

**MINUTES**  
**MOORE COUNTY PLANNING BOARD**  
**THURSDAY AUGUST 6 2015, 6:00 PM**  
**MOORE COUNTY HISTORIC COURTHOUSE – 2<sup>nd</sup> FLOOR**

**Board Members Present:** Rich Smith (Chair), Aaron McNeill (Vice Chairman),  
Joseph Garrison, Eli Schilling, Buck Mims, Gene Horne,  
Eddie Nobles, David Lambert

**Board Members Absent:** Scott McLeod

**Staff Present:** Debra Ensminger, Planning Director  
Misty Leland, County Attorney  
Lydia Cleveland, Administrative and Transportation  
Program Manager

**CALL TO ORDER**

Planning Board Chairman Rich Smith called the meeting to order.

**INVOCATION**

Board Member Buck Mims offered the invocation.

**MISSION STATEMENT**

Vice Chairman Aaron McNeill read the Moore County Mission Statement.

**PUBLIC COMMENT PERIOD**

There was no public comment.

**APPROVAL OF THE CONSENT AGENDA**

- A. Approval of Meeting Agenda
- B. Approval of Minutes of May 7, 2015
- C. Consideration of Abstentions

Board Member Gene Horne motioned to approve the Consent Agenda and the motion was seconded by Board Member David Lambert. The motion passed unanimously (8-0).

## **PUBLIC HEARING(s)**

Chairman Smith introduced the following case and Planning Director Ms. Ensminger.

***The Town of Pinebluff has requested to extend their extra-territorial jurisdiction (ETJ). The expansion area is located to the west of Pinebluff including a two (2) mile buffer from Parcel ID 00056458.***

Planning Director Debra Ensminger explained that the meeting is being held tonight because the Town of Pinebluff has requested an extension of their extra territorial jurisdiction (ETJ) to the west of Pinebluff including a 2 mile buffer from Parcel ID #0056458.

Ms. Ensminger turned over the item to the Pinebluff representative Mr. David Rooks.

Mr. David Rooks introduced himself as the Attorney representing Pinebluff. He referenced the map and stated that it represents a lengthy history that started 4 to 5 years ago when Pinebluff had a request of the county to expand on all sides. Since Pinebluff and the Town of Aberdeen overlap, the County requested that Aberdeen and Pinebluff come to terms first, which has since been completed. Mr. Rooks continued to explain that after the agreement between Aberdeen and Pinebluff the Town of Pinebluff made an application to the County which they thought was approved but at this time there is currently no agreement. Mr. Rooks stated that in the interim something changed that changed everything. The legislature in 2011 adopted a change to the annexation ordinance. There are no involuntary annexations anymore and the only way an annexation can occur is with the consent of the majority of folks being annexed. Mr. Rooks explained that this really changed Pinebluff's perspective because they were originally planning to annex to the east to the intersection of 15-501 but now they are interested in going to the west. The reason they want to go to the west is there is a parcel that is the town's water tower which is directly above the starred parcel. Mr. Rooks explained that the starred parcel is the measuring point in which the annexation request comes. The ETJ expansion is based on the distance from the town's last annexation. Mr. Rooks further explained that there was a change in a local bill in 1999 that allows Pinebluff to annex automatically from its last annexation point. As indicated by the map Mr. Rooks stated that Pinebluff is not going the full two miles out and the rationale is to primarily protect their water and to just be sure of what type of development is going to occur on its west side. Mr. Rooks stated that the Town of Pinebluff informed him that their intentions are to remain zoned as it is now or low intensity residential agricultural. They have no interest in becoming industrial or something that might threaten their water. Mr. Rooks further explained that there is a creek that is called Horse Creek that runs across Roseland Road and runs pretty much along the eastern part of the annexation and is also part of what they are trying to protect. Mr. Rooks concluded by stating that at this point the only issue that is being discussed is an extension of the ETJ to the west based on the annexation that occurred on the starred lot. There is no interest in annexing to the east and the only annexations that may occur from this day forward is if someone has a public

health emergency due to failed septic systems and wells and they have to get into a municipal system.

Board Member Shilling asked for clarification on what they are allowed to annex because the resolution that the board received states they are able to annex within two miles of their corporate limits.

David Rooks stated yes this is correct but did not understand the question.

Board Member Shilling asked for clarification from a previous statement that the expansion is allowed from their current ETJ.

David Rooks stated it is from the corporate limits not the ETJ.

Board Member Mims stated that he wanted to make it clear that he is on the town board of Aberdeen and asked Mr. Rooks if there were any issues.

David Rooks stated that the agreement between Pinebluff and Aberdeen was honored in all respects so there should not be any issues.

