

**Town of Eastover - Town Council Meeting  
Tuesday, October 6, 2009, 7:00 p.m.  
Eastover Community Center**

**Mayor Charles G. McLaurin, Presiding Council Members: Lawrence Buffaloe, Willie Geddie, Cheryl Hudson, Donald Hudson, Benny Pearce, and Sara Piland**

**MINUTES OF MEETING – October 6, 2009**

Mayor Charles G. McLaurin, Council Members Lawrence Buffaloe, Donald Hudson, Sara Piland, Cheryl Hudson, Willie Geddie, and Benny Pearce were in attendance at the October 6, 2009 Eastover Town Council Meeting. A quorum was present at the Town Council Meeting. Also in attendance was Mr. Matt Rooney from the Cumberland County Joint Planning & Inspections Department, Mr. John Jackson, Town Attorney, Mr. Thomas Taylor, Interim Town Manager, and Ms. Jane Faircloth, Town Clerk.

**I. Call to Order:**

Mayor Charles McLaurin called the October 6, 2009 meeting of the Eastover Town Council to order at 7:00 p.m. and welcomed all in attendance.

**II. Invocation / Pledge of Allegiance:**

Council Member Willie Geddie gave the invocation and led the attendees in The Pledge of Allegiance.

**III. Public Comments:**

There were no public comments.

Mayor Charles McLaurin introduced Deputy Terrance Martin to the Town Council and attendees and welcomed him into our community. Deputy Martin is now assigned to Eastover from the Cumberland County Sheriff's Office.

**IV. Approval of Agenda:**

Council Member Sara Piland made a motion to approve the Agenda as stated. The motion was 2<sup>nd</sup> by Council Member Cheryl Hudson. The motion was carried unanimously.

**V. Consent Agenda:**

1. Consider approval of the September 1, 2009 Town Council Minutes.
2. Consider approval of the August 31, 2009 Financial Report.

Council Member Donald Hudson made a motion to approve the Consent Agenda as stated. The motion was 2<sup>nd</sup> by Council Member Lawrence Buffaloe. The motion was carried unanimously.

**VI. Discussion Agenda:**

**Agenda Item #1:**

**Public Hearing – Rezoning Case No. P09-36 from R6A Residential to C2(P)/CUD & Permit – 3863 Dunn Road. Property owned by Johnnie L. & Linda Sanderson (Eastover).**

Mayor McLaurin stated that the next item is a request by Johnnie L. & Linda M. Sanderson for a Conditional Use District and Permit. The Hearing on the Conditional Use District is legislative while the Permit is judicial in nature and will be conducted in accordance with special due process safeguards.

Mayor McLaurin stated that all persons who wish to testify in this case should have signed up on the sign-in-sheet. He stated that if you have not signed and wish to speak. Please sign up now. All those wishing to speak, please come to the podium to be sworn in. Six individuals signed-in and came forward to be sworn in.

**Speakers in favor of Case No. P09-36:** Applicant, Mrs. Linda Sanderson, Mr. Chris Jones, Mrs. Cindy Whetzel, Mr. John Sanderson and Mr. Rock Jordan were sworn in to speak in favor of the case.

**Speakers opposing Case No P09-36:** Mrs. Sharon Moore was sworn to speak as an opponent to the case.

Mayor McLaurin stated that before opening the hearing, I'd like to give the Board Members a chance to reveal any possible conflicts and withdraw from these proceedings if necessary. If any member reveals a conflict and wishes to withdraw, we ask that they leave the room.

Council Member Cheryl Hudson requested that the Town Council excuse her from participating and voting on Case No. P09-36. She stated that she has a conflict of interest in this case. Council Member Donald Hudson made a motion to excuse Council Member Cheryl Hudson from Case No.P09-36. The motion was 2<sup>nd</sup> by Council Member Sara Piland. The vote was unanimous.

Mayor McLaurin asked the Town Council if any Board Members who have any information or special knowledge about the case that may not come out at the Hearing tonight, to please describe that information for the record so that interested persons will know and can respond. The Town Council Members stated that they knew where the property was located but had no special knowledge of the case.

