

MINUTES OF THE REGULAR MEETING
OF THE
LANCASTER COUNTY COUNCIL

November 2, 2009

Chairman Rudy Carter called the meeting to order on Monday, November 2, at 6:00 p.m. and offered the invocation.

County Council members present were Chairman Rudy Carter, Vice-Chairman Larry Honeycutt, Secretary Kathy Sistare, Jack Estridge, and D. W. "Cotton" Cole. Also present were Steve Willis, Mike Ey, Veronica Thompson, Chris Karres, Penelope Karagounis, spectators, and two members of the press. Larry McCullough was not in attendance as he was on vacation.

The following press were notified of the meeting by mail or by fax in accordance with the Freedom of Information Act: Lancaster News, York Observer, Kershaw News Era, The State, The Rock Hill Herald, Fort Mill Times, WRHI Radio, Cable News 2, Channel 9, and the local Government Channel.

AGENDA APPROVAL

MOTION was made by Larry Honeycutt to approve the agenda. SECONDED by Cotton Cole. PASSED 5-0. Absent: Larry McCullough

EMPLOYEE OF THE 4TH QUARTER

Chairman Carter congratulated Dianne Pardue from Public Works and presented her with a plaque for being chosen Employee of the 4th Quarter.

CITIZENS COMMENTS

John Baker, 2293 New Hope Road, 283-8399, spoke about the ordinance relating to prisoner care. He asked that in Section 2-233 where it refers to procedures reasonably incurred, whether that would exclude elective procedures as there have been a lot of cases on the national news where courts have ordered localities to pay for various elective procedures including cosmetic surgery. He wanted to make sure that this is not going to cover anything of that nature.

John Baker also stated that when Ordinance #1001 went before the Planning Commission, they changed the text to specifically refer to the Lancaster County Airport as opposed to referring to the primary surface so that it would apply to any existing or any future airport to which an overlay is assigned. He felt that this change would create a problem in that the county will have to have a reciprocal agreement with Mecklenburg County and/or Charlotte in regard to the Charlotte Douglas Airport and Union County in regard to the Monroe Airport because their overlays will extend three miles into Lancaster. By changing the language, it is going to make those agreements problematic and he asked that Council send this back to the Planning Commission to correct it before 3rd reading is held.

Dennis Patti, 6419 Stirling Lane, Indian Land, 548-4875, was representing the Belair Subdivision Homeowners Association. He requested that the zoning on Jim Wilson Road be left as it is and not rezoned.

Patricia Strickland, 2710 Charlotte Highway, 285-6681, was the petitioner for the rezoning request at 2710 Charlotte Highway. She would like to open a gift shop on the property.

Woody Wilson, 2730 Charlotte Highway, 285-7727, spoke in support of Ms. Strickland's application to rezone 2710 Charlotte Highway. The people in that area have no objections to the shop being located there.

Linda Singar, 9119 Andrew Lane, Belair Development, Indian Land, 704-361-1826, lives in the Belair subdivision, spoke in opposition to the possible rezoning on Jim Wilson Road for the elderly care facility. There is already a place within the Lancaster County zoning that includes assisted living, so it is not as if there is no place for such facilities.

PRISONER MEDICAL CARE

Steve Willis advised that the issue of providing medical care for inmates charged with General Sessions offenses has arisen. The County Code is in conflict with a 1996 Attorney General's and SC Association of Counties opinion which reads: "Generally, cities are responsible for the care and maintenance of prisoners arrested or convicted of violations within the jurisdiction of the Municipal Court and counties are responsible for the care and maintenance of prisoners arrested or convicted of violations within the jurisdiction of the Court of General Sessions. Therefore, counties, pursuant to their contract authority, should contract with municipalities to determine the financial responsibility for housing municipal prisoners in county jails." He presented Council with an ordinance that would amend Section 2-223 of the county code. The only change proposed is to specify the responsibility for medical care is limited to prisoners charged with municipal offenses and/or sentenced for municipal court offense, not general sessions court offenses, as those are the responsibility of the county. This will be placed on the next agenda for first reading.

COUNCIL COMMITTEE REPORTS

There were no committee reports.

COUNTY ATTORNEY REPORT

There was no attorney report.

RESOLUTION #705

In answer to a question posed, Steve Willis advised that the policy providing for monetary penalties when county employees are found negligent resulting in damage to county equipment will only affect employees of the county who are on the payroll and will not affect volunteers.

