

TOWN OF PINE LEVEL
MINUTES OF REGULAR
BOARD OF COMMISSIONERS MEETING
FEBRUARY 8, 2010
7:00 P.M.

CALL TO ORDER

Mayor Jeff Holt called a regular meeting of the Pine Level Board of Commissioners to order at 7:00 p.m. on Monday, February 8, 2010 at the Pine Level Town Hall.

ROLL CALL

COMMISSIONER KAREN ANDERSON
 COMMISSIONER JIMMY GARNER
 COMMISSIONER ANTHONY GUDAC
 COMMISSIONER PHIL PITTMAN
 MAYOR JEFF HOLT

STAFF PRESENT

Town Attorney Frank Wood, Consultant Dan Simmons, Zoning Administrator Dave Holmes, Police Chief Keith Sparks, Public Works Superintendent Ray Stuckey, Recreation Coordinator Scottie Hayes, Town Clerk Sharon Thompson

INVOCATION AND PLEDGE

Mayor Holt gave the invocation and then asked Commissioner Pittman to lead everyone in reciting the Pledge of Allegiance.

APPROVAL OF AGENDA

ADDITIONS: 12. C. Adopt budget ordinance for close out of waterline project to Custom Assemblies

DEFERRALS:

MOTION TO ADOPT: Gudac
SECOND: Anderson
VOTE: unanimous

APPROVAL OF MINUTES: 01-18-10

MOTION TO ADOPT: Pittman
SECOND: Garner
VOTE: unanimous

PUBLIC HEARING ON TOWN HALL

Mayor Holt then opened a required public hearing on the purchase and financing of a new town hall using USDA Rural Development funding, said hearing having been duly advertised on January 27th in *The Kenly News*. The mayor welcomed Ms. Lisa Talley, representative from USDA, to the meeting. He said the board has deliberated over several different ideas concerning a new facility, and had decided to purchase an existing commercial building at 306

East Brown Street and to renovate it for use as a new town hall. He said the building has 7,000 square feet, paved parking facilities and would add extensive more office space for the town hall and police department. The amount will not exceed \$825,000 in a 40-year loan from USDA, with \$725,000 in loan and \$100,000 in grant funds. The building seems to be in a good location, visible from the highway, and has good access from several directions. Dan Simmons added that the meeting room will sit about 64 people and would be good for civic groups to utilize for meetings, as well. Mayor Holt said the building was designed so that the meeting room could be sectioned off at night, with the work areas remaining locked off from the public. Berry Godwin said it was a good location and he appreciated the board working to find a suitable site. The mayor said it would be exciting to move to the new site and he also said that a decision would have to be made on what to do with the old town hall. Kevin Kornegay questioned when would the town be seeking bids on the renovation. Dan Simmons said it would be 60-90 days out, and then the town would have to get approval from the LGC for interim financing of the project. Mayor Holt said it could be June or July. The hearing was then closed by unanimous vote of the board.

MOTION: Gudac
SECOND: Garner
VOTE: unanimous

Mayor Holt next invited Lisa Talley to address the board on behalf of USDA. Ms. Talley said this project had indeed been under consideration for quite a while and she was happy to see it come to fruition. She agreed that the town needs more meeting space. She said the terms of their agreement would include a loan of \$725,000 for 40 years at 4% interest, with a \$100,000 grant at the end of the project. The payment would be \$36,634.25 annually and the money was coming from the federal government's stimulus package, the ARRA, American Recovery and Reinvestment Act. It would require financial reporting on the use of funds, buying "American," and adherence to the Davis-Bacon Act. The first payment would come due one year after closing on the project and a closing would be held after the construction is completed. All bidding would have to be approved by USDA engineers for code compliance, and a reserve requirement of one payment would be necessary, withheld at the rate of 1/10th per year for ten years. She said it could be a bookkeeping entry or put in an actual account. An A-133 audit would be required after the first year, and the loan money would be the first money to be utilized, with the grant money being spent at the end of the project. If not utilized, the grant funding would go back to USDA Rural Development for use elsewhere. There would also be insurance and bonding requirements to be met. Ms. Talley said the figures had been calculated pretty closely and she felt all the money would be spent. Commissioner Garner said they would only have to spend what is absolutely necessary on the project. Commissioner Pittman said he was uneasy with that type of funding. Commissioner Gudac pointed out that there would be many equipment needs for the building and for the police department, in order to comply with state law. Dan Simmons said equipment could be purchased with the funding and Ms. Talley agreed that she thought all the money would be spent.

