

Regular Board Meeting

Aberdeen Town Board

June 22, 2015

Robert N. Page Municipal Building

Monday, 6:00 p.m. Aberdeen, North Carolina

The Aberdeen Town Board met Monday, June 22, 2015 at 6:00 p.m. for the Regular Board Meeting. Members present were Mayor Robert A. Farrell and Commissioners Joe Dannelley, Elease Goodwin, Pat Ann McMurray, and Buck Mims. Mayor Pro-tem Jim Thomas was not in attendance for the meeting. Staff members in attendance were Planning Director Pam Graham, Planner Jae Kim, Planner Daniel Martin, Finance Officer Beth Wentland, Public Works Director Rickie Monroe, Fire Chief Phillip Richardson, Police Chief Tim Wenzel, Parks & Recreation Director Adam Crocker, Deputy Police Chief Carl Colasacco, Town Manager Bill Zell, and Town Clerk Regina Rosy. Attorney Nick Herman with The Brough Law Firm, Reporter for the Pilot Ted Natt and approximately 45 citizens were also in attendance for the meeting.

1. Call to Order

Mayor Farrell called the meeting to order at 6:00 p.m.

- a. Pledge of Allegiance.

Mayor Farrell asked everyone to please stand for the Pledge of Allegiance.

2. Setting of the Agenda

Manager Zell stated there are no changes to the agenda. A motion was made by Commissioner Dannelley, seconded by Commissioner Goodwin, to approve the setting of the 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.

Minutes of Board Meeting on May 26, 2015, Work Session on June 8, 2015, and Closed Session on June 8, 2015.

b. Accept the Clerk's Certificate of Sufficiency.

c. Resolution Fixing Date of Public Hearing on the Question of Annexation Pursuant to G.S. 160A-31.

A motion was made by Commissioner McMurray, seconded by Commissioner Goodwin, to approve the consent agenda as presented.

Motion unanimously carried 4-0.

**4. Informal Discussion and Public Comment**

None

**5. Financial Report**

Manager Zell stated at the end of May the General Fund revenues are \$228,726 above expenses. Manager Zell stated sales tax in 10 months time almost met the 12 month estimated budget for revenues. Manager Zell stated for the Water & Sewer Fund, the balance is -\$29,007.27, but by the end of the year with all billing revenues, the Water & Sewer Fund will be fine.

**6. Old Business**

None

**7. Public Hearings and New Business**

a. Consider action on Fiscal Year 2015-2016 Budget Ordinance.

Manager Zell stated due to another option just presented by a Board Member, action on this item will not be considered until June 29, 2015. Manager Zell stated there will be a Special Called Meeting scheduled for Monday, June 29, 2015 at 6:00 p.m.

Commissioner Mims stated this budget year has been especially challenging with loss of revenues in the budget. Commissioner Mims stated his goals for the upcoming year are to not reduce any services in the Town, to continue to enhance and improve our place to live and work, to protect our citizens from unnecessary tax hikes, and to protect our employees from pay reductions. Commissioner Mims stated he would not consider this an "optional" budget, but would rather just consider his ideas "suggestions". Commissioner Mims reviewed some of the suggestions he has made for the

Board's consideration. Commissioner Mims stated he received some feedback from Manager Zell on some suggestions that were not feasible, and Commissioner Mims stated those line items have been readjusted. Commissioner Mims stated with the suggestions he has recommended, it will keep the tax rate where it is, and will also include a 2% cost of living increase for all Town employees. Mayor Farrell stated almost 50% of the budget goes to 2 departments – Police and Fire. Mayor Farrell stated the remaining 50% is used for all other departments. Commissioner Dannelley asked Commissioner Mims to explain how his revenues and expenses were different than what Town staff proposed. Commissioner Mims stated revenues are projections only, and he did not make many changes to those. Commissioner Mims stated his suggestions were mainly cuts to expenses. Commissioner Mims stated a lot of the cuts to expenses are minimal cuts. Commissioner Mims stated he will be sending the spreadsheet to the Board members to review. Commissioner Mims stated he has put in some money to help address the drainage issue that Mike Thomas has been dealing with.

Commissioner Dannelley stated it sounds like the challenge over the next week is clear. Commissioner Dannelley stated when he ran for office he made a commitment to smart fiscal policy, and this is important. Commissioner Dannelley stated one of the pledges he made was fiscal responsibility and government efficiency. Commissioner Dannelley stated the next few days will really get at what that means for the Town of Aberdeen. Commissioner Dannelley stated he also pledged to continue smart fiscal policy, and he certainly thinks the Board and Town staff are doing that. Commissioner Dannelley stated he wants to emphasize capital improvements and priorities for the Town, and also maintain conventional tax policies. Commissioner Dannelley stated he never wants to do anything that is unnecessary, and it looks like there is an opportunity for potential savings, without reducing critical services for this budget year. Commissioner Dannelley stated we also went from an initial 0% cost of living increase for Town staff to now a recommended 2% cost of living increase, which gets directly at taking care of our folks that work every day to provide services to Town citizens. Commissioner Dannelley stated his desire would be that next Monday night there is a budget ready for action, with no more discussion. Commissioner Mims stated next year he will hopefully get the budget earlier, and can get involved earlier in the process.

