

ERWIN BOARD OF COMMISSIONERS
REGULAR MINUTES
JANUARY 9, 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, January 9, 2014 at 7:00 P. M. in Erwin, North Carolina.

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

Those present recited the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Baker made a motion to move **Consent Item J** Board of Commissioner's Retreat Scheduled for Thursday, February 13, 2014 to **New Business Item D** and add a Closed Session Pursuant to General Statute 143-318.11(a)(6) for the Purpose of Discussing Matters concerning Personnel after New Business and was seconded by Commissioner Blackmon. The Board voted unanimously.

CONSENT ITEMS

Commissioner Turnage made a motion to approve **(Item A)** Approval of Special Called Minutes on 11/21/13, **(Item B)** Approval of Regular Minutes of 12/05/13, **(Item C)** Proclamation recognizing 13U Football Team #2103-2014--007, **(Item D)** Proclamation Recognizing January's Citizen of the Month #2013-2014—008, **(Item E)** Fee Schedule Amendment, **(Item F)** Resignation of Planning Board Member William Schuh, **(Item G)** Move Planning Board Alternate Steve West to Planning Board Member, **(Item H)** Resolution for Ethic Code 2014-003, **(Item I)** Budget Amendment for Unexpected Revenue from the Police Dept. #003 and **(Item K)** Financial Summary Report ending November 30, 2013 and was seconded by Commissioner Baker. The Board voted unanimously.

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PRESENTATION OF PLAQUE TO 13U FOOTBALL TEAM

Mayor Carson presented a plaque to 13U Head Coach Derek Mangum for his team's accomplishments and dedication on an amazing season. Working together, these young boys illustrated that drive, skills, and good sportsmanship can certainly pay off, and they serve as a shining example to other athletes and Town of Erwin in general.

MINUTES CONTINUED FROM JANUARY 9, 2014**PRESENTATION OF PLAQUE TO JANUARY'S CITIZEN OF THE MONTH**

Mayor Carson presented a plaque to Mrs. Mary Hardin West for January's Citizen of the Month. Mrs. West has always put God first in her heart and life. She has always loved her family and friends unconditionally. She has taken others into her home and provided for them and loved and nurtured them. Mrs. West enjoyed visiting and ministering to the sick and shut-ins in her younger years.

PUBLIC HEARING**ZT-2013-006 ZONING TEXT AMENDMENT TO ADDRESS
YARD/GARAGE/CARPORT/PATIO/TAG/APARTMENT SALES**

Commissioner Turnage made a motion to open the public hearing at 7:11pm and was seconded by Commissioner Baker. The Board voted unanimously.

Over the past few months, several residents asked about ordinances to regulate yard sales. The Planning Board provided direction to staff indicating a desire to allow such sales at a property owner's home with a limited number of times that any one lot could have such sales in a calendar year. Staff presented a text amendment to the *Zoning Ordinance, Section 9-4041.8 Accessory Uses* to add a new accessory use labeled *Yard/Garage/Carport/Patio/Tag/Apartment Sales*.

Staff's Recommendation to Planning Board:

Part 9, Chapter 4, Article 4, Section 9-4041.8 Accessory Uses is hereby amended by adding 4. Yard/Garage/ Carport/Patio/Tag/ Apartment Sales:

4. *Yard/Garage/Carport/Patio/Tag/Apartment Sales*

Yard/Garage/Carport/Patio/Tag/Apartment sales are specifically permitted as an accessory use in all residential zones. Such sales may be conducted in the front yard provided sales do not exceed 24 hours in length or take place on the same property more than twice in any calendar year. No zoning compliance permits required for these sales.

Planning Board Recommendation:

After much discussion at their regular meeting on October 21, 2013, the consensus of the Planning Board members felt that it was reasonable for a property owner to have not more than 1 yard sale a month on their property. Planning Board voted to amend and recommend for approval ZT-2013-006 as follows:

Add to **Section § 9-4041.8 Accessory Uses** the following new accessory use:

4. *Yard/Garage/Carport/Patio/Tag/Apartment Sales*

Yard/Garage/Carport/Patio/Tag/Apartment sales are specifically permitted as an accessory use in all residential zones. Such sales may be conducted in the front yard provided sales do not exceed 24 hours in length or take place on the same property ~~more than twice~~ more than once a month. No zoning compliance permits required for these sales.

