

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 13, 2006
7:00 P.M.

Mayor Randolph Voller called the meeting to order and observed a moment of silence.

ATTENDANCE

Members present: Mayor Randolph Voller, Commissioners Max G. Cotten, Pamela Baldwin, Gene T. Brooks and Chris Walker. Commissioner Clinton E. Bryan, Jr. was absent.

Other staff present: Town Manager Sam Misenheimer, Clerk Alice F. Lloyd, Attorney Paul S. Messick, Jr., Police Chief David Collins and Planner David Monroe.

AGENDA APPROVAL

Motion made by Commissioner Walker seconded by Commissioner Cotten to approve the agenda as presented. Vote Aye-4 Nay-0

CONSENT AGENDA

Motion made by Commissioner Walker seconded by Commissioner Brooks to approve the consent agenda as presented.

- Minutes of the October 23, 2006 Board of Commissioners meeting.
- Declare surplus property – police vehicles.

Vote Aye-4 Nay-0

Special recognition:

Chief Collins recognized Tom McGinty. He was promoted to Lieutenant.
Manager Misenheimer recognized individuals/companies involved with the Street Fair.

- Leslie Fesperman, Chairperson
- Town staff and employees
- Sponsorship letters of appreciation

CITIZENS MATTERS

None

OLD BUSINESS

REZONING REQUEST – 45 CAMP DRIVE

McKay request to rezone 45 Camp Drive from R-10 to O&I.

Commissioner Cotten requested to be excused from discussion and voting because he still owns property in the subdivision.

Motion made by Commissioner Walker seconded by Commissioner Baldwin to excuse Commissioner Cotten. Vote Aye-3 Nay-0

Planner Monroe stated the Planning Board reviewed this application and considered the record of the public hearing and the input of adjoining property owners. Board members were concerned about the apparent conflict with the Restrictive Covenants and the failure of the applicant to demonstrate that the property owners in the subdivision had been consulted. Board members were also concerned about the potential for increased traffic on a street ill-equipped to handle more.

Although Mr. McKay had stated in the past his intention to lease the property for only one year, Board members felt that there was no “temporary” zoning allowed by the ordinance and didn’t feel comfortable with the fact that, after one year, any use allowed in the O & I zone could be a potential use at the site.

For these reasons, the Planning Board voted to recommend that the Commissioners deny the request to rezone and adopted a Resolution of Denial citing the reasons therefore.

The Resolution of denial reads as follows:

WHEREAS, the applicant has submitted a request to rezone the above referenced property to O & I, pursuant to the provisions of N.C.S.S. 160A-385 and Article X of the Town of Pittsboro Zoning Ordinance; and,

WHEREAS, a public hearing was duly noticed and conducted on 23 October 2006 at which time the applicant and affected parties were given the opportunity to present arguments; and,

WHEREAS, the Planning Board convened to consider and prepare a recommendation on the application on 6 November 2006 at which time the applicant was given the opportunity to present arguments and the Town Staff was given the opportunity to comment on the application; and,

WHEREAS, the applicant appeared and addressed the Board as more fully set forth on the record; and

WHEREAS, the Board made the following findings and conclusions:

1. The subject parcel is located in an area that is adjacent to O & I zoned property and adjacent to R-10 zoned tracts.

2. The potential impact to the surrounding community and the relationship between the uses permitted in the zoning district proposed with those permitted in the existing zoning district could adversely affect the enjoyment of adjacent properties.
3. The proposed rezoning does not advance the public interest.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the foregoing findings and conclusions that the Planning Board does hereby recommend to the Board of Commissioners that the request for rezoning be denied.

Commissioner Walker stated there is a restrictive covenant in the subdivision and we can not interfere with that. He spoke with a realtor today and there is over 20,000 sq. feet of office space available for rent in Town. He has a concern regarding the property being rezoned to O & I because it would be difficult to revert back to residential.

Commissioner Baldwin stated she concurs with the recommendation of the Planning Board.

Mayor Voller asked if there are any other options for them.

Planner Monroe stated they can resubmit the application after a period of six months or seek office space at another location.

