

# **MINUTES**

**DECEMBER 13, 2012**

## **SHOW CAUSE HEARING YOUNGSVILLE COMMUNITY HOUSE**

### **NUISANCE COMPLAINT EAST WOODS OF PATTERSON**

Mayor Samuel Hardwick called the Hearing to order at 7:02 p.m. In attendance were Commissioners Graham Stallings, Catherine Redd, and Joseph Johnson. Commissioners Marvin Roberts and Leelan Woodlief were not in attendance. Also in attendance were Interim Town Administrator Bill Tatum, Town Clerk / Tax Collector Emily Hurd, Administrative Assistant Kathryn Tucker, Attorney Joseph Olivieri and Police Chief Daren Kirts. Representatives from the Wake Weekly and the Franklin Times were also present. The purpose was to hear cause from Peachtree Communities LLC as to why their construction noises should not be considered a nuisance under Town Ordinance 8.202 (i).

Ken Wilson, of Peachtree Communities LLC, was sworn in by Town Clerk Emily Hurd. Mr. Wilson stated that he would present this as best he could. He stated that there appeared to have been a discrepancy at the onset for working on Saturdays and he explained that he did not realize it was against the rules. Mr. Wilson stated that he has worked in several states and working on Saturdays was not unusual, it was something that they had done often. He explained that they had worked a few Saturdays, and then the Police Department came in one Saturday and shut them down at 8am, in which the construction workers left. Mr. Wilson stated that he had also received a letter from the Town of Youngsville explaining that they had violated the Noise Ordinance, 8.304. He stated that they then got information on the Noise Ordinance, which he stated was pretty generic. He stated that it was later brought to their attention that no heavy work can be done on Saturdays but other work could occur. Mr. Wilson explained that he had a conversation with the developer, Steve Gould, and was told that Mr. Gould had spoken with people in the Town of Youngsville and it would be ok to do the inside work. He explained that their interpretation was that this would prevent things such as tractors from coming in. Mr. Wilson stated that in recent weeks, the underground utilities had been installed. He stated that those other companies had worked on Saturdays and had used equipment as well but weren't asked to leave. He stated that he did not want preferential treatment but he did want fair treatment. Mr. Wilson stated that on reflection he did understand some of the complaints about the equipment but he didn't understand the objections to the building of the homes. He stated that his employees did not work on Sundays, they worked 7am to 7pm on weekdays and 7am to 6pm on weekends. He stated that there was a superintendant on site to maintain the schedule. Mr. Wilson stated that their intentions were to build homes and that work on Saturdays was common. He

explained that it helped expedite the building process. He stated that other neighborhoods in other towns let the builders use equipment on Saturdays and he would like to see the opportunity to use them here as well. Mayor Hardwick explained that this Hearing was called in answer to a complaint to the Board. He stated that this was not a Public Hearing but the Board could ask questions. Attorney Olivieri asked Mr. Wilson what his position was with Peachtree and Mr. Wilson stated that he was the Vice President on Construction for the Raleigh, NC area. Mayor Hardwick stated that no decision could be made during this Hearing but it would come up for a decision during the regular Board Meeting.

The Hearing was closed at 7:09 p.m.

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## **PUBLIC HEARING YOUNGSVILLE COMMUNITY HOUSE**

### **APPEAL OF NEED FOR CONDITIONAL USE PERMIT MAIN STREET BUSINESS DISTRICT – 2 BUSINESSES**

Mayor Samuel Hardwick called the Hearing to order at 7:10 p.m. In attendance were Commissioners Graham Stallings, Catherine Redd, and Joseph Johnson. Commissioners Marvin Roberts and Leelan Woodlief were not in attendance. Also in attendance were Interim Town Administrator Bill Tatum, Town Clerk / Tax Collector Emily Hurd, Administrative Assistant Kathryn Tucker, Attorney Joseph Olivieri and Police Chief Daren Kirts. Representatives from the Wake Weekly and the Franklin Times were also present. The purpose was to hear comments from the public concerning the appeal for the need of Conditional Use Permits for 2 businesses located in the Main Street Business District (MSBD).