- b. Consider action on Year-end Budget Amendments for Fiscal Year 2014-2015.

Finance Officer Zell stated Finance Officer Beth Wentland is here this evening to go over all year-end budget amendments for Fiscal Year 2014-2015. Finance Officer Wentland stated there is always some uncertainty about what all numbers will come in at, and it is really important to make sure no department budgets become overspent at year-end. Finance Officer Wentland stated to summarize, the budget amendments include the following:

- Adjust original budget estimates in the General Fund at year-end;
- Appropriation for various capital costs that occurred during the fiscal year;
- Appropriation for Malcolm Blue Farm operating costs;
- Appropriation for the Town's contribution to the CDBG: Galaxy/Blue's Crossing SBEA Project;
- Appropriation for the Town's contribution to the Ray's Mill Park Project;
- Adjust original budget estimates in the Water & Sewer Fund at year-end; and
- Appropriation for the Town's contribution to the Well Replacement Project.

Finance Officer Wentland stated the total fund balance appropriation needed for these budget amendments is as follows:

**General Fund - \$478,059**  
**Water & Sewer Fund - \$67,200**

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to approve the Year-End Budget Amendments for Fiscal Year 2014-2015 as presented. Motion unanimously carried 4-0.

Consider action on Amended Project Budget Ordinance for Ray's Mill Park Project.

Finance Officer Wentland stated an amended project budget ordinance for the Ray's Mill Park Project has been provided to the Board.

Finance Officer Wentland stated this ordinance allows the Town to revise the original budget estimates for various revenue and expenditure accounts, to help ensure that the Town maintains compliance with NC General Statutes with no line items going over budget. Finance Officer Wentland stated the bottom line for the project is still the same amount - \$343,704. A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to approve the Amended Project Budget Ordinance for Ray's Mill Park Project. Motion unanimously carried 4-0.

Continuation of Public Hearing for Conditional Zoning #15-01 Requested by Ken Howell to Conditionally Rezone Property located on Highway 211 from R20-16 to General Commercial - Conditional District.

Director Graham stated this is a continuation of the public hearing from the last meeting on June 8, 2015. Director Graham stated the goal was for the applicant and residents to reach some sort of resolution on this matter prior to this evening. Director Graham stated Mr. Howell has met with several affected property owners and the results from the meeting are as follows:

1. An 80' buffer shall be maintained along all property boundaries of the property to be rezoned and shall include a planted screen to consist of the following:
    1. Two staggered rows of evergreen trees on a two foot high berm with a width to accommodate the trees,
    2. The evergreen trees shall be spaced to create a solid screen at maturity and to reach a height of no less than twelve (12) feet at maturity,
    3. The planted screen shall be installed in stages as the areas are developed and such that no existing trees are removed, and
    4. The area between the new planted screen and the property line will not be disturbed.
- As required by Article XIX of the UDO, the removal of existing trees with a diameter at breast height of 12" or greater is prohibited without the expressed approval of the Planning Director.
- Conditional and Special Use Permits for the approved uses on the property are not required. The conditional zoning is contingent on approval of a final site plan, to include a stormwater management plan, by staff to insure compliance with the UDO. The plan shall include calculations showing that the post development runoff is no greater than the pre-development condition.

Director Graham stated adjoining property owner, Ron Utley, has submitted his own suggestions. Mr. Utley would agree to a 100' - 110' buffer with a privacy fence to protect the buffer zone to run with the property now, with a certified person in the field to develop a sound buffer. Mr. Utley stated he recommends Leland cypress trees for the staggered rows of evergreen trees. Mr. Utley stated he would recommend a minimum height of the tree to be planted at time of planting.

Director Graham stated she would highly recommend that the Board not restrict Mr. Howell to a specific tree species, due to potential fungus

problems with Leland cypress trees. Commissioner Mims stated Leland cypress trees also do not have strong roots, and fall down easily during storms.

Mayor Farrell asked where the 80' buffer came from. Director Graham stated Mr. Howell and at least 3 of the adjoining property owners have agreed on the 80' buffer. Mayor Farrell asked how many adjoining property owners there are total. Director Graham stated there are 6 adjoining property owners. Mayor Farrell asked about the zoning of the buffer. Director Graham stated the strip would be rezoned from R20-16 to General Commercial - Conditional District. Director Graham stated the conditions would run and stay with the property, no matter who owns the property. Mayor Farrell questioned if the 80' buffer would be undisturbed. Director Graham stated she may have missed that detail in the conditions, but definitely that language can be added in before this item goes to a vote.

Commissioner Mims stated at the last meeting, there was discussion about stormwater drainage – Commissioner Mims asked if there will be a condition placed on this conditional use permit for stormwater management.

Director Graham stated the final condition listed states the following: "the conditional zoning is contingent on approval of a final site plan, to include a stormwater management plan, by staff to ensure compliance with the UDO. The plan shall include calculations that the post development runoff is no greater than the pre-development condition." Director Graham stated this condition can be amended if the Board feels they need more assurance on this issue. Commissioner Mims stated he will be interested in making an amendment to that condition.

