

TOWN OF PINE LEVEL  
MINUTES OF REGULAR  
BOARD OF COMMISSIONERS MEETING  
SEPTEMBER 13, 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, September 13, 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, Zoning Administrator Dave Holmes, Planning Board Chairman Randy Holloman, Police Chief Keith Sparks, Public Works Superintendent Ray Stuckey, Recreation Coordinator Scottie Hayes, Town Clerk Sharon Thompson

INVOCATION AND PLEDGE

Commissioner Gudac gave the invocation and Commissioner Pittman led the Pledge of Allegiance. Mayor Holt then welcomed everyone to the meeting.

APPROVAL OF AGENDA

DEFER TO NEXT MONTH: 9. B. Animal control (AG)

*MOTION TO APPROVE AS AMENDED:* Gudac  
*SECOND:* Anderson  
*VOTE:* unanimous

APPROVAL OF MINUTES: 08-17-10

*MOTION TO APPROVE:* Pittman  
*SECOND:* Garner  
*VOTE:* unanimous

PUBLIC HEARING ON TEXT AMENDMENTS TO ZONING ORDINANCE

Mayor Holt then opened a required public hearing on proposed text amendments to the town's Zoning Ordinance, said hearing having been duly advertised on September 1st and September 8th in *The Smithfield Herald*. The mayor recognized Dave Holmes, who would explain the proposed text changes. Mr. Holmes said all of the changes were actually clarifications to the present wording of the ordinance, with the exception of the section on political

signs. He explained that most towns require signs to be displayed in a 60-day window, with removal within seven days after the election. Johnston County's ordinance allows a 90-day window with removal in seven days after the election. He also said that signs on the R-O-W or poles are illegal signs at all times, regardless. Mayor Holt asked if all the signs that are always put out on the railroad R-O-W are illegal and Mr. Holmes answered yes. He said the towns of Clayton, Selma and Johnston County do not give political signs high priority. Pine Level's ordinance presently says that signs should be removed within 15 days after an election, but it does not regulate how long they can remain on display. Mayor Holt summarized that the proposed text amendment would mimic the county zoning ordinance, allowing 90 days for display before an election and seven days afterward to remove the signs.

Mr. Holmes went on to explain the remaining text amendments that pertained to home occupation signs, stacking of signs on poles or standards, accessory buildings on vacant lots, fencing, and complexes. Commissioner Pittman asked if these changes would adversely affect the subdivision that is planned for South Peedin Avenue. Mr. Holmes said that plan was already approved and they would not be penalized. Commissioner Gudac asked about existing home occupation signs and whether or not they would be affected. Mr. Holmes indicated that existing signs would be grandfathered in. Commissioner Garner asked about vacant lots and whether or not he could place a building on a parcel of property. Mr. Holmes said a previous applicant just combined the two lots so he could go ahead and build his building. Commissioner Garner felt that it would be good to allow political signs to stay out from the primary until the election.

Mayor Holt called for any further comment on the issue. Hearing none, he called for a motion to close the public hearing at 7:14 p.m.

*MOTION:* Gudac  
*SECOND:* Garner  
*VOTE:* unanimous

The mayor then questioned the pleasure of the board as to the proposed text amendments. He said that he saw nothing objectionable in the amendments, but he said it would all depend on how the ordinance is enforced. A motion was then made and passed by unanimous vote to accept the Planning Board's recommendation and to approve the ordinance amendments as proposed. A copy is hereby included with and made a part of these minutes by reference.

*MOTION:* Pittman  
*SECOND:* Anderson  
*VOTE:* unanimous

#### **PUBLIC HEARING ON REZONING REQUEST FROM VENTURE CAPITAL PARTNERS**

Next the mayor opened a required public hearing on a request for rezoning from Venture Capital Partners, LLC, said hearing having been duly advertised on September 1st and 8th in *The Smithfield Herald*. The petitioners requested that 2.61 acres on West Blanche Street be rezoned from RA to LI. Mayor Holt said the request was properly advertised, the land posted, and adjoining property owners were notified. Planning Board Chairman Randy Holloman stated that the Planning Board met on August 26th and reviewed the request, voting unanimously to recommend denial of the request. Dave Holmes reviewed written comments with the board. He commented that the petitioner must present facts to support such a change; that the petitioner must demonstrate that additional LI zoning is necessary if there is presently no land available in the Pine Level area for this kind of development; that the proposed change could constitute spot zoning; whether or not the proposed change would have an adverse effect on the surrounding properties and establish a precedent; and whether or not the town's Land Development Plan supports such a change. Mr. Holmes said that LI uses could be injurious to the existing neighborhood. He also said that they could not discuss the proposed use for the property, but that any of the LI uses would be allowable if the rezoning is approved.