Mayor McLaurin stated that the Order of Business for this Public Hearing will be as follows:

- a. First we will hear from the Planning Staff.
- b. Then we will hear from the Applicant and their Witnesses.
- c. Then we will hear from the Opponents to the request.

Mayor McLaurin stated that before an individual begins to testify, the individual is to be clearly identified for the record and to also state their address. The Mayor stated that once the individual has given their comments, he would ask if anyone in the audience has any questions of that person. The Mayor would recognize them at that time.

Attorney John Jackson stated that if an individual wants to present written evidence to the Board, such as reports and maps or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his/her testimony. Mr Jackson stated that any written evidence offered and if accepted by the Board, must be made a part of and kept with the official record.

Attorney Jackson stated that petitions, reports or other documents generally cannot be accepted unless the individual who created and/or signed the document is present (including all individuals with signatures on any petition).

Attorney Jackson stated that Attorneys who speak should not give factual testimony but may summarize their client's case. If, however, an attorney wishes to be a witness and present testimony, he or she must have been sworn in.

Mayor McLaurin stated I now **Open the Public Hearing on Case No. P09-36** and ask for the presentation from the Cumberland County Planning Staff.

Mr. Matt Rooney from the Cumberland County Planning & Inspection Department briefed the Town Council on Case No. P09-36. He stated that this is a rezoning of .49 +/- acres from R6A Residential to C2(P)/CUD planned service and retail/conditional use district (Restaurant; Recreation/amusement, indoor; Retail; and other permitted uses) and the permit or to a more restrictive zoning district for a restaurant (Ice Cream Shop and Grill) and the Permit subject to the contents of the application, Site Plan and Ordinance related conditions.

Mr. Rooney stated the members present at the September 15, 2009 meeting voted to approve the C2(P)/CUD Planned Service and Retail Conditional Use District for a Restaurant (Ice Cream Shop and Grill) and the Permit subject to the contents of the application, Site Plan and Ordinance related conditions.

Mr. Rooney gave a slide presentation of the general area proposed for rezoning to the Town Council. Mr. Rooney stated that there is water and sewer and no soil limitations on the property. Mr. Rooney stated that the side setbacks shown on the site plan are not meeting the setbacks required for the C2(P) Planned Service and Retail zoning district. Mr. Rooney stated that on the South side the setback is 6 feet short, and the front and back setback is appropriate, on the North side you have only 20 feet from the existing structure. Mr. Rooney stated that this property is basically surrounded by R6A zoning on the east side which has all types of housing to include mobile homes.

Mr. Rooney informed the Council that if both lots were included it could be Transitional Use. Mr. Rooney stated that the request is for a Conditional Use, if the Board were to approve this request the applicant would not be allowed any other uses other than what the applicant has specified. The other part is that in granting certain conditions on that applicant. Mr. Rooney stated that conditions would stay the same if the ownership changed. For this to change it would have to go through the rezoning process again. The conditions of the case apply regardless of ownership of said property. The new owner would have to apply for another

CUD to change the zoning.

Mayor McLaurin stated that we will now hear from the applicant and other opponents of the request. If there are attorneys, or other representatives who will give a general summary if the client's position, we invite you to go first. No attorney's for the applicant's were present to speak.

**Testimony from the applicants:** Mrs. Linda Sanderson and Mr. Johnnie L. Sanderson applicant's **spoke in favor**. Mrs. Linda Sanderson stated that the application had been revised asking for an ice cream store and grill to add to the community. Mrs. Sanderson stated that she didn't understand how the application was considered dangerous to public safety. Surveyors, builders, general contractors, the fire marshal, and the health department have been out to the subject property. All of them have said that this structure could be, with the right amount of money, suitable for what they are looking for. Mrs. Sanderson stated that she has a notarized statement from all adjoining property owners stating that they support the application. Mrs. Sanderson stated that they are trying to give the community what they are asking for if the application is considered for approval. Mrs. Sanderson asked that the sidewalk requirement be removed as there are no sidewalks in Eastover. Mrs. Sanderson stated that she has read the 2030 Use Plan and the 2010 Plan gets more confused each time.

