

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

**The City Council of the City of Dunn held a Special Call Meeting on Thursday, October 30, 2008, at 6:00 p.m. in the Dunn Municipal Building. Present was Mayor Oscar N. Harris, Mayor Pro Tem N. Carnell Robinson, Council Members Buddy Maness, Billy Tart, Chuck Turnage and Joey Tart. Also present was City Manager Ronnie Autry, Finance Director Mark Stevens, Recreation Director Perry Hudson, City Planner Steven Neuschafer, Building Inspector Mike Blackmon, Police Chief B.P. Jones, City Attorney P. Tilghman Pope, City Clerk Debra West and Daily Record Reporter Reece Murphy.**

**Council Member Billy Tart arrived at 6:19 p.m.  
Council Member Bryan Galbreath was absent, excused.**

**INVOCATION**

Mayor Harris opened the meeting at 6:06 p.m. and asked Council Member Joey Tart to give the invocation. Afterwards the Pledge of Allegiance was repeated.

**AGENDA ADJUSTMENT AND APPROVAL**

Motion by Mayor Pro Tem Robinson and seconded by Council Member Joey Tart to adopt the October 30, 2008 meeting agenda with changes, if any, as listed below.

*Items Added to the Agenda:*

- Resolution Authorizing the transfer of maintenance responsibility of Erwin Road (SR 1718) from W. Cumberland Street (US Hwy 421) to Powell Avenue

*Agenda Items Removed:*

- none

*Agenda Adjustment:*

- Presentation moved to Item #2

**Motion unanimously approved.**

**ITEMS FOR DISCUSSION AND/OR DECISION**

**RENTAL HOUSING ORDINANCE**

Mayor Harris explained the rules and guidelines by which the speakers must adhere tonight. This special meeting is a courtesy opportunity for the public to further provide comments concerning the Rental Housing Ordinance. A public hearing was held on this issue during the July 8, 2008 Council meeting and was duly advertised.

The City of Dunn Rental Housing Ordinance was adopted July 8, 2008. With the current ordinance, the City of Dunn charges the owner a yearly application fee of \$65.00 per rental unit. Properties owned by local, state and federal governmental entities shall be exempt from paying the application fee but shall make an application and receive a license for each fiscal year.

Comments were received from the following individuals:

Judge Wiley Bowen spoke on behalf of a group of citizens – He stated that this ordinance allows inspections to be conducted without a warrant and without the tenant's consent. It also permits the city to file criminal charges and to seek civil penalties against tenants and landlords. Tenants are not second class citizens. They deserve the same constitutional rights as homeowners. He summarized the procedures of the application fee and of the ordinance. He summarized the history of the implementation of the Rental

Housing Inspection beginning at the City Council Retreat on February 2, 2008 when the City Council recognized the concept of a rental housing inspection with a plan to provide decent safe housing and the plan of action was to broaden the scope of authority for the Building Inspector and to strengthen the minimum housing ordinance. The Building Inspector recommended adopting a Rental Housing Ordinance similar to the Town of Elizabeth City's. He summarized the history of how the rental housing ordinance was established, including the council meetings of May 13, 2008 and May 22, 2008. He pointed out that the City of Dunn has provided building inspection services for the Town of Angier since July 1, 2005. This agreement was renewed on July 1, 2008 for a contracted fee of \$36,000 per year for approximately 15 hours per week. The minutes of the meetings failed to reflect that any documented or any other evidence was presented to justify the adoption of this ordinance. The minutes failed to show that the City's goal of providing decent, safe housing and encouraging and promoting affordable housing would be promoted by (1) giving more power to the building inspector and (2) increasing the criminal and civil penalties, and (3) virtually abolishing the balanced civil remedial provisions and substantially increased criminal and civil penalties of the Minimum Housing Code. The Council's decision to adopt the Rental Housing Code is not justified in the minutes and the Council failed to consider the impact on the landlords and tenants. Without a rational basis for the Code, there is no rational basis for the \$65.00 fee. He pointed out the absence of logic when the Council taxes the landlords to pay the salary and benefits for an additional inspector, to buy a truck and to finance inspections, but at the same time, send the City inspector to Angier for about 15 hours per week, leaving the landlords feeling abused, unfairly treated and that their property rights have been taken with due process of law. He cited several sections of the ordinance where a tenant may be fined. This ordinance conflicts with the 4<sup>th</sup> amendment rights. NC Legislature has noted attempts by some cities and counties to conduct dwelling inspections without probable cause. On March 26, 2007, a bill entitled "An Act Requiring Cities and Counties to Have Probable Cause Before Inspecting Residential And Nonresidential Structures and Requiring Owners And Landlords To Improve The Habitability Of Dwelling Units By Immediately Repairing Certain Unsafe Conditions" was introduced in the NC Legislature. The bill passed by Senate, 3<sup>rd</sup> reading, and passed first reading in House, but remains in a house committee (HB 1011 SB 1507). He cited House Bill 1011 which gives probable cause for inspecting a structure. The Rental Housing Code gives the building inspector broader powers in administering the Minimum Housing Code. Dunn's current code is a complaint driven program which gives the Building Inspector the authority to enforce under the Minimum Housing Code, City of Dunn ordinances and the NC General Statutes. The Rental Housing Ordinance violates resident's and property owner's civil rights, under the "guise" of "protecting" tenants. The ordinance is unconstitutional; people have a right to be secure in their homes free from unreasonable searches and an inspector can't get a warrant without a probable cause. He asked that the Council repeal this ordinance.

