

Zebulon Board of Commissioners
Work Session
Minutes
July 18, 2012

Present: Robert S. Matheny-Mayor, Curtis Strickland, Beverly Clark, Roy Collins, Dale Beck, Don Bumgarner, Rick Hardin-Town Manager, Lisa Markland-Town Clerk, Mark Hetrick-Planning, Emily Lucas-Finance, Tim Hayworth-Police, Sidney Perry-Fire, Greg Johnson-Parks and Recreation, Eric Vernon-Attorney

Absent: Chris Ray

Mayor Matheny called the meeting to order at 7:00pm.

APPROVAL OF AGENDA

Mayor Matheny asked that item III(A1)—CAFR announcement be removed as that was intended to be on the regular meeting agenda.

Commissioner Bumgarner made a motion, second by Commissioner Clark to approve the agenda as amended. There was no discussion and the motion passed unanimously.

OLD BUSINESS

A. Planning

Hwy 96 Corridor Study

Mark Hetrick presented the report done by CDM Smith on the Hwy 96 Corridor Study that presented their recommendations on how that area should be developed. The report was planned trying to furthering the plan that was adopted in 2009. It took the vision for the corridor and looked at the parameters for construction within that corridor.

The plan looked at the overall function of the area and had a design element through the year 2025. There were no major changes made to the draft that was brought before the Board on May 23, 2012.

Mayor Matheny asked about the traffic signal that was placed at Green Pace Road and asked if it would not be better to have one at Riley Hill Road instead or in addition to Green Pace Road. There was discussion about the Zebulon children being assigned to the new high school in Rolesville and that would be the road that they would travel to get there. It was stated that Riley Hill was already a pretty busy road and that needed to be taken into account. Will Letchworth with CDM Smith stated that it could be added if a time came that it was needed but currently they did not see that it was needed.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve the Hwy 96 Corridor Study as presented. There was no further discussion and the motion passed unanimously.

NEW BUSINESS

A. General

Request to Close a Public Street

Rick Hardin stated that staff had received a request from the Shiloh Temple to close a portion of W. Horton Street on Saturday August 18, 2012 from 8am to 6pm to hold a community festival at the church. Rick explained that there would be approximately 10 homes that would be affected by the closing of the street and there was some concern with that. Both the fire and police chief were asked to share their comments.

Christina Odom stated that they wanted to hold a block party type of event and would need the space to provide a safer environment for those that would be attending the event. Parking would be accommodated by partnering with the local businesses which would allow for people to walk to the church. Flyers would be delivered to the residents that would be affected to let them know about the event. There would be parking attendants that would allow for emergency vehicles to access the area should that be necessary.

There was discussion about why they moved the event from Primrose to W. Horton and Ms. Odom explained that they had acquired the property at 210 W. Horton and they wanted people to have access to the facility.

Mayor Matheny asked why the street needed to be closed and why they couldn't use their own property for the event. Christina Odom said that it would just give them more space to do what they wanted to do.

Police Chief Tim Hayworth stated that the only concern was being able to get in and out to the homes on that street should it be necessary. By manning the ends of the street has great intentions but the main problem could be moving the people out of the way so that emergency vehicles could gain access. Chief Sidney Perry stated that they had the same concerns as the police department.

Mayor Matheny said that he was concerned with setting a precedent by allowing the street to be blocked and the property owners having difficulty due to the face of not being able to reach their homes all day. Commissioner Beck agreed with the Mayor and stated that he would be upset if the street in front of his home were to be blocked and he would not be able to get his vehicle in and out of his property all day.

Commissioner Clark stated that she did not have a problem with the event and blocking the street. Commissioner Collins agreed with that statement.

Commissioner Clark made a motion, second by Commissioner Collins to grant the request to close the street. There was no discussion and the motion failed with a vote of 2-3. Those voting in favor of the motion were Commissioners Collins and Clark and those voting against were Commissioner Strickland, Bumgarner and Beck.

B. Finance

Ordinance 2013-11—Grant Funding for Phase II of the Community Park Walking Trail

Greg Johnson stated that the ordinance would appropriate the grant funds received for the walking trails that were designed around the fields at Community Park. Phase I of the three year grant totaling \$85,000 was done in fiscal year 2012. The trail would be concrete back in the wooded area all the way to the property line at Zebulon First Baptist Church as depicted on the map in green. When all three phases were completed it would be approximately $\frac{3}{4}$ of a mile loop.

There was discussion about if or when Zebulon First Baptist Church would be tying into the trail. Greg explained that their intent was to meet up with the portion that the Town installed that stopped at their property line. Mayor Matheny said that he did not want to install a section that was a trail to nowhere and thought that the church should provide some assurances that they had the funds and were going to get it completed.

Commissioner Strickland asked how far the church would have to build. Greg stated it was approximately 70 yards. There was discussion about the possibility of getting something in writing from the church and if it would be necessary.

Rick Hardin asked if the Town was bound by the plan that was submitted for the grant. Greg Johnson said that the Town had the ability to alter the plan and there was a permit in place and they wanted to finish that section of the trail.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-11 with the condition that there be a discussion with Zebulon First Baptist Church on getting assurances that they would tie into the trail that would connect to their property. There was no further discussion and the motion passed unanimously.