There being no further discussion, the board voted on a resolution to accept the conditions as cited by Ms. Talley on behalf of USDA. The resolution passed on a unanimous vote of the board. A copy is included with and hereby made a part of these minutes by reference.

MOTION: Gudac
SECOND: Anderson
VOTE: unanimous

PUBLIC HEARING ON ZONING AMENDMENT

At 7:20 p.m. the mayor opened a required public hearing on a request for a zoning amendment filed by Bob and Tracy Harned, said hearing having been duly advertised on January 27th and February 23rd in *The Kenly News*. The Harneds wish to have horses on their property and/or property north of East Main Street and east of North Peedin Avenue. Mayor Holt recognized Dave Holmes, Zoning Administrator, to report from the Planning Board. Mr. Holmes said this had been an on-going issue and that Bob and Tracy had filed once again for a change to the town's zoning ordinance. He said the Planning Board was somewhat confused with the wording that was submitted, and they changed the word "equestrian" to simply read "horses." The Planning Board voted unanimously to recommend amending Section 405.1 of the Pine Level Zoning Ordinance to add the following statement:

Horses, however, are permitted to be kept within the town limits of Pine Level only on ten (10) acre recorded lots or greater located within the RA zoning district. The number of horses permitted on each lot shall not exceed one horse for each one (1) acre of land.

He said the Planning Board discussed making the request into a special use request, but it is not allowable to approve a special use permit for a use that the ordinance does not allow. He said the Planning Board could revisit the issue and include a provision to require a special use provision, should the board approve the Harned's request.

Mr. Holmes said their property probably is suitable for horses, being located as it is. He said he talked with John Morck, state planner, about the request and he agreed that it seemed to be illegal zoning if it only applied to the Harned property, and he felt it would be best to make it a special use. Mr. Holmes said he would recommend that the board make the request into a special use request, so the board could consider each one individually and include special conditions, if necessary. Frank Wood said the board could take each request on a case-by-case basis. Mayor Holt said that if a special use was to be required, then the property would first have to be zoned RA and then the board could regulate the requests by the special use process.

Mayor Holt noted that the town advertised the request as required by law and notified adjoining property owners of the request for an amendment. Kester Kornegay spoke up and said he saw nothing wrong with the request. Leon Oliver, an adjoining neighbor to the Harneds, also said he had no problem with the request for horses, since his own property used to have 75 cows on it. Bob Harned then spoke, saying the matter had gone on for seven months, with a lot of discussion and due process given. He thanked the adjoining property owners, saying he received no opposition from any of his neighbors.

The mayor asked if anyone wished to speak in opposition to the Harneds' request. Berry Godwin said he wanted to address the request. Mr. Godwin said he was a charter member of the Planning Board and that zoning was created to control growth in and around Pine Level. He said his concern was two-fold, one being that the amendment would benefit only one person. He said if the board wants to allow horses, they should let the Planning Board recommend a new allowance for horses and then let the Harneds or any other property owners apply for a special use under the new regulations. He said the fees could be waived for the Harneds, but he felt it would be best to treat everybody the same and not do different for one than another. He felt that horses should not be allowed in town at all. He asked the board to change the ordinance and then to let the property owners re-apply for a special use.