Mayor Hardwick stated that for this hearing, only the people who were appealing the Conditional Use Permit process were allowed to speak. Daniel Jackson, Old May Hotel Antiques, located at 119 W. Main Street, stated that he wanted to waive his application for a Conditional Use Permit and asked to be grandfathered. He explained that when he got the license to run the business he was under the impression that he was operating within the correct parameters. He stated that he felt this was the only fair action considering the time difference from when he started his business and when he was asked to apply for the Conditional Use Permit. Mr. Jackson again stated that he would like to be grandfathered under the clause in the Zoning Ordinance because he was issued permits to operate his business as it was.

Twig Wiggins, owner of the Youngsville Flea Market, stated that he too wished to appeal to be grandfathered. Mr. Wiggins stated that he felt that anyone with “junk” should be made to clean it up before fines were imposed. He stated that he would like to see Youngsville neat and look a bit nicer. He explained that he could see both sides of the argument but he would like for his business to be grandfathered as is. Mr. Wiggins explained that if there were no more Flea Market, the warehouse would have to be rented for something and that would probably be storage. He again stated that he wanted to request to be grandfathered but for everything to be kept neat.

Mayor Hardwick explained that no decision could be made during a Public Hearing.

The Hearing was closed at 7:13 p.m.

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**DECEMBER 13, 2012**

## **PUBLIC HEARING YOUNGSVILLE COMMUNITY HOUSE**

### **CHANGES TO THE TREE ORDINANCE – 2.11.2**

Mayor Samuel Hardwick called the Hearing to order at 7:14 p.m. In attendance were Commissioners Graham Stallings, Catherine Redd, and Joseph Johnson. Commissioners Marvin Roberts and Leelan Woodlief were not in attendance. Also in attendance were Interim Town Administrator Bill Tatum, Town Clerk / Tax Collector Emily Hurd, Administrative Assistant Kathryn Tucker, Attorney Joseph Olivieri and Police Chief Daren Kirts. Representatives from the Wake Weekly and the Franklin Times were also present. The purpose was to hear comments from the public concerning requested changes to be made to the Tree Ordinance, 2.11.2.

Rob Lipford - It came to our attention that there was a desire to expand the existing tree ordinance in the Town of Youngsville. We in the Forest Service have long been behind urban tree ordinances and supported them and had grants for urban forestry in various towns, but when we got word that this was going to expand beyond urban or developed land onto undeveloped land we became concerned for a couple of reasons. The first has to do with the impact of it. There is approximately 4900 acres in the ETJ. Of this, 48% or 2365 acres is considered undeveloped forest land. How much of it is actively being managed as undeveloped forest land I don't know but a large % of that, about 2300 acres could potentially be affected by the proposed changes. Our biggest concern is the impact to the landowners that own this land, that are managing it productively as it is. But the other issue has to do with the NC General Statute 153A- 452 and 160A-458.5. The two together are known as the Right to Practice Forestry Law that says a county or city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates forestry activities. I believe that what has been proposed goes beyond a normal urban tree ordinance and has begun to infringe on laws that have already been passed in the state to prevent this from happening. It has already been tested in several other jurisdictions and I think we need to be careful at this juncture.

Al Wojtalik - I think there needs to be some clarification. The reason for the amendment is because the tree ordinance we have is not very clear. You talk about developed and undeveloped areas. What is actually a developed or undeveloped area? What I was trying to do by submitting that is to clarify and to also give the property owners some input trying to maintain tree save areas. I am on your side to a certain degree but I felt because it was not very clear that we needed some clarification. I don't want to stop people from agriculture/farming their land but when you talk about subdivisions that's what we have to be careful of that we don't have builders and developers just come and

clear cutting the areas that I know you would like to see preserved for that purpose. I just wanted to clarify that and to say why we wanted to add the part of eliminating clear cutting without the input of the property owners that are impacted be they agriculture or farmers, builders or developers. It is very important to do that and try to save the tree areas and preserve our forests.

Jack Swanner, NC Forestry Association - We represent about 3500 landowners, loggers, and timber industry in the state of North Carolina. We have dealt with these ordinances in other counties most recently in Mecklenburg County and East Flat Rock and we would look very much forward to working with Youngsville on these. I do caution that there are state laws in place that a clear on this issue. I'll leave my card and I'll be happy to discuss these with the town and work with you in any way we can.

Jim Moss – I'm here on behalf of managed forest land that might be impacted and would encourage whatever ordinance may be amended or drafted to be specific to developed lots and not to managed commercial property.

The Hearing was closed at 7:20 p.m.