



MEMORANDUM

TO: Mayor and City Councilors

FROM: Rich Olson, City Manager
June Brooks, Planning & Community Development

DATE: July 9, 2015

REF: Consideration - Hold a Public Hearing for UDO Text Amendment (TA 01-15) filed by the Elizabeth City Police Department to amend the Unified Development Ordinance; specific to Article XI, Section 11-4.56 Pawnshops.

BACKGROUND:

During your June 22, 2015 City Council meeting, a Public Hearing was called for July 13, 2015 to consider text amendment request TA 01-15. The Elizabeth City Police Department requests that additional language be added to the Unified Development Ordinance to require pawnshops that purchase, sell, trade, barter, or store firearms to install and keep operational a video surveillance system; security alarm system; security bars on all first-floor windows; and security bars or roll-down panels on all first-floor doors.

ANALYSIS:

In response to numerous break-ins and attempted break-ins at local pawnshops throughout the City that resulted in the theft of 36 firearms, the applicant drafted an amendment to the Ordinance requiring additional security measures be required of pawnshops that engage in the purchase, sale, trade, barter or storage of firearms. The applicant cites the voluntary installation of such security measures by Chauncey's Pawn Shop owner as being a major contributor to three unsuccessful break-in attempts at the establishment in July 2009, March 2012, and January 2015.

The application was reviewed by the Planning Commission during their meeting on June 2, 2015. After hearing the testimony of both Staff and a representative of the Elizabeth City Police Department, a Planning Commission member suggested a provision be added requiring routine checks of the security measures at an interval

to be determined by City Council. This modification to the request was unanimously approved by the Planning Commission.

During your meeting on June 22, 2015, Council asked if the change could be retroactive. Staff contacted David Owens, at the School of Government for a legal opinion. His response is *"while somewhat unusual in the context of additional safety requirements or operational matters, you can require an existing business that is a lawful nonconformity to come into compliance with new regulations. This is a variation of the amortization concept that is most often applied to nonconforming signs. You would need to give them a reasonable time period to come into compliance (assuming no imminent threat to life or property)."* It is further stated in the Land Use Law in North Carolina published by the School of Government, amortization has been applied primarily to junkyards and signs. The North Carolina courts have ruled reasonableness of the length of the grace period is the key factor in determining the legal validity of individual amortization requirements.

Given the above factors, giving Pawn Shops two years to come into compliance would be reasonable.

STAFF RECOMMENDATION:

At the close of the public hearing:

By motion, adopt the attached ordinance approving Text Amendment Request TA 01-15 to amend Article XI, Section 11-4.56 Pawnshops adding subsection (E) Additional Requirements, to be imposed on pawnshops that purchase, sell, trade, barter or store firearms on the premises.

RCO/vdw

Ordinance # 2015-07-_____
Text Amendment TA-01-15
Unified Development Ordinance Article XI, Section 11-4.56 Pawnshops

WHEREAS, numerous break-ins and attempted break-ins at local pawnshops throughout the City have been experienced; and

WHEREAS, in response to this situation, the Elizabeth City Police Department requests that additional language be added to the Unified Development Ordinance to require pawnshops that purchase, sell, trade, barter, or store firearms to install and keep operational a video surveillance system; security alarm system; security bars on all first-floor windows; and security bars or roll-down panels on all first-floor doors; and

WHEREAS, on June 2, 2015, the Planning Commission reviewed the proposed text amendment TA-01-15; and

WHEREAS, the Planning Commission opened the floor for public comments in regards to this request and received no public comment; and

WHEREAS, the Planning Commission recommends approval of the text amendment request as presented.

NOW THEREFORE, BE IT ORDAINED that the City Council of the City of Elizabeth City does hereby approve this request to amend the Unified Development Ordinance Article XI, Section 11-4.56 Pawnshops, by adding the following Section E:

(E) Additional Requirements

- (1) The business will be required to have operational video cameras/surveillance on the premises.
- (2) The business will be required to have an operational security alarm system.
- (3) The business will be required to have all first floor windows and doors secured by means of bars across windows and doors or by having roll down panels over each. The security bars shall not obstruct visibility during business hours when customers are being served.
- (4) Existing Pawn Shops shall come into compliance within two (2) years of adoption of this ordinance.

