

**Town of Eastover - Town Council Meeting
Tuesday, June 5, 2012, 7:00 p.m.
Eastover Community Center**

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

MINUTES OF MEETING – June 5, 2012

Mayor Charles G. McLaurin, Council Members, Cheryl Hudson, Willie Geddie, Donald Hudson, Sara Piland, Lawrence Buffaloe, and Benny Pearce were in attendance at the June 5, 2012, Eastover Town Council Meeting. A quorum was present at the Town Council Meeting. Also in attendance were Attorney John Jackson, Mr. Matt Rooney from the Cumberland County Planning & Inspections Department, Mr. Kim Nazarchyk Town Manager, and Ms. Jane Faircloth Town Clerk.

I. Call to Order:

Mayor Charles McLaurin called the June 5, 2012 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 Sara Piland asked all in attendance to have a moment of silence, and led in the Pledge of Allegiance.

III. Approval of Agenda:

Council Member Sara Piland made a motion to amend the Agenda and to add Item #6 “Discussion of Proposed Position Statements on Development to be Considered by the Eastover Town Council”, and approve the Agenda with the amendment. The motion was 2nd by Council Member Donald Hudson. The motion was approved unanimously.

IV. Public Comments:

Mrs. Shirley McLaurin, President of the Eastover Dig-A-Bit Garden Club signed up to speak. She stated that the Garden Club was going to do a special project for “Cancer Awareness”. They are going to plant a “Pink Garden” in a public place at the Eastover Community Center. She stated that she would like to have the Council’s blessings on this project.

Council Member Benny Pearce made a motion to approve this project and commended the Garden Club on this special cause. The motion was 2nd by Council member Sara Piland. The motion was approved unanimously.

V. Consent Agenda:

1. Consider approval of the May 1, 2011 Town Council Minutes.
2. Consider approval of the April 30, 2012 Financial Report.
3. Consider approval of Budget Amendment No. 2012-03.

Council Member Cheryl Hudson made a motion to approve the Consent Agenda as stated. The motion was 2nd by Council Member Donald Hudson. The motion was approved unanimously.

VI. Discussion Agenda:

Agenda Item #1:

Briefing by Mr. Morgan Johnson, Chairman Eastover Sanitary District (ESD).

Mr. Morgan Johnson, Chairman Eastover Sanitary District stated that he was not here to brief just to answer any questions. No one had any questions of Mr. Johnson

Agenda Item #2:

PUBLIC HEARING: Town of Eastover, Fiscal Year 2013 Budget (July 1, 2012-June 30, 2013).

Mayor McLaurin **OPENED** the Public Hearing.

Mayor McLaurin asked if anyone had signed up to speak for or against the Budget for Fiscal Year 2013. The Clerk stated no one had signed up to speak.

Mr. Nazarchyk briefed the Council on the Proposed Budget for FY 2013 (July 1, 2012- June 30, 2013). He stated the following:

Revenues

Proposing Budget of \$1,415,700 for fiscal year 2012-2013. This is a \$23,150 (1.7%) increase over adopted budget for previous year.

Provide funding for: Town Operations, Fire & Police Protection, Parks & Recreation, Street Lights, and Planning & Zoning services. It contains a 3.0% pay increase for all employees (\$3,426), additional hours of police protection as needed (\$25K), and \$95K for surface water runoff study.

He stated that the three main sources of Revenue are:

Property Taxes: Property values of \$284,991,995 (1.1% increase over last year. \$0.205 tax rate per \$100 valuation and 98% collection rate equal \$572,500. The Town will keep 24.39% and share remainder with the Fire Departments and Parks & Recreation.

10 cents	to Fire Dept	48.78%
½ cent	Fire Chief Fund	2.44%
5 cents	Parks & Recreation	24.39%
5 cents	Town of Eastover	24.39%
<hr/>		
20.5 cents		100.0%

Local Sales Taxes: Projected to be \$590K, and the Town will keep 57%, sharing remainder with Cumberland County and other municipalities within Cumberland County.

NC Franchise Taxes: Estimated at \$136,000.

Powell Bill Funding: \$75K. Restricted usage.

EXPENSES

Administration	\$752,490
Zoning & Planning	13,500
Police Dept. (Deputy Sheriff)	91,000
Fire Department	305,080
Street Department	88,600
Parks & Recreation	<u>165,030</u>
	\$1,415,700

Council Member Sara Piland and Donald Hudson questioned the 3% pay raise for employee as they felt this should have been discussed with Council prior to final Budget.

