

Minutes
Regular Board Meeting
Aberdeen Town Board

November 17, 2014 Robert N. Page Municipal Building
Monday, 6:00 p.m. Aberdeen, North Carolina

The Aberdeen Town Board met Monday, November 17, 2014 at 6:00 p.m. for the Regular Board Meeting. Members present were Mayor Robert A. Farrell, Mayor Pro-tem Jim Thomas, and Commissioners Joe Dannelley, Buck Mims, and Eléase Goodwin. Commissioner Pat Ann McMurray was not in attendance for the meeting. Staff members in attendance were Planning Director Pam Graham, Planner Daniel Martin, Planner Jae Kim, Police Chief Tim Wenzel, Fire Chief Phillip Richardson, Deputy Fire Chief Richard Allred, Fire Lieutenant Alan Holmes, Deputy Fire Chief Gary Blue, Fire Captain Forrest Cox, Firefighter Seth Yarborough, Firefighter Richard Harris, Fire Inspector Richard Saunders, Firefighter Greg Bibey, Deputy Police Chief Carl Colasacco, Town Manager Bill Zell, Al Benschhoff with the Brough Law Firm, and Town Clerk Regina Rosy. Barbara Allred, Kelvin Watson, James McLean and his wife, Mac MacDougall, Richard Lee, Raymond Lee, Reporter for the Pilot Ted Natt, Maurice Holland, Jr., Landon Weaver, Scott Brown, Tim Marcham, Ron Utley, Shekeeta McCrimmon-Hill, Kenneth Byrd, Jim and Wilma Laney, Craig Giancaterino, Richard Gergle, Ernestine Chapman, Pat Corso, and approximately 10 boy scout troop members were also in attendance for the meeting.

Mayor Farrell called the meeting to order at 6:03 p.m.

1. Call to Order

a. Pledge of Allegiance.

Mayor Farrell asked everyone to please stand for the Pledge of Allegiance, led by local Boy Scout Troop 800.

2. Setting of the Agenda

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, to approve the setting of agenda as presented. Motion unanimously carried 4-0.

3. 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 Special Called Meeting on October 11, 2014; Regular Board Meeting on October 20, 2014, and Work Session on November 3, 2014.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Mims, to approve the consent agenda as presented. Motion unanimously carried 4-0.

4. Informal Discussion and Public Comment

- a. **Citizen's Academy Program Graduation.**

Manager Zell presented certificates and gifts to each of the 13 Citizen's Academy Program participants.

- b. **Employee of the Year Presentation.**

Manager Zell presented Fire Lieutenant Alan Holmes as the 2014 Town of Aberdeen Employee of the Year. Manager Zell presented Lieutenant Holmes with a certificate, check for \$300, and 2 vacation days.

- c. **Boy Scout Troop 800**

The Boy Scout Troop leader introduced each member from the troop in attendance and stated they are here this evening to work on their citizenship merit badge.

5. Financial Report

Manager Zell stated the General Fund balance was \$773,041.97 at the end of October. Manager Zell stated Aberdeen's population continues to grow and the % of sales tax received has increased from 4.9% to 5.29% for sales tax distribution. Manager Zell stated noteworthy expenses include the purchase of the police vehicles. On the Water & Sewer Fund, the balance is \$22,295, since October was a non-billing month.

6. Old Business

None

7. Public Hearings and New Business

a. Public Hearing for UDO Text Amendment #14-02 Regarding the Discharge of Firearms within the Town Limits.

Mayor Farrell opened the public hearing on UDO Text Amendment #14-02 Regarding the Discharge of Firearms within the Town Limits.

Director Graham introduced Al Benshoff, Attorney for the Brough Law Firm. Director Graham stated Police Chief Tim Wenzel, Deputy Police Chief Carl Colasacco, and Eric Ross are here this evening to answer any questions the Board may have related to this matter.

Director Graham stated the UDO Text amendment is to correct the omission of language in the UDO related to permitting of firing ranges, and to amend the Code of Ordinances to permit the UDO to direct the consideration of such uses. Director Graham stated the UDO does not currently address the category of shooting ranges and the Code of Ordinances restricts firearms use in a manner that would not support these facilities. A Public Hearing was held on 4/21/14 and staff was directed to gather additional information. Staff was advised that the proposed text amendment was in line with what would be expected for a facility of this type. Additional information regarding caliber and type of weapons that might be allowed by the amendment was presented at the June 16, 2014 Board Meeting and further research by staff has resulted in minor revisions to the amendment draft, borrowing language from municipal ordinances where indoor ranges exist. A new Public Hearing is required since new information has come to the table.

