

TOWN OF UNIONVILLE MINUTES OF REGULAR MEETING

The April 20, 2009 regular meeting of the Town of Unionville was held at 7:40 p.m. in Town Hall, 1102 Unionville Church Road, Monroe, NC. Mayor Simpson and all Commissioners were present. Town Attorneys Ken Helms and Tom Griffin were also present.

Mayor Simpson called the meeting to order, as the Pledge of Allegiance to the United States flag and the invocation had been pronounced at the beginning of the 7:00 p.m. public hearing.

Hearing no corrections to the minutes of the March 16, 2009 regular meeting and executive session, Mayor Simpson declared the minutes approved as reviewed by Council.

Budget and Finance Officer Darrell Baucom reviewed the financial reports and a summary of activity of Fiscal Year 2008-2009, a copy of which is appended to these minutes. Mr. Baucom stated that he will have budget considerations for the Council at the May 18, 2009 meeting, as the 2009-2010 budget must be approved prior to July 1, 2009. Mr. Baucom asked for any guidance the Council might have regarding the 2009-2010 budget. Upon motion duly made by Ken Brown, seconded by Jim Baucom, Council unanimously agreed to pay pending bills.

Mayor Simpson asked for permission to add Unionville Elementary School Odyssey of the Mind coach Eric Hinson to the agenda. Upon motion duly made by Ken Brown, seconded by Randy Baucom, Council unanimously agreed to hear from them. Mr. Hinson addressed Council, as well as fifth-grade student Scott Stegall, who described his last-year experience as "life-changing". Two teams from Unionville will be traveling to World Finals May 27-31, 2009 in Iowa. Expected cost is \$1200 per person for campus living, and each child is required to take one parent with them. They have raised \$2,500 since April 4 when they won the state competition, and are asking the Town for a donation of \$5,000.00. Upon motion duly made by Randy Baucom, seconded by Ken Brown, Council unanimously agreed to donate \$4,000.00 to the Unionville Elementary School Odyssey of the Mind teams.

In land use issues, Commissioner Randy Baucom recused himself from the proceedings regarding Text Amendment ZC-09-01, for age-restricted communities. Land Use Administrator Jana Finn stated that this amendment would allow age-restricted communities in all RA-40 zoning in Unionville, with a special use permit. The permit would come before the Board of Adjustment, and must be approved with a 4/5 majority with sworn testimony. Another option would be to require rezoning prior to approval, as other zoning districts may be more suitable for this type of housing. This would also allow more people to be aware of something going on, as neighbors would be notified regarding a rezoning, and there is limited interaction regarding a text amendment. Commissioner Edd Little made inquiry regarding pre-selling of eight units and roads not being taken over by the state. Mr. Tarleton stated that there is no advantage to the developer to have the state take over roads. Estimates of homeowner fees were \$125-\$140 per month. Upon motion duly made by Jim Baucom, seconded by Robert Crouch for approval of

the amendment as recommended by Planning Board, as it is reasonable and consistent with the Town's Land Use Plan adopted March 20, 2006 and the Land Use Ordinance effective October 1, 2003. The vote was 2 in favor and 2 against. Mayor Simpson asked to recuse himself, as he had a potential conflict of interest. Town Attorney Ken Helms and Mrs. Finn recessed to review the Land Use Ordinance for direction in this matter. They reported that Mr. Helms would check the general statute regarding this dilemma. Mr. Helms suggested that Council hold this item open until he can report back as to what is required when the Mayor and Mayor ProTem both recuse themselves.

Mrs. Finn reviewed Text Amendment ZC-09-02, minor subdivision clarification and the addition of Sections 84 and 85. Upon motion duly made by Edd Little, seconded by Ken Brown, Council unanimously approved this amendment, as it is found to be reasonable and consistent with the Town's Land Use Plan adopted March 20, 2006 and Land Use Ordinance effective October 1, 2003.

In considering appointing an alternate to Planning Board, upon motion duly made by Ken Brown, seconded by Edd Little, Council unanimously agreed to accept Planning Board's recommendation of Gene Price and Andrew Benton as Board members for a three-year term and Todd Loving as Alternate for a three-year term.

Mrs. Finn made Council aware of upcoming Monroe Bypass draft hearings in May, and asked if Council would like to attend, or would like her to attend. The consensus of the Council was to ask Mrs. Finn to attend the hearings and report back to Council possibly at the June 15, 2009 meeting.

Mrs. Finn also reported that she has had a few stormwater and runoff complaints in subdivisions or neighboring subdivisions. Currently, the Town is working with Engineer Dean Arp, although Mr. Arp has recommended engineer Jeff McClusky of Charlotte regarding these issues. She asked that if the Council has ideas regarding a system to address these types of complaints, they share it with her. She will investigate Mr. McClusky's hourly rates and report back to Council at the May 18, 2009 meeting.

Mrs. Finn has included Centralina COG's planning services contract and scope of services for 2009-2010 and asked Council to review them and advise her of any changes, comments, or updates. Town Hall hours of 9:00 am – 12:00 noon the second and fourth Tuesday's have worked out well.