Mr. Nazarchyk stated the Council had approved the 3% at the last Council Meeting. Council Member Piland stated that she was not objecting to the pay raise, but the procedure. She stated that anything pertaining to personnel should have been discussed with the Council.

Mayor McLaurin asked for a motion to approve, disapprove or amend the Fiscal Year 2013 Budget (July 1, 2012 – June 30, 2013). Council Member Lawrence Buffaloe made a motion to **approve the Fiscal Year 2013 Budget with the condition that next year a Budget Workshop be held prior to Final Budget.** The motion was 2nd by Council Member Donald Hudson. The vote for approval was by Mayor McLaurin, Council Members Cheryl Hudson, Donald Hudson, Benny Pearce, Lawrence Buffaloe, and Willie Geddie. Council Member Sara Piland voted against the Budget as presented. The vote was 6 yeas and 1 nay for approval passage.

Mayor McLaurin asked for a motion to **CLOSE** the Public Hearing.

Council Member Cheryl Hudson made a motion to **Close the Public Hearing**. The motion was 2nd by Council Member Benny Pearce. The motion was approved unanimously.

Agenda Item #3:

QUASI-JUDICIAL PUBLIC HEARING – CASE NO. 12-047. CONSIDERATION OF THE JAMES & HAZEL MCLUCAS PROPERTY, REQUEST FOR ZERO LOT LINE SUBDIVISION APPROVAL AND A WAIVER FROM THE REQUIREMENT TO HAVE A MINIMUM OF 20 FEET OF STREET FRONTAGE TO EITHER AN APPROVED PRIVATE STREET OR A PUBLIC STREET; COUNTY SUBDIVISION ORDINANCE, SECTION 2303.C STREET FRONTAGE; ZONED: RR; TOTAL ACREAGE 1.50 +/-; LOCATED AT 2630 JAMES DAIL ROAD; SUBMITTED BY JAMES & HAZEL E. MCLUCAS (OWNERS) AND CHARLIE PAGE, CLAYTON HOMES INC. (EASTOVER)

Mayor McLaurin stated that Case No. 12-047 is a request for a Waiver. The Hearing on the Waiver is Quasi-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 with the Clerk. Mayor McLaurin asked the Clerk if anyone had signed up to speak for or against the Case. The Clerk stated that the following persons signed up to speak:

Speaker For: Mr. Charlie Page, 79 Green Forrest Circle, Fayetteville, NC
Mrs. Sandra Johnson, 2630 James Dail Road, Eastover, NC
Speaker Against: Mrs. Joyce Whitehead, 1704 Eldridge Street, Eastover, NC

Mayor McLaurin asked the individuals to come forward for the swearing in/affirmation. The speakers were sworn in as a group not individually.

Mayor McLaurin stated that before opening the Hearing, I'd like to give Council Members a chance to reveal any possible conflicts and withdraw from these proceedings if necessary. No Council Member had any conflicts.

Mayor McLaurin asked if any of the Council Members had any prior exposure to evidence of this case. No Council Member had any prior knowledge or information of this case.

Mayor McLaurin stated that the order of business for this 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 briefly explained the procedure to the individuals that were to testify.

Mayor McLaurin stated I now **OPEN** the Public Hearing on Case No.12-047 and asked for the presentation from the Planning Staff.

Mr. Matt Rooney, Cumberland County Planning & Inspections Department briefed the Council on Case No. 12-047. He stated that the developer is requesting a waiver from the requirement to have a minimum of 20 feet of street frontage along either a private or public street. The existing lot has only 30.24 feet of street frontage along James Dail Road. There are currently two manufactured homes on the subject property. The developer would like to subdivide the property into two lots because the mortgage company requires a separate lot for the loan for a replacement manufactured home, and the subject property cannot meet the minimum of 20 feet of street frontage for each lot. One lot is proposed to have 20 feet of frontage and the other would have 10.24 feet of frontage. Both lots will be served by one 20 foot wide joint driveway easement. The County Subdivision Ordinance requires all new lots created to take their access directly from either an approved private or a public street. He stated that the developer has tried to acquire additional street frontage from the adjacent properties but was unable to do so. This property will be served by the Eastover Sanitary District for the public water. The County Health Department will be required to approve the septic system.

Mayor McLaurin asked for the **testimony from the applicant.**

1. Mr. Charlie Page of Clayton Mobile Homes and has worked with the company for 20 years. He stated that he is the seller of the new manufactured home Mr. & Mrs. Johnson are trying to purchase and put on the lot. He stated that the bank has approved the loan for the Johnson's to purchase the new manufactured home. He stated the new manufactured home is a double-wide and that his company will remove the old manufactured home, as it cannot be repaired. He stated that the Johnson's driveway is currently on Ms. Joyce Whitehead's property and she wants to close that driveway. He stated that both properties (Ms. Lucas & Ms. Johnson) will share the same driveway. He stated that Clayton Homes will put in the culvert and fix the driveway.

