

**MINUTES OF THE MEETING OF
THE BOARD OF COMMISSIONERS
TOWN OF MINT HILL, NORTH CAROLINA
March 12, 2015**

The Board of Commissioners of the Town of Mint Hill met in regular session on Thursday, March 12, 2015 at 7:00 p.m. in the Mint Hill Town Hall.

ATTENDANCE

Mayor: Ted H. Biggers, Jr.
Commissioners: Lloyd Austin, Carl M. Ellington, Richard Newton and Katrina (Tina) W. Ross
Town Attorney: Kevin M. Bringewatt
Town Manager: Brian L. Welch
Planning Director: John Hoard
Police Chief: Tim Ledford
Town Clerk: Michelle Wells Farrar

CALL TO ORDER, INVOCATION AND PLEDGE

Mayor Biggers called the meeting to order, ruled a quorum present and the meeting duly constituted to carry on business. Following the invocation offered by Commissioner Ross, Mayor Biggers led the Pledge of Allegiance to the Flag of the United States of America.

ORDER OF BUSINESS

Addition, Deletion or Arrangement of Agenda Items: Mayor Biggers added Discussion of Private Streets and Other Miscellaneous Items and a Closed Session to preserve the Attorney-Client Privilege.

Approval of Minutes of February 12, 2015 Regular Meeting: Upon the motion of Commissioner Austin, seconded by Commissioner Ellington, the Board unanimously approved the minutes of the February 12, 2015 regular meeting.

Mayor Biggers welcomed Will Satterfield, John Harris, Mark Harris, Nick Belk, Colin Read, Garamons' Hixon-Rozean and Abram Magaldi in attendance from Troop 33 of Sardis Presbyterian Church. Mayor Biggers presented the scouts with a Town Lapel Pin.

Consent Agenda: (a) Accept January Tax Collector's Report; (b) Set Summer Schedule (July 16th and August 20th); (c) Adopt Resolution in Support of the Mecklenburg County Livable Communities Plan; and, (d) Accept December and January Treasurer's Report and Financials: Commissioner Newton asked to pull Item C for discussion.

Upon the motion of Commissioner Ross, seconded by Commissioner Ellington, the Board unanimously approved Consent Items a, b and d. (Copy filed with minutes of record.)

(c) Adopt Resolution in Support of the Mecklenburg County Livable Communities Plan (Process): Commissioner Newton voiced concern over adopting the resolution. He stated the Town had worked hard over the years to ensure the correct plans. He felt as though the Town may not need the plan (developed mainly by other entities outside of Mint Hill) because the Board was elected to take care of the Town.

Commissioner Austin said Centralina Council of Governments (CCOG) had attempted to consolidate multiple plans, so he understood Commissioner Newton's concern. Ms. Pruess had told the Board previously that the Livable Communities Plan had consolidated more than 200 plans to develop this plan.

Commissioner Ross thought this was the comprehensive plan that put all of the plans together into one document. She said because the resolution was to support the process, the Town could choose not to participate in the Plan once it was finished. She felt as if it were a comprehensive plan that put many plans together in one place.

Commissioner Newton thought if a contractor was interested then they should approach the Board with their ideas. Commissioner Ross thought it was more than contractor policies.

Commissioner Newton reiterated the Town already had plans and guidelines in place and he felt participation was unnecessary.

Commissioner Ross thought it would serve the purpose of combing all of the various plans. She thought supporting the process would not bind us to support the final end product (plan).

Commissioner Ellington said he wasn't clear on all of the varying programs.

Mayor Biggers asked Ms. Heidi Pruess, Mecklenburg County to come forward. He asked what the involvement would be for the Town until the Plan was presented. She stated collaborate discussions were still being held but the Towns wouldn't be prescribed things they were required to do. The Plan would be more of a guide and a framework. The collective discussions, with a number of voices, would make strategies and capitalize on collective efforts. Every jurisdiction had pointed out things they really liked and things they didn't know if they necessarily agree with. The Plan would be brought back for approval to the Town; tonight they were looking for support of the process.

Mayor Biggers said he thought the Board was reluctant because the Town had, in the past, been lured into plans, groups and efforts that led to funding requests. Ms. Pruess stated there was not a funding request going along with the process. If there were specific collaborative projects that came out of this then they would of course come back to you for your approval. Mecklenburg County was funding the project process and some actions discussed were outside of the local government jurisdiction so they were not anticipating there would be an overwhelming "ask" for continued funding across the entire effort. She stated joint funding with the private sector would be sought once the plan was completed.

