

**ABERDEEN BOARD OF COMMISSIONERS
MINUTES
MARCH 12, 2007 REGULAR MEETING
6:00 P.M.**

The Aberdeen Board of Commissioners met Monday, March 12, 2007 at 6:00 p.m. for their regular Board meeting. Members present were Mayor Elizabeth Mofield and Commissioners Pat Ann McMurray, Donna Shannon, Arthur Parker, Robbie Farrell and Walter Wright. Others in attendance were Town Manager Bill Zell, Town Clerk Nancy Matthews, Planning Director Ben Warren, Deputy Planner Patti Jilson and Finance Officer Beth Wentland. Others in attendance were Planning Board members Elise Goodwin and Mike Dunn. Members of the newly reinstated Beautification & Appearance Commission in attendance were Elise Goodwin, Dale Streicker and Owen Gallagher. There were approximately twenty citizens also in attendance.

1. Call to Order

Mayor Mofield called the meeting of the Aberdeen Board of Commissioners to order at 6:00 p.m. She welcomed all those in attendance. She then stated there were several Public Hearings to be held.

PUBLIC HEARINGS

Mayor Mofield informed the public that Public Hearing (c) has been dropped from the Agenda due to the Board needing to make some corrections before offering for consideration. She stated this Public Hearing will be held at a later date.

a. Conditional Use Permit Application CU#07-02 submitted by Chuck Barnes for an office/warehousing and storage complex in the C-I Commercial and Industrial (Light) Zoning District.

Mayor Mofield then opened Public Hearing on Conditional Use Permit CU#07-02 submitted by Chuck Barnes for an office/warehousing and storage complex in the C-I Commercial and Industrial (Light) Zoning District for public comments and Board discussion.

Planning Director Ben Warren briefly spoke stating Mr. Barnes plans to construct an office and mini-storage warehouse complex on this property. He stated there would be eight office units with the mini-storage warehousing to the rear. He stated that Mr. Barnes plans to maintain as many trees and shrubs as possible. He stated the driveway will have to meet DOT standards as required. He stated the Board had previously requested that Mr. Barnes possibly install an irrigation system and enclose the dumpster site.

With no comments from the Board or the public, Mayor Mofield declared the Public Hearing on CU#07-02 closed.

- b. Rezoning Application RZ#06-01 submitted by DeAnne Jackson (Quality Built Homes) to rezone approximately 7.66 acres located on the north side of Mofield Way/NC Hwy. 211 between Pine Street and Glasgow Street from I-H Industrial Heavy to R-10 Residential.**

Mayor Mofield then opened Public Hearing on Rezoning Application RZ#06-01 submitted by DeAnne Jackson to rezone approximately 7.66 acres located on the north side of Mofield Way/NC Hwy. 211 between Pine Street and Glasgow Street from I-H Industrial Heavy to R-10 Residential for public comments and Board discussion.

Planning Director Warren stated that Mr. Jackson had purchased the majority of the property between Pine Street and Glasgow Street. He stated the majority of the property is zoned R-10 Residential. He stated the property to the west and south is I-H and to the north and east is R-10 Residential.

Mr. Dale Streicker asked the Board if the developer was going to clear cut the trees on this property.

Planning Director Warren stated that any trees 12" in diameter or larger are required to be preserved unless this would place an unnecessary hardship on the developer.

Commissioner Farrell asked if all the property was suitable for building or were there wetlands in this area.

Planning Director Warren stated before any footers or foundations could be put in, that compaction tests would be required. He also stated there was some area that would not be suitable for construction due to the wetland.

With no further comments from the public of Board, Mayor Mofield declared the Public Hearing on Rezoning Application RZ#06-01 closed.

- c. **Zoning Code Text Amendment ZA#07-02 submitted by Planning Staff to amend Section 155.051 Downtown Retail Overlay District to ensure compliance with the standards set forth by the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000.**

(This item was dropped from the Agenda until a later date.)

