

Minutes
Mooreville Board of Commissioners
Monday, December 6, 2010
6:00 p.m. – Mooreville Town Hall

Agenda Briefing

Friday, December 3, 2010 - 8:30 a.m. – Mooreville Town Hall

Present: Commissioners Chris Carney, Rhett Dusenbury, Miles Atkins, Town Attorney Stephen P. Gambill and Town Manager Steve Husemann.

Absent: Mayor Chris Montgomery. Commissioners Thurman Houston, Mac Herring and Mitch Abraham.

Also Present: Maia Setzer, Director of Administration and Finance; Tim Brown, Planning Director; Ryan Rase, Engineering Manager; John Finan, Public Works Director; John Vest, Public Services Director; Carl Robbins, Police Chief; Craig Culberson, Senior Planner; Janet Pope, Town Clerk.

Staff was present to address any questions or concerns pertaining to the agenda.

Mayor Pro Tem Carney adjourned the briefing at 9:30 a.m.

Regular Meeting

6:00 p.m. – Mooreville Town Hall

Present: Mayor Chris Montgomery. Commissioners Chris Carney, Mac Herring, Miles Atkins, Mitch Abraham, Thurman Houston, Rhett Dusenbury, Town Attorney Stephen P. Gambill and Town Manager Steve Husemann.

Also Present: Erskine Smith, Assistant Town Manager; Tim Brown, Planning Director; Maia Setzer, Director of Administration and Finance; Craig Culberson, Senior Planner; Carl Robbins, Police Chief; Wes Greene, Fire Chief; Ryan Rase, Engineering Manager; John Vest, Public Works Director; Janet Pope, Town Clerk.

Public Comment: Karen Brown stated she was here to request the Board's reconsideration of the Mooreville Express contract termination.

Mayor Montgomery opened the meeting at 6:06 p.m. Rev. Robert Wisemann from Central United Methodist Church gave the invocation. Cub Scout Pack 162 from St. Mark's Lutheran Church led the Pledge of Allegiance.

1. Matt Morrison and Charles Parker with Liberty Mutual Group presented a \$10,000 grant to the Mooreville Fire Department.
2. Adjustments to the Agenda.

Action: A motion by Mr. Carney, seconded by Mr. Atkins, to approve the Agenda with the following adjustments was unanimously approved.

A. Consent Item c. – Move meeting date from July 5, 2011 to July 11, 2011

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- B. Consent Item h. – Remove item 3 from consent agenda**
- C. Consent Item k. – Remove from agenda per Town Attorney’s request**
- D. Consent Item m. – Remove from consent agenda per Town Manager’s request**
- E. Add to New Business – Fire Department Design**
- F. Add to Closed Session – Economic Development – G.S. 143-318.11(a)(4) and Personnel – G.S. 143-318.11(a)(6)**

3. Consent Agenda Items Approved:

- a. Approved minutes from October 18, 2010, October 22, 2010 and November 1, 2010.
- b. Approved the following adjustments to the Town Tax Scroll for 2010. (attachment)
 - Releases – Previous Years - \$9,335.21
 - Releases – 2010 - \$51,124.97
 - Additions – 2010 - \$197,340.54
 - Vehicles - \$149,396.45
 - Public Service Billing - \$275,012.07
- c. Adopted the 2011 Town Board meeting schedule. (attachment)
- d. Approved the assignment of \$107,640 in system development and availability fee credits (18 lots - Oaks on Main) from the March 6, 2006 Service Agreement between the Town and Mag Land Development LLC to Willow Creek Homes LLC. (attachment)
- e. Approved a budget amendment and accepted with gratitude a \$10,000 grant from Liberty Mutual Insurance for our participation in the Community Fire Safety Survey Contest. The grant will be used for fire and safety education in our community. (attachment)
- f. Approved a budget amendment and accepted with gratitude a grant from North Carolina Emergency Management in the amount of \$19,610 for the purchase of an automatic transfer switch for the War Memorial. This will allow for connecting a generator for emergency power to support an evacuation shelter. The grant is funded 100% and requires no matching funds. (attachment)
- g. Approved the following request for utility service based on the Sewer Allocation Policy adopted on February 11, 2008. Double rates will apply until annexation.
 - Mazepa Properties Inc. (water and sewer)
 - 288 Mazepa Road (20.221 acres) PIN 4668-33-0329
 - The owner will be financially responsible for extending utilities to the property. Sewer is on the property and water will have to be extended. Annexation will be considered in June 2011. (attachment)
- h. Approved condemnation proceedings for the following:
 - Brookwood Street Sidewalk Project
 - 1. Grady L. Mayhew \$191.81
665 Brookwood Street PIN 4667-48-4419
Temporary Construction Easement 0.031 acre (1,366 square feet)
 - 2. George and Nancy Hernandez \$156.60
682 Brookwood Street PIN 4667-48-7657
Permanent Easement 0.002 acre (90 square feet)
Temporary Construction Easement 0.007 acre (304 square feet)
 - 3. *Removed from agenda:* Patricia A. Doughton \$349.71
675 Brookwood Street PIN 4667-48-6562
Permanent Right-of-Way 0.005 acre (229 square feet)
Temporary Construction Easement 0.015 acre (675 square feet)

