

**CITY OF LAURINBURG  
COUNCIL MEETING  
OCTOBER 20, 2009  
MUNICIPAL BUILDING  
303 WEST CHURCH ST.  
LAURINBURG, NC  
7:00 P.M.**

**Minutes**

The City Council of the City of Laurinburg held its regular monthly meeting October 20, 2009 at 7:00 p.m. in the council room of the Municipal Building with the Honorable Matthew Block, Mayor, presiding. The following Councilmembers were present: Rembert DeBerry, Amanda B. Faulk, Curtis B. Leak, Thomas W. Parker, III, and Herbert M. Rainer, Jr.

Also present were: Edward F. Burchins, City Manager, Dolores A. Hammond, City Clerk, and Charles L. Hicks, Jr., Assistant City Attorney.

Mayor Block called the meeting to order at 7:00 p.m. Councilmember Faulk gave the invocation.

**APPROVAL OF MINUTES**

Motion was made by Councilmember Leak, seconded by Councilmember DeBerry, and unanimously carried to approve the minutes from the July 1, 14 and 21 meetings and the August 11, 18 and 31 meetings.

**PUBLIC HEARING ON A RESOLUTION DIRECTING THE STREET IMPROVEMENT PROJECT BE UNDERTAKEN ON PEELE STREET.**

Mayor Block explained that this public hearing was being held to approve proposed Resolution No. R-2009-26 which directs that the street improvement project begin on Peele Street.

Mr. Stacey McQuage, Public Utilities Director, explained that this is an unpaved street in need of paving and storm drainage improvements. He added that it connects Caledonia Road to Alpha Street. He further explained that the abutting property owners will be accessed for curb and gutter. He further added that Council had allotted \$250,000.00 for street maintenance and paving and that a portion of these funds will be used for this project and the remaining funds will be used to resurface streets. He stated that staff recommends approval of Resolution No. R-2009-26 which directs the improvements to Peele Street be undertaken.

Mayor Block then declared the public hearing open.

There was no one to speak for or against the request.

Councilmember Parker motioned to approve Resolution No. R-2009-26 which directs the street improvement project to begin on Peele Street. Councilmember Leak seconded the motion and the vote was as follows:

Ayes: Parker, Rainer, Faulk, Leak, DeBerry

Nays: None

(Resolution No. R-2009-26 is on file in the City Clerk's Office)

**PUBLIC HEARING ON A REQUEST FOR A CONDITIONAL USE PERMIT FOR THE DEVELOPMENT OF A PHOTOVOLTAIC SOLAR ARRAY (SOLAR FARM) ON A 31.16 ACRE TRACT OF LAND ALONG STEWARTSVILLE ROAD**

Mayor Block stated that this request for a conditional use permit was tabled from the September meeting to acquire additional information. He explained that the hearing is to consider a conditional use permit request for the development of a Photovoltaic Solar Array (Solar Farm) on 31.16-acre tract of land along Stewartsville Road. He added that all speakers must be sworn before speaking in the public hearing.

Councilmember Leak stated that the request should read Stewartsville Road/Dixie Guano Road.

Mayor Block opened the public hearing.

The Assistant City Attorney advised Council that a motion should be made to accept the previous testimony from the September meeting if information from that meeting will be considered.

Councilmember Parker motioned to receive the testimony that was presented at the last public hearing on this request in addition to the new testimony as presented at this meeting for the purpose of making a decision. The motion was seconded by Councilmember DeBerry, and it unanimously carried.

Mr. Brian Bednar, President of Birdseye Renewable Energy, first duly sworn, explained that he is a local development partner of a group hoping to develop a solar farm on one of the two sites that Council will take into consideration. He explained that he is accompanied by representatives that will speak in favor of the request: Mr. Frank Griffin of groSolar, Vice President of Construction; Mr. Wade Fulgham of the North Carolina State Solar Center; and Mr. Henry McKoy, Fourth-Sector Bank Corp.