Ms. Pruess was asked how much of the plan was related to land use and she said a very small percentage, maybe two percent. She was asked if CCOG was funding any portion of the project. She said no; the initiative was totally separate from what CCOG had addressed. The CCOG plan was focused in on land use planning but this was almost the exact opposite.

Commissioner Newton thought the Town would be pressured to stay in the plan if we accepted the process. He felt it was unnecessary since the Town already had plans and controls in place. He cautioned the Board about spending money on plans that had already been devised. He stated a contractor would decide what needed to come to Mint Hill before they start pricing land.

Commissioners Ross and Austin thought the Board could deny funding, or support, at a later date if they decided it wasn't in the best interest Town. Commissioner Austin stated it wasn't a binding contract. The resolution only supported of the process.

Commissioner Newton asked the Board if they were ok with spending money for another group to devise plans already developed. Commissioner Austin said only two percent of the plan dealt with land use. He stated they would move forward with the process with or without the Town just like CCOG progressed without us.

Commissioner Newton made a motion to deny support of the resolution of the Mecklenburg County Livable Communities Plan process, the motion was seconded by Commissioner Ellington.

Commissioner Ross didn't see an obligation to support the Plan with this particular resolution; the resolution was simply to support the process. Perhaps combinations could be made and reduction of funding could be achieved by consolidation.

Commissioner Austin agreed the Board was only approving the process.

Ms. Pruess anticipated only bringing individual collaborate efforts, as they were identified, back to the Board for approval.

Commissioner Ross "called the question." Mayor Biggers then asked for a vote.

The vote was 2 (to deny the approval of the resolution) to 2. Mayor Biggers didn't vote and asked permission to speak.

Mayor Biggers said he had mixed emotions. Because the process was broad and general, it seemed almost impossible, to him, to get it into focus and to do anything productive that may benefit the Town. He stated he was not whole-heartily in favor of it; if there were some good to come of it then he would like that side of it. He then voted against the motion.

The motion to deny the resolution did not pass; the vote was 2-3 to deny the approval of the resolution.

Mayor Biggers open the floor for another motion.

Upon the motion of Commissioner Austin, seconded by Commissioner Ross, the Board voted to accept the resolution to support of the Mecklenburg County Livable Communities Plan process. Mayor Biggers, Commissioner Austin and Commissioner Ross voted in favor and Commissioners Newton and Ellington voted in opposition. The resolution was adopted.

Resolution of Town of Mint Hill Board of Commissioners For Endorsement of Mecklenburg Livable Communities Plan Process

WHEREAS, the Town of Mint Hill joined with other jurisdictions in Mecklenburg County and Foundation For The Carolinas to prepare a Mecklenburg Livable Communities Plan (“the Plan”), intended to establish a common vision for the future of these communities and identify opportunities for collaborative action to help achieve that vision; and,

WHEREAS, work has been underway throughout 2014, involving local governments, organizations, businesses, residents, and stakeholders throughout the County to prepare the 2015 Mecklenburg Livable Communities Plan; and,

WHEREAS, the Plan articulates a community-wide Vision and set of Guiding Principles for broader Mecklenburg County, identifies specific strategies and actions to be pursued, identifies community partners to be engaged with implementation of the actions, and includes performance measures to monitor progress toward achievement of the stated actions, creating an actionable plan for helping to achieve the Vision;

NOW, THEREFORE, BE IT RESOLVED that the Town of Mint Hill hereby endorses the 2015 Mecklenburg Livable Communities Plan Process.

Public Hearing on #ZC15-1, Filed by William Gray, Requesting a Rezoning from R to I-G (CD) for Property Located at 11131 Blair Road to Allow Construction of a Storage Facility: Brian Crutchfield, Timmon’s Group- 2030 South Tryon Street, Charlotte, requested the two parcels (4.79 acres and a portion of 3.04 acres) currently zoned Residential be rezoned to General Industrial (Conditional District) and would accommodate storage facilities. It would be a phased development; Phase I would consist of five storage buildings and an outdoor storage area. Three storage buildings and an expanded area for outdoor storage would comprise Phase II. A Public Information meeting was held in February and the applicant received no apparent objections or concerns from surrounding owners. The plan would require buffers in the way of trees and fencing. It would be a secured compound and wouldn’t be very visible from Blair Road unless you were to look down the driveway.

Commissioner Ross asked about the one story vacant home on Parcel #137-153-10. Mr. Crutchfield said the plans were still up in the air and the applicant may seek a conditional zoning at a later date. The applicant was seeking to retain residential zoning for the front portion of Parcel #137-153-11; there was a rental residence on the property.