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4. Larry L. Morrow Sr. \$660.00
637 Brookwood Street PIN 4667-48-0580
Permanent Right-of-Way 0.011 acre (494 square feet)
5. Larry L. Morrow Sr. \$223.55
645 Brookwood Street PIN 4667-48-1570
Temporary Construction Easement 0.035 acre (1,507 square feet)
- i. Approved a budget amendment in the amount of \$25,000 to replace the damaged carpet at The Charles Mack Citizens Center. Carpet was damaged at an event that was catered by Sonny's BBQ and they have agreed to cover a portion of the cost. (attachment)
- j. Approved a budget amendment in the amount of \$173,000 to appropriate NCDOT reimbursement revenue for the Safe Routes to School Program. (attachment)
- k. *Removed from agenda:* Consider adopting a resolution determining the final costs associated with the Special Assessment Resolution regarding Atrium at the Lake, Inc. related to the construction of water and sewer lines.
- l. Adopted a Town logo and endorsed an implementation strategy. (attachment)
- m. *Remove from agenda:* Consider approving a budget amendment in the amount of \$37,750 for the Community Information Coordinator position approved on September 7, 2010.
- n. Awarded a contract to Navistar of Duluth, Georgia in the amount of \$126,864 for the purchase of two dump trucks. The purchase was approved in this year's Powell budget. (attachment)
- o. Awarded a contract to Godwin Manufacturing of Dunn, NC in the amount of \$36,485.40 for the purchase of two dump truck bodies. The purchase was approved in this year's Powell budget. (attachment)
- p. Awarded a contract to Carolina Meter of Hampstead in the amount of \$27,950 for the purchase of a Mobile Collector for water meter reading. The purchase was approved in this year's budget to upgrade the existing collector unit to improve the meter reading process. (attachment)
- q. Approved an amendment to the Iredell County 2009 Solid Waste Plan in regards to Electronics Recycling. (attachment)
- r. Approved a budget amendment and an Agreement for Purchase and Sale of Real Property for the purchase of property located at the corner of Lazy Lane and Balmy Lane in the amount of \$292,500. The property is owned by Preston and Marsha Cornelius and the closing will take place on or before February 28, 2011. (attachment)
4. Maia Setzer, Director of Administration and Finance, presented the Financial Summary Report for four months ending October 31, 2010. (attachment)
5. Mr. Husemann presented the Manager's Report. He reported the ABC distributions totaled \$628,443. He asked Police Chief Robbins to update the Board on the month to month numbers for police communications, calls for service and records (reports, arrests and citations).
6. Alan Hall presented an update on the financial, operating and marketing performance of MI-Connection and the Community Marketing Plan.
- 7. Public Hearing to consider an Amendment to the Conditional Rezoning request from G.K. Curtis Pond LLLP.**

Mayor Montgomery opened the Public Hearing at 7:06 p.m.

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Craig Culberson presented the request.

Steve Broy has lived in Curtis Pond for almost four years. They've had many issues that seem to be ignored by their developer. There is road work that has to be done. The lone entrance into Phase 2, 3 and 4 is Glennallen. All the other entrances are part of Phase 1. There's a big dip in the road as you're leaving. Three or four cars have lost their oil pans hitting this dip causing thousands of dollars of damages to these homeowners for repairs. He brought this to the attention of the Town. The Town says that they have not taken over the roads and they need to contact their developer. He tried contacting Colter through their management company and they get nowhere. He feels like he's getting the runaround. Another issue is the lots being properly mowed. The Town has an ordinance that three times a year the lots have to be mowed. There is still lots in the subdivision that have not been mowed and it's now December. Section 3B has not been mowed at all. That's an undeveloped part where there's no building going on. It seems to him that the Town treats the taxpayers of Curtis Pond as second class citizens. Nothing seems to get done unless they come in front of you people to talk. They also have HOA issues which he knows the Town doesn't get involved with and he doesn't want them to get involved with it. Colter has been in charge of this community since June. Not even made an effort to have a meeting with the homeowners to tell us what's going on. Their previous developer bullied them, threatened them and continuously lied to them.

