

**Minutes**

**Work Session**

**Aberdeen Town Board**

**October 12, 2015**

**Robert N. Page Municipal Building**

**Monday, 6:00 p.m.**

**Aberdeen, North Carolina**

The Aberdeen Town Board met Monday, October 12, 2015 at 6:00 p.m. for the Work Session. Members present were Mayor Robert A. Farrell, Mayor Pro-tem Jim Thomas, and Commissioners Joe Dannelley, Pat Ann McMurray, Buck Mims, and Elease Goodwin. Staff members in attendance were Planning Director Pam Graham, Planner Daniel Martin, Deputy Police Chief Todd Weaver, Parks & Recreation Director Adam Crocker, Town Manager Bill Zell, and Town Clerk Regina Rosy. Attorney T.C. Morphis, Tim Marcham, Attorney Jim Van Camp, Tammy Lyne, Bryan Bowles, Frankie Holt, Kenneth Byrd, Denise Baker, Wilma Laney, and Ernestine Chapman were also in attendance for the meeting.

Mayor Farrell called the meeting to order at 6:00 p.m. Mayor Farrell asked for Item 1 (Grants Update Discussion) to be delayed until Commissioner Dannelley arrives.

**1. Sister City Project – Denise Baker.**

Denise Baker stated she feels we are in a borderless community, and she would like to discuss the opportunity for cultural exchanges for students in Aberdeen. Ms. Baker stated the Southern Pines Sister Cities is a 501(c)3 nonprofit organization — and she is not interested in money from the Board, but rather representation and participation from the Board to participate in this program. Ms. Baker stated the program is designed to develop municipal partnerships between U.S. cities, counties and states and similar jurisdictions in other nations. Ms. Baker discussed their partnership with Northern Ireland, and the benefits of a partnership. Ms. Baker stated what she is specifically interested in is having an Aberdeen Board Member serve on the Southern Pines Sister Cities Board of Directors. Ms. Baker invited Board members to a reception to be held on November 4<sup>th</sup> at the Campbell House to learn more about this opportunity.

**2. Grants Update Discussion with Company Representatives.**

Planner Martin stated this discussion is a follow-up to the Sept. 28<sup>th</sup> meeting. Planner Martin stated at the last meeting, the Board requested that company

representatives be asked to attend the Work Session for any off schedule grants administered by the Planning Department. Planner Martin stated the first one to discuss is the 2012 SBEA Grant. Planner Martin stated Specialized Services and Personnel had 94 employees at grant inception, with a job creation commitment of 1 full-time employee. Planner Martin stated the current job count according to the 2<sup>nd</sup> quarter NCUI Form 101 forms is 147 employees. Planner Martin stated approximately \$6,000 of grant funds is remaining to be spent.

Planner Martin stated Chris Gilder is here on behalf of Meridian Zero Degrees. Planner Martin stated the adjusted reduced baseline job count is 37 employees, with a job creation commitment of 7 full-time employees. Planner Martin stated the actual number of employees per Stephanie Daugherty is 28. Planner Martin stated 70% of the jobs are required to be filled by low to moderate income persons. Planner Martin stated One Eleven Main has submitted a letter requesting de-obligation of funds and to be removed from this grant, since they are relocating in February 2016. Planner Martin stated no funds were expended for One Eleven Main. Planner Martin stated staff is exploring whether One Eleven Main funds can be used by other grantees, but they are not certain yet. Chris Gilder stated this past year has been a slow year for the company, and some personnel did not work out, but he believes they will be on track to staff the required full-time personnel. The real challenge is spending the dollars on machinery. Mayor Farrell asked if contact has been made with Sandhills Community College for students with software training. Mr. Gilder stated unfortunately their needs, and what Sandhills Community College trains for don't match up. Mr. Gilder stated software training is a huge need of the company.

Planner Martin stated Timothy Simmons is here this evening, and he is the plant manager with Pactiv. Planner Martin stated Pactiv has committed to a job commitment of 35, and they currently have 60 employees. All funds have been expended and the projects are complete. Planner Martin stated an extension has been granted for this project. Mr. Simmons stated he has worked closely with Pat Corso and Alan Duncan, but in the end it's all about finding and keeping good employees. Mr. Simmons stated he is at 61 employees as of today, and he uses Debbie Staffing for the temp agency that hires employees for the company, and he also works with the Employment Security Commission.

**3. An Ordinance Declaring a Road Closure for the Town of Aberdeen 2015 Christmas Parade.**

Director Crocker stated in order to follow proper procedure, an Ordinance will need to be approved by the Town Board, according to NCDOT, for the road closure for the 2015 Christmas Parade. A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, to approve an Ordinance Declaring a Road Closure for the Town of Aberdeen 2015 Christmas Parade. Motion unanimously carried 4-0.