Staff Recommendation:

Since the Planning Board meeting, staff has further scrutinized ZT-2013-006 and recommends that yards sales be limited to no more than 4 times, or quarterly, per calendar year on a property. Staff recommends the following verbiage:

Part 9, Chapter 4, Article 4, Section 9-4041.8 Accessory Uses is hereby amended by adding 4. Yard/Garage/ Carport/Patio/Tag/ Apartment Sales:

4. *Yard/Garage/Carport/Patio/Tag/Apartment Sales*

Yard/Garage/Carport/Patio/Tag/Apartment sales are specifically permitted as an accessory use in all residential zones. Such sales may be conducted in the front yard provided sales do not exceed 24 hours in length and do not take place on the same property more than quarterly in any calendar year. No zoning compliance permits required for these sales.

Mayor Carson asked if anyone would like to speak in favor of the proposed Text Amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against the proposed Text Amendment to please come forward.

No one came forward.

Commissioner Blackmon made a motion to close the public hearing at 7:35pm and was seconded by Commissioner Baker. The Board voted unanimously.

After some discussion, Commissioner Baker made a motion to table the Zoning Text Amendment to address Yard/Garage/Carport/Patio/Tag/Apartment Sales and was seconded by Commissioner McKoy. The Board voted unanimously.

**ZT-2013-007 ZONING TEXT AMENDMENT TO INCLUDE DAYCARE CENTERS
AND SIMILAR USES IN B-2 DISTRICTS**

Commissioner Baker made a motion to open the public hearing at 7:35pm and was seconded by Commissioner Ballard. The Board voted unanimously.

MINUTES CONTINUED FROM JANUARY 9, 2014

Staff was asked by a potential business owner if a day care center could locate in a B-2 (Highway Business) district. Upon review of the Zoning Ordinance, staff found that day care centers are only permissible as conditional uses in the B-1 (Neighborhood Business), R-6 (Residential), and R-10 (Residential) districts. While there is very little B-1 zoning in Erwin's jurisdiction, B-2 is more widely used and the inclusion of day care centers, with conditions, would benefit numerous residents.

The following amendment to allow day care centers as a conditional use in the B-2 zoning district was presented to the Planning Board:

In Part 9, Chapter 4, Article 3, Section 9-4030.4 Conditional Uses, Add 7. Day Care Centers, Day Nurseries, Preschools, and Similar Uses as a conditional use

Section § 9-4030.4 Conditional Uses

7. Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300 foot radius measured from the center of the property of other day care centers, day nurseries, preschools, or similar use.

Planning Board's Recommendation:

At their October 21, 2013 regular meeting, Planning Board voted to recommend approval of ZT-2013-007 as presented.

Mayor Carson asked if anyone would like to speak in favor of the proposed Text Amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against the proposed Text Amendment to please come forward.

No one came forward.

Commissioner Ballard made a motion to close the public hearing at 7:45pm and was seconded by Commissioner Blackmon. The Board voted unanimously.

Commissioner Blackmon made a motion to approve ZT-2013-007 Zoning Text Amendment to include Daycare Centers and Similar Uses in B-2 District and was seconded by Commissioner Turnage. The Board voted unanimously.

MINUTES CONTINUED FROM JANUARY 9, 2014

ZT-2013-008 ZONING TEXT AMENDMENT TO THE INDUSTRIAL DISTRICT (M1)
TO INCLUDE SALES AREA FOR WHOLESALE AND WAREHOUSE USES

Commissioner Blackmon made a motion to open the public hearing at 7:45 and was seconded by Commissioner Turnage. The Board voted unanimously.