Director Graham stated Section 1 adds a single circumstance to the Code of Ordinances where discharge of a firearm is permitted within the town's jurisdiction. That circumstance, "as part of any use authorized by the Aberdeen UDO", creates the ability for the UDO to further authorize and regulate such uses. Section 2 of the amendment proposes new language to the UDO specifically related to uses consistent with shooting ranges, summarized as follows:

- New definitions for Firearm, Indoor and Outdoor Shooting Ranges are provided;
- The Table of Permissible Uses is amended to permit Indoor Shooting Ranges only in the I-H district and only with a conditional use permit. Specific proposals for such uses will be subject to

Planning Board recommendation with the Board of Commissioners acting as the permit-issuing authority. The conditional use permit process requires that a public hearing be held, provides the opportunity for the permit-issuing authority to impose conditions on the proposal, and may be denied if found that the public health of safety will be endangered, adjoining or abutting property will be injured, or that it will not be in harmony with the area in which it is located;

- New language related to the Use and Storage of Explosives is added that requires that the Police Chief and, if appropriate, the Fire Chief, or their designees, shall review all proposals involving the use or storage of explosives or the discharge of firearms, and that a written evaluation be provided to the Planning Director and to the Board prior to the required public hearing.

- A new section is added that states, "indoor shooting ranges shall meet or exceed the guidelines and recommendations for design, construction, operation, and management provided by the National Rifle Association (NRA), National Shooting Sports Foundation (NSSF), the US Occupational Safety and Health Administration (OSHA), and the National Institute of Occupational Safety and Health (NIOSH)." Section 5: (b) indoor shooting ranges shall be limited to using 0.50 caliber ammunition or less."

Director Graham stated the 2030 Land Development Plan does not directly address facilities of this type, nor do other plans adopted by the Board. The text amendment therefore is not inconsistent with the plan.

Director Graham stated the Planning Board heard this item on March 20, 2014 and recommended approval as amended by a unanimous vote. Following the public hearing, the Board may vote and render a decision on the item.

Commissioner Mims asked about Section 5a, which reads "shall meet or exceed the guidelines and recommendations for design construction"; he asked who would be regulating these guidelines. Director Graham stated design considerations are given for the facility by NSSF, and the developer would provide those to the Town. Commissioner Mims asked who ongoing would monitor and make sure these standard are being upheld. Director Graham stated the developer typically includes a statement on the application for the project stating they will meet the standards for the operation. Commissioner Mims asked about the targets for the shooting lanes. Eric Ross stated he is looking at angular steel plates

for the action shooting ranges. Commissioner Mims discussed the concern of having a green range, so there would not be dangerous lead exposures—perhaps use rubber backed stop instead. Commissioner Mims asked Mr. Ross if he has considered that possibility. Mr. Ross stated an indoor range is actually less exposure to lead than an outdoor range. Mr. Ross stated an indoor range works on a positive pressure system and all pollution is drawn downrange. Mr. Ross stated at least once a year the traps have to be cleaned, and there is a suit that has to be worn while cleaning the traps. Jim Laney asked if there is any age limitation for this shooting range. Director Graham explained this is a text amendment, and it is just the first step in the process to open a shooting range in Aberdeen, but right now specifics for the operation are not discussed.

With no further discussion, Mayor Farrell closed the Public Hearing for UDO Text Amendment #14-02 Regarding the Discharge of Firearms within the Town Limits.

b. Consider action on An Ordinance Amending the Aberdeen Code of Ordinances and the Aberdeen Unified Development Ordinance with Regard to the Discharge of Firearms and the Use or Storage of Explosives within the Zoning Jurisdiction of the Town.

Director Graham stated if the Board is ready to consider action on this item, then it is ready for a vote.