2. Setting of the Agenda

A motion was made by Commissioner Parker, seconded by Commissioner Wright, 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 of February 12, 2007; Regular Work Session of March 1, 2007.

With no changes, a motion was made by Commissioner Parker, seconded by Commissioner Wright, to approve the Consent Agenda as presented. Motion unanimously carried.

4. Informal Discussion and Public Comment

Mr. Ted Thomas, of Page Memorial United Methodist Church, was going to speak but decided to wait until the Public Hearing is rescheduled.

Mr. John D. McRae, 1133 Pinebluff Lake Rd, Aberdeen, briefly spoke to the Board concerning the continued practice of convenience stores displaying adult magazines in clear view for minors to see. He stated he had talked with the Police Chief and this issue was brought to the attention of the managers at the convenient stores. He stated the magazines are still readable and you can see some of the pictures. He wanted to know what can be done about a local ordinance prohibiting public display of these magazines. He requested that the Board do a follow up on this issue and consider adopting an ordinance.

5. Financial Report

Finance Officer Beth Wentland gave the financial report for the month of February. She stated in the General Fund for February figures, the revenues came in higher than the expenses at \$158,201.77, bringing the year-to-date overall net gain to \$584,230.86.

Mrs. Wentland stated in the Water/Sewer Fund for February figures, the revenues came in higher than expenses due to the bi-monthly billing at \$81,956.70, bringing the year-to-date totals in the Water/Sewer Fund to an overall net gain of \$296,271.34.

a. Consideration of adoption of Resolution for Capital Reserve Fund in the Water/Sewer Fund.

A motion was made by Commissioner Wright, seconded by Commissioner McMurray, to adopt the Resolution for a Capital Reserve Fund in the Water/Sewer Fund for future needs, and this Fund will remain operational for a period not to exceed five (5) years beginning June 30, 2007 and ending June 30, 2012 or until a cumulative sum not to exceed \$250,000.00 has been reached. The Board will annually appropriate or transfer an amount of no less than five percent (5%) of the total water revenue, sewer revenue and bulk water revenue earned in the fiscal year and this transfer shall not exceed \$50,000.00 in any given year. Motion unanimously carried.

6. Old Business

There were no items of Old Business to be considered.

7. New Business

- a. **Consideration of approval of Application for Rezoning RZ#07-02 requested by J. Arthur Parker for property located on Holly Street from R-10 Residential to B-3 Neighborhood Transitional.**

Commissioner Parker asked to be excused from voting on this item due to a conflict of interest.

A motion was then made by Commissioner Shannon, seconded by Commissioner Wright, to approve Application for Rezoning RZ#07-02 requested by J. Arthur Parker for property located on Holly Street from R-10 Residential to B-3 Neighborhood Transitional. Motion carried four to zero.

- b. **Consideration of approval of Application for Rezoning RZ#07-01 submitted by Bruford Hudson for property located at the intersection of US# 15/501 and NC Hwy. 211 from I-H Industrial Heavy to C-I Commercial and Industrial (Light).**

Planning Director Warren stated the location of this property is in the primary entrance into the Town. He reviewed with the Board additional uses that would be allowed if the zoning of the property was changed.

A motion was then made by Commissioner Parker, seconded by Commissioner Wright, to approve Application for Rezoning RZ#07-01 submitted by Bruford Hudson for property located at the intersection of US #15/501 and NC Hwy. 211 from I-H Industrial Heavy to C-I Commercial and Industrial (Light). Motion unanimously carried.

- c. Consideration of approval of Application for Conditional Use Permit CU#07-01 submitted by Bruford Hudson for mobile home sales lot located at the intersection of US# 15/501 and NC Hwy. 211 Note: CUP approval is contingent upon RZ#07-01 being approved.**

Planning Director Warren stated the Board had a couple of additional conditions to be addressed. He stated one was a maximum time limit of five (5) years for this sales lot. Also, to require a paved driveway apron as required by DOT standards and to require additional natural buffer and landscaping around the chain-link fence. Also, to limit the number of manufactured homes to twelve (12) on the lot at any one time. And that the sales office underpinning would be constructed of brick.

