

TOWN OF PINE LEVEL
MINUTES OF REGULAR
BOARD OF COMMISSIONERS MEETING
JULY 13, 2009
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, July 13, 2009 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, Planning Board Chairman Randy Holloman, Police Chief Keith Sparks, Public Works Superintendent Ray Stuckey, Town Clerk Sharon Thompson

INVOCATION AND PLEDGE

Mr. Nester McClain gave the invocation and then the mayor led the Pledge of Allegiance. Mayor Holt then welcomed everyone to the meeting.

APPROVAL OF AGENDA

MOTION TO APPROVE: Gudac
SECOND: Anderson
VOTE: unanimous

APPROVAL OF MINUTES: 06-15-09

MOTION TO APPROVE: Anderson
SECOND: Pittman
VOTE: unanimous

PUBLIC HEARING ON USE OF CDBG FUNDS FOR ADMINISTRATION PURPOSES

At 7:03 p.m. the mayor called to order a required public hearing on the possibility of using CDBG funds for administration of the town's grant for the Custom Assemblies waterline, said hearing having been duly advertised on Wednesday, July 1, 2009 in *The Kenly News*. Dan Simmons explained that the town had two grants from CDBG and the Rural Center and part of the CDBG grant could be used to pay for administration of the grant, due to an underrun in costs for the waterline. Mayor Holt said it was an allowable use of the grant money and the hearing was merely a legal requirement for the CDBG program. Bob Harned asked how much money would be involved, the clerk said the change would involve \$17,511. There being no further comment, the mayor closed the hearing at 7:05 p.m. He then inquired as to the pleasure of the board concerning the change of CDBG funds from construction to administrative purposes. The board unanimously approved the transfer of funds.

MOTION TO APPROVE: Pittman

SECOND: Gudac
VOTE: unanimous

PUBLIC HEARING ON PROPOSED ZONING TEXT AMENDMENT CONCERNING LIVESTOCK

At 7:06 p.m. the mayor called to order a required public hearing on a proposed text amendment to the town's Zoning Ordinance concerning the keeping of livestock within the city limits of Pine Level, said hearing having been duly advertised on June 24 and July 1, 2009 in *The Kenly News*. The mayor first called for a recommendation from the Planning Board. Randy Holloman reported that the Planning Board reviewed the request and voted unanimously not to approve the text amendment. Mayor Holt then called for comments in favor of the proposal. Bob Harned then addressed the board. He first displayed a timeline of the events he has been involved with leading up to tonight's public hearing. He said it has been a lengthy process thus far and he was a bit confused over the issue. He addressed the town board in May about a voluntary agricultural district or an overlay district to be allowed on parcels of 5 acres or more that are zoned RA. He said he talked over the issue with John Morck, state planner who helped the town revise the Zoning Ordinance, and Mr. Morck recommended the overlay district. He felt the board supported the idea unanimously in May for the town attorney to draw up the definition of an overlay district for the Planning Board to review. Mr. Harned said none of his adjoining property owners oppose his proposal to keep livestock, not to include swine, commercial turkey or poultry operations, or feed lots. Mr. Harned said he had followed every direction of the Planning Board and Town Board and had paid the applicable fees and he said he appreciated the board's consideration of his request. He felt that an overlay district best protected the town's interests and it could be delineated by definite boundaries such as streets or tax parcels or even Moccasin Creek. He wanted to play back recordings of the Planning Board meeting and Board of Commissioners meeting for everyone to hear exactly what was said at the meetings.

Mayor Holt said he would prefer not to play back the tapes during the meeting. He acknowledged that Mr. Harned did indeed come before the board and that he has followed the directions given to him, and that his recollection of the events matched the mayor's recollection of what took place. Randy Holloman said the only thing he differed with was that the Planning Board only considered horses at their April meeting, not any other type of livestock. Mr. Holloman said the zoning administrator advised them that the board of commissioners should not have considered Mr. Harned's request and should have sent it to the Planning Board. He said they try to consider the best interests of the town, although their decisions are not always favorable to the applicants.