C. Police

Amendment to Ordinances dealing with the Civil Citation Process

Tim Hayworth presented all the various ordinances that staff was proposing be changed to address the concerns that had come up due to some recent court rulings and interpretations. The basics presented were that the Town's civil citations allowed for citizens to not have to go to Raleigh saving them time and also money since the court costs would be well over \$200 versus what the Town charges. There would also be no points assessed to a violator for violation of the Town's civil citation.

The main crux of the presentation was that all proceeds received from a citation that could be issued a state citation under state statute 14-4 would have to be given to the state school board. So basically what staff did was to propose to opt out of the ability to issue a state citation under 14-4 for ordinances that were specific to the Town of Zebulon and did not have a state mirrored law for the same thing. Therefore, all proceeds received for citations for Town ordinances that also mirrored state law, such as parking in a handicapped space, would go to the school board and the remainder of the proceeds would go to the Town.

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The following are the ordinances that were discussed by the Board.

Ordinance 2013-01—Chapter 130 offenses against property. The changes requested by that ordinance would be to exempt it from 14-4 and other state statutes. Mayor Matheny asked how that would affect the Community Center. Tim Hayworth explained that the Community Center was as permitted facility when alcoholic beverages were on the premises.

Staff was requesting that section 130.05 be struck from the ordinance since it would be considered trespassing anyway. Mayor Matheny said that by changing the ordinance it would allow anyone to go dance on his roof. Tim explained that no that was incorrect it would be considered trespassing. Mayor Matheny asked if it would need to be posted and did they think that they could make the citation stick if someone did so. Tim stated it did not have to be posted since the only way to get to your roof would be with a ladder. He continued by explaining the reasonable man theory and it asked what would a reasonable person think in the same circumstances and a reasonable person would not think being on someone's roof without permission would be legal. Eric Vernon totally agreed with what Chief Tim Hayworth stated.

Ordinance 2013-02—Section 98.10 picketing. The request was that it be exempted from 14-4.

Ordinance 2013-03—Chapter 11 for peddlers and itinerant merchants. Mark Hetrick reviewed what was being proposed and he was in agreement with the recommended change of exempting it from 14-4.

Mayor Matheny asked if that would infringe on yard sales. Tim Hayworth stated that there was a different ordinance that dealt with yard sales.

Ordinance 2013-04—Privilege Licenses. Emily Lucas reviewed what was being proposed and she was in agreement with the recommended change of exempting it from state statute.

Mayor Matheny asked about the state issued licenses and if those were enforced by the Town and Tim stated that they did not get involved in enforcement of state issued licenses. Emily said that any complaints of those operating without a state issued license would go to the state not to the Town.

Ordinance 2013-05—Chapter 97 Noise. Recommending that it be exempted from state statutes.

Ordinance 2013-06—Chapter 131 Offenses against Public Peace and Safety. Recommending that the fine be \$500 but not that it was exempted from 14-4. That was a recommendation from the attorney's office.

Mayor Matheny asked about 131.08 and stated that he was not in favor of drug crimes being a civil citation issue. Tim Hayworth explained how it worked and stated that those dealt with beckoning people and vehicles and stopping and talking to them by known drug users and in known drug areas. It was not intended to charge those who were selling and using drugs with a civil citation. It was enforced by stopping the people or the car and talk to them about what the guy was doing and why he was beckoning to them to stop.

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Sections 131.02, 04, 06 and 07 would be to exempt it from 14-4.

Section 131.03 would be struck from the ordinance since it was something that would not be enforced by local officials.

Section 131.05 dealt with non-firearm projectiles and made it illegal for that projectile to leave the persons property. It would also exempt it from 14-4.

Ordinance 2013-07—Chapter 91 Animals. Staff was asking that it be exempted from 14-4.

Ordinance 2013-10—Chapter 72 Parking. Staff was asking that it exempt those ordinances from 14-4 that were not mirrored in the state statute.

Ordinance 2013-08—Section 10.98 had a few amendments recommended by the attorney but they did not change the meat of the ordinance.

There was discussion about littering and what could and could not be done as well as shopping carts from grocery stores being left around town.

Mayor Matheny asked Eric Vernon if there was anything that he thought should be tabled for further discussion or research. Eric stated there was no reason since staff and the attorney had thoroughly reviewed the items and they were good with the amendments as written.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-01. There was no discussion and the motion passed unanimously.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-02. There was no discussion and the motion passed unanimously.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-03. There was no discussion and the motion passed unanimously.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-04. There was no discussion and the motion passed unanimously.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-05. There was no discussion and the motion passed unanimously.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-06. There was no discussion and the motion passed unanimously.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-07. There was no discussion and the motion passed unanimously.

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Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-10. There was no discussion and the motion passed unanimously.

Commissioner Beck made a motion, second by Commissioner Bumgarner to approve ordinance 2013-08. There was no discussion and the motion passed unanimously.

MANAGERS REPORT

Rick Hardin presented that there was an art exhibit opening on August 2, 2012 and the next Board of Commissioners meeting would be August 6, 2012.

Commissioner Beck made a motion, second by Commissioner Collins to adjourn. There was no discussion and the motion passed unanimously.

Date

Robert S. Matheny—Mayor

SEAL

Lisa M. Markland, CMC—Town Clerk