A motion was then made by Commissioner Farrell, seconded by Commissioner McMurray, to approve Application for Conditional Use Permit CU#07-01 submitted by Bruford Hudson for mobile home sales lot located at the intersection of US #15/501 and NC Hwy. 211 as follows:

1. That all parties were duly notified.
2. That Bruford Hudson, the applicant, proposed to operate a manufactured home sales business on property identified by the Moore County Tax records as LRK#55569.
3. That the application for the manufactured home sales business was accepted on January 16, 2007 by the Town of Aberdeen Planning Department.
4. That Shodja Textiles, Inc. owns a particular piece of property upon which the proposed manufactured home sales business will be situated.
5. That the proposed site details are as follows:
Zoning: I-H Industrial Heavy; Adjacent Zoning: C-I Commercial & Industrial (Light) I-H Industrial Heavy and R-20 Residential; Acreage: 10 acres (+); Watershed: No; Floodplain: No; Historical Use: Industrial/Vacant Lane.
6. That a manufactured home sales business requires a conditional use permit in the C-I Commercial & Industrial (Light) Zoning District.

7. Upon a motion to approve the conditional use permit, the Town of Aberdeen Planning Board voted unanimously to approve the conditional use permit application and forwarded such recommendation to the Board of Commissioners.
8. If constructed in accordance with the site plan submitted and in compliance with the Town's Ordinances and Codes, the establishment, maintenance or operation of the manufactured home sales business will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
9. The proposed use is consistent with uses on properties in the immediate vicinity. Therefore, the manufactured home sales business will not be injurious to the use and enjoyment of other property(s) in the immediate vicinity for the purposes already permitted, or substantially diminish, and impair property values within the neighborhood.
10. That the establishment of manufactured home sales business will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the C-I Commercial & Industrial (Light) Zoning District.
11. That the exterior architectural appeal and function plan of the proposed manufactured home sales business will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.
12. That adequate utilities, access roads, drainage and necessary facilities have been provided, as shown on Site Plan SP#07-01.
13. That adequate measures have been taken to provide ingress and egress so designed to minimize traffic congestion in the public streets. The history of the proposed use indicates that the use will generate minimal traffic.
14. That the conditional use shall, in all other respects, conform to the applicable regulations of the C-I Commercial & Industrial (Light) Zoning District in which it is located, except as such regulations may be modified by the Board of Commissioners pursuant to the recommendation of the Planning Board.

ADDITIONAL CONDITIONS

1. The proposed modular sales office shall be permitted for a period of time not to exceed five (5) years.
2. Paved driveway aprons shall be provided in accordance with NCDOT standards.
3. The modular sales office shall be placed on a brick foundation.
4. The total number of manufactured homes allowed on the sales lot at one time shall be limited to twelve (as shown on the approved site plan).
5. The landscaping along the front and sides of the property visible from US #15/501 shall be increased so as to create a semi-opaque natural buffer.

CONCLUSIONS OF LAW

1. That the Town of Aberdeen Board of Commissioners has jurisdiction over the persons and subject matter in this action and that the parties are properly before this Board.
2. That the applicant, Bruford Hudson, satisfied all the requisite standards pursuant to the Town of Aberdeen Zoning Ordinance.
3. That sufficient evidence was presented by Bruford Hudson to satisfy the requirements of the Town of Aberdeen Zoning Ordinance.
It is therefore ordered, adjudged and decreed:
 1. That the applicant satisfied all the requisite standards pursuant to the Town of Aberdeen Zoning Ordinance.
 2. Based upon the evidence submitted and the above findings of fact, the applicant for a conditional use permit for the manufactured home sales business to be located at 11564 US # Hwy. 15/501 is hereby approved.

Motion unanimously carried.