At their November 18, 2013 regular meeting, the Planning Board voted to have staff work with the property owner of the Erwin Business Complex (the old Erwin textile mill) to amend the Zoning Ordinance to allow for sales area for wholesale and warehouse uses in the M1, Industrial District. At the Planning Board meeting, there was discussion of an additional industrial district classification that allows retail businesses as a possible option. While it is an option, staff had numerous concerns about creating a new zoning class which would involve both a text amendment and then a zoning map amendment, as well as several months while they were being reviewed and public hearings held. Planning Board indicated they wished this matter to be a priority as the potential tenant indicated that time is of the essence.

After the meeting, Benchmark CMR Consultant Jason Epley suggested to staff that adding sales area as an accessory use in the M1 (Industrial) classification might be another option. Town staff met with Mr. Norman Avery, the managing property owner of Schwarz Auman Properties, LLC, and discussed the options. On a related note, in prior meetings with the potential tenant, the ability to have signage for his retail business was discussed. Staff prepared a rough draft that Mr. Avery reviewed and expressed approval.

As originally sent to Planning Board, Case # ZT-2013-008 included the changes to *Article 8 Sign Regulations* that expand special provisions beyond shopping center signage to now include multi-tenant signage for commercial/industrial subdivisions and additional freestanding and wall signage on industrial sites 50 acres or greater.

Mayor Carson asked if anyone would like to speak in favor of the proposed Text Amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against the proposed Text Amendment to please come forward.

No one came forward.

Commissioner Baker made a motion close the public hearing at 8:05pm and was seconded by Commissioner Turnage. The Board voted unanimously.

Commissioner Blackmon made a motion to approve the Planning Board recommendation and the addition to Section 9-4031.2 Permitted Uses to Structure add Item 2 to include Retail Showroom, display, or sales area and was seconded by Commissioner Baker. The Board voted unanimously.

MINUTES CONTINUED FROM JANUARY 9, 2014**ZT-2013-010 ESTABLISH SPECIAL PROVISIONS FOR CERTAIN SIGNS**

Commissioner Ballard made a motion to open the public hearing at 8:10pm and was seconded by Commissioner Turnage. The Board voted unanimously.

Currently under the sign regulations under Business Signs, it talks about the signs for shopping centers and it allows having multi tenant's signage.

Mayor Carson asked if anyone would like to speak in favor of the proposed Text Amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against the proposed Text Amendment to please come forward.

No one came forward.

Commissioner Baker made a motion to close the public hearing at 8:15pm and was seconded by Commissioner Turnage. The Board voted unanimously.

Commissioner Baker made a motion to approve Zoning Ordinance Part 9 Chapter 4 Zoning Ordinance Article 8 Sign Regulations for the purpose of creating special provisions for certain signs within the Town of Erwin Planning and Zoning Jurisdiction and was seconded by Commissioner Blackmon. The Board voted unanimously.

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ZT-2013-009 ZONING TEXT AMENDMENT TO DEFINE AND INCLUDE ATHLETIC & EXERCISE FACILITIES, INDOOR AND INSTRUCTIONAL IN THE INDUSTRIAL DISTRICT

Commissioner Baker made a motion to open the public hearing at 8:16pm and was seconded by Commissioner Turnage. The Board voted unanimously.

In recent months, staff was made aware that there are at least 2 travel softball organizations making use of some of the warehouse spaces in the Erwin Business Complex at 100 N 13th St. Staff and one of the coaches began conversations on uses in the Town of Erwin's M1, Industrial zoning district and, currently, the zoning text does not permit this type of use in the M1 districts.

After research, discussions, and a site visit, staff believes that "instructional athletic and exercise facilities", as defined by staff, appears to be a compatible use in the existing Town of Erwin's M1, Industrial classification.

Staff proposes the addition of the following definition and the addition of this use in the M1, Industrial permitted use list:

MINUTES CONTINUED FROM JANUARY 9, 2014**Athletic & Exercise Facilities, Indoor and Instructional**

A business/organization that instructs students on skills that may include but are not limited to physical fitness centers, batting and pitching, soccer, football, tennis, golf, dance, gymnastics, martial arts, art, and music and shall not include truck driving or driver training schools. Incidental outdoor instructional usage may be considered permissible at the discretion of the zoning administrator.

