

**TOWN OF LONG VIEW
TOWN ALDERMEN MEETING
May 10, 2010**

The Town of Long View Board of Aldermen met on Monday, May 10, 2010 at 7:30 p.m. in the Town Council Chambers of the Government Center in Long View, North Carolina.

BOARD MEMBERS PRESENT: The following members of the Board were present: Mayor Pro Tem Vernon Moyer, Alderman John McDaris, Alderman Randall Mays, and Alderman Jackie Bowman.

BOARD MEMBER NOT PRESENT: The following member of the Board was not present: Alderman Ken Bumgarner.

STAFF PRESENT: The following members of staff were present: Town Administrator David Epley, Town Clerk Stephanie Watson, Town Attorney Redmond Dill, Town Planner Charles Mullis, Fire Chief Eric Shepherd, Police Chief Cecil Rogers, Police Officer Justin Roberts, and Code Administrator Tony Cline.

OTHERS PRESENT: Mila Mazancova of Mila Rental Properties, Terry Rowe of 3725 2nd Avenue SW, Ray Houston of 3420 US Hwy 70, Jay Houston, Marty Houston, and other town residents were present.

MEETING CALLED TO ORDER: Mayor Pro Tem Vernon Moyer called the meeting to order and Alderman John McDaris gave the invocation.

APPROVAL OF MINUTES: Mayor Pro Tem Vernon Moyer asked for approval of the minutes. Motion was made by Alderman Randall Mays, seconded by Alderman John McDaris to approve the April 12, 2010 minutes. The vote was unanimous, by all board members present at the respective meeting.

**PUBLIC HEARING FOR REZONING OF THE PROPERTY AT 3725 2ND AVENUE SW –
TOWN PLANNER CHARLES MULLIS**

Town Planner Charles Mullis informed the Board that the Town of Long View has received a rezoning petition 02-10 to rezone the property at 3725 2nd Avenue SW, Burke County Parcel ID Number 2782874599. The applicant requests to rezone the property from R-3 Residential zoning to ED (Economic Development) zoning district. The parcel contains 0.52 acres.

Mr. Mullis informed the Board that the Planning Board met on April 15, 2010 to discuss the issue of rezoning the property at 3725 2nd Avenue SW. Property owner Mr. Terry Rowe was present.

The property located on 2nd Avenue Southwest, which is a town maintained residential street, has R-3 single family zoning to the immediate West, East, and South, and C-5 mixed use commercial zoning to the direct North.

The rezoning of this property should not provide for excessive or burdensome use of any Town of Long View facilities (roads, water, or sewer). Uses allowed within the ED zoning district are within the capabilities for the Town of Long View to serve with existing facilities. Areas within the

immediate area of this parcel are either currently served or could be served by the Town of Long View.

The property, as currently zoned, has a reasonable economic use.

Mr. Mullis informed those present that in some states spot zoning is automatically illegal; not so in North Carolina. Spot zoning is permissible in North Carolina, but only if it is reasonable. The courts have set out the following factors to be used in a case by case analysis to determine if a particular spot zoning is reasonable:

- a) *The size of the tract.* The larger the area of spot zoning the more likely it is to be reasonable. This particular tract of land is relatively close to the same size as the surrounding tracts.
- b) *Compatibility with an existing comprehensive plan.* The Town of Long View does not currently have an existing comprehensive plan.
- c) *The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community.* An action that is of great benefit to the owner and only a mild inconvenience for the neighbors may be reasonable, while a zoning decision that significantly harms the neighbors while only modestly benefiting the owner would be unreasonable. Some of the allowable uses for the ED zoning district may be reasonable such as a warehouse, while others may be unreasonable such as manufacturing, processing and assembly of farm machinery for example.
- d) *The relationship between the newly allowed uses in a spot rezoning and the previously allowed uses.* The greater the difference in allowed uses, the more likely the rezoning will be found unreasonable. Although this property is currently zoned for residential use it has never been developed that way.

It was determined that one aspect of rezoning that is illegal is contract zoning. This is where a landowner requests a rezoning to accommodate a specific project and the town governing board considers only that project rather than the full range of uses that would be allowed in the new zoning district. If an owner promises the governing board that the new zoning would be used only for a particular project, the promise is not binding. Once the property is rezoned, the owner (and anyone the person may sell the property to) can undertake any use permitted in the new zoning district.

Mr. Mullis informed the Board of Aldermen of the Planning Board's decision. Based on examination of the existing property for rezoning to the proposed zone, the Town of Long View Planning Board, by a vote of three in favor to two opposed, recommended that the property be rezoned to the ED zoning district.

