

TOWN OF ELIZABETHTOWN  
Regular Meeting  
December 6, 2010

The Elizabethtown Town Council met for their regular scheduled meeting on Monday, December 6, 2010 at 7:00 p.m. in the Council Chamber of the Elizabethtown Municipal Building. Those in attendance were Mayor Sylvia Campbell, Mayor Pro Tem Rufus Lloyd, Council Members, Dicky Glenn, Ricky Leinwand, Charles DeVane, Herman Lewis, and Town Attorney Goldston Womble. Department Heads present included Public Services Director Pat DeVane, Police Chief Bobby Kinlaw, Finance Director Jan Lennon, Fire Chief Byron Graham and Town Manager Eddie Madden.

Mayor Campbell called the meeting to order and asked Mayor Pro Tem Rufus Lloyd to give the invocation.

Mayor Campbell presented the December 6, 2010 agenda and supplemental for approval. A motion was made by Council Member Dicky Glenn and, seconded by Mayor Pro Tem Rufus Lloyd, to approve the agenda and supplemental as presented (Unanimous).

Item #1: Approval of Previous Minutes

Mayor Campbell presented to Council, the minutes of November 1, 2010 Work Session, November 1, 2010 Regular Session and November 1, 2010 Closed Session. A motion was made by Council Member Ricky Leinwand, and seconded by Mayor Pro Tem Rufus Lloyd, to approve the minutes as presented (Unanimous).

Item #2: Presentation

Mayor Campbell recognized Eagle Scouts: Matthew Allen, Tanner Baxley, Rogers Clark, Woody Horton and Troy Murphy in which they earned Eagle Scout Badges for projects they worked on and completed. Mayor Campbell presented framed Resolutions to each Eagle Scout with the exception of Rogers Clark and Troy Murphy, due to a previous engagement they were scheduled to be at. The Eagle Scouts were congratulated on behalf of the Mayor and the Town Council for a job well done.

Item #3: Presentation

Mayor Campbell recognized Mr. Ricky Leinwand for the 75th Anniversary in which he and his family have operated Leinwands Department Store in downtown Elizabethtown. Mayor Campbell presented a framed Resolution to Mr. Leinwand and thanked him for the many years that he and his family have operated their business.

Item #4: Oath of Office

Mayor Campbell stated that the Oath of Office for newly appointed Council Member Ray Allen would take place at Town Council's Special Called Meeting on Monday, December 13th at 6:00 pm.

Item #5: Public Hearing: Zoning Text Amendment, Case #TA-1012108780

Mayor Campbell opened the public hearing and recognized Planning Technician Robert Lewis to present the text amendment request on the stormwater protection ordinance.

Mr. Lewis stated that a request has been submitted to change the language in the Elizabethtown Zoning Ordinance Article 8, Section 8.4 to the rules and regulations for a stormwater protection ordinance. Mr. Lewis stated that the proposed amendment will require a stormwater control plan to be submitted for new developments; this will pertain to developments exceeding 1000 sq. ft. of impervious surface. Mr. Lewis stated that developers would be required to submit a stormwater review which would cost \$500 plus an impact fee of \$0.25 per sq. ft. of impervious surface created in the project boundary. The public hearing was duly advertised in the Bladen Journal on November 19th and November 26th.

Mayor Campbell stated that no one had signed up to speak; however questions and comments were asked of the Council Members. Mayor Campbell closed the public hearing.

Item #6: Public Hearing: Zoning Text Amendment, Case #TA-1013108780 -Itinerant Merchants & Sales/Roadside Vendors

Mayor Campbell opened the public hearing and recognized Planning Technician Robert Lewis to present the text amendment request on Itinerant Merchants & Sales/Roadside Vendors.

Mr. Lewis stated that the Town of Elizabethtown submitted a request to include language in the Elizabethtown Zoning Ordinance, Article 5, Section 5.7.1 and to rules and regulations pertaining to itinerant merchants or roadside vendors. The ordinance proposes to regulate roadside vendors in all zoning districts. Mr. Lewis stated that Civic groups, non-profits, religious organizations, and like groups holding 501 C3 status are exempt from the ordinance when proceeds are used for charitable purposes. This public hearing was duly advertised in the "Bladen Journal" on November 19th and November 26th. Mr. Lewis stated that the Planning Board Chairman Jim McLaney does forward recommendation of a 4-3 approval of the itinerant merchant ordinance to Town Council for consideration.

