

**Town of Mocksville
Regular Board Meeting
July 7, 2020**

The Town of Mocksville Board of Commissioners met for the Regular Board Meeting on Tuesday, July 7, 2020 at 6:00 p.m. The meeting was held at the Energy United Building located at 182 South Salisbury Street Mocksville, NC.

Present:	Mayor, Will Marklin	Absent:
Commissioners Present:	Amy Vaughan-Jones	
	Rob Taylor	
	Justin Draughn	
	Brian Williams	
	Eric Southern	

Others Present:
Matt Settlemeyer, Town Manager
Lynn Trivette, Town Clerk
Pat Reagan, Police Chief
Al Benschhoff, Town Attorney

Mayor Marklin called the meeting to order welcoming everyone in attendance.

The Town of Mocksville Board paused for a moment of silence.

Mayor Marklin led the Pledge of Allegiance.

Adoption of Agenda

A motion was made by Commissioner Taylor to adopt the agenda after removing #4 officer recognition with Police Chief Reagan, adding 7B early retirement incentive plan and adding a closed session NC GS 143-318.11 (a)(3), and (6), to preserve the attorney-client privilege, and to discuss a personnel matter. The motion was seconded by Commissioner Southern which carried by a unanimous vote 5-0.

Citizen Comments

Mayor reads; Under GS 160-81.1, the Board shall provide one period for public comment per month. Public comments are a valued part of the Board meeting but we also have to handle monthly business items. If your public comment is not heard this month we provide the same opportunity at each month's Board meeting. Public comments are limited to 3 minutes per comment. The Mayor asks that groups appoint spokespersons for groups supporting the same position, especially when the number of people wishing to attend the meeting exceeds the capacity of Town Hall. When the comments become repetitive and no longer provide new information then discussion for this meeting may be stopped. As a reminder,

the comment period is not a question and answer session. As always, the Mayor shall provide for the maintenance of order and decorum in the conduct of the comment period.

Justin Vocke addressed the Board.

I was notified by a Mocksville Police Officer that they had tested positive for COVID-19. They let me know about this positive result because during the course of their duties we've been in contact with one another. I immediately contacted my Fire Chief and let him know about the exposure and then I went and got tested myself. My test results came back negative. I am curious about what the Town's stance is around COVID-19 positive employees who come in contact with the public, such as; Who gets notified? When and by whom? In addition, what other things apply like; are we liable as First Responders if I transmit it to a member of the public or coworker even if I do not have it myself? I understand this person has had contact with many other members of the community as have I. There are a lot of people speaking about this in the community and on social media and I would like to hear directly from the Town what their opinion is on the matter so that people will stop creating their own narrative on social media.

Communications from Boards, Commissions and Agencies

Consent Agenda

A motion was made by Commissioner Taylor to adopt the consent agenda as presented. The motion was seconded by Commissioner Williams which carried by a unanimous vote of 5-0. Items approved were: (A) June 2, 2020 Regular Board Meeting Minutes (B) June 2, 2020 Closed Session Minutes (C) Monthly Financials (D) Tax Releases.

Consider Public Records Request Policy

Town Manager addressed the Board concerning numerous public records requests. Town Attorney gave some guidance previously about a policy we should put into place. This policy formalizes the procedure that somebody would have to go through to make a request for public records. It is only three pages so it is a streamlined policy. The important thing is that it follows all the guidelines of the State's Public Records Statute. It also provides in the fee schedule for requests that goes beyond what would be a normal request. Therefore, if there is something that takes more than four hours of time there is a fee that can be added. If someone wants a paper copy and it takes more than ten sheets then there is a fee.

A motion was made by Commissioner Southern to adopt the public records request policy. The motion was seconded by Commissioner Vaughan-Jones which carried by a unanimous vote 5-0.

Discussing Early Retirement Incentive Plan

Town Manager addressed the Board that this item is not for action unless one of you wants to act upon it. This is for informational purposes only to start a discussion. We have employees that do not qualify for full retirement but qualify for an early retirement and may want to take that. This would be considered a win-win situation for the Town and employee. If the employee wants to take early retirement, they are able to receive an incentive from the Town to facilitate that. It will save the Town money in the end and this is the window I am working on. There are eight employees that qualify for early retirement. If you look at this incentive plan, it has a window of time, July 1, 2020 to the end of 2020. It is not a policy that stays in place forever; you should obviously review it if needed for a future date. I used six months of an employee's annual salary, the theory being that if the employee qualifies for early retirement; then the new employee being hired would be paid significantly less than the employee that retired. It also requires that if the position is frozen and does not get filled maybe a different position in the department gets

filled. The Town would not do it if it is not beneficial for both parties, this would be voluntary on both sides.