Commissioner Mims recommended an amendment to the language of the text amendment. Commissioner Mims stated he would like the amendment language to read “the construction of the lanes must be constructed by Action Target Mega Training Systems, or another company that has highly credible proven performance and approved by the Board of Commissioners.” Commissioner Mims stated his concern is who is going to regulate the shooting range. If there is not a way to measure if the lanes are safe, then how will we know if they are safe. Al Benschhoff stated it is appropriate to have standards in the Code, but it is not a good idea to name a specific company to perform those standards. Director Graham stated she is concerned about naming a company as well, since it would be hard to keep up with the operation of the company and if they are meeting the requirement. Commissioner Mims recommended “a company with a proven track record of performance in the industry and accepted by the Board of Commissioners”. Al Benschhoff stated the condition can be added under the conditional use permit process. Attorney Benschhoff stated the Board could require the operator of the

range to provide certification certifying they are trained to operate a shooting range. Mr. Ross stated OSHA enforces lead exposure/management and there are steep fines for companies that do not meet OSHA standards. Commissioner Mims stated he is also concerned about backstops for the firing lanes and making sure they are safe. Mayor Farrell suggested checking with other organizations that have these ranges, and research how they handle these ranges. Commissioner Mims stated he has completed 8 months of research on this topic, since he was interested in opening a shooting range at one point in time. Commissioner Mims stated there is a lot of liability for the Town if the standards are not there to enforce the regulations for a shooting range. Commissioner Dannelley stated he believes the process for tonight is to consider action on a text amendment for the language in the UDO, not for consideration of a specific project. Commissioner Dannelley stated we can place conditions on a conditional use permit for a specific project. But tonight is considering the approval for the potential to have shooting ranges in the Industrial Heavy District. Director Graham stated the language used was very intentional and at times defers regulations to other agencies so the Town is not responsible for monitoring, inspections, etc. Motion was withdrawn by Commissioner Mims.

Commissioner Dannelley asked because the 2030 Land Use Plan is silent, and other plans are silent, then the text amendment is not necessarily inconsistent, but also does not have consistency. Commissioner Dannelley asked when it is absent, then is it considered not inconsistent? Director Graham stated when it is absent, then you defer to the language that the text amendment is not inconsistent.

A motion was made by Commissioner Dannelley, seconded by Commissioner Goodwin, that UDO #14-02 is not inconsistent with comprehensive plans that have been adopted by the Town of Aberdeen. Motion unanimously carried 4-0.

A motion was made by Commissioner Dannelley, seconded by Commissioner Goodwin, to approve the following amendments to the Town of Aberdeen UDO and the Code of Ordinances:

- Amend UDO subsections 152-15, 152-146, 152-163.25, and 152-163.29 as indicated in the draft text amendment.
- Amend Code of Ordinances subsection 130.04 as indicated in the draft text amendment.

Motion unanimously carried 4-0.

c. **Public Hearing for UDO Text Amendment #14-06 to Require Vegetated Strips Between Curb & Sidewalks.**

Mayor Farrell opened the public hearing for UDO Text Amendment #14-06 to Require Vegetated Strips Between Curb & Sidewalks.

Director Graham stated the request is to set a standard to be applied consistently for future developments with a request to allow separation between curb and sidewalks with a vegetated strip. Director Graham displayed a visual of what this looks like in Forest Hills Pointe. But at Sandy Springs, there is no vegetated strip. Director Graham referred to the placement of the mailboxes and how mail carriers are currently driving on the curb to put mail in the boxes. Director Graham stated the objectives are to allow for a zone between the curb and sidewalk for mailboxes and utilities so that vehicular crossings of the sidewalk to reach these items can be eliminated and reduce potential conflicts between pedestrians and vehicles and reduce maintenance and repair of sidewalks.

Director Graham stated the 2030 Land Development Plan Future Land Use Map addresses the potential need for physical separation indirectly through citizen comments. Director Graham stated the Aberdeen Pedestrian Transportation Plan specifically recommends a "buffer zone" of two to four feet for local or collector streets and buffers with greater widths for busier streets and the downtown area.

Director Graham stated the Planning Board recommended approval as amended of UDO #14-06 by unanimous vote. Mayor Farrell stated he believes the sidewalks are important and the planting strips provide extra protection for the pedestrians and requires less maintenance for the sidewalks.

With no further discussion, Mayor Farrell closed the public hearing for UDO Text Amendment #14-06 to Require Vegetated Strips Between Curb & Sidewalks.

d. **Consider action on An Ordinance Amending the Aberdeen Unified Development Ordinance to Require Vegetated Strips Between Curb and Sidewalks**

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, that UDO #14-06 is not inconsistent with

comprehensive plans that have been adopted by the Town of Aberdeen.