Jonathan Carter with WSP Sells and they did the engineering on the site plan. Mr. Gambill said that was geared more to a rebuttal and he may want to hold until other folks have spoken.

Phil Moratori lives in Curtis Pond. As far as the HOA, he knows you guys don't want to get involved in the HOA. The Planned Community Act of North Carolina 47F3101 states that a membership in the association at all times should be all lot owners. These guys are building here, not taking care of the HOA problems. They have 65 families not in an HOA. They're paying for lights for everybody in the neighborhood. He's called the developer...nobody calls him back. Who is responsible for the issues since the Town has not taken over the roads?

Chris Kramer lives at Curtis Pond. Why the setback? Is it for erosion control? Is it because they're going to be basement lot homes? Can other homes be put there instead? On some of those lots there are also retaining walls. How long will those stay there? He doesn't see the key issue would be as far as sedimentation cause there is plenty of erosion control there. Could smaller houses be put there or is it only because basement lots will be put there.

Dominic Calucci said he has no problem with Colter being in there. They are a very stable company and what they stand for. He did a lot of research on them. His problem is with...were any bonds put in place when they took over this development. He knows the Town had existing bonds with Mag Land but if Mag Land goes under or walks away, where do you go. Right now you have a letter of credit, a couple bonds in place which are only for sidewalks. What about road infrastructure? What about the dip at Glennallen? What about storm easements that he has on his property that were never recorded on the final plat and a pipe they were supposed to pressure grout two years ago and he has to keep filling in dirt between his home and his neighbors home every time it rains. These are things that he feels that if somebody comes in...if he bought a home in foreclosure and it was an extension on that home that had no CO and no ties to anything there and applied for another permit to put another extension on it, they

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may give me the permit to put the extension on but they're not going to give me a CO until he brings the rest of the home up to code. He feels the same thing should be with this here. In the past if you look at the Town's plans for Phase 3 there are no Phase 3 plans in the Town. It's all under Phase 2. That's why when they look for bonds for Phase 3 they can't find them. Everything is platted differently than what the plans are. If you look when Lonnie came out back when Tonya was here, on the original punch list it stated for Phase 2 and on here is his easement, the storm drains and things in there. When you find no bond for Phase 3 that is the reason why. The original bond on Phase 2 was allowed to expire and his question is how did that happen before the Town even came in to take over that road. He thinks there needs to be something set in place to protect not only the residents...he thinks the Town because he lives in this town and he doesn't want to see the Town put out any more money than they have to. They already did it with this past developer on the sewer line for the old school and they have to come in and bail out and pay Buckeye money to continue it to open the school. Now you're talking about budgets and you're back in the same thing. If this falls back on the Town, where does this money come from? The taxpayers again because somebody dropped the ball? He has no problem with this company. It's a \$15 billion company. He's done his research with this. This is what people should do here in this town when developers come here especially if they're from out of state. Look at their background, have somebody check into that. He would have said this before the Planning Board but he never knew about that meeting. Just as you put a sign out there for this, he believes you should change it from just going to the paper to having a sign put out there on the property.

Mr. Gambill said the Town has called the bond so now the Town deals with the bond company. The bonding company will come in and investigate the claim. The letter of credit has also been called. He is not sure how restrictive are we in what we can spend the money for, what kind of improvements can we make pursuant to the bond and letter of credit.

Action: A motion by Mr. Atkins, seconded by Mr. Herring, to continue this public hearing to the January 3 Board meeting was unanimously approved. (attachment)

8. Public Hearing to consider a Rezoning request from Gillis Family LP.

Mayor Montgomery opened the Public Hearing at 7:41 p.m.
Mr. Culberson presented the request.

Doug Gillis said the whole parcel is 2.33 acres and they were split zoned. The building was built as an assembly and when they built the building they were required to have 101 parking spaces for their facility thus the need for the two parcels. For the highest and best use of the building, it clearly fits better with commercial mixed use CMX versus general industrial.

Mayor Montgomery closed the Public Hearing at 7:48 p.m.

