

ERWIN BOARD OF COMMISSIONERS
REGULAR MINUTES
NOVEMBER 6, 2014
ERWIN, NORTH CAROLINA

The Board of Commissioners for the Town of Erwin with Mayor Patsy Carson presiding, held its Regular Meeting in the Town Hall on Thursday, November 6, 2014 at 7:00 P. M. in Erwin, North Carolina.

Board Members present were: Commissioners William Turnage, Ricky Blackmon, Randy Baker, Frankie Ballard, Thurman Whitman, and Alvester McKoy.

Town Manager Richard Douglas, Town Clerk Cynthia Patterson and Town Attorney Mac Hunter were present.

Mayor Patsy Carson called the meeting to order at 7:00 P. M.

Commissioner McKoy gave the invocation.

Those present recited the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Whitman made a motion to approve the agenda as is and was seconded by Commissioner Turnage. The Board voted unanimously.

CONSENT ITEMS

Commissioner Blackmon made a motion to approve (**Item A**) Approval of Regular Minutes of 10/02/14, (**Item B**) Financial Report Summary for September 2014, (**Item C**) 2015-2020 Capital Improvement Plan and (**Item D**) NC Governor's Highway Safety Program Local Government Resolution and was seconded by Commissioner Turnage. The Board voted unanimously.

(Page 7903 A-F)

RECOGNITION OF CITIZEN OF THE MONTH

Mayor Carson presented the plaque to Mr. Michael Edward Hall for November 2014 Citizen of the Month. Mr. Michael Edward Hall has been a Life Long Resident of Erwin. He is a member of South Erwin Baptist Church and serves as a Deacon, Youth Director and Leader for grades 6-12. He has taught Sunday school and sings in a Gospel Music Group known as Won 4 Christ. He is employed with NC Department of Public Safety/Facility Services for Adult Correction and Juvenile Justice and has been with them for 28 ½ years. He is currently a Facility Maintenance Manager. He received the Supervisor of the Year award in 2007 and received a degree in Energy Management at NC State University in June 2013.

(Page 7903 G)

Mayor Carson also recognized Erwin Police Chief Bill Morris for his completion of Executive Development from NC Justice Academy in October.

MINUTES CONTINUED FROM NOVEMBER 6, 2014**PUBLIC HEARING**

Commissioner Ballard made a motion to open the public hearing at 7:08pm and was seconded by Commissioner Turnage. The Board voted unanimously.

**ZCD-2014-001 AND CU-2014-006, 124 DON RON ROAD CONDITIONAL USE
DISTRICT REZONING TO REZONE FROM R-15 TO M-1 (CD) AND
CONDITIONAL USE PERMIT APPLICATION FOR MANUFACTURING,
ASSEMBLY, AND PROCESSING, WAREHOUSE AND TRANSFER ACTIVITIES
AND OUTDOOR STORAGE**

Town Manager Richard Douglas informed the Board and audience that this will be a hearing for a rezoning application and will be a quasi-judicial hearing and all persons presenting evidence must swear or affirm their testimony.

Manager and members of the audience came forward and stated the oath.

Mr. Douglas informed the board that a protest petition has been filed which means a $\frac{3}{4}$ vote would be required from the board in order for this item to be approved.

Applicants Donald T. Bain and Joseph S. Bain have submitted applications (ZCD-2014-001 and CU-2014-006) to rezone the approximate 2.5 ac. tract at 124 Don Ron Rd. (PIN 1506-09-5578.000) from R-15 Residential to M-1(CD) Industrial (Conditional Use District). The property owner is First Federal Bank. The parcel is the site of the former Malthouse Appleworks School and has been vacant for more than 1 year.

The Harnett County tax appraisal card lists the existing building type as a prefab warehouse with the tax value associated with a warehouse/industrial use. The existing building area is noted as 6,548 sf and built in 1973.

The property is surrounded on all sides by parcels zoned R-15 Residential. Immediate surrounding land uses include residential homes interspersed with some agricultural areas.

In the application for ZCD-2014-001 Exhibit A, the applicants for this M-1(CD) district for 124 Don Ron Rd., PIN 1506-09-5578.000 have proposed:

Conditional uses:

1. Manufacturing, assembly and processing
2. Warehouse and transfer activities
3. Outdoor storage (includes a note that this use will be within the confines of the fenced-in area located behind the current building)

Exhibit A also lists the hours of operation as Monday-Friday from 6AM to 7 PM and some Saturdays from 7 AM to 3 PM.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

The **Future Land Use Map** designates this area as “Medium Intensity”. For the land use goal in the *Town of Erwin, NC Land Use Plan*, it describes the strategy for medium intensity as:

The medium intensity land use classification is primarily intended for medium to high density mixed residential uses in close proximity to the town’s core or major corridors. This classification may also include some low impact neighborhood business, government, or institutional uses that serve the immediate needs of the residents in the area. The existing mill village surrounding the downtown is an example of medium intensity development.