Motion unanimously carried 4-0.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, that the Board does approve the following amendment to the Town of Aberdeen UDO: Amend subsection 152-217 as indicated in the draft text amendment. Motion unanimously carried 4-0.

e) Public Hearing for Conditional Use Permit #14-05 submitted by Bill Clark Homes for a 94 lot subdivision west of Shepherd's Trail.

Clerk Regina Rosy swore in Pam Graham and Scott Brown. Director Graham introduced those in attendance including Scott Brown and Landon Weaver.

Director Graham displayed an aerial photograph of the vicinity of the property proposed for the CUP. Director Graham displayed conceptual plans of the proposed development. Director Graham displayed a lot layout showing open space proposed, and lot configuration. Director Graham stated the zoning for the property is R10-10 which requires a 10,000 minimum square feet lot size, minimum lot width is 75 feet, and setbacks are 35' F, 15' S, 30' R. Director Graham displayed a vicinity zoning map. Director Graham stated there is a 20% open space requirement, and 25% has been offered. The open space is proposed for the steepest portions of the site with existing ponds. A single access is proposed on Shepherd's Trail. Traffic generation rate is estimated at 900 vehicle trips per day and a traffic impact analysis will be required. The applicant has asked if this can be conducted during the site plan process, rather than now, due to the high cost of the requirement. Curb and gutter is proposed. UDO requires that to the extent practicable, all developments shall conform to the natural contours of the land, and natural and man-made drainage ways shall remain undisturbed. Also required is that lot boundaries shall coincide with drainage ways and that streets shall be related appropriately to the topography. Director Graham stated sidewalks on both sides of all newly created streets are proposed in accordance with UDO requirements.

Director Graham stated the UDO requires that subcollector, local, and minor residential streets be curved whenever practicable to the extent necessary to avoid conformity of lot appearance. The streets proposed for the subdivision are classified as subcollector (at least 26 but not more than 100 dwelling units).

UDO will be required to take changes to the UDO or to make changes to the UDO.

Director Graham stated the UDO requires street trees at an average rate of one per 30 feet of street frontage. Screening may be required as a condition of approval, and is recommended by staff. Applicant has noted plans that street trees will be provided. Additional requirements provide for the retention and protection of large trees: "every development shall retain all existing trees 12" in diameter or more unless the retention of such trees, in the opinion of staff, unreasonably burdens the development." Applicant has advised staff that the site will be mass graded to accommodate the proposed layout and slab on grade construction. Grading within the dripline of a tree necessitates the removal of the tree.

Town Clerk Regina Rosy swore in Landon Weaver. Mr. Weaver stated only a portion of the site will be mass graded, not all of the site.

Director Graham stated though not binding in their decision, the Board must consider whether the proposal generally conforms with the adopted Land Development Plan and other plans adopted by the Board. Although consistent with existing zoning and nearby uses, the 2030 Land Development Plan identifies the area as commercial. The Plan also recommends conservation subdivision design for new development.

Director Graham stated conditions have been recommended to ensure the project's consistency with other adopted plans, including the Pedestrian and the Bicycle Transportation Plans, and the Green Growth Toolbox.

Director Graham reviewed the quasi-judicial procedure which means the Board must consider the following in their deliberations:

- Is the application complete as submitted?
- Does the proposal comply with all requirements of the UDO?
- Will the project endanger public health or safety?
- Will the project substantially injure the value of adjoining property?
- Will the project be in harmony with the area in which it is located?
- Does the project generally conform with plans adopted by the Board?

Director Graham reviewed the 17 conditions for the Conditional Use Permit which included the following:

1. Conditional Use Permits (CUPs) run with the land and as such CUP #14-05 applies to the entirety of the property reflected in Parcel ID #00049149 and 20060513. An amendment to the CUP is needed to

remove property from the UCP or to make changes to the CUP. If an activity is a use by right, it is not subject to the CUP.

2. The proposed use is authorized by the CUP, however, approval of CU #14-05 is contingent on a successful interdepartmental review to ensure that the development has met all Federal, State and local regulations and permitting requirements, as well as any conditions attached to the CUP approval. Plans submitted for this review shall include, but not be limited to, utility locations including size, material and vertical alignment of waterlines, engineering calculations assuring that the proposed storm-water measures meet or exceed the requirements Article XVI, Part 2, Drainage, Erosion Control and Storm-water Management of the UDO.