Mayor Carson asked if anyone would like to speak in favor of the proposed Text Amendment to please come forward.

Sterling Holmes of Benson, NC, came forward and addressed the Board. He wanted the Board to know that this is a travel organization that travels from town to town to play softball. This organization trains girls to improve their skills so that they can obtain athletic scholarships to attend colleges. Mr. Holmes talked about the tournaments which have brought 100's of people to town. Places are needed for local kids to practice and better themselves. This also provides opportunities for a local business to make some money from the people who come for tournaments and practices. He noted that the area leased does have nets. The equipment is used to help build muscles and create a safe environment inside the building. Mr. Holmes stated that he has 13 years of experience doing this type of business and that he has helped 64 girls to get scholarships to college. This organization is like a college prep to help the girls to be recruited by a college. Each girl has to maintain an A/B average. Mr. Holmes stated that the organization has its own insurance covering all team functions.

Mayor Carson asked if anyone would like to speak against the proposed Text Amendment to please come forward.

No one came forward.

Commissioner Blackmon made a motion to close the public hearing at 8:28pm and was seconded by Commissioner Whitman. The Board voted unanimously.

Commissioner Turnage made a motion to approve the Part 9 Chapter 4 Zoning Ordinance Article 2 Definitions, Section 9-4012 Definitions to include Athletic & Exercise Facilities, Indoor and Instructional and Part 9, Chapter 4 Zoning Ordinance Article 3, Section 9-4031 M1 Industrial District 9-4031.2 Permitted principal uses and structures to include Athletic & Exercise Facilities Indoor and Instructional and was seconded by Commissioner Blackmon. The Board voted unanimously.

MINUTES CONTINUED FROM JANUARY 9, 2014

FLOOD DAMAGE PREVENTION ORDINANCE TEXT AMENDMENT

Commissioner Blackmon made a motion to open the public hearing at 8:30pm and was seconded by Commissioner Ballard. The Board voted unanimously.

The existing Town of Erwin Flood Damage Prevention Ordinance became effective February 6, 1997 upon its approval by FEMA (Federal Emergency Management Agency). The NC Dept. of Public Safety has a NC NFIP State Coordinator that oversees these local programs. Since that time, Town staff responsible for administering the Flood Damage Prevention Ordinance has changed numerous times. As a result of staff turnover, problems noted by the NC NFIP State Coordinator over the years were not resolved and the Town of Erwin was placed on probation with the NFIP (National Flood Insurance Program) in April 2006 and remains on probation today.

On November 1, 2013, NC NFIP State Coordinator John Gerber sent a letter to the Town Manager listing the issues that need "...further follow-up by the Town." Staff engineer, Bill Dreitzler, is researching possible resolutions and associated costs that will involve several property owners. Also on Mr. Gerber's list were several text amendments to the Flood Damage Prevention Ordinance adopted by the Town of Erwin. Changes to **Section 9-5022** were required due to a wrong date and language that was determined by the NC Attorney General to be an unconstitutional delegation of authority; inclusion of Severability language. In a thorough review of the Town's existing ordinance and comparison with the State's model ordinance by Mr. Gerber and staff, there were other textual recommendations and some clerical clarifications, thus staff is recommending the adoption of the rewrite in its entirety. In **Section 9-5042 Specific Standards**, tanks and other development have been added per the State's model ordinance. The text has yellow and blue highlights which indicate changes from the existing text.

Mayor Carson asked if anyone would like to speak in favor of the proposed Text Amendment to please come forward.

Jerry Bayles of Old Ferry Lane, Erwin, came forward and spoke to the Board. Mr. Bayles understands the flood plain; the drainage system is one of the most essential problems that this town has. It doesn't start with just cleaning out a canal. Mr. Bayles is asking the Board as a concerned citizen, let's put these backhoes to work and not let these folks lose their flood insurance. They cannot afford individual flood insurance. Please do not take this issue lightly.