Mayor Campbell stated that Mr. Al Daniel signed in to speak.

Mr. Daniel stated that he is a member of the Cape Fear Farmer's Market and wanted to speak regarding the market itself. Mr. Daniel stated the purpose of having farmer's market is beneficial to the community in that there are regional and local efforts to establish policies, programs, funding strategies and networking and other support structures to establish markets to make fresh foods available across the nation. Mr. Daniel concentrated on the fact that markets work together and they bring a network of local organizations such as the Health Department, Social Services, Senior Centers, Community Extension Service, Schools and other organizations that support and bring together the whole community. Farmer's Markets allow the community to participate in voucher programs and some are backed by Federal programs and it cost the community nothing to participate, such as programs for seniors and programs for young families with children. Mr. Daniel thanked the Mayor and Council Members for allowing him to speak on behalf of the importance of centralized markets in the community.

Mayor Campbell asked for questions and/or comments from Council Members, but none were noted; therefore, the public hearing was closed.

Item #7: Public Hearing: Zoning Text Amendment Request, Case #TA-1014108780-Internet Sweepstakes Cafe's/Electronic Gaming Operations

Mayor Campbell opened the public hearing and recognized Planning Technician Robert Lewis to present the Zoning Text Amendment. Mr. Lewis stated that the requested text amendment is to change language in the Elizabethtown Zoning Ordinance concerning the internet sweepstakes cafes and electronic gaming operations. Mr. Lewis stated that new language will be added for the purposes that internet sweepstakes gaming operations or like uses be permitted in the General Commercial (C-1) and Central Commercial (C-2) districts by special use. Mr. Lewis stated that stipulations were placed on the location of the establishments and the language would reflect that the Internet Sweepstakes Cafe's/Electronic Gaming Operations cannot be located within 1000 ft. of churches, schools, day-cares, lots zoned for residential purposes, and parks. The public hearing was duly advertised in the "Bladen Journal" on November 19th and November 26th.

Mayor Campbell stated that no one had signed up to speak; therefore, the public hearing was closed.

Item #8: Public Hearing: Zoning Map Amendment requested by Ms. Holly Smith to rezone approximately 1.72 acres located at the corner of Cypress and Gooden Streets from Central Commercial (C-2) to High Density Residential (R-10), Case # RZ-1102105373

Mayor Campbell opened the public hearing and recognized Planning Technician Robert Lewis to present the Zoning Map Amendment request.

Mr. Lewis stated that Ms. Holly Smith of Ilex Properties, LLC is present at the evening meeting and a zoning map amendment was submitted to rezone approximately 1.72 acres of land from C-2 to R-10. Mr. Lewis stated that the location of the proposed rezoning is located at the corner of Cypress and Gooden Streets. Mr. Lewis reported that the public hearing was duly advertised in the "Bladen Journal" on November 23rd and November 30th.

Mayor Campbell stated that Ms. Catherine Williams signed in to speak. Ms. Williams stated she was against the rezoning and stated nothing further.

Mayor Campbell stated that Ms. Donna Chandler had signed in to speak. Ms. Chandler stated she was against it and stated nothing further.

Mayor Campbell asked if the Council Members had any comments they wanted to make at this time.

Council Member Ricky Leinwand asked why they were against the rezoning. Ms. Williams stated that her property is adjacent to this section proposed to be rezoned and there was enough problems in the neighborhood with the other apartment complex and they did not need any more problems. Ms. Williams stated they did not need any more animals roaming the neighborhood and barking.

Mayor Campbell asked if there were additional comments regarding this public hearing. Ms. Holly Smith stated that these apartments will be occupied by individuals that are 55 or older and pets will not be allowed at these apartments. Ms. Smith also

stated that the perimeter of the property could be fenced to include a very old tree that will be saved and become apart of the landscaping. Ms. Smith asked if there were any questions that she could answer; however, none were noted.

Mayor Campbell stated that there were no further questions; therefore, the public hearing was closed.

Item #9: Public Hearing: Quasi-Judicial Procedure - Special Use Permit Request by Holly Smith, Case #SU-1108105373, Multi-family dwellings, more than one (1) building per lot

Mayor Campbell stated that this agenda item is considered Quasi-Judicial; therefore, Deputy Clerk Sarah Baysden will administer the swear in of those wishing to speak in this special use request.

