

Minutes
Regular Board Meeting
Aberdeen Town Board

November 13, 2012
Tuesday, 6:00 p.m.

Robert N. Page Municipal Building
Aberdeen, North Carolina

The Aberdeen Town Board met on Tuesday, November 13, 2012 at 6:00 p.m. for the Regular Board Meeting. Members present were Mayor Elizabeth B. Mofield, Mayor Pro-tem Robert A. Farrell and Commissioners Pat Ann McMurray, Alan Parker, Jim Thomas, and Walter Wright. Staff members in attendance were Planning Director Kathy Liles, Community Development Planner Jae Kim, Senior Planner Pam Graham, Town Manager Bill Zell, Police Chief Mike Connor, Police Office Assistant Melissa Dembnicki, Captain Todd Weaver, Lieutenant Tony Torres, Officer Josh Wilhelm, and Town Clerk Regina Rosy. Carlyne Koch, Peter Koch, Raymond Lee, Joe Dannelley, Jed Taylor, Dotty Garman, Kam Hurst, Marva Gillis, Maurice Holland, Jr., Tim Marcham, Reporter for Aberdeen Times Billy Marts, and Esther Fowler were also in attendance.

1. Call to Order

a. Pledge of Allegiance.

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

2. Public Hearing

a. Voluntary Contiguous Annexation #48-012 submitted by Kimberly Lucinda Gallimore for property located on the cul-de-sac at 130 Longleaf Circle.

Mayor Mofield opened the public hearing on Voluntary Contiguous Annexation #48-012 submitted by Kimberly Lucinda Gallimore for property located on the cul-de-sac at 130 Longleaf Circle.

Planning Director Liles stated Kimberly Lucinda Gallimore has submitted an application for annexation for property located on the cul-de-sac at 130 Longleaf Circle. Planning Director Liles stated the property is identified by LRK #20060494 and PIN # 857000171332. Planning Director Liles stated this property is contiguous. Planning Director Liles stated with the adoption of the new annexation laws, those apply to involuntary annexations, and not voluntary annexations. Unless there are other comments on this matter, she has nothing further. Mayor Pro-tem Farrell asked if there were other lots on the cul-de-sac. Planning Director Liles stated there is one more lot that is in Town limits. And three more owners

will be submitting for annexation as well, which will clean up the doughnut hole on Longleaf Circle.

With no further discussion, Mayor Mofield closed the public hearing on Voluntary Contiguous Annexation #48-012 submitted by Kimberly Lucinda Gallimore for property located on the cul-de-sac at 130 Longleaf Circle.

3. Setting of the Agenda

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

4. Approval of the Consent Agenda

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held except on request by a member of the Board of Commissioners.

- a. Minutes of Regular Board Meeting on October 8, 2012 and Work Session on November 1, 2012.

A motion was made by Commissioner Thomas, seconded by Commissioner Parker, to approve the consent agenda as presented. Motion unanimously carried.

5. Informal Discussion and Public Comment

- a. Employee of the Year Recognition.

Manager Zell presented the 2012 Employee of the Year Award to Joshua Wilhelm, Police Officer with the Aberdeen Police Department. Manager Zell stated Josh was nominated by several of his co-workers for the award, and Manager Zell read a few of the nominations. Officer Wilhelm was presented with a framed certificate, \$300, and a certificate for 2 days Vacation Leave.

- b. Citizen's Academy Program Graduation.

Manager Zell presented certificates to the Citizen's Academy Program participants. Participants included the following: Carolyne Koch, Peter Koch, Raymond Lee, Marva Gillis, Joe Dannelley, Jed Taylor, Dotty Garman, Kam Hurst, and Maurice Holland, Jr. Manager Zell also presented a small gift to each participant for the time devoted to the program.