Mayor Carson asked if anyone would like to speak against the proposed Text Amendment to please come forward.

No one came forward.

Commissioner Ballard made a motion to close the public hearing at 8:45pm and was seconded by Commissioner Whitman. The Board voted unanimously.

Commissioner Baker made a motion to approve the Flood Damage Prevention Ordinance in its entirety and was seconded by Commissioner Blackmon. The Board voted unanimously.

MINUTES CONTINUED FROM JANUARY 9, 2014**NORTH 15TH STREET PARKING RESTRICTIONS RECOMMENDATION**

Commissioner McKoy made a motion to open the public hearing at 8:46pm and was seconded by Commissioner Blackmon. The Board voted unanimously.

An Erwin resident recently requested staff to consider restricting parking on North 15th Street, due to excessive on-street parking and related public safety concerns. As indicated by the former Police Chief, "low light, visibility and rampant parking in, on, and near the roadway combined with little or no shoulder area does present a significant hazard to drivers who may be operating through the area." As such, staff is proposing that on-street parking be prohibited on North 15th Street from M Street to N Street, and M Street from North 14th Street to North 15th Street (see attached map). An amendment to Appendix I of the Town Code would provide for this restriction. In keeping with similar parking restrictions on other town streets, parking along these streets would not be prohibited on Sundays

All residents were notified of this scheduled public hearing.

Mayor Carson asked if anyone would like to speak in favor of the proposed Text Amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against the proposed Text Amendment to please come forward.

Desiree Hicks 702 North 15th Street, Erwin, came forward and spoke to the Board. Mrs. Hicks stated that she realizes that there are problems on North 15th Street however does not think the restrictions should apply in front of her house. There is a major problem in the curve and her suggestion would be to fill in the ditches and fix the area up and address the problem in the curve and not affect everyone that lives on that street.

Andrea McCrea 700 North 15th Street, Erwin, came forward and spoke to the Board. Mrs. McCrea stated that she is speaking on behalf of Ms. Fleeta McNeill that has been in her house for over sixty years. There are residents that live on this street that may take exception to the no parking rule because their family comes on holiday's and special occasions. The people that live on the curve would just move up and take the problem somewhere else. These restrictions would not improve.

Commissioner Turnage made a motion to close the public hearing at 8:50pm and was seconded by Commissioner Baker. The Board voted unanimously.

After some discussion from the Board, Commissioner Whitman made a motion to table the North 15th Street Parking Restrictions for the time being and let the Police Dept. look in to it and was seconded by Commissioner Turnage. The Board voted unanimously.

MINUTES CONTINUED FROM JANUARY 9, 2014

NEW BUSINESS

NATIONAL FLOOD INSURANCE PROGRAM DEFICIENCIES

After joining the National Flood Insurance Program in 1997 to allow residents to acquire flood insurance through FEMA, the Town of Erwin has been on probation since 2006 (Erwin is the only community in North Carolina and one of only a handful in the US to be on probation). Town staff has been working over the past several months with the NC Department of Public Safety, which administers the program in North Carolina, to identify and correct program deficiencies to remove Erwin from probationary status (see attached letter). Town Engineer Bill Dreitzler will review these deficiencies and the related potential costs, so that the Board of Commissioners can determine how to move forward with this program. In order for the town to stay in the NFIP and make this insurance available to its residents, staff recommends correcting deficiencies as possible, at the Town's cost as necessary.

Town Engineer Bill Dreitzler informed the Board that outside of the ordinance there are 18 structures that are in non-compliance with the flood hazard ordinance. Which are the following: (13) Water Edge Drive, (3) Old Ferry Lane, (1) Old Stage Road, and (1) East Jackson Blvd. (First Federal Bank).

It was the Consensus of the Board to have the Town Engineer Bill Dreitzler contact the property owners and document what needs to be done with the properties, obtain quotes from Contractors for the repairs to these properties and move forward with this project.