Zoning Ordinance:

Section 9-4034 Parallel Conditional Use District of the Town’s Zoning Ordinance

- Is described as a “...voluntary alternative procedure for the rezoning of a property for a specified purpose. A broad range of uses are permitted in each general (i.e., conventional) zoning district. However, there are instances where a general zoning district designation is clearly inappropriate for a certain property, but a specific use permitted under that district and subject to restrictive conditions would be consistent with the spirit and objectives of this Ordinance. Parallel conditional use districts, herein established, are intended to accommodate such situations.” The intent is to provide workable uses of property and requires firm plans to develop.
- In considering this application, due regard shall be given “...that the purpose and intent of this Ordinance be served, public health, safety and welfare secured and substantial justice be done.” The Board shall consider and evaluate “...the location, nature and extent of the proposed use and its relation to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, and such other matters...” as the Board may find appropriate or the applicant may propose.
- *In approving an application for the establishment of a parallel conditional zoning district, the Town Board of Commissioners shall have considered that the proposed district:*
 - *Is consistent with the spirit and intent of this section; and,*
 - *Is compatible with existing and probable future adjacent land uses and will contribute to a desirable overall development pattern for the area involved; and,*
 - *Provides for safe and adequate access to the public street system without causing undue congestion or placing excessive traffic loads on local streets.*

In the M-1 Industrial classification, *Section 9-4031.4 Condition Uses*, 8. describes the following conditional use:

- Outdoor storage (see definition) provided that in the interest of safety to children and adjacent property, outdoor storage areas shall be encompassed by a wall, at least six (6) feet high, or a fence and buffer strip approved by the Planning Board.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

The business and industrial classifications also include references to compliance with the Buffers, Off-street parking and loading, Signs, Lights, and General Provisions sections of the Zoning Ordinance.

Staff Comments to Planning Board on ZCD-2014-001 and CU-2014-006:

- The proposed use “*Manufacturing, assembly and processing*” allows for a very broad spectrum of possibilities.
 - Exhibit A, 1. 1. describes the Bain’s business as “*The production, storage, installation and servicing of vinyl graphics, commercial building exterior slat wall panels, signage and commercial lighting.*” It further describes the functions of warehouse, transfer activities, and outdoor storage.
- Staff notes that Exhibit A. 2. paragraph 2, states “**If and when** the Bains should expand the building...” Per Section 9-4034.3, the parallel conditional district text states:
 - Since the intent of this type of zoning is to provide for workable uses of property, it is intended that land will be zoned in accordance with firm plans to develop. Therefore, one year from the date of approval, the Planning Board shall examine progress made to develop in accordance with approved plans to determine if active efforts to so develop are proceeding, and a report shall be forwarded to the Town Board of Commissioners which may recommend that action be taken to remove the conditional approval.
 - Section 9-4034.1, 10. states that “proposed phasing, if any, and approximate completion time of the project” shall be stated on site plan and/or in the written text.
- The site plan states there are 8 parking spaces.
 - Required parking spaces = 7
 - Exhibit A states that currently there are 4 employees and 3 service trucks.
 - Exhibit A states that proposed they anticipate 8 employees and 6 service trucks with trailers.
 - Total required parking for proposed business = 14 parking spaces
 - Site plan does not indicate a location for an additional 6 required parking spaces.
- Staff has concerns about the hours of operation stated in Exhibit A as Monday-Friday from 6AM to 7 PM and some Saturdays from 7 AM to 3 PM.
 - 124 Don Ron Rd. is surrounded on all sides by R-15 Residential zoning. The building and lot are in close proximity to the existing developed lots of Quail Run, Warren Bros. Oil, and Colonial Mills subdivisions.
- As required by Section 9-4034.1, the application includes a site plan. The site plan depicts a proposed 40’ x 50’ building addition and a proposed 40’ x 60’ storage shed.
 - If either of the proposed structures is to be phased, the applicant needs to provide a written description with an approximate completion time.
- Fence and buffer
 - The existing privacy fence is shown from the rear of the building to the approximate rear property line. This could be considered part of a buffer or screen.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

- The existing chain link fence is shown along a portion of the rear and a portion of the eastern property lines. This is not considered a buffer or a screen.
- There is an existing 3,281 SF single-family dwelling zoned R-15 Residential behind 124 Don Ron Rd.
 - Based on various sections of the Zoning Ordinance, it appears the intent of the ordinance is to buffer/screen nonresidential uses from residential uses or zoning.

Mr. Douglas pointed out the process on this matter. There are four actions to be considered on this. Even though this is one hearing they are two separate actions which is to rezone the property and a conditional use permit. After the hearing is closed the board will go through the seven Findings of Facts for the rezoning. If you find those in the affirmative then the board will vote on the rezoning. At the conclusion the board would consider the Findings of Facts for the conditional use permit which will determine the hours of operation. If the board finds those in affirmative then the board will vote on the conditional use permit, if the board does not find the rezoning in affirmative then this will end the process.

Mr. Douglas then went through the conditions from staff. They are as follows:

1. The use “Manufacturing, assembly and processing” be amended to **“Manufacturing, assembly and processing limited to assembly maintenance and repair of signs”**.
 - a. After comments from neighbors, staff also recommends that **“limited to assembly maintenance and repair of signs” be added to the uses 2) warehouse and transfer activities and 3) outdoor storage...**
2. Includes, by default, the verbiage in Section 9-4031 M-1 Industrial for Dimensional requirements, Buffers, Off-street parking and loading, Signs, Lights, and General Provisions.
3. **No phasing for expansion.** Revise Exhibit A and site plan accordingly by removing building expansion, keep shed.
4. The hours of operation be limited to:
 - a. 6:00 am to **6:00** pm Monday-Friday
 - b. **8:00** am to 3:00 pm on Saturdays.
5. The use Outdoor Storage shall include the verbiage:
 - a. Outdoor storage (see definition) provided that in the interest of safety to children and adjacent property, outdoor storage areas shall be encompassed by a **6’ privacy fence with landscape buffer.**
6. After comments from neighbors, staff also recommends that **All outdoor lighting shall be down lighting with low glare and directed away from all residential uses and areas zoned residential.**
7. Revise site plan accordingly.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

Mayor Carson asked if anyone would like to speak in favor of the rezoning application to please come forward.