- d. **Consideration of approval of Zoning Code Text Amendment ZA#07-01 submitted by Park at Clearwater II to amend Section 155.043 (C) (6) to add, “except as provided in (C) (10) below” and adding a new (C) (10) to read “(10) The minimum required rear yard may be as little as 5 feet if at the time of initial construction, the rear yard abuts a platted but unopened street at least 50 feet wide”.**

Planning Director Warren informed the Board this proposed written text amendment could only apply to two other properties in Aberdeen. He stated he had discussed this issue with the Town attorney at length and the Town attorney recommended this zoning code text amendment was the best and quickest solution to this situation. He stated this amendment can be repealed in the future.

A motion was then made by Commissioner Parker, seconded by Commissioner McMurray, to approve Zoning Code Text Amendment ZA#07-01 submitted by Park at Clearwater II to amend Section 155.043(C) (6) to add, “except as provided in (C) (10) below” and adding a new (C) (10) The minimum required rear yard may be as little as 5 feet if at the time of initial construction, the rear yard abuts a platted but unopened street at least 50 feet wide”. Motion unanimously carried.

- e. **Consideration of approval of Town Code of Ordinances Amendment GP#07-03 submitted by Planning Staff to add a Section 94.16 KEY BOXES to the Ordinance.**

Fire Chief Phillip Richardson briefly spoke stating the Fire Department is requiring businesses to install lock boxes on the outside wall of their business. He stated in the event an alarm goes off, for whatever reason, with a key box in place the firemen can access the building without forcible entry. He stated the Fire Department has the authority given by the International Fire Code to require businesses to install this key lock box. He stated he wanted the Board to be aware of this and to support the Fire Department on this issue. He stated there are only three (3) keys: One is business owners, one locked in the lock box and one on the fire trucks. He stated if someone did try

to get into the lock box, which would be very unlikely, it would be easier to just break into the building. He also stated some businesses have this lock box installed at least 15 ft. high so that they are even harder to get to. He also informed the Board that lock boxes should also be placed on the different municipal buildings within the Town. He also informed the Board this key lock box will cost between \$150.00 - \$165.00.

A motion was then made by Commissioner McMurray, seconded by Commissioner Shannon, to approve the Town Code of Ordinances Amendment GP#07-03 as submitted by Planning Staff to add a Section 94.16 KEY BOXES to the Ordinance. Motion unanimously carried.

f. Consideration of approval of an Ordinance ordering the Town's Building Inspector to proceed with demolishing two dilapidated houses on NC Hwy. 211 as provided by G.S. 160A-443.

Planning Director Warren gave the Board the process on demolishing these two houses. He said forty days have passed since the thirty-day (30) notice was received by the property owners. He stated one of the property owners had just faxed a letter to him and requested some more time so that she could demolish the house herself due to financial hardship. He informed the Board that the due process time has already passed and the only recourse would be to burn the house and put a lien against the property. There will also have to be an asbestos inspection of the houses before they can be demolished.

Planning Director Warren stated the Fire Department has examined these properties and because they are so close together, they cannot burn one of them without affecting the other. He also stated that both houses are unfit for living quarters.

The Board discussed this situation at length. The consensus was to see if a contractor would clean up both properties at a lesser cost, but the cost would still go back on the property owners as liens on their property. She stated the Town would have to incur the expense of getting these two houses burned and the lots cleared and

the money spent by the Town would then place a lien against these two lots and would remain until the lots are sold.

A motion was then made by Commissioner McMurray, seconded by Commissioner Parker, to approve an Ordinance ordering the Town's Building Inspector to proceed with demolishing two dilapidated houses on NC Hwy. 211 as provided by G.S. 160A-443. Motion unanimously carried.

Mayor Mofield suggested to Mr. Warren to contact the property owners and inform them of what the Town will be doing and that the Town would work with the property owners to hire someone who would clear both properties at the same time to help decrease the expense to both parties involved and that a lien would be placed on the property to be paid at the sale of same.