Deputy Clerk Sarah Baysden - Do you solemnly swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth so help you God.

Holly Smith - Yes.

Planning Technician Robert Lewis - Yes.

Mr. Lewis stated that Ms. Holly Smith has submitted a Special Use application requesting the construction of multi-family dwellings, more than one building per lot at the corner of Cypress and Gooden Streets. The property is currently owned by Hilton Family Investments, LLC. The special use request was duly advertised in the "Bladen Journal" on Tuesday, November 23rd and Tuesday, November 30th. As a special note, please reference material related to the standards for issuing a special use permit in North Carolina. Be aware that it is the applicant's responsibility to present evidence that the standards of the Elizabethtown Zoning Ordinance are met.

Mayor Campbell - No one signed up to speak, Holly would you like to address the board or you're just there for questions if there are any questions?

Holly Smith - The Special Use request is because we are going to combine the lots into one big lot, as far as....I know there are concerns with buffers because we are in a residential neighborhood, so a privacy fence will be placed much like the fence at the Swanzy Ridge Apartments. Like I said my goal is to save this huge tree which is about 200 yrs. old and the site here is really pretty, crepe myrtles will be saved as well. The driveway will be moved over to save the crepe myrtles, club house will be just for seniors here, activities will be in the exercise room, wellness, crafts, card games, etc. A gate will be installed that is accessible only by the residence, these apartments are not to create a problem but enhance for our seniors because we do need more senior housing here in Elizabethtown. These apartments are one-story. Are there any questions.

Council Member Herman Lewis - What is that age again?

Holly Smith - 55 and over, anyone that rents the apartment has to be at least 55.

Council Member Dicky Glenn - How many units will there be?

Holly Smith - 28 and they are quads-one story. You enter from the side, there will be ornamental trees along the walkway.

Mayor Campbell - Any other questions.

Council Member Herman Lewis - Do you have the front elevation on how the building will look from the front?

Holly Smith - I forgot to bring those plans with me and I apologize; however, I do have a layout which shows the clubhouse and again I can mail this information to you.

The apartments are all brick, which is low maintenance, high quality vinyl which will be easy to clean and maintain.

Mayor Campbell - It appears to be a nice facility.

Holly Smith - This will not be subsidized; rent will be \$350-one bedroom to \$450.00-two bedroom.

Mayor Campbell - Any other questions for Holly. Since there are no further questions, we will close this public hearing and we are going to move on.

Item #10: Resolution (#R-10-22) for Town of Elizabethtown Personnel Policy Amendment - Overtime Pay

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #11: Resolution (#R-10-23) to Create a Community Revitalization Plan

Mayor Campbell recognized Town Manager Eddie Madden to present this agenda item regarding a Community Revitalization Plan. Mr. Madden stated that this was a similar process that Ms. Holly Smith went through when considering the apartments that are now constructed on Swanzy Ridge. Mr. Madden reported this is a Community Revitalization Plan and it will cover the area of Cypress and Gooden Street; where the apartments will be constructed. By adopting this resolution, it will allow the identifying of particular needs in the area in hopes that the plan will be approved and seek additional grant funding and the developer would be given extra points by having such a plan in place.

Council Member Charles DeVane stated to the Mayor and Council Members that he has a family member that will be involved in this community revitalization plan and asked to be excused from this item of business.

A motion was made by Council Member Dicky Glenn, and seconded by Council Member Herman Lewis to excuse Council Member from this agenda item (Unanimous).

Town Attorney Goldston Womble asked Council Member DeVane if he wanted to be excused from Agenda Items #18 and #19 as well. Council Member DeVane stated that he would like to be excused from these agenda items as well.

Council Member Dicky Glenn, and Council Member Herman Lewis made a motion that Council Member DeVane be excused from Agenda Item #11, #18 and #19 (Unanimous).

A motion was made by Council Member Ricky Leinwand and seconded by Council Member Herman Lewis to approve the attached resolution as presented (Unanimous).

Mayor Campbell asked that all those in favor of approving the attached resolution (Unanimous).

