- j. Consideration to accept the Clerk's Certificate of Sufficiency on petition submitted by Henry J. Watson and Jerry J. Lilly and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for October 8, 2007.**

Motion made by Commissioner McMurray, seconded by Commissioner Wright, to accept the Clerk's Certificate of Sufficiency on petition submitted by Henry J. Watson and Jerry J. Lilly and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for October 8, 2007. Motion unanimously carried.

- k. Consideration to accept a petition for voluntary non-contiguous annexation of property located at 115 Parkway Drive submitted by Charles Barnes and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S. 160A-58.1.**

Motion made by Commissioner Wright, seconded by Commissioner McMurray, to accept a petition for voluntary non-contiguous annexation of property located at 115 Parkway Drive submitted by Charles Barnes and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S.160A-58.1. Motion unanimously carried.

- l. Consideration to accept the Clerk's Certificate of Sufficiency on petition submitted by Charles Barnes and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-58.2 for October 8, 2007.**

Motion made by Commissioner Wright, seconded by Commissioner McMurray, to accept the Clerk's Certificate of Sufficiency on petition submitted by Charles Barnes and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-58.2 for October 8, 2007. Motion unanimously carried.

- m. Consideration to accept a petition for voluntary non-contiguous annexation for property located at 10870 NC Hwy. 211 submitted by Albemarle Oil Company and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S. 160A-58.1.**

Motion made by Commissioner Wright, seconded by Commissioner McMurray, to accept a petition for voluntary non-contiguous annexation for property located at 10870 NC Hwy. 211 submitted by Albemarle Oil Company and adopt a Resolution Directing the Clerk to Investigate a Petition for Annexation received under G.S. 160A-58.1. Motion unanimously carried.

- n. Consideration to accept the Clerk's Certificate of Sufficiency on petition submitted by Albemarle Oil Company and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-58.2 for October 8, 2007.**

Motion made by Commissioner Wright, seconded by Commissioner McMurray, to accept the Clerk's Certificate of Sufficiency on petition submitted by Albemarle Oil Company and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-58.2 for October 8, 2007. Motion unanimously carried.

o. Consideration of appointments to the Planning Board.

Planning Director Liles stated the Planning Board currently has four open seats. She stated Roger Bone resigned at the June 21st meeting and Jim Thomas, Bill Prevatte and Kemp Lowder have all served two (2) successive three (3) -year terms.

Planning Director Liles stated that Owen Gallagher and Bob Rigsby have expressed interest in serving on the Planning Board. She stated that staff feels that they would be a tremendous asset to the Board. She stated, as a result, the staff requests the Board of Commissioners to move forward with appointing Mr. Gallagher and Mr. Rigsby to replace Roger Bone and Bill Prevatte on the Planning Board for a term of three (3) years.

Motion was made by Commissioner McMurray, seconded by Commissioner Parker, to appoint Owen Gallagher and Bob Rigsby as in-town members of the Planning Board with three (3) - year terms. Motion unanimously carried.

p. Consideration to declare certain items as surplus and adopt a Resolution Authorizing the Advertisement for Sealed Bids for the Sale of Certain Property Declared Surplus.

Manager Zell informed the Board there was items that needed to be declared surplus. The Board reviewed the list. With no discussion, a motion was made by Commissioner Parker, seconded by Commissioner McMurray, to declare certain items of the Town of Aberdeen as surplus as presented and to adopt a Resolution Authorizing the Advertisement for Sealed Bids for the Sale of Certain Property Declared Surplus. Motion unanimously carried.

8. Other Business

a. Award bid for 2007 Street Resurfacing.

Manager Zell informed the Board that two bids were received for the street resurfacing for FY2007-2008. He stated Hudson Paving, Inc. had a bid of \$334,785.00 and Riley Paving had a bid of \$225,609.00. He recommended the Board award paving bid to Riley Paving.

A motion was then made by Commissioner Parker, seconded by Commissioner McMurray, to award the 2007 Street Resurfacing bid to Riley Paving in the amount of \$225,609.00. Motion unanimously carried.

b. Citizens Academy Program.

Manager Zell stated the Third Annual Citizens Academy Program will begin on Tuesday, September 11th and run for six weeks. He stated that eight (8) citizens have enrolled to attend this CAP.

9. Adjournment

With no further business, motion was made by Commissioner Wright, seconded by Commissioner Parker, to adjourn the meeting. Motion unanimously carried.

Nancy M. Matthews, Town Clerk

The minutes were prepared and completed on September 12, 2007

Elizabeth B. Mofield Mayor

The minutes were adopted on October 8, 2007