

**ERWIN BOARD OF COMMISSIONERS
MEETING MINUTES
MAY 7, 2009
REGULAR MEETING
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, May 7, 2009 at 7:00 P. M. in Erwin, North Carolina.

Board Members present were: Commissioners Norma Ennis, William Corbett, Randy Baker, and Michael West.

Board Members absent were: Commissioners Mark Whitman and Frank Taylor

Town Manager Bryan Thompson, 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 West gave the invocation.

Those present recited the Pledge of Allegiance.

AGENDA ADJUSTMENTS/APPROVAL OF AGENDA

Commissioner Baker made a motion to approve the agenda and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent. (Commissioners Whitman and Taylor)

CONSENT ITEMS

Commissioner Ennis made a motion to approve **Item (A)** Approval of Minutes for 04/02/09 **Item (B)** Proclamation: Municipal Clerks Week and was seconded by Commissioner West. The Board voted 4 for and 2 absent. (Commissioners Whitman and Taylor)

MINUTES OF MAY 7, 2009 CONTINUED**PUBLIC HEARING****REVIEW OF SUBDIVISION ORDINANCE DEFINITION—MINOR SUBDIVISION**

Commissioner Baker made the motion to open public hearing for Review of Subdivision Ordinance Definition—Minor Subdivision at 7:03 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

Mayor Patsy Carson asked if anyone wanted to speak in favor of the Review of the Subdivision Ordinance Definition—Minor Subdivision to come forward, take the oath, state your name and address.

No one came forward to speak.

Mayor Patsy Carson asked if anyone wanted to speak against the Review of the Subdivision Ordinance Definition—Minor Subdivision to come forward, take the oath, state your name and address.

No one came forward to speak.

Commissioner Baker made a motion to close public hearing at 7:05 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

REVIEW OF SIGN ORDINANCE—WALL MOUNTED SIGNS

Commissioner Baker made the motion to open public hearing for Review of Sign Ordinance—Wall Mounted Signs at 7:05 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

Mayor Patsy Carson asked if anyone wanted to speak in favor of the Review of Sign Ordinance—Wall Mounted Signs to come forward, take the oath, state your name and address.

No one came forward to speak.

Mayor Patsy Carson asked if anyone wanted to speak against the Review of Sign Ordinance—Wall Mounted Signs to come forward, take the oath, state your name and address.

No one came forward to speak.

Commissioner Baker made a motion to close public hearing at 7:06 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

MINUTES OF MAY 7, 2009 CONTINUED**CONDITIONAL USE PERMIT APPLICATION—OAKWOOD HOMES/RILLA
GODWIN**

Commissioner Baker made the motion to open public hearing for Conditional Use Permit Application—Oakwood Homes/Rilla Godwin at 7:06 P.M. and was seconded by Commissioner West. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

Mayor Patsy Carson asked if anyone wanted to speak in favor of the Conditional Use Permit Application—Oakwood Homes/Rilla Godwin to come forward, take the oath, state your name and address.

Rick Garloff with Oakwood Homes came forward, took the oath and spoke to the Board. Mr. Garloff stated that this is a brand new manufactured home and will have a permanent foundation and meets all the guidelines for a Class A Manufactured Home.

Mayor Patsy Carson asked if anyone wanted to speak against the Conditional Use Permit Application—Oakwood Homes/Rilla Godwin to come forward and state your name and address.

No one came forward to speak.

Commissioner Baker made a motion to close public hearing at 7:07 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

**CONDITIONAL USE PERMIT APPLICATION—OAKWOOD HOMES/EUNICE
BISHOP**

Commissioner Baker made the motion to open public hearing for Conditional Use Permit Application—Oakwood Homes/Eunice Bishop at 7:08 P.M. and was seconded by Commissioner West. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

Mayor Patsy Carson asked if anyone wanted to speak in favor of the Conditional Use Permit Application—Oakwood Homes/Eunice Bishop to come forward, take the oath, state your name and address.

Rick Garloff with Oakwood Homes came forward, took the oath and spoke to the Board. Mr. Garloff stated that this is a brand new manufactured home and will have a permanent foundation and meets all the guidelines for a Class A Manufactured Home. This property is within the Erwin City Limits and is Zoned RD.

MINUTES OF MAY 7, 2009 CONTINUED

Mayor Patsy Carson asked if anyone wanted to speak against the Conditional Use Permit Application—Oakwood Homes/Eunice Bishop to come forward and state your name and address.

No one came forward to speak.

Commissioner Baker made a motion to close public hearing at 7:09 P.M. and was seconded by Commissioner West. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

TEXT AMENDMENT---MOBILE HOMES

Commissioner Baker made the motion to open public hearing for Text Amendment—Mobile Homes at 7:10 P.M. and was seconded by Commissioner West. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

Mayor Patsy Carson asked if anyone wanted to speak in favor of the Text Amendment—Mobile Homes to come forward, take the oath, state your name and address.

