



Work Session - Minutes Monday, September 16, 2019

COUNCIL PRESENT:

Mayor Mulhollem
Mayor Pro Tem Castleberry
Council Member Bruton
Council Member Jackson
Council Member Locklear
Council Member Wilson

STAFF PRESENT:

Mike Gordon, Town Administrator
Chip Hewett, Town Attorney
Kim P. Batten, Finance Officer/Town Clerk
Julie Maybee, Town Planner

COUNCIL ABSENT:

MEDIA PRESENT:

None

1 WELCOME/CALL TO ORDER:

- a) Mayor Mulhollem called the meeting to order at 6:31 p.m. in the Jeffrey D. Barnes Council Chambers located at 14094 Buffalo Road, Clayton, NC and declared a quorum present.

2 OLD BUSINESS:

a) **Hurricane Dorian Information**

Due to Hurricane Dorian, Mr. Gordon shared that the recent State of Emergency declared by Mayor Mulhollem was communicated by email, website and social media accounts. Also, when it was terminated in a timely manner, the same communication methods were utilized.

In closing, Mr. Gordon reminded Council that the Planning Board will meet Wednesday, September 18, 2019 and he will not be able to attend. If any of Council could attend, please do.

b) **USPS Update**

Mr. Gordon shared a letter from the United States Postal Service District Office in Greensboro, NC following his request for Archer Lodge to have a Zip Code separate from Clayton, NC.

The USPS Greensboro District Letter appears as follows:

DISTRICT MANAGER GREENSBORO DISTRICT		RECEIVED	
		SEP 01 2019	
		TOWN OF ARCHER LODGE	
August 29, 2019		BY: 	
		USPS TRACKING # 9114 9999 4423 8914 8432 16 & CUSTOMER RECEIPT For Tracking or inquiries go to USPS.com or call 1-800-275-1811	
Mike Gordon Town Administrator, Archer Lodge 14094 Buffalo Road Clayton, NC 27527-6356			
Dear Mr. Gordon:			
This letter is in response to your request for a Zip Code for the Town of Archer Lodge.			
The general stability of ZIP Code boundaries is essential to the timely and accurate distribution of the mail. The ZIP Code boundary review process was established to accommodate municipal identity issues. Unfortunately, Archer Lodge does not currently meet the criteria for a new ZIP Code, which includes extremely high growth where the number of regular routes will exceed 55 or the number of delivery points will exceed 25,000.			
Realizing how important it is for the Town of Archer Lodge to maintain its identity, newer enhancements to our national database are being made. These changes will allow the Clayton portion of the Archer Lodge community to use the Archer Lodge name with the 27527 ZIP Code. Because the Archer Lodge community is served by two post offices, residents in the Wendell portion will not be allowed to use Archer Lodge as the city name in the last line of their address. We have made a special provision for the Clayton addresses only.			
This change will take effect by October 29, 2019. Our address database will then recognize Archer Lodge as a valid preferred last line for the Clayton mailing addresses. During the transition, mail addressed with either Archer Lodge NC 27527 or Clayton NC 27527 will be delivered in a timely manner. The major change you will notice is all national major mailers will begin to correct their databases to reflect Archer Lodge versus Clayton. If you feel this is something the Town of Archer Lodge would like to pursue, please confirm that the street listing you provided for Clayton is complete. Once confirmation is received, we will contact you to begin the process.			
If you have any additional questions regarding this matter, please contact Andrea Cranford, Boundary Review Specialist			
Sincerely,			
 Russell D. Gardner District Manager/Lead Executive			
Cc: Manager, Operations Programs Support Manager, Post Office Operations (A2) Manager, Address Management Systems Postmaster, Clayton Boundary Review Specialist			
PO Box 27499 Greensboro NC 27498			

Based on the contents of the letter, the Town did not meet the criteria for a separate Zip Code but would allow those Archer Lodge residents using the Zip Code 27527 to change the city from Clayton to Archer Lodge on the third line of their mailing addresses. (i.e. Archer Lodge, NC 27527) In addition, residents with a Wendell, NC 27591 zip code are excluded at this time but hopefully soon the Wendell post office will identify Archer Lodge separately from Wendell. Discussion followed.