MOTION was made by Larry Honeycutt to adopt Resolution #705 amending the Motor Vehicle Use and Operation Policy – Lancaster County Personnel Policy – as adopted by Resolution #562. SECONDED by Kathy Sistare. PASSED 5-0 Absent: Larry McCullough

PUBLIC WORKS TRUCK ACQUISITION/DISPOSAL

Steve Willis advised that Darin Robinson had come up with a trial plan to compare pricing and determine whether a consignment sale by Mack Truck Sales of Charlotte is more beneficial to the county than holding a traditional auction of the surplus 1994 Mack dump truck to local bidders. The consignment

fee by Mack would be 7% commission with a \$1,500 minimum. Based on past auction proceeds of \$3,000 for this type truck, a reserve price of \$4,500 would be established, which would guarantee at least the same price netted in past auctions. He stated that Mack Truck is confident they can deliver a sales price in the \$6,000 to \$7,000 range, as they deal with truck buyers from throughout the southeast who deal in replacement parts and parts for rebuild. Should the truck not sell at the set price, the county would still retain the title and could auction it at a later date.

MOTION was made by Cotton Cole that the County Administrator and Public Works Director be authorized to dispose of the county-owned 1994 dump truck through a consignment sale by Mack Truck Sales of Charlotte, provided that a reserve price of \$4,500 be established. SECONDED by Jack Estridge. PASSED 5-0.

APPROVAL OF MINUTES

MOTION was made by Larry Honeycutt to approve the minutes of the September 28, October 1, and October 23, County Council meetings. SECONDED by Cotton Cole. PASSED 5-0. Absent: Larry McCullough

ORDINANCE READINGS

Rudy Carter asked Chris Karres whether he concurred that Ordinance #1001 regarding restriction of landfills near airports should be sent back to Planning Commission to change the verbiage as Mr. Baker stated in citizens comments. Chris Karres advised that the text in the ordinance states that that a landfill cannot be sited within six miles of an airport. The Planning Commission's concern was that if this was applied to other airports in the county, the county's existing landfill would become non-conforming. It would fall within a 6-mile radius of one of the other airfields in the county. That was the reason they wanted the Lancaster County Airport added to the text in the ordinance because they didn't want the current landfill possibly to become non-conforming in the future.

Mike Ey felt that Council could set policy by passage of an ordinance that restricts location of a landfill 6 miles from only the Lancaster County Airport. As far as the FAA requirements and as far as what may affect Charlotte and other NC airports, he could not advise Council as to what would affect airports in N.C. However, as a matter of policy, Lancaster County Council can adopt this ordinance.

Consent Ordinances

MOTION was made by Larry Honeycutt to adopt the consent ordinances as listed below. SECONDED by Cotton Cole. PASSED 5-0 Absent: Larry McCullough

- 3rd reading - Ordinance #999 - rezoning property petitioned by Sherry Caskey located on South Potter Road (tax map 89, parcel 10.01) from R-30 to R-30S
- 3rd reading - Ordinance #1000 rezoning property located at 1575 Great Falls Highway (tax map 81P, block A, parcel 3) from R-15 to B-3
- 3rd reading - Ordinance #1001 amending the UDO, Chapter 4, Conditional and Special Exception Uses, by adding a condition to Section 4.2.7, Sanitary Landfills, that would prohibit this use from being located within 6 miles from the Lancaster County Airport only and does not apply to other smaller airports in the county

Ordinance #1002 Haile Gold Mine, Inc. amending Fee of Tax Agreement

MOTION was made by Kathy Sistare to hold 2nd reading of Ordinance #1002 approving an amendment to the Fee of Tax Agreement dated December 1, 2008, between Haile Gold Mine, Inc., and

the County so as to add property covered by the Agreement; to approve an amendment to the Agreement for the development of a Joint Industrial and Business Park dated December 1, 2008, between Lancaster County and Chester County so as to add property covered by the Agreement; and to provide for other matters related thereto. SECONDED by Larry Honeycutt. PASSED 4-0 Absent: Larry McCullough. Jack Estridge recused himself from vote as he had an immediate family members who had an economic interest in the property (recusal form attached)

