

**MINUTES
CITY OF DUNN
DUNN, NORTH CAROLINA**

The City Council of the City of Dunn held a Regular Meeting on Thursday, May 4, 2006, at 7:00 p.m. in the Dunn Municipal Building. Present was Mayor J. Dal Snipes, Mayor Pro Tem Donnie Olds, Council Members Buddy Maness, Bryan Galbreath, Billy Tart, Billy R. Godwin, Jr. and Joey Tart. Also present was Interim City Manager Ronnie Autry, Human Resources Officer Moses Gallion, City Planner Steven Neuschafer, Librarian Mike Williams, Police Chief Tim Benware, City Attorney P. Tilghman Pope, City Clerk Debra West, and Daily Record Reporter Jason Beck.

INVOCATION

Mayor Snipes opened the meeting at 7:00 p.m. and asked Pastor Joann Mercer of Grove Presbyterian Church to give the invocation. Afterwards the Pledge of Allegiance was repeated.

AGENDA ADJUSTMENT

Interim City Manager Autry explained this addition to the agenda process.

Motion by Council Member Godwin, seconded by Council Member Joey Tart to adopt the May 4, 2006 meeting agenda with changes, if any, as listed below.

Items Added to the Agenda: Closed Session to discuss real property

Agenda Items Removed: none

Other Changes: none

PUBLIC COMMENT PERIOD

Mayor Snipes opened the floor for a (30) minute public comment period.

Mr. Carnell Robinson stepped forward to bring to the Council's attention the number of pre-teenage children on the street after appropriate hours. He noted that the same problem exist during school hours for school-age children. They appear gang affiliated by their dress. He asked that the Council consider implementing an age appropriate curfew for the City as other surrounding cities have. He thanked the Council for any consideration given to his comments.

PUBLIC HEARINGS

REZONING REQUEST

PZ 02-06

PIN #1516-38-2808

1005 W. CUMBERLAND STREET

The public has been notified that oral and written comments will be heard and received concerning the request by Jernigan Brothers, Inc. to rezone one parcel of property located at 1005 W. Cumberland Street (15,000 square feet – street frontage 100 feet).

This property is currently zoned R-10 Single Family Dwelling District and is requested to be rezoned to C-O Office and Institutional District.

The public hearing was duly advertised on April 11, 2006 and April 25, 2006.

Mayor Snipes asked if there was anyone present to speak for or against this rezoning request.

Attorney Dwight Snow, representative for the applicants stepped forward and stated that his comments will apply to both properties being considered for rezoning tonight. He represents both petitioners. He gave the background of these properties. Both lots front Highway 421 and are located across the street from Wayne Avenue Shopping Center which is zoned C-2 Shopping Center District. Both lots have a street frontage of 100' and a depth of 150' and on each lot is located a single family residential house. These properties have been used for rental purposes for the past several years. Currently 1001 W. Cumberland is occupied by a rental family and 1005 W. Cumberland is vacant. The Jernigan Brothers would like to receive the highest and best use for their property. With the change from residential to commercial use occurring along the 421 corridor, the Jernigan Brothers would like to join into this as far as the improvement of the property and getting the best use out of it. Mr. Snow asked the Council to follow the recommendation of the Planning Board which considered both of these petitions at its April 18th meeting. He stated that the Planning Board covered the four (4) points in determining a rezoning petition and unanimously adopted a recommendation for the Council to rezone these properties from R-10 to C-0. Those 4 points are:

- The rezoning is reasonable based upon the surrounding conditions. The two (2) major business corridors in Dunn are I-95 and Highway 421. In the last few years, several houses along Highway 421 have been rezoned from residential houses to commercial uses (usually office/institutional uses). He gave examples of similar uses in this particular area. The Council recently rezoned the Ciconne property on the corner of S. General Lee and Highway 421 to C-O.
- The impact of the zoning change is in the public interest and does not significantly harm the surrounding properties. Commercial growth is what every small town is searching for, to benefit its citizens. With increased commercial use, you find increased economic activity and an increase in the tax base. When changing the zoning, the significance of the impact of the zoning on the surrounding properties of the neighbors is minimal. The potential of harm to the surrounding area would be less. These properties have previously been rented to good and bad tenants. An office setting would present a better environment for this area.
- The zoning changes are warranted due to changing conditions in the Highway 421 area. The 2030 Land Use Plan calls for commercial growth among the I-95 and Highway 421 corridor.
- The rezoning achieves the purpose and is consistent with the Land Use Plan. He read page 79-section 5 of the Land Use Plan which states that "the City of Dunn will need to plan for 834-1100 new areas in commercial property. The 2020 growth strategy should be to encourage infill commercial within the City Limits where approximately 230 acres of vacant commercial lands and 100 acres of vacant office lands are designated in the future use plan for commercial purposes." Mr. Snow pointed out that this rezoning request complies with the comprehensive Land Use Plan.

