

**Minutes**  
**Regular Board Meeting**  
**Aberdeen Town Board**

September 28, 2015  
Monday, 6:00 p.m.

Robert N. Page Municipal Building  
Aberdeen, North Carolina

The Aberdeen Town Board met Monday, September 28, 2015 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, Elease Goodwin, Buck Mims, and Pat Ann McMurray. Staff members in attendance were Planner Jae Kim, Planner Daniel Martin, Planning Director Pam Graham, Police Chief Tim Wenzel, Deputy Police Chief Todd Weaver, Police Officer Britton Emert, Officer Oliver Reilly, Officer Christina Ricks, Officer Justin Newberry, Town Manager Bill Zell, and Town Clerk Regina Rosy. Reporter for The Pilot Ted Natt, Tammy Lyne, Jeff McCluskey, Tim Marcham, Frankie Holt, Brian Bowles, Tom Van Camp, Attorney T.C. Morphis, and approximately 10 other citizens were also in attendance for the meeting.

**1. Call to Order**

**a. Pledge of Allegiance.**

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

**2. Setting of the Agenda**

Manager Zell stated he would like to request a Closed Session be added to the end of the agenda. A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to approve the agenda as amended. Motion unanimously carried 5-0.

**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 Board Meeting on August 24, 2015, Work Session on September 14, 2015, and Closed Session on September 14, 2015.**

A motion was made by Commissioner Mims, seconded by Commissioner McMurray, to approve the consent agenda as presented. Motion unanimously carried 5-0.

**4. Informal Discussion and Public Comment**

**a. Swearing in of Police Officer Britton Emert.**

Police Chief Tim Wenzel introduced new Police Officer Britton Emert. Town Clerk Regina Rosy swore in Police Officer Britton Emert.

**b. Request to Speak by Maurice Holland, Sr.**

Maurice Holland, Sr. stated he had the privilege of speaking with the Mayor this past Tuesday, regarding unmaintained roads in the Midway Community that are not open for the community to use. Mr. Holland also stated that dumping is taking place on the side of the railroad tracks. Mr. Holland stated the land in the neighborhood is land locked, and needs better access. Mayor Farrell thanked Mr. Holland for bringing up these issues.

**5. Financial Report**

No Financial Report this month

**6. Old Business**

None

**7. Public Hearings and New Business**

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

Mayor Farrell stated he has already been recused from this item so he will step away from the podium for Items 7a and 7b.

Mayor Pro-tem Thomas opened the continued public hearing for Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC.

Director Graham stated Bethesda Ives, LLC requests a conditional use permit for a 38 lot single 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.

Director Graham stated 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 detail will be provided at that time for interdepartmental review.

Director Graham displayed a vicinity zoning map of the subject property. Director Graham stated the property is zoned R20-16, and is surrounded mostly by R20-16 properties, some are developed and some are not. Director Graham displayed a site aerial map of the subject property, and a Green growth Toolbox Assessment Map which shows topography of the property. Director Graham displayed a layout of Option "A" presented by the applicant. Director Graham provided a brief overview of Option "A". Director Graham stated this plan does provide a stub-out road to an adjoining property to the south.

Director Graham stated recent items of relevance include the following: Section 152-218 limits the length of cul-de-sacs to 500 feet, except where no other practicable alternative is available, and in no case shall be over 900 feet.

The measurement of the cul-de-sac (Proposed Road "A") has been taken from the stub-out (Proposed Road "D"), and measures 899 feet.

- Stub-out roads are encouraged in UDO Section 152-214 to coordinate "with existing proposed, and anticipated streets outside the subdivision." Stub-out (Proposed Road "D") is positioned to make a future connection with the property to the south, owned by the heirs of Margaret Troutman.

- The Troutman heirs have provided two documents describing a "Right of First Refusal" offered to the Bethesda Cemetery Association, and further stating that, in the absence of an offer to purchase by the Cemetery Association, they have no plans to sell the property.

- There is no evidence that the stub-out road will create any connectivity outside of the development for the foreseeable future.