Attorney Dwight Snow who represents the applicants in this case came forward and addressed the Board. Mr. Snow stated the oath at the beginning of this public hearing. The property is 2.5 acre track and is titled in the name of First Federal Bank. They came to ownership of this property after the Malthouse Appleworks School which had some tough times and didn't meet some obligations and moved her operations and that is why the property foreclosed. First Federal Bank has owned this property since 2013. They have been trying to find a commercial business that will work not for the property but would work for the community. Donald Bain and his son Joseph operates a small family business out of the Eastover area just like the Town Manager mentioned. They have been in business for over 26 years at which Donald Bain has managed all these years and now his son Joseph will take over. It's a small business with only 4 employees counting the 2 of them; the expansion plans at most will have 6-8 employees if things go well in the future. As far as their business, they are in a specific business which is very good for them. They go in on commercial businesses and redo the outside of signs and what we call slap panels. Best examples are the new Taco Bell in Lillington which used to be a Kentucky Fried Chicken, when that business was converted, the outside slats were replaced and that's what they do. The lighting, signage and those slats is what they do and have done it for Taco Bell, Golden Coral and several other businesses. They are headquartered in Eastover and 90% of their business is out of Wake County. They would like to move closer to Wake County and that is why they are proposing Harnett County. Normally if you would look at this situation seeing a commercial business in the middle of a residential area, your first thought would be its spot zoning and illegal and shouldn't be done. The key is, you have to look at the history on this which it's commercial business that have been here a long time. Don Davis built this building back in 1973 and a majority of the houses there now did not exist. He built it for his government contracting business and operated which was mainly food service for many many years and when he got out of business he tried to sell or lease at which Charter Communications and Malthouse Appleworks School has operated from there. First Federal Bank is trying to market the property and do something with it because it has been empty and is a nonconforming use because it has been out of the school business for over a year and looking for something valuable for the owner and neighborhood and also the Town of Erwin. We feel like the why your zoning ordinance is structured; you have the perfect scenario to handle this with your parent parallel conditional use zoning. We do not have this in the Harnett County zoning ordinance parallel conditional districting like the Town of Erwin and to have this I commend both Staff and the Board for having this in your ordinance because it helps in situations like this. If this property was out in the County it would almost be impossible to get it rezoned to meet this criterial. Kathy Blake has worked with us well and also Richard Douglas and I think their proposal that you see here that went before your Planning Board at their last meeting are good proposals but I will say this if you look at page 30 of your packet, that list the recommendations that Richard just gave you, below that is the

MINUTES CONTINUED FROM NOVEMBER 6, 2014

Planning Board recommendations. My client is happy and satisfied with the Planning Board recommendations, has some task with what the Staff came up with but not enough to end the whole deal so to speak. The operations hours are always a big thing and when the application was made, my client was asking for Monday thru Friday from 6am to 7pm. The office if and when he has an office staff that will staff that office, the office hours will be from 8am to 5pm. The reason for this was for the nature of the business. The 4 employees they have now and 3 truck crews they have, they will come in early in the morning load up their material and they are gone all day and then late at night they will come back in. The latest would be 7pm just leaving this outside time for having the trucks come in. We have heard complaints from the public saying when Charter Communications had their trucks out there, they would come in at 9pm up 12pm and waking up the neighborhood. That's Charter communications and it's nature for that business. Not will have that here with the Bain's. As Mr. Douglas stated, the one addition to the building to expand the footprint of the current business is being taken off the applications because he wasn't going to do this for 5 years anyway. The other point is the main difference between the recommendations is the fence situation. A few of the Board Members have been taken to the site by Mr. Douglas to look at this site. The back area behind the building there is a fenced in area where Don Davis and his assessors basically used it for storage purposes that type of thing. On one side, is a wooden fence and back side and side of Don Davis resident a 6ft chain link fence. Recommendations from Staff was a privacy fence all the way around whether a wooden fence all the way around or chain link fence indent it 6ft toper and put vegetation on the outside which is what you usually see in this situation. The Planning Board heard this and was satisfied with that. This was before public comments. As far as the lighting, my client has no problem with this. The key to this is, they would like to be good neighbors. This is a very good opportunity for them and for First Federal Bank. We understand that we are in the middle of a neighborhood and understand there are houses across the road and understand there is a house behind us and one or two houses on the side. We will respect these neighbors and would like to hear their concerns and will do anything we can as far as conditions the Board will place on us to confirm to their concerns. If you have any questions now that might respond to questions that we will hear anyway, I have Mr. Bain and his son and Mr. Jones from First Federal Bank who has been sworn in ready to answer.

Mayor Carson asked if anyone would like to speak against the rezoning application to please come forward.

Ken Royal of 95 Don Ron Road came forward and addressed the Board he stated the oath at the beginning of this public hearing. Mr. Royal stated that he lives directly across from the proposed site. He has lived in this neighborhood for 26 years and wanted to respond to something that Attorney Snow said. When there were very few homes in this area, Mr. Snow related like this was one business with 3 little houses around it. That is a large neighborhood. Nicole Drive is behind us with beautiful homes and Mr. Royal does not get that point. Only seven homeowners were notified of this notice, that