Mr. Snow stated that the Jernigan Brothers desire to be good neighbors. Prior to bringing this petition forth, they spoke with the majority of their neighbors that did not oppose this rezoning request. A small number of neighbors that live on Divine Street, on the back side of this property might be opposed to some of the potential uses under Office/Institutional. He offered letters of support from several contiguous property owners such as Ed Oliphant, Marcus Phillips, Jeffrey Surles stating they are not opposed to this rezoning request.

Mayor Snipes asked if there was anyone else present to speak for or against this rezoning request.

Mr. William N. Creel, Jr. stepped forward to speak in reference to both properties (1001 & 1005 W. Cumberland). He owns an adjacent property. He spoke with concerns about this rezoning. Of the five (5) parcels contiguous to this rezoning, he has received permission to speak on behalf of James and Jane Yates, Mr. Ed Oliphant and Marie Warren. He added that Mr. Oliphant has signed a letter giving the Jernigan Brothers no opposition to professional office or institutional use. Mr. Creel stated that he did not oppose office and institutional type uses for this property. He stated that after meeting with Planning Director Neuschafer and receiving a copy of the allowed uses in a C-0 District, he became concerned about other uses that may be allowed there. He stated that five (5) surrounding property owners are also concerned with the allowed uses. He is not objecting to the proposed use by the Jernigan's but he is opposed to the possible other uses of this property. He agreed that the rezoning request met all criteria as stated by Attorney Snow. He is concerned with the broad uses allowed in the C-O District that may impact the neighborhood. He requested that the Council recognize that families live in this area and would like protection from the potential future uses that could be allowed in these dwellings. In speaking with City Council Member Godwin, a proposed overlay district was suggested.

Mr. John Tart of 905 W. Divine Street stepped forward. He stated that he along with other property owners have an interest in the additional uses allowed in the C-O District. He does not have a problem with the Jernigan's proposed use; however, he suggested an overlay district from General Lee Avenue to Watauga Avenue to put restrictions for offices/low traffic businesses/businesses for daytime hours. Residents would have some protection if an overlay district was considered.

Mr. Joe Miriello, state certified real estate appraiser of 103 Shelley Drive stepped forward and stated that Mr. Jernigan contacted him and asked what was the highest and best use of this property. He told Mr. Jernigan that from I-95 to the Erwin City Limits, 99% of the land bordering Highway 421 has the best use as commercial. He understands the neighbors concerns. He cautioned that if the Council starts restricting commercial property, then everyone's property could apply. He stated that common sense tells you that some of the allowed uses such as a golf course, hospital, etc. cannot be put on these lots. He hopes the Council does not start restricting certain uses within a category.

Mr. Glynn Jernigan stepped forward. He stated that he does not propose any use that would hurt the neighborhood. He asked that he be treated like anyone else in the Highway 421 area who has applied for C-O (commercial offices). He does not ask for any special zoning district.

Mr. Lynn Jernigan stated that he respects these neighbors. He asked that the Council consider the rezoning of this property to C-O.

Mrs. Lillian Leggotino, an adjoining neighbor, spoke in support of the rezoning.

**REZONING REQUEST
PZ 03-06
PIN #1516-38-2882
1001 W. CUMBERLAND STREET**

The public has been notified that oral and written comments will be heard and received concerning the request by Cecil Glynn Jernigan (owner) to rezone one parcel of property located at 1001 W. Cumberland Street (15,000 square feet – street frontage 100 feet).

This property is currently zoned R-10 Single Family Dwelling District and is requested to be rezoned to C-O Office and Institutional District.

The public hearing was duly advertised on April 11, 2006 and April 25, 2006.

Mayor Snipes stated that this property is adjacent to 1005 W. Cumberland. All public comments heard for the previous property will apply to this parcel as well.