Director Graham displayed another map highlighting the stub-out road. Director Graham displayed the Option "B" Plan presented by the applicant, which provides an option that eliminates the stub-out road, and also adds an additional cul-de-sac, which is below the minimum threshold for cul-de-sac length.

Director Graham reviewed other recent items of relevance:

- The Town's Consulting Engineer, Gary McCabe, has reviewed data regarding stormwater and soils on the subject property that was provided by Mr. Jerry Hall. Mr. McCabe's report includes the following:
  - a. Based on available data, the entire site appears to be above the nearest base flood elevation;
  - b. It does not appear that the proposed development will significantly alter the overall drainage patterns of the +/- 632 acre drainage area;
  - c. The development will require permitting from NCDENR and possibly the Army Corp. of Engineers (regarding the wetlands);
  - d. Soils and stormwater runoff data provided by Mr. Hall was incomplete with some inaccuracies that could be misleading;
  - e. A pre vs. post development analysis of stormwater runoff rates is recommended for the site plan review;
  - f. An evaluation by a licensed geotechnical engineer and/or soil scientist is recommended for the site plan review;
  - g. According to available soils maps, the eleven proposed lots at the end of Proposed Road "A" and the wetland crossing contain the most marginal soil suitability within the proposed developed area. A geotechnical engineer's evaluation should address these lots, design of the roadway and the wetland crossing, and stormwater and utility managements.

Additional evidence was provided in the form of a letter dated 8/27/15 from Concerned Aberdeen Citizens and signed by 34 individuals. The letter states the following:

- a. *A request for sidewalks to be eliminated in several areas of the proposed development is out of compliance with the UDO.* Director Graham stated the Board does have discretion in imposing specific requirements where they determine that "extraordinary circumstances" exist. The Board may determine that the extensive presence of wetlands on the site is an extraordinary circumstance. Director Graham displayed a map of the Pedestrian Plan for the project, which shows natural walking trails that follow the sewer easement, and the sidewalk.
- b. *Variations have been requested to include changes to side lot lines and lot size for 16 of the 38 lots (or 42%). These changes will affect required minimum setbacks and will affect zoning.* Director Graham stated the proposal does not include any requests for variances. The request for lot line adjustments originated with staff in an effort to remove wetlands from within the lot boundaries in cases where doing so would not make the lot unbuildable. Director Graham stated the goal is to pull the wetlands out of

the project and make them part of the open space instead. Director Graham stated additionally, there is no rezoning request or issue with the current R20-16 zoning of the property. The proposal will be required to meet or exceed all dimensional standards (including lot size and setbacks). Staff has recommended that the Board require setbacks on lots where wetlands are still present after the lot line adjustments addressed previously, be adjusted to coincide with the wetland line when such adjustment increases the setback area rather than reduces it.

*c. The developer proposes the removal of brush and small saplings to create a natural walking trail within the wetland area.* Director Graham stated the site sketch plan does currently call for this activity, however, the proposed configuration of the trail very closely coincides with the sewer easement, which is currently maintained by the Town's Public Works Department. Any clearing other than what can be done by hand will require a permit issued by the Army Corps. Of Engineers, the regulating agency for the wetlands.

*d. There is a small pond located off site on private property adjacent to the proposed development. There is a concern that the pond may contribute to flooding issues and what are the evacuation/emergency plans.* Director Graham stated any potential impact of the pond will be considered when engineered drainage calculations are presented for site plan review, pending approval of the conditional use permit.

Director Graham stated finally, staff has been approached by an individual with knowledge of the area's history regarding the possibility of unmarked graves within and outside of the Bethesda Cemetery boundaries.