Motion made by Commissioner Walker seconded by Commissioner Baldwin to approve the Resolution adopted by the Planning Board and deny the request.

Vote Aye-3 Nay-0

PLANNING BOARD RESOLUTION OF DENIAL IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE

ADDITIONAL INFORMATION SUBMITTED AFTER PUBLIC HEARING IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES

Motion made by Commissioner Brooks seconded by Commissioner Baldwin to readmit Commissioner Cotten. Vote Aye-3 Nay-0

NEAL REZONING REQUEST

Neal request to rezone 10.01 acres off International Woodyard Road from M-1 to M-2. Mr. Neal also requests consideration of a special use permit to conduct a salvage yard.

Planner Monroe provided the following information:

The Planning Board began its review of this application by focusing on the rezoning first. It reviewed my memo and the record of the Public Hearing. You will recall that Mr. Neal

has asked the town to rezone his property from M-1 to M-2 for the purpose of having a salvage yard.

Mr. Neal indicated to the Board that he operates a towing business in Cary and this property has been used as a holding area for that business. He indicated that he does not intend to operate a business like the salvage yard Mr. Walters cited in Milton; he said he intends to operate more on the line of Young's, a business which he says has a good reputation. He said he would recycle as many parts as possible but did not indicate how he intends to dispose of or store stripped vehicles except to say that he did not intend to operate a crusher.

Mr. Neal said he would have to have a watershed assessment twice a year but didn't anticipate any problems because there are no nearby water bodies. He told the Board that he did not feel he would create as much impact as Townsend and the odor they generate. Monroe reminded the Board that Townsend no longer processes chicken at the Pittsboro operation, they only package processed, refrigerated chicken parts so the issue of odor and discharge has been eliminated from that site.

Mr. Neal said he had installed 700 feet of fence across the north side of his sister's property and there is another 300 feet across his property; from there it is wooded. When asked he indicated that there were about 100 vehicles stored on his or his sister's property.

Mr. Howard suggested that we all have cars that we eventually need to get rid of so this was a good idea.

The objections of adjacent property owners were noted as was the fact that the use was inconsistent with the Land Use Plan. After discussion, the Planning Board voted to recommend the rezoning.

In the discussion regarding the Special Use Permit, Monroe reminded the Board that the burden of demonstrating facts falls solely on the applicant. He noted that there was no evidence presented to demonstrate that the project, as proposed, would not materially endanger the public health, not substantially injure the value of adjoining property, nor that it would be in harmony with adjoining land uses. The only evidence presented was that it was inconsistent with the Land Use Plan. In addition, no site plan was presented, so, Monroe noted, the application was incomplete. Based on an inability to make a favorable finding of fact and the incompleteness of the application the Board voted that they could not recommend the Special Use Permit and passed a Resolution of Denial.

Commissioner Cotten asked if they were to rezone this would it give any weight pro or con to the SUP?

Planner Monroe stated it provides Mr. Neal opportunity to resubmit the application for a SUP if he chooses. Without the rezoning the SUP cannot be sought. SUP is only valid in a M-2 Zoning District for a salvage yard.

Mayor Voller stated that M-2 is a significant difference from a M-1 zoning district. Planner Monroe said that was correct. Mayor Voller said and that opens up a large number of uses that could come down there that were not intended at this point.

Commissioner Cotten stated he is concerned about what may occur with the salvage yard. He does not know how much state supervision will occur – his past experience they have been very limited with it. He stated junk cars – which he understands there are some already parked there that are in violation of our ordinance. Typically this type thing brings with it a haven for pests such as rodents, snakes, etc. Also, he thinks he read it correctly, Mr. Neal made the comment he wasn't concerned about some point that Mr. Monroe made about the nearness to streams, etc. There is a stream nearby this that would ultimately be affected by any oil seepage or anything like that. He stated this concerns him a great deal. Commissioner Cotten said he do not think our ordinance concerning salvage yards is adequate. He will vote no on the rezoning.

Commissioner Baldwin stated in reference to what Commissioner Cotten was saying regarding the State, do they monitor salvage yards at all. Planner Monroe stated according to a statement made by Mr. Neal at the Planning Board meeting he would be subject to two inspections per year for watershed run off. Existing conditions of the property is unclear since Mr. Neal never shared the Phase I and Phase 2 environmental studies he has for this property.