Mr. Gordon suggested that this item be added to the Agenda at their Monday, October 7, 2019 Regular Council Meeting for further discussion and possible action and all agreed.

c) **PARTF Update**

Mr. Gordon reported the following:

- Press release from Governor Cooper has not been received.
- Meeting with Susan Hatchell Landscape Architect on Monday, September 29, 2019 to discuss timeline.

d) **Public Safety Information**

Mr. Gordon reported the following:

- As discussed at the Monday, December 17, 2018 Work Session, a Mobile Solar Powered Radarsign, a traffic calming device, with Data

Software has been ordered. Discussion followed.

e) Nuisance Abatements

Ms. Maybee reported the following:

- Bids for nuisance abatement services were requested on Town Website and Social Media outlets and only one bid received at this time. Deadline for bids has been extended to 9/30/19.
 - Complaint received on one property and after investigating, property needs immediate attention due to high grass. Staff will schedule abatement services and ultimately the owner on record will be responsible for costs following legal action.
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3 NEW BUSINESS:

a) Interim Financial Reports for Month ending August 31, 2019

Ms. Batten provided a financial summary for all funds ending August 31, 2019. She noted that revenues were slow, and the only ones received were motor vehicle taxes, receipts from permits issued and investment earnings. Expenditures remained consistent in the General Fund with the exception of the first debt payment made on the Park Land debt. Regarding the Capital Reserve Fund, Park Reserve Fund and the Public Safety Reserve Fund, she noted that investment earnings were posted to all three and the three cents monthly transfer to the Park Reserve Fund from the General Fund occurred.

Comparing August 2018 with August 2019, normal revenues such as Ad-Valorem and Motor Vehicle taxes, ABC Distributions, receipts from permits and investment earnings were approximately \$5,750 more in 2019 and expenditures were higher in 2019 due to completing the budgeted transfers to both the Capital Reserve Fund and Public Safety Reserve Fund at the first of the fiscal year and making the first debt payment on the Park Land as was mentioned earlier. No further comments or discussion.

b) Budget Amendment (BA 2020 01)

Ms. Batten reviewed the first Budget Amendment of Fiscal Year 2019-2020 with Council. She explained that several General Fund expenditures needed to be reappropriated for unexpected expenditures such as supporting Johnston County Public Schools, specifically Archer Lodge Middle School, and budgeting revenue and expenditure amounts for the other three funds: 1) Capital Reserve Fund, 2) Park Reserve Fund, and 3) Public Safety Reserve Fund. Following Ms. Batten's explanation, Mr. Gordon read aloud a portion of an email from the Assistant Principal of ALMS, Mr. Matt Johnson, which expressed sincere appreciation for offering support to their students. Having no further discussion or comments, Council agreed to place Budget Amendment, BA 2020 01, under the consent agenda of the October 7, 2019 Regular Council meeting.

BA 2020 01 appears as follows:

BA 2020 01

Town of Archer Lodge

Budget Amendment

Fiscal Year Ending June 30, 2020

Budget Amendment #

Date

BA 2020 01

07-Oct-19

General Fund/Capital Reserve Fund/Park Reserve Fund/Public Safety Reserve Fund

Account	Account Number	Budget	Amendment	Amended Budget
Revenues:				
Gen: 2018 Property Taxes	10-3118-0000	-	500.00	500.00
Cap Res: Investment Earnings	30-3831-0000	-	10,000.00	10,000.00
Cap Res: Transfer from General Fund 10	30-3900-3910	-	25,000.00	25,000.00
Park Res: Investment Earnings	31-3831-0000	-	5,000.00	5,000.00
Park Res: Transfer from General Fund 10	31-3900-3910	-	160,000.00	160,000.00
Pub Safety Res: Investment Earnings	32-3831-0000	-	6,500.00	6,500.00
Pub Safety Res: Transfer from General Fund 10	32-3900-3910	-	25,000.00	25,000.00
Total Increase (Decrease) in Revenues			232,000.00	
Expenditures:				
Gen/Gov Body: Johnston County Public Schools Support	10-4110-3175	-	3,000.00	3,000.00
Gen/Gov Body: Dues and Subscriptions	10-4110-4000	11,730.00	(600.00)	11,130.00
Gen/Public Works: Contracted Services	10-4510-3500	48,000.00	(5,000.00)	43,000.00
Gen/Plan & Zon: Professional Fees	10-4910-1900	2,000.00	(500.00)	1,500.00
Gen/Plan & Zon: Dues and Subscriptions	10-4910-4000	320.00	500.00	820.00
Gen/Debt Service & Fees: Interest Payments-Expansion Town Hall	10-9110-2200	6,806.00	3,100.00	9,906.00
Cap Res: Transfer to General Fund 10	30-9900-0010	-	35,000.00	35,000.00
Park Res: Recreation Development	31-6120-5500	-	99,000.00	99,000.00
Park Res: Transfer to General Fund 10	31-9900-0010	-	66,000.00	66,000.00
Pub Safety Res: Public Safety Development	32-4300-5500	-	31,500.00	31,500.00
Total Increase (Decrease) in Expenditures			\$ 232,000.00	
			\$ -	
Justification for Budget Amendment:				
To appropriate or reappropriate unanticipated revenues and expenditures as recorded.				
Adopted this 7th day of October 2019				
ATTEST:		Matthew B. Mulhollem, Mayor		
Kim P. Batten, Town Clerk		Teresa M. Bruton, Budget Officer		