Mayor Holt commented that many of the Planning Board members were in attendance and he asked if any of them had other comments to offer on the proposal. Berry Godwin said he was not at the last Planning Board meeting but he had several citizens to express concern to him over the adverse uses. Janet Kleinert said she was in agreement with the Planning Board. Sal Navarro also read a prepared statement to the board, advising the board members not to establish a dangerous precedent. He said it would be spot zoning and the town's master plan does not support that use. Commissioner Pittman asked if the owners could still apply for a special use permit to allow use of the property. Mr. Holmes said yes, they could apply for a special use permit. Mayor Holt asked if there were others who wished to address the issue.

Tony Braswell was next to address the board. Mr. Braswell said he is one of the partners involved in the request, along with Randy Summerlin. He thanked the board for the opportunity to be heard and he went on to refute the points made earlier by Dave Holmes. He said the ordinance was not designed to allow government to control the marketability of land, and that having similarly zoned districts in town was not a part of the decision. He said there had been no evidence produced that proved the request would have an adverse effect on the area or that property values would be deflated. He said a request for more dense development had already been denied on the same property and that they had the right to some reasonable use of their property. Mr. Braswell also said that it would not constitute spot zoning and that a large commercial venture was directly across the street. Economics would not allow the cost of running water and sewer to the property, but they wanted to use it for something besides two wells and two septic tanks and two building lots. He said that was not a reasonable use to them.

Mayor Holt asked if anyone had questions for the petitioners. Sal Navarro commented that the greenhouses were grandfathered in, since they existed before zoning came into being in Pine Level. Dave Holmes said the property across the street was not zoned commercial and that land is not always useful for development. Mr. Braswell said the town's Land Use Plan showed a commercial district across the street, and he added that no residences are next to this property. He said the property has been vacant for several years and that they deserve the right to develop the property. Mike Renfrow, who owns property across the road from the land in question, stated that the greenhouses were constructed 53 years ago. He felt the Planning Board gave due diligence to the request and that the property owners did not want to see a used car lot or garage next door to them. There being no further comment on the issue, at 7:39 p.m. the hearing was closed by unanimous vote.

*MOTION:* Garner  
*SECOND:* Anderson  
*VOTE:* unanimous

The mayor then questioned the pleasure of the board concerning the request for rezoning. A motion was made and seconded to accept the Planning Board recommendation and deny the request. Commissioner Pittman said he would like to have another month to look into some other options; Commissioner Garner called the question on the motion on the floor. The motion passed unanimously to deny the request for rezoning.

*MOTION:* Garner  
*SECOND:* Anderson  
*VOTE:* unanimous

#### **PUBLIC COMMENT**

Terry Rains asked about painting the new water tank. Berry Godwin thanked the board for making good decisions on behalf of the town.

#### **REPORTS FROM COMMITTEES**

**SENIORS:** Nester McClain. Met last meeting at the Hinnant Winery north of Pine Level. Had over 100 in attendance.

**PLANNING BOARD:** Dave Holmes. Recommended that town pursue 2-mile ETJ since other surrounding towns have already established their two-mile areas. Mayor said Pine Level's potential for growth is most likely toward Highway 70. He said there would still be a lot of work to do to establish a 2-mile area and it would need to be full-circle around town. The county has already given the town authority to go after the two-mile area. He said it was probably an issue they need to look at once again. Commissioner Gudac questioned the need for another mile when the town's ordinance is not being enforced in the one-mile ETJ. He asked if it would take more employees to enforce zoning in the two-mile area. He said he is concerned with what takes place inside the city limits. Dave Holmes said it probably would take a full-time code enforcement officer to keep up with zoning in the area. Commissioner Gudac suggested looking at the issue again in November. Mayor Holt said no action would be taken tonight.