Mayor Biggers asked if the applicant would be bound by the site plan and Mr. Hoard said yes.

There being no public comments, Mayor Biggers closed the Public Hearing on #ZC15-1.

Establish Filing Fees for November 2015 Municipal Election: Mayor Biggers stated the Board must establish a filing fee for candidates running for either Mayor or the Board of Commissioners in accordance with General Statute 163-294.2(e). The filing fee for the last several elections had been five dollars for Mayor and Board of Commissioners.

Commissioner Newton thought five dollars made it too easy for people to “throw their names in the hat”. He felt the fee should be set higher as to encourage candidates that really wanted to serve. Commissioner Austin agreed with Commissioner Newton. The fee ranged from \$25-\$235 for the mayor and \$10-\$182 for the board for other Mecklenburg County municipalities. Commissioner Ross didn’t want to increase the fee too much but she understood wanting candidates to be serious about the election.

Upon the motion of Commissioner Austin, seconded by Commissioner Newton, the Board unanimously approved the Mayoral Filing Fee at \$50 and the Board of Commissioner Filing Fee at \$25.

Public Comments: None.

Presentation by Mint Hill Police Chief Tim Ledford: Chief Ledford thanked the Board for allowing him speak.

Corporal Damir Mahmutovic had been promoted to Sergeant and was named the 2014 Officer of the Year by his peers. Chief Ledford said Sergeant Mahmutovic was unable to attend the meeting due to a conflict in his schedule.

Chief Ledford asked the following officers to come forward to be recognized. Corporal Errol Wedra was promoted to Sergeant. Corporal Billy Gilman was promoted to an acting Sergeant position to fill the place of Sergeant Gainey who was on active deployment.

Officers Justin Neal, Kazimierz Zapadka and Michael Maness were promoted to Corporal.

Chief Ledford presented Officer Jacob Smith with a Certificate of Achievement for a specific call where he exceeded expectations.

Chief Ledford thanked his department for their dedication and diligent work in the community.

Mayor Biggers thanked the officers and the department for the fine job they did. He said the Board received many compliments about the Police Department.

Discussion and Decision on #ZC14-13 Regarding a Public Park Text Amendment: Mr. Hoard told the Board that the Planning Board had sent a favorable recommendation on #ZC14-13 to amend the Unified Development Ordinance (UDO) to allow parks by-right for properties owned by the Town of Mint Hill. He asked the Board if they had any questions.

The Board had a lengthy discussion regarding the notification of adjacent property owners. Mr. Hoard told the Board that if the text amendment was approved it would be the Board's choice on notification but it wouldn't be required. Manager Welch said he expected the Board would notify the adjoining property owners but it would be a policy, not an ordinance, if they accepted the text amendment. He said when the Town designed the park there would be a public meeting and news media would cover the development; the idea was not to duplicate the efforts.

Commissioner Ross said she was interested in notifying the adjoining property owners prior to the purchase. It could be possible that the surrounding owners could object to having a park adjacent to their property. It was her understanding the text amendment would allow the Town to place a park on the property and the adjacent property owners would have no say.

Attorney Bringewatt reminded the Board that negotiations to purchase property were best conducted in Closed Session, as the law gave explicit permission to do so, to ensure the best use of public funds. The final approval of real estate would be done in Open Session. He stated there was no current ordinance or General Statute to require notification of a real estate purchase. The park planning process would have meetings for designs; the text amendment would eliminate the zoning requirement for a park owned by the Town of Mint Hill. Land Acquisition and Rezoning were two different processes. The Board could choose how they wanted to proceed with the text amendment.

The Board agreed the adjacent property owners needed to be notified but still discussed the option of accepting the amendment and creating a policy or staying with the original ordinance. Attorney Bringewatt stated the conditional zoning was fairly formal which takes time and money. It was an odd step when the Board was both the applicant and the decision maker. Attorney Bringewatt didn't feel strongly either way. The Board could deny or approve #ZC14-13.

Commissioner Ross asked if the property on Brief Road was going to be rezoned. Manager Welch said it was dependent on what they decided on the text amendment. She was curious why the property was purchased and an announcement was made that it would be a park. Attorney Bringewatt stated Land Acquisition and Rezoning were two separate processes. The Town purchased property with the intention of it becoming a park. As it stood, when the Town was ready to develop the park then the Town would hire a designer/architect and ask for public input. Once a definitive plan was established then a rezoning would be sought. If the Board was concerned about the transparency to the public; his best advice would be to have meetings outside the zoning process.