No one came forward to speak.

Mayor Patsy Carson asked if anyone wanted to speak against the Text Amendment—Mobile Homes to come forward and state your name and address.

No one came forward to speak.

Commissioner Baker made a motion to close public hearing at 7:11 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

TEXT AMENDMENT—FAMILY CARE HOME

Commissioner Baker made the motion to open public hearing for Text Amendment—Family Care Home at 7:12 P.M. and was seconded by Commissioner West. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

Mayor Patsy Carson asked if anyone wanted to speak in favor of the Text Amendment—Family Care Home to come forward, take the oath, state your name and address.

No one came forward to speak.

Mayor Patsy Carson asked if anyone wanted to speak against the Text Amendment— Family Care Home to come forward and state your name and address.

No one came forward to speak.

MINUTES OF MAY 7, 2009 CONTINUED

Commissioner Baker made a motion to close public hearing at 7:13 P.M. and was seconded by Commissioner West. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

**CONSIDERATION OF SUBDIVISION ORDINANCE DEFINITION--MINOR
SUBDIVISION Ord. 2009-001**

Town Manager Bryan Thompson informed the Board that in reviewing the Subdivision Ordinance, Minor Subdivision is relatively restrictive, it has a number of qualifying requirements; one of which include that there is no easement.

Commissioner Baker made a motion to remove “no easement” from the Town’s current definition of Minor Subdivision Section 9-3027 and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

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**CONSIDERATION OF SIGN ORDINANCE—WALL MOUNTED SIGNS
Ord. 2009-002**

Town Manager Bryan Thompson informed the Board that the recommendation is coming from the Town Staff. Staff has found at least one area of concern that it believes should be reviewed to determine if the language in question is in keeping with the intent and desire of wall mounted signs in certain areas in town. For instance, the Central Business District of Erwin is relatively dense in its lot size and structures. The setback requirements are very small and often off street parking areas are not available. Therefore, the storefronts are very close to the road and can be easily seen from the roadside. Along the 421 corridor, many of the businesses and prospective businesses will require larger setbacks on account of off street parking accommodations and traffic controls.

Commissioner West made a motion to amend the text of 9-4081.3 (3) and (4) and was seconded by Commissioner Baker. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

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**CONSIDERATION OF CONDITIONAL USE APPLICATION OAKWOOD
HOME/RILLA GODWIN**

Town Manager Bryan Thompson informed the Board that this application is within the rural development zoning district. The recommendations were made through the finding in the affirmative of each of the prescribed Findings of Fact. There were no additional conditions recommended by the Planning Board.

MINUTES OF MAY 7, 2009 CONTINUED

Commissioner Baker made a motion to accept the Findings of Facts to the affirmative and grant the Conditional Use Permit and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

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**CONSIDERATION OF CONDITIONAL USE APPLICATION OAKWOOD
HOME/EUNICE BISHOP**

Town Manager Bryan Thompson informed the Board this conditional use permit is zoned rural district. The recommendations were made through the finding in the affirmative of each of the prescribed Findings of Fact. There were no additional conditions recommended by the Planning Board.

Commissioner Baker made a motion to accept the Findings of Facts to the affirmative and grant the Conditional Use Permit and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

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CONSIDERATION OF TEXT AMENDMENT—MOBILE HOMES

Town Manager Bryan Thompson informed the Board that this is the text amendment that was applied by Ricky Bethune, owner of Bethune's Mobile Home Park. Mr. Bethune is requesting to amend the text to extend the 180 days to 365 days. Second request pertains to additional requirements with manufactured home park district regulations within the zoning ordinance new setups. The requested text amendment seeks to add a sentence also that basically states that except for when the building inspector should find that periodically unit is in good or excellent condition.

Mr. Thompson stated what the Staff has recommended is that the 180 days serves as a benefit to the property owner and to extend to 365 days doesn't materially change the spirit it just changes the length of time. Mr. Thompson also stated that a good number of jurisdictions do not allow 180 days so as it is right now the Town of Erwin is being a little lenient in favor of the property owner and the Staff does not believe it's necessary to extend the 180 days to 365 days. On the second text amendment request, by doing research on a recent court case and conversations with the Institute of Chapel Hill the Staff has sided with the applicant but rather taking it little farther and striking the 5 year rule all together.

Commissioner Baker made a motion to approve ordinance repealing 9-4033.4 section 2 additional requirements 2009-03 states that in section 9-4033.4 Town of Erwin Code the five year ruling on aging of the home and 180 days stays and was seconded by Commissioner Ennis. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

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MINUTES OF MAY 7, 2009 CONTINUED**CONSIDERATION OF TEXT AMENDMENT—FAMILY CARE HOMES**

Town Manager Bryan Thompson informed the Board that this is another text amendment request by the Staff for Family Care Homes. Mr. Thompson stated there are several facilities in operation within the jurisdictional boundaries of the Town of Erwin. These facilities are being established within the Town at a steady rate.