Mr. Johnny Lee Sanderson **spoke in favor** as one of the applicants. He stated that there are plenty of people present tonight, and in the Eastover area that would really like to see something in the community for children and for the elderly. There were approximately 20 people present in favor of this case. Mr. Sanderson stated that he didn't agree with the danger to public safety concerning motor vehicle traffic when there is a store, grill, and town hall all in the same area. Mr. Sanderson stated that he checked with the Department of Transportation (DOT) and they don't have a problem with a 20 foot entrance as long as it's graded for the intended use. Mr. Sanderson stated that they were just trying to do something for the community for young, old and middle age. Mr. Sanderson stated that they are not going to shut down the Corner Grill. The 2030 Land Use Plan is a guideline in all towns and can be bent.

Mr. Chris Jones **spoke in favor** of Case No. P09-36. He stated that Eastover is a great place to live and mainly the Corner Grill has the best hamburgers and hotdogs anywhere. Mr. Jones stated that he mention the Corner Grill because the Sanderson's proposal could possibly affect the Corner Grill. Mr. Jones stated that he does not feel that the Corner Grill would be affected by competition. This would be something good for the community.

Ms. Cindy Whetzel **spoke in favor** of Case No. P09-36. She stated that she is the adjacent property. She stated that she is the one that sold the property to the Sanderson's when her father passed away in March. The Sanderson's daughter approached me about the property and stated that they would like to put an Ice Cream Shop & Grill at that location. She stated that she has no problem with living between the proposed Ice Cream Shop & Grill and the Corner Grill. I do not see this as a conflict with the Corner Grill. She stated that people are looking for a place to eat and relax after ball games and on the weekend without having to drive all the way into Fayetteville. The Ice Cream Shop and Grill would offer this to the Eastover residents.

Mr. Rock Jordan **spoke in favor** of Case No. P09-36. Mr. Jordan stated that he is one of the older people in the community. Mr. Jordan stated that he lives in the Vander area which is in the Eastover Township. He stated that he has known the Sanderson family for years and he thinks the Ice Cream Shop & Grill would be a wonderful thing for Eastover and the surrounding community.

**Testimony from the Opponent:** Ms. Sharon Moore spoke in opposition of Case No. P09-36. Ms. Moore stated that she is not against an Ice Cream Shop, but did not want them to sell hamburgers & hot dogs, which is her specialty. She stated that her business has been in operation for three generations.

**Rebuttal from applicant:** Mr. Johnny Lee Sanderson stated that he understands what the Corner Grill is saying. Other business helps other business, not puts them out of business. He stated the Kangaroo and EPCO both sell the same things but they do not put each other out of business. Council Member Buffaloe asked if the design presented by Mr. Sanderson was for the existing building. Mr. Sanderson stated it was for the current building, and he was trying to make it look better than it does now. There were no further questions from the Town Council.

Mayor Charles McLaurin moved to **Close the Public Hearing on Case No. P09-36.**

Mayor McLaurin asked for discussions from the Town Council. Attorney Jackson reminded the Town Council that they are considering first the Conditional Use District, which is a "legislative" type vote. If that motion passes, the Chairman should call for a vote on the Conditional Use Permit, which is a "quasi-judicial" type vote.

Mayor McLaurin stated that Dunn Road is going to be commercial and expressed his approval of this case. Council Member Sara Piland stated that the decision tonight is not about competition with the Corner Grill, and not whether we as a Council would like to have an Ice Cream Shop & Grill. She stated that it is about rezoning property only.

Council Member Piland stated that we are setting a precedent, and we as the Town Council must do so in a fair way. This request is not in compliance with the 2030 Land Use Plan, Eastover Detailed Land Use Plan, and not in compliance with the setbacks that have been mentioned for C2(P) property. She stated that as I expressed at the Planning Board Meeting she wants' Eastover to grow, but within the guideline set forth by the Town. She stated that at this time I do not feel inclined to support the petitioner's request.