All expenses incurred in complying with the additional requirements will be the sole responsibility of the business owner.

ADOPTED this 13th day of July 2015.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
TUESDAY, June 2, 2015
4:00 PM**

MEMBERS PRESENT

Ernest Sutton, Chairman
Sonny DiGirolamo
Carlton O'Neal
Gary White

Also present were June Brooks, Planning Director; Kaitlen Alcock, Planner and applicant.

Chairman Sutton called the meeting to order and stated that there was a quorum. He asked for a motion to approve the minutes from the May 5, 2015 meeting. Mr. DiGirolamo made a motion to **APPROVE** the minutes as read from the May 5, 2015 Planning Commission meeting. Mr. White seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL and WHITE. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton asked for Ms. Harris to read the Statement of Disclosure as follows.

Elizabeth City Code of Ethics provides that public officials and employees be independent, impartial and responsible to the public; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals and in keeping with the ethical standards of conduct for city public officials and its employees, disclosure of interest in legislative action must be stated for the public record, as per City of Elizabeth City Code of Ordinances Section 2-113. Any member of the Planning Commission who has an interest, as defined in Section 2-111 of the City of Elizabeth City Code of Ordinances, in any official act or action before the Commission shall publicly disclose on the record of the Commission the nature and extent of such interest, and shall withdraw from any consideration of the matter if excused by the Board pursuant to G.S. 160A-75.

Chairman Sutton asked for a motion to approve the revised amended agenda to include the Election of Officers for the meeting tonight. Mr. White made a motion to **APPROVE** the amended agenda for the June 2, 2015 meeting. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL and WHITE. NONE OPPOSED. MOTION PASSED.**

At this time Chairman Sutton opened the floor for nominations for the Planning Commission Chairman. Mr. White asked Chairman Sutton when his term expires. It was stated that his term ends in 2017. Mr. White made a motion to nominated that Mr. Sutton remain the Planning Commission Chairman. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: DIGIROLAMO, O'NEAL AND WHITE. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton called for a motion for Vice-Chairman of the Planning Commission. Mr. Witosky presently holds that position. Mr. DiGirolamo made a motion to nominate Mr. Witosky remain as Vice-Chairman of the Commission. Mr. O'Neal seconded the motion. ***ALL IN FAVOR: SUTTON, DIGIROLAMO and WHITE. NONE OPPOSED. MOTION PASSED.***

New Business tonight was **CASE NO.: Text Amendment TA 01-15** filed by the Elizabeth City Police Department to amend Article XI of the Unified Development Ordinance; specific to Article XI, Section 11-4.56 Pawnshop. The applicant is requesting to add to the ordinance additional requirements if firearms are bought, sold, traded, bartered or stored. Chairman Sutton asked Ms. Alcock to give her report.

STAFF REPORT

Text Amendment 01-15 is a proposal made by the Elizabeth City Police Department to amend the Unified Development Ordinance, specifically Article 11 Development Standards, section 11-4.56 Pawnshops. The ECPD would like to see language added to regulate those pawnshops located within the City that are engaged in the buying, selling, trading, bartering or storage of firearms. As was stated in the provided staff report, the proposal is in response to numerous break-ins and attempted break-ins since 2005 that resulted in the theft of 36 firearms. Chauncey's Pawn Shop was the victim of two break-ins, one in October of 2005 and another in April, 2006 resulting in the theft of 23 firearms total. In an attempt to strengthen security, Chauncey's owner installed a roll-down security door and security bars on the windows which is thought to have deterred three more recent break-in attempts. As such, the ECPD is of the opinion that requiring the installation of video cameras, alarm systems, security bars on first-floor windows and security bars or roll down panels on all first-floor doors of any pawnshop engaged in the buying, selling, trading, bartering or storage of firearms, will help deter any break-ins or attempted break-ins in the future. Staff is in agreement with the Police Department and recommends APPROVAL of this request. As a reminder, the discussion and decision made by the Commission today will be forwarded to City Council who will make the ultimate determination.