Board Member Shilling asked the rationale to include portions of parcels in the ETJ and not whole parcels.

David Rooks explained there are a couple of parcels where this is the case and in these circumstances it is unavoidable.

Board Member Shilling at the time thought the boundary was a farther distance and the split parcels could be included as a whole in the expansion. This boundary was indicated as the black line on the map. Mr. Rooks explained that red line is boundary and that is why some parcels were split and ultimately they just want to protect their water.

Board Member Mims stated that the concern with the county is relinquishing control and making sure the people within these areas are protected.

David Rooks stated that there are probably constitutional limits that governments can promise things.

Board Member Mims asked if there are any plans to develop any water and sewer lines in the undeveloped areas.

David Rooks stated no.

Board Member Joe Garrison asked if the proposal is approved does Pinebluff have to notify everyone and would the people have the same apparatus to express their concerns.

David Rooks stated that yes Pinebluff would hold a public hearing and go through a process of public participation.

Board Member Garrison asked for clarification regarding the intention of the expansion. Mr. Garrison understood that is to protect water and to keep zoning the same.

David Rooks stated yes this correct.

Board Member Garrison asked if the county already has it zoned, is the Town of Pinebluff saying the County is too relaxed.

David Rooks stated no it's just a matter of intergovernmental relations because you cannot always count on it being wisely ruled as it is today.

Board Member Mims asked if there are any water issues right now.

David Rooks stated no, it is more that they want to make sure of what is going to happen around their well.

Board Member Garrison had a question for Ms. Ensminger. Mr. Garrison asked if there are current protections for watersheds and water.

Ms. Ensminger stated yes there are watershed regulations that protect all of unincorporated Moore County.

Board Member Mims asked Ms. Ensminger if she knew of any issues in that particular area.

Ms. Ensminger stated that she did not.

Board Member Garrison asked Mr. Rooks if the decision is ultimately no, if there is a lawsuit or potential legal action the town would take.

David Rooks stated that the County Attorney Ms. Leland and himself have different views on the Senate Bill from 1999 and we are hoping it can get resolved without exploring those different views.

Board Member Garrison further asked if there are any cases that court would use to make a decision.

David Rooks stated that he and Ms. Leland have asked outside sources and have found people that agree with each side.

Chairman Smith asked that if Pinebluff gains control of the zoning of the proposed parcels would they infringe on peoples' property rights to protect the well. Mr. Rooks

asked for further clarification and Chairman Smith stated that this seems to a protection of the well I just don't know individual property rights to be of a concern.

David Rooks explained that this would have to be addressed to the town board in Pinebluff.

Chairman Smith opened the public hearing.

Chairman Smith opened the floor to opponents of the proposed request.

Mr. Cliff Belcher of 725 Thunder Road asked for clarification regarding the protection of the water source. Mr. Belcher wanted to understand why it needed to be changed when the water source was already protected by Moore County. Mr. Rooks explained the water source is not the county's water supply it is Pinebluff's and they want to protect it. Mr. Belcher asked if citizens would still go through Moore County and Ms. Ensminger explained that if this request is approved individuals would still have to go through the county and Environmental Health for well and septic approval but building permits would go through Pinebluff. Mr. Belcher concluded that he doesn't understand why this request is necessary when we would still go through the county.

Mr. Greg Sasser property owner of 320 Whippoorwill stated that he and his wife purchased the property to live in the county and they would like it to remain the same.

Mr. Howard Beal of 128 Ryder Cup Blvd had three questions for Pinebluff. First why has the circle been moved from the center of town and Chairman Smith explained this is due to the last annexation regulation that was adopted and allowed this change. Secondly Mr. Beal asked why some properties are skipped over and finally Mr. Beal asked what benefits they would receive because he feels this is taxation without representation.

John Darlington of 201 Murphy Drive North stated that he is the President of his subdivisions Homeowners Association and has some concerns regarding the minimum square footage that is required in Pinebluff. Mr. Darlington stated he assumes current homes will be grandfathered but has concerns about vacant lots in his subdivision and the minimum square foot requirement will not be beneficial for the demographic. Chairman Smith asked what will happen to the existing subdivision and County Attorney Ms. Leland stated she and Ms. Ensminger has never seen this before. Mr. Rooks explained he has seen this before and the existing homes would be considered nonconformities. Ms. Leland stated that a developer would probably run into the most issues. In conclusion Ms. Ensminger stated that Moore County does not regulate the size of structures.

Karen Reese May stated that she owns property in Addor and her property is divided by this request as well as other areas of Addor.

John Bright owns property on the north of side of Addor and is concerned about the exclusion of Addor and the ability to set up a mobile home. Mr. Bright concluded that he is concerned about the way business is being conducted.