2. Mrs. Sandra Johnson stated that she has to take care of her elderly mother (Hazel McLucas) whom lives directly in front of her. If they cannot get the waiver for the driveway and the zero lot line they will be forced to move as their manufactured home is beyond repair. This would cause a hardship on her and her mother. The property needs to be split into two lots so the bank can use the Johnson's lot as collateral. This would also help Mrs. Whitehead so she can close her driveway they are using.

Mayor McLaurin asked for **testimony from the opponent.**

Mrs. Joyce Whitehead stated that the Johnson's are using her driveway unlawfully. She stated that they have even cut down some of her trees to make this driveway. She wants to close this driveway so they will stay off her property. Mrs. Whitehead stated that she does not object to the Johnson's purchase of a new manufactured home, she just want their driveway to be on their property.

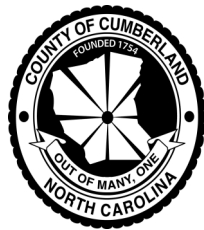
Mayor McLaurin asked the Clerk if there were any **rebuttal witnesses**. There were no rebuttal witnesses to speak.

Attorney John Jackson stated that a condition should be added to state that the old manufactured home will be removed from the property before the Final Plat is recorded. He also informed Mr. Page of Clayton Homes that he must present a "Loan Commitment Letter" prior to the final Plat being recorded. Mr. Page of Clayton Homes stated that he would do so.

Mr. Matt Rooney of the Cumberland County Planning & Inspection Department said he would ensure that the condition of removal of the old manufactured home and the loan commitment letter be presented before the final Plat is recorded. Mayor McLaurin asked for a motion to **Close** the Public Hearing on Case No. 12-047.

Council member Benny Pearce made a motion to **Close** the Public Hearing on Case No. 12-047. The motion was 2nd by Council Member Lawrence Buffaloe. The motion was approved unanimously.

Council Member Sara Piland made the following motion:



COUNTY of CUMBERLAND

TOWN OF EASTOVER

SUBDIVISION WAIVER
BOARD WORKSHEET

Case No. 12-047
APPROVAL

The Council for the Town of Eastover, having held a public hearing to consider the waiver request for **Case No. 12-047** requesting to not be required to have the mandatory 20 feet of road frontage for each lot and develop the subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance, which the Town Council by resolution has adopted as the subdivision regulatory authority for the town; and having heard all of the evidence and arguments presented, I move that the board makes the following **FINDINGS OF FACT** and draws the following **CONCLUSIONS**

1. It is the Town Council of Eastover **CONCLUSION** that (choose one or more below as applicable)
 - a. **Because of the size of the tract to be subdivided and;**
 - b. **Because of other unusual physical conditions;**

strict compliance with the provisions of the County Subdivision Ordinance **would** cause a special hardship to the property owner and be inequitable; this finding is based on the following **CONDITIONS**:

Understanding that the primary motivation for submission of this request is to satisfy criteria for bank financing so that an existing dilapidated home can be replaced, this request is reasonable and necessary

for the upgrading of the manufactured home due to the limited amount of road frontage for the existing lot. The property was created on July 7, 1978 in its current configuration and at that time, the subdivision regulations were non-existent. Had the previous property owner known of the future regulations, it is reasonable to expect that the previous owner would have conveyed the properties in a different configuration;

2. It is the Board's **CONCLUSION** that the public purposes of the County Subdivision and County Zoning Ordinances **would** be served to an equal or greater degree; this finding is based on the following **CONDITIONS**:

The public purposes of the ordinances are met because of the requirement for the final plat to reflect a joint driveway easement to serve as a single driveway access for both properties – Condition No. 16 of the recommended conditions of approval contained in the board packet material – ensuring that ingress/regress access to both lots will be protected; and

3. It is the Board's **CONCLUSION** that the property owner **would not** be afforded a special privilege denied to others; this finding is based on the following **CONDITIONS**:

Although the request is to subdivide the property, two homes currently exist on the subject property and if approved, the request will not allow for any additional homes from what is existing provided that the owner agrees that the dilapidated home is completely removed from the site and properly disposed of prior to submission for final plat approval of this subdivision. In addition, there are numerous properties within the town that are occupied with residences that do not have 20 feet or any direct access to a public street or an approved private street.

