

Special Meeting/Rezoning Public Hearing - July 18, 2016

The Randolph County Board of Commissioners met at 6:00 p.m. for a special meeting and duly advertised public hearings in the 1909 Randolph County Historic Courthouse Meeting Room, 145 Worth Street, Asheboro, NC. Commissioners Frye, Kemp, Haywood, Lanier, and Allen were present. Also present were County Manager Hal Johnson and Amanda Varner, Clerk to the Board. Attorney Robert Wilhoit was present and had been retained to represent the Board of Commissioners due to a possible conflict of interest of County Attorney Ben Morgan.

EDC Public Hearing

Chairman Frye announced that the first public hearing scheduled for this meeting and requested by the Economic Development Corporation regarding conveyance of real property in the West Randleman Business Park had been withdrawn.

Rezoning Public Hearing & Action

Chairman Frye opened the meeting by stating that this was a Conditional District rezoning. The applicant must agree to any conditions that the Commissioners may decide to impose on the request. If the applicant does not agree to any special conditions, the request must be denied and the applicant would be regulated by terms of the 2008 rezoning permit.

At 6:04 p.m., the Board of Commissioners entered into a duly advertised public hearing to consider the rezoning request. Jay Dale, Planning Director, presented the following request and Chairman Frye opened the public hearing for comments and closed it before taking action.

BKM RANDOLPH, LLC., Asheboro, North Carolina, is requesting to amend the Conditional Zoning District located at 279 Joe Farlow Road, on 25.02 acres, Richland Township, Primary Growth Area, Zoning District HI-CD. Tax ID# 7666058421. The proposed Conditional Zoning District would specifically allow the property to be used as a motor sports facility and outdoor physical fitness events as per site plan. The Planning Board reviewed this request at a public meeting on June 7, 2016, and unanimously recommended that this request be denied. The Planning Board found the following policies within the 2009 Growth Management Plan that support determination of consistency with the adopted plan:

Policy 3.7 Sustainable economic growth, environmental protection, and quality of life shall be pursued together as mutually supporting growth management goals.

Policy 7.2 Industries producing excessive noise, odor, air and water pollution, or other harmful impacts shall be discouraged, unless such adverse impacts can be clearly overcome through effective mitigation.

Mr. Dale reviewed the G.I.S. generated maps reflecting locations of residential structures, photographs of property and surrounding area, the site plan, pertinent information from prior zoning meetings and the March 7th Commissioner meeting regarding BKM (doing business as Zoo City Motorsports). During those meetings there were some questions and discussion about types of events, hours of operation, buffers, and noise in regards to the BKM/Zoo City Motor Sports Park. At the February 16, 2016, meeting, Mr. Maness agreed to eliminate go-carts, demolition derby, mud bogs and tractor pull events from his request. Since then, Mr. Dale and Mr. Maness have also reviewed the buffers on the property and only saw one thinned location

that seemed to have happened as DOT did the upgrades to US220 when it became the new Interstate 73/74. Mr. Dale said Mr. Maness was willing to plant some vegetation to fix the buffer if it was felt that it was too thin. Mr. Maness contracted Jerry Harrison of a local sound company regarding the public announcement (PA) system on the property. Documentation was provided from Mr. Harrison regarding sound level capability of the equipment Mr. Maness uses and the distance at which it could be heard. A letter from Mr. Harrison was included in the zoning request agenda materials stating his opinion is that Zoo City has taken appropriate steps to reduce peripheral noise generated by the PA system.

Mr. Dale said, at the March 7th Commissioners' meeting, the Commissioners requested the Zoning Board review the application and request again and submit a clearer request of what would be the hours and activities for the Board of Commissioner to consider. Mr. Dale said they have spoken with both sides of the argument and feel the Planning Board is presenting conditions that are somewhat of a middle ground and said Mr. Maness has reviewed the following:

1. Operation Hours for Motorized Events: to include dirt bike, motocross, ATVs, UTVs, and OHVs on Racing Track and Trail with no more than one race to be held at a time; No more than 30 racing events allowed per year. *The 30 was requested to allow for growth, if it happened.*
 - a. Monday, Tuesday, Thursday 9 a.m. – 10 p.m.
 - b. Wednesday 9 a.m. – 6 p.m., *in order to accommodate for nearby church hours*
 - c. Friday – Saturday 7 a.m. – 11 p.m.
 - d. Sunday 12 p.m. – 8 p.m.; however eight Sundays a year he would like to operate 7 am – 8 pm to support sanctioned events.
2. Operation Hours for Non-Motorized Events (to include cross country trail, bike events, BMX events, foot races, obstacle runs, mud runs, maniac runs, and ninja warrior events)
 - Sunday – Saturday 7 a.m. – 11 p.m.
3. Extended Hours:
 - a. New Year's Eve and Day 7 a.m. – 11 p.m.
 - b. October: 12 nights from 7 a.m. – 11 p.m.
4. Public Announcements Allowed at All Events
5. Firearm Events Prohibited.
6. Go-Carts, Demolition Derby, and Tractor Pull Events Prohibited.