Nancy Malone of 24E Persimmon Drive stated she is the President of the Homeowners Owners Association and is concerned the way Pinebluff conducts business. Ms. Malone explained the issues with water costs and that nothing is provided by the Town of Pinebluff. Ms. Malone concluded that she is against being controlled by Pinebluff in anyway shape or form.

Amy Kirk of 416 Rose Ridge Road is concerned about having the neighborhood being cut in half and does not want to be part of Pinebluff and would like to remain part of the Roseland neighborhood. Ms. Kirk concluded by stating that she believes this is just one step before annexation will occur.

Dale Daken 137 Ryder Cup Boulevard stated he doesn't have much to say because everyone has said pretty much what he wanted to say. Mr. Daken concluded by asking for a show of hands for those in favor of being taken over by Pinebluff.

David Rooks wanted to address the concerns of Ms. Kirks and that there will not be an annexation unless a majority is in favor of the change.

James Stancil of 420 Kirk Road stated that he pays extra for insurance because he is more than 5 miles from a fire department and he stated the statute 160(A)-360.

David Rooks stated that the reading of the statute does not take into account the local bill.

Bill Zell stated he is the Town Manager of Aberdeen and he said that he has one comment and one request. First Mr. Zell said his request is to allow Aberdeen to review this request before approval and his comment is they have 20 wells and have not completed any expansions.

Charles McKnight stated that he is always skeptical when land is involved and there is selective inclusion. Mr. McKnight would like some more explanation regarding why and the intent of the request.

Board Member Schilling asked Mr. Rooks about the request by Mr. Zell to include comment from the Town of Aberdeen. Mr. Rooks stated he would have no problem if they would like to provide comments.

Board Member Lambert asked Mr. Rooks if the lots that are not included pose no threat to the water. Mr. Rooks explained that he could not answer that question.

Board Member Mims asked Mr. Rooks if the Town of Pinebluff has explained specifically how this would protect the water source. Mr. Rooks explained that this is a matter of protecting the future of the water source. Board Member Mims explained that he is having a hard time understanding what they would do differently.

Board Member Eddie Nobles asked if there have been any studies completed to show how this would protect it in the future.

John Cook of 143 Sunnyview Road stated the reason the water has been brought up is to have a comparable case if it is denied.

Board Member Mims asked Mr. Rooks if there has been any studies completed that Mr. Nobles asked about previously. Mr. Rooks stated that he is not aware of any completed.

Chairman Smith asked if anyone else would like to speak.

Fred Goins of 1407 Current St stated that everyone works hard and feels it is very unfair and that the community was blindsided by Pinebluff.

Hugh Madison of 195 Sunnyview Road stated that he believes everything Pinebluff has done is underhanded.

Jean Frye of 348 Kirk Road stated that Horse Creek is very well maintained by the local church.

Mary King of 158 A King Lane stated that we do not desire to be a part of this ETJ and would like to be left alone.

Joel Stancil stated that he was concerned about not being notified and that it should be left alone to future generations.

Chairman Smith closed the public hearing.

Board Member Garrison stated that he would like to make a brief comment before providing a motion. In my opinion there is no immediate threat to the water source and it would be callous of any board to ignore the concerns of its citizens.

Board Member Joseph Garrison made a motion to endorse the Moore County Board of Commissioners to deny the request for expansion of extraterritorial jurisdiction by the Town of Pinebluff. The motion was seconded by Board Member Eli Schilling. Chairman Smith asked for any discussion and Board Member Schilling stated that there are concerns of citizens that are legitimate. Board Member Mims stated there is not a specific problem to address or a specific plan that the County of Moore would do differently. Vice Chairman appreciated Mr. David Rooks for being present and requested a representative of Pinebluff to be present to explain their decisions. Chairman Smith asked for all those in favor of the motion and the motion passed unanimously (8-0).

Ms. Ensminger explained to the citizens present that this decision is not the final decision. A Call to Public Hearing will take place on September 1<sup>st</sup> and the actual Public Hearing will take place on September 15<sup>th</sup>.

## **OTHER BOARD MATTERS**

Board Member Mims congratulated Chairman Smith of his appointment to Chairman. Chairman Smith in return thanked Board Member Mims for his leadership during the last year.

Board Member Schilling welcomed Board Member David Lambert to the Planning Board.

## **PLANNING DEPARTMENT REPORTS**

Planning Director Debra Ensminger explained that the UDO work sessions will continue during the September Planning Board meeting.

## **BOARD COMMENT PERIOD**

No Board comments were given.

## **ADJOURNMENT**

With no further comments Board Member Schilling made a motion to adjourn, the motion was seconded by Board Member Garrison. The motion passed unanimously (8-0).

Respectfully submitted by,

Lydia Cleveland