The next item of business was to consider the Griffin Farm and Landfill application to operate a C&D and/or LCID landfill. Griffin attorney Jon Adams addressed Council, stating that North Carolina DENR has provided a letter stating that they would consider issuing a permit if Town of Unionville provides a franchise agreement to Griffin Farm and Landfill. He has also provided answers to an email from Allison Edgar regarding groundwater levels from Mr. Wayne Sullivan's firm. He is here to provide any other information needed by Council at this time.

Town Attorney Tom Griffin added that he received the letter from NC DENR, but it did not answer the question the Town was asking, as the letter stated that DENR would receive and consider an application for a new landfill. Mr. Griffin spoke to Ed Mussler with DENR, who confirmed that DENR would not reject an application by Griffin Farm and Landfill. Mr. Griffin feels this issue has been resolved. Mr. Sullivan feels that the groundwater levels of metals exceeding standards are naturally occurring metals. Were the Council to agree to grant a franchise, he has provided new language to upgrade the franchise and host fees to float upwards over a period of time. In Mr. Griffin's opinion, the "shot clock has expired and the Town needs to shoot the ball one way or the other". Griffin Farm and Landfill has provided all the information asked of the Council.

Commissioner Randy Baucom made inquiry as to the final verdict on benzene, toluene, and cobalt. Mr. Tom Griffin stated that benzene has been detected at one part per billion, a very low level, and it is not naturally occurring. Griffin Farm and Landfill maintains that toluene is a laboratory contaminant and may have been introduced in the lab due to cleaning equipment and not representative of conditions in the environment, although Tom Griffin feels that this would be a rare occurrence. Toluene is a constituent of gasoline, as benzene is also. Cobalt is an interesting substance, as it was found a few times and is naturally occurring in groundwater if samples are not cleaned property. Tom Griffin is not sure if it would be found this way. He hasn't done enough studying to know about cobalt.

Mr. Tom Griffin feels that all of the Town's questions have been answered, including the issue of futility if DENR would not allow a permit consideration. Mayor Simpson stated that DENR's answer doesn't mean anything, legally regarding acceptance or rejection. Tom Griffin stated that as a matter of due process, NC DENR would review Griffin Farm and Landfill's application. Now is the appropriate time for the Council to make a decision.

Upon motion duly made by Ken Brown, seconded by Robert Crutch, Council unanimously agreed to enter into Executive Session to consult with its attorney regarding the Griffin Farm and Landfill issue.

Upon motion duly made by Edd Little, seconded by Robert Crutch, Council unanimously agreed to adjourn Executive Session.

Commissioner Randy Baucom made the following motion concerning the request by Griffin Farm and Landfill, Inc. for the Town of Unionville to enter into a five-year franchise agreement and ordinance with Griffin Farm, related to the operation of a construction and demolition landfill in Unionville. We have been advised that a franchise agreement and ordinance is a prerequisite for Griffin Farm to renew its state permit to operate the C&D landfill, which recently expired on February 9, 2009. In making my motion, I ask that the record include the following background:

1. Griffin Farms' representative informed the Town Council during our special meeting on December 8, 2008 that Griffin Farm intended to submit a request for an additional five-year franchise to operate the current cells of its C&D landfill.
2. Griffin Farm submitted an application to the Town on January 15, 2008, requesting a franchise agreement and ordinance to continue its current C&D landfill for an additional five years.
3. The actual benefit to the Town appears to be primarily financial. That is, the Town would receive a franchise fee and a certain amount of money for each ton of solid waste disposed of at the landfill.
4. The Town and Griffin Farm sent notice letters to adjacent property owners, placed a copy of the franchise application at the public library and published public notice of the franchise application and of the public hearing scheduled for Friday, January 16, 2009 at the local high school.
5. Following receipt of the franchise application, the Town requested from Griffin Farm additional information about the historic and proposed future operation of the C&D landfill.
6. The Town Council held a public hearing on January 16, 2009, to permit comment on the proposed franchise agreement and ordinance with Griffin Farm. Representatives of Griffin Farm presented information about its historic and proposed operations and responded to comments made by other community members. Members of the community, and a representative of a citizen's group spoke about the landfill, citing concerns related to impacts on the environment, Griffin Farm's operations and the relationship between Griffin Farm and the Town. The information presented at the public hearing is included in our minutes of that meeting.
7. At our regular meeting on January 19, 2009, the Town Council heard additional information regarding the C&D landfill from Griffin Farm's representative. The Town Council decided at this meeting that it needed additional time to study the materials provided to the Town by Griffin Farm, to review the draft franchise agreement and ordinance, to review any additional materials, and to consider the statements of various stakeholders. The Town Council formed a subcommittee of two members—Mr. Robert Crutch—and—myself—to perform this review and report to the entire Town Council at the next regular meeting on February 16, 2009.
8. At our regular meeting on February 16, 2009, Griffin Farm's legal counsel answered several of the outstanding questions that the Town had posed to Griffin Farm and agreed to follow-up with Griffin Farm's engineer to provide more specific answers to the Town's technical questions. Following the February meeting, Griffin Farm forwarded certain additional information to the Town, including copies of written correspondence with DENR.
9. At our regular meeting on March 15, 2009, Griffin Farm's engineer answered several technical questions posed by the Town regarding the detection of several contaminants above state regulatory standards in groundwater and surface water at the landfill over the past five years. At the conclusion of the March meeting, the Town requested that Griffin Farm obtain a letter from DENR providing assurance that it would receive and review a permit application for the activity proposed by Griffin Farm—specifically, the continued

filling of the existing waste cells. By letter dated April 6, 2009, DENR indicated that it would accept and consider a complete permit application from Griffin Far for anew construction and demolition debris landfill.