In other planning issues, the board unanimously voted to re-appoint three in-town members to new three-year terms on the Planning Board, Terry Rains, Randy Holloman, and Berry Godwin. A copy of the resolution is hereby included with and made a part of these minutes by reference.

*MOTION:* Gudac  
*SECOND:* Garner  
*VOTE:* unanimous

## REPORTS FROM DEPARTMENTS

**STREETS:** Commissioner Garner. Everything okay. NC DOT is the agency that put gravel down on West Blanche Street, not the town. Commissioner Pittman asked if they could come back and wet it down. Commissioner Garner said he would contact the DOT about that, since they have the facilities to wet down the gravel to hold down the dust.

**RECREATION:** Commissioner Anderson. Held first tournaments at the park for rental fees. Other groups are already looking at using the town's fields. Scottie Hayes reported on football, cheering and soccer involvement. Participating in Johnston County Youth Football League. Winter sports registration will start in early October. Mayor asked if park area was left clean after the tournaments. Commissioner Anderson said that it was cleaned. Mayor said there are several recreation events coming up, such as the Christmas parade and tree lighting, and turkey shoots in November.

**POLICE:** Commissioner Gudac. Met with chief several times since the untimely death of Police Officer Johnny Littleton on August 20, 2010. Working on presentation to his widow, Beverly. Thanked other departments for their mutual assistance after Johnny's death. Met last weekend and went over several upcoming events. Halloween will be on Sunday night this year; will observe trick or treating on Saturday night from 6 p.m. to 8 p.m., with same age limits as last year. Also approved upcoming holiday turkey shoot events for local civic groups and discharge of firearms in the city limits.

*MOTION:* Gudac

*SECOND:* Anderson

*VOTE:* unanimous

**WATER/SEWER:** Commissioner Pittman. Hope to soon complete water tank painting. Still addressing infiltration and inflow, but weather has been dry lately. Would like to apply for \$200,000 stimulus money to construct/replace water lines on west side of town. Money is available at 2.2% interest rate for 20 years. Town would receive \$200,000 but repay \$100,000 plus interest on the whole amount. Mayor recommended pursuing the grant and getting Pine Level's name in the hat. He said \$106 million would be available. Board approved the resolution authorizing application for state assistance as presented.

*MOTION:* Pittman

*SECOND:* Gudac

*VOTE:* unanimous

## PROPOSED ORDINANCE ON NOISE CONTROL

Town Attorney Frank Wood distributed three sample ordinances from the towns of Selma, Smithfield and Salisbury. He said he was open to go in whichever direction the board wished to pursue, but he recommended staying away from using decibel levels and said to leave more discretion up to the police. Commissioner Garner suggested that the police department and Commissioner Gudac make a recommendation on the issue. Commissioner Gudac asked how long they would have to come up with their recommendation; the mayor said they should be able to have something by the end of the calendar year.

## ANNOUNCEMENTS

Commissioner Gudac announced that the American Legion supper would be on Friday, September 24th and he encouraged everyone to support the Legion's fundraising efforts.

Commissioner Anderson asked the board members to supply the clerk with e-mail addresses so they could receive their minutes by that method and cut down on printing.

Mayor Holt noted that the town received a nice thank you card from Beverly Littleton. He said that Johnny would be missed in the police department and the community. He also said that the chief is in the process of receiving applications for the open position.

Mayor Holt pointed out that plans and specifications for the new town hall renovation are available for review at the town hall during regular working hours.

**CLOSED SESSION**

The board then made a unanimous decision to enter closed session to consult with the town attorney concerning possible litigation, pursuant to NCGS 143-318.11(A)(3). All board members, the attorney and the town clerk were in attendance.

*MOTION:* Gudac  
*SECOND:* Anderson  
*VOTE:* unanimous

After hearing a brief update from Frank Wood, the closed session ended and regular session resumed. Mayor Holt announced that no action was taken.

**MEETING ADJOURNED**

There being no further business to address, at 8:25 p.m. the meeting ended upon unanimous vote on a motion by Commissioner Anderson.

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TOWN CLERK

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MAYOR