

Minutes
Mooresville Board of Commissioners
Tuesday, January 3, 2012
6:00 p.m. – Mooresville Town Hall

Agenda Briefing

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

Present: Mayor Miles Atkins. Commissioners Rhett Dusenbury, Mac Herring, Thurman Houston, Bobby Compton, Eddie Dingler and Town Attorney Stephen P. Gambill.

Absent: Commissioner Lisa Qualls and Town Manager Erskine Smith.

Also Present: Maia Setzer, Executive Director of Administration; Allison Kraft, Senior Engineer; Adrian Burks, Police Department; Wes Greene, Fire Chief; Jeff Brotherton, IT Manager; Craig Culberson, Senior Planner; Wanda McKenzie, Recreation Director; Kim Sellers, Public Information Officer; Janet Pope, Town Clerk.

1. Kim Sellers presented the Today in America Video Project. The Board would like for staff to move forward with this project.
2. Commissioner Herring discussed the roll and responsibility of staff and staff liaisons concerning appointed boards and commissions. All by-laws will be reviewed and updated.
3. Staff was present to address any questions or concerns pertaining to the agenda.

Mayor Atkins adjourned the briefing at 9:43 a.m.

Regular Meeting

6:00 p.m. – Mooresville Town Hall

Present: Mayor Miles Atkins. Commissioners Rhett Dusenbury, Mac Herring, Lisa Qualls, Bobby Compton, Thurman Houston, Eddie Dingler, Town Manager Erskine Smith and Town Attorney Stephen P. Gambill.

Also Present: Maia Setzer, Executive Director of Administration; Wes Greene, Fire Chief; Ryan Rase, Executive Director of Public Services and Operations; Allison Kraft, Senior Engineer; Craig Culberson, Senior Planner; Wanda McKenzie, Recreation Director; Kim Sellers, Public Information Officer; Janet Pope, Town Clerk

Public Comment: Willie Wright said money has been killing Americans for years and no one has spoken up. He has filed a complaint against the US Treasury.

Steve Bennett welcomed new Commissioner Lisa Qualls. He announced the next Stand Up North Carolina meeting and featured speakers.

Rhett Dusenbury presented his taxpayer protection policy.

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Mayor Atkins opened the meeting at 6:08 p.m. Steve Gambill gave the invocation. Mayor Atkins led the Pledge of Allegiance.

1. Wanda McKenzie introduced Ryan Jones who is the new Talbert Recreation Center Director. She also introduced Eagle Scout Winston Weaver who presented his Eagle Scout project at the War Memorial.
2. Fire Chief Wes Greene recognized Kimberly Shirley and Robin Mattice for their bravery and quick thinking during a house fire.

3. Adjustments to the Agenda.

Action: A motion by Mr. Herring, seconded by Mr. Houston, to approve the Agenda with the following adjustments and the Consent Agenda was unanimously approved.

- A. Consent Item g. – Remove from agenda.**
- B. Consent Item n. – Remove from agenda.**
- C. Agenda Item 13 – Add Joseph Andrew Yanicak to Planning Board applications.**
- D. New Business – Add discussion of Fire Training Facility.**
- E. New Business – Add Fieldstone-Magnolia Sidewalk Project.**
- F. New Business – Taxpayer Debt Protection Policy.**

4. Consent Agenda Items Approved:

- a. Minutes of October 17, 2011 and November 14, 2011.
- b. Consider the following adjustments to the Town Tax Scroll for 2011. (attachment)
 - Releases – Previous Years - \$497.71
 - Releases 2011 - \$32,432.48
 - Additions 2011 - \$1,888.41
 - Vehicles - \$146,737.89
- c. Approved the annual certification of the Mooresville Fire Department roster with the North Carolina State Firemen’s Association. North Carolina G.S. 58-86-25 requires that all certified fire departments submit a complete roster of its eligible firefighters annually for the pension fund. (attachment)
- d. Approved a request from Development Services to apply for a grant from the Clean Water Management Trust Fund (CWMTF) for rehabilitation of the discharge force main for the Reeds Creek Pump Station. CWMTF will fund projects that (1) enhance or restore degrade waters, (2) protect unpolluted waters and/or (3) contribute toward a network of riparian buffers and greenways for environmental, educational and recreational benefits. Due to the close proximity of the Reeds Creek Pump Station to Lake Norman and the likelihood that any potential overflows could degrade that water source, this project would qualify under item (2).
- e. Approved a budget amendment in the amount of \$31,700.00 for the replacement of FD025615, a 2002 Chevrolet Tahoe with 93,000 miles and the transmission needs replacing. Fleet Services recommends the vehicle be replaced in the Fire Department due to its age and its use in emergency response. With this amendment, the vehicle can be repaired and used by another department. (attachment)