Commissioner Mims stated his other concern is the two staggered rows of plantings, and if there is anything in place to ensure the trees will reach 6 feet high in 2 years. Mr. Howell stated that has been discussed, and trees will be planted between 4 and 6 feet in height.

Mayor Farrell was concerned about the ditches that have been dug on Mr. Howell's property that are draining on others' property, and how that will be addressed. Director Graham stated the condition could be amended to further address the stormwater management issue. Director Graham stated again, the conditions must be agreed upon by both the applicant and the Town Board.

Mr. Ken Howell stated he met on June 11<sup>th</sup> with 3 of the adjoining property owners – and together they compromised. Mr. Howell stated the

agreement with the property owners was that the front of the 80' buffer be where the trees would be planted, and leave the 80' buffer with the natural trees already planted. Commissioner Dannelley thanked Mr. Howell for his efforts on this issue over the past few weeks. Commissioner Dannelley asked for the future, if one of the trees were to die, what would the plan be for replacement? Mr. Howell stated he would treat the trees the same as a fence, and if it falls/dies he would replace it. Commissioner Dannelley stated he just wants to ensure whatever is decided is enduring, so there are not complaints moving forward. Commissioner Dannelley asked if the residents Mr. Howell met with are adjoining property owners. Mr. Howell replied yes. Commissioner Dannelley confirmed as a matter of record, that the dates listed in the email to Director Graham on 6/15/15 from Mr. Howell were supposed to be "6" for the month of June, instead of "7" for the month of July. Mr. Howell replied that is correct.

Commissioner Goodwin asked if the neighbors Mr. Howell met with all agreed on the conditions. Mr. Howell stated the 3 neighbors he met with all agreed on the conditions, but Mr. Utley developed his own proposals.

Murray Williamson, with the Basil Group, developer of Devonshire Subdivision, stated he met with Mr. Howell last Wednesday. Mr. Williamson stated he is concerned about the stormwater issue with the trenches that were dug - Mr. Williamson stated he recommends the trenches be filled in and only have natural terrain. Mr. Williamson stated he would really like to see an engineer develop some type of stormwater management for the area of concern. Mr. Williamson recommended running a 6' privacy fence at least 30' from the back of the property to hide all the mess at the back of Mr. Howell's property. Mr. Howell stated he would substitute the 80' buffer on the left side with a fence instead, in exchange for more property Mr. Howell can commercially develop. Mr. Williamson stated he really wants to see a water management system in place, so his properties are not flooded out.

With no further discussion, Mayor Farrell closed the public hearing on Conditional Zoning #15-01 Requested by Ken Howell to Conditionally Rezone Property located on Highway 211 from R20-16 to General Commercial - Conditional District.

e. Consider action on Conditional Zoning #15-01 Requested by Ken Howell to Conditionally Rezone Property located on Highway 211 from R20-16 to General Commercial - Conditional District.

Director Graham stated if the Board is prepared to take action on this item tonight, it sounds like there will need to be some amendments to the conditions. Director Graham stated an 80' buffer shall be maintained along the northern boundary to be rezoned. Director Graham stated what she heard was along the western boundary there would be a 30' buffer with a 6' high, plank fence and the 30' buffer would be undisturbed trees.

Commissioner Dannelley expressed his frustration with the back and forth about this item this evening. Commissioner Dannelley stated he was expecting to hear a compromise reached this evening, and now it appears there is unfinished business. Mr. Williamson stated all he needs is the fence, he doesn't need more trees, or a berm, etc.

Director Graham stated there are a couple options at this point, continue action on this item until the final compromise can be reached, or amend the necessary conditions this evening. Commissioner Mims stated he hears the compromise. Mr. Friesen stated part of the frustration, is this is a conditional zoning which requires the approval/acceptance of the applicant.

Commissioner Mims stated it sounds like there is an agreement in place, from what he is hearing.

Attorney Nick Herman, with the Brough Law Firm, recommended Mr. Howell, Mr. Williamson, and other adjoining property owners in attendance move to the conference room at this point and reach an agreement on all conditions, and then return to the Board Room to continue this item for a decision this evening. Commissioner Mims stated again, he believes the agreement has already been reached.

Director Graham read the conditions:

(1) An eighty (80) foot buffer shall be maintained along the northern property boundary of the property to be rezoned and shall include a planted screen to consist of the following:

a. Two staggered rows of evergreen trees on a two foot high berm with a width to accommodate the trees.

b. The evergreen trees shall be spaced to create a solid screen at maturity and to reach a height of no less than twelve (12) feet at maturity.

c. The planted screen shall be installed in stages as the areas are developed and such that no existing trees are removed.

d. A fence along the western property boundary of the property to be rezoned shall be installed thirty (30) feet from the property line. The fence shall be a six (6) foot high, solid plank wooden fence.

The area between the new planted screen and the property line will not be disturbed.

(2) As required by Article XIX of the UDO, the removal of existing trees with a diameter at breast height of 12" or greater is prohibited without the expressed approval of the Planning Director.

(3) Conditional and Special Use Permits for the approved uses on the property are not required. The conditional zoning is contingent on approval of a final site plan, to include a stormwater management plan prepared by a licensed engineer, by staff to ensure compliance with the UDO. The plan shall include calculations showing that the post development runoff is no greater than the pre-development condition. The plan shall also include proposed remedies to existing stormwater concerns.