Commissioner Baldwin asked if the rezoning is approved it would not follow our requirements according to our land use plan, so it would be inconsistent with what we would like as our land use plan. Planner Monroe said yes. Commissioner Baldwin said from time to time they will monitor watershed run off, then how difficult is that to clear up if it were to occur. Commissioner Walker said costly. Mayor Voller said it would be a brown field and we don't want to be in the brown field site creation business.

Commissioner Baldwin stated her concern is for the residents there also and the possibility of a decrease in their property value.

Commissioner Brooks asked if we were discussing the rezoning or salvage yard now. Mayor Voller said we are discussing the rezoning request but people have taken the liberty of discussing the SUP also but we will vote on them separately. Commissioner Brooks asked if we would have to vote on the SUP since they didn't submit their application. Planner Monroe said you will have to acknowledge that the application was incomplete.

Commissioner Walker stated if we turned down the rezoning, the SUP is a moot point, is that correct. Planner Monroe stated that he still felt it would be appropriate particularly to declare that the application is incomplete.

Mayor Voller stated we have all gotten a lot of material on this and have thought long and hard.

Commissioner Walker stated he has several things that bother him on this.

1. The recombination survey that was done by the applicant and maybe his sister, there was no signature by a town official to allow this recombination of the property to come back together. He thinks the Town would be remiss in voting on something where there is a potential issue whether the land was combined properly and signed off on by Town or County officials.
2. There was mention of a 20 foot easement off of International Woodyard Road and not off the main drive that goes through this land, is that correct. Planner Monroe stated it crosses the north side of his sister's property and it approaches the r-o-w of International Woodyard Road, but does not intersect that r-o-w. There is a small strip of land Mr. Neal's sister owns which there is no access easement at this time. Commissioner Walker asked if there was access to this property. Planner Monroe said as long as his sister chooses to let him have access. Commissioner Walker stated another thing that bothers him about this is the size of the easement, 20 feet is not very wide especially with wreckers bringing cars down it. Planner Monroe stated typically the minimum the Town requires is 30 feet.
3. Commissioner Walker stated another thing from the notes received from the Planning Board that we have quite a bit of M-2 property (he is not quite sure where). Planner Monroe pointed on the map and said there is several hundred acres of M-2 vacant land in the area. Commissioner Walker stated he knows this particular owner owns this land but we already have a lot zoned M-2 and it does not seem to be a high demand for M-2. Those would be the three main topics he would vote no for the rezoning from M-1 to M-2, specially going back to the recombination survey that was not done properly.

Manager Misenheimer pointed out that the recombination was done in 2003 and that he does not think this will occur now if they had not received a signature.

Mayor Voller stated he hopes the board would consider that he doesn't think we should be creating more potential brown field sites considering the experience of our neighboring municipality in Apex. Mayor Voller stated as Mr. Walker mentioned we already have hundreds of acres to do this if there was a demand. We already have too much what he would consider vehicle storage sites around that are not being regulated, the problem is that it is hard for us to enforce. He does think it would be appropriate for the Town and County and Mr. Neal (since he has experience in Cary) to get together and find a proper site for this. But he doesn't think our ETJ close to water sources and close to where you are going to have mixed development in the next 15 years is appropriate.

Commissioner Brooks stated he agrees with everything that has been said but from the standpoint of the applicant he has some feelings for them because they have got the Poultry Plant property on one side and then the people that come in opposition of the rezoning (old Clegg house) just beyond there is Camp Royall and back in there is poultry company property and eventually you get to 3M property, the Federal Pacific property that is right at these folks (old Woodyard). He don't know what Mr. Neal can do with

this land if he does not use it for some sort of manufacturing because he is surrounded (it looks to him like) by either manufacturing or a form of manufacturing. That land has been studied, Mr. Neal could not remember the date but he says it was in 1991 when they thought some vandals had turned over some chemicals on his fathers property and caused a nightmare for them. He is going to vote for the change in zoning.