BECAUSE OF THE FOREGOING, I MOVE THAT THE REQUEST FOR WAIVER BE APPROVED SUBJECT TO THE RECOMMENDED CONDITIONS, THE ADDED CONDITION OF THE OWNER AGREEING THAT THE DILAPIDATED HOME BE COMPLETELY REMOVED FROM THE SUBJECT PROPERTY AND PROPERLY DISPOSED OF PRIOR TO SUBMISSION FOR FINAL PLAT APPROVAL, AND THAT IT BE UNDERSTOOD THAT THIS CONDITIONAL APPROVAL PERTAINS TO THE CURRENT REQUEST ONLY, NOT FOR ANY FUTURE DEVELOPMENT OF THIS PROPERTY.

The motion was 2nd by Council Member Willie Geddie. The motion was approved unanimously.

There was then additional discussion of documents showing a commitment to finance and remove the existing manufactured home.

Agenda Item #4:

CASE NO. 12-061. CONSIDERTION OF JASON D. HOUSE PROPERTY, REQUEST FOR A ZERO LOT LINE SUBDIVISION REVIEW, COUNTY ZONING ORDINANCE; ZONING: R40A & A1; TOTAL ACREAGE: 2.81 +/-; LOCATION: 3043 TOM GEDDIE ROAD (SR1721) AND 2820 & 2846 BEARD ROAD (SR1722).

Mr. Matt Rooney briefed the Council concerning Case No. 12-061. He stated that the developer is requesting approval of a zero lot line subdivision in order to recombine and shift the property lines on the two existing lots. The lot currently fronting SR 1722 (Beard Road) is zoned A1 and the lot fronting SR 1721 (Tom Geddie Road) is zoned R40A. The zero lot line subdivision is required to shift the density between the lots, since the A1 lot will be reduced below its current size requirement. The shifting of the property line will remove the line which

runs through the existing manufactured home along SR 1722 (Beard Road) and 92.82 along SR 1721 (Tom Geddie Road). The water and sewer when /if needed will be provided by the Eastover Sanitary District. Mr. Rooney stated that currently the property line is going through the house.

Mr. Rooney stated that the draft conditions of approval, zero lot line subdivision sketch plan, aerial photo and vicinity map is provided for the Council.

Mr. Rooney stated that A1 is being added to R40A, and that DOT wants more land for the driveway. He suggested that the Council review items 14 & 26 on the conditions sheet.

Mayor McLaurin asked if anyone had signed up to speak for or against this Case No 12-061. The Clerk replied the following persons had signed up to speak:

Speakers For:

(1) Mr. Thomas Goodin, 2214 Mirror Lake Drive, Fayetteville, NC stated that it troubled him greatly that Cumberland County is the only County in the State of NC, that DOT is allowed to claim a person's property without compensation. He stated that he has surveyed property across the state and has only had this problem in Cumberland County. Mr. Goodin stated that he is a professional surveyor.

(2) Mrs. Debra Davis, 3043 Tom Geddie Road, Eastover, NC 28312 spoke for Case No. 12-061. Mrs. Davis stated that she is only trying to get the property line straight.

The Mayor asked for further discussion from the Council or a motion to approve or disapprove the Case No. 12-061.

Council Member Sara Piland made a motion to approve Case No. 12-061 for a zero lot line. The motion was 2nd by Council Member Cheryl Hudson. The motion was approved unanimously.

Agenda Item #5:

Consider approval of the Fiscal Year 2012 Audit Contract with McFadyen & Sumner, CPAs PA, and the Letter of Engagement for the Town of Eastover.

Mr. Nazarchyk presented to the Council the Contract with McFadyen & Sumner CPAs PA and the Letter of Engagement for the Audit of the Town of Eastover for Fiscal Year 2012 (July 1, 2011 – June 30, 2012). He stated that McFadyen & Sumner had previously audited the Town of Eastover and we have a good working relationship with them. Mr. Nazarchyk stated that he recommended the Council approve the FY 2012 Audit Contract and the Letter of Engagement with the CPA firm of McFadyen & Sumner CPA, PA for the Town of Eastover.

Council Member Cheryl Hudson made a motion to approve McFadyen & Sumner CPAs PA to audit the Town of Eastover for the Fiscal Year ending June 30, 2012 (FY12).

Agenda Item #6:

Consider of Town of Eastover Development Guidelines to be continued further and utilized by the Cumberland County Planning Staff in the formulation of development Ordinances.

Council Member Sara Piland presented proposed Development Guidelines to be considered further and utilized by the Cumberland County Planning Staff and the Eastover Town Council in the formulation and development of Town Ordinances.