c) Discussion of Concept **DRAFT** Ordinances

Mayor Mulhollem acknowledged Staff and Attorney for creating both Concept Draft Ordinances which are "starting points" and cover the following complaint driven areas:

CONCEPT DRAFT ORDINANCE #1 - REGULATING FIREARMS:

- Complaints from Subdivisions regarding the discharge of firearms
- Considering options that address complaints
- Considering enforcement by the Johnston County Sheriff Department
- Considering parallelism of Johnston County ordinance, the law if the Town weren't incorporated

Concept Draft Ordinance #1

**AN ORDINANCE REGULATING FIREARMS WITHIN THE
TOWN OF ARCHER LODGE**

Section 1. Pursuant to authority granted by N.C. Gen. Stat. § 160A-189, the Town of Archer Lodge hereby amends the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 3, as follows:

Add to Chapter 3, Sections 3-50 and 3-51 as written below:

Sec. 3-50. - Carrying concealed handgun in town-owned buildings

No person shall carry a concealed handgun on or within any town-owned building. An appropriate notice of such prohibition shall be posted in a conspicuous place in each town-owned building notifying persons of the prohibition against carrying a concealed handgun in town-owned buildings. This section shall not apply to law enforcement or other government personnel acting within the scope of their employment.

State law reference—Authority to post concealed weapons signs, G.S. 14-415.23.

Sec. 3-51. - Discharge of firearms.

- (a) **Application** The provisions of this section shall apply to all properties located within the corporate limits of the Town of Archer Lodge.
- (b) **Definition.** For purposes of this section, firearm is defined as a handgun, shotgun, rifle or any device which expels a projectile by action of an explosion.
- (c) **Violations.** It shall be unlawful for any person to:
 - (1) Discharge a firearm in the town carelessly and heedlessly, so as to endanger any person or property.
 - (2) Discharge a firearm that results in a projectile crossing the property line of another person without the permission of the owner, or
 - (3) Discharge a firearm while under the influence of alcohol or a controlled substance (under the influence: determination by the investigating officer that the person is intoxicated by alcohol or a narcotic to the point where physical and mental faculties are appreciably diminished).
- (d) **Discharge on Public Streets, Highways.** It shall be unlawful for any person to discharge any firearm on, from, or across the traveled portion of any public street, or highway.
- (e) **Prohibited times of discharge.** The discharge of firearms from two hours after sunset to one hour before sunrise is prohibited. ~~by Article II Subsection 12-32(6) of the Johnston County Code of Ordinances.~~
- (f) **Miscellaneous Exceptions.** The following exceptions are permissible under this section:

Council Direction
Requested:

Question: To allow or not
allow legal concealed
handguns in Town buildings
and/or property?

changes/modifications to
Johnston County's Code of
Ordinance on subject matter
in Chapter 16, Secs. 16-2
through 16-3 highlighted in
yellow.

Concept Draft Ordinance #1

- (1) Law enforcement officers or members of the armed forces acting in the line of duty;
 - (2) The shooting or killing of any dangerous or destructive animal or reptile when necessary to protect life or property;
 - (3) All legal hunting activities pursuant to the North Carolina Department of Agriculture, the North Carolina Wildlife Commission and G.S. Chapter 113, subchapter IV, as it is from time to time amended or pursuant to lawfully issued state or federal hunting or wildlife removal permits;
 - (4) The use of firearms for defense of persons or property as allowed under state law;
 - (5) Nonprofit special events such as turkey shoots conducted with a valid local town permit issued by the town administrator or their designee;
 - (6) Indoor firing/shooting ranges with an applicable zoning permit(s) issued by the town; and
 - (7) A bonafide training facility acting in the course of providing firearms proficiency training and certification to law enforcement agencies, private security agencies, employers of armored-car personnel (e.g. Brinks, Loomis, and similar companies), and similar legitimate businesses that require such certification. A "bonafide training facility" is one that is: (a) properly authorized to provide such training and certification to North Carolina or federal law enforcement agencies, and (b) obtains an applicable zoning permit(s) issued by the town.
- (g) **Penalties.** A violation of this article [section] by any person is a misdemeanor and shall subject the offender to a fine of \$100.00 and/or imprisonment for up to 30 days. A second or subsequent violation by the same person within one year shall subject such person to a fine of up to \$300.00 but not less than \$100.00 and/or imprisonment for up to 30 days.