Mr. Bednar gave a brief overview of the facilities that are being proposed and addressed some of the questions that were raised at the last public hearing. He explained that the first site is a 31-acre tract on Stewartsville Road. He added that the proposed construction is a solar photovoltaic tracker system which will consist of solar panels that will capture sunlight and convert it to electricity to be fed onto the Progress Energy electrical grid. He further added that the site on Stewartsville Road meets the criteria that Progress Energy gave to Birdseye Renewal Energy which are: (a) three-phase power in order to connect the facility to Progress Energy's electrical grid; (b) located in Progress Energy territory; and (c) access and visibility so that people could see the facility for educational purposes, etc.

Mr. Bednar explained that he has worked out an arrangement with the landowner of the site to lease the land long term. He added that the facility is expected to be in operation for a minimum of twenty years. He stated that he believed that there are absolutely no health risks associated with the facility, and he added that Mr. Fulgham will further address that issue. He added that it seems to a very good opportunity for Scotland County to be the leading facility in the eastern part of the state for solar production. He further added that the development will also be a very big advantage for the County from a tax point of view and a prestigious symbol for the area.

Mr. Bednar explained that a question from the last public hearing dealt with screening and that the project area requires a type 1 buffer along any residential uses. He added that there is one vacant uninhabitable house located in the area which would be screened by two layers of type 1 buffer - most likely a Leland Cyprus in addition to the existing woods. He explained that Scotland House is bounded by Interstate 74, City property, and Stewartsville Road. He stated that none of the other neighbors along Stewartsville Road will have any direct view of the facility, except possibly through the driveway of Scotland House. He further stated that, because of the topography of Stewartsville Road with woods fronting on Stewartsville Road coupled with the fact that City property bounds the other side, the proposed project will be minimally intrusive.

Councilmember Leak explained that he represents District 1 which is where the proposed site is located. Hethen explained that there are three (3) energy producing entities in Scotland County: Progress Energy; City of Laurinburg (ElectriCities); and Lumbee River. He continued by stating that Shelby, North Carolina is considering developing a solar farm and it is also an ElectriCities city. He stated that he feels that the Progress Energy grid located on and near this proposed site is a good fit for this area. He then stated that solar is here, it is the future, and it will produce jobs. He then stated that this is something that needs to be done and that the community needs to change and get on board.

Upon question by Councilmember Faulk, Mr. Bednar stated that many of the manufacturers are developing recycling

programs for disposal of the solar panels once they reach their life expectancy. He added that all the materials that go into solar panels are recyclable (e.g. silicon which is basically sand, glass, aluminum and some wiring materials), and as a result, there is value. He then stated that Birdseye's arrangement with the landowner is that when the lease has expired, Birdseye is required to remove everything from the site and to return the site to farmland.

Mr. Frank Griffin, Vice President of Construction for groSolar, first duly sworn, explained that groSolar is a nationwide solar energy developer that provides engineering construction and procurement services for projects such as the proposed solar farm. He stated that he has been personally involved with several projects similar to the proposed project. He then explained that his company works closely with the permitting officials, the professional engineers, and the planning departments in order to follow the process as well as the procedures that are prescribed. He then stated that he personally directs the engineering of the project working with local civil, environmental, geotechnical and construction engineers. He added that he also works with cities and counties on processing the drawings of the project in order to receive the proper input from the permitting authorities.

Mr. Griffin continued by explaining that solar projects have very little environmental impact. He added that there is minimal disturbance of the earth. Basically posts are placed in the ground, and a rack system is built to install the solar modules. He further added that power is produced at 480 volts which is a relatively low voltage. The voltage is then increased so that it ties in to the Progress Energy grid system. He stated that overall these type projects have been very well received across the country.

Upon question by Mayor Block, Mr. Griffin explained that he has been involved in many types of installations including roof bounded systems, a few projects that are on roofs of high schools and elementary schools.