#### *Recess*

Mayor Harris called for a three minute recess to allow the remaining speakers an opportunity to designate a spokesperson to represent their group and to avoid duplication in comments.

Mayor Harris reconvened the meeting at 6:54 p.m.

Mayor Harris asked Judge Bowen if he would yield for questions from the Council. He responded yes; however, none were heard. Mayor Harris stated that Mr. Bowen's written comments will be reviewed by the City Attorney and City Manager.

James Eason, 207 N. Orange Ave., Dunn - He lives in an apartment and his landlord has sent a notice that his rent will increase \$65.00 per month. The landlords are sending out scare tactics, taking advantage of the tenants by passing along increased monthly rental fees and asked if the Council will have control over the landlords. He spoke of a situation that occurred in Richmond County in 1993 when a sheriff came to his friend's house during the night without a search warrant and the sheriff was shot. With this rental housing ordinance, an inspector can enter your house without a warrant. Some folks can only afford squalor to live in. This is not the time to charge extra fees with the present economy.

Frank McLean, 607 E. Vance St., Dunn - He is a small landlord charging a minimum amount of rent. Whatever is imposed on him will have to be imposed on his tenants, and he will probably not recoup those costs. As is, he is suffering a hardship charging the minimum to his tenants and this ordinance will add additional costs. This ordinance is a hardship for everyone. Over the years, he has always tried to keep his houses up to standard.

Ken McEllynn, MD, 121 Brightwood Circle, Dunn, NC – In America, everyone is suppose to be equal under the law. He mentioned the privacy of one's home whether owned or rented. Men and women of the Armed Forces fought and died for the right to privacy. This ordinance says that some citizens in Dunn are more equal than others. This ordinance says that some people's privacy is protected by the constitution while others are not. This ordinance fails more than one question on the Rotary 4-way test which decides if an issue is moral. He's called the Town of Coats, City of Fayetteville and City of Raleigh and none of them has an ordinance such as this. The real problem is neglect by failing to enforce the laws already on the books. NC General Statutes 47-37.1 protects tenants from retaliatory evictions because they complain about the need for repairs. He cited several resources already on the books that address housing problems in North Carolina. He asked that the Council do the right thing, and go back to a complaint driven system and enforce the laws on the book.

Ed Weeks, 103 N. McKay Ave. Dunn – He rents his house. His occupation consists of taking care of elderly disabled people in rest homes and since they receive funding from the Federal Government, it opens his business up to inspection by 34 agencies daily. He previously ran a restaurant which also meant that he had to open himself for inspections. He's tired of being inspected everyday and to be subjected to inspectors. As a job, he is required to deal with inspectors and he does not want to be subjected to this type of treatment in his home. If he has a problem with his landlord, he calls his landlord. He lives in a free country where he can find another landlord. He is tired of the treatment he has received from the inspectors. He stated that no inspector was coming in his house and if he is fined and put in jail, then so be it.

