

Draft

BOARD OF COMMISSIONERS
REGULAR MEETING November 1, 2010

ALEXANDER COUNTY
STATE OF NORTH CAROLINA

PRESENT: Larry G. Yoder, Chairman
 Ryan Mayberry, Vice-Chairman
 Wes Bolick
 Harold M. Odom
 W. Darrell Robertson

STAFF: Rick French, County Manager
 Jamie Starnes, Clerk to the Board

The Alexander County Board of Commissioners held a regular meeting on Monday, November 1, 2010 in the CVCC / Alexander Center Multipurpose Room, Taylorsville, North Carolina.

CALL TO ORDER

Chairman Yoder called the meeting to order at 6:00 PM.

INVOCATION & PLEDGE OF ALLEGIANCE

Commissioner Bolick gave the invocation. Commissioner Odom led the Pledge of Allegiance to the Flag.

COMMISSIONER'S REPORT

Chairman Yoder mentioned that the Board had received a letter from Bud Caywood from Bethlehem who expressed concerns about flea market / yard sale type sales occurring at the Highway 127 at the bridge. Chairman Yoder stated that the Sidewalk & Begging Ordinance being considered tonight would address these issues.

The NCPLDA announced their Outstanding Facility Awards and the Bethlehem Library received the Remodeled Facility under 10,000 feet Award. This and other awards will be showcased on December 2, 2010 at the Carolina Inn in Chapel Hill.

Commissioner Robertson stated that November 22nd would be Commissioners Odom's and Bolick's last meeting on the Board. He conveyed his appreciation to them and noted that they both would be missed.

ADOPTION OF AGENDA

Commissioner Mayberry made a motion to adopt the agenda as presented. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

PUBLIC COMMENT

There was no one present to speak during the Public Comment Period.

PUBLIC HEARING: REZONING CASE 10-5 – ICENHOUR & DYSON

Sylvia Turnmire, Director of Planning & Development, presented Rezoning Case 10-5 submitted by Steve Icenhour and Dewayne Dyson who requested rezoning of property located on Wayside Church Road from RA-20 (Residential-Agricultural) to H-C (Highway Commercial) to allow for boat storage. The size of the property tract is two acres and the current land use is vacant. Ms. Turnmire stated that zoning within 100 feet of the property was RA-20 on all sides. Land uses within 100 feet of the property include vacant land on all sides as well as the Oxford Dam to the south.

Ms. Turnmire stated that the current owners acquired the subject property from Crescent Resources in 1995 as a 63-acre tract. Two acres were recently subdivided from the parent tract for this request.

She explained that, because the property was completely surrounded by a zoning district considerably different from the requested district, this was a “small scale rezoning” or spot zoning request which is “invalid or illegal unless there is a clear reasonable basis for treating the singled out property differently from adjacent land.” Ms. Turnmire mentioned that for any case involving spot zoning, the following questions must be addressed:

1. Did the zoning activity in the case constitute spot zoning as our courts have defined that term?; and
2. If so, did the zoning authority make a clear showing of a reasonable basis for the zoning by determining the following 4 factors?:
 - a. The size of the tract.
 - b. The compatibility of the disputed zoning action with an existing comprehensive plan.
 - c. The benefits and detriments resulting from the zoning action for the petitioning property owner, neighbors, and surrounding community.

- d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land.

Ms. Turnmire addressed staff comments in regard to these 4 factors to show a reasonable basis for zoning, which included:

2a. The size of the tract:

The size of the subject property is two acres. The sizes of surrounding properties are:

- North – 60 acres (parent tract)
- South – 19.76 acres
- East – 1.23 and 2.01 acres
- West – 60 acres

2b. The compatibility of the disputed zoning action with an existing comprehensive plan:

1. Section 154.140 of the Alexander County Zoning Ordinance states that the RA-20 District is established to provide low-density residential and agricultural purposes including single-family dwellings, two-family dwellings, individual manufactured homes, and related uses.
2. Section 154.170 of the Alexander County Zoning Ordinance states that the H-C District is to provide suitable locations for those commercial activities which serve primarily the traveling public, including those which function rather independently of each other.
3. The 2008 Comprehensive Plan shows this property as being in a future commercial area.
4. The 1995 Thoroughfare Plan mentions Highway 16 as an Urban Thoroughfare and is identified as an unfunded future need for upgrading the existing two-lane facility from the Catawba River to the Wilkes County line. The 2009 traffic count for Wayside Church Road was 2,200 trips per day while a nearby section of Highway 16 had 11,000 trips per day.