Maurice Holland Jr., president of the Midway Community Association, stated he grew up in this area and knows some history of the area. Mr. Holland stated there is a concern that there may be enslaved people buried in the proposed area. Mr. Holland stated his concern is that no one really knows what the boundaries of the cemetery really are. Commissioner Mims asked where the closest location is where there could be unmarked graves – Mr. Holland stated the southeast corner would be the closest location. Attorney Morphis stated in thinking about how to handle the possible existence of graves, a CUP (conditional use permit) can be denied if it is found to not be in harmony with the area. Attorney Morphis stated as far as proximity to graves, there is really nothing in the ordinance that addresses it. Attorney Morphis stated he feels the Board has a right to look at the importance of the possibility of grave sites. Attorney Morphis stated a decision made in a quasi-judicial hearing has to be based on substantial,

material, and competent information in the record. Attorney Morphis stated it is entirely possible that there are unmarked graves, but it is not proven, so he does not believe the CUP can be denied entirely on this possibility. Attorney Morphis stated a condition could be imposed on the project regarding the unmarked graves, and conditions have to be reasonable and rationally related to the requirements of the UDO. Attorney Morphis stated the owner would have to allow reasonable access to the property, and if a party on their own wants to conduct an archaeological study to search for graves then they could do so. Attorney Morphis stated he has heartburn about making the applicant pay for the study, since there is currently no basis for this concern.

Director Graham stated the remainder of the presentation is to review the recommended conditions for the project:

1. 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 is contingent on a successful interdepartmental 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.
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 38 single family lots and construction documents generally based on the Site Sketch Plan dated 5/29/2015 or 9/12/2015.
5. Open Space shall generally comply with the 5/29/15 Site Sketch Plan or the 9/12/15 Option B Plan, including proposed improvements; and in no case may be reduced to less than 20% of the total land area for the development. Prior to approval of the Final Plat, the developer shall establish a HOA with covenants to include a policy for maintenance of the open space, including any improvements such as walking trails.
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 in the Pedestrian Plan submitted with a revision date of 5/29/2015.

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, of 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 and/or side 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. Setbacks shall likewise be adjusted to eliminate wetlands from the building envelope in instances where the resulting setback will be increased rather than lessened.

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 Public Works. Preliminary and Final Plats shall identify any and all town easements related to these facilities.

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 the final plat, 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 comply with UDO requirements. Plans 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.

15. All additional conditions or requirements as provided by the UDO are enforceable with regards to the proposal in CU #15-03.

16. Approval is contingent on evaluation of soils by a NC licensed Geotechnical Engineer or Soil Scientist where the proposed roads, houses, and utilities will be constructed. Staff is authorized to require amendments to the plan to accommodate/remedy any evidence of soils unsuitable for building as a result of the evaluation. The evaluation shall also include design recommendations for the roadway, wetland crossing, and stormwater and utility improvements.

17. Approval is contingent on a hydrologic analysis performed by a NC licensed engineer of the downstream unnamed tributary to Aberdeen Creek to determine if it has sufficient capacity to accept the increase in stormwater runoff as a result of the subdivision proposed by CU #15-03.

Commissioner Mims asked about Condition #7 – and asked why sidewalks are only on 1 side of the road. Jeff McCluskey stated the sidewalk would only serve 5 lots in that area. Commissioner Mims asked if the applicant is ok with the conditions. Tammy Lyne and Mr. McCluskey stated they are fine with the conditions.

Mr. McCluskey, Civil Engineer for the applicant, stated the original plan with the stub street was drawn trying to explicitly follow the UDO. McCluskey stated the intent was to put in the stub street to residentially zoned property that is vacant. Mr. McCluskey stated the Option B plan is in case the Town does not want a stub street. Mr. McCluskey stated regarding the sidewalks, there was unanimous approval from the Planning Board to do a natural walking trail as shown previously in the public hearing. Mr. McCluskey stated the plan is extremely low density (12.4% coverage), and even though there are not sidewalks on both sides of the street, the plan is still considered accessible according to the UDO. Mr. McCluskey stated the conversation about the cemetery took place at the Planning Board meeting, and there appears to be property that was purchased back in 1990 to provide more of a buffer between this proposed property and the cemetery. Mr. McCluskey stated there is no opposition to having someone pay to do an archaeological study of the property. Mr. McCluskey stated the intent has always been for the first lot to be offered for purchase to the cemetery. Mr. McCluskey stated based on the UDO, he feels like the plan is compliant with the UDO. Mr. McCluskey stated the only question is the sidewalks, and if that is a problem, then they will install sidewalks on both sides. Mr. McCluskey stated as of right now, E.L. Ives Drive is a dead end street, and emergency vehicles can not turn around on that road. Mr. McCluskey stated a cul-de-sac bulb would be installed at the end of the road, and that would actually help the current situation. Regarding harmony with the area, Mr. McCluskey stated this is not a rezoning – they are asking to build the property exactly as the adjacent properties are zoned. Mr. McCluskey stated from a land use stand point, the property is currently residential, and that is what they want to develop the property as.