Teresa Stephenson, Ponderosa Subdivision, Dunn – She shared examples of problem rental properties. She read a petition supporting the inspection ordinance with signatures. The rental inspection ordinance is both needed and necessary to protect the citizens of this town that rent properties as well as citizens that own property. All residential rental properties within the City of Dunn should meet the Minimum Housing Standards set forth by the NC General Statutes and modified and strengthened by the City of Dunn. The ordinance will provide reasonable assurance to people moving into this area, that safe and decent housing is available to them. If the City of Dunn hopes to bring forth new growth and much needed business, they have to improve the aesthetics of the community. She read several letters provided by citizens and neighbors stressing their concerns about rental properties they live in or close to. Owners of these rental properties should pay the rental inspection fees because they reap the benefits and profits from their properties. She distributed photos for the Council to review.

Jane Thomas, 123 Gulf Drive, Dunn – She stated that there are wonderful landlords and landlords that do not care. She spoke of a rental property in her neighborhood that has been vacant for thirteen years and through the development of a community watch program, they got behind some of the landlords to improve the appearance of their neighborhood. Some landlords should be accountable for the condition of their properties. Every landlord should not be charged the fee because some landlords do take care of their property. Landlords should not be allowed to increase a tenant's rent to pay the \$65.00 inspection fee. She is not in favor of penalizing the landlords that take care of their property.

Rev. Travis Cain, 102 Chelsea Lane, Dunn – They need to enforce the ordinances already on the books and he encouraged the Council to reconsider the rental housing ordinance. His father-in-law, Mr. Roger May, owns rental property. He gave an example of his father-in-law allowing a tenant to live rent free for eight months and after the tenant moved out, it was totally renovated. Everyone deserves to live in a good home. He was previously a police officer and everyone has a right from illegal search and seizure which is permitted under the rental inspection. He encouraged the Council to allow the Building Inspector to do his job. If there is such an issue in Dunn, then why would the City allow the inspector to work fifteen hours for the Town of Angier. As a pastor, the burden of the extra cost imposed to the tenant will fall under the church which feeds and helps those in need.

James Clark, 611 N. Wilson Avenue, Dunn – He stated that what the Council is doing is a disgrace. If any tenant gets a fine, call James Clark and he will go to jail for you and pay the fine.

Irvin Warren, Dunn – The Council was elected to manage the City and protect the people. The Council cannot go to the people each time they need more money and put an additional tax on the people. The Council has a budget and they determine what that budget will be, what the tax values will be and if they

do not have enough money to pay the inspectors, change the budget but do not tax individual parties. With this ordinance, you arrest the people that pay the taxes. Manage the City like a business.

Doug Heath, 107 George Street, Dunn – He has rental property and he favors this ordinance. He proposes to raise his tenant's rent by \$5.00 per month. There is a problem in Dunn with substandard properties and he favors anything that will change that situation. There may be some legal problems with the ordinance but you do not have to ride far from the City Hall building to see that something needs to be done.

The comments concluded at 7:45 p.m.

7:45 p.m. - Mayor Harris called for a 5 minute recess.

## **PRESENTATION**

### **CITY OF DUNN COMPREHENSIVE PEDESTRIAN PLAN UPDATE CITY PLANNER STEVEN NEUSCHAFER**

Planner Neuschafer introduced Allison Carpenter, consultant with the Louis Berger Group, Inc. to give a brief update on where the plan is and the highlights.

Ms. Allison Carpenter presented an executive summary of the Dunn Comprehensive Pedestrian Plan to the Council. She explained that this Pedestrian Planning Grant in an amount of \$20,000.00 was awarded by NCDOT and was matched with \$5,000 from the City of Dunn for a total project of \$25,000.00.

This plan began with the establishment of a steering committee to help develop the recommendations of the plan. The purpose of the plan is to help promote a walkable community. There's a dense network of existing sidewalks in the downtown area with a lot of missing gaps in the pedestrian network. This plan will make recommendations for new sidewalks to fill those gaps, and potential greenway trails such as the Dunn Erwin Trail along with policy and program recommendations. Policy changes could incorporate new ordinance changes as they consider new development, (ex. Minimum sidewalk requirements, greenway easements for future development, public/private sharing). The pedestrian plan incorporates the entire Extraterritorial jurisdiction (ETJ).