Mr. Mullis explained that the property currently has two warehouses with a large one on Western side and a smaller one on the Northern side. The large warehouse has been in continual use. The warehouse on the Northern side of the property has been closed for an extended period of time and is in disrepair. The owner requested to rebuild the Northern warehouse and to reopen it as a business. This would not be possible as it is currently zoned residential.

Alderman Jackie Bowman requested Mr. Mullis' opinion. Mr. Mullis stated that there are many zoning violations associated with this property. One is from Article 3: Section 3.9 that only one principal structure is allowed per lot except in the case of planned developments. There are currently two warehouses on this lot.

Mr. Mullis explained that Article 9: Section 9.6 states that if active operations are discontinued for a period of 360 days in any consecutive two year period, subsequent use shall conform to the regulations of the district in which it is located. Even if the building were to be rebuilt, it would not be within code with the current front setback of forty feet.

Mr. Mullis explained that Article 9 also states that when a building or structure devoted to a nonconforming use is damaged or deteriorated to an extent of 50% or more of the building or structure's assessed taxable value such building shall comply with the dimensional requirements of the ordinance. It would be impossible for the building to come into compliance.

Mr. Mullis explained that the roof is in considerable bad shape. It appeared to have been neglected for quite a while.

Alderman Randall Mays asked if all the properties around 3725 2nd Avenue SW were residential and Mr. Mullis confirmed that all the properties were zoned residential.

At this time the public hearing was declared opened for public comment.

Small business owner, Mila Mazancova, explained to the Board that she had property between 37th and 39th Street. She was concerned about her renters and asked what the rezoning of the property would mean for traffic flow. She noted that 37th Street already has a lot of traffic. She added that older families live in that area that would be affected.

Terry Rowe, the property owner at 3725 2nd Avenue SW, informed the Board that he was unaware in 1995 that it had been rezoned. He had plans to do something with the building but he was unsure what. Tailored Chemical had offered to sell him the many warehouses on that side of the street and he said that he did drag his feet on fixing the building.

He added that when the Code Enforcement Officer informed him that he had 90 days to show some progress, he moved about 31,000 pounds of the furniture machinery in the building out. His intent is to improve the building as it is valuable to him as a warehouse. He said that he did not understand how having two buildings on the property is a violation.

As for traffic flow, he told the Board that Tailored Chemical Inc. is the cause of the high flow of traffic. When the trucks leave the lot at Tailored Chemical they are swinging across his property and damaging the shoulder. He said that he would allow Tailored Chemical Inc. to continue to do so as long as the area they damage is repaired.

Mr. Rowe informed the Board that his business deals with salvage and closeouts. The second warehouse would be beneficial for storage. He explained that he has no plans to use the warehouses except as warehouses.

There being no further comment, the public hearing was declared closed.

Alderman Randall Mays asked if the owner could continue to operate in the larger building and Town Planner said that he could continue to use the larger building.

Mr. Mullis explained that the smaller building is nonconforming due to its location on the lot and due to the fact that the operations have stopped. He explained that what was in the building looks to have been damaged by water.

Attorney Redmond Dill explained if the building becomes discontinued use for the designated period of time then it loses the status it had under the grandfather clause. Mr. Dill explained that the Board could not use the theory that a ramshackled building which is storing items is still in use. If that theory was permitted, then a building would never be able to be determined to be inhabitable and would never be able to be demolished. In his opinion the Northern building would be considered a nonoperational building and would lose its status.

Mr. Rowe said that he had sold something out of that building and he could not understand how the Mr. Mullis could say that the items inside the building were worth nothing. Mr. Rowe explained that he chose to throw some of the items away only because it would make the remodeling easier. He explained that the people that he spoke with thought the building was worth fixing up. He added that he was just trying to stay afloat in this economy. He asked the Board to consider allowing him to use the additional storage.

Alderman Jackie Bowman explained to Mr. Rowe that the Board was only present to discuss the possibility of the rezoning of the property at this meeting.

Alderman Randall Mays explained to Mr. Rowe that the Board had a similar issue last month where a warehouse building was in a residential location. He believed that the Town had to maintain consistency in the handling of the ordinance and decisions.

ORDINANCE TO AMEND THE ZONING MAP OF THE TOWN OF LONG VIEW FOR THE REZONING OF THE PROPERTY AT 3725 2ND AVENUE SW – TOWN PLANNER CHARLES MULLIS

Motion was made by Alderman Randall Mays, seconded by Alderman Jackie Bowman to deny the rezoning from an R-3 zoning district to an ED zoning district at 3725 2nd Avenue SW. The vote was unanimous.