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- f. Approved a License Agreement with the Mooresville Downtown Commission to use the Town facility at 422 West Moore Avenue for storage of Christmas lights and other items. The license agreement is renewable and identifies the responsibility of the Downtown Commission and the Town. (attachment)
- g. *Remove from agenda:* Consider a two-year agreement between the Town of Mooresville and the Youth Golf Foundation of North Carolina to provide a Junior Golf Program. The Town's PGA pros will assist with the program. Estimated revenue is \$13,000 annually.
- h. Approved a budget amendment in the amount of \$20,652 for appropriation of Fund Balance for the 2011 primary and general elections. (attachment)
- i. Approved a budget amendment in the amount of \$57,469 for the purchase of furnishings and fixtures for the Talbert Recreation Center. Purchase includes personal computers, telephones, folding tables, wireless computer access, security cameras, chairs, benches, mirrors, sliding security glass, defibrillator, first aid kit, lockers, etc. for operation of the recreation center. (attachment)
- j. Approved an increase in the percentage that the Recreation Department currently receives from contracted instructors from 10 percent to 15 percent. Many of the area recreation departments receive 15 percent to 20 percent. This will apply to all programs such as tennis, adult square dancing and water aerobics and summer camps taught by area coaches.
- k. Approved the rules and regulations, rental forms and rental prices for the operation of the Talbert Recreation Center. (attachment)
- l. Approved a budget amendment in the amount of \$8,830 for unemployment insurance for FY 2012. The Town estimated \$20,000 for the year based on historical invoices. The actual invoice received was \$28,822.98. The payment must be issued no later than January 27, 2012. (attachment)
- m. Approved a resolution from MI-Connection revising the financial interest of each operating party as of June 30, 2011. The Cable Television System Interlocal Agreement requires MI-Connection to calculate annually the financial interest of each operating party (the Towns of Davidson and Mooresville). The financial interest of the Town of Mooresville is declared to be 64.79 percent and the Town of Davidson is declared to be 35.21 percent. (attachment)
- n. *Remove from agenda:* Consider adopting a resolution of the Town of Mooresville, North Carolina, directing the application to the Local Government Commission for approval of Enterprise Systems Revenue Refunding Bonds; requesting Local Government Commission Approval of the Town's Enterprise Systems Revenue Refunding Bonds, Series 2012 and certain related matters. (pages 25-28)
- o. Approved a budget amendment and accepted with appreciation a donation in the amount of \$600 from Showmar's Restaurant for basketball uniforms. (attachment)
- p. Adopted a resolution endorsing the referral to the Charlotte Area Transit System's Metropolitan Transit Commission to consider relocating the proposed location of the Red Line Commuter Rail Station from Legacy Village Development to the Knox property within the Langtree Consortium Development Group. The relocated station site would provide a better opportunity for transit oriented development and lessen the impact of traffic congestion. If approved, staff will be able to modify adopted plans to reflect the relocation. (attachment)

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- q. Authorized the Mayor to appoint a committee to conduct an official review of the business for the Red Line Regional Rail (RLRR) Business and Financial Plans. The deadline to provide comments on the RLRR plan is March 30, 2012.
 - r. Endorsed a 90-day flash phase evaluation for the intersection of Church Street and Wilson Avenue. Based on the results of the signal warrant analysis and guidance from the Manual on Uniform Traffic Control Devices (MUTCD), staff recommends that the traffic signal at the intersection of Wilson Avenue and Church Street be evaluated as a flash phase signal with stop (flashing red) assignment on Wilson Avenue and warning (flashing yellow) assignment on both approaches of Church Street for a period of 90 days, beginning Friday, January 13, 2012 and ending on Friday, April 13, 2012. Staff will provide a report at the April 16, 2011 meeting and if no significant issues are reported or observed, it is recommended that the traffic signal be removed and replaced with stop signs on the Wilson Avenue approaches of the intersection. (pages 36-37)
 - s. Approved the following request for utility service based on the Sewer Allocation Policy adopted on February 11, 2008. Double rates will apply until annexation.