State law reference—Authority to regulate, discharge, or prohibit the discharge of firearms. G.S. 160A-189.

Section 2. This ordinance shall become effective upon adoption.

DULY ADOPTED, THIS ____ DAY OF _____, 2019.

TOWN OF ARCHER LODGE

(SEAL)

Matthew B. Mulhollem
Mayor

ATTEST:

Kim P. Batten
Town Clerk

CONCEPT DRAFT

Discussion followed with questions and comments as stated below:

- Recommended having an ordinance like Johnston County which is vital for the Johnston County Sheriff Department
- Exclusion of Target Practice, Sight Rifles, and Skeet Shooting, when and where allowed
- Distinguishing the difference between the newly adopted Ordinance# AL2019-08-1, which requires Developers of New Residential Major Subdivisions to prohibit the discharge of firearms in their restrictive covenants, and Concept Draft Ordinance #1, which regulates firearms within the Town of Archer Lodge
- Schools are governed by North Carolina Firearm Statues which supersede Town ordinances

CONCEPT DRAFT ORDINANCE #2 - REGULATING LOUD AND DISTURBING NOISES:

- Considering options that address complaints
- Considering enforcement by the Johnston County Sheriff Department

Concept Draft Ordinance #2

**AN ORDINANCE REGULATING UNREASONABLY LOUD AND
DISTURBING NOISES WITHIN THE
TOWN OF ARCHER LODGE**

Section 1. Pursuant to authority granted by N.C. Gen. Stat. § 160A-184, the Town of Archer Lodge hereby amends the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 3 as follows:

Rename Chapter 3 – Alcoholic Beverages to Chapter 3 - Offenses and Miscellaneous Provisions

Add to Chapter 3 the following sections as written:

Secs. 3-2 through Sec. 3 – 24 - Reserved

Sec. 3-25 - Loud and disturbing noise.

State law reference - Noise regulation, G.S. 160A-184.

Changes/modifications
(including format) to
Johnston County's
Code of Ordinances,
pertaining to subject
matter in Chapter 12,
Article II- Noise, Secs.
12-31 through 12-33
highlighted in yellow.

- (a) Subject to the provisions of this article, the creation, causing, or allowing of any unreasonably loud or disturbing noise in the **Town of Archer Lodge** is prohibited and unlawful.
- (b) For the purposes of this section, the following definitions shall apply:
- (1) *Unreasonably loud.* Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace, order, or calm of the area or which is obnoxious to or unreasonably disturbing to a person whose residence, work or commercial enterprise is within a reasonable proximity to the point, place or person from which such noise is emanating or emanated and the noise is such a kind, nature, duration or extent that a reasonable person would consider the noise to be unreasonably loud or disturbing.
- (2) *Disturbing.* Noise which is perceived by a person of reasonable and ordinary firmness and sensibilities as interrupting the normal peace, order, or calm of such person or persons or that of the proximal area or tending to annoy, disturb, or frighten such persons in such proximity to the point, place or person from which such is emanating or emanated that a person of reasonable and ordinary firmness and sensibilities would reasonably be or reasonably be expected to be disturbed in his or her use, occupation, or pursuits.
- (c) In determining whether a noise is unreasonably loud or disturbing, the following non-exclusive factors incident to such noise are to be considered: time of day; proximity to residential structures; whether the noise is consistent with the nature of the surrounding area (that is, within a reasonable degree of proximity such that the noise could reasonably be expected to affect the persons or persons who occupy, live or dwell in such proximity); the range or distance from the point of emanation that the sound may be unreasonably loud or disturbing; whether the noise is recurrent, repetitive, intermittent, or constant; the volume or intensity of the noise; whether the noise has been enhanced in volume or range by any type

of mechanical, electronic, or other similar means; the nature and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity, whether the noise is subject to being controlled without unreasonable effort or expense to the creator or person or entity causing or allowing the emanation of such noise; and any other factor which reasonably should be considered in determining whether a noise is unreasonably loud or disturbing.