The plan recommends retrofit pedestrian/walk signals and extending median islands at major intersections to provide safe pedestrian crossing. The steering committee suggested highlighting the greenways. There were four potential Greenway Trail options in addition to the Dunn-Erwin Trail which included:

- Downtown Trail (extending the existing Dunn-Erwin Trail into Downtown through signage)
- Black River Trail (natural resource to highlight)
- School Connector Trail (from Tyler Park/Elementary/Primary School to the Middle School)
- Hanna Pond Trail (running along the eastern portion of town)

She suggested that it is a good idea for the City to have greenway easements in place for future construction of trails.

Grant opportunities such as Safe Routes to School, which is a 100% reimbursement program, are available.

She presented short, mid and long term sidewalk projects with projected costs for each. The top four sidewalk priorities were:

- Divine from Canterbury to General Lee @ \$93,000.00
- Pearsall from General Lee to Elm @ \$93,000.00
- Pope from Fayetteville to Clinton @ \$69,000.00
- Cumberland from General Lee to Broad @ \$147,000.00

Mr. Neuschafer explained that this plan would be presented for adoption by the Council in December or January. With an adopted plan in place, it gives the City an advantage in obtaining grant funding.

**RESOLUTION AUTHORIZING THE TRANSFER  
OF MAINTENANCE RESPONSIBILITY OF ERWIN  
ROAD (SR 1718) FROM W. CUMBERLAND ST.  
(US HWY 421) TO POWELL AVENUE**

Manager Autry explained that this resolution will allow the City of Dunn to have complete control of the development along this corridor. Walgreen is asking for two full in and out entrances, one from Cumberland into Eleanor and one on Erwin Road. NCDOT has very strict guidelines for access. With conversations between NCDOT, Walgreen and the City of Dunn, a suggestion was made for the City to take over a portion of the road. It's becoming more cumbersome with NCDOT to gain access to commercial properties. By the City taking control of this portion, it would shorten the process for Walgreen to proceed with their project.

Mr. Autry stated that Council Member Turnage had several questions about this issue and he and Planner Neuschafer have responded to those questions, a copy of which is available for the Council.

Mayor Harris stated that Walgreen is running out of options. A meeting was held in his office with himself, Mr. Autry, NCDOT representatives, Ray Stone representing Walgreen and they tried to resolve this issue and this option was recommended. The issue is not that NCDOT would not concur with the request by Walgreen, but it is a time sensitive matter. To prevent Walgreen from walking away from this project, the City is proposing to take over maintenance of this section of Erwin Road. If the driveway permit on Erwin Road is approved, it would allow a vehicle to enter on a right turn and to leave on a left or right turn.

Council Member Turnage thanked Manager Autry and Planner Neuschafer for their responses to his concerns. He explained that the City is working with NCDOT to develop a comprehensive corridor plan for the side streets.

Council Member Maness voiced concern that at the intersection of Cumberland and Erwin road, there is not enough room for a car to make a left hand turn without traffic impeding into the intersection of Cumberland or traffic trying to exit Walgreen left onto Erwin Road. There is not sufficient room on Erwin Road to create a turn lane.

Further discussion was held about the entrances and exits and the potential situations that could occur.

Motion by Council Member Billy Tart and seconded by Council Member Turnage to approve the Resolution. **Motion unanimously approved.** *A copy of Resolution (R2008-21) authorizing the Transfer of Maintenance Responsibility of Erwin Road from W. Cumberland to Powell Avenue is incorporated into these minutes as Attachment #1.*

Council Member Turnage asked that the map and series of questions posed to the City Manager and City Planner be made a part of the minutes. It was the Council's consensus to incorporate these documents. *A copy of these documents is incorporated into these minutes as Attachment #2.*

With no further business, motion by Council Member Turnage and seconded by Council Member Maness to adjourn the meeting at 8:45 p.m. **Motion unanimously approved.**

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Oscar N. Harris  
Mayor

Attest:

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Debra G. West  
City Clerk