Action: A motion by Mr. Carney, seconded by Mr. Abraham, to approve the Statement of Reasonableness and the Rezoning request subject to staff recommendations was unanimously approved. The property located at 140 Raceway Drive is further referenced by Iredell County Tax PIN's 4647-34-6304 and a portion of 4647-34-3217. The property was rezoned from GI (General Industrial) to CMX (Corridor Mixed Use). (attachment)

9. Public Hearing to consider a Text Amendment to the Mooresville Zoning Ordinance.

Mayor Montgomery opened the Public Hearing at 7:49 p.m.
Mr. Gambill and Mr. Culberson presented the amendment. There was no public comment.

TA-2010-17 Chapter 13, Definitions and Chapter 5.3.3(1) Sexually Oriented Business

Mayor Montgomery closed the Public Hearing at 8:03 p.m.

Action: A motion by Mr. Carney, seconded by Mr. Herring, to approve the Statement of Reasonableness and the following Text Amendment subject to staff recommendations and the following amendment was unanimously approved.

TA-2010-17 Chapter 13, Definitions and Chapter 5.3.3(1) Sexually Oriented Business

Amendment: Change separation distance from 500 linear feet to 1,000 linear feet.

The approved text amendment will add language that brings the Town's ordinance more in line with the language of the North Carolina General Statutes and will define Adult Entertainment Establishments with reference to the definitions in North Carolina General Statute 160A-181.1, Sexually Oriented Business and 14-201.10, Adult Entertainment Establishment. The text amendment will also clarify frontage conditions that are acceptable for sexually oriented businesses. (attachment)

10. Public Hearing to consider a Text Amendment to the Mooresville Zoning Ordinance.

Mayor Montgomery opened the Public Hearing at 8:05 p.m.
Mr. Culberson presented the amendment. There was no public comment.

TA-2010-18 Chapter 13, Definitions and Chapter 6.7.4, Civic Building

Mayor Montgomery closed the Public Hearing at 8:15 p.m.

Action: A motion by Mr. Houston, seconded by Mr. Abraham, to approve the Statement of Reasonableness and the following Text Amendment subject to staff recommendations was unanimously approved.

TA-2010-18 Chapter 13, Definitions and Chapter 6.7.4, Civic Building

The approved text amendment will modify the definition of Modular Home and add additional standards for materials approved for use for structures located in the R-2, R-3 and R-5 zoning districts when required to adhere to the Civic Building Form. (attachment)

11. Change Order #3 – Rocky River Wastewater Treatment Interim Plant Expansion.

Consider Change Order #3 to the Pizzagalli Construction Company contract in the amount of \$31,495 for the relocation of the Waste Activated Sludge (WAS) line (\$9,633) and electrical duct bank (\$21,862) around the new Dryer Facility. It is CH2M HILL's opinion that the costs are fair and reasonable and recommends approval. This change order will increase the contract amount from \$10,280,782 to \$10,312,277.

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Action: A motion by Mr. Carney, seconded by Mr. Houston, to approve Change Order #3 to the Pizzagalli Construction Company contract in the estimated amount of \$31,495 for the relocation of the Waste Activated Sludge line and electrical duct bank around the new Dryer Facility was unanimously approved.

12. New Business

Mr. Abraham would like to take the plans for Fire Station 3 and see if they will fit the property at Balmy and Lazy Lane. It would save money on design and engineering fees.

Mr. Carney would like to have Curtis Pond placed on the January agenda for discussion of the present conditions.

13. Closed Session – G.S. 143-318.11

- A. Economic Development – G.S. 143-318.11(a)(4)**
- B. Property Acquisition – G.S. 143-318.11(a)(5)**
Gymco LLC – 210 Talbert Pointe Drive
- C. Personnel – G.S. 143-318.11(a)(6)**

Action: A motion made by Mr. Atkins, seconded by Mr. Abraham, to go into closed session to discuss economic development, property acquisition and personnel was unanimously approved.

MINUTES FOR THE CLOSED SESSION HAVE BEEN RECORDED AND SEALED UNTIL PUBLIC INSPECTION WILL NO LONGER FRUSTRATE THE PURPOSE OF THE CLOSED SESSION.

14. Following the closed session, the Board returned to open session.

Action: A motion made by Mr. Atkins, seconded by Mr. Abraham, to adjourn the meeting was unanimously approved.

The meeting adjourned at 10:20 p.m.

Janet Pope
Town Clerk

Chris Montgomery
Mayor