Commissioner Mims asked if the HOA would keep up the trail. Mr. McCluskey stated either an HOA or conservancy group would take over the maintenance of the trail.

Mayor Pro-tem Thomas asked Ms. Lyne to speak – Ms. Lyne asked to reserve her comments for last. Mayor Pro-tem Thomas asked Mr. Van Camp to speak – Mr. Van Camp had no comments. Mike Garrison, treasurer for Bethesda Cemetery Association, stated they are definitely interested in purchasing any land adjoining the current cemetery. Mr. Garrison stated as for the possibility of unmarked graves on the proposed property, he believes that is a real possibility. Commissioner Mims asked how close the nearest house would be to the proposed graves if this development took place. Mr. Garrison stated the first 4 lots would be where those could be. Tammy Lyne stated they would be willing to sell the first 4 lots to the cemetery.

Tammy Lyne stated it has been the intention to follow the proper process during this whole process. Ms. Lyne stated they have been harmonious and agreeable towards every complaint about this project. Ms. Lyne stated this is an opportunity to let others enjoy Aberdeen, as current residents already do. Commissioner Mims asked if there is any legal issue with Plan A. Attorney Morphis stated there is some ambiguity in the UDO about how you measure the street. Attorney Morphis stated the stub-out road is an intersection, and cul-de-sacs are supposed to be no more than 500 feet, unless there are exceptional circumstances. Attorney Morphis stated unless exceptional circumstances are found, Plan A would be in violation of the UDO. Attorney Morphis stated the Board could deny the project because there are not exceptional circumstances if they so choose. Attorney Morphis stated either position is defensible.

With no further discussion, Mayor Pro-tem Thomas closed the public hearing for Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC. Consider action on Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC.

Commissioner McMurray proposed to continue discussion among the Board since so many new pieces of information have been received this evening. Commissioner Mims stated this has been discussed since May, and he believes we should move forward if possible. Attorney Morphis stated citizens and applicants can not present new information, but Board members can ask technical questions after the public hearing. Commissioner Dannelley

asked Attorney Morphis about harmony, and how that applies towards Plan B. Attorney Morphis stated he and Director Graham have consensus that Plan B complies with the UDO, and the cul-de-sac is well below the 500 ft. threshold. Attorney Morphis stated it appears to him that Plan A does not comply, but Plan B does comply with the streets portion of the ordinance. Commissioner Dannelley asked how it works, since Plan B was presented after the initial submittal. Attorney Morphis stated he would treat the submittal of Plan B as an amendment, and he would say the Board should accept Plan B as an alternative. Attorney Morphis stated the Board could approve Plan A, if they are willing to find an exception circumstance, which it very well could do.

Mayor Pro-tem Thomas stated this land has been sitting in its present condition for a very long time. Mayor Pro-tem Thomas stated the property does hold the remains of veterans from every war, with the exclusion of the War of 1812. Mayor Pro-tem Thomas stated this is a historically significant site. Mayor Pro-tem Thomas stated Ives Drive does not have sidewalks, but the UDO requires that new subdivisions have sidewalks on both sides of the road. Mayor Pro-tem Thomas stated he is concerned about removing 27 acres from the tax rolls, and what is going to happen to the 27 acres. Mayor Pro-tem Thomas stated he is concerned about any development that would be southeast of the western boundary of the cemetery – since he feels it could be an encroachment onto graves that have been undisturbed for 200+ years. Mayor Pro-tem Thomas stated he has lived at the end of E L Ives Drive for 38 years, and he has often wondered why no one has built a house in that area. Mayor Pro-tem Thomas stated he would like to protect that area around the church more than anything in this world. Mayor Pro-tem Thomas stated he also thinks sidewalks on both sides of the road are the right thing to do.