Mr. Dale said the Planning Board denied the request because they couldn't come to an agreement on a good definition of what an OHV was. Mr. Dale said it has been explained to him that the OHVs run quieter because of their muffler system. He said there was also concern of the OHV engine size growing over time. The opinion of the Honda dealership was that it might go as high as a 1,200cc, but didn't see the industry producing anything larger because the frame couldn't support it. BKM submitted a proposed definition for this public hearing as follows: *OHVs are Polaris RZR-like machines. They have four wheels with low pressure tires. Riders sit side by side in the machine as in a car. Steering is by means of a steering wheel. These machines are primarily used for recreation and trail riding. Some of these machines offer cargo area in the rear but it is usually much smaller in size and capacity in comparison to UTVs. The*

engine sizes of these machines vary. Currently, they range from 400cc to 1,000cc; however, their size may change as industry evolves. These units typically weigh from 1,000 to 2,000 pounds. Some examples are: Polaris RZR, Artic Cat Wildcat, Kawasaki Teryx, and Honda Pioneer. (Pictures of the brand examples listed were also shown to the Commissioners.)

Commissioner Haywood asked if the PA system would operate during the non-motorized events on a Sunday morning beginning at 7 a.m. and the answer was yes and during all events. Mr. Haywood was concerned that would still affect area church services.

Adam Spivey, Attorney representing Barry and Krista Maness (BKM Randolph, LLC.), asked to take a count of people in attendance in support of the rezoning request and reported approximately 102 people stood in support.

Mr. Spivey said the Technical Review Committee approved the request twice prior to sending to the Planning and Zoning Board to consider. He said the Board of Commissioners asked for clarification on three specific points: buffers, PA system/noise, and hours of operation and the Technical Review Committee presented conditions that addressed those issues.

Aerial photographs of the trees that buffer and surround the property were shown, highlights from the letter provided by the sound technician Jerry Harrison were read, and Mr. Spivey discussed the hours of operation that were changed in the request to address concerns of practices or events being held during normal Wednesday night and Sunday morning services. He said they have continually “given in” or made changes but the opposition has not once agreed to yield from their end. He said BKM started out asking for 120 items on the application. The application has now been amended to the list that was presented by Mr. Dale at the beginning of this meeting.

Mr. Spivey said the growth the facility has experienced is a “testament to what they’ve been or could be with the support of the community.”

Commissioner Frye asked for details about the eight Sundays with special hours that were being requested. Mr. Spivey stated that there are event promoters that bring two-day events and those would start earlier in order to complete on time. Mr. Frye also asked if there are sanctioned events for OHVs and Mr. Spivey said yes.

Commissioner Haywood asked Mr. Spivey to explain why the number of visitors was down from previous years. Mr. Spivey suspected supply and demand, but asked Mr. Maness to elaborate. Mr. Maness said the Rugged Maniac event moves around after two years in a row at one location. That particular event brought in thousands of people from all over the world (38 states and eight countries). He said another reason was that he had not booked any additional events since the November 2015 notification from the Planning Department.

Barry Maness, BKM Randolph, LLC., explained again how he was injured in 1982 in an ATV accident and stated he realized that there were more dangers in trail riding that are not present in track riding. He started the business in 2008 and currently has 3,300 members. Over 1,000 have signed the petition presented to the Planning Board. Mr. Maness said the Technical

Review Committee had always been very supportive and a pleasure to work with. Mr. Maness said he had invested his life in this business, providing a place for those who like to ride and giving them a safe place to do it. He indicated he has had to turn two events away that could have been economically beneficial for the county.

He stated the facility is normally only open 52 days a year. He also addressed the two OHV events that had been held in two separate years stating one was from 6 p.m. to 10 p.m. and the other was from 12 p.m. to 6 p.m.

Commissioner Haywood asked whose responsibility it was to make sure all rules are being followed and Mr. Maness replied it was his. He stated he has less than six employees and 24-150 volunteers. Commissioner Haywood asked about liability insurance and he stated that an event promoter carries their own for an event, but he has everyone that enters the gate sign a waiver that states they are there at their own risk. He said there is no insurance available for this particular type of sport facility. He said rules and the risk statement are posted outside the gates.

Commissioner Allen said it seems that Sundays are contentious and asked how many Sunday events are held. Mr. Maness said he can only remember one in the last eight years.

Mr. Maness explained that some of the non-motorized events offset the expense of some of the other events that are not as strong. He had been approached by two different companies to hold mud or athletic type events.