Commissioner Amy Vaughan-Jones says there is a window but you do not have to act on it so how does that reflect that window?

Town Manager says the way I wrote it, the window is that within the next six months employees can decide if they want to engage in this incentive plan or not. The Town is in the middle of some financial issues due to the economy and I would not be afraid if I were on the Board to extend it longer. The Towns that I have spoken to that uses this incentive plan have a window whether you want to retire early or not. Then if the Board wants to renew it, you can. It is not a permanent policy because it has windows of operation.

Commissioner Amy Vaughan-Jones worries about the part where the employees will have to give up their healthcare coverage and find new coverage. So, unless you were someone who is at the maximum retirement why you would possibly want to take this option?

Town Manager says what this incentive plan says if you are interested in retiring early, you accept the fact that you will no longer be able to qualify for health insurance moving forward, this is also something that the Board can change. The incentive plan is saying if you want to retire early, you have the option. If you accept the plan, the Town would issue a lump sum buyout of the employee's future earnings from the Town, which would include their health insurance, and any other possible earnings.

Commissioner Amy Vaughan-Jones asks the Town Manager if this incentive plan was something that he drafted.

Town Manager advises a plan of this nature is used in Statesville and other Cities but yes, I did draft this particular incentive plan.

Town Manager says no action needed tonight and it is something we can look at again next month if the Board would like to pursue.

Public Hearing for Community Development Block Grant Economic Development Application

The purpose of this hearing is to receive comments from the public concerning the submittal of a proposed Community Development Block Grant Economic Development application, for \$175,000, to the North Carolina Department of Commerce. The grant funds will be used by the Town to assist with the installation of a sewer line to serve (SES) Special Event Services, a production facility to be located at 216 Angell Knoll Avenue, Mocksville. The grant will provide approximately 68% of the estimated \$260,087 Economic Development Project. SES will create 14 jobs over the next two years, with 60% of the jobs benefitting persons whose household incomes are within the low to moderate-income limits for Davie County. The Town will have a 25% match.

Mayor Marklin opened up the Public Hearing and no one spoke in favor or against so he closed the Public Hearing.

A motion was made by Commissioner Williams to adopt the resolution to submit a proposed CDBG economic development application. The motion was seconded by Commissioner Draughn which carried by a unanimous vote 5-0.

Public Hearing for a Zoning Map Amendment

Public Hearing for a zoning map amendment The Board will review a request by Jeremy Gordon to rezone approximately 1.31 acres from OSR Open Space Residential to GI-CD General Industrial Conditional District. The subject property is located at 363 Harvest Way and is further described as a portion of Davie County Tax Parcel H50000001305.

Mayor Marklin opened up the public hearing.

To speak in favor of:

Attorney, David Kasper spoke on behalf of Jeremy and Jennifer Gordon asking to approve the rezoning of the Zone Map Amendment to General Industrial with conditions. Mr. and Mrs. Gordon own the property off Harvest Way, right near 158 on the edge of Mocksville territorial jurisdiction. The animal hospital on 158 is an industrial site along with a similar heavy equipment construction site. This property is surrounded by other industrial use sites. Mr. Gordon is seeking to use his storage building to maintain the equipment for Gordon and Sons Fine Grading Company. Mr. Gordon owns a larger piece of property up the road from the property in question, which is 1.3 acres. This accessory building is a steel building with heating and air conditioning and a small office with a bathroom plus a gravel parking lot maintained by Mr. Gordon with equipment he uses at work. The reason he would like to use this building is during the winter months when business is slower the maintenance on the equipment is done. He would like his employees to be able to work on the equipment inside this building. Gordon and Sons Grading business has nineteen employees and they would like a place where they could meet up and car pool to jobs. They would like to work inside on the equipment in the wintertime. The way this property sits a wooded lot is on the north side of the property. Some of the concerns that we have heard are noise and environmental impacts. The products that Mr. Gordon uses on the facility are water and dawn dishwashing detergent. That is what they use to clean the grease off of their equipment. There are no hazardous materials used, no industrial cleaning products or anything like that, just regular house hold cleaners. The only noise that would be on the property, potentially, would be the employees that would be there in the mornings. Mr. Gordon was present at 6am and said he heard noise from an industrial site across 158. Mr. Gordon would like to continue his business in Mocksville and keep his employees. We understand that this area does call for rural residential however the veterinary hospital is an industrial site. Gordon and Sons Grading is not going to be a significant amount of traffic. Mr. Gordon is willing to get a driveway permit to certify the use of the road. He is willing to do some landscaping around the facility to shield it from the neighboring homeowners. Limiting the hours of use can be done to cut down on any potential noise that may disturb any of the neighbors. We do think this is a reasonable request that is in the public's interest and supports an existing business for twenty-five years. We hope you will approve this Zone Map Amendment.