Commissioner Mims stated he appreciates the words from Mayor Pro-tem Thomas. Commissioner Mims stated his original biggest concern was the environment. Commissioner Mims stated then once he received the email from Mr. Holland, then he became concerned about that issue as well.

A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, that CU #15-03 is within the jurisdiction of the Town Board according to the Table of Permissible Uses. Motion carried 3-2, with Mayor Pro-tem Thomas, Commissioner Dannelley and Commissioner Mims voting yes, and Commissioner McMurray and Commissioner Goodwin voting no.

A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, that CU #15-03 is complete as submitted. Motion carried 3-2, with Mayor Pro-tem Thomas, Commissioner Dannelley and Commissioner Mims voting yes, and Commissioner McMurray and Commissioner Goodwin voting no.

A motion was made by Commissioner Mims that if completed as proposed, Plan B will comply with all requirements of the UDO. Motion failed for lack of a second.

A motion was made by Commissioner Dannelley, seconded by Commissioner Mims, that Plan A will not comply with one or more requirements of the UDO. Motion unanimously carried 5-0.

Attorney Morphis stated Plan A has been found to be non compliant with the UDO, and the motion for Plan B died for lack of a second. Attorney Morphis stated the project has been denied, unless another motion is made. Attorney Morphis stated the next step will need to be for the Board to state why.

A motion was made by Commissioner Mims, that Plan B does comply with all requirements of the UDO. Motion failed for lack of a second.

Attorney Morphis stated there is a requirement for a statement of reasonableness. Director Graham directed the Board that the denial statement will need to be made at this time.

Commissioner Dannelley stated by unanimous vote the Board of Commissioners agreed that Plan A will not comply with one or all of the requirements of the UDO due to the 900 feet measurement and the requirement being less than 500 feet, and no exceptional circumstances exist.

**Public Hearing on the following UDO Text Amendments:**

- (1) UDO #15-03 Regarding Administrative Mechanisms
- (2) UDO #15-07 Regarding Appeals
- (3) UDO #15-05 Regarding Hearing Procedures
- (4) UDO #15-06 Regarding Permits and Plats
- (5) UDO #15-12 Regarding Variances
- (6) UDO #15-09 Regarding Permissible Uses
- (7) UDO #15-10 Regarding Special Exceptions

Mayor Farrell opened the public hearing for the UDO text amendments. Director Graham apologized for the non-sequential numerical order of these amendments, since these amendments came up at different times. Director Graham stated the first 5 of the UDO text amendments are driven by state statute.

Director Graham stated General Statute 160A-388 is driving the first of these amendments, #15-03, which has traditionally governed matters before boards of adjustment. The statute updates board of adjustment procedures and quasi-judicial procedures for all municipal boards in general. The proposed amendments will bring UDO Article III into compliance with the statute. In an effort to make the UDO more user-friendly, the amendment also moves several ordinances dealing with hearing procedures to other UDO articles, where hopefully they will be easier to find and use.

Director Graham stated UDO #15-07 is being proposed to bring the Town's UDO into compliance with general statutes, regarding appeals, variances, special exceptions and interpretations.

Director Graham stated UDO #15-05 is also being proposed to bring the Town's UDO into compliance with general statutes related to hearing procedures.

Director Graham stated UDO #15-06 is a proposed amendment that would bring UDO Article IV in line with the current statutory requirements of General Statute 160A-375 and 160A-388. The substance of the article has not been affected.