2c. The benefits and detriments resulting from the zoning action for the petitioning property owner, neighbors, and surrounding community:

The Board must determine what impact the rezoning will have upon the adjacent property owners and the surrounding community. The benefits of the rezoning should outweigh any potential inconvenience or harm to the community.

2d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land.

The nearest H-C zoning district, which includes a restaurant, is within 230 feet of the subject property. All adjoining properties are currently vacant.

Ms. Turnmire stated that letters were sent by first class mail to the property owners within 100 feet of the parcel boundary, a sign was posted on the property, and an advertisement was placed in *The Taylorsville Times*. She noted that staff received one phone call from an individual requesting general information and no opposition was given at the Planning & Zoning Commission hearing.

She informed the Board that Planning & Development staff recommended approval of the request based on the proximity of similar zoning districts and consistency with the Comprehensive Plan.

She also stated that the Planning & Zoning Commission met on October 7, 2010 to review the request and voted unanimously to recommend approval based on the following supporting facts.

1. The proximity of similar zoning districts.
2. Compliance with the future land use plan.

Ms. Turnmire advised that based on the information provided, the Board must determine whether the rezoning request meets the guidelines set forth above. She also noted that Section 154.351(C)(2) of the Alexander County Zoning Ordinance required the Board to provide a statement analyzing the reasonableness of the proposed rezoning and reflecting consideration of the 4 legitimate factors for differential zoning treatment of the property involved.

Chairman Yoder called the public hearing to order and requested any public comment. There being no comments made, Commissioner Bolick made a motion to close the public hearing. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Mayberry made a motion to approve Rezoning Case 10-5 based on the proximity of similar zoning districts and compliance with the future land use plan. Commissioner Robertson seconded the motion, stating that the volume of traffic on Highway 16 made the property suitable for rezoning. The Board voted unanimously in favor of the motion.

POSTPONEMENT OF AGENDA ITEM

At this time, Chairman Yoder requested Agenda Item #3 (Sidewalk & Begging Ordinance) be postponed until Robert Campbell, County Attorney, arrived.

CODE OF ETHICS FOR THE ALEXANDER COUNTY BOARD OF COMMISSIONERS

Chairman Yoder explained that the NC General Assembly now required all counties, cities, town, villages, etc. adopt a code of ethics for their governing board to enforce that public offices are not to be used for person gain. Also included is a requirement for board members to attend training in one year following election or re-election.

Commissioner Robertson reviewed the organizational chart developed to become part of the Code of Ethics. He explained that Alexander County operated under the Manager Form of Government.

Commissioner Robertson made a motion to approve the Code of Ethics Policy for the Alexander County Board of Commissioners. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

PROCLAMATION TO RECOGNIZE NOVEMBER 17, 2010 AS NATIONAL GIS DAY

George Brown, GIS Coordinator, reported that GIS Day was a worldwide event that raised awareness of the importance of GIS and how it is used day to day. The 2nd Annual GIS Day event will be held in the ACHS Auditorium this year on November 17th from 8:00 AM until 2:00 PM. Mr. Brown stated that 32 vendors participated last year including representatives from several County departments, NC Forestry Service, surveyors, aerial photographers, etc.

Chairman Yoder made a motion to approve the proclamation. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

SIDEWALK & BEGGING ORDINANCE

Robert Campbell, County Attorney, presented the proposed Roadways, Right of Way Areas, Streets, and Sidewalks Ordinance to address street peddlers, beggars, and door-to-door sales persons. He explained that the ordinance required these types of persons attempting to solicit sales for personal gain obtain a privilege license from the Sheriff's Department who will also conduct criminal background checks. The ordinance shall not apply to members of charitable, religious, educational, civic, or fraternal organizations who receive no compensation for their services.

Commissioner Robertson suggested an attachment be added to the ordinance to include a list of charitable, religious, civic, etc. groups that are exempt. Groups would need to contact the County Office to be added to the list.

The Board discussed Section 3 which requires applicants to provide fingerprint samples. After discussion with the County Attorney, the Board agreed to leave the provision in the ordinance. Concerns regarding how the ordinance would affect bona fide businesses which sell door to door were discussed as well as road side preachers. Mr. Campbell felt that a separate ordinance would be needed for those issues.