The current language found in the Erwin Zoning Ordinance Definitions Section reads as follows:

Family Care Home. A facility for not less than two (2) and no more than six (6) children, adolescents, or adults who are mentally, visually or physically handicapped. Adult care is provided as well as a program of services and protective supervision in a home setting.

The following is the State of North Carolina General Statute regarding Family Care Homes:

168-22. Family care home; zoning and other purpose.

(a) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts of all political subdivisions. No political subdivision may require that a family care home, its owner, or operator obtain, because of the use, a conditional use permit, special use permit, special exception or variance from any such zoning ordinance or plan; provided, however, that a political subdivision may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

Mr. Thompson advised the Board to consider amending the current language of the Zoning Ordinance to adopt the language provided by State Law that would enable further oversight and control with regard to the establishment and operation of such facilities in the future.

The following is the edited definition of Family Care Home presented to the Planning Board for its consideration:

Family Care Home. A facility for not less than two (2) and no more than six (6) children, adolescents, or adults who are mentally, visually or physically handicapped. Adult care is provided as well as a program of services and protective supervision in a home setting. **No family care home shall be allowed to locate within a one-half mile radius of an existing family care home.**

Commissioner Ennis made a motion to approve the ½ mile radius of the existing Family Care Home and was seconded by Commissioner Baker. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

MINUTES OF MAY 7, 2009 CONTINUED**CONSIDERATION OF PORTER PARK COMPREHENSIVE PLAN STEERING
COMMITTEE APPLICANTS**

Town Manager Bryan Thompson informed the Board that three (3) applicants have applied for the W.N. Porter Steering Committee. The Steering Committee is designed to range from 8 to 12 members.

The following members are as follows:

Thomas "Jason" Smith
Jacqueline Suggs
Donald Suggs, Jr

Mr. Thompson also stated with the approval of the three applicants this will complete the Porter Park Steering Committee.

Commissioner Corbett made a motion to approve all (3) applications for the Porter Park Steering Committee and was seconded by Commissioner Baker. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

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PUBLIC COMMENTS

Monica Barbour at 256 Don Ron Road, Erwin, came forward and spoke. Mrs. Barbour and her husband purchased property 4 years ago in Erwin. Mrs. Barbour asked for some assistance from the Town after she said a neighbor who built up property next to hers in Erwin had caused her house and yard to flood after rain. Mrs. Barbour stated this has been an ongoing problem and has tried to resolve this issue.

Donald Suggs at 211 East H. Street, Erwin, came forward and spoke. Mr. Suggs stated that he has approached Harnett County Assistant Manager Tony Wilder concerning the Animal Control Ordinance. Mr. Wilder left the issue up to the Town of Erwin Board of Commissioners. Mr. Suggs also stated he had no idea his family's issue was going to go this far.

Jill Lloyd at 308 East F. Street, Erwin, came forward and spoke. Ms. Lloyd stated she had a pot-bellied pig that had died in 2001. Ms. Lloyd said for those in town who own pot-bellied pigs, giving them away would not be an option.

Thomas Johnson at 209 East H. Street, Erwin, came forward and spoke. Mr. Johnson stated that he lived within 10 feet of a hog pen and has been suffering with it for over a year now. Mr. Johnson asked the Board if they would want to live next to a pig.

MINUTES OF MAY 7, 2009 CONTINUED**CLOSED SESSION**

Commissioner Baker made a motion to go into Closed Session at 7:50 P. M. to consult with Attorney (G.S. 143-318.11) and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

RECONVENED

Commissioner Baker made a motion at 8:31 P.M. to reconvene to the Regular Session and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

Town Manager Bryan Thompson informed the Board that coming out of Closed Session in consideration with legal issues within the Animal Control Ordinance. The Town is dealing with an ordinance that has passed and agreement with other jurisdictions and is forced by Harnett County, with the understanding that there is legal impact and modifications that are surrounding that issue it is within the power and the voting of this Board to making changes or alterations should they choose to decide, it would have to be in form of a motion to pass as a majority vote.

Mayor Carson asked if there was a motion. No one made a motion. Mayor Carson then stated with having no motion the Animal Control Ordinance would stand as is.

GOVERNING BODY COMMENTS

Commissioner West wanted to thank everyone for coming out and showing support with the issues.

Commissioner Ennis wanted to also thank everyone for coming out.

Commissioner Corbett wanted to thank everyone for coming out and invited everyone to come to the next NC Step Meeting which will be Tuesday, May 19, 2009 at 5:30 P.M.

ADJORNMENT

Commissioner Baker made a motion to adjourn at 8:40 P.M. and was seconded by Commissioner Ennis. The Board voted 4 for and 2 absent (Commissioners Whitman and Taylor).

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

Cynthia B. Patterson, Town Clerk

Patsy Carson, Mayor