Councilmember Rainer discussed electromagnetic hypersensitivity which is a reaction that some people have to solar energy. He stated that a constituent had provided a copy of a report that focuses on the hazards of products used during the manufacturing process of the solar panels. He added that the proposed site will not be manufacturing the panels but will simply be using the panels to generate electricity. He further added that the proposed development could eventually bring tax costs down. He stated that the future for Laurinburg is very different from the past and that the City needs to look for different opportunities. He concluded by stating that he made a mistake by voting against this development in the past.

The Assistant City Attorney reminded Council that only information that has been admitted into evidence can be considered at this public hearing and that any evidence obtained outside of the this public hearing and the public hearing held on September cannot be considered by Council.

Upon question by Mayor Block, Mr. Griffin stated that there are no negative impacts with solar energy, and he added that, if he could, he would put solar panels on his house. He also stated that if there was a solar farm in his backyard, he would have no objection to it.

Councilmember DeBerry explained that the main reason this item was tabled from the September meeting was because of citizens' concerns about health issues and that someone was supposed to provide information concerning the health issues.

Mr. Wade Fulgham, Program Manager for the Solar Center at North Carolina State University, first duly sworn, appeared before Council and explained that he was present to specifically respond to health and environmental concerns surrounding the solar farm. He explained that he is employed by North Carolina State University and is not affiliated in any way with Birdseye Renewable Energy or groSolar. He stated that the staff of over 30 personnel at the Solar Center could find no evidence that there are safety or health concerns associated with the proposed solar farm. He added that the proposed project would be one of the largest solar farms in the state.

Upon question by Mayor Block, Mr. Fulgham explained that he had just heard about a solar farm in Person County that was going to bring goats in every two (2) months to keep the vegetation down, indicating that there was no evidence of vegetation dying adjacent to solar farms.

Upon question by Mayor Block, Mr. Fulgham explained that there are at least three (3) solar farms in the state, with at least three (3) other projects pending.

Upon question by Mayor Block, Mr. Fulgham explained that it is a very simple technology; however, the manufacturing of the solar panels is quite different. He stated that the finished solar panel is glass and silicon.

Upon question by Councilmember Rainer, Mr. Fulgham stated that he has observed no adverse effect on residential property values located near a solar farm.

Upon question by Councilmember Rainer, Mr. Fulgham cited an article in the New England Journal of Medicine that showed there was little evidence that living in homes characterized either by high measured time weighted average magnetic field levels or the highest wire code category increases the risk for electromagnetic hypersensitivity, even in children.

The Assistant City Attorney stated that if any articles mentioned by Mr. Fulgham were to be considered by Council, they should be presented as evidence to be included for the record.

Mr. Henry McCoy, first duly sworn, explained that he was the Chief Executive Officer of Poor Section Financial, a company that provides capital to businesses that are doing impactful work around environmental and community development – otherwise known as “capital with a purpose”. He added that he has no connection to either Birdseye Renewable Energy or groSolar and that his company is not involved in the proposed project at all. He stated that this project was an incredible economic opportunity for the community.

Mr. Scott Cole, first duly sworn, explained that he was a resident of Scotland County and Vice President of Simmons Heating and Air Conditioning. He added that his business also erects solar systems and that he is very excited about the proposed project. He further added that he knows of no known health concerns associated with solar energy.

Ms. Lethea Johnson, first duly sworn, appeared before Council and expressed concern about the leakage of chemicals from the batteries and the solar panels. She then requested that her son present the remainder of her presentation to Council.

Mr. George McInnis, first duly sworn, explained that cadmium is found in photovoltaic devices and cited articles from the Department of Public Health, Wilkepedia, and the Agency for Toxic Substance and Disease Register that exposure of women to cadmium can result in the following: renal tubular dysfunction, a difference in calcium metabolism and regulatory hormones, kidney sensitivity, how the body stores iron, pregnancy defects, damage to lungs, and even death.

Ms. Linda Covington, first duly sworn, stated that she is not against either progress or solar energy. She stated that the community should have been better educated about this project. She cited her concern as the potential for long-term effects. She added that the project should not be located so close to people.