MINUTES CONTINUED FROM NOVEMBER 6, 2014

neighborhood is much larger than those seven homes. Mr. Royal is shocked that the Board of Commissioners is even considering the rezoning in this area. When Mr. Royal built in 1988, I was one of the first families to build on this street and I thought that Mr. Snow also said that all of these homes had been there forever. That building was there way before all those homes were built, Colonial Mills on Nicole Drive was not even there. We always had a quiet thriving neighborhood the residents get out and walk the dogs, golf carts with children playing with very little traffic and just unreasoning for me to even consider this. Do not think that this business should be in a residential zoned area. It's a quiet peaceful neighborhood. Mr. Royal thinks the Board of Commissioners is thinking tax revenue from this one business and disregarding the property taxes that we citizens pay in our area. Even Don Davis who was the original owner of the property opposes this rezoning, that should make a statement right there. Mr. Royals feels like that there are valuable properties in this area and I don't think that the homeowners would have invested in them if there were a chance that our neighborhood could be affected by the Bain's business proposal including long working hours Monday thru Saturday and possible growth. The Bain's are saying they do not want to grow now but they are not saying we will never grow. You will get them into my neighborhood and then 5 years they revisit and the Board grants it. We as property owners in that area try to do our part and support the Town of Erwin with our property taxes and I think we all agree that we pay high water bills so we do our part with the revenue of Erwin. A few years ago I came to the Town and requested a permit to build an outside storage unit for my house and the request was denied until I provided proper paperwork. Had to be a detailed drawing dimensions almost like an architect design before the Board would finally approve it and was approved and is on my property and looks great, however I was denied request for an outside building yet the Board of Commissioners are considering an adjacent property and rezoning it for commercial use. It makes no sense at all. My question is should the residents of Erwin concerns be addressed before an applicant from another County not even in our County, should their concerns be addressed before the residents of our neighborhood. This will completely disrupt a perfectly functionally neighborhood. Mr. Royal called Mr. Douglas and spoke with him about receiving my notice. I asked him would he like a business of this magnitude in his neighborhood and he said no. So the Town Manager does not want it in his neighborhood but he wants it in my neighborhood. So let the voices in our neighborhood be heard, we don't want a decrease in our property value and I think rezoning would decrease our property value. I don't think the Board of Commissioners would want a property decrease in their property value. In the application the Bain's say they want to improve the appearance of 124 Don Ron Road. Mr. Royal said this building has looked the same for 26 years he has lived there. I see no change in it. He does not remember Charter Communications being out there. As for Malthouse Appleworks School that kind of slid in, doesn't know how that got passed. Mr. Royal does not know but it's not our neighborhoods fault Mrs. Malthouse went into bankruptcy therefore put this property in jeopardy and First Federal is trying to move this property to regroup and get back their investments they have in it and they're pursuing it. This

MINUTES CONTINUED FROM NOVEMBER 6, 2014

is a residential area. There is no place for that business in my neighborhood. So Board members please consider not only Don Ron Road but we have Raiford Road and Warren Road as well. Right now the traffic flow is very limited and this business will cause more traffic. We keep our homes beautiful manicured, we're tax paying citizens and we just would like to maintain the neighborhood. Just like all of you are proud of your neighborhood, we would like to do the same. I reached out to Mr. Snow and a representative of First Federal Bank and neither one of them would return my call. I don't know if it was conflict of interest to not return my call but I reached out because I wanted all this resolved. This is not who I am but I have to stand up for my property. I also visited Eastover and saw the business. It's in a residential area like ours. Is this where they stay, has their community asked them to leave, it's a beautiful neighborhood and it looks out of place there. So I feel it will look out of place on Don Ron Road. The Planning Board made recommendations before us homeowners even saw this. We should have been given more notice to do research. I have done the best I can in the two week notice I was given. I feel like the neighborhood of Don Ron Road and surrounding areas should have been notified about the Planning Board, we could have been involved in that, but were not. Went through Planning Board and approved and now moved on to this meeting tonight. It seems shady like you are moving too fast, again First Federal Bank is trying to move this property because they are tired of holding this lein and I'm so against this. What about the 18-wheelers? Where are they going to turn around? They have an easement beside the property, where is a 18-wheeler going to turn around? I have lived here 26 years; I know what it looks like. So my view is that the 18-wheeler is going to block Don Ron Road while they unload and it may take hours as Mr. Snow or someone said earlier. This road is very narrow. If he wants to be closer to Wake County why come to Harnett County. If he likes Erwin so well why don't we try to revitalize the Town of Erwin? Look at the vacant businesses in Erwin, would be a great opportunity for the Bain's why not purse that adventure instead of focusing on an area that the residents are strongly against and proud of their neighborhood and still maintain that integrity. Thank you for your time.

Amy Hamby of 72 Don Ron Road came forward and addressed the Board and stated the oath at the beginning of this public hearing. Mrs. Hamby has lived there for 17 years. It is with humble conviction and great compassion that I do stand before you and urge you to listen to our voices as we consider this rezoning and protest petition and in fact all except for one homeowner signed the protest petition. We did submit it in a timely matter as requirements of the Town. We ask that you consider our protest petition and we ask that you deny this proposed rezoning and consider heavily the concerns you are hearing from Mr. Royal's and myself as I do my best to articulate the concerns of our neighbors. I would share I had some conversation with the Town and appreciative for Ms. Blake who tried to help me understand as a late person the zoning ordinances and what the application meant. I have tried to do some homework myself. I think Mr. Snow gave us a good summary even though I try to summarize some of that myself from viewing the application and planning board recommendations. I met with Mr. Douglas and Ms. Blake and they were very helpful and I do appreciate that.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