Item #12: Resolutions of Recognition (#R-10-24; #R-10-25; #R-10-25; #R-10-26; #R-10-27 and #R-10-28) for Eagle Scouts

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #13: Resolution (#R-10-29) of Recognition for 75th Anniversary of Leinwands Department Store

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #14: Resolution (#R-10-30) for Surplus Property Disposal and Use of GovDeals.com

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #15: Zoning Text Amendment, Case #TA-1012108780

Mayor Campbell requested a motion concerning the Stormwater Protection Ordinance presented. A motion was made by Council Member Herman Lewis and seconded by Mayor Pro Tem Rufus Lloyd to approve the zoning text amendment and that Town Council has reviewed these documents and found that the following zoning text amendment is inconsistent with the objectives and policies in the adopted Land Use and Strategic Plans; however, the zoning text amendment is reasonable and in the public interest at this time (Unanimous).

Item #16: Zoning Text Amendment, Case #TA-1013108780

Mayor Campbell stated that Council is requested to make a motion on this agenda item concerning Itinerant Merchants & Sales/Roadside Vendors in which the Planning Department forwarded recommendation 4-3 vote in favor of the Zoning Text Amendment. A motion was made by Council Member Dicky Glenn, and seconded by Council Member Herman Lewis to table this item of business. Council Member Charles DeVane stated that in listening to Mr. Al Daniel speak on Itinerant Merchants & Roadside Vendors he felt this agenda item needed to be considered for approval.

Town Attorney Goldston Womble stated that under Robert's Rule of Order that once a motion has been made and seconded, there is no discussion on a motion to table; a vote will need to be made.

Mayor Campbell asked for those in favor of tabling to say aye, one (1) in favor of tabling and five (5) against; therefore, the motion to table was not approved.

A motion was made by Mayor Pro Tem Rufus Lloyd and seconded by Council Member Herman Lewis to approve the Zoning Text Amendment in which Town Council has reviewed these documents and found that the following zoning text amendment is inconsistent with the objectives and policies in the adopted Land Use and Strategic Plans; however, the zoning text amendment is reasonable and in the public interest at this time (Unanimous).

Item #17: Zoning Text Amendment, Case #TA-1014108780

Mayor Campbell stated that Council is requested to make a motion on this agenda item concerning Internet Sweepstakes Cafe's/Electronic Gaming Operations. Mr. Madden stated that he has received numerous phone calls from citizens inquiring as to why the Town has not closed the sweepstake establishments. Mr. Madden reported that Police Chief Kinlaw and Fire Chief Graham as well as Planning Technician Robert Lewis have handled these zoning issues and it is more of a law enforcement matter. Mr. Madden stated that Legislature has deemed sweepstakes establishments to be illegal; however, it appears that discussions are still taking place in Raleigh as to what constitutes video gaming and sweepstake games. Mr. Madden advised that Chief Kinlaw has visited the sweepstake establishments and an inventory has been made of each machine, they have complied with the law enforcement. It appears that one (1) establishment remains

open and based on interpretation from the Attorney General's Office; they may be allowed to continue. Planning Technician Robert Lewis has formulated language that will be pivotal in this matter should the establishments continue to operate. A motion was made by Council Member Dicky Glenn and seconded by Council Member Herman Lewis to approve the Text Amendment and Town Council has reviewed these documents and found that the following zoning text amendment is inconsistent with the objectives and policies in the adopted Land Use and Strategic Plans; however, the zoning text amendment is reasonable and in the public interest at this time (Unanimous).

Item #18: Zoning Map Amendment Request by Ms. Holly Smith to rezone approximately 1.72 acres located at the corner of Cypress and Gooden Streets from Central Commercial (C-2) to High Density Residential (R-10), Case #RZ1102105373

Mayor Campbell requested a motion on this request from Ms. Holly Smith to rezone property from C-2 to R-10. Mayor Campbell stated that the Planning Board approved this zoning map amendment in their Planning Board meeting earlier this evening in which it was unanimously approved. A motion was made by Mayor Pro Tem Rufus Lloyd, and seconded by Council Member Herman Lewis to approve the zoning map amendment in which Town Council has reviewed these documents and found that the following zoning map amendment is inconsistent with the objectives and policies in the adopted Land Use and Strategic Plans; however, the zoning map amendment is reasonable and in the public interest at this time (Unanimous).