Council Member Buffaloe asked Mr. Rooney about the setbacks. Mr. Rooney stated that any changes to the conditions of this request must have a new rezoning request. He also stated that this would apply even if the applicants sold the property. Mr. Rooney stated that any changes to include hours of operation would have to come back to the Town Council for approval.

Council Member Donald Hudson stated that the Town Council has not deviated from the Detailed Land Use Plan on any case. He stated that this case does not qualify.

Mr. Taylor asked Mr. Rooney if the adjacent piece of property were rezoned C2(P) also would this case then qualify. Mr. Rooney stated it would be more in line with the Detailed Land Use Plan and would meet the setbacks. Mr. Rooney stated that if the two lots remained separate it would not. He stated that they could make one lot of the two, or have the owner apply for rezoning of her property to C2(P) and she could still live there but would be nonconforming. However, if there were major damage to her property there would be major issues.

**Mayor McLaurin asked for a motion on Case No. P09-36.**

Council Member Benny Pearce stated I move that the Eastover Town Council fails to find that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that it therefore be denied. The motion was 2<sup>nd</sup> by Council Member Sara Piland. The vote was one nay (Mayor Charles McLaurin), five yeas (Council Members Piland, Geddie, Buffaloe, Pearce and D. Hudson), with one vote excused (Council Member C. Hudson). The vote was five for denial and one in favor of Case No P09-36. Motion carried, therefore Case No. P09-36 was denied.

**Agenda Item #2:**

**Discuss ways to create mini-parks within the Town.**

Council Member Sara Piland stated that she did not know exactly what we could discuss tonight. She stated that we do want something nearby in this vicinity. We want more green and open space. She stated that a small area of land would be great. Mayor McLaurin stated that the land behind Eastover Central Elementary School by the Community Center and the area around the Eastover Ball Park would be great. Council Member Piland stated that we could approach the School Board concerning a portion of the property next to the Eastover Community Center. She stated that she and Mr. Mac Williams made an informal contact to the School Board for purchasing the land joining the Community Center. She stated that she thought we should ask if they would be willing to sell a portion of the land, as part of the land backs up to the school as a buffer for the school. Perhaps they would sell the part that is not a buffer. Mr. Rooney stated that there are lesser problems (wet lands) with the land closer to the Community Center than the buffer area.

**Agenda Item # 3:**

**Discuss walking-trail at Eastover Ball Park.**

Mayor McLaurin stated that the Eastover Ball Park has had great improvements. He stated that we would like to have a walking trail at the back of the ball park. Council Member Sara Piland stated that Mr. Henry Bowden, Chairman of the Eastover Ball Park Association stated that they did not have the funds to build a walking trail at this time. She asked Mr. Taylor if we could come up with \$30,000 to pay for a walking trail. She stated that she was aware that we did not specifically budget for a walking trail, but could we come up with the funds elsewhere. Mr. Taylor stated that we had set up contingency funds within departments for the purpose of keeping us from going over an account, but felt we could come up with the funds. Mr. Taylor stated that there are some small grants available for recreation equipment, etc.

Council Member Sara Piland made a motion to invite Mr. Henry Bowden to the November 3, 2009 Town Council meeting and have him present a proposal for a walking trail for the Eastover Ball Park. The motion was 2<sup>nd</sup> by Council Member Donald Hudson. The vote was unanimous.

**Agenda Item #4:**

**Discuss next steps in developing plan for commercial districts.**

Council Member Sara Piland stated that she had a telephone conversation last week with Mr. Matt Rooney concerning developing a plan for the commercial district. Mr. Rooney stated that he understood that the "Main Street Application" did not work out. Mr. Rooney stated that he had talked to some of the other participants of the other applicants. Council Member Sara Piland stated that we need to get something in place and have this for the November meeting. Mr. Taylor stated that decisions like this are going to get harder and harder. He said street lighting, landscaping, signs, etc. all of these need to be considered. Council Members asked Mr. Rooney, Mr. Taylor and the Mayor to meet and discuss the commercial vision.

