

ERWIN BOARD OF COMMISSIONERS  
REGULAR MINUTES  
NOVEMBER 7, 2013  
ERWIN, NORTH CAROLINA

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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 7, 2013 at 7:00 P. M. in Erwin, North Carolina.

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

Board Members absent were: Commissioners Norma Ennis and Frank Taylor.

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 Randy Baker gave the invocation.

Those present recited the Pledge of Allegiance.

### **APPROVAL OF AGENDA**

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

### **CONSENT ITEMS**

Commissioner Turnage made a motion to approve (**Item A**) Approval of Regular Minutes on 10/03/13, (**Item B**) Proclamation for Veteran's Day# 2013-005, (**Item C**) Interlocal Agreement between Harnett County and Town of Erwin for Debris Removal, (**Item D**) Proclamation for Recognizing 10U Girls Soccer #2013-006 and (**Item E**) Survey, Design, and Construction Services Porter Park Renovations and was seconded by Commissioner Baker. The Board voted unanimously.

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### **PRESENTATION TO 10U GIRLS SOCCER**

Mayor Carson presented a plaque to the 10U Girls Soccer Team and to honor the players and coaches on an amazing season.

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

**PUBLIC HEARING**

**CU-2013-004 127 RED HILL CHURCH ROAD CONDITIONAL USE PERMIT**  
**APPLICATION FOR AUTO ORIENTED BUSINESS IN B-2**  
**PIN#1507-15-5219.000**

Commissioner Turnage made a motion to open the public hearing at 7:05pm and was seconded by Commissioner Ballard. The Board voted unanimously.

Mayor Carson asked if anyone wishing to speak for or against this Conditional Use Permit to please come forward and take the oath.

Oath was administered to Mr. Edward Cox and Erwin Planner Kathy Blake.

Mr. Edward R. Cox submitted a request for a conditional use permit for an auto oriented business at 127 Red Hill Church Rd., Harnett County PIN # 1507-15-5219.000. The property owner of this 2.14 acre parcel is Warren Realty LLC. The parcel is zoned B-2 (Highway Business). An auto-oriented business is a conditional use in *Section 9-4030.3 Conditional Use of Section 9-4030 Highway Business (B-2)* of the *Zoning Ordinance*.

According to the Harnett County tax appraisal card, the existing 8,500 SF building appears to have been built in 1977. There are 2 existing driveways and a paved parking/concrete area with at least 10 parking spaces marked. Staff has been told this building was originally built as a machine shop. A conditional use permit for a "private recreation facilities for profit" was approved by the Board of Commissioners on June 2, 2011.

Mr. Cox's primary business is restoring antique autos. On occasions, he may have a vehicle or two for sale. Mr. Cox included the condition of a 6' privacy fence for the south side of the building where there is a small pad that has a few vehicles sitting prior to their relocation off-site.

The 1999-2010 Land Use Plan designates this parcel is on an "Entrance Corridor" and appears to be designated as "Rural Density Development". The Land Use Plan lists the following goals as applicable for entrance corridors:

1. **Goal #2** Enhance the appearance of all entrance corridors (Highways 55, 217, 421, 82, Denim Dr, West J St, and Red Hill Church Rd.)

The Land Use Plan states that "Rural Density Development" is intended for larger tracts without public water and sewer. This parcel appears to have public water and sewer.

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

At their October 21, 2013 Planning Board meeting, the Planning Board found all the Findings of Fact in the affirmative and that the application appears to be consistent with the Land Use Plan. The Planning Board voted to recommend approval of CU-2013-004 with the conditions presented.

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

No one came forward.

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

No one came forward.

Commissioner Turnage made a motion to close public hearing at 7:25pm and was seconded by Commissioner Baker. The Board voted unanimously.