- (d) The following acts, among others, are declared to be loud and disturbing noises in violation of this section, but such enumeration shall not be deemed to be exclusive:
- (1) The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity or otherwise to be a loud or disturbing noise as defined under this article;
 - (2) The sounding of any horn or signal device on or from any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonably loud or harsh sound; or the sounding of such device for an unreasonable period of time.
 - (3) The playing of any radio, television set, record player, musical instrument or sound-producing or sound-amplifying device in such manner or with such volume, particularly, but not limited to, the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of reasonable and ordinary firmness and normal sensibilities in any dwelling, motel, hotel or other type of residence.
 - (4) The keeping of any animal, except livestock and poultry maintained and kept consistent with the zoning applicable to the property where kept, which by causing frequent or long continued noise on a regular basis, shall disturb the comfort and repose of any person of reasonable and ordinary firmness and sensibilities in the vicinity or which may otherwise be an unreasonably loud or disturbing noise as defined under this article. With respect to this subsection only, if the violation continues or complaints are received from other households, the owner shall be granted ten working days to remedy and rectify the situation before issuance of a citation.
 - (5) The use of any automobile, motorcycle, ATV or other motor vehicle or vehicle of any kind which may be so out of repair, so modified from factory settings or equipment, and/or so loaded or operated in such manner, as to create loud grating, grinding, rattling or other noise caused by or emanating from such vehicle or its operation or which otherwise shall be, create or cause an unreasonably loud or disturbing noise as defined under this section.

(e) Exceptions:

The following are exempt from the provisions of this section:

- (1) Noises generated, made or created during the regular operations of a manufacturing or industrial facility, defined as any premises where goods or wares are made, processed, warehoused or stored or where manufacturing is legally permitted and carried on and the owner of such manufacturing or industrial facility takes or has taken reasonable steps not to cause, create or allow unreasonably loud or disturbing noise not necessarily inherent to such manufacturing or industrial facility.
- (2) Noise generated, made or created by fire, law enforcement, ambulance, rescue or other emergency vehicles while such vehicles are engaged in their proper functions.
- (3) Parades, fairs, circuses, other similar public entertainment events, sanctioned sporting events, athletic contests, sporting events and sporting activities taking place in areas set

aside for such activities, or any activities normally associated with any of the above, when such events and activities take place between the hours of 7:00 a.m. and 11:00 p.m. After 11:00 p.m., persons engaged in these events and activities who create or allow noise which is prohibited by section 3-25 shall be in violation of this ~~section. or of such ordinance.~~

- (4) Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; provided all equipment is operated in accordance with manufacturer's specifications and with all standard equipment, manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
 - (5) All noise coming from the normal operations of properly equipped aircraft, not including scale model aircraft.
 - (6) Lawnmowers and agricultural equipment and landscape maintenance equipment when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in reasonable operating condition.
 - (7) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from an imminent danger.
 - (8) Noise resulting from the provision of government services.
 - (9) Noise from noisemakers and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to G.S. 14-410 et seq.
 - (10) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.
 - (11) Noise from the discharge of a firearm or firearms when the firearm is being used to take birds or animals pursuant to G.S. Chapter 113, subchapter IV, or when lawfully used in defense of person or property ~~or when used pursuant to lawful directions of law enforcement officers.~~
- (f) **Penalty and Enforcement.** The violation of this section shall be punished as provided under G.S. 14-4. Any person or corporation or other legal entity violating this article shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.00. A first violation of this section shall be punishable by a fine of not less than \$50.00; a second violation shall be punishable by a fine of not less than \$150.00; and a third violation, or more, each shall be punishable by a fine of not less than \$500.00.

Add to Chapter 3, Secs. 3-26 through 3-49 - Reserved.

Section 2. This ordinance shall become effective upon adoption.

DULY ADOPTED, THIS ____ DAY OF _____, 2019.

TOWN OF ARCHER LODGE

(SEAL)

Matthew B. Mulhollem
Mayor

ATTEST:

Kim P. Batten
Town Clerk

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Discussion followed with questions and comments as stated below:

- Distinguish reasonable volume of noise and unreasonable volume - opinionated
- Noise Ordinance may help the enforcement of the Firearms Ordinance
- Addresses current complaints of loud music and amplified sounds
- Noise Ordinance Restrictions should not be used as a gun control measure

Mayor Mulhollem asked Council to review both Concept Drafts Ordinances #1 and #2 and consider all the discussion and comments. He added to contact Staff for further information or clarity. Furthermore, Mayor asked that both draft ordinances be on the November 18, 2019 Work Session Agenda for further discussion. Council Member Bruton added that a Public Hearing should be considered before possible adoption even though one is not required. Others Council members agreed.

4 ADJOURNMENT:

- a) **Having no further business, Mayor Mulhollem adjourned the meeting at 8:25 p.m.**

Matthew B. Mulhollem, Mayor

Kim P. Batten, Town Clerk