Item #19: Special Use Permit Request by Ms. Holly Smith, Case #SU1108105373

Mayor Campbell stated that a special use permit is requested by Ms. Holly Smith to construct a multi-family dwelling with more than one building per lot. Mayor Campbell reported that a buffer was requested to cover the perimeter of the property. A motion was made by Ricky Leinwand, and seconded by Mayor Pro Tem Rufus Lloyd to approve this special use request to impose additional conditions as part of the permit approval process which includes a fence around the perimeter of the property. (Unanimous).

Item #20: Tax Releases

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #21: Contract for Services from W.K. Dickson - WWTP and Sewer Regionalization Planning Evaluation

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #22: Bid Award and Contract Approval - Cape Fear Farmer's Market Project

Mayor Campbell recognized Town Manager Eddie Madden to present the bid award and contract approval on the Cape Fear Farmer's Market Project. Mr. Madden stated that architect Terry Cox assisted the Town in the opening of bids and is present this evening to answer any questions that Council may have. Mr. Madden reported that Procession Contractors of Laurinburg submitted the lowest bid; however, in the noon Council meeting questions were asked regarding the contractors price on brick count.

Mr. Cox explained to Council regarding the brick price and he stated that he did contact Mr. Sawyer who is the project manager and he did explain the reason for his price on the brick count and he stated that he would guarantee the quote that was given. Mr. Madden stated that the required brick for the project has been included in the bid amount. A motion was made by Council Member Ricky Leinwand, and seconded by Council Member Dicky Glenn to approve the contract and award low bid in the amount of \$1,032,700 to Precision Contractors, Inc. Also, there will be no extras for brick as presently required in the contract documents and that all brick required for the project are included in the bid amount (Unanimous).

Item #23: Annual Certification of Firefighters

Mayor Campbell stated that the firefighters roster would need to be approved which will allow these firemen to be eligible for line of duty death benefit and Pension Fund credit. A motion was made by Council Member Dicky Glenn, and seconded Council Member Herman Lewis to approve the attached roster as presented (Unanimous).

Item #24: Change Orders No. 1 and No.2 - Downtown Revitalization Project

Mayor Campbell recognized Town Manager Eddie Madden to present the change order for the Downtown Revitalization Project. Mr. Madden reported that the items listed on the change orders are what the Town has requested of the contractor to do on our behalf during this project. The original contract was for \$818,784.00 and there are six (6) items that are involved that are outside the scope of the original contract agreement. The total amount of Change Order No. 1 is \$21,498.50 bringing the revised contract to \$840,282.50 and Change Order No. 2 in the amount of \$8,991.00 to replace the existing concrete sidewalk on the South side from Pine Street to MLK Drive.

A motion was made by Council Member Dicky Glenn, and seconded by Council Member Herman Lewis to approve both attached change orders as presented (Unanimous).

Item #25: Appointments: Zoning Board of Adjustment and Local Firemen's Relief Fund

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #26: Capital Project Ordinance - Energy Conservation Grant

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #27: Contract for Installation of Tree Lights for Downtown

Mayor Campbell stated this item of business was approved in the noon meeting.

Item #28: "Briefly"

Mayor Campbell recognized Town Manager Eddie Madden to briefly report on upcoming events.

- Mr. Madden reminded Council of holiday closings which include Friday, December 24th and Monday, December 27th as well as Friday, December 31st.
- The Town Employee's Christmas Party is planned for Thursday, December 23rd at 1pm.

- The January Town Council meeting will stay on the regular schedule of Monday, January 3rd at 7pm.
- Mr. Madden stated that a Special Called Meeting is scheduled for Monday, December 13th at 6pm.
- The next MCAB meeting is scheduled for December 9th at 5:45 pm at the Elizabethtown Industrial Park.
- The Town's new web site should be up and running very soon.

Item #29: Open Forum

Mayor Campbell stated that anyone wishing to speak to the Council Member on matters of concern may approach for open forum. No one approached Council; therefore, open forum was closed.

Mayor Campbell asked if anyone had additional comments or questions, but none were noted. A motion was made by Council Member Dicky Glenn, and seconded by Council Member Herman Lewis to adjourn (Unanimous).

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Sylvia Campbell, Mayor

ATTEST:

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Sarah L. Baysden, Deputy Town Clerk