

Fairview Town Council Meeting Minutes
March 12, 2012
7:00 p.m.

The following Council members were present: Mayor Elizabeth Long, B.B. Haigler, Jerry Clontz, Bradley Purser and Arnold Price

Others present: Joe McCullom, Attorney; Darrell Baucom, Finance Officer; Tana McConnaughey, Tax Collector and Ed Humphries, Land Use Administrator and Town Clerk

Agenda Changes

B.B. Haigler asked that a request for funds from Piedmont High School Booster Club be added before the Public Hearing in New Business. Bradley Purser made a motion to approve the amended agenda. Arnold Price seconded the motion. Councilmen Purser, Haigler, Price and Clontz voted yes (4-0).

Several Girl Scouts were in attendance in connection with the Girl Scout 100th Anniversary. Mayor Long read the following proclamation:

KNOW YE ALL BY THESE PRESENTS, GREETING:

Whereas, Girl Scouts of the USA, an American institution since its founding by Juliette Gordon Low, celebrates its one-hundredth birthday on March 12, 2012; and

Whereas, Girl Scouts develops girls and young women of courage, confidence, and character, who make the world a better place; and

Whereas, Girl Scouts empowers girls to lead and provides opportunities in a broad range of endeavors; and

Whereas, Girl Scouts encourages girls and young women to live lives of honesty, fairness, caring, and service to others and to their local and global communities; and

Whereas, Girl Scouts builds girls and young women with respect for themselves and others and the desire for the development of their fullest human potential; and

Whereas, Girl Scouts forms bonds between girls, their peers, and adults that will shape their futures and creates memories that will last a lifetime; and

Whereas, Girl Scouts teaches girls to be responsible stewards of the environment and lead efforts to improve our land, air, and water; and

Whereas, Girl Scouts has positively influenced the lives of more than 50 million girls and young women since its founding,

Now, therefore, be it resolved that the Town of Fairview,
North Carolina, observes MARCH 12th, 2012 as
GIRL SCOUTS APPRECIATION DAY.

Mayor

President, Town Council

Public Comments

None

Reports

Darrell Baucom gave the financial report. Tana McConnaughey gave the tax report. Ed Humphries explained the zoning report.

Old Business

Consider membership in the NC Debt 'Setoff' Program:

Tana McConnaughey explained the program. The NCLM offers the program which collects past due accounts from cities and counties with state tax returns. Fairview has approximately \$5,000 which could be submitted for collection.

Arnold Price made the following motion: Adopt the Memorandum of Understanding and Agreement – NC Local Government Debt Setoff Clearinghouse Program and authorize the Mayor to sign the agreement; authorize Tana McConnaughey and Ed Humphries to complete the 2012 Annual Participation Form; and appoint Ed Humphries, Town Clerk, as the Fairview Hearing Officer for appeals.

Bradley Purser seconded the motion. Councilmen Purser, Clontz, Haigler and Price voted yes (4-0).

New Business

Request for funds – Piedmont High School Booster Club:

Joey Gamble, Booster Club president, requested from the Council \$4,500 in order to replace a stolen Club Car vehicle that was used by the school. The Booster Club would like to replace the vehicle with a 2008 Club Car Turf 2 with the price of \$4499.51.

Mayor Long stated that the Town should not fund this request because it did not follow the State Statute Requirement for Public Purpose. She read the statement below:

From North Carolina Constitution:

Article V - Finance, Section 2 - State and local taxation:

"1) Power of taxation. The power of taxation shall be exercised in a just and equitable manner, **for public purposes only**, and shall never be surrendered, suspended, or contracted away

(5) Purposes of property tax. The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon."

She then quoted from information sent to her from Institute of Government:

"Use of Tax Funds. Under the NC Constitution, taxes may only be levied and public monies appropriated for a public purpose. NC Const. Art. 5, Sec. 2. Generally, a public purpose refers to expenditures that are exercised for the benefit and welfare of the persons in the jurisdiction. According to the School of Government publication, County and Municipal Government in North Carolina, Chapter 14, The Property Tax, *"...a city or county wishing to pay for a program, function, or activity with property tax revenues must ensure that the program, function, or activity serves a public purpose. This analysis requires more than simply determining whether the expenditure somehow benefits more than a limited segment of the community. A public benefit that is merely incidental to a principal benefit for a private party does not satisfy the public purpose test."*

B.B. Haigler made a motion to grant the request for \$4,500 to Piedmont High School Booster Club for a 2008 Club Car Turf 2. Bradley Purser seconded the motion. Councilmen Haigler, Purser and Price voted yes. Jerry Clontz voted no, stating the amount of the grant was too high. The vote passed was 3-1.