- c. Esther Fowler stated she is here in reference to the Broadway Community and the grant. Ms. Fowler stated some residents did come to the scheduled meeting to discuss the NC Catalyst Grant opportunity, but they just went to the wrong place and missed the meeting. Planning Director Liles stated she has begun working on another option, and hopefully it will provide good results for the Broadway Community.
- d. Mayor Mofield stated the Reindeer Fun Run is 12/1/12 and the Christmas parade is on 12/8/12.

6. Financial Report

Manager Zell stated the General Fund is \$780,325 in the black at the end of October, and 58.7% of R&P has been collected so far. Manager Zell stated the sales tax continues to come in above the level from last year. Manager Zell stated the Water & Sewer Fund is \$127,000 in the red, because this is a non-billing month.

7. Old Business

None

8. New Business

- a. Ordinance to Extend the Corporate Limits of the Town of Aberdeen, North Carolina for Voluntary Contiguous Annexation #48-012 submitted by Kimberly Lucinda Gallimore for property located on the cul-de-sac at 130 Longleaf Circle.

Planning Director Liles stated this item is ready for a motion at this time, since the public hearing has now been held. A motion was made by Commissioner McMurray, seconded by Commissioner Parker, to approve an Ordinance to Extend the Corporate Limits of the Town of Aberdeen, North Carolina for Voluntary Contiguous Annexation #48-012 submitted by Kimberly Lucinda Gallimore for property located on the cul-de-sac at 130 Longleaf Circle. Motion unanimously carried.

- b. 2011 SBEA Project Budget Ordinance.

Planner Kim stated this is the project budget ordinance for the 2011 SBEA project. Planner Kim stated the CDBG funds for this project are \$225,000, with a Town contribution of \$5,000. Planner Kim stated the budget ordinance was created by state guidelines and was broken into the appropriate categories. Planner Kim stated the budget will assist in timely

and orderly expenditures with the State of NC. Planning Director Liles stated all of the funding conditions have been satisfied, and hopefully release of funds will be received very soon. Planner Kim stated this grant is for Davenport's Galaxy and Blue's Crossing Barbershop. A motion was made by Commissioner Wright, seconded by Mayor Pro-tem Farrell, to approve the 2011 SBEA Project Budget Ordinance. Motion unanimously carried.

- c. Minor Modification to Site Plan for the Gap Church at Town and Country Shopping Center.

Planning Director Liles stated this is a situation that is popping up occasionally from adoption of the UDO. Planning Director Liles stated sometimes, as a result of the UDO, uses previously a use by right have become conditional. Planning Director Liles stated The Gap Church wants to use a site at Town and Country Shopping Center (1341 N. Sandhills Blvd.), and the site was developed in the 1960s and 1970s. Planning Director Liles stated there have been 2-3 churches in the Town and Country Shopping Center. The Gap Church wants to move to this new location at Town and Country, and in the past these types of issues have been treated as a minor modification to a conditional use permit. Mayor Mofield stated she never remembers there being a church in that shopping center before.

Planning Director Liles stated churches are allowed in the Highway Commercial District with an approved conditional use permit, and churches have been allowed in this shopping center in the past, and that would be her reasoning for consideration of this item. Commissioner Wright stated he has no problem with approving this item. Commissioner Parker stated the staff memo appears to be contradictory since this would be a minor modification to a conditional use permit, and a conditional use permit does not even exist for this property. Planning Director Liles explained this is the approach that was recommended by Attorney T.C. Morphis. Planning Director Liles stated the other option would be to put this item through the regular submittal process for a conditional use permit. Mayor Mofield stated she would prefer the Town use the conditional use permit process.

Planning Director Liles stated prior to the approval of the UDO, this item would not have even come to the Board because it would have been standard approval. Mayor Mofield stated this will set a precedent that assembly can take place in Aberdeen shopping centers in Highway Commercial Districts. Planning Director Liles stated the church is wanting to move in by November 1st. Mayor Pro-tem Farrell asked how long it would take if this process went through the conditional use permit process. Planning Director Liles stated 90 days – February, or Planning Board and Town Board meeting could be consolidated and possibly consider approval

within 60 days. Planning Director Liles stated she will write this modification very specifically for this particular piece of property, so that any other uses would have to receive approval from the Town Board first.