Motion made by Commissioner Walker seconded by Commissioner Cotten to deny the rezoning request from Mr. Neal. Vote Aye-3 Baldwin/Cotten/Walker
Nay-1 Brooks

Motion made by Commissioner Brooks seconded by Commissioner Walker to find that the SUP Application is incomplete.
Vote Aye-4 Nay-0

ADDITIONAL INFORMATION RECEIVED AFTER THE PUBLIC HEARING IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES

UPDATE – WWTPS PERMIT

Updates on reports submitted to NCDENR Division of Water Quality/response letters received – Sam Misenheimer, Town Manager.

- A. Draft NPDES Permit/Town of Pittsboro WWTP.**
- B. Amendment to Engineering Report August 2006 – Technical Review Comments.**

Manager Misenheimer stated this information was provided as an update to the Board.

Commissioner Brooks asked how we would respond to the letter.

Manager Misenheimer stated Hobbs and Upchurch will answer the letter.

Commissioner Brooks he would like to think that HydroStructures is the Town Engineer, although we have project contracts with Hobbs and Upchurch.

Commissioner Walker stated would you say the state wants us out of Roberson Creek in April 2011.

Manager Misenheimer stated we have received a Judicial Order of Consent.

Mayor Voller stated it would be prepared and brought back to the Board for Board approval.

DRAFT NPDES PERMIT/AMENDMENT TO ENGINEERING REPORT AUGUST 2006 – TECHNICAL REVIEW COMMENTS IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES

POTABLE WATER TREATMENT

Reconsideration of corrective measures of potable water treatment – Max G. Cotten, Commissioner.

Commissioner Cotten asked if we have received a reply from the State regarding the letter sent by Hobbs & Upchurch. He does not think what was done (last meeting) is what the State was asking for. The problem is not necessarily in our plant it is in our pipes – stagnant water is bad.

Motion made by Commissioner Cotten (1) to rescind the acceptance of the Pilot Study putting ammonia in the water supply (2) direct the Manager to provide the board with a labs approved by DENR and (3) that HydroStructures be utilized in the plan.

Commissioner Cotten stated he feels it was done so that it will make our water in agreement with the County system.

Manager Misenheimer stated TTHM limits have reduced over the years and that this process was recommended solely for the Town of Pittsboro not predicting the future.

Mayor Voller stated this is not something we can flush our self out of.

Commissioner Brooks stated all the answers on the science is not in and he would agree that we need to know how much this is going to cost us. He is concerned about the older homes in Town.

Commissioner Baldwin stated we should meet with the State agency and to get HydroStructures involved also.

Commissioner Cotten asked about the scope of the project.

Manager Misenheimer stated it is what was approved at the last meeting.

Commissioner Cotten withdrew his motion to rescind, but if he is not satisfied he will bring it back.

Motion made by Commissioner Cotten seconded by Commissioner Brooks to direct the Manager to get a list of DENR approved labs in the State and make it available to the Board.

Vote Aye-4 Nay-0

Commissioner Brooks stated Hydrostructures should be involved since they are the ones that prepared our hydraulic plan and is familiar with the plant and distribution system.

Mr. Johnston stated the hydraulic plan needs to be updated it hasn't been done since 2002. It would only take an hour or so to get back up to speed.

Commissioner Walker wanted the general public to understand if we do nothing the fines get into thousands of dollars.

Commissioner Cotten stated they have solved the dead end on his street.

Commissioner Walker stated our one source is the Haw River. If we were to have an emergency situation we could tap onto the County.

Manager Misenheimer stated that State looks favorably on a regional approach.

Mayor Voller stated the Board should send a letter to the Representatives to talk about funding potential – sooner than later, we may want to ask the County to help us determine which are the older homes in Town and go out and test them so that we can get this over with.

Commissioner Baldwin stated she has received calls about the TTHM letters.

NEW BUSINESS

LOW IMPACT DEVELOPMENT WORKSHOP

Presentation – “Low Impact Development Workshop: Protecting Water Quality as Pittsboro Grows” – Karen Hall, NC Cooperative Extension NCSU Water Quality Group.

Ms. Hall made a presentation on the workshop they will be holding on December 7, 2006 at CCCC from 9 am to 3 pm and requested that as many Board members as possible attend.