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13TH STREET SIDEWALK IMPROVEMENTS

The Town Manager recently requested the Town Engineer to complete a detailed cost estimate for a sidewalk extension project to include both sides of 13th Street from F Street to Old Post Road (see attached map). The project would be approximately 1850 linear feet in length (3700 linear feet of sidewalk) and would create safe pedestrian access and connectivity between South Erwin and the uptown area. Town Engineer Bill Dreitzler will present a review of potential costs and funding sources for this project, so that the Board of Commissioners can determine if it wishes to move forward with this effort (due to the potential high cost of utility relocation, this project could be done in phases, utilizing Powell Bill funds; however, NCDOT grant funds may be available to complete the project at one time).

Mr. Dreitzler informed the Board that we will be looking at \$460,000 project with curb n gutter. In the estimate it does not include additional right of way and/or easements depending on how we approach the project, if this will be a NCDOT funded project they would want additional right of way, if this is a Town project we can potentially purchase easements instead of right of way. There is a 6ft right of way on 13th Street and with this being a four lane road; we only have 8ft on each side. We would at least need an additional 5ft on each side.

MINUTES CONTINUED FROM JANUARY 9, 2014

Staff recommendation is to do the design and permitting of right of way acquisition for the entire length of the project. Maybe by the time this is done, we would have a better idea if the funding through the NCDOT or if it's going to be 5-7 years down the road and pay for it out of the Powell Bill Funds.

Some of the Board expressed concern if this is something the residents in this area want, would they be willing to give up right of way/easement.

Next step would be contacting the property owners and get cost estimates with phases, possibly setting up a work session with property owners and Jason Eply with Benchmark as well.

PURCHASE OF ADDITIONAL CHRISTMAS DECORATIONS

Staff is proposing the purchase of additional Christmas decorations, to be placed along 13th Street from F Street to Old Post Road, as well as along Denim Drive from 12th Street to 10th Street (see attached map). In addition, staff is recommending the purchase of non-lighted wreaths with bows, to be placed on alternating utility poles in the existing and proposed areas, to complement the existing lighted decorations. Staff has worked with Mosca Design of Raleigh on this proposal, attached for your review. It is important to note that the Town will save 33% on the total cost if the order is placed by late February, so it is beneficial to order additional decorations now rather than wait to later in the year. In order to take advantage of this cost savings, staff recommends that these additional decorations be purchased with fund balance (rather than budget for additional decorations in the upcoming fiscal year budget). The Board can delay a decision on this item until the February regular meeting and still take advantage of the cost savings if it wishes to proceed with the purchase.

It was the Consensus of the Board to get cost estimates of what it will take to do the poles and discuss via e-mail with the possibility of having it on the agenda in February.

BOARD OF COMMISSIONER'S RETREAT

Due to conflict with some of the Board members, the retreat has been scheduled for Saturday, February 22, 2014 at the Community Building in the Staff's meeting room at 8am.

MINUTES CONTINUED FROM JANUARY 9, 2014**CLOSED SESSION**

Commissioner Blackmon made a motion to go into Closed Session at 9:40pm Pursuant to General Statute 143-318.11(a) (6) for the Purpose of Discussing Matters concerning Personnel and was seconded by Commissioner Turnage. The Board voted unanimously.

Commissioner Blackmon made a motion to go back into regular session at 10:30pm and was seconded by Commissioner Whitman. The Board voted unanimously.

GOVERNING BODY COMMENTS

Commissioner Blackmon informed the Manager of a situation at 301 North 10th Street involving someone living in a camper.

Commissioner Whitman concerned with trash cans next to the road when not scheduled for pick up.

Commissioner Baker thanked the employees of the Town for doing a great job.

Commissioner Turnage expressed concerns with high water in front of Holmes Hardware on 13th Street.

ADJOURNMENT

Commissioner Blackmon made a motion to adjourn at 10:38pm and was seconded by Commissioner Baker. The Board voted unanimously.

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

**Patsy Carson,
Mayor**

**Cynthia B. Patterson, CMC
Town Clerk**