Yes 4 No 0

PUBLIC HEARING ON THE ADOPTION OF THE CATAWBA COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLANS – TOWN PLANNER CHARLES MULLIS

Town Planner Charles Mullis informed the Board that every five years all the municipalities in Catawba County are required to adopt a Multi-jurisdictional Hazard Mitigation Plan. The last time the Town of Long View adopted the plan was in 2004. The plans up for adoption are the 2009 plans.

Mr. Mullis explained that Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said plan must be updated and adopted within a five year cycle.

There are eight plans this year that have been adopted.

Long View Mitigation Action Plan 1 requests to maintain continued compliance with the National Flood Insurance Program (NFIP) through implementation of the following specific actions: evaluating permit application forms; holding informative work sessions for newly elected officials and new appointees to planning commissions and appeals/variance boards; conducting a review of other regulatory programs and planning tools; and maintaining supplies of FEMA/NFIP materials to help property owners evaluate measure to reduce potential hazard damage.

Long View Mitigation Action Plan 2 asks for the routine inspection of and clearance of debris from drainage system.

Long View Mitigation Action Plan 3 requests that trees be routinely pruned and tree limbs cleared that are hanging in the right-of-way.

Long View Mitigation Action Plan 4 requires the burial of electrical, telephone, and cable lines for new development.

Long View Mitigation Action Plan 5 requires the routine inspection of and maintenance of fire hydrants.

Long View Mitigation Action Plan 6 ensures firefighters are properly trained and equipped for brush/forest firefighting techniques.

Long View Mitigation Action Plan 7 provides a hazard susceptibility checklist for homeowners to conduct their own inspections.

Long View Mitigation Action Plan 8 explores the feasibility of municipal purchase or private donations of floodplain areas for use as greenways.

Mr. Mullis reminded the Board of Aldermen that without the adoption of the plan, the Town of Long View would not be eligible for disaster related assistance funding.

The public hearing was declared open by Mayor Pro Tem Vernon Moyer.

There being no comments, the public hearing was declared closed.

RESOLUTION OF ADOPTION OF THE CATAWBA COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLANS – TOWN PLANNER CHARLES MULLIS

Motion was made by Alderman Randall Mays, seconded by Alderman John McDaris to adopt the Resolution of Adoption of the Catawba County Multi-Jurisdictional Hazard Mitigation Plans. The vote was unanimous.

Yes 4 No 0

DEE BLACKWELL FROM THE WESTERN PIEDMONT COUNCIL OF GOVERNMENTS

As Mr. Blackwell was not present at the meeting, Mayor Pro Tem Vernon Moyer requested that Mr. Blackwell be rescheduled to another meeting.

ORDINANCE DIRECTING THE CODE ADMINISTRATOR TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED (3420 US HWY 70) – CODE ADMINISTRATOR TONY CLINE

Code Administrator Tony Cline informed the Board about the property on 3420 US Hwy 70. He explained that on November 5, 2009 a hearing was held. Jay and Marty Houston, the sons of the owner, were present. They agreed on the following conditions that must be completed by February 5, 2010:

1. Secure the structure by closing in the roof and any broken windows/doors.
2. Work toward and making progress in removal of salvage, trash, debris, and overgrowth.
3. Make the appropriate contacts for future work (Contractors, Engineers, etc)
4. Ensure that the NC DOT and Duke Energy clear any development plans and provide any related contact material if requested.

Mr. Cline explained that as of Friday, May 7, 2010 no permits had been obtained. There has been some recent activity and the Town truck has been used to remove water damaged items from inside of the building.

Mr. Cline explained that the county has no set amount on the value of the building because the building continues to deteriorate because of lack of care. The estimated amount that the county has placed on the property was approximately \$51,000.

In 2009 the building did not have a roof. It is now 2010 and a roof has not been obtained.

Mr. Cline informed the Board that the deadline has passed and if it is the decision of the board, the ordinance could be passed at tonight's meeting to have the building demolished.

Mr. Cline explained to the Board that the work that is being done by the owner has been towards the remodeling of the building.

Ray Houston, the owner, explained that he had purchased a permit for the restructuring of the roof from Catawba County.

Mr. Cline explained to the Board that the tanks have been removed from the property for some time.

Mr. Cline informed the Board that the property was a C-5 commercial use property so there should be no issues in the rebuilding of the building.