Carillon Assisted Living LLC	(water and sewer)
196 East Waterlynn Road (6.5 acres)	PIN 4656-02-9588

The owner will be financially responsible for extending utilities to the property. Water and sewer are both available. (attachment)
 - t. Accepted with appreciation a donation by Mears Construction for concrete at the Military Memorial next to the War Memorial Building. The memorial was recently completed as an Eagle Scout Project.
 - u. Approved a request from the Public Works Streets Division to purchase from the State contract a 2012 F-350 flatbed truck in the amount of \$34,773.64. The truck was budgeted in the Powell Bill budget.
 - v. Awarded a Construction Contract for the Sherrill Street Facility Demolition to Terry Lynn for an amount not to exceed \$4,900. This work will consist of removal of three existing buildings at the Town's Sherrill Street Facility including all local, state and federal permits and fees.
 - w. Awarded a Construction Contract for the Sherrill Street Generator Relocation to Ehret Electric Company for an amount not to exceed \$20,300. This work will consist of relocating generator and automatic transfer switch from the Sherrill Street Facility to existing Cherry Grove Pump Station site.
 - x. Approved a budget amendment in the amount of \$335,000 for the purchase of property at 2208 Statesville Highway from Bear Creek Properties for the Cornelius/Mazepa connector. (attachment)
 - y. Adopted a resolution allowing Information Technology to donate a server that is no longer in use to MI-Connection. (attachment)
5. Maia Setzer, Director of Administration and Finance, presented the Financial Summary Report for five months ending November 30, 2011. (attachment)
6. Mr. Smith presented the Manager's Report. He reported on the Brawley School Road sidewalk replacement on Williamson Road, the Horn property on Academy Street, approval of the Urban Progress Zone, priority based budgeting process and United Way campaign.

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7. Continuation of a Public Hearing to consider a Rezoning request from WGM Design for Davidson Day School.

This Public Hearing was continued at the September, October and November Board meetings.

Mayor Atkins reopened the Public Hearing at 6:28 p.m.

Mr. Gambill presented the Board with a comparison of current zoning with proposed request.

Mr. Culberson continued his presentation. There was no public comment.

Mayor Atkins closed the Public Hearing at 6:37 p.m.

Action: A motion by Mr. Houston, seconded by Mr. Compton, to approve the Statement of Reasonableness and the Rezoning request subject to staff recommendations was unanimously approved. The property located between PIN's 4656-40-9429, 4655-48-1288, 4655-38-2150, 4655-37-3507 and 4656-41-2413. The property was rezoned from Re-C (Single Family Residential-Conditional) to R3 (Single Family Residential). (attachment)

8. Quasi-Judicial Public Hearing to consider a Conditional Use Permit request from James Stanish.

Steve Gambill: North Carolina by law requires the Board to conduct a quasi-judicial hearing to consider a conditional use permit. This means the Board must follow certain requirements when holding this kind of hearing. For those who are here to present some form of testimony or make a comment about this particular item, please notice that the Board is required to find that the development proposed in the application meets all of the following standards. First of all the Board must find that the development proposed in the application does not materially endanger the public health or safety. Second, the Board must find that the development proposed in the application complies with all relevant Town laws and ordinances, state and federal laws and regulations and any regulations imposed by the Town Board and agreed to by the applicant. Third, the Board must find the development proposed in the application will not substantially injure the value of adjoining or abutting property or the use is a public necessity. And fourth, the Board must find that the development proposed in the application will be in harmony with the area in which it is located and be in general conformity with the comprehensive land use plan. Another requirement is that the Board follows certain rules. These rules include first that all testimony be given under oath or affirmation. Second, the Board must base its decision on facts. Third, the Board cannot consider personal opinions unless it is the opinion of an expert. North Carolina by statute provides that opinions by non-experts may not be used to establish impacts on property value or the impacts of vehicular traffic on public safety. The Board cannot consider hearsay evidence when reaching a decision. That is the Board cannot consider something that someone else has told you or that someone else has written. In other words the Board can only consider testimony given by a person who testifies at the hearing this evening. A witness is

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welcome to present exhibits that are relevant to the hearing. I would ask that you please provide the Town Clerk with a copy for the official record. Please allow let me to summarize what information the Board may consider for this particular hearing. A person's testimony must focus on facts, not opinions. If a person is not an expert witness, they cannot give opinions and hearsay testimony cannot be considered. For those of you who are presenting, please understand that if the Mayor or I interrupt your testimony and ask that you keep your testimony within the guidelines that I've read this evening, please understand it's not personal. We're only trying to keep the hearing within the rules that the Board must follow. And speaking on behalf of the Board, we certainly appreciate everyone's cooperation as we do so. Thank you, Mr. Mayor.

Mayor Atkins opened the Public Hearing at 6:42 p.m.

Mr. Culberson was sworn to give testimony in this matter. He presented the request.