Upon question by Ms. Covington, Mr. Fulgham stated that if at some point it was determined that there were harmful effects from solar farms, he imagined that solar farms would be forced to cease operation and be torn down.

Upon question by Councilmember Rainer, Mr. Fulgham explained that the proposed project does not contain panels made with cadmium. He added that the panels are silicon panels. He further added that silicon panels have a long track record and have benign components. He explained that there is very little degradation of the panels each year. He added that after Hurricane Katrina some of the Federal Emergency Management Agency (FEMA) trailers were powered by solar panels that individuals brought from their homes built in the 1970's. He concluded by stating that silicon solar panels are a time-tested technology known all over the world.

Mr. Christopher Covington, first duly sworn, appeared before Council and explained that his concerns/questions were: if the panels contain cadmium; it appeared the project would provide no benefit to the citizens of Laurinburg; and the proximity of the proposed project to residential neighborhoods.

Mr. Ronald McKoy, first duly sworn, appeared before Council to express concern about the effect on adjoining property values including his rental property near the McColl Road site (next request).

The City Manager identified the following articles as presented to Council for evidence:

- 1) "Solar Panel Toxic Manufacturing Byproducts, Product Disposal Needs Greater Oversight, Report Urges" by Matthew McDermott
- 2) "Cadmium: The Dark Side of Thin-Film?" by Robert Mullins
- 3) "Green Prosperity: How Clean-Energy Policies Can Fight Poverty and Raise Standards in the United States" by Robert Pollin, Jeannette Wicks-Lim & Heidi Garrett-Peltier
- 4) "Report: Recycling Programs Could Curb Panel Toxicity" found on [www.solarfeeds.com](http://www.solarfeeds.com)
- 5) "Health Risks of Using Solar Energy Panels" published January 28, 2009 by (on the internet) nlwest21
- 6) "Solar Energy Can Be a Health Hazard" by Andrew Eriksen
- 7) "Photovoltaic Cells Are Still Very Green, Comparative Test Shows" by Henry Fountain in *The New York Times*, February 26, 2008
- 8) "The Safety of Photovoltaics", source "NREL Report No. NREL/FS-520-24618"
- 9) "Greenhouse Gas Comparison", source and author unknown (internet)
- 10) "Boost home value, get cheaper bills" by Keith Pandoifi, on [www.cnn.com](http://www.cnn.com)
- 11) "Executive Summary Green Prosperity" by Robert Pollin, Jeannette Wicks-Lim and Heidi Garrett-Peltier
- 12) "Investing in Energy Conservation: The Myth of Cost Savings" by W. E. Winner, June 21, 2009
- 13) "Environmental and Workplace Health Electromagnetic Hypersensitivity", author source unknown (internet) an
- 14) "The Hazards of Solar Energy" author and source unknown (internet)

Mayor Block then declared the public hearing closed.

Following discussion, Councilmember Parker motioned to approve the conditional use permit request for the development of a Photovoltaic Solar Array (Solar Farm) on a 31.16 acre tract of land along Stewartsville Road based on the following findings of fact:

- The development is within the planning jurisdiction of the City of Laurinburg;
- The application is complete;
- The development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance;
- The request will not materially endanger the public health or safety;
- The request will not substantially injure the value of the adjoining or abutting property;
- The request will be in harmony with the area in which it is to be located; and
- The request will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by Council.

Councilmember Leak seconded the motion and it unanimously carried.

## **PUBLIC HEARING ON A REQUEST FOR A CONDITIONAL USE PERMIT FOR THE DEVELOPMENT OF A PHOTOVOLTAIC SOLAR ARRAY (SOLAR FARM) ON A 64.78 ACRES TRACT OF LAND ALONG MCCOLL ROAD**

Mayor Block stated that this is a request for a conditional use permit for the development of a Photovoltaic Solar Array (Solar Farm) on 64.78-acre site along McColl Road.

Councilmember Parker motioned to receive the testimony that was presented at the previous public hearing in addition to the new testimony presented at this hearing for the purpose of making a decision. The motion was seconded by Councilmember Faulk, and it unanimously carried.