Mayor Snipes asked if there were any additional comments from the public. Hearing none, public hearing was closed.

**ORDINANCE AMENDMENT
REQUEST – OA-01-06
DIVISION 4 – SECTION 311
OFF-SITE ADVERTISING SIGNS
(BILLBOARDS)**

The public has been notified that oral and written comments will be heard and received concerning the request by Roy S. Tart and Ricky D. Tart to amend the maximum size of Off-Site Advertising Signs (Billboards).

The current size is 400 square feet and the request is to allow up to 1200 square feet.

The public hearing was duly advertised on April 11, 2006 and April 25, 2006.

Mayor Snipes asked if there was anyone present to speak for or against this ordinance amendment request.

Mr. Ricky D. Tart, applicant and resident of Oak Island, North Carolina, stepped forward and stated that East of I-95 is a busy corridor. The City of Dunn Code limits outdoor advertising signs to 400 square feet. The State of North Carolina limits billboards to 1200 square feet. Interstate 95 corridor is the only area that he is asking the Council to consider. The existing signs in this area range from 480 square feet to 900 square feet. He and his brother, Roy Tart request that the Council consider raising the size from the current 400 square feet to a size more in line with existing signs (480'-900').

Mr. Roy Tart of 1104 Guy Avenue stated that he is not asking for anything special. When driving down I-95, you cannot read a 400 square foot sign. He asked that the Council increase it to a size that can be seen from I-95 near Exit 73.

Mayor Snipes asked if there was anyone else present to speak for or against this ordinance amendment. Hearing none, motion by Mayor Pro Tem Olds, seconded by Council Member Billy Tart to close the public hearings and reconvene the regular council meeting at 7:55 p.m. **Motion unanimously approved.**

CONSENT ITEMS

The following items were considered by Council:

Minutes-Council considered approval of minutes of the April 6, 2006 Council meeting.

Permit to Continue Business under Original License at New Location-Council considered approval of EquiPlus Mortgage Corp. to continue business from 1132 W. Broad Street to 201 S. Orange Avenue.

Tax Releases/Refunds-Council considered approval of Tax Release/Refund #115. *Tax Releases/Refunds are filed in the office of the Tax Collector.*

Budget Amendments-Council considered approval of Budget Amendments #89 - #90. *A copy of Budget Amendments #89 - #90 is incorporated into these minutes as Attachment #1.*

Proclamation-Council considered approval of a proclamation designating May 4, 2006 as National Day of Prayer. Mayor Snipes read the Proclamation. *A copy of Proclamation (P2006-07) National Day of Prayer is incorporated into these minutes as Attachment #2.*

Proclamation-Council considered approval of a proclamation designating May 4, 2006 as Leaders of Tomorrow. Mayor Snipes read the Proclamation and recognized Triton High School students that participated in the Leaders of Tomorrow Program. *A copy of Proclamation (P2006-08) Leaders of Tomorrow is incorporated into these minutes as Attachment #3.*

Motion by Council Member Galbreath, seconded by Council Member Joey Tart to approve all consent items. **Motion unanimously approved.**

ITEMS FOR DECISION

REZONING REQUEST

PZ 02-06

PIN #1516-38-2808

1005 W. CUMBERLAND STREET

A request was received from Jernigan Brothers, Inc. (Owners) to rezone one parcel of property located at 1005 W. Cumberland Street (15,000 square feet – street frontage 100 feet).

This property is currently zoned R-10 Single Family Dwelling District and is requested to be rezoned to C-0 Office and Institutional District.

The Planning Board met on April 18, 2006 and recommended approval of this request.

Council Member Godwin stated that he is prepared to make a motion with regard to a resolution to this issue. He has had conversations with several of those affected by this rezoning issue. He has heard both

sides of this issue. He shares the concerns of his neighbors with reference to traffic and the potential uses that could be allowed in a C-O District. He stated that the Council may need to take another look at the uses allowed in the C-O District. It is difficult to deny the rezoning because it does meet the rezoning criteria. He would like to see them approve the request as presented but also propose an overlay district. This is a tool that will allow more restrictive uses in certain zoning classifications. He stated that this is a unique area from General Lee to Watauga. An overlay district will allow the Council to rezone the property and in conjunction it will remove some of the uses that the neighbors object to and he agrees with. He suggested that the Council direct City Planner Neuschafer to bring back an overlay district for consideration.