10. In light of all of the information presented to and considered by the Town, I believe that it is in the Town's best interest not to adopt a franchise agreement and ordinance with Griffin Farm to allow the operation of a C&D landfill for an additional five years. My reasons are as follows:
- a. I am concerned that historic operations of the C&D landfill have led to the release of metals and other hazardous substances, such as benzene, into groundwater. Because of the presence of elevated levels of metals and other hazardous substances in the groundwater at the C&D landfill, I have serious concerns about the health and safety of our community if we continue to allow the operation of the C&D landfill. I note in particular that the proposed landfill is near the Lake Twitty watershed.
 - b. I am concerned that the North Carolina Department of Environment and Natural Resources has noted violations at the C&D landfill. These violations, along with the recent correspondence about Griffin Farm not covering the waste in the C&D landfill until mid-January 2009, even though operations ceased at the end of June 2008, raises some concern about protection of human health and the environment.
 - c. I note in particular that the C&D landfill does not have a liner, and that new C&D landfills are required to be lined, thus the conduct of Griffin Farm in operating an unlined C&D landfill is important to our community.
 - d. I do not think that the potential increased revenue for the Town outweighs the concerns about the continued operation of the C&D landfill. The Town can consider other ways to raise revenue if the need arises.
 - e. I believe that, on balance, the citizens of our community do not want the C&D landfill here, despite the economic benefit.
 - f. In general, I believe that the proposed franchise ordinance for a C&D landfill is not in the best interest of the public health, safety and welfare of the Town and its citizens.

Accordingly, based on the information that we have today and the process that we have followed, I move that the Town Council not approve the proposal by Griffin Farms and Landfill and that we not move forward with drafting or considering a solid waste landfill franchise ordinance. Upon a second by Robert Crutch, the motion carried by a 4-1 vote.

The next item of business was to consider sponsorship of the Mayors/Commissioners meeting with Town of Fairview on Thursday, May 21, 2009 at 6:30 p.m. Clerk Sonya Gaddy stated that each municipality in the county is being asked to join with another municipality to sponsor this quarterly meeting. A meal would be provided for approximately 30 attendees. Upon motion duly made by Ken Brown, seconded by Edd Little, Council approved this sponsorship unanimously, and authorized Clerk Sonya Gaddy to coordinate this event with Town of Fairview.

Ms. Randi Gates, with Carolina Thread Trail addressed Council, stating that the Thread Trail is a free set of trails connecting 15 counties—11 in North Carolina and 4 in South Carolina, touching over two million people. The map she distributed is conceptual, and six grants have been awarded to develop a master plan. Each county will put together a steering committee. Dr. and Mrs. Lane Ormond and Mr. Jerry McGee are on the Board from Union County. She requested that the Town sign a Resolution of Intent to participate. There being some discussion regarding liability of the property owners, eminent domain, and no motion, the Town did not approve a Resolution.

Ms. Pam Caskey of United Family Services addressed Council, stating that UFS is celebrating its 100th anniversary. UFS has been in Union County for thirty years. She asked the Mayor to sign a proclamation that April is National Child Awareness Month, and thanked the Town for its continued support.

The next item of business was to appoint a representative to the Union County Transportation Advisory Board. Commissioner Ken Brown volunteered to represent the Town.

Upon motion duly made by Edd Little, seconded by Jim Baucom, Council unanimously approved a donation of \$300 to Literacy Council of Union County.

Mr. Joey Gamble, President of Piedmont High School Athletic Booster Club addressed Council. He reported that the Booster Club maintains and supports the sports facilities and programs that the athletic budget doesn't cover. Some of their major purchases over the last year include new football uniforms totaling \$12,000 and a new washer and dryer for the field house. Their two major fundraisers are race parking at Lowe's Motor Speedway in the fall and spring and a golf tournament. This year, they didn't do their golf tournament, as many of the golfers and sponsors are realtors. In addition, their race parking has been cut back from 4 days to 2 days. They are asking for a donation of \$10,000. Upon motion duly made by Edd Little, seconded by Ken Brown, Council unanimously approved a donation of \$10,000 with the challenge to approach the Towns of Fairview and Hemby Bridge for the same donation.

In other business, upon motion duly made by Edd Little, seconded by Randy Baucom, Council unanimously agreed that the contribution to the Unionville Volunteer Fire Department be increased to \$60,000 in the 2009-2010 budget.

There being no other business, Mayor Simpson declared the meeting adjourned.

Respectfully submitted, Sonya W. Gaddy, Clerk

Approved as to form:

R. Kenneth Helms, Jr., Town Attorney

Thomas N. Griffin, III, Town Attorney