Mayor Block then declared the public hearing open.

Mr. Brian Bednar, first duly sworn, explained that the second site being considered is off McColl Road. He added that the technology is identical to the technology presented in the previous request - a crystalline photovoltaic solar technology which contains no cadmium. He further added that the operation and method of installation are also identical to the previous site.

Mr. Bill Peele, first duly sworn, explained that the proposed is approximately the length of a football field off McColl Road and not quite that far from the apartments. He added that the proposed site has a partially wooded area between it and the apartments, and the City will require further buffering including fencing.

Upon questions by Councilmember Leak, Mr. Peele stated that none of this property is wetlands. He added that the apartments are served by City water and have septic tanks.

Ms. Francine McLaurin, first duly sworn, appeared before Council and explained that the manufacturing and disposal of solar panels is a concern; however, the proposed project will not manufacture panels at the present time. She added that at some point in the future, it is feasible that panels could be manufactured in the area. She also expressed concern that the panels could be disposed of in area landfills creating a leakage problem. She discussed the proximity of the proposed project to the apartments and the need for more information concerning buffering.

Mayor Block closed the public hearing.

Councilmember Parker motioned to approve the conditional use permit request based on the following findings of fact:

- The development is within the planning jurisdiction of the City of Laurinburg;
- The application is complete;
- The development is in substantial compliance with the regulatory provisions of the Unified Development Ordinance;
- The request will not materially endanger the public health or safety;
- The request will not substantially injure the value of the adjoining or abutting property;
- The request will be in harmony with the area in which it is to be located; and
- The request will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by Council.

Councilmember Faulk seconded the motion and it unanimously carried.

Mayor Block declared a break at 9:08 p.m.

The meeting resumed at 9:14 p.m.

## **ORDINANCE TO REZONE FROM RESIDENTIAL-15 TO GENERAL BUSINESS-CONDITIONAL USE DISTRICT A PARCEL OF LAND LOCATED ALONG WESTWOOD WAY**

Mayor Block explained that the request to rezone property from Residential-15 to General Business-Conditional Use District. He also explained that the public hearing had been concluded at the previous Council meeting in September. He stated that the request was tabled so that staff could further consider what reasonable conditions could be applied to the property. He then explained that there had been discussion and there had been some different conditions under consideration. These conditions concern closing times, buffers, and drainage. He added that Council had also discussed the request at its workshop session held October 13, 2009.

Mr. Bill Peele, Zoning Officer, explained that the Planning Staff had prepared conditions that it felt were reasonable based on comments made to staff, testimony previously provided, and specific directions in the Unified Development Ordinance. The conditions are:

- Reasonable closing time: 2:00 a.m.
- No exterior amplification system
- Maximum building height of 35 feet
- No obtrusive exterior lighting to be cast on abutting residential property
- Appropriate screening around proposed storm water retention basin as determined by the City Beautification Director
- No access to the development extended from Walker Street
- No storm water diverted onto any adjoining property

Upon question by Mayor Block, Mr. Peele explained that the conditions would apply only to the structures discussed in the request by Mr. Robinette.

Upon question by Mayor Block, Mr. Peele stated that the North Carolina Department of Transportation (DOT) requires that a number of conditions must be met by the developer before a driveway permit can be obtained. He added that the plan submitted by Mr. Robinette satisfied those required conditions and has been approved by the DOT.

Upon questions by Councilmember Faulk, Mr. Peele stated that the property is currently zoned Residential-15 which is restricted solely to single-family residential homes of site-built or modular construction. He added that the subdivided out property would require a conditional use permit.

Upon question by Councilmember Parker, Mr. Peele explained that the site plan shows two (2) retail facilities and a restaurant. He added that video games are classified as recreational game rooms in the Unified Development Ordinance, which is not a retail use and would not be a permissible use. He further added that if a retail store such as a drug store had two (2) video machines in the store, because the primary use of the property would be retail, this would be allowed as an accessory use if consistent with State law and as long as the principal use of the property is retail in nature.