Commissioner Baker made a motion to approve the Findings of Facts from the Planning Board as the Board of Commissioner's Findings of Facts would also make a motion to approve the Conditional Use Permit with the following conditions:

- All vehicle storage shall be located on imperious surface areas located on site
- The storage and sale of vehicles be limited to the northern side of property
- All storage of vehicles shall be enclosed with a minimum of 6ft high privacy fence and that no vehicles will be stacked or be positioned where visible over the fence
- Goes through Fire Marshall Department for review and approval
- Meets all State, Local and Federal guidelines

and was seconded by Commissioner Turnage. The Board voted unanimously.

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**PUBLIC HEARING****CODE AMENDMENT, MINIMUM HOUSING STANDARDS – MONETARY INCENTIVE**

Commissioner Turnage made a motion to go into public hearing at 7:25pm and was seconded by Commissioner Baker. The Board voted unanimously.

Town Manager Richard Douglas informed the Board that as approved by the Board of Commissioners at the October 2013 regular meeting, a public hearing has been scheduled to receive public input on a staff proposed Town Code amendment regarding minimum housing.

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

Attached for your consideration, this amendment provides a \$500 incentive to cover demolition expenses (paid after work is completed) for residential structures identified to be either dilapidated or deteriorated. The purpose of the ordinance amendment is to assist staff in more quickly addressing properties with substandard housing by encouraging property owners to demolish these structures, thus avoiding a lengthy minimum housing process required by Town ordinance and State law. At the conclusion of the public hearing, the Board of Commissioners may consider this amendment to the Town Code as recommended by staff.

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 Turnage made a motion to close the Public Hearing at 7:29pm and was seconded by Commissioner Baker. The Board voted unanimously.

Commissioner Baker made a motion to approve the amendment to Part 9 Chapter 10 Minimum and Abandoned Housing of the Code of Ordinances of the Town of Erwin and was seconded by Commissioner Ballard. The Board voted unanimously.

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**OLD BUSINESS**

**CU-2013-003 818 SOUTH 13<sup>TH</sup> STREET CONDITIONAL USE PERMIT FOR AUTO ORIENTED BUSINESS IN B-2**

At your October 3, 2013 meeting, the Board tabled this item after the public hearing so that staff could determine the zoning status of 818 S. 13<sup>th</sup> St. as the existing zoning map, dated August 2006, depicted the property split with both B-2 and R-6 districts.

On March 2, 1989, the whole Town of Erwin zoning map was revised. The March 1989 zoning map indicates 818 S. 13<sup>th</sup> St. as all B-2. It appears more current versions of the zoning map erroneously shifted the zoning in this area south, thus showing 818 S. 13<sup>th</sup> St. with both B-2 and R-6 classifications. Staff did not find any additional rezoning's of this property since 1989. It is staff's interpretation that 818 S. 13<sup>th</sup> St. is fully zoned B-2 as per the 1989 zoning map. The submitted application appears to meet the goals of the Land Use Plan and to meet all the Findings of Fact. Staff recommends approval of CU-2013-003, Bradshaw, 818 S. 13<sup>th</sup> St., for an auto oriented establishment in B-2 as recommended by the Planning Board.

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

Staff suggested consideration by Planning Board for the following conditions:

- The existing landscaping along Moulton Springs Road and South 13<sup>th</sup> Street per the submitted site drawing
- No vehicle storage longer than seven (7) days
- No outside storage of any materials except in accessory structures
- Delineated parking spaces (if this application included new building construction, a minimum of 4 parking spaces would be required.)
- Any car washing activities must have any applicable waste-water related permits from Harnett County or NCDENR
- Any oil changing activities must have any applicable permits per Harnett County or NCDENR

Commissioner Baker made a motion that the proposed conditional use meets the findings of facts in the affirmative, the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans and approve the CU-2013-003 for an auto oriented establishment in B-2 at 818 South 13<sup>th</sup> St. also add the Staff suggested conditions be placed on this Conditional Use approval and was seconded by Commissioner Ballard. The Board voted unanimously.