(4) Staff is directed to enter Conditional Zoning District GC-CD for property identified by PID #00050263 on the official zoning map and add a label for CZ #15-01 upon final approval.

Agreement was received from Ken Howell for conditions.

A motion was made by Commissioner Mims, seconded by Commissioner McMurray, to issue approval with recommended conditions of Conditional Zoning CZ #15-01. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CZ #15-01 is consistent with applicable plans of the Town of Aberdeen related to the Plans Consistency Statement on page 5 of the staff report, with the exception of the last sentence. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CZ #15-01 is reasonable and in the public interest because of the consistency with applicable plans of the Town of Aberdeen related to the Plans Consistency Statement on page 5 of the staff report, with the exception of the last sentence — and agreed upon by adjoining property owners and applicant. Motion unanimously carried 4-0.

Public Hearing for Conditional Use Permit #15-02 submitted by Concrete Services, LLC.

Mayor Farrell opened the Public Hearing for Conditional Use Permit #15-02 submitted by Concrete Services, LLC.

Town Clerk Regina Rosy swore in Sean Fleenor, Wendy Jenkins, Director Graham, Lorraine Fleenor, and Richard Allen. Director Graham stated the Concrete Services Company requests a Conditional Use Permit to allow for the construction of a ready mix concrete plant and related office facility on Lee Paving Drive. The 11.64 acre parcel is located at the former Lee Paving asphalt facility site, in the Heavy Industrial District south of NC Highway 211. The site is located in a mixed use setting, adjacent to other Heavy Industrially zoned properties with low and medium density residential and commercial/light industrial parcels nearby.

Director Graham displayed a vicinity zoning map and a conceptual plan of the proposal. Director Graham displayed a vicinity aerial photograph and a site aerial photograph.

Director Graham stated this facility is proposed to be a smaller version of an existing plant in Spring Lake. The applicant states that the noise resulting from the operations will be limited to trucking activities, with the expected number of trucks served by the plant each day to be no more than ten, with four to five being average. Each truck has a ten cubic yard capacity.

Director Graham stated in the I-H District, the "Manufacturing, processing, creating or assembling of goods, merchandise and equipment" requires a Conditional Use Permit. Director Graham stated Conditional Use Permits are issued by the Board of Commissioners, with a recommendation from the Planning Board.

Director Graham stated the current existing site conditions are described as overgrown and neglected. An existing structure at the site has been subject to vandalism and break-ins. The property is currently fenced and gated and the company intends to rehabilitate the structure for office use. Other nearby businesses include Sandhills Recycling, Calco Enterprises, Pinnacle Furnishings, New South Enterprises, and Kolcraft.

Director Graham stated the area has supported industrial uses historically and features Aberdeen & Rockfish Rail line along Lockey Drive, just north of the site. Nearly three acres of the property remain in an undisturbed wooded state and provides a natural buffer along the south and southeastern property boundaries. Some additional plantings may be required to meet screening requirements elsewhere on the site. Water is available to the site, however sewer is not. The site has direct access to Lockey Drive via an access easement through the property to the north, owned by Lee Paving. The parking proposed for the office building exceeds the minimum requirement of eight spaces to accommodate employees.

Director Graham stated the North Carolina Department of Environment and Natural Resources will review the facility plans and be responsible for permitting the facility regarding air quality, stormwater, and erosion control. These permits will be in place prior to any construction activities on the site.

Director Graham stated the area is identified as industrial on Aberdeen's Future Land Use Map, consistent with the existing zoning and historical uses on the property.

Director Graham stated the recommended conditions are as follows:

(1) Conditional Use Permits (CUPs) run with the land and as such CU #15-02 applies to the entirety of the property reflected in Parcel ID #20000556.

An amendment to the CUP is needed to remove property from the CUP 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 #15-02 is contingent on a successful interdepartmental review to ensure that the proposal has met all Federal, State, and local regulations and permitting requirements, as well as any conditions attached to the CUP approval.

(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) Building and Fire Inspections are to be required prior to beginning operation, all to be coordinated through the Planning and Inspections Department.

(5) Any proposed building renovations are to be approved by Town of Aberdeen Building Inspectors and shall meet all applicable codes.

(6) Approval of the CUP shall not imply approval of signage. Sign permit applications consistent with the requirements of the UDO shall be reviewed and approved by the department prior to installation.

(7) The operation will be required to comply with the Town of Aberdeen noise regulations.

(8) All additional conditions or requirements as provided from the Town of Aberdeen Unified Development Ordinance are enforceable with regards to the operations proposed by CU #15-02.

Mayor Farrell was concerned about contaminants in the ground in this proposed area. Director Graham stated she is not sure if there are contaminants in the ground or not, but it would not preclude this operation from moving forward.

Wendy Jenkins stated she is the Environmental Director for the company, and the company will not be able to move forward until approval is received from NCDENR.

Richard Allen stated his company operated a concrete plant in Aberdeen from 1966 to 1991, and the plant was sold in 1991. Mr. Allen gave a brief history of his company.