Jeremy Gordon addressed the Board saying he is the Vice President of Gordon and Sons Grading. He started with his father in 1998 and the company started in 1995. Now with nineteen employees, he is proud to be part of a family business that started here in Davie County. His dad passed away ten years ago, since then my mother's health has gone downhill. She is slowly getting away from the company even though she owns all the shares. What he is proposing is to get everything off her property so she can have the pasture to enjoy without having to deal with heavy equipment on her property. The maintenance that we do during the wintertime is brought into the shop and parked. As far as the noise, it is cranking up the equipment. During the spring, summer and fall our equipment is out on the job because we do roadwork. If they do have a break down, he would like to bring it to the shop, work on it and get it right back out to the jobsite. The employees that do not live in Davie County drive straight to the jobsite. Right now, with the ten employees that do live in Davie County, some are meeting at the shop to carpool. He is trying to improve his local business especially with the economy and pandemic.

Clyde Scott addressed the Board saying he has known the Gordon's for a very long time. Gordon and Sons Fine Grading operations are top notch. Jeremy keeps a neat facility and the equipment is well serviced. The equipment is normally gone to the job site before he wakes up and not at the shop during the day. Jeremy is trying to keep the business local and give back to the community. The environmental impact on this business is very small. Mr. Scott encourages each of you to visit the business.

Hannah Beck addressed the Board saying she lives between the two addresses. Her drive way is 3-4' away from the Gordon's building. Ms. Beck has never had an issue with the equipment and it has never been too loud. No issues with maintenance on the road, traffic or not being able to get in and out of their driveway. She feels this would be an awesome opportunity for this business along with giving back to the Town.

Andrew Beck addressed the Board saying his property is the closest to the Gordon property. Mr. Gordon services our community and the equipment has never woken him up. The dogs barking at the vet are loud and no one has complained about their noise. Gordon's trucks do not block the road and as far as looks go the building is nicer than some houses on the road.

David Morris addressed the Board saying he lives at 325 Harvest Way. His property lies directly behind the property in question. He bought his house five years ago and the last thing he would want is for somebody to do something that would devalue the property or interfere with the quality of his families lives. That has not happened. Mr. Gordon as far as a neighbor is very considerate, polite and he is a helpful neighbor. I pass his home every day, it always looks immaculate. He is an asset to our neighborhood and our dead end road. Before he purchased that property, he actually came and spoke to me about his plans. He told Jeremy that he would like him to be able to buy the property and hope he would build something there that looked good and he would be find with that. Jeremy bought the property and he built a very attractive building that looks like a big horse barn. David drives in front of it, beside it, behind it when he enters his property. There was discussion about putting a fence around it but David would disagree with this because he does not think it would improve anything or serve any purpose. One last thing to add would be that with the current condition of the economy Mr. Gordon has been able to keep employees working. David believes that this would be a perfect opportunity for local government and elected officials to show their support for business owners that are able to contribute to our community and keep people working. Not just in the good times but in the bad times as well.

Mrs. Morris addressed the Board discussing the pictures in the PowerPoint and how they looked manipulated. The photographer would have to position themselves away from the property owners who are against this rezoning to capture such pictures.

To speak against:

Attorney Bradley Friesen addressed the Board representing Peggy and Mike DelliSanti who have lived at 307 Harvest Way for twenty-three years. He asked the Board to vote and reject the application. After talking to a couple of the Board Members he heard that most things that come to them are unopposed or done unanimously and that this is a bit unusual to have such opposition. His goal is to be as helpful as he can to the Board and provide helpful information so they could make a good decision in the mist of the opposition. He began by stating how zoning works. The Board makes zoning regulations, which you are being asked to do tonight, by the way, in amending the zoning map in accordance with a comprehensive plan designed to promote public health, safety and general welfare. Why? Because the Boards decision should not be arbitrary, it should not be one off or random. Your citizens want predictability for how the land is going to be developed in the future. That helps guide their decisions and it helps promote the