Things that I think I'm most concerned with, this rezoning does propose sufficient safety risk related to what we are afraid of, the delivering traffic and truck traffic. I do not stand here in any manner to discredit Mr. Bain and his son and their desire to pursue thriving and growing business. We all want this for ourselves. I believe and understand that the expansion will be requested in the future. If that business grows then I plan on living on Don Ron Road my children has been there all of their lives, they love it, they love their neighbors and other children. If that business grows our concern is the heavy traffic the truck traffic the delivery traffic, 18-wheeler traffic will increase. So please I'm not here for any disrespect we ask that an impact study be done on the traffic pattern of current and projective traffic if this rezoning occurs. There should have been an impact study done. How will the trucks gain access to Don Ron Road, how will they enter and exit the property. The intent is to grow and we certainly believe in that but our neighborhood is not a place for this business or any business. We love our neighborhood and do not want to sacrifice unnecessary noise and traffic. We have no sidewalks on Don Ron Road and our children love to play together, ride bikes and we don't want this disruption. We are tax paying citizens and very proud of our homes and we are very proud of the Town of Erwin and been here 20 years and proud to say that I have enjoyed every minute that I have lived here. We fear though the impact of this rezoning would actually decrease our property value and we are concerned that the planning board actually wants to extend the hours of operation. However 6am in the morning is important to me if I don't have to get up and go to work that early I don't really want to hear that traffic I live right beside it. The weekends on Saturday, I work hard we come home our neighbors come home the business activity on the weekend to me is not something that we are receiving very well nor do we want to disrupt our lives. I have been told and when I talk with the Town, Mr. Douglas shared the restrictions as much talked about with the buffering and the fencing and all those things that we think are perfectly fine those would certainly be things absolutely want to see happen if this rezoning happens however even with that I have also been told that nobody will monitor the compliance of the restrictions. So what happens if the hours extend, what happens if the fence grows up and landscaping goes down, I'm not saying this will happen but we all know things happen sometimes. Why wouldn't we have a public hearing during a planning board meeting that is so important to us this topic should be important to the Town for a lot of reasons. We would have liked an opportunity to look at the application further to learn more about the zoning ordinance to make ourselves prepared so we can get here speak to you about evidence and research. We have not had that time to do that. So I just question that in the future perhaps that would be the best way to handle these kinds of zoning and rezoning issues when you are dealing with neighborhoods. We questioned that after all of our questions are heard that you all will absolutely confident and trust that you have done everything you need to do as a board to have evidence you need to either approve or deny this rezoning. We trust that in you. I do not believe this rezoning will be desirable to public convenience or welfare, rather believes it would be beneficial to the business owner. I further move that the integrity character and lively hood of our

MINUTES CONTINUED FROM NOVEMBER 6, 2014

neighborhood will be forever comprised. I stand before you tonight once again not to discredit the Bain's, First Federal Bank or anyone in their attempts to grow their businesses or what they need to do but to challenge you to fulfill your duties as an elective official to protect the public safety and welfare and insure that justice be done. As citizens we trust you to do that. In the deliberations I ask that you understand and remember that we are not just residents living in structures we are neighbors living in homes in a lovely neighborhood that is peaceful and we love it, please do not jeopardize that. Thank you for your time tonight.

Commissioner Baker had some questions for Ken Royals and Amy Hamby. What I'm searching for from you are some things that you would feel are detrimental. I'm not implying that this will be approved or denied just asking for some of the things that you are concerned with such as traffic and noise. Are there any conditions that the neighborhood feels like if this business were to be allowed to go in there that some of the conditions you as a neighbor would like see placed on this not looking at what staff has done or are there any conditions or just plain out right not enough conditions that would make it work?

Mrs. Hamby stated as earlier I don't feel like we had enough time to researched this as much as I would have liked too. So I have spoken to you from the heart however after speaking with others in the neighborhood, our solution is not have the rezoning to occur. If for some reason you vote otherwise then indeed we would want stricter conditions. I think the hours of operation are not appropriate.

Commissioner Turnage asked if the traffic was the main issue. Mrs. Hamby stated it was the safety with traffic and also did not have time but the property value whether or not the property value will decrease or not. If you all feel like we need to have more information or more evidence for you would there be an opportunity for us for this vote to be tabled until next month. Do you need more from us? We feel like we have presented from the heart of what knowledge we have and believe it is for the best of the community so we would like to give you what you need. Leave our homes and neighborhood as is as a residential neighborhood.

Commissioner Turnage asked would there be any options that would comprise or are you dead set that you just don't want it there. Mr. Royal stated that we are not a sign business someone said that it was not a sign business, Mrs. Hamby and I have done our best with a 10 day notice. If it was a small office space with a few employees with low traffic flow we would not have a problem with it. However Mr. Royal stated that he has visited the business in Eastover and saw the property in question where they are now. Trucks with buckets trailer and was a little junky for my taste and neighborhood in my opinion I know they are doing the best that they can. We are in Erwin and in the city limits with lovely homes and well-kept neighborhood and extremely high property taxes just not conclusive to have a business of that nature in a neighborhood that has been zoned all residential for years.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

Donald Bain, the applicant for this business came forward and addressed the Board and stated the oath at the beginning of this public hearing. Mr. Bain stated that his son Joseph has lived in Erwin for 5 years and currently lives at 503 West B. Street. He was also employed by Harnett County for 5-7 years as EMS before he decided to go back to school fulltime to complete his bachelor degree. We were not recruited by First Federal Bank. They turned the property over to a realtor and they posted a sign out front of the property. Due to the decision of Joseph to come back into the family business we thought not only move toward Wake County where our customer base were located but not limited to, we would try to move the business closer to where Joseph would be residing. He does not plan to leave Harnett County. He is putting down roots in Harnett County, this is now his home. Donald Bain has lived in Cumberland County most of his life so those are the factors of why we ended up proceeding this property. The building has an existing truck dock. The trucks will not be unloading on a public highway. To think that is absurd. That's not going to happen. Where I lived, I'm guessing is where Mr. Royal visited, they were my trucks and no resident has ever complained even when idling in the mornings to warm up. For what you missed was a warehouse that I have someone else where we keep our storage and inventory. The Town Manager and Planner came out and I gave them the walk through basically of what we do and what it looks like. The excessive noise, all I can say is our trucks passed DOT inspections, passed NC motor vehicle inspections. My trucks have no more noise than the average pickup truck driving through your neighborhood. Just wanted to clear those points up. We are not looking to tarnish Harnett County. My son is a resident here.