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**NEW BUSINESS**

**PRESENTATION OF TOWN OF ERWIN FY 2013 AUDIT – BRYON SCOTT, CPA OF THOMPSON, PRICE, SCOTT AND ASSOCIATES**

Bryon Scott with Price, Scott, Adams & Co. PA came forward and spoke. Mr. Scott stated that the Town has in Revenue \$2,812,519. The Expenditures is \$2,774,481. The Fund Balance at the end of the year is \$2,620,722.

The Tax Collection rate is 97.49%.

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

Commissioner Baker made a motion to accept the Town of Erwin Financial Statement Year End June 30, 2013 and was seconded by Commissioner Turnage. The Board voted unanimously

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

**ZT-2013-006 AMENDMENT TO THE ZONING ORDINANCE,  
YARD/GARAGE/CARPORT/PATIO/TAG/APARTMENT SALES &  
ZT-20130007 AMENDMENT TO THE ZONING ORDINANCE ACCESSORY USES TO  
INCLUDE DAY CARE CENTERS AND SIMILAR USES IN B-2 DISTRICT –  
REQUEST FOR PUBLIC HEARING**

Several residents asked about a text amendment to regulate yard sales. Direction provided to staff indicated 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*.

Also, 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. Currently, 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 workers.

It was the Consensus of the Board to schedule a public hearing for both amendments at the Regular January meeting.

**MINIMUM HOUSING ACCEPTANCE OF PROPERTY (209 EAST H. STREET)**

The residence at 209 East H St. has been the subject of minimum housing concerns for some time, and due to prior procedural issues, Town staff decided to reinstate minimum housing procedures.

On October 2, 2013, letters were mailed to the property owners, Thomas M. Johnson and Judy T. Johnson, notifying them that an inspection of the dwelling at 209 East H St. was scheduled for October 16, 2013 at 10:00 am. The inspection team consisted of: Harnett County Building Codes Administrator Ken Slattum, Town Manager Richard Douglas, Town Planner Kathy Blake, and Police Officer J. B. Davis. Mr. Thomas Johnson met the Town's minimum housing inspection team at the site and unlocked the front door to allow the inspection of the inside of the dwelling.

**Observations:**

- a lot of mold on the ceilings and walls in multiple areas
- water damage is visible on walls, floors, and ceilings
- a hole in the living room ceiling where daylight from the holes in the roof can be seen
- floors are so soft starting in the living room that we did not go down the hallway to the rear of the building

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

- windows with missing window panes, letting rain in
- rotten wood
- The Building Inspector and I, as the Housing Inspector, determined that per *Section 9-10007 Dwelling Unfit for Human Habitation* of the Town's **Minimum Housing Code** that the dwelling is Unfit for Human Habitation.
- Tax value on the building shows as \$64,720, not including the land.
  - Building Codes Administrator's determination is that it would take approximately \$75,000 to bring the house up to the Town's Minimum Housing Standards.

Therefore, it appears that the dwelling is dilapidated per *Section 9-10003 Definitions* of the Town's **Minimum Housing Code**.

Mr. Johnson expressed an interest in cooperating with the Town, and rather than handle the demolition himself, he discussed the possibility of "turning over" the property to the Town. Staff discussed this option with Town Attorney Mac Hunter, and recommends that the property be accepted by the Board in order to expedite the demolition of the structure. It should be noted that in all likelihood the Town would still incur all demolition costs if it followed the minimum housing ordinance procedures and did not accept ownership of the property (demolition could not occur for at least one year per the ordinance).

On October 31<sup>st</sup>, staff met with Mr. and Mrs. Johnson at Town Attorney Mac Hunter's office to discuss the Johnsons' Offer of Settlement. Mr. Hunter explained that the offer of settlement is not a binding agreement but defines the terms the Johnsons' propose so that the Board of Commissioners may consider a vote to accept or decline the offer. Mr. and Mrs. Johnson signed the Offer of Settlement and a copy is included with this memo. Should the Board vote to accept the Offer of Settlement as presented, the Johnsons' would then transfer the property to the Town by a deed.

Commissioner Baker made a motion to accept the Offer of Settlement as well as have the Town Attorney draw up all the documents and once signed have all personal property be removed in a two (2) week period and was seconded by Commissioner Ballard. The Board voted unanimously.