Commissioner Lanier asked how far in advance events are planned and Mr. Maness replied they are booked at least a year to year and a half ahead to allow for promotion.

Mr. Maness went on to explain a typical racing year, the amount of money one invests and the end of the year banquet his facility hosts at AVS Banquet Centre for all participants.

Mr. Maness said that someone had recently opened a facility in Davidson County near the Randolph County line and they “were welcomed with open arms.” He is concerned about losing even more business and the economic aspect it brings to the county. He said there are at least six facilities on a similar scale in NC.

Commissioner Haywood asked what a typical Saturday of motor cross consisted of. Mr. Maness responded that the gate opens at 3:00 p.m., practice at 4:00 p.m. and a 5:15 p.m. rider’s meeting with the pledge and a prayer being held. The order of classes taking the track varies. Mr. Haywood also asked how many riders were on the track at a time and Mr. Maness said up to 21 riders and the average age of riders is around 13 years of age.

Commissioner Allen asked how many OHVs could run on the track at a time. Mr. Maness stated eight to ten would be all the track could accommodate. They would have qualifying races to reduce the field down if more than that are participating.

Commissioner Haywood said he hoped everyone could agree on a way Mr. Maness can operate with the neighbors having some degree of peace.

Mary Brewer, 245 Bobby Moran Dr., Asheboro, spoke in opposition and said she has lived on her property located 150 yards from the track for 38 years. She said she's had to deal with the noise, dust and fumes. Ms. Brewer works and is tired when she gets home and is usually in bed by 8:00 p.m. She said that the Maness' never told her about a motorcycle track; only that they were building a home there. She then referred to the initial report where there was a statement that the facility would be building a berm to protect the neighbors along Bobby Moran Drive, but stated that it hasn't been built. Ms. Brewer said she has been keeping a list of people who have been to her house and heard the facility. She feels the facility has "downgraded the neighborhood."

Tammy O'Kelley, Director of the Tourism Development Authority (TDA), said she speaks on behalf of the TDA and not the County of Randolph about her perspective on the tourism impact that Zoo City has had. She said Mr. Maness has not pursued other events while not knowing the outcome of the request, therefore, the reason for fewer numbers of visitors. She said most tourism attractions are open on Sunday. Promoters are telling Mr. Maness that they have some events that span two days.

Zoo City has been a featured attraction on TV, digital and magazine ads. She stated the attendance number comes from the number of tickets sold. The motivating goal of the TDA is to fuel the local business climate, broaden the County's tax base by supporting and stimulating the growth of tourism product and service that attract and serve visitors as a means of bringing new monies into the county. She said the Zoo City Motor Sports Park generates purchases that sustain the local economy, including food, fuel, lodging, amusement, entertainment, and retail. Those purchases result in sales and occupancy tax dollars to Randolph County thereby offsetting the tax burden to local citizens. Ms. O'Kelley asked the Commissioners to give strong consideration to the impact the facility has to the travel and tourism industry in Randolph County.

Brent Trotter, 753 Moore Rd., Asheboro, said he is employed by Cycle Center. He explained that the UTVs were originally built by Kawasaki to be used as a utility vehicle. He said the market has now changed into more of a sport and they can be used as a recreational type vehicle also known as a side-by-side or OHV. He reviewed the sales at Cycle Center and stated that sales of side by sides (OHVs, UTVs) and ATVs have increased greatly. He said that, although there are trails that allow OHVs that are trucks, jeeps, etc., this is not what Mr. Maness is considering. He said they are not street legal vehicles; they are used strictly off-road.

Mr. Trotter stated that he and his family attend the track together and both of his children participate. He said the facility is a contributor to the tourism of the county. Many attend as spectators only. He reiterated that the Rugged Maniac foot race through mud held at the facility hosted over 10,000 people in one weekend. In 2014, over 30,000 tickets were sold for entry into the facility. If they brought families, stayed in a hotel (at capacity that weekend), bought fuel, ate, and shopped, then they could have brought in nearly three million dollars to the county during that year.

Mr. Trotter said that what has been proposed will force the facility to close or drag the

process out so long that it financially breaks the Maness family. He stated that the facility lost opportunities to host major events in 2016. One was a physical fitness contest called the Bone Frog Challenge, owned and operated by US Navy SEALs. It went to another riding park like Zoo City located in SC. He asked that the Commissioners to approve the request as presented by BKM.

Jack Cleary, 340 Colonial Loop, Randleman, spoke in favor and stated he is a motor cross photographer and track-side chaplain. He operated a Christian home for recovering addicts for 22 years and knows what drugs and alcohol can do to youth. This activity keeps them off the streets. He said he is also there to be a Christian witness to those who attend. He is in charge of the pre-event prayer and said if there were Sunday events, he would hold a Sunday service. He said BKM/Zoo City is a Christian oriented operation. He asked that the Commissioners to consider the request in order to give the youth a positive family-oriented environment in which to play and grow.