Alderman Jackie Bowman said that his main concern was the length time it was taking to get the property cleaned up.

Alderman Randall Mays said that if the owner has obtained a permit to redo the roof, then the property owner should be able to have a chance to complete the roof in a time limit set by the board. If after that time it is not done, than the town should take over the project and demolish the building.

Town Attorney Redmond Dill suggested that the time limit should be until the next council meeting on June 14, 2010. At that time the Board could get a progress report. If the owner has a permit for a

roof, he should be able to get the roof on or in the process of getting the roof on the building within 30 days. If the roof is not on by the next meeting, the board could then adopt the ordinance.

Owner Ray Houston explained that there would be a problem with getting the completed roof on the building in 30 days due to issues with the roof and destruction caused by trespassers. He also explained to the board that his health problems will also be an issue against getting the roof on within the time limit. He added that although he has the permit, he does not have all the materials for the roof yet. He does not believe that it is possible to complete the building in that length of time.

Alderman Jackie Bowman explained to Mr. Houston that the Board would give him 60 days to replace the roof.

Mr. Houston's son explained that next week his father would have his knee replaced. He asked for more time to replace the roof. He asked that if the roof was started but not completed by that time, what would happen.

Town Attorney Redmond Dill explained that if there was continued neglect to the building as it is now, then the Board would have no other alternative but to ask that the building be demolished. If the owner has a contractor and the project shows signs of movement toward completion the board would consider giving the owner more time.

Mr. Houston and his son said that they understood.

Alderman Jackie Bowman explained that the Board tried to be fair and equal in similar situations.

Mr. Houston said that he would work toward getting the roof on the building.

Town Attorney Redmond Dill suggested that on June 28, 2010 the Board should receive a progress report on the renovation of the building. On July 13, 2010 the project will be set for demolition or continuation depending on whether reasonable progress has been made by the owner.

Motion was made by Alderman Jackie Bowman, seconded by Alderman John McDaris that reasonable progress to the renovation of the building on 3420 US Hwy 70 must be made by June 28, 2010 or on July 13, 2010, the building will be considered for demolition. The vote was unanimous.

Yes 4 No 0

DISCUSSION OF THE TAILORED FOAM CHEMICAL INC. TRUCK TRAFFIC

Alderman Jackie Bowman expressed his concern for the truck traffic from Tailored Chemical Inc. Mr. Bowman explained that when the trucks from Tailored Foam Chemical Inc. are leaving the property they are driving onto their neighbor's property and damaging both their neighbor's property and Town property. One neighbor had already taken action by blocking the access of the trucks to drive over his property. Mr. Bowman explained to the Board that Mr. Temple of Tailored Chemical has been contacted about this issue but there has been no change to the way the trucks travel.

Mr. Bowman explained that as the ordinance is now, the Town of Long View will not be able to enforce the truck traffic flow.

Police Chief Cecil Rogers explained to the Board that the existing ordinance requires that if you post “No Trucks” on city streets, that you must post truck routes throughout the city. He suggested that a new ordinance be made that will allow for the posting of the “No Trucks” sign without having to post truck routes. The existing ordinance is way too detailed.

Mr. Rogers explained that the towns he has contacted do not have the stipulation that if the Town erects a “No Truck” sign that the Town must also post truck routes. The ordinance needs to be rewritten.

Town Administrator David Epley suggested to the Board that the new updated ordinance would be the easiest solution.

Town Attorney Redmond Dill agreed with Mr. Epley and said that the best solution would be to change the ordinance and write citations to the truck drivers as needed.

Property owner Terry Rowe expressed his concern with the trucks driving onto his property. He says they are destroying the curb on the road.

Mayor Pro Tem Vernon Moyer asked if a barricade was needed to be put in place until the ordinance was changed. Once the ordinance was changed, the barricade could be removed and the “No Trucks” sign could be put up.

Town Administrator David Epley said that the Town and the Attorney would work on getting an ordinance and report back to the Board.

The Board suggested that the East side of 2nd Ave should be blocked off until the ordinance is updated.

Property owner Terry Rowe once again expressed his concern as his property would be the most affected if the road was blocked off. He does not want his property driven across. If the road was blocked than all truck traffic would be by his property.

Police Chief Cecil Rogers explained that the best option for truck traffic for Tailored Chemical Inc. would be if their drivers would leave directly out on 1st Ave SW. As the ordinance is now there is no way to direct traffic.

The Board agreed that the ordinance should be updated as soon as possible.