Commissioner Walker stated he would not be able to attend, but asked that he be provided with handouts from the workshop. Ms. Hall said she would get them to him.

SAMARA COMMERCIAL SITE PLAN

Samara Commercial Site Plan, Lot 2 East Street Plaza (formerly 64 Business Park).

Planner Monroe reported the Planning Board reviewed the request from Mr. Samara to construct a commercial building on lot 2 in the East Street Plaza. Mr. Samara proposes a 30 seat restaurant providing table service with paper plates and disposable tableware in order to come in under sewer limits. In addition to the restaurant, two retail spaces are proposed. The Planning Board concluded that the requirements of the zoning ordinance had been satisfied and recommended the Commissioners approve the plan.

Commissioner Walker stated it was mentioned in your memo (Planner) about stacking, lighting and landscaping plan – has they been satisfied. Planner Monroe stated they have.

Mayor Voller asked how the 82% impervious surface is calculated. Planner Monroe said the stormwater detention facility is shared open space for the overall development and allows individual sites to exceed the 70% cap. Overall, the entire business park development will not exceed the 70% cap if individual sites are less than 85% impervious.

Motion made by Commissioner Brooks seconded by Commissioner Walker to approve the Commercial Site Plan, Lot 2 East Street Plaza with the addition of bike racks.

Vote Aye-4 Nay-0

VIDEO SERVICE COMPETITION ACT, HB 2047 UPDATES

Video Service Competition Act, HB 2047 updates- Andi Curtis, Public Affairs Manager, Time Warner Cable.

Ms. Curtis stated as the law is written it will not have an impact on the Town of Pittsboro because our contract expires in 2011.

POLICE VEHICLE TAKE HOME PROGRAM

Proposal to consider policy to allow and implement Police Vehicle Take Home Program – Chief David Collins and Sam Misenheimer, Town Manager.

Chief Collins explained the memo he sent to Manager Misenheimer:

Unfortunately, the Pittsboro Police Department is losing its best qualified Officers to larger Police Departments for better pay. These departments are also attracting good recruits and keeping their Police Officers by offering the incentive of a vehicle take home program. Until our town tax base grows, the pay will never compare to what the surrounding towns and counties offer their Police Officers. I am requesting that the Town of Pittsboro consider implementing the police vehicle take home program.

Over the past year the Police Department has lost four officers, the main reason given was for pay. I am afraid that soon I will lose more Officers to other agencies. Pittsboro Police Department is not the only agency with the problem of keeping qualified Officers on its force. Other agencies are having a hard time finding good candidates to fill positions. Advantages of the take home program: give the officer a sense of ownership of the police vehicle. the officer will be responsible for the vehicle, where he/she will keep the vehicle in a well-maintained order. This will keep maintenance costs down. This will also be considered as a small raise for the officers saving in personal fuel costs.

Having the Police Officer take the vehicle home will allow a rapid response to the town, without any delay, in case of an emergency. The Police Department is a small agency with limited manpower. If an on duty Officer needs assistance, he/she can call out an off duty Officer who could respond from their residence. An example of when an Officer might need assistance is when the Police Department is transporting psych patients to mental facilities or to Chatham Hospital for evaluations. The medical screening that has

to be completed on the psych patients usually take hours. Having to remain at Chatham Hospital for the screening process can take from four hours to a whole shift, which is twelve hours. During the night shift or weekend days and nights, this leaves an Officer alone without any assistance until the other Officer returns.

Hiring a new Officer cost the taxpayers over \$2000.00. This cost is for the State required physicals, psychological exam, firearm qualification, uniforms and bulletproof vest. Attached is a break down of the cost of hiring a new Police officer, along with the investment of money spent on training a new officer. Also shown will be the money that is invested for one Officer who has been on the force for over a year.

A new Officer must have extended training; which includes radar certification, and intoxilyzer certification. This also includes mandated inservice training from the NC Criminal Justice Standards Commission and the mandated inservice training in order to maintain their NC Law Enforcement General certification. The Pittsboro Police Department Police Officers attend a considerable amount of training beyond the mandated training each year. It is a tremendous loss to the Town of Pittsboro when any Police Officer leaves. The amount of money spent on training an Officer in the department cannot compare to the expense in fuel cost, when you lose a Police Officer.