Commissioner Baker asked how many vehicles and what type of impact related to traffic that you would create as far as the number of vehicle trips, deliveries and employees on a normal work week? Donald Bain stated he doesn't know how to actually give you study format. We have 3 full time employees currently 1 part-time employee. So we all are going to show up in the morning get our trucks and leave to go to work. We may be back in the middle of the day if something comes up that we need to get an additional inventory part and go back out. Right now on the high side, worst case numbers, it could be 3 in the same week and may not be any for 3 weeks. We are commercial sign contractors and we are receiving shipments for our customers which our largest customers are Taco Bell franchise out of the Raleigh area. We help them with their day to day maintenance of all of their exterior signs and lights. We take down all exteriors signage in doing a remodel as Attorney Snow mentioned. The building gets a face lift and they drop ship us all the new signage with the exception of bronze slat walls which we have begun fabricate working. We take that back out when installing on the building and complete the project for their remodel. In between remodels we're back and forth with service calls. We are in every morning and out every afternoon, occasion we are back in the middle of the day, trucks on the high side when things are really pushing we will get 2 trucks a week in.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

Commissioner Baker asked what kind of trucks the Bains have. Donald Bain stated the following: 2001 International line truck, 3500 GMC with lift, 91 Ford with lift, Vans, 3 trailers, 1 dump truck, 2 transports to install.

Commissioner Baker asked about the storage of these vehicles. Donald Bain stated that they would be stored in the fence lot behind the building at which the open shed that had been discussed create a 3 sided structure that we could back those trucks into somewhere in the next 1-2 years.

Commissioner Baker asked at 10am on a Saturday morning, would the residents be able to hear you with the type of work you do. Would it be inside the building? Donald Bain stated it would be inside the building. Old signage brought back for disposal would be dismantled outside so the plastic can go to the landfill and metal for recycling.

Commissioner Baker asked about the delivery trucks, would 18-wheelers bring most of this? Donald Bain stated that most of the shipments come in on 18-wheeler or what they call a hot shot which basically is a goose neck trailer back of a duly pickup truck.

Commissioner Blackmon asked how long the disassembled signage would stay on the property. Donald Bain stated that it would vary. Will depend on how busy we are in the field as to when we will have time. We try to remove debris every 60 days at the latest.

Commissioner Whitman asked the Town Manager since he visited the business in Eastover, would you find it to be a nice place. Mr. Douglas stated that it was a little junky with the potential of moving however most of the storage is in the interior with limited number of vehicles and really didn't see it a major impact.

Commissioner Ballard asked Ben Jones with First Federal Bank if an environmental study was done on this property. Mr. Jones stated that it was a lab report and was prepared to go on to do whatever we needed to do for the Phase I of this study however due to nothing was found and came back negative for water testing and soil testing around those tanks, we were told we did not have to continue on to Phase II. Wellons Construction removed the tanks.

Commissioner Ballard made a motion to close the public hearing at 8:22pm and was seconded by Commissioner Blackmon. The Board voted unanimously.

After more discussion from the Board, Commissioner Baker made a motion to open the Public Hearing again at 8:52pm and was seconded by Commissioner Ballard. The Board voted unanimously.

Ken Royal stated that he does not have any hard feelings with the Bain's; he does not see how it's possible for an 18-wheeler to make the turn into that property on Don Ron Road. Mr. Royal feels like there is no easement for that driveway. He also stated that he would love for

MINUTES CONTINUED FROM NOVEMBER 6, 2014

the Bain's to come to Erwin however not in my back yard. Have lived in this neighborhood for 26 years and would like for this neighborhood to stay residential. The Bain's we wish them well and I'm just protecting my property. This road to Mr. Royal seems fragile compared to Old Post Road and just does not think the 18-wheelers will be able to make the turn into that property. Erwin needs to grow and urges the Board to help the Bain's look at other properties. Mr. Royal stated that he thinks the Board wanted the Bain's to talk with the neighbors and explain what is going on however the Bain's never contacted them.

Commissioner Baker asked Mr. Royal when he built his house in this neighborhood knowing that building was there, what type of impact to how that would affect you. Mr. Royal did not recall Mr. Don Davis ever running a business there at the time he was building his house. It was just a vacant building. Charter Communications only used that building for warehouse purposes, very limited activity.

Kerry Metz came forward and stated the oath.

Mr. Metz stated that when digging the tank up there was no containment for the soil. Mr. Metz has a pond close to this tank and asked were there any samples from the pond. Soil was exposed for many days without containment. Would love to see the soil samples from that land when it was dug up and disturb. Mayor Carson informed Mr. Metz if he would discuss this after the meeting with Ben Jones, First Federal Bank.

Commissioner Blackmon made a motion to close the public hearing at 9:04pm and was seconded by Commissioner Baker. The Board voted unanimously.

Commissioner Baker made a motion to table the ZCD-2014-001 124 Don Ron Road rezoning request and CU-2014-006 conditional use permit application and have another Public Hearing at the next Regular Schedule December meeting and was seconded by Commissioner Ballard. The Board voted 5 for and 1 against (Commissioner Whitman).