Councilmember Parker motioned to approve Ordinance No. O-2009-13 which rezones the property from Residential-15 to General Business-Conditional Use District in that the rezoning is consistent with other development in the area; it advances the public health, safety and welfare; provides a positive impact to the public at large; and it will meet all standards and requirements in the Unified Development Ordinance that are applicable to the proposed development, subject to the following conditions:

- Reasonable closing time: 2:00 a.m.
- No exterior amplification system
- Maximum building height of 35 feet
- No obtrusive exterior lighting to be cast on abutting residential property
- Appropriate screening around proposed storm water retention basin as determined by the City Beautification Director
- No access to the development extended from Walker Street
- No storm water diverted onto any adjoining property

Councilmember Leak seconded the motion and the vote was as follows:

Ayes: Parker, Leak, DeBerry, Rainer

Nays: Faulk

(Ordinance No. O-2009-15 is on file in the City Clerk's Office)

**ORDINANCE NO. O-2009-15 WHICH AMENDS THE 2009-2010 BUDGET APPROPRIATION**

**ORDINANCE (O-2009-07)**

The City Manager explained that this budget amendment would transfer funds from the Water/Sewer Fund Balance to Non-departmental Contracted Services for one-half (½) (\$25,000.00) of the engineering services costs for the Wagram Water/Wastewater Plant. He added that Moore County has agreed to pay the other \$25,000.00 for the study. He further explained that part of the study is to determine if there would be any efficiencies gained by combining the City of Laurinburg, the Scotland County, and the Laurinburg/Maxton Airport Commission water systems. He further added that there appeared to be a partnership forming between the City and Moore County.

Councilmember Leak expressed concern about the lack of participation by Scotland County in paying for the engineering study.

Councilmember Parker explained that the proposed consortium consisted of the City of Laurinburg, Moore County, several towns in Moore County, and Region N of the North Carolina Regional Councils.

Following a lengthy discussion, Councilmember Faulk motioned to approve Ordinance No. O-2009-15 which amends the 2009-2010 budget appropriation ordinance (O-2009-07) by transferring \$25,000.00 from the Water/Sewer Fund Balance to the Non-departmental Contracted Services for one-half (½) (\$25,000.00) of the engineering services cost for the Wagram Water/Wastewater Plant. Councilmember Parker seconded the motion and the vote was as follows:

Ayes: Parker, Rainer, Faulk, Leak, DeBerry

Nays: None

(Ordinance No. O-2009-15 is on file in the City Clerk's Office)

**ORDINANCE NO. O-2009-16 WHICH AMENDS SECTION 40-117 WATER AND SEWER BILLING ADJUSTMENT AND SECTION 40-374 BILLING ADJUSTMENT-ELECTRIC SYSTEM OF THE CODE OF ORDINANCES OF THE CITY OF LAURINBURG**

The City Manager explained that this ordinance will update the City's ordinance with regard to billing adjustments in the event of a billing error to coincide with the Utilities Commission. He further explained that the change allows a customer and the City to make adjustments on erroneous bills for three (3) years instead of the current one (1) year.

Councilmember Parker motioned to approve Ordinance No. O-2009-16 which amends Section 40-117 Water and Sewer Billing Adjustment and Section 40-374 Billing Adjustment-Electric System of the Code of Ordinances of the City of Laurinburg. Councilmember Leak seconded the motion and the vote was as follows:

Ayes: DeBerry, Leak, Faulk, Rainer, Parker

Nays: None

(Ordinance No. O-2009-16 is on file in the City Clerk's Office)

**PUBLIC COMMENT**

Upon question by Councilmember Parker, the City Manager explained that recyclables are not commingled with solid waste.

**ADJOURNMENT**

Motion was made by Councilmember DeBerry, seconded by Councilmember Parker, and unanimously carried to adjourn the meeting.

The meeting adjourned at 9:41 p.m.

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Matthew Block, Mayor

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Dolores A. Hammond, City Clerk