Commissioner Gudac noted that a special use could not be requested unless the request to allow horses is first adopted. Commissioner Anderson agreed, saying the use had to be in the ordinance as an allowable use before a request could be approved. Dave Holmes pointed out that the special use provision could not be adopted tonight. Mayor Holt said it did not have to be adopted tonight and the board did not have to make a decision tonight. Berry Godwin again said that the town should not give a benefit to someone without their having to go through proper channels. He wanted to put everyone on an even playing field, by amending the ordinance to require a special use and then letting everyone apply for the special use. Commissioner Garner asked why this issue would have been around seven months, and why would the board just hear about it, and where did it go wrong. Dave Holmes stated that the Harneds had just made a second application with the town to request a change in the ordinance. He said the board could only act on the Harned request and there was really no need to reject their application and make them come back and re-apply for a special use. He said the proper channel was before the board tonight, and it was handled correctly. Berry Godwin accused Mr. Holmes of saying things that were his opinion and not necessarily the truth.

Bob Harned spoke again. He stated that he had lived in Pine Level for eleven years as of April 1st. He said his house was not even in the city limits when it was originally constructed. He felt that they had followed the proper procedure and he said they had gone before both boards two or three times. He said there had been numerous opportunities to reject their proposal or to approve it. He said there used to be livestock kept on the same property that he now owns. He commented that they were simply asking for a modification to the town's zoning code. Sal Navarro then asked if there are horses on any of the adjoining property. The answer was no, and then the board voted unanimously to close the hearing.

MOTION: Garner
SECOND: Anderson
VOTE: unanimous

The mayor then questioned the board's pleasure. A motion and second were made to accept the recommendation of the Planning Board and to approve the zoning amendment. More discussion followed. Commissioner Anderson asked if they were actually saying this would be an allowable use after tonight. Dave Holmes said it would be if the board approves the motion. Frank Wood pointed out one horse per acre would then be an allowable use on ten-acre or greater parcels. Commissioner Anderson asked about the recommendation to amend the ordinance to require a special use; Dave Holmes said the Planning Board could do that if that is what the board wants them to do. Commissioner Anderson said she was in favor of allowing the Harneds to have horses, but she was also in favor of requiring a special use. Berry Godwin commented that the zoning officer had recommended that a special use be required, and he felt that was what should be added to the ordinance. The board then voted on the motion to approve the Planning Board recommendation and it passed on the following vote. Mayor Holt then said several of the Planning Board members were in attendance and heard the discussion. He said they could pursue the special use restrictions if they so chose. He indicated that a good discussion was held on the issue.

MOTION TO APPROVE THE RECOMMENDATION: Pittman
SECOND: Gudac
VOTE: for – Commissioners Garner, Gudac, Pittman and Mayor Holt
against – Commissioner Anderson

PUBLIC COMMENT

Tracy Harned asked about the pump station issue and the recent sewer spill at the county pumping station. Commissioner Pittman said there is still a problem with infiltration, as there is in other towns. He said the men are ready to get back to checking the sewer lines when the weather will allow. Mayor Holt said they hope to smoke test and camera the lines right away.

REPORTS FROM COMMITTEES

The Seniors group will meet on Wednesday this week. Commissioner Pittman said they are planning a trip to the Amish country in May and the trip is open to anyone.

REPORTS FROM DEPARTMENTS

STREETS: Commissioner Garner. Everything okay. Men worked hard in recent snows. Received many thanks for town clearing the streets of ice and snow. Mayor Holt asked about mosquito grant money; Commissioner Garner said they would apply for that as usual.

RECREATION: Commissioner Anderson. Talked to Scottie Hayes and Ray Stuckey about recreation area at Pine South II. Requested \$1500-\$2000 to create recreation area as agreed upon with Wade Braswell. Commissioner Gudac said that was agreed upon when the board voted to accept the property. Mayor Holt said they would just have to decide from where to take the funds. Commissioner Anderson commented that the fencing on the new field had been a slow process, and the recent cold weather has hindered the contractor from completing the job. She said that she has asked Ray Stuckey to stay on top of the contractor because they need to finish the fields. The recreation committee's Reverse Raffle will be coming up on February 20th, the \$50 tickets include two dinners. Scottie Hayes reported that winter sports are going on. He said registration is underway for spring sports, ages 4-18. He said many events have been planned for July Fourth, including amusements, a band, and a kickball tournament.

POLICE: Commissioner Gudac. Community watch group getting underway. Talked with chief about new equipment that will be needed for the new police offices, including video recording equipment for interrogation areas.