Sean Fleenor stated he and his wife Lorraine are the homeowners most immediately affected by this proposal and live at 331 Domino Drive, Aberdeen. Mr. Fleenor stated his concerns are that the noise and dust are going to seriously affect his wife, since she is asthmatic. Mr. Fleenor stated he is also concerned about hours of operation, airborne pollutants, groundwater issue, and traffic concern.

Lorraine Fleenor stated there is not much of a tree buffer between her property and this proposal, and she would recommend the Board consider imposing some sort of buffer. Mr. Fleenor stated he would also like the Board to consider making sure the setbacks are maintained. Commissioner

Mims asked how far the distance is between the property owned by the Fleenors and the concrete operation. Mr. Fleenor stated 200' is the distance between his property and the concrete operation.

Director Graham stated she would look to the applicant to provide substantial vegetated screening and/or a fence.

Lorraine Fleenor asked if there is anticipation to use rail cars in the future to deliver supplies. Mr. Allen stated he does not anticipate using rail cars. Mr. Allen stated he has been doing this since the 1960s and he knows how to run the operation, and also strives to maintain positive relationships with all the property owners around the operations.

Mr. Fleenor stated again, his main concerns are dust control, hours of operation, and an adequate buffer.

Commissioner Mims asked about the hours of operation for the proposed business. Mr. Allen stated Lockey Drive will be used for the business operation, and 7:00 a.m. – 5:00 p.m. are the primary operation hours. Mr. Jenkins stated the plant would operate Monday – Friday, with occasional Saturday work.

With no further discussion, Mayor Farrell closed the public hearing on Conditional Use Permit #15-02 submitted by Concrete Services, LLC.

g. Consider action on Conditional Use Permit #15-02 submitted by Concrete Services, LLC.

Director Graham stated if the Board is prepared, the recommendations and suggested motions are listed in the staff report for the Board's review.

A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, that CU #15-02 is complete as submitted. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #15-02, if completed as proposed, will comply with one or more requirements of the UDO. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner McMurray, that CU #15-02 satisfies Finding #1: will not endanger public health or safety. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner McMurray, that CU #15-02 satisfies Finding #2: will not substantially injure the value of abutting or adjoining property. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #15-02 satisfies Finding #3: will be in harmony with the area in which it is located. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner McMurray, that CU #15-02 satisfies Finding #4: will be in general conformity with Land Use Plan or other plans specifically adopted by the Board. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, based on the Findings of Fact and the evidence presented, the Board of Commissioners issues approval with the proposed conditions of CU #15-02. Motion unanimously carried 4-0.

h. **Public Hearing for Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC.**

Mayor Farrell opened the Public Hearing for Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC.

Clerk Regina Rosy swore in Jerry Hall, Bryan Bowles, Brent Duplesses, Stanley Graham, John McPhaul, Larry Caddell, Pat Caddell, Tammy Lyne, Jeff McCluskey, and Planning Director Pam Graham.

Attorney Herman stated only expert testimony would be acceptable to speak to the value of adjoining property owners.

Mayor Farrell made full disclosure that he serves on a volunteer Board for the Bethesda Cemetery Association. Mayor Farrell stated after consulting with the attorney, it appears there is not a conflict of interest, since Mayor Farrell is not paid for his volunteer service on the Bethesda Cemetery Association. Mayor Farrell stated he has met with several members of the Bethesda Cemetery Association and the applicant regarding this issue. Mayor Farrell stated if the Board so chooses they may recuse him from this item.

Attorney Herman stated his judgment is that none of that provides a conflict of interest.

Director Graham stated Bethesda Ives, LLC requests a Conditional Use Permit for a 38 single lot family subdivision on a vacant tract comprising 51.46 acres. The property is accessed from Bethesda Road just north and across from the historic Bethesda Presbyterian Church. The applicant seeks approval of the use, open space, general layout, and number of lots subject to final engineering through the Site Plan Review process. Additional construction documents will be provided at that time for staff review.

Director Graham stated the property is located in the R20-16 Zoning District. This district was established with the principle use of land as low-density residential or agricultural purposes. The regulations of the district are intended to protect the agricultural sections of the community from an influx of uses that would likely render them undesirable for farms and future development.

Director Graham displayed a vicinity zoning map of the proposed property. Director Graham stated the open space proposed for the project exceeds the 20% requirement, primarily due to the existence of +/- 27.51

acres of wetlands contained within the parcel. The applicant proposes to construct an 8' wide natural walking trail along the existing sewer easement to meet the usability requirements for open space.

Director Graham displayed the preliminary site plan for the project and the Green Growth Toolbox assessment map for the proposal.

Director Graham stated the Planning Board may recommend denial of the permit if it concludes, based upon the information submitted, that if complete as proposed, the development more probably than not:

- Will endanger public health or safety, or
- Will substantially injure the value of adjoining property, or
- Will not be in harmony with the area in which it is to be located, or
- Does not generally conform with plans adopted by the Town Board.

Director Graham stated the Board must consider the following in their deliberations and may not approve the application if they determine that:

- The application is not complete as submitted, or
- The application does not comply with one or more requirements of the UDO.