3. Any and all required permits and/or approvals from other regulatory agencies must be in place prior to issuance of a Notice to Proceed by the Planning Department.

4. The development is authorized to create a maximum of ninety-four (94) single family lots and construction documents generally based on the conceptual drawing dated October 1, 2014.

5. Open space shall generally comply with the 10/1/2014 conceptual drawing and in no case may be reduced to less than 20% of the total land area for the development. Open space is to be dedicated to the Town of Aberdeen; passive recreation uses are recommended.

6. Tree harvest and mass grading are not authorized as a result of this approval. Construction documents, including a grading plan, shall be reviewed by staff for compliance with the UDO.

7. The applicant is required to install sidewalks on both sides of all new streets, or provide a guarantee with initiation of each phase of development in accordance with the requirements of the UDO.

8. Streets, sidewalks, waterlines, and sewer and storm-water facilities are to be dedicated to the Town of Aberdeen contingent upon inspection and approval by the Public Works Department. Preliminary and Final Plats shall identify any and all Town easements related to these facilities.

9. The Fire Department must sign off on the drawings as well as available capacity for treating fires. Hydrants are required consistent with their spacing requirements. Adequate turning radius must be provided for the fire trucks currently in use.

10. Prior to approval of final plat(s), all infrastructure must be complete or guaranteed per UDO requirements.

11. Street trees shall be installed prior to final plat approval or as a requirement of the building permit for each lot and shall be consistent with official species list provided in Section 98.03 of the Aberdeen Code of Ordinances or with "Trees of the Carolinas" (Appendix J of the UDO) and

need have planted at the appropriate rate. Compliance with the street tree requirements will be revised by staff and staff is authorized to insure compliance prior to issuing a certification of occupancy for each lot.

12. Sharrows and marked crosswalks shall be installed or guaranteed prior to final plat approval consistent with the requirements of the Comprehensive Pedestrian and Bicycle Plans.

13. The developer shall coordinate with the Parks and Recreation Department to install a passive recreational use for the development; it is to be installed at the developer's expense.

14. A perimeter buffer of undisturbed vegetation or newly planted screening material for the development is requirement to prevent lots from being cleared to the perimeter boundary. The developer shall coordinate with the Public Works and Planning Departments regarding specifics of buffer requirements and maintenance following approval of the CUP.

15. The applicant shall supply Planning staff with an assessment from US Fish and Wildlife Agency with regards to Red Cockaded Woodpecker activities on the property prior to site disturbance.

16. Subsequent to approval of the CUP, but prior to or with the submittal of the preliminary plat, the developer shall provide to staff a traffic impact analysis (TIA) that meets the requirements of Article XI, Section 152-163.21 of the UDO. Based on a review by staff of the analysis and any recommended improvements provided in the analysis, the Town Board may require that such improvements be undertaken and depicted on the plat prior to its approval. The TIA will be provided to NCDOT and staff shall include their comments in the review.

17. Applicant shall work with the Planning and Public Works Departments to create easements at locations considered appropriate by staff to facilitate drainage for the development.

Scott Brown stated there is a lot of topography that has be dealt with, and it is almost impossible to go in and build without mass grading, since this used to be a golf course. Mr. Brown stated there is not a lot of give in this site, and the site has been vacant for years. Mr. Brown stated there is a reason it has been vacant for so long. Mr. Brown stated 94 lots is required in order to be able to afford the development of the property. Mr. Brown stated the Planning Board did not like the lot layout because of the lack of connectivity, and the dead ends, but the Fire Dept. had no problem with providing emergency services to the area. Mr. Brown stated if the roads are connected, it will then look like a racetrack, and the roads are proposed in the manner they are in order to meet NCDOT standards. Mr. Brown stated the roads will not follow NCDOT standards if the roads

are connected. Mr. Brown explained the speed bumps that have been added to the plan in an effort to slow traffic down, at the request of the Planning Board. Mr. Brown stated they do plan on leaving a natural buffer around the property, and the areas highlighted in red on the aerial map are the areas that would be mass graded. Mr. Brown stated basically mass grading is moving the dirt around and putting it where you need it.