**Agenda Item #5.**

**Discussion and consideration of Resolution No. 10-2009 (Health Benefit Plan for town employees).**

Mr. Taylor stated that the Town had requested a Full Benefit Package since you are looking for a permanent Town Manager. Mr. Taylor stated that this would include Health Insurance, Dental Insurance, Vision Insurance and Life Insurance for town employees. Dependant insurance must be paid for by the employee rather than the Town. Mr. Taylor stated that at this point supplemental life insurance can be added with little effort. He said the Town will now offer Retirement, 401k Supplement, Health, Dental & Vision Insurance, and Life Insurance is offered. Mr. Taylor stated the Town would have to choose what level of coverage they want, and it would cost approximately \$600.00 per year per employee., and the cost is the same through-out the State. Mr. Taylor stated that he urged the Town Council to approve the Resolution No.10-2009 for the Health Benefit Plan.

Council Member Sara Piland made a motion to approve the Resolution No 10-2009 (Health Benefit Plan for town employees) to become a member of the Municipal Insurance Trust of NC. The motion was 2<sup>nd</sup> by Council Member Cheryl Hudson. The vote was unanimous.

**Agenda Item #6.**

**Discuss and consider a contract with the Eastover Civic Club.**

Attorney Jackson presented a **draft** document to the Town Council for the Eastover Civic Club for consideration. Mr. Jackson stated that the Eastover Civic Club will meet at the Community Center on the 1<sup>st</sup> Thursday each month. He stated that the Eastover Civic Club would have priority for their meeting.

Council Member Sara Piland stated that the Eastover Sanitary District (ESD) should be on a separate contract. Attorney Jackson stated that he would prepare a separate contract for the ESD. Attorney Jackson stated that the ESD is currently paying \$275.00 per year and this is a reasonable fee.

Council Member Sara Piland stated that the Eastover Garden Club on the 4<sup>th</sup> Monday night and the Community Watch on the 2<sup>nd</sup> Monday night of each month could continue to use the Community Building.

The Town Council agreed to revise Attorney Jackson's draft for the Eastover Civic Club and get the changes back to him prior to being presented to the Civic Club. The Town Council also agreed for Attorney Jackson to work on a use policy for non-profit organizations to use the Community Building.

### **Agenda Item 7.**

#### **Review request for qualifications for architect/engineer for new building.**

Attorney Jackson stated that Number XI. on the Agenda: Review request for Qualification for Architect/engineer for new building should be moved to Item #7 and not be included in the closed/executive session.

Council Member Sara Piland made a motion to move Agenda Item Number XI. to the Discussion Agenda VI., Agenda Item #7. The motion was 2<sup>nd</sup> by Council Member Benny Pearce. The vote was unanimous.

Mr. Thomas Taylor, Interim Town Manager stated that he had reviewed and ranked the proposals from the top three Architects to design the new Town Hall, and presented them to the Town Council. The top three companies selected by Mr. Taylor were as follows: (1) Terry Cox Co. (2) The Wooten Co. (3) LSV Co. He stated that the Town Council had already reviewed the proposals from the Architects.

Mr. Taylor stated that LSV was not recommended by Ms. McPherson from the United States Department of Agriculture (USDA). He stated that the USDA is where we will apply for a grant and loan for the new building. He stated that the Wooten Company had negative comments about them and that the Terry Cox Co. was from Tar Heel.

Council Member Sara Piland stated that she and Council Member Benny Perce had worked with the LSV Company while at the School Board, and was recommended highly. Council Member Sara Piland asked Mr. Taylor why Ms. McPherson did not recommend the LSV Co. Mr. Taylor stated Ms. McPherson was a professional and could work with anyone. He felt Ms. McPherson could work with the LSV Company, if selected.

Council Member Sara Piland made a motion to select LSV Company as the Town's 1<sup>st</sup> choice for contract, and the Terry Cox Company as a 2<sup>nd</sup> choice. The motion was 2<sup>nd</sup> by Council Member Lawrence Buffalo. The vote was unanimous.