Mayor Holt added that Mr. Harned came before the board with a request as directed by the Planning Board, and that the town attorney never advised the board not to talk about the request. He said the revision being considered tonight had gotten away from what the board considered originally, which was the overlay district. He thought that the attorney was going to define an overlay district and submit the verbiage for such a provision in the town's Zoning Ordinance to the Planning Board for their recommendation and review. He said the text amendment would affect all five acre parcels in town that are zoned RA, wherever they might be, and that any property owner could come in with a request for livestock.

Berry Godwin spoke as a Planning Board member. He said that conversations often get mixed up and who said what, or when or why, are often confused. He said the Planning Board acted on the proposal that was before them and they did not agree with it, although they could review any new request that might be made. Mayor Holt agreed and said that was all the Board of Commissioners could look at tonight, the proposal on the table. Frank Wood interjected that the board could continue the hearing to another date and allow additional information at that time. He said the town's Zoning Administrator had strong feelings in opposition to an overlay district and thought the text amendment would be better. He said they did get away from the overlay district at Mr. Holmes' direction, but he said he would be curious to know how the Planning Board would have felt about the idea of an overlay district. Mr. Godwin said he could only speak for himself but he could not comprehend considering the keeping of any type of livestock at any place within the city limits. He said it was no reflection on the Harneds but he did not approve of keeping any livestock within town. Terry Rains, also a Planning Board member, agreed, as did Janet Kleinert, another Planning Board member. Mrs. Kleinert said it would be regressing to allow livestock in the city limits.

Mr. Harned said the property he was looking at was bottomland and that it was flooded in one of the last hurricanes. He said the land was ideally suited for agricultural uses and the state is losing agricultural properties daily. He added that the county sewer station is adjacent to his property and affects his property value as well.

Mayor Holt asked if there were any questions from the board. Commissioner Gudac said he was very interested in the idea of an overlay district, but the problem was that the concept of an overlay district was not what was before the board for consideration tonight, and it was not what the Planning Board voted on either. He felt it was the board's goal to spell out what an overlay district consisted of and to submit it to the Planning Board for their review. The

mayor said there were several concerns with livestock being anywhere within the city limits. Berry Godwin pointed out that the text amendment or an overlay district would apply to any land within the city limits where there are five acres or more. Tracy Harned asked where were all the citizens opposed to the idea. Mayor Holt said that neither Mr. Harned or the Planning Board erred in their processes, but it was now up to the board to decide on the issue at hand.

Sal Navarro suggested that the town allow horses or cows only, but leave out the word livestock. Mayor Holt said they had no request at this point for an overlay district although Mr. Harned could now apply for that concept, if he chose to do so. There being no further comment, at 7:44 p.m. the mayor closed the hearing and questioned the board's pleasure on the proposed text amendment.

Commissioner Anderson said the text amendment was unacceptable to her and she made a motion to accept the Planning Board recommendation and to deny the request for a text amendment to the Zoning Ordinance. Frank Wood commented that the board could take action tonight or at a later date with no further requirements for a public hearing, if the action to be taken is less restrictive than what was first considered. Commissioner Garner seconded the motion. Commissioner Pittman agreed with Commissioner Gudac about an overlay district and with Commissioner Anderson about being opposed to the text amendment. The board then voted unanimously to deny the text amendment.

MOTION: Anderson
SECOND: Garner
VOTE: unanimous

Commissioner Gudac asked if the Planning Board could look at overlay districts without any specific request having been filed. He thought there was a place for it and would like to see them review it. Randy Holloman felt that the Planning Board would need the assistance of the state office to define an overlay district and to review every section of town where such a district might apply. Mayor Holt said there must be a book written somewhere that defines a voluntary agricultural district or an overlay district, or maybe it could be researched on the Internet. Bob Harned explained that a VAD is a minimum of 25 acres and the overlay district could be defined to apply to RA properties. Mayor Holt said he thought one horse per acre could work on that property only, but if the board adopts a change to the ordinance, it will be available to all properties in town and the ETJ. Berry Godwin agreed that all possible properties in Pine Level would have to be reviewed to see if they fit the categories. Mayor Holt said that ended the discussion for tonight's meeting.