Director Graham stated UDO #15-12 is an amendment regarding variances, which would bring the UDO section pertaining to variances into line with General Statute 160A-388.

Director Graham stated #15-09 regarding permissible uses, is by court decision and is regarding permissible uses. Attorney Morphis stated the land case says that "zoning regulations are in derogation of common law rights and they cannot be construed to include or exclude by implication that which is not clearly their express terms. It has been held that well-founded doubts as to the meaning of obscure provisions of a Zoning Ordinance should be resolved in favor of the free use of the property.

Director Graham stated #15-10 regarding special exceptions is entirely discretionary, and deals with adjusting setbacks for accessory structures. Director Graham reviewed the text amendment for #15-10. Director Graham stated staff is proposing that the Town Board could add a new subsection (F) to the Special Exception language that specifically addresses accessory structures, which would allow for setback reduction to as little as zero feet when certain requirements have been met. Mayor Farrell asked how we will know another situation won't happen like the one on Devon Circle. Director Graham stated when it is discovered that work is being done without a permit, then a double permit fee is charged. Director Graham stated that would occur in this case, and the accessory structure would need to be moved. Commissioner Mims asked if there is anything that could be put in place for the future, where if a builder did this again, they could be prevented from pulling more permits. Attorney Morphis stated he does not believe the builder could be denied the opportunity to pull another permit for a project that is unrelated. With no further discussion, Mayor Farrell closed the public hearing on the UDO text amendments.

- Consider action on the following UDO Text Amendments:
- (1) UDO #15-03 Regarding Administrative Mechanisms;
  - (2) UDO #15-07 Regarding Appeals;
  - (3) UDO #15-05 Regarding Hearing Procedures;
  - (4) UDO #15-06 Regarding Permits and Plats;
  - (5) UDO #15-12 Regarding Variances;
  - (6) UDO #15-09 Regarding Permissible Uses;
  - (7) UDO #15-10 Regarding Special Exceptions.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, that UDO Text Amendments 3, 5, 6, 7 and 12 be approved. And 9 and 10 would be omitted for this evening. Motion unanimously carried 5-0.

A motion was made by Commissioner Dannelley, seconded by Mayor Pro-tem Thomas, that these UDO text amendments are not inconsistent with comprehensive plans that have been adopted by the Town of Aberdeen. Motion unanimously carried 5-0.

A motion was made by Commissioner Dannelley, seconded by Mayor Pro-tem Thomas, that these UDO text amendments are reasonable and in the public interest. Motion unanimously carried 5-0.

A motion was made by Commissioner Dannelley, seconded by Mayor Pro-tem Thomas, to table UDO Text Amendments #15-09 and #15-10 until the next Work Session for consideration. Motion carried 5-0.

- e. Resolution to Accept Renewed Surety Bonds to Guarantee Infrastructure at Legacy Lakes.

Director Graham stated discussion was held at the last Work Session. Director Graham stated a resident of Legacy Lakes discussed some concerns about the delay in the road improvements. Director Graham stated staff will continue to work with Legacy Lakes on this issue, but there is no firm commitment as to when these improvements will be completed. Director Graham stated MFV-FC Portfolio, LLC offers a renewal of all surety for Phase I of the Legacy with an expiration of October 10, 2016. Bonds could either be called in, or the renewal would need to be approved. Commissioner Dannelley suggested renewing the surety for 1 year, and if work has not been completed, then call in the bonds. Commissioner Dannelley stated he just wants to make sure that we are not discussing the same thing next year. Commissioner Dannelley stated he wants to see engagement by the contractor and make measureable progress. Director Graham stated things were booming when Legacy Lakes began, and now the market has changed. A motion was made by Commissioner Dannelley, seconded by Mayor Pro-tem Thomas, to approve a Resolution to Accept Renewed Surety Bonds to Guarantee Infrastructure at Legacy Lakes. Motion unanimously carried 5-0.

- f. Resolution to Accept a Letter of Credit to Guarantee Installation of Sidewalks for Phase 1 of the Meadow Ridge Subdivision.