Director Graham stated staff findings include:

- The cul-de-sac length proposed for Road "A" is within the 900' maximum length requirement as measured from the stubout Road "D".

Stubout roads are encouraged in UDO Section 152-214 to coordinate "with existing, proposed, and anticipated streets outside the subdivision."

Aberdeen's Fire Inspector has advised that the length of the cul-de-sac on Road "A" is not a concern, but he would look for an engineering design at the time of Site Plan Review of the wetland crossing that would allow accessibility to the full length of the road during major rain events.

The applicant has requested relief from the UDO requirement that sidewalks be installed on both sides of all new roads for specific portions of the design "in an effort to be low impact and to help with meeting the Green Growth Toolbox criteria."

Director Graham stated options available to the Board in response to this request include approval of alternate materials for sidewalks within the development if they conclude that:

1. Such walkways would serve the residents of the development as adequately as concrete sidewalks; and

2. Such walkways would be more environmentally desirable or more in keeping with the overall development design.

Additionally, Section 152-60(B) of the UDO provides the Board some flexibility in conditions added to CUPs as such: "The permit-issuing board may not attach additional conditions that modify or alter the specific requirements unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements."

Director Graham reviewed the recommended conditions for the proposal:

(1) Conditional Use Permits (CUPs) run with the land and as such CU #15-03 applies to the entirety of the property reflected in PID #00054112. An amendment to the CUP is needed to remove property from the CUP 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 #15-03 is contingent on a successful inter-departmental review to ensure that the development has met all Federal, State and local regulations and requirements as well as any conditions attached to the CUP approval. Plans submitted for this review shall include, but not be limited to, tree survey indicating all trees with a diameter at breast height of 12" or greater, utility locations including size, material, and vertical alignment of waterlines, engineering calculations assuring that proposed stormwater measures meet or exceed the requirements of Article XVI, Part 2, Drainage, Erosion Control and Stormwater 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.

(4) The development is authorized to create a maximum of thirty-eight (38) single family lots and construction documents generally based on the Site Sketch Plan with a revision date of 5/29/15.

(5) Open space shall generally comply with the 5/29/15 Site Sketch Plan and Pedestrian Plan, including proposed improvements, and in no case may be reduced to less than 20% of the total land area for the development.

(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) In accordance with Section 152-60(B) of the UDO, the Board determines that the development presents extraordinary circumstances that warrant relief from strict adherence to sidewalk requirements. The applicant is to provide sidewalks and natural walking trails as indicated on the Pedestrian Plan submitted with a revision date of 5/29/15.

(8) The applicant shall supply Planning staff with an assessment from the US Fish and Wildlife Agency with regards to Red Cockaded Woodpecker, or other protected species, activities on the property prior to site disturbance.

Evidence of such activities authorizes staff to require amendments to the plan to minimize impacts.

(9) Approval of CU #15-03 is contingent upon a revised site layout plan that shows all rear lot lines that encroach into the wetlands have been altered to coincide with the wetland boundary when doing so would not make the lot unbuildable. At a minimum, lots 1, 6, 29, 30, 31, 32, 33, 34, 35, and 36 shall be adjusted to meet this condition unless the applicant can provide evidence to staff that the lot will be rendered unbuildable by doing so. Additionally, setback lines on lots 5, 17, 27, 28, 37, and 38 are to be adjusted to coincide with the wetland boundary.

(10) Streets, sidewalks, waterlines, and sewer and stormwater facilities shall meet all UDO requirements and 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. Details shall be reviewed by staff during the Site Plan Review process following approval of the Conditional Use Permit.

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

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

(13) 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 planted at the appropriate rate. Compliance with the street tree requirements will be reviewed by staff and staff is authorized to ensure compliance prior to issuing a certificate of occupancy for each lot.

(14) 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.

(15) All additional conditions or requirements as provided by the Town of Aberdeen Unified Development Ordinance are enforceable with regards to the proposed CU #15-03.

Director Graham stated a protest petition was submitted, but protest petitions only apply to rezonings, and this is not a rezoning so it does not apply. Director Graham stated a 2003 Soil Conservation Service Report was provided by Larry and Pat Caddell.

Pat Caddell, stated she and her husband have lived at 702 Ives Drive for 36 years. Ms. Caddell reviewed a protest petition that has been signed by the owners of 20% or more of those parcels located immediately adjacent to subject property as listed on the zoning application either in the rear or on either side, extending 100 feet, or of those directly opposite extending 100 feet from the street frontage of the opposite lots as required by NC Statute Section 160A-385. Ms. Caddell stated none of the neighbors want to see their neighborhood change. Ms. Caddell stated sidewalks are only proposed for one side of the road, due to the wetlands. Ms. Caddell stated 42% of the development, as indicated in the Planning Board agenda on 5/21/15, requires altering rear lot lines and sizes, and setback lines related to the wetlands. Ms. Caddell stated this neighborhood should be held to the UDO requirements, with no exception. Ms. Caddell stated wetlands should be protected, and should not be disturbed. Director Graham stated she is asking the applicant to alter lot lines unless it makes them unbuildable, and right now there is nothing in the UDO that would prohibit wetlands from being developed into lots.