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**RAIL DEPOT TRANSFER AGREEMENT**

Mayor Carson has been in discussions with the Lester Group of Martinsville, Virginia, regarding transfer of ownership of the train depot on North 13<sup>th</sup> Street to the Town of Erwin. Attached for your consideration is an agreement with the Lester Group, with conditions, that transfers ownership of the depot. For example, one condition is that the town will be responsible for moving the depot from the current property, with planned relocation behind Town Hall.

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

After some concerns by the Board, Commissioner Baker made a motion table and call for a Special Called Meeting on Thursday, November 21, 2013 at 6pm and was seconded by Commissioner Ballard. The Board voted unanimously.

**POLICE DEPARTMENT REPLACEMENT VEHICLE**

As you are aware, recently an Erwin Police Department patrol car (2011 Crown Victoria with approximately 30,000 miles) was involved in an accident, totaling the vehicle (the officer was not at fault). As indicated in the attached memo from the Police Chief, insurance has provided \$13,213.87 toward a replacement vehicle. While these funds could be used for the purchase of a used vehicle (which could likely have excessive mileage and maintenance issues), staff recommends that a new vehicle be purchased. In order to purchase a new patrol vehicle (two Dodge Chargers were recently purchased for slightly less than \$23,000 each) and equip it for patrol (some existing equipment may be used), staff is requesting that \$11,672 be appropriated from fund balance to cover these costs.

Commissioner Ballard made a motion to move forward and appropriate funds from fund balance and was seconded by Commissioner Baker. The Board voted unanimously.

**UPTOWN ERWIN HISTORIC DISTRICT STUDY LIST PROPOSAL**

As an initial step in obtaining National Historic District designation for Uptown Erwin, staff is proposing that the Town contract with MDM Historical Consultants of Durham to prepare an Historic District Study List application. A proposal is provided for your consideration at a cost of \$1,900. If approved for the Study List, the town can pursue full historic designation by the National Park Service. The purpose of the historic district designation is to encourage building rehabilitation and business development by providing federal and state tax incentives, while also serving as a marketing tool. The Town Manager has worked successfully with MDM Historical Consultants on three historic district designations and recommends approval of this proposal.

After some discussion, Commissioner Turnage made a motion to accept MDM Historical Consultants proposal and was seconded by Commissioner Baker. The Board voted unanimously.

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**NORTH 15<sup>TH</sup> STREET PARKING RESTRICTION RECOMMENDATION**

An Erwin resident recently requested staff to consider restricting parking on North 15<sup>th</sup> Street, due to excessive on-street parking and related public safety concerns. As indicated by the Police Chief in the attached memo, "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

**MINUTES CONTINUED FROM NOVEMBER 7, 2013**

who may be operating through the area.” As such, staff is proposing that on-street parking be prohibited on North 15<sup>th</sup> Street from M Street to N Street, and M Street from North 14<sup>th</sup> Street to North 15<sup>th</sup> Street. In order to prohibit parking on certain portions of town streets, an ordinance identifying the prohibited areas would need to be adopted and signage placed in the designated areas. Staff requests that the Board of Commissioners consider a public hearing for the December 2013 regular meeting to receive public input on this issue prior to possible adoption of an ordinance.

It was the Consensus of the Board to hold a public hearing on this issue at the Regular January meeting.

**GOVERNING BODY COMMENTS**

Commissioner Ballard wanted to commend the Police Dept. on the letter we received from the District Attorney’s office.

Commissioner Baker was also impressed with the letter from the District Attorney’s office.

Commissioner Turnage asked about the additional Christmas lights and if this was going to be done this year.

Mayor Carson thanked the Chief of Police on the progress with the Community Watch.

**ADJOURNMENT**

Commissioner Turnage made a motion to adjourn at 9:05pm and was seconded by Commissioner Baker. The Board voted unanimously.

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

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**Patsy Carson,  
Mayor**

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