Director Graham stated Jackie Speight's father passed away, and he has offered a check to the Town for \$40,000 in lieu of the letter of credit. Director Graham stated Mr. Speight may bring a letter of credit at a later date and time, and ask for the check to be released. A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner McMurray, to accept the \$40,000 check to Guarantee Installation of Sidewalks for Phase 1 of the Meadow Ridge Subdivision. Motion unanimously carried 5-0.

Resolution Directing the Clerk to Investigate a Petition for Voluntary Annexation submitted by Peggy Hendrix for property located at 1210 Pee Dee Road.

Director Graham stated this is the first step in the lengthy process for this annexation. A motion was made by Commissioner Dannelley, seconded by Commissioner Goodwin, to approve the Resolution Directing the Clerk to Investigate a Petition for Voluntary Annexation submitted by Peggy Hendrix for property located at 1210 Pee Dee Road. Motion unanimously carried 5-0.

h. Resolution Accepting Financing Terms for 2 police vehicles, 1 fire vehicle, and 4 police in-car cameras.

Manager Zell stated these are the regular financing terms for these vehicles. Commissioner Mims asked who we used for the financing of these vehicles. Manager Zell stated BB&T is the bank used for the financing. A motion was made by Commissioner McMurray, seconded by Commissioner Goodwin, to approve the Resolution Accepting Financing Terms for 2 police vehicles, 1 fire vehicle, and 4 police in-car cameras. Motion unanimously carried 5-0.

## 8. Other Business

a. Grants Update Presentation. A motion was made by Mayor Pro Tem to adjourn the Board Meeting. Motion unanimously carried 5-0.

Planner Martin stated all grants are on schedule with an exception of the following three:

- ITPP – Sewer Improvements
- Project Huggies
- 2012 SBEA

*Robert M. Smith*  
Mayor Pro Tem

Planner Martin stated the job creation part is off schedule for the Sewer Improvements project, and they need 22 additional jobs. The Building Reuse grant needs 24 additional jobs. Planner Martin stated the 2012 SBEA Grant is also off schedule for expenditure purposes and for job creation, 8 additional jobs are needed. Mayor Farrell asked who is in the 2012 SBEA Grant. Planner Martin stated the businesses included in the 2012 SBEA Grant include Specialized Services & Personnel, One Eleven Main, and Meridian. The Board members seemed very discouraged at the troubles for job creation with these grants. Commissioner Dannelley stated he wonders if it would be

reasonable to ask these business owners to come to a Work Session and meet with the Board to discuss challenges they are facing.

Commissioner McMurray read the invitation for the Business Open House scheduled for Monday, October 19, 2015 from 5:00 p.m. – 7:00 p.m. at the Recreation Center.

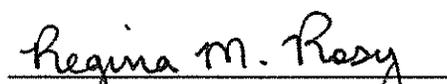
9. Closed Session pursuant to N.C.G.S. 143-318.11(a)(3) to discuss matters within the attorney client privilege and N.C.G.S. 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

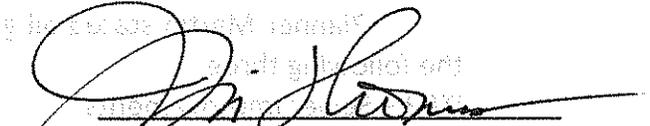
A motion was made by Commissioner Dannelley, seconded by Commissioner Goodwin to go into Closed Session pursuant to N.C.G.S. 143-318.11(a)(3) to discuss matters within the attorney client privilege and N.C.G.S. 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body. Motion unanimously carried 5-0.

A motion was made by Commissioner Dannelley, seconded by Commissioner Mims, to open regular session. Motion unanimously carried 5-0.

10. Adjournment

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Mims, to adjourn the Board Meeting. Motion unanimously carried 5-0.

  
Regina M. Rosy, Town Clerk

  
Jim Thomas, Mayor Pro-tem

Minutes were completed in Draft form on September 28, 2015

Minutes were approved on October 26, 2015