**ZT-2014-001 ZONING TEXT AMENDMENT TO THE RD (RURAL DISTRICT)
CLASSIFICATION TO REMOVE FROM SECTION 9-4024.4 CONDITIONAL USES
"CLASS A MANUFACTURED HOMES ON INDIVIDUAL LOTS" AND TO ADD TO
SECTION 9-4-024.2 PERMITTED PRINCIPAL USES AND STRUCTURES
MANUFACTURED HOME CLASS A ON INDIVIDUAL LOTS**

Commissioner Blackmon made a motion to open the public hearing at 9:32pm and was seconded by Commissioner Turnage. The Board voted unanimously.

Mr. Douglas informed the Board that this text amendment is related to a staff proposed text amendment for the rural district. Presently the Class A mobile homes are allowed as a

MINUTES CONTINUED FROM NOVEMBER 6, 2014

conditional use. Staff and Planning Board concur that this will be considered as a permitted use.

Mayor Carson asked if anyone would like to speak in favor of this text amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against this text amendment to please come forward.

No one came forward.

Commissioner Blackmon made a motion to close the public hearing at 9:41pm and was seconded by Commissioner Baker. The Board voted unanimously.

Commissioner Baker made a motion to approve the Zoning Text Amendment to the Rural District Classification to remove from Section 9-4024.2 Conditional Uses Class A Manufactured Homes on Individual Lots and to add to Section 9-4024.2 Permitted Principal Uses and Structures Manufactured Home Class A on Individual Lots with the addition of under Definitions for Manufactured Home Class A (G) to remove masonry and add brick and was seconded by Commissioner Blackmon. The Board voted unanimously.

(Page 7917 A-D)

RECESS

Commissioner Blackmon made a motion to recess for 10 minutes at 9:41pm and was seconded by Commissioner Ballard. The Board voted unanimously.

RECONVENE

Commissioner Baker made a motion to reconvene at 9:50pm and was seconded by Commissioner Ballard. The Board voted unanimously.

PRESENTATION OF TOWN OF ERWIN FY 2013-2014 AUDIT

Bryon Scott with Price, Scott, Adams & Co. PA came forward and spoke. Mr. Scott stated that the Town has in Revenue \$2,820,337. The Expenditures is \$3,131,737. The Fund Balance at the end of the year is \$2,332,745.

The Tax Collection rate is 96.15%.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

Mr. Scott advised the Board that there were no difficulties encountered in performing the Audit nor disagreements with Management.

Commissioner Blackmon made a motion to accept the Town of Erwin Financial Statement Year End June 30, 2014 and was seconded by Commissioner Baker. The Board voted unanimously.

PUBLIC HEARING**ZT-2-14-002 ZONING TEXT AMENDMENT TO SECTION 9-4027 R-6
(RESIDENTIAL DISTRICT) TO CLARIFY THE USE MANUFACTURED HOME
CLASS A USED BUT LESS THAN FIVE YEARS OLD AS OF DATE OF ZONING
PERMIT ISSUANCE AS A USE IN SECTION 9-4027.2 PERMITTED PRINCIPAL
USES AND STRUCTURES OR IN SECTION 9-4027.4 CONDITIONAL USES IN THE
R-6 RESIDENTIAL CLASSIFICATION**

Commissioner Turnage made a motion to open the public hearing at 10:01pm and was seconded by Commissioner Baker. The Board voted unanimously.

Mr. Douglas informed the Board that this is another staff proposed text amendment for R-6 Residential District area. Presently the Class A mobile homes are allowed in both conditional use and permitted use. There is a difference in cost, \$50 for permitted use and \$250 for conditional use.

Mayor Carson asked if anyone would like to speak in favor of this text amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against this text amendment to please come forward.

No one came forward.

Commissioner Ballard made a motion to close the public hearing at 10:12pm and was seconded by Commissioner McKoy. The Board voted unanimously.

Commissioner Baker made a motion to approve the ZT-2014-002 Zoning Text Amendment which strikes new Class A Manufacture Home from permitted uses in R-6 District which leaves it in Conditional Uses and was seconded by Commissioner Blackmon. The Board voted unanimously.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

ZT-2014-004 ZONING TEXT AMENDMENT TO CLARIFY VEHICULAR SALES, AUTO ORIENTED BUSINESS, OUTDOOR STORAGE FOR VEHICLES, AND THE ZONING DISTRICT THAT THEY ARE LISTED AS CONDITIONAL USE

Commissioner Blackmon made a motion to open the public hearing at 10:15pm and was seconded by Commissioner Baker. The Board voted unanimously.

Mr. Douglas informed the Board that Staff has two outstanding applications for vehicular sales. One application is in the CB Central Business zone and the other is in the B-2 Highway Business zone. The existing language is able to be interpreted more than one way as to whether car sale lots are included in CB and as to whether a wall or privacy fence is required. After discussions with the Town Manager and the Town Attorney, the Town Attorney recommended that staff ask for clarification.