**VII Receive Mayors Update:**

Mayor McLaurin stated that he attended the bridge dedication ceremony for Deputy Brian Matthews which was named in his honor "Deputy Brian Matthews Bridge". Deputy Matthews died on September 30, 2005 while answering a call for assistance from a fellow officer.

Mayor McLaurin stated that there would be a meeting on October 13, 2009 at the Cumberland County Department of Public Health, at 9:30 a.m. concerning the H1N1 Virus. Mayor McLaurin asked Council Member Benny Pearce and Mr. Thomas Taylor to attend.

Mayor McLaurin requested that each Town Council Member submit two nominees to serve on a "Citizens Advisory Committee". He said that this committee would be made up of twelve members, and this will be a short term thing. The Mayor requested that the Council Members have these nominees in attendance at the November 3, 2009 Town Council Meeting.

Mayor McLaurin asked Mr. Taylor and Council Member Benny Pearce if they had heard anything about the street lighting. Council Member Pearce stated he had not, and Mr. Taylor stated he had not and would follow up on this issue.

Mayor McLaurin stated that residents can no longer put plastic bottles in their garbage. Council Member Donald Hudson stated that he did not have any information on how to dispose of the plastic. Attorney Jackson stated that two towns have taken the initiative to go into the recycling business. He stated that other recyclables are also in this issue such as aluminum, glass, cardboard, and plastic.

Mayor McLaurin stated that Ms. Judy McLaurin was nominated to be on the "Joint Appearance Committee" again this year. He stated that the City of Fayetteville did not have her listed on their roster and did not explain why.

Council Member Sara Piland made a motion to appoint Ms. Judy McLaurin to the Joint Appearance Committee as a representative for the Town of Eastover. The motion was 2<sup>nd</sup> by Council Member Benny Pearce. The vote was unanimous.

**VIII. Receive Council Members Updates:**

There were no updates by the Council Members.

**IX. Receive Town Managers Update:**

Mr. Taylor stated that he met with Ms. Heidi Johnson from the Sustainable Sandhills Green Business Program. He stated that we are doing many of the things requested from her checklist already. Mr. Taylor stated that Eastover may be the first Town in Cumberland County to become a Green Business.

Mr. Taylor stated that he had met with Mr. Roger Segal, CPA and he has offered us a two year contract to help us find money that may be due us. Mr. Taylor stated that whatever funds found, Mr. Segal will get 50% of the funds. Some may be franchise tax with the utilities companies. He stated that he worked for Angier and found money. Council Member Sara Piland stated that she would like to know more about this. Mr. Taylor stated that he would get

more information and have this on the agenda in November.

Mr. Taylor stated that we have changed the locks on the Community Building. Mr. Taylor stated that anyone having keys to the building will have to sign for the key. A key has been issued to the Mayor, Mr. Nail, Mr. West and Mr. Morgan Johnson. He stated that anyone renting the building must sign for a key when received and when returned. He said the Civic Club and others will come to the Town Hall and sign out a key when needed.

**X. Town Council to go into "Closed/ Executive Session" to discuss a personnel matter.**

Council Member Benny Pearce made a motion to go **into Closed Executive Session**. The motion was 2<sup>nd</sup> by Council Member Lawrence Buffaloe. The Vote was unanimous.

**CLOSED SESSION**

Council Member Benny Pearce made a motion to go **out of closed Executive Session** and return to the regular meeting. The motion was 2<sup>nd</sup> by Council Member Sara Piland. The vote was unanimous.

Mayor McLaurin called the regular meeting back to order and asked if there was anything further. There was no further business for the Council; however they discussed recessing the meeting until October 27, 2009 at 4:00 p.m.

**XI. Consider a motion to adjourn.**

Council Member Cheryl Hudson made a motion to recess this meeting until Tuesday, October 27, 2009 at 4:00 p.m. at the Town Hall, for the purpose of having interviews for the Town Manager position. The motion was 2<sup>nd</sup> by Council Member Benny Pearce. The vote was unanimous.

**Town of Eastover**

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**Charles G. McLaurin, Mayor**

**Attest:** \_\_\_\_\_, **Town Clerk**  
**Jane F. Faircloth**