Public Hearing

Mayor Long opened the first of four Public Hearings.

First Public Hearing: Request by Anthony Taggio

A request by **Anthony Taggio** for a **Conditional Use Permit (Permit # CUP 11-050)** to build a kennel/boarding facility for dogs on approx two acres of parcel # 08192011C. Property is located at: 401 Clontz Long Road Monroe 28110

Ed Humphries explained that this procedure is ***Quasi-Judicial*** and the request is permitted in residential zones with a CUP (Conditional Use Permit). The Planning Board met and recommended the request with the following conditions: (vote of PB was 6-1)

Conditions for Kennel/Boarding Facility: Taggio

1. Kennel will house up to 20 dogs on approx 2 acres
2. Facility will be 1,560 sq ft in size with required parking. (8 spaces)
3. Facility will have a public restroom and will have Heat and Air.
4. The facility will be insulated for noise control
5. The facility will have its own well and Septic tank.
All waste will be put into a dumpster and be removed weekly
6. A 6' fence will be installed around the facility to keep dogs in a specific area and to keep unwanted animals out.
7. The business will not accept aggressive animals to be boarded.
8. Will plant bushes and shrubs surrounding the property to help minimize the noise but also to add beauty to the property
- 9 Hours of operation will be Monday-Saturday from 7:00am to 7:00pm
10. Sundays will be by appointment only to pick or drop off animals.
11. Sign will be installed according to Fairview Ordinance (see attached design)
12. All State and County requirements and or licenses will be obtained and maintained.

Humphries swore in two people who wanted to speak concerning the application.

Mr. Taggio stated he has wanted to do this for some time and thinks there is a need for this service in the community. Mr. Taggio submitted signatures of eight surrounding property owners to the Clerk for the record. Julie DeSmith spoke in support of the kennel. She has owned a kennel in Indian Trail (now closed) and plans to advise Mr. Taggio.

Joe McCullom (Town Attorney) asked the applicant if he thought the kennel use would endanger the public health and safety of the surrounding property owners. Mr. Taggio stated "No".

Mayor Long closed the Public Hearing.

The Council addressed the Facts of Finding:

1. Jerry Clontz made a motion that the conditional use would not endanger the public health or safety due to the removal of waste, and the applicant would not accept dangerous dogs. Arnold Price seconded the motion. Councilmen Clontz, Price, Haigler and Purser voted yes (4-0).
2. Jerry Clontz made a motion that the conditional use permit would not substantially injure the value of adjoining or abutting property due to eight surrounding property owners' support of the use and location of the building. Bradley Purser seconded the motion. Councilmen Purser, Haigler, Price and Clontz voted yes (4-0).
3. B.B. Haigler made a motion that the proposed Conditional Use Permit would be in harmony with the area in which it is to be located because of the commercial operations in the area. Arnold Price seconded the motion. Councilmen Price, Haigler, Clontz and Purser voted yes (4-0).

4. Arnold Price made a motion that the proposed Conditional Use Permit would be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan because of the conditions on the request. Councilmen Haigler, Price, Purser and Clontz voted yes (4-0).

Decision on CUP-11-050

Jerry Clontz made a motion to approve the Permit #CUP-11-050 with the conditions below:

Conditions for Kennel/Boarding Facility: Taggio

1. Kennel will house up to 20 dogs on approx 2 acres
2. Facility will be 1,560 sq ft in size with required parking. (8 spaces)
3. Facility will have a public restroom and will have Heat and Air.
4. The facility will be insulated for noise control
5. The facility will have its own well and Septic tank.
All waste will be put into a dumpster and be removed weekly
6. A 6' fence will be installed around the facility to keep dogs in a specific area and to keep unwanted animals out.
7. The business will not accept aggressive animals to be boarded.
8. Will plant bushes and shrubs surrounding the property to help minimize the noise but also to add beauty to the property
- 9 Hours of operation will be Monday-Saturday from 7:00am to 7:00pm
10. Sundays will be by appointment only to pick or drop off animals.
11. Sign will be installed according to Fairview Ordinance (see attached design)
12. All State and County requirements and or licenses will be obtained and maintained.