WATER/SEWER: Commissioner Pittman. Trying to correct infiltration problems in sewer system. Hope to start smoke testing soon. Had preconstruction conference last week for new water tank. They will have 270 days to complete the job, until October 31st. He said the residents should be prepared for the project to get started. The first job will be to pound in 33 pilings 30 feet into the ground and it will be a noisy job for a couple of weeks. Commissioner Garner suggested letting the paper know before smoke testing is to start, so that residents can be notified beforehand. Dan Simmons said the contractor, Phoenix, is ready to get started on the water tank.

REPORTS FROM STAFF

Dave Holmes reported to the board on a meeting he had with Dwight Mayo, who owns the old oil mill property. He said Mr. Mayo has already begun to clean up the property, which is really unsightly. In 2010, he plans to remove three buildings, the junk and overgrowth. Mr. Holmes said that Mr. Mayo actually uses the tin building to store grain. Mayor Holt thanked Mr. Holmes for checking on the property. He said they could identify problem properties each month at the meetings and have Mr. Holmes to check them out.

Mayor Holt also reported that three of the board members met last Saturday with the Princeton Board of Commissioners, from about 10 to 11:30 a.m. He said they had a good discussion about various topics of interest to both towns, such as water/sewer needs, equipment sharing, extending the ETJ, etc. He said Steve Biggs, the Clayton manager, facilitated the meeting and it went really well.

JC VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

Frank Wood reported on the county's Voluntary Agricultural District ordinance. He said four municipalities had already approved the county ordinance. He talked with county representatives, and there might be one area in the town's ETJ that would be affected. He distributed a map whereupon he had circled several areas that might be affected. Commissioner Gudac said two of those parcels are the sites of Hinnant Family Vineyards. Mr. Wood said the memorandum has a clause that allows revocation of the agreement by either party. He said the ordinance is a work in progress and that a draft document was released in December. He felt that benefits would include the fact that it would give farmers more of a voice with those who represent them, and that it would preserve farmland in Johnston County. He also said that the fact that land was included in a VAD would be noted on records at the Register of Deeds. According to Mr. Wood, the county is still working on the issue so the town does not have to be in a rush to make a decision on it. The board agreed for the Planning Board to review the issue and make a recommendation on how to proceed with the VAD.

JULY FOURTH FIREWORKS

Next, the board considered a contract for fireworks for the annual July Fourth celebration from Zambelli Internationale. Mayor Holt said he would recommend going up from \$3500 to \$4000 and he would take care of the difference. Commissioner Gudac said this contract was different than usual, because of the requirement this year to have certified pyrotechnicians to handle the displays. The clerk agreed that the Zambelli contract might be different if the firemen are going to be certified and continue to put on the town's display. Mayor Holt again said that the display would be July fifth, so there was still time to check on the contract.

FIREWORKS CERTIFICATION

Commissioner Gudac thought that fire departments were exempted from the new law that went into effect on February 1st, requiring certification in order to handle fireworks. The clerk reported that several firemen have plans to go and get their certification so they can continue to handle the town's display.

BUDGET FOR CDBG/RURAL CENTER PROJECT

The board then considered a budget ordinance for the Community Development Block Grant Economic Development Program, Custom Assemblies Water Improvement Project. Dan Simmons said the state would be closing out that project in March. The Budget Ordinance, which was drawn up by Skip Green, was unanimously approved. A copy is included with and hereby made a part of these minutes by reference.

MOTION: Gudac
SECOND: Pittman
VOTE: unanimous

ANNOUNCEMENTS

Mayor Holt noted a thank you received from the family of Mr. Tommie Garner, who recently passed away. Commissioner Anderson pointed out that Mr. Hal Strickland, another long-time Pine Level resident, also passed away recently. Mayor Holt stated that his older brother was dealing with the late stages of cancer. Commissioner Gudac said his son arrived home from Iraq this past Monday, and he appreciated everyone's participation in the yellow ribbon campaign to welcome the servicemen home.

ADJOURNMENT

There being no further business, at 8:20 p.m. the meeting was adjourned.

TOWN CLERK

MAYOR