Attorney Morphis stated any time there is a Town sponsored event on a NCDOT road going forward, then this same ordinance will need to be considered for approval. Director Crocker stated the Aberdeen Christmas Parade will be on Saturday, December 12<sup>th</sup>.

**4. Denial Document for Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC.**

Mayor Farrell stated he was recused at the previous meeting for this item so he will not participate in this item, and turned the meeting over to Mayor Pro-tem Thomas. Mr. Van Camp asked for an opportunity to speak. Mr. Van Camp stated at the last meeting, Plans A and B were presented to the Board for consideration. Mr. Van Camp stated it is also his impression that Plan B was not voted on which is the equivalent of a denial. Mr. Van Camp stated the order for denial states the reasons why Plan A was denied, but for Plan B, the first 2 motions were approved with a 3-2 vote, one of which was the plan submittal was complete for Plan B. Then the 3<sup>rd</sup> motion failed for lack of a second. Mr. Van Camp stated you can't simply refuse to vote on an item, and deny it. In his view, you can't say you weren't required to consider or approve it, because they were already voting on it and it didn't get all the way down the ladder to the point where there was an official denial. Mr. Van Camp stated a judge is going to be more concerned about why Plan B was denied, and if there was evidence to support it. Mr. Van Camp stated Plan B was presented to provide an option to meet the Board's needs. Mr. Van Camp stated if Plan B was never going to be voted on, then it should not have been put before the Board for consideration. Mr. Van Camp stated Attorney Morphis had stated at the previous meeting that Plan B complies with the UDO. Mr. Van Camp stated if the Board is going to sign an order, then he believes it is disingenious to say you are not even

required to consider it, when the Board did consider it and the Board began voting on it.

Commissioner Mims stated he contacted Attorney Morphis today with questions about Conclusions of Law #6 and #8 on the denial order, and it is his understanding that Plan A was denied at the previous meeting, not Plan B. Attorney Morphis stated Conclusion of Law #8 was added in, since that captured what the Board voted on at the last meeting. Attorney Morphis stated he believes this order of denial is defensible, and he would be glad to discuss this item further in Closed Session for attorney/client privilege if the Board would like.

A motion was made by Commissioner McMurray, seconded by Commissioner Goodwin, to continue this discussion at the next meeting, since Commissioner Dannelley is not in attendance. Commissioner Mims stated this item has been stretched out quite a bit, and he feels it should be voted on tonight if possible. Mr. Van Camp respectfully requested a vote tonight one way or the other, since there is a statute that requires the Board make a decision in a timely manner, and the application for this conditional use permit was submitted in May. Commissioner Mims stated this item needs to be resolved, and not continued. Attorney Morphis pulled up the statute, which states the Board shall determine contested facts and make its decision within a reasonable time. Attorney Morphis stated since a Board member is absent, it would be reasonable to delay this item for consideration until the next meeting. Motion carried 3-1, with Mayor Pro-tem Thomas, Commissioner Goodwin and Commissioner McMurray voting yes, and Commissioner Mims voting no. Agenda Item scheduled for New Business on Board Meeting on October 26, 2015.

**5. Career Development Program Revision for Police Department.**

Commissioner Dannelley arrived for the meeting during the conversation on this item.

Clerk Regina Rosy stated the current Career Development Program for the Police Department is not being fully implemented because the salary increases are not sustainable nor are they included in budgeted dollars. Clerk Regina Rosy stated in an effort to maximize employee potential and promote growth and development within the Police Department, a revised Career Development Program was developed that will still provide these growth opportunities for officers, but with

smaller pay increases along the way. Clerk Regina Rosy stated the revised Career Development Program will meet the objectives of providing financial incentive for police officers to further their training, but will be sustainable with budgeted dollars for the department. Deputy Chief Todd Weaver stated it is really important to provide an incentive for the officers to further their training and education, which will in turn benefit the department with better trained officers. Commissioner Mims stated he believes this is an innovative approach and he likes it.

A motion was made by Commissioner Mims, seconded by Commissioner McMurray, to approve the revised Career Development Program for the Police Department. Motion unanimously carried 5-0.

#### 6. Discussion of Proposal for Changes to Townhome Component of Legacy Lakes Development.

Director Graham introduced Marcel Goneau. Mr. Goneau stated there is 1 tri-plex of townhomes that was built pre-recession. Mr. Goneau stated he is proposing to build a detached townhome community with stand alone cottages. Mr. Goneau stated he would like to know if it is close enough in concept to what was originally approved in the conditional use permit or not.