welfare of their lives. In fact, the Town has a new less than a year old comprehensive plan and the Board knows because many of them were a part of the planning. The comprehensive plan provides a clear and compelling vision for the future growth and well-being of the community. The plan provides a framework for decision making such as making zoning decisions. The plan will be implemented through zoning decisions and development projects. A comprehensive plan helps ensure regulatory controls that cannot be legally challenged as arbitrary and the plan can make future decision making easier and less politically charged. Open space residential is provided to encourage the development of compact residential neighborhoods that set aside significant natural vistas, parkland, and landscape features and other rural heritage features for permanent conservation. General Industrial district is established to accommodate traditional industrial uses on individual tracts of land and within coordinated industrial parks. Such uses may constitute health or safety hazards, have greater than average impacts on the environment or diminish the use and enjoyment of nearby property by generation of noise, smoke, fumes, odors, glare, vibration, industrial vehicle traffic, or similar nuisances. David Owens from the School of Government says, “a zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, ... so as to relieve the small tract from restrictions to which the rest of the area is subject to. It is held to high level of scrutiny by the courts. It must adhere to the comprehensive plan, and it must consider the effects of the rezoning within the larger community context”. There is no ill will; it is all about the business not the people and the conditions want change anything.

Mrs. DelliSanti addressed the Board and said she has been living at 307 Harvest Way for twenty-three years. She is against rezoning the Gordon property because of the increase in traffic, loud running equipment, smell of the chemicals, the equipment takes up the entire road and rezoning the property will make their property value decrease.

Rebekah Crawford addressed the Board saying that being a realtor and trying to sale property in this area would not be very attractive to a buyer discussing the rezoning for general industrial district.

Jack Koontz addressed the Board and wanted to know why Mr. Gordon did not come before the Board before he moved the equipment to the property.

Mr. Gordon says when he found out he was in violation that he moved his equipment out. There is no hazard material at the location in question.

Commissioner Vaughan-Jones was concerned with Mr. Gordon’s statement about moving all the heavy equipment off his mom’s property so she could enjoy the pasture. She also asked Mr. Gordon when was the building built since it was zoned residential.

Mr. Gordon replied February 2019 and I used it for storage for my boats, dirt bikes and 4-wheelers.

Mayor closed the public hearing

Commissioner Vaughan-Jones and Commissioner Southern agreed no spot zoning. (Spot zoning is the application of zoning to a specific parcel or parcels of land within a larger zoned area when the rezoning is usually at odds with a city's master plan and current zoning restrictions).

The Planning Board voted on the conditions March 12, 2020 and the results were two in favor and two opposed. The motion failed.

Commissioner Williams wanted it to be noted that Country Veterinary is zoned general commercial not industrial. He feels that the request for the rezoning is not consistent with the land use plan.

A motion was made by Commissioner Williams to NOT approve the zoning map amendment because the land use code map amendment is not reasonable nor in the public's best interest. The motion was seconded by Commissioner Taylor which carried by a vote of 4-1 with Commissioner Draughn voting against.

When you approve or disapprove a change to the land use code or re-zoning the General Statute requires the adoption of a statement of consistency, which states why the Board thinks the decision is in the public's best interest.

A motion was made by Commissioner Southern to adopt the rejection statement of consistency; the Board of Commissioners find that this land use code map amendment is not reasonable nor in the public's best interest. The motion was seconded by Commissioner Williams which carried by a vote of 4-1 with Commissioner Draughn voting against.

Communication from Town Staff

Town Attorney: The Town's power to zone comes from the General Assembly. In June 2019 the legislature overhauled all of the zoning and subdivision enabling statutes for the first time since the 1970s. The deadline to bring the Town's ordinances into compliance with the new statutes is July 1, 2021. This will be a time-consuming and potentially expensive effort. The Town Manager and I will come up with a plan to handle this project in an efficient manner.

Town Manager: none

Communication from Mayor and Town Board

Commissioner Vaughan-Jones: none

Commissioner Southern: none

Commissioner Taylor: none

Commissioner Williams: none

Commissioner Draughn: none

Mayor Marklin: none

A motion was made by Commissioner Williams to enter into close session. The motion was seconded by Commissioner Taylor and approved by a unanimous vote 5-0.

A motion was made by Commissioner Taylor to re-enter into open session. The motion was seconded by Commissioner Williams and approved by a unanimous vote 5-0.

Adjourn

A motion was made by Commissioner Taylor to adjourn the July 7, 2020 Regular Board Meeting. The motion was seconded by Commissioner Williams which carried by a unanimous vote 5-0.

William J. Marklin, Mayor

Lynn Trivette, Town Clerk, NCCMC