And with the following statement:

The proposed zoning amendment under consideration **IS** found to be reasonable and consistent with the recommendations of the Town's adopted comprehensive plan, the Town of Fairview Land Use Plan(Revised September 13, 2010), and the Town of Fairview Land Use Ordinance (effective July 1, 2005)

B.B. Haigler seconded the motion. Councilmen Clontz, Haigler, Price and Purser voted yes (4-0).

Mayor Long opened the Second Public Hearing:

Text Amendment #TC 11-054 adding to Section 102 (e):

Notice shall be given to neighboring property owners by mailing a written notice to any property, any portion of which is located within 500 feet of the lot that is subject to the requested rezoning. The address used will be obtained from Union County's tax parcel mailing address listing on the County's tax GIS system. The notice will be mailed not later than 10 days before the hearing.

Ed Humphries explained the Text Amendment.

Hearing no public comments, Mayor Long closed the Public Hearing.

Jerry Clontz made a motion to approve the Text Amendment #TC-11-054 and to include the following statement:

The proposed zoning amendment under consideration **IS** found to be reasonable and consistent with the recommendations of the Town's adopted comprehensive plan, the Town of Fairview Land Use Plan(Revised September 13, 2010), and the Town of Fairview Land Use Ordinance (effective July 1, 2005)

Arnold Price seconded the motion. Councilmen Clontz, Price, Haigler and Purser voted yes (4-0).

Mayor Long opened the Third Public Hearing.

Text Amendment #TC-12-005, Section 180 O Wind Energy Facilities

Ed Humphries explained the Text Amendment. This amendment would regulate Wind Energy facilities in Fairview.

Hearing no public comment, Mayor Long closed the Public Hearing.

B.B. Haigler made a motion to approve Text Amendment #TC-12-005 to include the following statement:

The proposed zoning amendment under consideration **IS** found to be reasonable and consistent with the recommendations of the Town's adopted comprehensive plan, the Town of Fairview Land Use Plan(Revised September 13, 2010), and the Town of Fairview Land Use Ordinance (effective July 1, 2005)

Arnold Price seconded the motion. Councilmen Price, Haigler, Clontz and Purser voted yes (4-0).

Mayor Long opened the Fourth Public Hearing.

Text Amendment #TC-12-006, Section 180 P Solar Energy Facilities

Ed Humphries explained the Text Amendment. This amendment would regulate Solar Energy Facilities in a farm use or residential use.

Hearing no public comment, Mayor Long closed the Public Hearing.

Arnold Price made a motion to approve Text Amendment #TC-12-006, Solar Energy Facilities and to include the following statement:

The proposed zoning amendment under consideration **IS** found to be reasonable and consistent with the recommendations of the Town's adopted comprehensive plan, the Town of Fairview Land Use Plan(Revised September 13, 2010), and the Town of Fairview Land Use Ordinance (effective July 1, 2005)

Bradley Purser seconded the motion. Councilmen Clontz, Haigler, Price and Purser voted yes (4-0).

Council Comments

Jerry Clontz stated that he and Arnold Price attended a class for newly elected officials. One thing he would like for the Council to consider is a "Council Retreat" or "Planning Session" to discuss future plans that the Council would like to achieve.

The Council thought it would be a good idea. Mayor Long suggested that ordinances and policy procedures could also be discussed.

Mayor Long stated that she wanted the Town to meet with Cindy Coto, Union County Manager, and Public Works of Union County to receive water and sewer plans (5 year CIP) in the near future.

B.B. Haigler indicated that he would like to see the Planning Board hear the Public Hearing on all rezoning before they gave a recommendation. Humphries (Land Use Administrator) stated that this would require two meetings a month for the Planning Board.

Jerry Clontz stated he is still working on the sign for the front of the building. He will bring this back to Council next month.

Mayor Long explained the Town's purchase contract for 17 acres located behind the Fire Department was signed by both parties. The attorney will close and record.

Jerry Clontz made a motion to adjourn. B.B. Haigler seconded the motion. Councilmen Haigler, Clontz, Price and Purser voted yes (4-0).

Respectfully submitted,

Ed Humphries
Town Clerk

Elizabeth Long
Mayor

Approved this 9th day of April, 2012.