The mileage that I would like to be considered for the take home program is fifteen miles from the city limits of Pittsboro. There are some agencies that allow thirty miles from their city limits. This will not drastically increase the fuel or vehicle maintenance costs. I have shown how much it would cost the taxpayers in fuel for one car that is driven fifteen miles. At the present time each officer is assigned a patrol vehicle so there will be zero start up cost for the vehicle take home program.

There are ten Officers in the Police Department. By estimating that all Officers live fifteen miles from the city limits, the cost will be \$960.00 a year per vehicle with a total of \$9600.00. In reality, at the present time, two Officers live fifteen miles, two live ten miles, one lives two miles, one lives in the city limits and another one lives forty miles away. I and the Detective are exempt.

This past year replacing the four Police Officers totaled to \$13,848.00. This by far exceeds the estimated \$9600.00 in fuel costs.

I hope that you will assist me in this matter by allowing this incentive program to retain the Police Officers that are now employed. Also this program will create an incentive to bring in good applicants to the Pittsboro Police Department when searching for new hires.

The Following is the break down of the costs spent for hiring a new officer:

Uniforms	\$1,000.00
Physical	\$220.00
Psychological Exam	\$240.00
Bullet Proof Vest	\$500.00

has misgivings about it, but he could support it on a trial basis if it was restricted to the ETJ area and to look at increasing the salary.

Commissioner Baldwin stated she does not have a problem with it, just determine the distance. If we are losing officers to other places maybe we can do a salary adjustment for the upcoming budget year to retain the officers we currently have.

Commissioner Walker stated he did not think the salary adjustment should only be discussed regarding the police department, but all town employees.

POLICE VEHICLE DECALS

Consideration of recommendations to update and improve Police vehicle decals – Chief David Collins and Sam Misenheimer, Town Manager.

Motion made by Commissioner Brooks seconded by Commissioner Walker to approve the updated police vehicle decals and that the police department receive the safety clothing they need.

Commissioner Cotten asked about safety vests for the officers – because he came close to hitting one.

Vote Aye-4 Nay-0

Chief Collins stated they are in compliance with safety regulations – they do have safety vests.

NCDOT BICYCLE AND PEDESTRIAN GRANT INITIATIVE

2007 NCDOT Bicycle and Pedestrian Grant Initiative.

Motion made by Commissioner Baldwin seconded by Commissioner Cotten to authorize staff to prepare a grant application for bicycle and pedestrian initiative.

Vote Aye-4 Nay-0

CAPITAL IMPROVEMENT PROJECTS

Approval of format of form to be used in projecting cost of capital improvement projects – Commissioner Max G. Cotten.

Commissioner Cotten stated we are approving so many projects he would like for the board to approve the form he presented. He also stated he will be calling for a public hearing on all the water & sewer projects so that the citizens will know what is going on.

Commissioner Cotten stated he does not mind if we look at other forms.

Attorney Messick stated this a part of the budgetary process and will be dealt with in a project ordinance.

Commissioner Cotten stated he would like it in some form so that the general public can understand it.

Manager Misenheimer stated as the budget officer he provides the board with all factual information on each and every project.

Jay Johnston stated they have a style they go by when they do a budget projection for projects.

Staff Reports/Manager updates

- C/D quotes as of October 24, 2006.
- Memo State Transportation Improvement Program (STIP) public meetings.
- Quarterly Financial Report.
- Letter to NCDENR – Public Water Section/Resolution for corrective measures to reduce disinfectant residual levels.

COMMISSIONER CONCERNS

None

FYI

- Pittsboro Christmas Parade – Sunday, December 3, 2006 at 3:00 PM
- Letter to NCDOT/sign on US64 Bypass in Pittsboro requesting additions to Historic Pittsboro
- Letter to NC Rural Center regarding Capacity Grant/Credle Street Project

ADJOURNMENT

Motion made by Commissioner Brooks seconded by Commissioner Walker to adjourn.

Vote Aye-5 Nay-0

Randolph Voller, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk