

**CITY OF LAURINBURG
COUNCIL MEETING
APRIL 19, 2011
MUNICIPAL BUILDING
303 WEST CHURCH ST.
LAURINBURG, NC
7:00 P.M.**

MINUTES

The City Council of the City of Laurinburg held its regular monthly meeting April 19, 2011 at 7:00 p.m. in the council room of the Municipal Building with the Honorable Matthew Block, Mayor, presiding. The following Councilmembers were present: Curtis B. Leak, Thomas W. Parker, III, Herbert M. Rainer, Jr., Kenton T. Spencer, and Joy Ellison.

Also present were: Edward F. Burchins, City Manager, Dolores A. Hammond, City Clerk, and Charles L. Hicks, Jr., Assistant City Attorney.

Mayor Block called the meeting to order at 7:00 p.m. Councilmember Rainer gave the invocation.

APPROVAL OF AGENDA

Councilmember Leak moved to adopt the agenda. Councilmember Rainer seconded the motion and it unanimously carried.

CONSENT AGENDA

Mayor Block reviewed the items on the Consent Agenda:

- a. Approve minutes from the downtown summit meeting held February 2, 2011; the regular meeting held February 22, 2011; and the retreat of February 25, 2011
- b. Quarterly financial update for the City of Laurinburg
- c. Authorize the Mayor and City Clerk to sign an agreement between the City of Laurinburg and the North Carolina Department of Transportation for improvements on Bridge No. 39 over US 74 Business and NC 79 on US 15-401-501
- d. Authorize the Mayor to execute agreement between the City of Laurinburg and Gustaf C. Lundin & Company, LLP for auditing services of the City of Laurinburg's 2010-2011 financial records

Councilmember Parker moved for the approval of the Consent Agenda as submitted. Councilmember Spencer seconded the motion, and it was approved by the following vote:

Ayes: Parker, Spencer, Rainer, Ellison, Leak

Nays: None

CONDITIONAL USE PERMIT FOR THE OPERATION OF A SPORTS BAR/PRIVATE MEMBERSHIP CLUB LOCATED AT 228 NORTH MAIN ST.

Mayor Block explained that this public hearing is for a conditional use permit requested by Mr. Henry Lloyd to operate a Sports Bar/Private Membership Club at 228 North Main Street.

Mayor Block declared the public hearing open.

Mrs. Brandi Deese, Zoning Officer, first duly affirmed, stated that a conditional use permit has been requested by Mr. Henry Lloyd to operate a Sports Bar/Private Membership Club at 228 North Main Street. She stated that the building which will accommodate this facility is owned by Mr. Lloyd and that the proposed club is much smaller than previous requests the Board has received. She explained that this request may be the most palatable of those received of late, but still demands a watchful eye from the Board. She further advised that the application for the conditional use permit has been reviewed by staff where it was determined that:

- The application for a conditional use permit is complete
- The proposed site is located within the planning jurisdiction of the City of Laurinburg.
- The site development plan is in substantial compliance with the regulatory provisions of the Unified Development Ordinance.

Mrs. Deese stated that the Laurinburg Planning Board concurred with these findings at its March 15th, 2011 meeting and by 6-1 vote recommended that a conditional use permit be granted in this matter. She also stated that the Chief of Police has reviewed the plans and does not have any concerns at the present time.

Upon question by Mayor Block, Mrs. Deese stated that Mr. Charles Parker of the Laurinburg Planning Board opposed the request because he felt there needed to be security during normal business hours as well as during private parties.

There was no one present to speak for or against this request.

Mayor Block closed the public hearing.

Councilmember Leak stated that Mr. Lloyd has been a businessman in his district for 20 plus years. He then stated that he was glad to see this request because it will bring in dollars for the north side of town.

Councilmember Leak motioned to approve the conditional use permit based upon the following findings:

- The development is within the planning jurisdiction of the City of Laurinburg;
- The application is complete;
- The development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance;
- The request will not materially endanger the public health or safety;
- The request will not substantially injure the value of the adjoining or abutting property;
- The request will be in harmony with the area in which it is to be located; and

- The request will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by Council

Councilmember Rainer seconded the motion and it unanimously carried.

CONDITIONAL USE PERMIT TO DEVELOP A 56 UNIT MULTI-FAMILY DEVELOPMENT AT SCOTLAND CROSSING DRIVE

Mayor Block explained that this public hearing is to consider a conditional use permit to develop a 56 unit multi-family development at Scotland Crossing Drive.

Mayor Block stated that before he opens the public hearing he would like to discuss his Mayor's column that he wrote last week for the *Laurinburg Exchange*. He stated that there may be some feeling that he may be biased one way or the other with respect to the request about to come before Council. He explained that there is nothing wrong with him or any other Councilmember speaking out about an upcoming zoning matter. He stated that what is not acceptable is for a Councilmember participating in a quasi-judicial hearing to participate if they are biased and not able to base their decision solely on the facts presented. Such would violate the applicant's constitutional rights. He stated that everyone who comes before the Council has a constitutional right to be heard by an impartial decision maker. He also stated that the impermissible conflicts include, but are not limited to, the following: a member who has a fixed position prior to hearing the matter that is not susceptible to change based on the evidence presented; an undisclosed *ex parte* communication about the matter; a close family, business, or other associational relationship with an affected person; and a financial interest in the outcome of the matter. He informed Council and those in attendance that he does not have a fixed opinion on this request and that he feels that he can participate in the hearing in an impartial fashion. He also stated that in the interest of everyone feeling that they are getting a fair hearing, if there are any objections to him presiding over the meeting, he will happily recuse himself and allow the Mayor Pro Tem to preside over the hearing.

Upon question by Councilmember Leak, the City Attorney explained that Mayor Block cannot recuse himself unless he either has a preconceived notion that he cannot set aside or he cannot consider only the matters presented at the hearing. He stated that the Mayor has indicated to Council and to the members of the public that he does not have a preconceived notion and that he can be fair and impartial in participating in the hearing. Therefore, there would be no basis for him to recuse himself.

No objections to Mayor Block's participation in the hearing having been raised by Council or by any person in attendance, Mayor Block declared the public hearing open.

Mrs. Brandi Deese, Zoning Officer, first duly affirmed, stated that Greenway Residential Development, LLC is requesting that a conditional use permit be granted for the development of a 56 unit multi-family residential complex on a 9.78 acre tract of land off Scotland Crossing Drive. She stated that the application for the conditional use permit has been reviewed by staff where it was determined that:

- The application is complete
- The proposed site is located within the planning jurisdiction of the City of Laurinburg.

- The site development plan is in substantial compliance with the regulatory provisions of the Unified Development Ordinance.

She added that the Laurinburg Planning Board heard this request at its March 15, 2011 meeting and recommends that Council approve the request. The approval was a 5-2 vote. She stated that the Laurinburg Planning Board placed no conditions on the request. She then stated that the property is zoned commercial and that the surrounding parcels are zoned commercial except a Residential-20 parcel of land on the opposite side of West Boulevard. The residential parcel is mostly within the flood plain.

Upon question by Mayor Block, Mrs. Deese stated that the objections by two members of the Laurinburg Planning Board were safety concerns because of the volume of traffic in this area; the number of subsidized apartment housing in the City of Laurinburg as a whole; and the concentrated number of subsidized apartments in this area.

Mr. Bill Purcell, attorney for Greenway LLC, being first duly sworn, stated that, considering the recent loss of this community's tax base, it is unusual that someone is willing to invest another 5-6 million dollars in the community. He stated that Mr. Parker from Greenway LLC and his whole team are present including planners for the CDBG grant, the persons who completed a traffic study, and a large delegation from the Haney family who owns the property.

Mr. Purcell then stated he would briefly summarize the project. The project is a 56-unit townhome type construction which will be quite attractive. He explained that Council has a site plan as well as photographs of a project that Greenway LLC built similar to the one being proposed in Laurinburg. There is a summary of the marketing study provided and letters from Shallotte, North Carolina and Rockingham, North Carolina where Greenway LLC has facilities.

He explained that the investment is between 5 and 6 million dollars with 56 units. He stated that the planners have looked at the property and found that the proposed project is a good use of the property. He stated that this property is not considered good for retail because of the location.

The proposed project will consist of two-story buildings with 8-12 units in each building. The property would be very heavily landscaped as seen in the photographs of the Shallotte property. He discussed the community impact and stated that a traffic study has been completed. He explained that the traffic study indicates that the traffic generated from an apartment complex is much less than what would be generated if the property were to be developed according to the current zoning. He stated that if developed as retail, banking, or restaurant use, there would be almost ten times the amount of traffic as there would be with an apartment complex.

Mr. Purcell stated that the traffic study was conducted between the hours of 7:00 a.m. and 7:00 p.m. with someone counting every car and person that passed by. One of the things found (on a particular day) was that there were only 14 pedestrians that passed by the counter (which could include the same person passing more than one time). He explained that out of those 14 pedestrians only seven persons walked across the bridge towards Wal-Mart and the other half walked to Scotland Crossing Shopping Center.

He then stated that, based on the traffic numbers, it was not believed that a stop light would be needed at the intersection with West Boulevard.

Mr. Purcell informed Council that the marketing study commissioned by the North Carolina

Housing Finance Authority found a need in Scotland County for 400 more units such as those proposed. He stated that means that, even if the proposed project is built, 344 more people need this type housing. He stated that the study showed that the marketing area is 95% local residents.

Mr. Purcell then stated that questions had been raised about the Community Development Block Grant and what good it would be for the City. He then explained that this grant is for \$250,000.00 and that the City would retain \$25,000.00 of that funding for administrative costs. He stated that it is a loan to the developer and that the funds could only be used for extending utilities, sidewalks, and that type of construction. Once completed, the developer is then required to pay the money back to the City. He then stated that the terms of the loan are set by the grantor but that it is paid back over 20 years which is approximately \$20,000.00 per year coming back to the City. The City can use that money for Community Development purposes. He explained that there is no match to the Block Grant. He then explained that the project would result in an increase in the tax base, sewer would be extended, and that the City would receive money back. Mr. Purcell stated that he has been asked if the project would develop without the Community Development Block Grant. He explained that economically it could be developed but that the tax credits would not likely be awarded without the grant.

Mr. Purcell addressed the question as to who would be living in the property. He explained that the Fair Housing Act is clear about the rules for occupancy. He then explained that this project is geared toward assisted rental not subsidized rental. He further explained that subsidized housing means that someone is paying or guaranteeing the rent to be paid. He stated that 32 of the 40 units that the Laurinburg Housing Authority is building on West Boulevard are project or subsidized housing. He explained that the proposed project is a tax credit project calculated on bona fide financial cost but that, because of the tax credits, the cost of the project is lower, and therefore, the client can afford to charge lower rents. He continued by stating that no one will guarantee the rent of the tenants.

Mr. Purcell also explained that there are income limits specified by the government and there is a rental cap specified by the grantor. He then explained that the tenants have to pay their rent. The range of income for tenants who will be served is on the low end of a \$20,000.00 annual income to the high end of \$32,350.00 with a family of four. The rental range would be \$475.00 to \$570.00. He continued to explain that if the tenant does not pay his/her rent, they will receive a letter that they are behind in their rent and further advising that, if it is not paid, they will be evicted. He addressed concerns about tenants that may not have employment. He also then addressed the possibility of Section 8 voucher tenants. He stated that there would be no discrimination but that everyone would have to meet a credit check, a criminal background check and pay their rent.

Mr. Purcell stated that the project would have a trickle-down effect on the community. It would take a year or so to build so there would be contractors coming in, the City would receive \$250,000.00 to extend utilities, and the City would also receive \$250,000.00 to invest in the future. He explained that the Haney family has had this property for a long time and that this is the first offer to purchase they have had in 18 years. He commented that having this residential complex in the area would enhance the shopping center.

Councilmember Spencer asked about the difference between assisted rent and subsidized rent payments.

Mr. Purcell stated that the assistance is to the landlord through tax credits and that is how they are able to build the project at a lower cost and, therefore, charge lower rents. The tenant does not receive any monies towards their rent.

Councilmember Spencer questioned whether the developer is getting the tax credit and through this project the city itself would not receive the full amount of ad valorem taxes.

Mr. Brad Parker, Greenway LLC, first duly sworn, informed Council that the North Carolina Legislature did pass a law for this type of housing. He stated that even though lower rents would be charged, the property would still be assessed for taxes at a higher market rate value.

Mrs. Deese explained that according to the City's records that the tax revenue on the undeveloped parcel is \$3,343.02 and that with an estimated 5 million dollar tax value, if the apartments are built, the property would generate taxes of approximately \$13,860.00 for the City annually and \$33,850.00 annually for the County for a total of \$47,850.00.

Upon question by Councilmember Parker, Mr. Brad Parker stated that if a person has a voucher he is not required to take a voucher.

Mr. Brad Parker stated that under the Fair Housing Act the application of every applicant has to be considered. He then explained that every application is considered based on the applicant's ability to pay rent. A voucher person is getting part of their rent paid, but there is still a balance to be paid. A background check and credit check are conducted on each applicant. The same standards are applied to everyone that walks into the door who puts in an application. If someone cannot qualify, then the application is rejected.

Councilmember Parker stated that he was informed that if an applicant with a voucher is equal in criteria to the non-voucher person, then the person with the voucher should be considered first.

Mr. Brad Parker stated that it was his opinion that the priority would be the one who walked in the door first. The criteria are to take applicants making less than 60% of the area's median income. He explained that there is no one given special consideration.

Mayor Block stated that the Laurinburg Housing Authority gives preference to people from this area in considering their applications. He inquired whether there would be any like preference given to applicants for housing at the proposed apartments.

Mr. Brad Parker stated that in an area such as Laurinburg, the developer looks at the market. The North Carolina authorities require a market study on all properties. The market analysts who conducted the market study indicated the primary market area to be Scotland County and the City of Laurinburg in particular. He explained that they would definitely give consideration to people in Laurinburg and Scotland County. He then stated that he estimated that about 95% or more of the people who will live in the apartments will come from this market area and that less than 5% will come from outside the market area.

Mayor Block commented that Laurinburg recently had a very similar development to locate on US Highway 401 South, to wit: Parke Place. He questioned Mrs. Deese if she knew what percentage of the renters at that location pay with Section 8 vouchers.

Mrs. Deese stated that she had spoken with the manager that used to manage that property and that it was estimated that the percentage of Section 8 voucher renters was around 50% for Parke Place.

Mayor Block commented that Laurinburg has a very good Housing Authority that has a local board partially appointed by the Mayor and other local people very committed and responsive to the community. He asked what would be the City's assurance that several years down the road, when the tax credits expire, this property would continue to be maintained and be attractive and safe for our community.

Mr. Brad Parker stated that when closing on this property a deed restriction will be filed as well as a 30-year extended use agreement. He explained that this means that the developer has to keep the facility as affordable property for that time period. This program requires him to own the property for the entire period and that is why these properties have the success rate that they do. He stated that these type properties have one of the lowest foreclosure rates (less than 1%) of any other income producing property in the nation.

Upon question by Mayor Block, Mr. Brad Parker stated that the company has been in business since 1993.

Councilmember Leak questioned the water quality pond (retention pond).

Mr. John Wood, Cline Design Associates, first duly sworn, stated that the retention pond is located towards the front of the property because it is at the low point where the water goes under the bridge at Scotland Crossing Drive. Mr. Wood stated that this pond could take several forms but at this time a design has not been chosen. He stated that the retention pond would not be a safety hazard.

Mr. Brad Parker stated that they make it a standard practice to put a fence around ponds so people cannot get in the area.

Councilmember Leak commented on the elevation on several of the buildings.

Mayor Block asked if the property would use all City services such as electricity and water and sewer.

Mr. Brad Parker indicated that City services would be utilized on this proposed facility.

Mr. Joe Wampler, Wampler Engineering, first duly sworn, stated that the sediment trap (retention pond) in Scotland County is not under the Storm Water Phase 2 requirement as of yet. He explained that means a permanent retention pond or retention basin is not required. A temporary sediment trap will collect and bring in the sediment during construction so that none of the sedimentation goes into the stream. Mr. Wampler further informed Council that he is the Civil Engineer working on the proposed project.

A discussion ensued on the retention pond and the flood zone in the area.

Mr. Wampler stated that the flood zone is on the opposite side of Scotland Crossing Drive.

Mayor Block asked Mrs. Deese if she had an estimate on the revenue that this project would bring into the City.

Mrs. Deese stated that the amount of revenue that would bring the city is approximately \$3,808.00 of utility revenue monthly and a total of \$45,646.00 annually.

Upon question by Councilmember Parker, Mr. Brad Parker stated that he had been involved in this type business for 18 years and has worked with two other companies during that time

Upon question by Mayor Block, Mr. Brad Parker stated that his company has properties in Rockingham, NC, Lumberton, NC, and other locations in North Carolina.

Upon question by Councilmember Spencer, Mr. Brad Parker stated that the facility in Rockingham is not different from the proposed facility in Laurinburg in regards to its funding stream and assistance.

Councilmember Spencer stated that the facility in Rockingham is for the elderly. If the developer cannot discriminate or distinguish between one applicant and another, he inquired what the difference between the marketing versus the actual rentals is.

Mr. Brad Parker stated that the Fair Housing Act allows a landlord to discriminate based upon age in certain situations. He then stated that there is even some discrimination between the elderly. He explained that the first scenario is that there are projects for 55 and older households, which the project in Rockingham is, and then there are projects for 62 and older households

Upon further questions by Councilmember Spencer, Mr. Brad Parker stated that he did not feel that elderly or senior apartments would fit this particular project because an elderly facility had already been recently approved for Laurinburg and Scotland County. He explained that according to the market analysis there is a need in the community for both senior and family housing, and he chose the family housing project because of the fact a nearby elderly facility had recently been approved.

Mr. Brad Parker also informed Council that the marketing analysis has identified that there are about 800 households that have not been served in this area and that there are approximately 405 households that qualify for rental income assistance. He stated that the market study specifically looks at the current need for housing and that this is not an economic driven project.

Mr. Brad Parker again stated that according to the market study the primary market area is Laurinburg and Scotland County and that 95% of the residents in this market need this type of help. He explained that this marketing study is relied on by the State agency that gives out the tax credits for the project and is also relied on by investors and banks. He noted again that the foreclosure rate on these type housing projects is the lowest in the country.

Upon question by Councilmember Ellison, Mr. Brad Parker stated that there are three different scenarios where people are looking for housing: (1) they do not have housing, (2) they live in substandard housing, or (3) they live in over-burdened housing where they are paying too much rent for their income

Mr. Bill Purcell indicated that the study is conducted by the State and not the developer.

Upon question by Mayor Block., Mr. Brad Parker stated that the best properties with the lowest marketing expense are actually near interstate highways.

Councilmember Ellison asked for clarity on the current vacancy rate among tax credit projects in the primary market area.

Mr. Brad Parker stated that he had spoken with a marketing analyst just this morning, and there is a waiting list.

Councilmember Ellison stated that among the conventional apartments, according to the study, there is only 5.4% vacancy rate.

Mr. Brad Parker stated that these figures are based on turnover, tenants moving, and other situations that would cause the vacancies.

Mr. Purcell asked if there were questions regarding the traffic study.

Councilmember Spencer commented that the study was very limited because it was done during a 12 hour period.

Dr. Bill Morgan, first duly sworn, spoke in opposition of the request. He stated that during the testimony he heard that this is not a subsidized property. He indicated that this is a misrepresentation of fact because it is subsidized from the very beginning in the way the federal government has set up the program.

He then stated that if he understands correctly the property will be on the tax books at 60% of its value. He then informed Council of the problem he sees with the value. He explained that three years ago he and his son built two steel framed buildings for apartments. He explained that in looking at the market in Scotland County over a number of years, they had found that there was a great demand for people looking for a one-room with bathroom facility in which to live. A room they could sleep in and sit in was all they wanted. He then stated that these folks are in the lower income bracket but that most of them work. As a result of his findings, he and his son built two sixteen unit buildings. He further explained that there was no help from the federal government or anybody else. He stated further that after the units were built and when it came time for valuation of the property, the county valued the property at twice what it cost to build. The two buildings are on the tax books for almost a half million dollars. He explained his frustration of having to compete with folks who are in the business of rentals as well as having to compete against the federal government and the local government. He indicated that the Laurinburg Housing Authority is his biggest competitor and that there are some 200 or more people who are involved in rentals in Scotland County. He then gave an overview of his rental properties.

Dr. Morgan concluded his statement by stating that it is wrong that he, as a private rental person, has to pay taxes on 200% of the value of his rental properties and other companies only have to pay taxes on 60% of their value.

Mayor Block closed the public hearing.

Assistant City Attorney Hicks informed Council that the hearing is not actually closed, just the formal evidentiary portion of the hearing. He indicated that if someone has questions they should be able to ask questions, obtain information and proceed with discussion.

Councilmember Leak commented on the shopping center and the area surrounding it. He stated that the area is primarily commercial. He indicated that the vision for this area is to maintain the commercial status. He stated that he is aware of other communities combining commercial and apartment living but that in small communities commercial property should continue to be commercial property. He continued by stating that there are a number of apartments already in the proposed area and that there is already a need for a pedestrian walkway or bridge along West Boulevard because of the increased facilities in the area. He noted that Scotland County has one of its most used facilities in the area which generates a lot of vehicle traffic also.

Councilmember Rainer also commented on the proposed facility, how people cannot buy houses because of the economy and that Scotland County has the highest tax rate in North Carolina. He indicated that this is a bitter-sweet situation and that Council is faced with a difficult decision. He indicated that it is a sad situation when you have to take prime commercial property and consider other alternatives.

Upon question by Councilmember Ellison, Mr. Brad Parker stated that what attracted him to this particular property was that one of the best marketing tools is to be in a high traffic road area (such as the By-pass) because people can get to work easily. He added that, at this particular site, they will also have close proximity to the shopping center and restaurants as well as the park that is located nearby.

Councilmember Ellison asked if more tax credits would be received having the facility located at Scotland Crossing Chopping Center than elsewhere in the county.

Mr. Brad Parker stated that they look at sites based on where it is best to place a multi-family apartment site. He explained that for tax credit properties different cities are competing for these funds so it really depends on a site scoring basis as well. He then explained that the State Agency wants to see sites like this one that are close to shopping, hospitals, police stations, and fire stations.

A discussion ensued on the close proximity to the parks and the major highways and the safety of kids trying to get to the park.

Mr. Brad Parker stated that there is not a lot of anticipation of people walking to the park. He explained that there is property located behind the shopping center where he plans to build a boardwalk type of sidewalk for those who want to walk to the park. This property is located in the flood plain, but he stated that as long as the boardwalk is built on top of the flood plain, there would not be a problem. He stated that he does own the property.

Councilmember Ellison discussed the number of children who would be anticipated to live in the apartments and indicated her feeling is that there would be a greater number than indicated. She asked Mr. Parker how those numbers were determined.

Mr. Brad Parker stated that they use the City of Charlotte indicator, and they have a multiplier

that they use which generates approximately 20 school-aged children on this type property. This indicates there are eleven children that would be in elementary school, five in middle school and seven in the high school.

He explained that there would be a playground on site, a 24-hour fitness center, a business center and a manager. He also explained that there would be after school activities conducted on site.

Councilmember Rainer questioned lighting in the area especially along the proposed boardwalk.

Mr. Brad Parker stated that from a security standpoint that lighting is studied and that he lights properties so that they are safe. He commented that this would apply to the boardwalk as well.

Upon question by Councilmember Rainer, Mrs. Deese stated that she is not aware of any unusual requirements for lighting. She stated that lighting could be a condition that Council could impose on the development.

Upon question by Councilmember Spencer, Mr. Brad Parker stated that they have facilities located in commercial areas in Raleigh and one in the Research Triangle Area which is an assisted living facility.

Upon question by Councilmember Ellison, the Gateway Park location is on South Saunders Street in Raleigh.

Upon question by Councilmember Parker, Mrs. Deese stated that there were 31 affordable housing units in the Central School project, 40 such units in Parke Place, 40 such units in the new proposed complex; and 40 such units currently under construction on West Boulevard by the Laurinburg Housing Authority.

Mrs. Deese also pointed out that there are 86 units being renovated by the Laurinburg Housing Authority in the Washington Park area that will be ready for rental in May 2011.

Councilmember Parker expressed concern that people would move from their current location to new apartments and what would happen to the vacant property.

Councilmember Spencer expressed his concerns regarding the challenge that Council has in determining the economics of this request and whether it fits in the planning of that area.

Councilmember Ellison addressed the economic development side of the proposed project and asked if land locators consider subsidized housing in the area as part of their equation in locating a particular business or industry.

The City Manager stated that it can be a consideration. He then explained that the primary consideration is typically labor – availability, the potential for the labor to be trained and put to work.

A discussion then ensued on the economy and economic development.

The Assistant City Attorney then stated that he does not want anyone to take his comments to

mean that he is trying to influence the direction of any motion that is made, but he wanted to remind Council that, before anyone makes a motion, there is a statute that was passed in 2009 (G.S. 41A-4(g)) that makes it unlawful for Council, sitting as it is here, to discriminate in land-use decisions or in the permitting of development based on race, color, religion, sex, national origin, handicapping conditions, familial status, or except as otherwise provided by law, the fact that a development or proposed development contains affordable housing units for families or individuals with incomes below 80% of the area median income. He further added that it is not, however, a violation if land use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing.

He stated that Council has talked a lot tonight and there has been a lot of evidence presented about the fact that this proposed development is for affordable housing units. He stated that his advice to Council is that Council should not base its decision on the fact that the project involves affordable housing unless Council's concern is completely limited to the fact that you believe that it would result in a high concentration of affordable housing in the area. He also stated that there has been previous evidence in the hearing about some projects that are, as he understands, affordable housing that are located just down the street from the proposed development, but he reiterated that it would be impermissible for Council to simply say that, because this project would provide affordable housing, it is not appropriate. He continued by stating that if Council decides that, because the proposed use is residential and that, for that reason, it does not fit within the commercial aspects of the surrounding properties, then that decision is not based on it being affordable housing. He concluded by stating that, unless Council's focus is on the fact that this proposed development would cause a high concentration of affordable housing in the area, Council should discuss the fact that the proposed development is residential as opposed to continue talking about affordable housing.

Councilmember Ellison stated that her point is to protect the commercial space because it is very important for economic development purposes.

Following a statement by Councilmember Leak, Councilmember Spencer asked Councilmember Leak if he is calling the question.

Mayor Block asked if Council was ready for a motion and vote.

Councilmember Rainer asked if this item could be tabled or if a decision needed to be made at this meeting.

The Assistant City Attorney stated that Council did not need to make a decision and could table the matter until the next meeting. He stated that, until a decision is reached, the hearing is technically open and remains open until a decision is made. Therefore, if the matter is tabled, the hearing is not really closed, and the hearing would be reconvened at the next meeting so that you do not have to re-advertise the hearing for the next meeting.

Mrs. Deese provided additional information stating that the North Carolina Housing Finance Agency requires that the application be submitted by May 1, 2011.

Councilmember Leak motioned to deny the request based on the following findings of fact:

- The development is within the planning jurisdiction of the City of Laurinburg;
- The application is complete;
- The development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance;
- The request will materially endanger the public health or safety in that area;
- The request will substantially injure the value of adjoining or abutting property;
- The request will not be in harmony with the area in which it is to be located;
- The request will not be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by Council.

Councilmember Spencer seconded the motion.

The Assistant City Attorney asked for clarity on the portion of the motion stating that the “request will materially endanger the public health and safety”.

Councilmember Leak stated that his motion stated “the public health and safety in that area.”

The Assistant City Attorney suggested that there needs to be some way that the motion states how it affects the health and safety. He gave examples such as pedestrian traffic and increased vehicular traffic.

Mayor Block asked if the request would need to be denied on all levels or would one level be sufficient.

The Assistant City Attorney stated that one level would be sufficient.

Thereafter, upon question by Council, Brandi Deese confirmed that the City’s existing land-use plan identifies the subject property as commercial property.

Following further discussion, Councilmember Leak’s motion was denied by Council.

Councilmember Leak then motioned to deny the request based on the following findings of fact:

- The request will materially endanger the public health or safety in that area in that there will be additional pedestrian and vehicle traffic;
- The request will not be in harmony with the area in which it is to be located in that the area is a commercial area not residential; and
- The request will not be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by Council in that the land use plan identifies the land as commercial.

The motion died for a lack of a second.

Councilmember Rainer then motioned to deny the request because the request will not be in harmony with the area in which it is to be located because the area is designated for commercial

use and the proposed use is residential, and that the request be denied because it will not be in general conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by Council for that area (the property being designated in the plan as commercial property).

Councilmember Spencer seconded the motion and it unanimously carried.

Mayor Block recessed for a five minute break at 8:48 p.m.

The meeting resumed at 8:54 p.m.

CONSIDER INPUT FROM CITIZENS ON THE CITY'S INTENT TO APPLY FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Mayor Block explained that this public hearing is to receive input and inform citizens of the City's intent to apply for Community Development Block Grant funds. Two public hearings are required and this is the first of two.

Mayor Block declared the public hearing open.

The City Manager stated that this public hearing is for the general public for comments regarding the process for the City of Laurinburg to apply for Community Development Block Grant funds.

There was no one to speak for against this request.

Mayor Block closed public hearing

There is no action required by Council.

CONSIDER INPUT FROM CITIZENS REGARDING THE CITY'S INTENT TO APPLY FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS - EXTEND UTILITIES AND PROVIDE SIDEWALKS FOR THE PROPOSED 56 UNIT MULTI-FAMILY DEVELOPMENT OFF SCOTLAND CROSSING DRIVE

Mayor Block explained that because the request for the conditional use permit for the proposed 56 unit multi-family development off Scotland Crossing Drive was denied, then there was no need to conduct a public hearing as no application for the funding would be made.

DISCUSSION ON ELECTRIC RATES AND DEVELOPMENT PROCESS - ELECTRICITIES OF NC AND NED FOWLER & ASSOCIATES

Mr. Tony Jones of ElectriCities of North Carolina gave an overview of ElectriCities of NC including how it was formed and the process for establishing rates.

He discussed ElectriCities proposed 2011 budget which is approximately \$710,000,000.00. He informed Council that the largest part of the proposed budget is to pay off the debt service associated with the four generating plants.

Mayor Block had to leave at this point of the meeting because of a medical situation. (9:13 p.m.) Mayor Pro Tem Tom Parker, III then presided over the meeting.

Mr. Cecil Rhodes of ElectriCities of NC stated that the indebtedness will be paid off in 2026. He also explained how the rates from the North Carolina Eastern Municipal Power Agency are determined. He stated that the last rate increase was attributed to fuel costs not debt service.

Upon question by Councilmember Parker, Mr. Jones stated that the Fayetteville Public Works Commission does not pay the same rates because they do not have the debt obligation that members of the North Carolina Eastern Municipal Power Agency have.

A discussion ensued on the merger between Progress Energy and Duke Power.

Mr. Ned Fowler and Mr. Bruce Fowler of NW Fowler and Associates, the City's electrical engineering consultants, appeared before Council to explain how the City's electric rates are determined.

Mr. Ned Fowler explained that the City's rates are determined based on rates set by Progress Energy and the North Carolina Eastern Municipal Power Agency (NCEMPA). He stated that Progress Energy delivers energy to the City of Laurinburg but sends an invoice to NCEMPA. He explained that this involves a rate structure agreement between Progress Energy and NCEMPA for the exchange of energy products. The City of Laurinburg is then billed for its purchase of energy by NCEMPA.

Mr. Ned Fowler stated that there is no industry connected to the City of Laurinburg electric system. He explained that there are two large commercial establishments connected but that the remainder of the service provided by the City of Laurinburg is to residential customers and small businesses.

He then explained that several factors, other than the cost of energy, are considered when establishing the rates for the City of Laurinburg. Some of the factors for base rates are accounting procedures, meter reading, payment collections, office work, and service work. He then explained other aspects of establishing rates for electricity such as fuel and the original cost of investment to build power plants.

Upon question by Councilmember Leak, Mr. Fowler stated that the next rate change could occur any time that Council asks for a rate increase or requests the preparation of a new rate evaluation.

CALL FOR PUBLIC HEARING TO BE HELD TUESDAY, MAY 17, 2011 AT 7:00 P.M. TO CLOSE OUT THE 2008 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG INFRASTRUCTURE PROJECT 08-C-1860) CREEDLE AND MORRIS STREETS

The City Manager explained that before the 2008 CDBG project can be closed out by the State, a public hearing needs to be held as required by the NC Department of Commerce. The project involved Creedle & Morris Streets sewer improvements.

Motion was made by Councilmember Leak, seconded by Councilmember Spencer, and unanimously carried to set a public hearing to be held Tuesday, May 17, 2011 at 7:00 p.m. in the

upstairs council room of the Municipal Building.

ORDINANCE NO. O-2011-07 WHICH AMENDS THE BUDGET APPROPRIATION ORDINANCE TO TRANSFER FUNDS (\$15,000.00) FROM CONTINGENCY (990-509900) TO BUILDING AND MAINTENANCE (500-707300) BUILDING IMPROVEMENTS FOR THE REPAIR OF THE ROOF AT THE BARRETT BUILDING

The City Manager explained that the proposed ordinance will allow roof repairs at the Barrett Building.

The City Manager explained that during Council's agenda workshop session, the informal bidding process was explained. North Carolina local governments may use informal bidding procedures for construction or repair contracts if the cost is less than \$30,000.00. Competitive bids are not required unless the local government chooses to set a threshold at which it will require formal bidding at a level that is lower than the statutory threshold.

The City Manager stated that two quotes were received, and the recommendation is that Britt and Britt Co., Lumberton, North Carolina be awarded the work at a cost of \$15,000.00.

Councilmember Ellison moved for the adoption of Ordinance No. O-2011-07 which amends the budget Appropriation Ordinance (Ordinance No.O-2010-12) by allocating funds (\$15,000.00) from Contingency (990-509900) to Building and Maintenance (500-707300) Building Improvements for the repair of the roof at the Barrett Building. The motion also approved performance of the repairs by Britt and Britt Co. at a cost of \$15,000.00 Councilmember Rainer seconded the motion, and it was adopted by the following vote:

Ayes: Ellison, Rainer, Spencer Parker Leak

Nays: None

(Ordinance No. O-2011-07 is on file in the City Clerk's office.)

CONSIDER DATES TO REVIEW PROPOSED 2011-2012 BUDGET

The City Manager stated that Council is being asked to consider the following budget schedule for the proposed 2011-2012 budget:

Tuesday, May 17, 2011	Present proposed budget at regular meeting
Tuesday, May 24, 2011	6:30-8:30 p.m. – Review General Fund revenues and expenditures
Tuesday, June 7, 2011	6:30-8:30 p.m. – Review Enterprise Funds (Water/Sewer, Electric, Solid Waste, Broadband)
Tuesday, June 21, 2011	7:00 p.m. - Public Hearing on proposed 2011-2012 Budget

There was consensus among Councilmembers to accept the proposed dates and times for the proposed 2011-2012 budget workshop sessions.

COMMENTS FROM COUNCIL

There were no comments from Council.

PUBLIC COMMENT

There was no one present for the public comment session.

RECESS

Motion was made by Councilmember Spencer, seconded by Councilmember Rainer, and unanimously carried to recess the meeting to the upstairs council room of the Municipal Building located at 303 West Church St., Laurinburg, NC on April 28, 2011 at 6:30 p.m.

The meeting recessed at 10:00 p.m.

Matthew Block, Mayor

Dolores A. Hammond, City Clerk