Jeff McCluskey stated he is the civil engineer with the developer/applicant, and the plan presented is in compliance with the UDO. Mr. McCluskey stated all concerns brought up during the Planning Board meeting have been addressed. Mr. McCluskey stated the lots that do have wetlands on them, the wetlands are not within the building pad, but rather the wetlands are in the rear or side yard. Mr. McCluskey stated permitting would take place with the Town and also with NCDENR prior to building, to make sure there is no runoff from the site to the wetlands. Mr. McCluskey stated the existing neighborhood is above the proposed development, therefore there would be no drainage issues that would affect the existing neighborhood. Mr. McCluskey stated the wetlands have been delineated, and there are minimal impacts to the wetlands. Mr. McCluskey stated if the Town wants sidewalks on both sides, then the developer will do that if needed. Mr. McCluskey stated the proposal is in compliance with the International Fire Code. Mr. McCluskey stated as far as being in harmony with the area, the lots being developed are similar to other lots and homes already in the area.

Tammy Lyne, a State Certified Real Estate Appraiser, stated they are committed to making sure the Bethesda Cemetery Association gets the lot at the beginning of the subdivision, which would remain green and would provide a nice screen for the neighborhood. Ms. Lyne stated she does not see any way this development could negatively impact property values in that area, and she is an expert in that field.

the road would not currently make any connections, but could

John McPhaul wanted to know what a stubout road is. Director Graham stated the road would not currently make any connections, but could at a later time, so it is stubbed out to a point and then stops. Mr. McPhaul asked if there is any plan for a buffer zone on the south side of the property. Director Graham replied no. Mr. McPhaul asked if a buffer could be required. Director Graham stated the Board could require a buffer if they felt like it was needed to meet one of the conditions.

Ms. Caddell was concerned about Dunoon Street and what would prevent the proposed development property owners from using Dunoon Street to access her neighborhood. Mr. McCluskey stated most people would prefer to drive on a paved road, rather than a dirt road. Mr. McCluskey stated he feels like the developer is actually improving the situation by providing the access from E. Ives Drive to Dunoon Street which provides additional access for emergencies, school busses, etc.

Mr. Brent Duplessis stated if something is not done about the potential cut-across road, the road is going to erode and will become a major wash-out problem.

Mr. Bryan Bowles stated he is concerned about the areas with access through the woods, paved portion of Dunoon Street which is not built to NCDOT standards and is already crumbling, larger strain on the water lines, larger strain on the sewer lines, etc. He also doesn't understand how the wetlands could be developed since they currently sink to your knee when you walk on them.

Mr. McCluskey stated the access road could be barricaded if that would make things easier. Mr. McCluskey stated there would be some surface treatments provided to prepare the walking trails and make them usable. Mr. McCluskey stated the utilities will be evaluated before this project moves forward to the construction drawings. Ms. Caddell asked the audience to please raise their hand if they are here in opposition of this project. Several people raised their hands.

Jerry Hall stated he and his wife, Teresa Troutman Hall, are concerned about potential trespassing from the new residents onto his property. Mr. Hall stated he would suggest a fence down the property line for this subdivision. Mr. Hall stated he worked with the NC Soil and Water Conservation for 32 years – and on the GIS map this proposed property is located in a 100 year floodplain area. Mr. Hall stated when there is an island

sitting in the middle of a wetland, several years down the road there are going to be lots of problems.

Mr. Bowles stated when this project came up in 2013, the Town looked to FEMA to evaluate this area and streams coming into the property. Mr. Bowles asked if that study has been completed? Director Graham stated she anticipates that FEMA will come in and evaluate areas in the County but it has not occurred yet. Mr. Bowles asked if FEMA's evaluation should take place prior to development of the property? Director Graham stated if the property is not currently designated as floodplain, then those requirements would not be in place.

Mr. McCluskey stated the property is currently not listed as a floodplain on a FEMA map. Mr. McCluskey stated the property is a flat piece of land, but flatter pieces have been developed before. Mr. McCluskey stated water drainage is a concern, and will be dealt with. Mr. McCluskey stated the wetland crossing is not a creek crossing, but when it is crossed, it will be per the Town standards and NCDOT standards as far as backfill materials to be used and also to make sure the elevation is above any floodplain area.

With no further discussion, Mayor Farrell closed the public hearing on Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC.

Consider action on Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to delay action on this item until August 10, 2015 to have more time to research this item. Motion unanimously carried 4-0.

Mayor Farrell re-opened the public hearing for Conditional Use Permit #15-03. A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to continue the public hearing to 8/10/15. Motion unanimously carried 4-0.

j. Public Hearing on Amendment to the Code of Ordinances Regarding Consumption of Alcoholic Beverages.

Mayor Farrell opened the public hearing on Amendment to the Code of Ordinances Regarding Consumption of Alcoholic Beverages.

Director Graham stated initially a local business owner was proposing the sale of alcohol at special events, but after further research, it was discovered that the Code of Ordinances already provides an opportunity for things such as beer tents. Director Graham stated the ordinance would allow this through a Special Events permit. Director Graham stated the way the ordinance is worded, minors are not allowed in areas where alcohol is consumed. Director Graham stated the proposal is to not exclude minors from those areas, but rather use wristbands.