Mayor Biggers thought Commissioners Ellington and Ross would like to have public input on the purchase and intended use of property before it was purchased. Commissioner Newton said the problem was the Town would risk an increase in the property price or someone else could buy the property out from under the Town. The General Statute gave the Town permission to negotiate in Closed Session to avoid that scenario.

Commissioner Ellington asked if time was the only thing saved by adopting this text amendment. Commissioner Ross said yes; the Town would eliminate the rezoning process. Attorney

Bringewatt said the Town was the only municipality in Mecklenburg County that would require conditional zoning for a park. It was typically allowed by-right based on information from the County.

Attorney Bringewatt said the Town could have a public meeting, at any time, to discuss what the Town wanted at the property located on Brief Road. In essence a public meeting was held about the property located at 9801 Brief Road in conjunction with the PARTF Grant. He stated the only advice he would give the Board was not to announce it before the Board had it under contract- for a piece of real estate- unless the Board wanted to reduce the ability to negotiate.

Manager Welch said he would be 100% in favor of a policy that required notification of adjacent property owners when the Board votes in Open Session to enter into a contract to purchase a piece of property.

Commissioner Austin made a motion to accept #ZC14-13 and it was seconded by Commissioner Newton. Commissioner Ross preferred to approve the text amendment and policy at the same time. Commissioner Austin withdrew the motion. The Board agreed by consensus to table the discussion and to have Staff to draft a policy for the next meeting.

Discussion of Private Streets and Other Miscellaneous Items: Commissioner Ross said, at a previous Developers' Workshop, the Board had asked Staff to investigate how private streets and/or gated communities were handled in other municipalities. She stated, in the City of Charlotte, it seemed to work well. Commissioner Newton said there were many gated communities in Florida and Charlotte. Commissioner Ross asked if the gated system at the Clear Creek Business Park would be similar. She inquired about the results of the research.

Mr. Hoard said the Cheval Subdivision had asked during a Quarterly Developers' Workshop for input regarding a text amendment to allow private streets and possibly a gate system. At that time, the representative said he would take the public safety concerns of the Board back to the developer and they would be back in contact with Staff. No further research had been conducted by Staff because the applicant did not pursue the matter any further.

Mayor Biggers stated the main concern of the Board was access to emergency services and the liability. Fire and Police often responded to calls for help where a delay could be dangerous. Codes and Gate Openers were mechanism mentioned for accessing the gates. The Board discussed the liability and asked about legal issues that may arise from permitting these streets. Commissioner Ross thought Staff could obtain information from other municipalities.

Manager Welch said the Town would be adding another layer and there would be some unintended consequences along with some measure of liability. If the battery were to die in the Gate Opener then the Town could be mired in a lawsuit because the battery wasn't kept up.

Chief Ledford cautioned the Board about liability. He stated Mint Hill Police Department had trouble accessing the horse barn at Cheval because the key code had been changed. Gated areas were a public safety concern.

Staff was directed to obtain information from other municipalities and provide the Board with additional information at the next meeting.

Other Business/Council Matters: Commissioner Newton attended the Savvy Solutions Grand Opening on February 28, 2015.

Commissioner Ellington attended a Mecklenburg-Union Metropolitan Planning Organization (MUMPO) meeting and the Planning Board meeting. The Planning Board had a lengthy discussion which covered the same concerns but did send a favorable recommendation on #ZC14-13.

Commissioner Ross attended the Mint Hill Volunteer Fire Department meeting, the Biz Expo and “Business After Hours” at Picket and Plume. She encouraged everyone to attend Discover Mint Hill on May 2, 2015. She was concerned about the lack of support for the Arts and Science Council; the annual Chili Cook-off wasn’t held this year and instead only one contribution was made. She encouraged donations to the Arts and Science Council.

Commissioner Austin attended the Biz Expo, the Mint Hill Chamber of Commerce Meeting and was helping with the Lions 5K during Mint Hill Madness.

Closed Session for Attorney-Client Privilege: Upon the motion of Commissioner Ellington, seconded by Commissioner Ross, the Board unanimously agreed to move into closed session.

No announcement was expected.

The Board returned from Closed Session.

Adjournment: Upon the motion of Commissioner Newton, seconded by Commissioner Ross, the Board unanimously agreed that the meeting be adjourned. Mayor Biggers adjourned the meeting at 8:32 p.m.

Michelle Wells Farrar, CMC, Town Clerk