Attorney Redmond Dill suggested writing Mr. Temple at Tailored Chemical Inc. to notify him of the upcoming changes to the ordinances as a courtesy. The Board agreed.

FINANCE REPORT

Town Administrator David Epley informed the Board that in the General Fund with 75% of the Fiscal Year complete, Revenues are \$2,225,072.15. Expenditures are \$2,059,293.59. Revenues exceeded Expenditures by \$165,778.56.

In the Utility Fund, Revenues are \$1,348,266.76. Expenditures are \$1,172,466.11. Revenues exceeded Expenditures by \$175,800.65.

Alderman Randall Mays requested information about the Catawba County Vehicle Taxes of 2008 and Town Administrator David Epley informed Mr. Mays that he would have Finance Director James Cozart get back to him with that information.

Alderman Randall Mays noticed that under the Group Insurance Expenses that the Town might have overestimated the approximate amount for an insurance increase for that month. Town Administrator David Epley confirmed this.

ADMINISTRATOR'S REPORT

Budget Work Session # 1 - Town Administrator David Epley informed the Board that the first Budget Work Session would be on Monday, May 17, 2010 at 6:00 p.m.

Budget Work Session #2 – Town Administrator David Epley informed the Board that the second Budget Work Session would be on Monday, May 24, 2010 at 6:00 p.m. if needed.

Maple Springs Laundry Project – Town Administrator David Epley informed the Board the progress of the Maple Springs Laundry Project. The pressure test has been completed on the sewer line.

Mr. Epley explained that there had been some issues with the natural springs on the property. The issue is being addressed.

Mr. Epley noted that the project is moving forward as expected.

Western Piedmont Council of Governments – Town Administrator David Epley informed the Board that the Western Piedmont Council of Governments has decided to locate their building in Long View.

19th Street Sewer Project – Town Administrator David Epley informed the Board that the Town has been able to locate a low interest loan for the 19th Street Sewer Project. It appears that the Town may be able to get the loan. The Town has the preliminary amortization schedule and the Town has been able to add it to the proposed budget. He informed the Board that he would have more information at the Budget Work Session on Monday, May 17, 2010.

Sidewalk Project – Town Administrator David Epley informed the Board that the Town is currently collecting the preliminary numbers on the project and should have those prepared for the Budget Work Session on Monday, May 17, 2010.

Public Works Director David Draughn – Town Administrator David Epley informed the Board that Public Works Director David Draughn was not present because he was at the hospital due to an injury to his hand.

OTHER BUSINESS

Fire Department Request

Fire Chief Eric Shepherd informed the Board that the Fire Department has a house they would like to burn for training purposes. The house is located across from the water plant. He explained that there would possibly be five different departments in attendance.

Mr. Shepherd requested permission to burn the house for training purposes.

Motion was made by Alderman Randall Mays, seconded by Alderman Jackie Bowman to allow the fire department to burn the house. The vote was unanimous.

Yes: 4 No: 0

3725 2nd Avenue SW Property

Mr. Rowe asked if he would still be able to rebuild the smaller building now that the property has not been rezoned.

Town Planner Charles Mullis informed Mr. Rowe that he could do what he wished with the larger building as it is still in use and still in compliance. The problem with repairing the smaller warehouse is that he wouldn't be able to use it as a warehouse as it would be a business use and the lot is zoned Residential use. The building would definitely not be able to be rented out.

Mr. Rowe said that he did not see how Mr. Mullis could say the building has not been in use. He asked for the option to fix the building instead of demolishing it.

Alderman Randall explained to Mr. Rowe that the Board only voted on the possible rezoning. Anything dealing with the use of building itself, Mr. Rowe would have to deal with Code Enforcement and the Planning Department for permitted uses.

ADJOURNMENT

Alderman Jackie Bowman commented on the natural springs that had caused issues at the Maple Springs Project.

Alderman Jackie Bowman requested the status on the reconstruction on the Tailored Foam Building. Mr. Mullis informed Mr. Bowman that no permits have been purchased to rebuild the section that was damaged in the fire in January of 2010.

Mr. Mullis informed the Board that the company will need to gets some plans together before a permit can be obtained.

Alderman Randall Mays wished continued improvement in the health of Alderman Ken Bumgarner.

There being no further business, motion was made by Alderman John McDaris, seconded by Alderman Randall Mays to adjourn the meeting at 9:03 p.m. The vote was unanimous.

Stephanie C. Watson
Town Clerk

Vernon Moyer
Mayor Pro Tem