After some discussion among the Board, Director Graham stated it appears the Board has not had enough time to review the new draft for this item, and she did not feel it would be an issue to delay action on this item.

Director Graham reviewed the sections that would need an amendment in the Code of Ordinances. Director Graham referenced 96.28(a). Director Graham read emails received from Betsy Saye and Steve Saye in support for alcohol sale and consumption at Special Events. A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to continue the Public Hearing to 6/29/15. Motion unanimously carried 4-0.

**Consider action on an Ordinance Amending the Aberdeen Code of Ordinances Regarding Special Events.**

**Item delayed to 6/29/15 meeting.**

**Public Hearing for Local Incentive Agreement with Reliance Packaging, LLC.**

**Mayor Farrell opened the public hearing for Local Incentive Agreement with Reliance Packaging, LLC.**

Planner Martin stated the Town will be contributing \$24,997 and the County contributing \$27,003 over the next 5 years.

With no further discussion, Mayor Farrell closed the Public Hearing for Local Incentive Agreement with Reliance Packaging, LLC.

Stanley Graham spoke at this point since he missed the opportunity to speak during the public comment section of the agenda. Mr. Graham stated he is interested in getting sidewalks on South Street, and also natural gas in the area. Manager Zell stated he contacted Mr. Graham and discussed these issues earlier today.

Consider action on An Ordinance Amending the Aberdeen Code of Ordinances to Prohibit the Use of Tobacco Products and E-Cigarettes on Town Park and other Recreational Property. A motion was made by Commissioner Mims, seconded by Commissioner McMurray, to approve An Ordinance Amending the Aberdeen Code of Ordinances to Prohibit the Use of Tobacco Products and E-Cigarettes on Town Park and other Recreational Property. Motion unanimously carried 4-0.

Consider action on An Ordinance Amending the Aberdeen Code of Ordinances with Regard to the Discharge of Firearms and the Possession of Weapons on Town Properties.

Parks & Recreation Director Adam Crocker stated 2 options were prepared by The Brough Law Firm for this item, with one of those being geared more towards special events, and not as broad as the other option. Commissioner McMurray asked Chief Wenzel for his thoughts. Chief Wenzel referred to the past July 4<sup>th</sup> event, and having no authority to ask the gentleman to put his gun away. Deputy Chief Carl Colasacco stated he would be in favor of not allowing open carry. Commissioner Dannelley stated he would like a legally sound ordinance to support the Police Chief, in not allowing open carry weapons for the July 4<sup>th</sup> festival. A motion was made by Commissioner Dannelley, seconded by Commissioner Goodwin, to approve the ordinance, as amended. Commissioner Mims stated he feels it is a constitutional right to be able to carry a firearm. Commissioner Mims stated he does not believe passing an ordinance is going to prevent any violent crime, because if someone wants to kill someone, they will do it no matter what ordinance is in place. Motion carried 3-1 with Commissioners Goodwin, McMurray, and Dannelley voting yes, and Commissioner Mims voting no.

o. Consider action on Resolution of Commitment to the NC Main Street Center for Participation in the Downtown Associate Community Program.

Director Graham stated this has been discussed during previous meetings, and the deadline for application is July 1, 2015. Director Graham stated there are 2 items that need approval—a Resolution of Commitment to the NC Main Street Center for Participation in the Downtown Associate Community Program and also a Resolution Directing the Coordinating Entity for the Local Downtown Associate Community Program. Director Graham stated this application is for 1 year only. Manager Zell stated as the budget stands now, this amount of \$93,771.03 is currently included in the budget.

Commissioner Goodwin stated she has seen what this program can do for Aberdeen. A motion was made by Commissioner Goodwin, seconded by Commissioner McMurray, to approve The Resolution of Commitment to the NC Main Street Center for Participation in the Downtown Associate Community Program as well as the Resolution Designating the Coordinating Entity for the Local Downtown Associate Community Program. Commissioner Dannelley stated he felt it would be a good idea to wait and see what budget numbers are approved first, before voting on this item. Motion tied 2-2, with Commissioner McMurray and Commissioner Goodwin voting yes, and Commissioner Dannelley and Commissioner Mims voting no. Mayor Farrell broke the tie and voted yes. Motion carried 3-2.

p. Meeting Schedule Change.

A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, to remove July 13 and 27 from the meeting schedule. Motion unanimously carried 4-0.

8. Other Business

a. Grants Update Presentation.

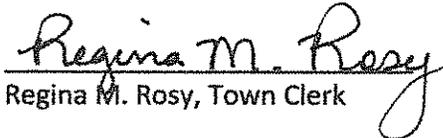
Planner Martin reviewed the following grants:

- ITPP – Sewer Improvements
- Building Reuse – Project Huggies Grant

b. Mayor Farrell stated the Moore County Board of Education bought some property in Aberdeen, which will be used as a site for a new school.

9. Adjournment

A motion was made by Commissioner Goodwin, seconded by Commissioner McMurray, to adjourn the Board Meeting. Motion unanimously carried 4-0.

  
Regina M. Rosy, Town Clerk

Minutes were completed in  
Draft form on August 13, 2015

  
Robert A. Farrell, Mayor

Minutes were approved  
on August 24, 2015