Mayor Pro Tem Olds stated that the property meets all of the requirements for rezoning. He added that regardless of how you vote, you cannot please everybody all of the time. He is concerned with rewriting the zoning ordinance. In time, all of Cumberland Street will be zoned commercial. Seventy-five percent of this street is already zoned C-O.

Motion by Council Member Godwin, seconded by Council Member Joey Tart to approve the rezoning request as recommended by the Planning Board for PZ02-06 and adopt the findings as presented by the Planning Board and direct the Planning Director to present back at the next Council meeting a proposal for an overlay district for this portion of the Cumberland Street corridor.

Mayor Snipes asked if there was further discussion.

Mayor Pro Tem Olds stated that if he understands the motion, the City Planner will present at a later date a proposal to change the motion.

Mayor Snipes responded that the Council will rezone this property tonight, but a more restrictive overlay district will be presented to the Council at a later date.

Council Member Godwin stated that the overlay district proposal will be presented back to the Council which will modify some of the uses for this particular part of Cumberland Street. Restrictions would apply to this area.

Mayor Snipes stated that the overlay district could possibly be restrictive from General Lee Avenue to Watauga or it may be from Orange Avenue to a designated area.

Council Member Galbreath clarified that at the time the overlay district is presented, the Council can either accept or reject the proposal.

Council Member Maness pointed out that any proposal for the overlay district will be subject to the Planning Board by public hearing as well as the Council. The overlay will come back before the Council at a later time.

Discussion was held about the affect the overlay district will have on other properties already zoned C-O.

Council Member Galbreath stated that it may be 60-90 days before the Council considers the overlay district.

Further discussion was held about the properties on Highway 421 and allowing the residential neighborhoods to remain in tact.

Motion unanimously approved.

**REZONING REQUEST
PZ 03-06
PIN #1516-38-2882
1001 W. CUMBERLAND STREET**

A request was received from Cecil Glynn Jernigan (Owner) to rezone one parcel of property located at 1001 W. Cumberland Street (15,000 square feet – street frontage 100 feet).

This property is currently zoned R-10 Single Family Dwelling District and is requested to be rezoned to C-0 Office and Institutional District.

The Planning Board met on April 18, 2006 and recommended approval of this request.

Motion by Council Member Godwin, seconded by Joey Tart to approve the rezoning request as recommended by the Planning Board for PZ03-06 and adopt the findings as presented by the Planning Board and direct the Planning Director to present back at the next Council meeting a proposal for an overlay district for this portion of the Cumberland Street corridor. **Motion unanimously approved.**

**ORDINANCE AMENDMENT
REQUEST – OA-01-06
DIVISION 4 – SECTION 311
OFF-SITE ADVERTISING SIGNS
(BILLBOARDS)**

A request was received from Roy S. Tart and Ricky D. Tart to amend the maximum size of off-site advertising signs (billboards).

The current size is 400 square feet and the request is to allow up to 1200 square feet.

The Planning Board met on April 18, 2006 and unanimously voted to deny recommending the request.

Motion by Council Member Godwin, seconded by Mayor Pro-Tem Olds to table this agenda item. **Motion carried 5-1.** Opposed by Council Member Galbreath.

**ACCEPT MUNICIPAL SERVICE
DISTRICT REPORT AND SET PUBLIC
HEARING DATE FOR DISTRICT APPROVAL**

Mayor Snipes explained that the Municipal Service District Report is before the Council for adoption. The Council will need to set the proposed tax rate for this district in the report. Once the Council approves the report and proposed tax rate, they will call for a public hearing to allow all affected property owners within this district to speak for or against this new downtown taxing district.

City Planner Neuschafer stated that in order to finalize this report, the Council will need to agree upon the actual district boundaries. The boundary set out encompasses 28 blocks within the Central Business District. He explained that there are 256 parcels within this district and the current tax value of all eligible real property in the Municipal Service District is estimated to be approximately \$20,490,000.

Mr. Neuschafer asked that the Council look at Insert "A" – setting the tax rate. He presented a table chart establishing the various tax rates and the generated value of each tax increment. For instance, if a property is valued at \$100,000 and the downtown district tax is set at .08, then that property tax bill would increase \$80 per year.