PUBLIC COMMENT

Mayor Holt then called for comment on any non-agenda items. Kester Kornegay asked about the waterline project to Custom Assemblies. He said there was a large hole dug where the line went under the railroad tracks and the property marker at that corner was missing after they finished. Dan Simmons said the contractor should have to put back anything they messed up.

Terry Rains commented that the fireworks were very good this year on July Fourth.

Jimmy Starling asked if the town could inform customers to not put grease down the sewer system. Mr. Starling had to have a sewer line cleaned out and it was blocked from grease being poured down the drain. Commissioner Gudac said the town used to have a problem from the restaurants in town, but now they must put in a grease trap. Mayor Holt suggested putting a notice on the water bills and on the website.

Randy Jones asked about the lot on the corner of Davis Mill Road that has been torn up by the waterline installation. Again, Mr. Simmons said the contractor should put everything back just as it was before the waterline went through.

At this point the board observed a brief recess from 8:05 p.m. to 8:13 p.m.

REPORTS FROM COMMITTEES

There was nothing further to report from the Planning Board. Nester McClain reported that the Seniors Group had a good meal last week and a good meeting.

REPORTS FROM DEPARTMENTS

WATER/SEWER: Commissioner Gudac. Deferred to Dan Simmons to present water tank issues. Mr. Simmons said the board needed to approve two resolutions pertaining to the water tank project, one to approve the Revenue Bond financing, and the second, to approve the final plans and specs on the tank. He explained that they would actually bid four tank alternatives, a 300,000-gallon new tank as well as a used tank, and a 250,000-gallon new tank as well as a used tank. He showed the logo and writing that would be on the side of the tank, which will be white in color. He thought that the new tank would probably add 6-8 lbs. of pressure to the town system. Mayor Holt said they could take action on both resolutions at the same time and he questioned the pleasure of the board. The board unanimously approved both resolutions, copies of which are included with and hereby made part of these minutes by reference.

MOTION: Anderson

SECOND: Garner

VOTE: unanimous

STREETS: Commissioner Garner. Everything going well. Need to continue to encourage recycling and keep those items out of garbage. Closed application period for job opening, hope to soon fill that position.

RECREATION: Commissioner Anderson. Thanks to Scotty Hayes for work on July Fourth celebration. Everything went well. Sports signup underway for fall sports. Thanks also to fire department, police department and office staff. Commissioner Garner suggested the town look at getting someone certified to handle the fireworks show in the future, Commissioner Gudac agreed. Commissioner Anderson encouraged everyone to go to the park and look at what has been going on there, she said it looks really nice. Recommended appointment of Joshua Layhew to serve on the Recreation Committee.

MOTION TO APPOINT: Gudac

SECOND: Anderson

VOTE: unanimous

POLICE: Commissioner Pittman. New car in, cars running okay presently. Sal Navarro submitted a request for traffic calming devices on Jill Drive, chief is reviewing application. Chief said department will be participating in traffic checks with other departments, in addition to other regular checks. Commissioner Gudac asked about curfew ordinance, said he was seeing a lot of juvenile activity at night. Chief said he stopped some people out at night last week, but found nothing out of line. Vandalism has decreased at the park, also. Commissioner Pittman thanked Scotty Hayes for his assistance with the seniors group. Mayor Holt also thanked Scotty for helping out the public works department with mowing and picking up garbage.

REQUEST FOR EXTENSION ON SUBDIVISION DEVELOPMENT

Jimmy and Faye Starling entered a request with the board for an extension of the time allowed for them to develop Starfield Acres Subdivision. Mayor Holt said the board approved a three-year extension until October 2009 for the Starlings previously, and now they were asking for a five-year extension beyond that date. Mr. Starling said with the slump in the economy, he would like to ask for a period of five years. The board agreed unanimously to approve the five-year extension until October 2014.

MOTION: Pittman

SECOND: Anderson

VOTE: unanimous

MEETING ADJOURNED

There being no further business, at 8:30 p.m. the meeting was adjourned.

MOTION: Anderson

SECOND: Pittman

VOTE: unanimous

TOWN CLERK

MAYOR