Commissioner Mayberry asked if Section 5 should include that a person was allowed to solicit or beg with "written" permission from a property owner. Mr. Campbell felt that was unnecessary.

Commissioner Robertson made a motion to table consideration of the ordinance to allow for an attachment to be drafted with a list of exempt organizations. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

PIG PICKIN' BAN IN NORTH CAROLINA

Commissioner Robertson advised that several cities in California, Colorado, and other states had banned outdoor grilling and that the U.S. Environmental Protection Agency planned to tighten its regulations for coarse particulate matter in 2011 which could affect mobile cookers. These new rules could also limit farm and rural dust which could be detrimental to the entire nation's farmers, ranchers, livestock producers, and miners.

Horses running through a pasture, farmers harvesting crops, and driving down an unpaved road can create dust clouds and particulate matter greater than the possible future allowable limit. Commissioner Robertson stated that several U.S. Senators had expressed their concerns to the EPA regarding how these regulations could affect small farmers and possibly put them out of business.

SALES TAX / COST-OF-LIVING REPORT

Based on the increase in sales tax revenues (approximately 9.3%) over the past several months, Rick French, County Manager, recommended approval of a 2.5% cost-of-living increase for all County employees to begin with the December 3, 2010 pay date.

He advised that a budget amendment would be presented later in the meeting to move forward with the COLA.

JAIL & LAW ENFORCEMENT CENTER PROJECT REPORT

Rick French, County Manager, provided cost estimates for the Alexander County Jail and Law Enforcement Center as well as remodeling of the current courthouse. A bid opening is scheduled for November 23, 2010 at 2:00 PM at the CVCC / Alexander Center. Included in the cost estimate was a base bid for a 100-bed facility and renovations to the courthouse and 4 alternates which could take the facility up to 160 beds.

Commissioner Robertson made a motion to allow the jail architect to move forward with the soliciting of bids for the Jail and Law Enforcement Center as presented and to hold the bid opening on November 23rd unless the need to extend that date arises. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

BUDGET ORDINANCE AMENDMENTS #19 & #20

Rick French, County Manager, reviewed the purpose of Budget Amendments #19 and #20, which included the following information:

Budget Amendment #19 – To increase the Information Technology budget for the software maintenance agreement.

Budget Amendment #20 – To increase the budget for a 2.5% cost-of-living adjustment beginning on the December 3, 2010 pay date.

Commissioner Bolick made a motion to approve Budget Amendments #19 and #20. Commissioner Robertson seconded the motion. The Board voted 4 in favor of the motion (Commissioners Bolick, Odom, Robertson, and Yoder) and one against (Commissioner Mayberry). The motion carried.

OTHER BUSINESS

Rick French, County Manager, discussed the following issues during Other Business:

- A. The first phase of the tennis court project in Bethlehem is complete. The fence is back up and the gates are locked. The next phase will be the color coat and striping. The asphalt needs to cure a minimum of 20-30 days for proper color coating results.
- B. The estimate to pave the basketball courts at Jaycee Park is \$9,911, which includes lining the courts. Mr. French requested approval to move forward with the paving.
- C. The estimate to pave the road and parking area at Dusty Ridge Park is \$56,322. Mr. French will provide more information related to this project at the next meeting.
- D. Kim Stine, Human Resources Benefits Specialist, has been promoted to Assistant Human Resources Director.
- E. Mr. French discussed the need for a possible work session in late November to discuss the jail bids.

Commissioner Bolick made a motion to approve the County Manager's Report to include the paving of the Jaycee Park basketball courts. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

CONSENT AGENDA

- A. Minutes from the October 18, 2010 Regular Commissioners' Meeting.

Commissioner Robertson made a motion to approve the Consent Agenda. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

CLOSED SESSION – N.C.G.S. 143-318.11(a)(1, 4, 5, & 6) TO PREVENT THE DISCLOSURE OF CONFIDENTIAL INFORMATION, ECONOMIC DEVELOPMENT, CONTRACTUAL, & PERSONNEL

Chairman Yoder made a motion to enter into Closed Session at 7:24 PM to prevent the disclosure of confidential information and to discuss economic development, contractual matters, and personnel issues pursuant to N.C.G.S. 143-318.11(a)(1, 4, 5, & 6). Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

ADJOURNMENT

There being no further business, Commissioner Bolick made a motion to adjourn at 7:55 PM. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

Larry G. Yoder, Chairman

Jamie M. Starnes, Clerk to the Board