Commissioner Parker stated he believes that this may be setting a precedent. Marva Gillis stated it sounds like the precedent has already been established. Ms. Gillis stated by having the church in the Town and Country Shopping Center, it could directly or indirectly produce revenue for the Town. Mayor Mofield stated churches in retail space indicate death in retail space, unfortunately. Mayor Mofield stated all Board members support church activities within the Town. Planning Director Liles stated the options are to say no, and applicant could resubmit as a Conditional Use Permit, or defer the decision to the next Work Session. Commissioner McMurray stated she would like to defer this item to the next Work Session for further information. Mayor Pro-tem Farrell stated he would like to know if this would be a deal-breaker for Mr. Shipley if he had to go through the conditional use permit process. Commissioner Parker stated he would recommend Mr. Shipley go ahead and begin the Conditional Use Permit process. Commissioner Wright stated there could be some legal issues with this issue and he would like the Town attorney involved. Billy Marts asked if churches are not allowed in the Highway Commercial Districts, then where are they allowed and he could not understand why the Board is delaying this issue. Mayor Mofield explained that the Board members would prefer to follow the UDO that was approved by the Town Board.

- d. Resolution to Release Surety from FC Pinehurst LLC and Accept Surety Bonds from MFV-FC Portfolio LLC for Infrastructure Improvements for Legacy Lakes.

Planning Director Liles stated a change of ownership for Legacy Lakes has occurred, and bonds will need to be released for FC Pinehurst LLC and accept bonds from MFV-FC Portfolio LLC for infrastructure improvements for Legacy Lakes. Planning Director Liles stated a discussion has been held about consolidating some of these bonds in the near future, but for now this is just an issue of transferring over the bonds. A motion was made by Mayor Pro-tem Farrell, seconded by Commissioner McMurray, to approve a Resolution to Release Surety from FC Pinehurst LLC and Accept Surety Bonds from MFV-FC Portfolio LLC for Infrastructure Improvements for Legacy Lakes. Motion unanimously carried.

9. Other Business

- a. Update on CVS Project.

Planning Director Liles stated the Board previously approved a Conditional Use Permit on July 5, 2012. Planning Director Liles stated one of the conditions for the project was to receive site plan approval prior to construction for each of the parcels in the project. There was a condition included that there would be no clear cutting of trees on the site, and the landscaping requirements of the UDO had to be met. The past few weeks Planning Staff has worked with the developer to come up with some type of agreement for tree saving on the site. There are no plans for Parcel B yet, but the truck access for Parcel A comes across Parcel B. An agreement has not been reached in order to issue a permit. And the option expires tomorrow night on the project. Planning Director Liles stated staff has been informed that Parcel B will develop very quickly after Parcel A. Planning Director Liles stated staff is stuck on the tree issues. There is a really large oak tree and a large stand of longleaf pine trees, and all of the trees will be lost if the plan is not agreed upon. Staff has met with the Town Attorney, an Engineer, and DOT, and at this point, the developers just want to strip the property and start over. Developers are threatening to move out of the project and leave it behind, if this issue is not resolved. Mayor Mofield stated the Town Board met for many months on adoption of the UDO, and the UDO was developed to create guidelines for situations such as this. Planning Director Liles stated staff met with a Landscape Architect about this issue, and agreed to turn around a permit by tomorrow if necessary, if the developer agrees to conserve as many trees as possible.

10. Adjournment

A motion was made by Commissioner Wright, seconded by Mayor Pro-tem Farrell, to adjourn the meeting. Motion unanimously carried.

Regina M. Rosy, Town Clerk

Minutes were completed in
Draft form on November 13, 2012

Elizabeth B. Mofield, Mayor

Minutes were approved
on December 10, 2012