Director Graham explained what transpired when the Planning Board recommended approval of this item – and basically the approval was a break from procedure. The Town Attorney has provided Town Board members with a memo detailing this break from procedure, and staff has communicated the same to Planning Board members in order to avoid confusion in future deliberations. Director Graham stated training has been scheduled for the Planning Board for January 15, 2014. Mayor Farrell stated he is having trouble understanding what transpired with the Planning Board – and why the item would not go back to them for review. Attorney Benshoff stated the state law is different than the ordinance. State law says the Planning Board has to make a recommendation, which they did. State law requires if a quasi-judicial hearing is held, then the Board has to make findings of fact. The Planning Board made a nonbinding recommendation, that is not bound by state law. Attorney Benshoff stated the public hearing can be continued to another meeting, or the Public Hearing can be closed, and a decision can be held at a later meeting, etc. Attorney Benshoff stated the item can be heard at public hearing, without having to go back to the Planning Board.

Mayor Farrell asked if the Board should send the item back to the Planning Board. Attorney Benshoff stated that is not necessary, nor required.

Attorney Benshoff stated the testimony presented before Mr. Weaver was sworn in, should be omitted.

Mayor Farrell stated just because this was the best layout for Bill Clark Homes, does not mean that it is the best for Aberdeen. Mayor Farrell stated he has a problem with the speed bumps and also with the layout. Mayor Farrell stated John McQueen Road, Sun Road, Devonshire Trail, etc. have straight lines for their roads, and the residents do not like it at all. Mayor Farrell stated this proposal has straight lines, which does not resemble a race track. Mr. Brown stated the speed bumps were put in at the request of the Planning Board. Mayor Farrell stated when Bill Clark Homes builds these house and leaves, the residents will be left to deal with what has been built. Mayor Farrell stated curves when possible were put in the UDO. Landon Weaver stated he feels this fits a need for the

Town of Aberdeen – right across the street is a similar look that H&H has built. Commissioner Dannelley stated he believes the UD0 staff believes there are 5 items that do not meet the UD0. Commissioner Dannelley stated he would like to figure out how to get to yes on this project. But his concerns are the areas that are noncompliant with this project. Commissioner Dannelley asked how to bridge that gap. Director Graham reviewed the areas that are noncompliant – 152-261, 152-265(A), 152-215, 152-218(A). Tree conservation ordinance – does not feel an effort has been made to reduce taking out so many trees on the site.

Director Graham stated it appears that the issue is if the profitability for the developers can occur with meeting all of the requirements of the UD0. Director Graham stated the Board could ask for a revised site plan to meet all conditions, or could find that staff's findings are not correct and vote yes anyways. Director Graham stated the Board is not obligated to make a decision tonight, and if the Board feels more information is needed or wants to see an alternate site plan, then that is okay. Commissioner Dannelley stated we are grappling with 5 issues, not just 1 that are not in compliance with the UD0. Director Graham stated a sketch plan review is conducted before any items go to the Board – it really comes down to the street and lot layout. The applicant completed a tree survey and included sidewalks. Director Graham stated it is a limited site, but it does not meet the UD0. Director Graham stated getting 94 lots out of the parcel is the main problem.

Attorney Benschhoff stated certain motions have to be made in order to approve this item. Attorney Benschhoff stated as each of the motions are made, evidence needs to be provided if the answer is no. Attorney Benschhoff stated staff is hired for the professional recommendations and expertise, but you do not have to take the advice of staff.

Commissioner Mims stated he had a conversation with Mr. Weaver a couple of months ago regarding mass grading and straight roads. Commissioner Mims stated he found answers for Mr. Weaver and called him back. Commissioner Mims stated if he needs to be recused from voting, then he will do that. The Board did not feel that was a conflict of interest.

Commissioner Dannelley stated he believes the bottom line is that the Planning staff believes there are 5 items that do not meet the UDO. Commissioner Mims stated it sounds to him like the decision is whether to consider this property for development now, or wait several years for another opportunity. Director Graham stated Shepherd's Ridge is similar to this proposed development, but it was approved prior to the UDO. Director Graham stated in order to get the profitability to make this project viable, this is basically what the developer can offer. Director Graham stated she believes these items were included in the UDO to get away from the grid type layout. Mr. Weaver stated this is a challenging site, but they want to develop it the right away and do the best thing for the area. Mayor Farrell stated the past Board members have spent a lot of time getting the UDO approved, and he would hate to see the Commissioners vote against the UDO.