Jim Stanish was sworn to give testimony in this matter. Our plans are to...I've been in business in Mooresville for 27 years and I've always taken pride in my business. Now I'm trying to get ready to do something I enjoy. I've been looking for a lot. I know Mooresville is particular. There's enough lots out there that look like they need to be closed down. I want a small lot, I want to come in, I want to landscape it, I want to improve the building. I already spoke to the owner about purchasing the building. If you read over my notes...I don't want to go in and drop \$25,000 into totally paving this whole lot and then have it not work. I agreed with the owner to come in and let me do...let me start out and fix small steps. Make needed improvements on the property and after one year if business is going well, then will purchase the property from the owner and do whatever improvements the Town would want on the property. We're not looking to go in there and stick 20 or 30 cars. I've got another building I keep leased and just want to come in there and start out with seven or eight cars. Put two under the carport, two beside the carport and six to seven in the spot drawn up by the architect. None in the front.

Dave Rogers was sworn to give testimony in this matter. I am representing my father the property owner. Basically as Mr. Gambill brought out, everything is based on finding of facts. The site plan is done and revised several times by a certified land surveyor. It meets the requirements that are required under the conditional use requirement.

Stanish: Our intentions are...I don't think it would look proper to have gravel in front of the building. The approach is already cement and what I would like to do is carry it around in a horseshoe so that gravel won't be coming out on the highway as you come in and out.

Mayor Atkins closed the Public Hearing at 6:55 p.m.

Action: A motion by Mr. Compton, seconded by Mr. Dingler, to suspend the rules of procedure to enable the Board to consider the Findings of Fact and the Conditional Use Permit was unanimously approved.

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Action: A motion by Mr. Compton, seconded by Mr. Dingler, to accept the Findings of Fact and approve the Conditional Use Permit subject to staff recommendations was unanimously approved. The property located at 420 East Plaza Drive is further referenced by Iredell County Tax Map PIN 4657-96-6165. The approved Conditional Use Permit will allow auto sales. (attachment)

9. Public Hearing to consider a Rezoning request from Redus NC All LLC.

Mayor Atkins opened the Public Hearing at 7:04 p.m.
Craig Culberson presented the request.

Jeff McCluskey said what it amounts to is we are looking for more of a paper change than what you will see driving down the street. They have an interested builder that has made it very clear to them that they are looking for fee simple townhomes. They do not desire to build condominiums. The proposed plan is exactly what you have already approved. The homes would look exactly the same.

Daniel Willie Wright Jr. asked if the builders have been tested for mental illness because people die in those condominiums.

Tony Dedontay is a business owner that abuts that property. He just purchased Pampered Pets. He is planning to buy some adjoining property. His concern is when that property was engineered the sewer system pours right onto his property and floods the whole thing. Whatever bank buys this property is there a way to put conditions on the buyers that they put a wall around that property and fix the sewage system so it pours into the creek and not the property. He stated it was stormwater, not sewage.

Mayor Atkins closed the Public Hearing at 7:22 p.m.

Action: A motion by Mr. Dusenbury, seconded by Mr. Houston, to approve the Statement of Reasonableness and the Rezoning request subject to staff recommendations was unanimously approved. The property referenced as Emerald Green and located on Aztec Circle is further referenced by Iredell County Tax Map PIN's 4656-17-8938, 4656-28-0291 and 4656-28-1051. The property was rezoned from R2 (Single Family Residential-2) to RMX-C (Residential Mixed Use with Conditions). (attachment)

10. Public Services Budget Amendment.

Action: A motion by Mr. Herring, seconded by Mr. Houston, to approve a budget amendment in the amount of \$116,100 for the purchase of additional equipment for the Operations Center was unanimously approved. (attachment)

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11. Appointments to Boards and Committees.

Mooreville Recreation Advisory Board

One appointment due to the resignation of David Steen. Term expires 6/30/14.

David Coble	James McCall Jr.	Garry Smith
Amy Dirig	Pete Parnian	Sylvia Spury
Andre Hadzi-Pavlovic	Myrna Reiss	Colby Elizabeth Stellhorn
Edwardo Haynes	Sharon Riley	William Washburn
Donald Allen Howard	Jakub Skowronske	Robert Zullo
Mitch Abraham		Duane Rizzo

Action: A motion by Mr. Herring, seconded by Mr. Houston, to appoint Amy Dirig to the Mooreville Recreation Advisory Board was unanimously approved.

Mooreville Planning Board

Two appointments due to the following resignations:

Lisa Qualls – Term expires 6/30/14

David Steen – Term expires 6/30/13

Mitch Abraham	James McCall Jr.	Joseph Andrew Yanicak
Rosalind Michele Campbell	Rosemary Morse	
David Coble	Duane Rizzo	
Richard Kenyon	Jakub Skowronske	
Jeffrey Mathews	William Washburn	

Action: A motion by Mr. Herring, seconded by Ms. Qualls, to appoint the following to the Mooreville Planning Board was unanimously approved.