Ordinance #1003 amending UDO, Section 2.1.5 Overlay District

MOTION was made by Larry Honeycutt to hold 2nd reading of Ordinance #1003 amending the text of the UDO, Section 2.1.5, Overlay Districts, subsection (4) Aviation Overlay District, to establish the maximum height of any structure to be constructed within a specific area surrounding any airport or airstrip located within Lancaster County. SECONDED by Jack Estridge. PASSED 5-0. Absent: Larry McCullough

Ordinance #1004 amending UDO Section 5.6 Building Height Limitation – Airport Overlay District

MOTION was made by Kathy Sistare to hold 2nd reading of Ordinance #1004 to add a new subsection (5) to Section 5.6, Building Height Limitation, contained in the Airport Overlay District, to allow additional height limitations to a specific piece of property. SECONDED by Larry Honeycutt. PASSED 5-0. Absent: Larry McCullough

Ordinance – amending UDO to allow Community Care Facilities for the Elderly - **denied**

MOTION was made by Larry Honeycutt to remove from the table 1st reading of the ordinance amending the Table of Permissible Uses in the UDO to allow Community Care Facilities for the elderly and Continuing Care Retirement Communities as a conditional use in the R-15 Moderate Density Residential/Agricultural District, the B-1 Business/Office District and B-2 Community Business District. SECONDED by Jack Estridge. PASSED 5-0 Absent: Larry Honeycutt

MOTION was made by Larry Honeycutt to **deny** the request to amend the Table of Permissible Uses in the UDO to allow Community Care Facilities for the Elderly and Continuing Care Retirement communities as a conditional use in the R-15P, the B-1 and B-2 Districts, and to create a new section in Chapter 4, Conditional and Special Exception Uses, to contain the conditions for these uses being allowed in the zoning districts listed. SECONDED by Kathy Sistare. PASSED 5-0. Absent: Larry McCullough

Ordinance #1005 Lancaster Real Estate Group fee-in-lieu

Mike Ey reminded Council that Council passed an Inducement Resolution for Project Colorado a few weeks ago. This ordinance approves the fee-in-lieu of tax arrangement for that project. The entire fee agreement will be in Council's agenda for second reading.

MOTION was made by Cotton Cole to hold first reading of Ordinance #1005 authorizing the execution and delivery of a fee-in-lieu of tax agreement by and between Lancaster County and Lancaster Real Estate Group, LLC; authorizing a special source revenue credit in favor of Lancaster Real Estate Group, LLC; consenting to the assignment to Lancaster Real Estate Group, LLC of the fee-in-lieu of tax agreement entered into as of December 3, 2007 among Lancaster County, Senderra Real Estate Holdings, LLC and Avelo Mortgage, LLC; and other matters relating thereto. SECONDED by Kathy Sistare. PASSED 5-0. Absent: Larry McCullough

Ordinance #1006 rezoning 2710 Charlotte Highway

Penelope Karagounis advised that Patricia Strickland applied to rezone one acre of property located at 2710 Charlotte Highway in order to open a gift shop on the property. The planning staff recommended denial as this area is primarily residential in character and the commercial zoning in the vicinity is for commercial businesses that have been in place for a long time. The Planning Commission recommended denial by a vote of 5-2.

MOTION was made by Larry Honeycutt to hold first reading of Ordinance #1006 amending the county zoning map, specifically property petitioned by Patricia Strickland located at 2710 Charlotte Highway (tax map 49, parcel 48) from R0-30 to B-2 Community Business District. SECONDED by Cotton Cole. PASSED 5-0. Absent: Larry McCullough

EXECUTIVE SESSION

MOTION was made by Cotton Cole to go into executive session concerning an economic development a personnel matter. SECONDED by Jack Estridge. PASSED 5-0. Absent: Larry McCullough

MOTION was made by Cotton Cole to go out of executive session and back into regular meeting. SECONDED by Larry Honeycutt. PASSED 5-0.

As Council came out of executive session, Chairman Carter advised that Council received information on an economic development matter and a personnel matter. No action was taken as a result of executive session.

ADJOURNMENT

MOTION was made Cotton Cole to adjourn. SECONDED by Larry Honeycutt. PASSED 5-0. The meeting adjourned at 8:40 p.m.

Respectfully submitted,

Irene Plyler
Clerk to Council

Approved by Council 11-30-2009

Kathy Sistare, Secretary