Chairman Sutton asked for Captain John Young of the Elizabeth City Police Department come forward. Capt. Young stated that this text amendment had come about in December of 2014. There was a break-in at the new Elizabeth City Pawn by the Food Lion. They were open at this location approximately a week prior to the break in. They did have an operation camera system in place. They did have bars over the windows. They did not have bars over the doors. That is where a brick went through and they went in and stole five guns. This is an unsolved case. The perpetrators had on mask and you could not tell who they were. Capt. Young stated if there had been bars over the doors this could have been completely prevented. He stated that Chauncey's Pawn Shop over a period of two years had two break-ins where 23 guns were stolen and assimilated out on the street. Capt. Young stated if they could stop just one of the guns from shooting one person or killing one person that is all worth what is being done today. He stated that the police department is trying to take a proactive approach.

Mr. DiGirolamo stated that he just had a couple of questions relative to the numbers. He stated that he knows since Chief Buffaloe has been here there have been some new computer systems put in where you can back and track certain things. He asked if that is how they came up with

the information. Capt. Young stated no they actually had that information prior to the computer system. Mr. DiGirolamo stated that what has been presented in the text amendment to him is a "no brainer" and should have been from day one. Mr. White stated without having to force this issue. Capt. Young added that there are a ton of businesses in Elizabeth City that have camera or surveillance systems. Do they work? He stated no. Had they worked the solvability factor would have gone through the roof. Actually, nationwide the ECPD has a pretty good solvability factor on most of their felonies and misdemeanor crimes; however, they have a large percentage of businesses in town and the ECPD cannot stand by idly and watch the pawn shops do the same thing. He stated that they have several times. The shops will have systems in place and years ago when they had tapes they would forget to put the tapes in. Now the cameras are so grainy you can't see anything. Capt. Young stated that they need them operational to the put they can make out someone's likeness. Mr. White asked about the drug stores and if there was a problem there. Capt. Young stated they will come up with that next.

Chairman Sutton asked if there was anything in policies that would require a visual check to ensure the cameras are operational. Capt. Young stated that it would be easy for them to send one of their Community Police Officers or Crime Prevention Officers around to the pawn shops on monthly or quarterly bases. He thought it was a good idea. Mr. White stated that you have to have compliance or it is just words on paper. Chairman Sutton stated that he would highly recommend that it be put in operation procedures so there is a way to make sure of compliance. Mr. DiGirolamo stated that he concurs.

Mr. White asked if there are civil penalties for violations for text amendments. Ms. Brooks stated that Staff can impose civil penalties; however, all pawn shops must have a Conditional Use Permit and it is through that process that additional conditions can be placed on them. Permits can be revoked.

Mr. White asked if the existing pawn shops would be given a certain amount of time to come into compliance. Mr. DiGirolamo stated that he did think that would be in the Planning Commissions realm. Ms. Brooks stated it would not.

With no further comments or questions, Chairman Sutton called for a motion. Mr. DiGirolamo made a motion to **APPROVE Text Amendment 01-15** as written adding the conditions to Section 11-4.56 Pawnshops of the Unified Development Ordinance. Mr. White seconded the motion. **ALL IN FAVOR: ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL and WHITE. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton told Capt. Young that the Commission applauds him for the active efforts to support and encourage our young people. He stated that he really thinks that it is chief to many of the problems that we, as a City, deals with. [Inaudible.] Chairman Sutton stated that he feels that Capt. Young has done an outstanding job touching lives of so many of our youth.

Chairman Sutton stated that on June 12th from 11:00 am to 2:00 pm his church will be honoring law enforcement, first responders (fire departments, law enforcement, EMS and families) from Pasquotank, Perquimans and Camden. He gave invite to all.

Chairman Sutton congratulated Mr. White on his appointment to the Planning Commission. Mr. White stated that he looks forward to working with Staff and if he can be of assistance to anybody he will be glad to.

With no further comments, meeting was adjourned by motion from Mr. White and second by Mr. DiGirolamo. **ALL WERE IN FAVOR.**

Respectfully submitted by,

*Dawn Harris
Secretary to the Board*

DRAFT