- g. Consideration of accepting a petition for voluntary non-contiguous annexation submitted by Horace and Hattie O'Neal for property located at 708 Sun Road, Aberdeen, N. C. and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-58.2.**

Planning Director Warren informed the Board this request is in attempt to clean up some of the boundary lines and also to clean up some of the properties that had already received breaks on tap fees and water/sewer rates. He asked that the Board consider accepting this petition for annexation.

A motion was then made by Commissioner Parker, seconded by Commissioner Farrell, to accept a petition for voluntary non-contiguous annexation submitted by Horace and Hattie O'Neal for property located at 708 Sun Road, Aberdeen, N. C. and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-58.2. Motion unanimously carried.

h. Consideration of accepting the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-58.2 for April 9, 2007.

Planning Director Warren stated the Board had received the Clerk's Certificate of Sufficiency pertaining to Horace and Hattie O'Neal for voluntary non-contiguous annexation. He stated once the Board accepted the Certificate of Sufficiency, then they would need to proceed with setting a date for the Public Hearing.

A motion was then made by Commissioner Parker, seconded by Commissioner McMurray, 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-58.2 for April 9, 2007. Motion unanimously carried.

i. Consideration of accepting a Petition for voluntary non-contiguous annexation submitted by Harry Eilert for property located at 720 Longleaf Road, Aberdeen, N. C. and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-58.2

Planning Director Warren informed the Board that Mr. Eilert is already in the process of building a house on this property. He stated the same process would be the same as Items g and h.

A motion was made by Commissioner McMurray, seconded by Commissioner Parker, to accept a petition for voluntary non-contiguous annexation submitted by Harry Eilert for property located at 720 Longleaf Road, Aberdeen, N. C. and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-58.2. Motion unanimously carried.

j. Consideration of accepting the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-58.2 for April 9, 2007.

A motion was made by Commissioner McMurray, seconded by Commissioner Parker, 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-58.2 for April 9, 2007. Motion unanimously carried.

k. Consideration of adopting a Resolution Regarding Designation of an Official to Make Recommendations to the North Carolina Alcoholic Beverage Control Commission on ABC Permit Application.

Manager Zell informed the Board that this is required by the State and everything has been coming with the past chief's name. He stated this Resolution will reference the present Chief, Michael D. Connor.

A motion was then made by Commissioner Parker, seconded by Commissioner McMurray, to adopt a Resolution Regarding Designation of an Official to Make Recommendations to the North Carolina Alcoholic Beverage Control Commission on ABC Permit. Motion unanimously carried.

l. Consideration of appointment of staggered terms for members of the Aberdeen Appearance and Beautification Commission and appointment of Chairperson and Vice-Chairperson.

A motion was made by Commissioner McMurray, seconded by Commissioner Farrell, to set the following terms for the members of the Aberdeen Appearance and Beautification Commission:

1. A term of one (1) year: Carolyn Warlick, Owen Gallagher, Dale Streicker with terms to expire 02-12-08.
2. A term of two (2) years: Elise Goodwin, Jim Thomas with terms to expire 01-20-09.
3. A term of three (3) years: Wayne Clay, Gail Clay with terms to expire 02-10-10.
4. And to appoint Elise Goodwin as Chairperson and Jim Thomas as Vice-Chairperson.

Motion unanimously carried.

8. Other Business

Manager Zell reminded the Board of the Partners In Progress Dinner on March 14th, the Kick Off Celebration of Delta Connection's return to Moore County and the Budget Work Session tomorrow evening at 5:30 p.m.

9. Closed Session: Personnel Matter

A motion was made by Commissioner Parker, seconded by Commissioner Farrell, to go into Closed Session for the purpose of a personnel matter. Motion unanimously carried.

10. Adjourn

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

Nancy M. Matthews, Town Clerk

Robert A. Farrell, Mayor Pro-tem

This draft was prepared and completed
March 19, 2007

These minutes were adopted
April 9, 2007