Director Graham stated townhomes were originally approved for these lots, and the proposal is to construct detached homes instead. If it is considered an insignificant change, then it will not have to go back through the entire conditional use permit, and instead will be treated as a minor modification. However, if it's considered a major change, then a brand new conditional use permit for the development has to be considered. Mayor Farrell asked how many lots there are, and Mr. Goneau stated there are 18 lots. Director Graham stated the Board is not considering a plan tonight, they are giving Mr. Goneau direction on if they are okay moving forward with this item as a modification to the conditional use permit. If it's considered a major amendment, then it would go to the Planning Board and start as a new application. Commissioner Dannelley asked what differentiates minor and major. Director Graham read the definition. Director Graham stated it could go either way, so she is deferring to the Board when in that position. Mr. Goneau stated if they are not able to yield a certain number of lots from the project, then they will not purchase the property from the developer. Mr. Byrd stated 2 of the 3 townhomes are currently for sale in Legacy Lakes. Mayor Pro-tem Thomas stated he

does not know if this proposed design is better, but he definitely thinks it is different. Commissioner Goodwin asked what the square footage would be per unit. Mr. Goneau stated 1800-2000 square feet. Mayor Pro-tem Thomas stated he does not think this is a major deviation from the current conditional use permit. The Board members all agreed that this would be classified as a minor modification to the conditional use permit, and it would come back before the Board for approval.

#### 7. UDO Text Amendment #15-09 Regarding Permissible Uses.

Director Graham stated the public hearing was held at the last meeting for this item. Director Graham stated this amendment is related to case law. Attorney Morphis stated the court struck down the current language in our ordinance related to this item. Attorney Morphis stated the amendment would give staff more guidance for these types of issues.

Attorney Morphis stated he really feels like this amendment really puts staff's current practice into words. Director Graham stated if there is ever a question on if an item should come before the Board, then staff will err on the side of caution. Attorney Morphis recommended adopting this amendment as proposed.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Mims, that UDO #15-09 is not inconsistent with comprehensive plans that have been adopted by the Town of Aberdeen. Motion unanimously carried 5-0.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Mims, that UDO #15-09 is reasonable and in the public interest. Motion unanimously carried 5-0.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Mims, that the Town of Aberdeen Board of Commissioners approves the following amendment to the Town of Aberdeen UDO: Amend UDO Section 152-149 "Permissible Uses and Specific Exclusions" as indicated in the draft text amendment. Motion unanimously carried 5-0.

#### 8. UDO Text Amendment #15-10 Regarding Special Exceptions.

Director Graham stated the public hearing for this text amendment was held at the previous Board Meeting. Director Graham stated there is no new information for tonight. Director Graham stated this text amendment is related to the out

building that was installed without a permit. Commissioner Mims stated we can't look at this situation with the specific situation at hand, but it needs to be looked at as a whole. Commissioner Mims asked if there is a way to hold a builder responsible that has to comply with these ordinances, and if they don't then the builder has to be responsible for the damages. Attorney Morphis stated he supposed something similar to a performance guarantee in a subdivision could be approved by the Board, but again the Town could adopt it, but the court may not uphold it. Aggressive enforcements of zoning code are being struck down in the court system right now. Commissioner Mims stated at least it would be a deterrent for builders. Commissioner Dannelley stated he thinks we start going down a slippery slope when we try to determine who we need to govern. Commissioner Dannelley stated he thinks we need to determine whether we need to change this ordinance or not. Director Graham stated the special exception language is already in the UDO, but does not have language specific to accessory structures. Attorney Morphis stated he would like feedback from the Board about this, regardless of the outcome.

A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, that UDO #15-10 is 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 Mims, seconded by Commissioner Goodwin, that UDO #15-10 is not reasonable and in the public interest, because we can't consistently enforce our ordinances by allowing people to build structures on the property line. Motion unanimously carried 4-1, with Commissioner Dannelley, Commissioner McMurray, Commissioner Goodwin, and Commissioner Mims voting yes, and Mayor Pro-tem Thomas voting no.

A motion was made by Commissioner Mims, seconded by Commissioner Dannelley, that the Town of Aberdeen Board of Commissioners denies the following amendment to the Town of Aberdeen UDO: Amend UDO Section 152-92.1 as indicated in the draft text amendment. Motion carried 4-1, with Commissioner Dannelley, Commissioner McMurray, Commissioner Goodwin, and Commissioner Mims voting yes, and Mayor Pro-tem Thomas voting no.