Rosalind Campbell to replace Lisa Qualls

Joseph Andrew Yanicak to replace David Steen

Board Appointments

Recreation Advisory Board – Board Representative
Centralina Council of Governments – Delegate and alternate
Lake Norman Regional Transportation Committee – Delegate and alternate
Lake Norman TAC/RPO – Delegate and alternate
Environmental Protection Commission – Board Representative
Historic Preservation Commission – Board Representative
Beautification Committee – Board Representative
Mooreville Downtown Commission – Board Representative

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Action: A motion by Mr. Herring, seconded by Mr. Dusenbury, to appoint the following Commissioners was unanimously approved.

**Recreation Advisory Board – Thurman Houston
Centralina Council of Governments – Bobby Compton and alternate Rhett Dusenbury
Lake Norman Regional Transportation Committee – Mac Herring and
alternate Bobby Compton
Lake Norman TAC/RPO – Rhett Dusenbury and alternate Bobby Compton
Environmental Protection Commission – Eddie Dingler
Historic Preservation Commission – Bobby Compton
Beautification Committee – Lisa Qualls
Mooresville Downtown Commission – Bobby Compton**

The Board appointed the following:

Audit/Finance/Insurance Committee – Mayor Atkins, Rhett Dusenbury, Lisa Qualls
Stormwater – Bobby Compton, Rhett Dusenbury
MI-Connection Strike Team – Mayor Atkins, Mac Herring, Eddie Dingler
Liaison to Iredell County Board of Commissioners – Rhett Dusenbury
Community Housing – Mayor Atkins, Mac Herring, Lisa Qualls
Nominations Committee – Mayor Atkins, Mac Herring
Personnel – Mayor Atkins, Mac Herring, Rhett Dusenbury
Mooresville-South Iredell Chamber of Commerce – Mayor Atkins

The meeting recessed for 15 minutes.

12. New Business

A. Fieldstone-Magnolia Sidewalk Project

Consider a request from the following property owners that retaining walls are installed in front of their properties as part of the Fieldstone-Magnolia Sidewalk Project:

Stephen D. and Karen M. Hart, 330 South Magnolia
Ann L. Clark, 338 South Magnolia
Allen B. and Katherine C. Sloop, 346 South Magnolia
Kenneth G. and Linda D. Keller, 354 South Magnolia
George A. Ebert, 362 South Magnolia
Mary O. Whitlow, 378 South Magnolia

The estimated cost to install retaining walls per the project specifications is \$25,900. Per NCDOT, this cost cannot be included in the CMAQ reimbursement for this project. Approval of a budget amendment in the amount of \$25,900 will be required if approved.

Action: A motion by Mr. Herring, seconded by Mr. Dingler, to approve a budget amendment in the amount of \$25,900 to build retaining walls in front of the following properties as part of the Fieldstone-Magnolia Sidewalk Project was unanimously approved.

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**Stephen D. and Karen M. Hart, 330 South Magnolia
Ann L. Clark, 338 South Magnolia
Allen B. and Katherine C. Sloop, 346 South Magnolia
Kenneth G. and Linda D. Keller, 354 South Magnolia
George A. Ebert, 362 South Magnolia
Mary O. Whitlow, 378 South Magnolia**

B. Fire Training Facility

Commissioner Houston expressed concern about the security at the Operations Center. The Fire Department will give another presentation at the January 17 Board meeting.

C. Taxpayer Debt Protection Policy

Mr. Gambill asked for some time to take a look at the policy. North Carolina law is fairly specific on what type of referendums we can call for without approval from the General Assembly. The finance committee will review and bring back to the Board at the March meeting.

13. Closed Session – G.S. 143-318.11

A. Property Acquisition – G.S. 143-318.11(a)(5)

Jim and Sarah Carr dba Agape LLC – 781-809 Agape Drive

B. Consult with Attorney – G.S. 143-318.11(a)(3)

The Affordable Housing Group of North Carolina Inc. and Bluefield Properties versus Town of Mooresville

Action: A motion by Mr. Herring, seconded by Mr. Houston to go into closed session to discuss property acquisition and consult with attorney 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 closed session, the Board returned to open session.

Action: A motion by Mr. Herring, seconded by Mr. Houston, to adjourn the meeting was unanimously approved.

The meeting adjourned at 9:08 p.m.

Janet Pope
Town Clerk

Miles Atkins
Mayor