The proposed tax rate set by Council could go down from the proposed rate but it cannot go higher. After the public hearing, the rate can be reduced, but it cannot go up.

Further discussion was held about the areas and uses of property which fall within this district.

Mr. Neuschafer explained that there are few towns with a downtown tax rate in the teens. Most rates are set at twenty cents and above.

Motion by Council Member Galbreath, seconded by Council Member Godwin to set the proposed tax rate at .14 for the Municipal Service District, adopt the proposed report and district boundaries. **Motion unanimously approved.**

Motion by Mayor Pro-Tem Olds, seconded by Council Member Godwin to set a public hearing date for June 15, 2006 at 7:00 p.m.

Mayor Snipes entertained further discussion.

There was a conflict with the June 15th date. Further discussion was held to establish a date for the public hearing.

Mayor Pro Tem Olds withdrew his motion.

Motion by Mayor Pro Tem Olds, seconded by Council Member Godwin to set a public hearing date for Monday, June 26th at 7:00 p.m. to consider adopting the district. **Motion unanimously approved.**

SET DATE FOR SPECIAL CALL MEETING-BUDGET WORK SESSION

Motion by Council Member Maness, seconded by Council Member Godwin to set a Special Call Meeting/Budget Work Session for Tuesday, May 23 at 4:00 p.m. in the Council Chambers. **Motion unanimously approved.** .

ADMINISTRATIVE REPORTS

Motion by Council Member Galbreath, seconded by Council Member Billy Tart to approve the Administrative Reports. **Motion unanimously approved.**

EXECUTIVE REPORTS

Council Member Godwin announced the Harnett Regional Theater will present a musical “The Adventures of Tom Sawyer” on May 12, 13, 19, 20, and 21, 2006 and encouraged everyone to come out and support HRT.

Council Member Billy Tart thanked Dana Cochran for her service to the Dunn Tourism for the past eight (8) years. Dana will be going into a new endeavor. He thanked her for all she has done to promote Dunn.

Mayor Pro Tem Olds reminded the public of the plate sale sponsored by the Police Athletic League (PAL) on Friday, May 5.

Council Member Galbreath commended Dunn Housing Authority Director Darlene Maynard and the executive board of the Housing Authority. They recently received a capital funding grant from the Federal Government in the amount of \$430,000 to provide central heating and air conditioning to all of the Housing Authority properties, including Powell Village, Washington Heights, Harnett Terrace and McKay Courts.

Mr. Galbreath recognized the Police Chief and several eighth-grade students in their presentation to the PAL Advisory Board concerning violence in the school system. They were seeking to obtain a five-hundred dollar grant from the National Crime Prevention Council. Their presentation was excellence. He commended School Resource Officer Ricky Jackson for the job he is doing at Dunn Middle.

Interim Manager Autry reminded the Council of Town Hall Day on Wednesday, June 7th. City Clerk Debra West would like to pre-register all of those that plan to attend by Friday, May 19th. This is a time to network with Legislatures.

Mayor Snipes also thanked Dana Cochran for her service to the Tourism Board. She will be entering the private business sector and he stated that he appreciates the service she has given to the City and citizens. He thanked the City staff for taking part in the Leaders of Tomorrow shadow program with Mr. Currin and his AP Government class of sophomores, juniors, and seniors of Triton High School.

Mayor Snipes read a letter of thanks from the family of the late Louis Joseph.

9:00 p.m. Motion by Council Member Joey Tart, seconded by Mayor Pro Tem Olds to enter closed session to discuss the possible real estate transaction of city owned property. **Motion unanimously approved.**

Closed Session

Motion by Council Member Godwin, seconded by Council Member Joey Tart, to approve the minutes of the closed session as recorded by City Attorney Pope. **Motion unanimously approved.**

Action of Closed Session

Motion by Mayor Pro Tem Olds, seconded by Council Member Maness to sell city owned property (City parking lot located across from The Daily Record) to Adams Graphics for \$92,000.

**Clerks Note: A Resolution authorizing the advertisement of an offer to purchase certain property was adopted by the City Council on May 11, 2006. A public notice of offer to purchase this property was advertised on May 16, 2006.*

With no further business to discuss, the meeting was adjourned at 9:25 p.m.

J. Dal Snipes
Mayor

Attest:

Debra G. West
City Clerk