9. UDO Text Amendments.

a. UDO Text Amendment #15-04 Regarding Military Notification.

b. UDO Text Amendment #15-08 Regarding Definition for Hotels.

c. UDO Text Amendment #15-13 Regarding Building Design.

Director Graham stated these items just need to be scheduled for public hearing on 10/26/15. Agenda Item scheduled for Public Hearing on 10/26/15.

10. Other Business.

a. Stormwater plan with Ken Howell's Conditional Zoning approval.

Director Graham stated a clause was added to the approval conditions, that the stormwater plan address existing stormwater issues. Director Graham stated it is somewhat up in the air about who is responsible for those existing stormwater issues. Director Graham stated Ken Howell has received an estimate of \$15,000 to install the stormwater measures for the expansion. Murray Williamson, who expressed concerns about stormwater, is not content with the stormwater plan. Director Graham stated staff is trying to work towards some sort of solution with the stormwater plan. Mr. Howell feels like the stormwater is coming off of Highway 211 because there are no ditches there, and NCDOT does not want to touch it. Director Graham stated staff will continue to work with both parties to reach some sort of resolution.

b. NCDOT projects being considered for funding.

Director Graham stated the Johnson Street sidewalk is on the list for consideration for funding. Estimate was originally \$120,000 for the project. Projects for future consideration included sidewalks for Mike's Place and Magnolia. Director Graham stated if the Board is considering adding these 2 additional projects to the list, then she will need to get a resolution before the Board at the meeting on 10/26/15. Director Graham stated matching estimates include \$24,000 for the US 1 crossing, \$24,000 for Johnson Street, and a projected 20% cost share that could be as much as \$70,000 for Mike's Place and Magnolia. Mayor Farrell suggested just leaving Johnson Street on for now, and try to do the other 2 projects next year. The Board agreed to just move forward with the Johnson Street project for now.

c. School System proposal.

Mayor Farrell discussed the 4 for 4 proposal that is now being considered, which would include initial funding for the advanced career academy, and the 3 elementary schools (Farm Life, Aberdeen and Southern Pines) for priority funding before other schools. Mayor Farrell stated the School Board is asking for a resolution from the Aberdeen and Southern Pines Town Boards for support for the 4 for 4 proposal. A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to approve a resolution for this support. Motion unanimously carried 5-0.

d. Business Open House

Commissioner McMurray stated the Business Open House will be held next Monday, October 19<sup>th</sup> from 5-7pm at the Recreation Center.

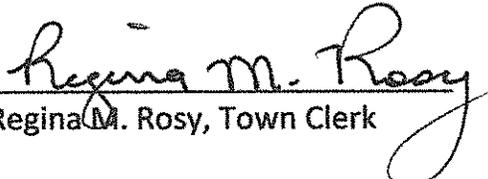
11. Closed Session pursuant to N.C.G.S. 143-318.11(a)(3) to discuss a matter within the attorney-client privilege.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to go into Closed Session pursuant to N.C.G.S. 143-318.11(a)(3) to discuss a matter within the attorney-client privilege. Motion unanimously carried 5-0.

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

12. Adjournment.

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, to adjourn the Work Session. Motion unanimously carried 5-0.

  
Regina M. Rosy, Town Clerk

Minutes were completed in  
Draft form on October 12, 2015

  
Robert A. Farrell, Mayor

Minutes were approved  
on October 26, 2015

Mayor Robert A. Favelle discussed the 1 for 1 program that is now being considered, which will include additional funding for the current center (schools) and one to three new schools (from left, Anderson and Southern Park) for future funding before other schools. Mayor Favelle stated the School Board is asking for a resolution from the Anderson and Southern Park Town Board for support for the 1 for 1 program. A motion was made by Commissioner Mitts, seconded by Commissioner Goodwin, to approve a resolution for this support. Motion unanimously carried 5-0.

Business Open House

Commissioner Midway stated the Business Open House will be held

on Monday, October 28<sup>th</sup> from 5-7pm at the Recreation Center.

1. Closed session pursuant to W.C.G.S. 143-311(a)(1) to discuss a matter within the attorney-client privilege.

A motion was made by Commissioner Mitts, seconded by Commissioner Goodwin, to go into Closed Session pursuant to W.C.G.S. 143-311(a)(1) to discuss a matter within the attorney-client privilege. Motion unanimously carried 5-0.

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

Adjournment

A motion was made by Mayor Robert Thomas, seconded by Commissioner Goodwin, to adjourn the Work Session. Motion unanimously carried 5-0.

Robert A. Favelle, Mayor

Regina M. Ross, Town Clerk

Minutes were approved on October 25, 2015

minutes were completed on October 25, 2015