This proposed document was discussed among the Council Members and the Mayor. Several changes to the document were recommended by Council Members. The recommended changes are reflected in the approved document below.

Council Member Sara Piland made a motion to approve the proposed document with the changes requested by Council, and for the document to be further developed and to be further considered. The motion was 2nd by Council Member Cheryl Hudson. The motion was approved unanimously.

The approved document with changes is as follows:

**TOWN OF EASTOVER DEVELOPMENT GUIDELINES TO BE CONSIDERED
FURTHER AND UTILIZED BY THE CUMBERLAND COUNTY PLANNING
STAFF IN THE FORMULATION OF DEVELOPMENT ORDINANCES**

**EASTOVER TOWN COUNCIL
Proposed Document Approved on June 5, 2012**

1. All development and rezoning decisions shall be based on one of the founding premises of the Town's incorporation: to preserve the rural character of the community.
2. In its police power to regulate public health, safety, and welfare, the Town Council will develop a general plan for development growth that includes goals, policies, strategies, plans and maps, zoning regulations, and design features.
3. The Town Council will include in its general plan and zoning regulations criteria on which to deny or approve big-box stores, including but not limited to retail, warehouse, outlet, and discount department stores. Examples of these regulations may include but are not limited to a) development that is compatible in size, scale, and architecture with existing development and new development design features b) escrow accounts in the event a building is vacated.
4. The Town Council supports the current Eastover Detailed Land Use Plan and will seek the community's involvement and approval if revisions to the plan are being considered. The Council recognizes that higher density development may be appropriate in the "downtown" commercial development area (Also see #9 below).
5. In an effort to preserve open and green space, protect our environmentally sensitive areas, and reduce sprawl, the Town Council, in a legally specified procedure that allows public input, will establish appropriate ordinances for commercial development in a concentrated area along Dunn Road. (See Map)

6. Conditional use rezoning can ensure development consistent with our community values and when appropriate, the Town Council may offer a conditional use zoning (which would be binding to the developer) to the petitioner. If accepted by the petitioner, the petitioner would have the opportunity to work with the Cumberland County Planning Staff and the Town Council to develop a site plan that would be consistent with community values.
7. For public safety/welfare reasons, all new zoning requests for commercial development must have access to public water and sewer.
8. To maintain our small town and rural character and protect our environmentally sensitive area, the Town Council will look favorably on rezoning for commercial development on small tracts (typically 3 acres or less) and/or conditional use requests.
9. When considering commercial development in the Town, including but not limited to the commercial area along Dunn Road, the Town Council will ensure that commercial development does not negatively impact existing residential areas and does not contribute to commercial sprawl.
10. All rezoning decisions by the Town Council will consider the presence of hydric soils or other environmentally sensitive conditions.
11. All rezoning decisions by the Town Council will consider the impact on town resources, including but not limited to public safety, traffic patterns, street lighting, and local schools.
12. All existing zoning will remain in place unless a petition is received from the property owner for rezoning. At which time, the Council will consider the rezoning request in accordance with the normal process.

VII. Receive Mayors Update:

Mayor McLaurin asked that the land at Talley Woodland Park move forward with Mr. Kinlaw with the Cumberland County School System to purchase the land. Mr. Nazarchyk stated that the property is not quite 3 acres at a cost of \$3,000 and a survey needs to be done.

Council Member Sara Piland made a motion to authorize the Town Manager to have the property surveyed. The motion was 2nd by Council Member Cheryl Hudson. The motion was approved unanimously.

Mayor McLaurin stated that the Eastover Civic Club made a net profit of \$12,000 on Heritage Day.

Attorney John Jackson stated that he has a paralegal working on the information provided by the surveyor of property on School Street.

Mayor McLaurin stated that the stage at the Talley Woodland Park is the final stage.

XI. Receive Council Members Updates:

Council Member Willie Geddie thanked the Council for the use of the Community Building for the Agriculture Luncheon for the farmers of Cumberland County.

X. Receive Town Managers Update:

Mr. Nazarchyk stated the Agriculture documents have been found by Cumberland County. He stated that it is a voluntary agreement with farmers to designate their land for agriculture use. We will establish a file for these documents.

XI. Consider a Motion to Adjourn.

Council Member Benny Pearce made a motion to adjourn the meeting at 8:35 p.m. The motion was 2nd by Council Member Donald Hudson. The motion was approved unanimously.

Town of Eastover

Charles G. McLaurin, Mayor

Attest: _____, Town Clerk
Jane F. Faircloth