Staff needs clarification on

1. "Service stations and other auto oriented business establishments"
 - a. What does this use include and exclude?
 - b. Does the use "auto oriented business establishments" include car sales?
 - c. If "auto oriented business establishments" does include car sales, then:
 - i. B-1 Neighborhood Business excludes car sales
 - ii. CB, B-2, and M-1 include car sales
2. *"Outdoor display, storage or sale of vehicles or other equipment or material provided that in the interest of safety to children and adjacent property, outdoor storage areas shall be encompassed by a wall, at least six (6) feet high, or a fence and buffer strip approved by the Planning Board."*
 - a. If this use allows for car sales, then it can be interpreted that "Service stations and other auto oriented business establishments" does NOT include car sales. Therefore the interpretation would be that CB, B-1, and M-1 do NOT allow car sales
3. Staff's interpretation of *"Outdoor display, storage or sale of vehicles or other equipment or material provided that in the interest of safety to children and adjacent property, outdoor storage areas shall be encompassed by a wall, at least six (6) feet high, or a fence and buffer strip approved by the Planning Board."*, assuming the interpretation of this use includes car sales and is not just about outdoor display and storage and its buffer, this use appears to allow for car sales without the lot being encompassed by a buffer.

Mayor Carson asked if anyone would like to speak in favor of this text amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against this text amendment to please come forward.

MINUTES CONTINUED FROM NOVEMBER 6, 2014

No one came forward.

Commissioner Baker made a motion to close the public hearing at 10:20pm and was seconded by Commissioner Turnage. The Board voted unanimously.

Commissioner Baker made a motion to table the ZT-2014-004 Zoning Text Amendment to Clarify Vehicular Sales, Auto Oriented Business, and Outdoor Storage for Vehicles, and the Zoning District That They Are Listed as Conditional Use until the Workshop on November 20, 2014 at 3pm and was seconded by Commissioner McKoy. The Board voted unanimously.

MINIMUM HOUSING PRIORITIZATION LIST

Mr. Douglas informed the Board that there were Twenty-six properties identified by staff, with an emphasis on properties that are likely vacant/abandoned (houses that appeared to be occupied or in the process of being renovated were not included on this list). After identifying these properties staff researched the current/past utility (water) status and any recent police reports for each property, then staff prioritized the properties with an emphasis on addressing the Town's entryways.

Staff initiated this project to 1) provide a comprehensive list of vacant/abandoned properties that need to be addressed under the Town's minimum housing ordinance; and 2) to seek direction from the Board of Commissioners on prioritizing these properties, so that staff and the Board have a common framework for addressing minimum housing. While staff will address the top rated properties initially, staff intends to notify each of the property owners on the priority list in an effort to initiate repair or removal.

It was the Consensus of the Board to move forward with the Minimum Housing Prioritization List.

(Page 7920 A)

WATER PLANT DEMOLITION PROPOSAL

Mr. Douglas informed the Board that Town Engineer Bill Dreitzler developed a request for proposals (attached for your review) to ensure that demolition contractors wishing to bid on this project had an accurate understanding of staff expectations and could provide a bid price accordingly. The goal of staff was to remove the structures in a cost-effective manner and eliminate the safety hazard, while maintaining the ability to build on the property in the future. Staff received bids from the following contractors:

MINUTES CONTINUED FROM NOVEMBER 6, 2014

American Earthworks: \$79,000

D.H. Griffin: \$156,200

Gaines and Company: \$182,779.60

Commissioner Blackmon stated he would love to see the soil tested.

Commissioner Ballard stated he would love to see a bond on this.

Commissioner Blackmon made a motion to approve the Water Plant Demolition Proposal with American Earthworks for \$79,000 and was seconded by Commissioner Whitman. The Board voted unanimously.

(Page 7921 A-C)

SOLAR FARM MORATORIUM REQUEST FOR PUBLIC HEARING

Mr. Douglas informed the Board that within recent weeks staff has received a number of calls and had preliminary discussions on potential solar farm projects. During construction of the solar farm on US 421 earlier this year, staff discussed the need to amend the Town's ordinance to afford better protection for neighboring properties and land uses, and staff has reviewed a model ordinance developed by the solar energy industry. By enacting a two-month moratorium, which can only occur after a public hearing has been held, staff can prepare an ordinance amendment for review by the Planning Board and Board of Commissioners. At its October meeting the Planning Board voted to recommend that a public hearing be held on this moratorium. Please note that any application received by the Town prior to the effective date of the moratorium would be reviewed and considered under the existing zoning ordinance.

Staff recommends a public hearing to consider a moratorium on new solar energy systems be scheduled for the December 2014 Board of Commissioners regular meeting.

Commissioner Baker made a motion to have a public hearing for the solar farm moratorium at the December meeting and was seconded by Commissioner Blackmon. The Board voted unanimously.

ATTORNEY REPORT

Mr. Hunter informed the Board that the settlements offer on the Museum; we have not heard anything from this and don't think we will.

MINUTES CONTINUED FROM NOVEMBER 6, 2014**GOVERNING BODY COMMENTS**

Commissioner McKoy informed the Board that the people were really enjoying the W.N. Porter Park. He has seen people there that have never been there. Just had to stop and look and actually got emotional.

Commissioner Blackmon would like the political signs picked up.

Commissioner Ballard asked about the street lights in the Parking Lot on Denim Drive. Mr. Douglas stated that was a work in progress and also putting in receptacle's as well. Also wanted to know what was the status on Butch Street concerning the house moving.

Commissioner Turnage asked about the street lights in the Parking Lot on Denim Drive as well.

Mayor Carson urged everyone to attend a meeting at the Indigo Room on Tuesday, November 11th at 7pm to discuss the School Redistricting Plan proposal. Mayor's Breakfast will be Friday, December 5th at 8am at Public Works Dept.

ADJOURNMENT

Commissioner Blackmon made a motion to adjourn at 11:08pm and was seconded by Commissioner McKoy. The Board voted unanimously.

**MINUTES RECORDED AND TYPED BY
CYNTHIA B PATTERSON TOWN CLERK**

Patsy M. Carson
Mayor

Cynthia B. Patterson, CMC
Town Clerk