Commissioner Mims asked what issues are taking place at Shepherd's Ridge, that could also be a problem with this proposal. Director Graham stated storm-water is the main area – tree retention, slab on grade, etc. Mr. Weaver stated he looks at a project as being comprehensive – large open space area, with sediment basins to take care of sediment.

Attorney Benschoff stated just for the record, he would like to invite the applicants to provide any type of rebuttal to any opinions of the Planning Director if they would like. Applicants had no rebuttal.

Consider action on Conditional Use Permit #14-05 submitted by Bill Clark Homes for a 94 lot subdivision west of Shepherd's Trail.

A motion was made by Commissioner Mims, seconded by Mayor Pro-tem Thomas, that CUP #14-05 is complete as submitted. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims that CUP #14-05 will comply with one or more requirements of the UDO. Director Graham stated this item would have to comply with all requirements of the UDO in order to be approved. Commissioner Mims asked Director Graham what she deems hard line that does not meet the UDO requirements. Director Graham reviewed the following again:

- 152-261
- 152-265(A)

- 152-215
- 152-218(A)
- Tree conservation ordinance – does not feel an effort has been made to reduce taking out so many trees on the site.

Commissioner Dannelley stated his preference would be to have time to review the findings of fact that the Board just received tonight, before making a decision. Motion failed for lack of a second.

Director Graham recommended that the public hearing be reopened, and continued to another date, in the event new evidence is brought up.

Commissioner Dannelley stated he wants to do right by the applicant, and by the Town.

A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, to reopen the public hearing and continue the public hearing to the next Board Meeting scheduled for December 15, 2014. Motion unanimously carried 4-0.

g. Consideration of Historic Preservation Commission Appointment.

Director Graham stated Dell Crumpton is interested in coming back on the Historic Preservation Commission, and she would recommend the Board appoint Dell Crumpton to fill the final remaining vacancy. A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, to appoint Dell Crumpton to the Historic Preservation Commission. Motion unanimously carried 4-0.

h. Project Budget Ordinance for the Brownfields Assessment Project.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Mims, to approve a Project Budget Ordinance for the Brownfields Assessment Project. Motion unanimously carried 4-0.

i. Resolution Approving BB&T's Financing Terms for 4 new Dodge Chargers for the Police Department.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Mims, to approve a Resolution Approving BB&T's Financing Terms for 4 new Dodge Chargers for the Police Department. Manager Zell

stated typically 4 of the police vehicles are replaced each year. Motion unanimously carried 4-0.

8. Other Business

Update on PARTF Grant for Ray's Mill Pond.

Manager Zell stated a meeting was held last week with the contractors doing the work at Ray's Mill Pond. The dredging is 80% complete and the land clearing is 90% clear. The construction for the pier will begin in 2 weeks, then the spillway will be completed. Manager Zell stated the bid documents for the shelter, driveway, parking lots paving, and trail should be going out at the end of this week. Commissioner Goodwin asked what happened to the beavers. Manager Zell stated the beavers have gone elsewhere. Manager Zell stated March 30th is the deadline for the grant.

9. Closed Session pursuant to:

(a) N.C.G.S. 143-318.11 (a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, and

(b) N.C.G.S. 143-318.11 (a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations.

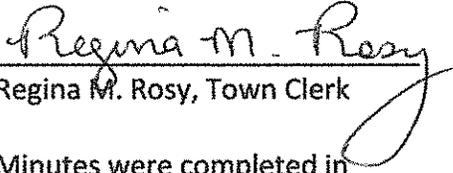
A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, to go into Closed Session pursuant to N.C.G.S. 143-318.11 (a)(3) and N.C.G.S. 143-318.11 (a)(4). Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin to open regular session. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to approve a tax grant for 5 years for Reliance Packaging as an incentive plan. Motion unanimously carried 4-0.

10. Adjournment

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Dannelley, to adjourn the Board Meeting. Motion unanimously carried 4-0.


Regina M. Rosy, Town Clerk

Minutes were completed in
Draft form on November 17, 2014


Robert A. Farrell, Mayor

Minutes were approved
on December 15, 2014

A motion was made for leave to amend the petition for summary judgment to include the following: [illegible]



Robert A. Ash

Minutes were approved
on March 12, 2014



Robert A. Ash

Minutes were approved
on March 12, 2014