Rick Stanley, 120 Monarch Ct., Advance, said he heard about the hearing on the news and decided to attend in support of the facility. He explained that he has served on the American Motorcyclist Association (AMA) National Board for the last several years. He lives in Davie County and owns a track called Stanley Farm. In 2015, he started a non-profit rider's series, where seven tracks are involved within an hour drive of Winston-Salem. He saw participation drop-off because people couldn't afford to ride anymore so he invested his savings into a project that allows kids an opportunity who would never have a chance to ride without these efforts. They pay for the child's entry fee, four wheeler, gas and tires. Large sponsors are involved and they raise money so the kids can travel. In this first year 19 kids who range from 4-7 years of age are involved. The project, Carolina Series, now furnishes bikes for all the races at the track in Black Ankle, NC. They also bring a load of small motorcycles to the track to allow kids the opportunity to ride for the first time. Mr. Stanley said he has talked with Mr. Maness and hopes to work with him on providing the same at his facility.

Kevin Sype, Seagrove, employee at Zoo City, said he has been helping at the track for seven years. He said the facility caters to youth ages 5-19 years old. He said they operate Thursday evenings from 6 – 10 p.m. and race on occasional Saturdays for six hours. He said they put out 25,000 gallons of water to keep dust down on the track. Kids are brought by their parents who have jobs, so schedules are made when time is available to bring a child. In the spring and fall, they are also open on Tuesday evenings from 5 – 9 p.m. They are not open on Wednesdays or Sundays due to church services. Mr. Sype said 10 – 14 hours a week is not a lot to ask.

At 8:01 p.m., the Commissioners took a short recess and resumed at 8:07 p.m.

Tom Wright, 301 N. Elm St., Greensboro, Attorney, stated he was representing Scott Etheridge, Johnny Dorsett, and Anthony Cople who are not against the facility, but oppose the rezoning request as it is presented. They are concerned about when the noise is inflicted on the neighbors. He reviewed the history of the site, the application specifications and details of previous meetings. He said the original application stated that it would allow for a "motorcycle course and training facility" and that Mr. Maness planned to build his home there. He said nowhere does the application ever mention a "racing facility" and that "the applicant has found it

easier to ask for forgiveness than permission.” The “Board didn’t envision this becoming a full-fledged motorsport facility” therefore, they “didn’t have a chance to assess what kind of noise would be generated as a result of this.” “According to the website there are 34 different categories of events in any particular race day” and some “may have multiple” heat races “so that isn’t just a couple of bikes on the track at one time.” Mr. Wright also said that track preparation is an irritant to the neighbors.

Other issues addressed by Mr. Wright were 1) the neighbor’s requests for the hours and days of operation to be limited to alleviate the annoyance to the community as you “have to regulate when the noise is heard when you can’t regulate the decibel levels;” 2) the Sunday morning hours; 3) the vegetative buffers that neighbors feel are ineffective in this case; and 4) the sound engineer that was hired to check the PA didn’t attempt to measure the noise level of the bikes. Mr. Wright said they do not have any problem with the non-motorized events but feel the application doesn’t restrict a music concert that could be a major disturbance. He said the neighbors are not confident that the OHVs will be limited because the applicant didn’t stick to the original zoning restrictions.

Mr. Wright stated that from the beginning, “Mr. Maness has turned a deaf ear to the needs of the neighbors” and that has led to the distrust. He said the “rules were too vague to be enforced and this Board has the opportunity to fix it so both parties can co-exist.”

Chairman Frye asked Mr. Wright if he was familiar with the alternate motion made at the zoning hearing and he was. Mr. Wright read those and elaborated.

1. The addition of the word “to **only** include” dirt bike, motocross, ATVs, UTVs, (specifically excluding OHVs), on racing track and trail. No more than **25** racing events allowed per year.
2. Monday, Tuesday, Thursday hours of operation during the months of September through May will be 9am – 9 pm and Monday, Tuesday, Thursday hours of operation during the months June through August will be 9 am – 10 pm.
3. The Sunday events scheduled would be 12 pm – 8 pm (**five** Sundays a year - 7 am – 8 pm)

Mr. Wright said he felt like the word “only” was added to be specific about what could be used there; the hours were changed to limit the time the neighbors would hear the noise; and neighbors felt five Sunday events were plenty.

Chairman Frye asked Mr. Wright if they would accept those terms. He said he couldn’t speak for all the neighbors but thought his clients would.

Commissioner Lanier said he feels weather also affects the travel of sound.

Commissioner Kemp asked if Mr. Etheridge’s house had been built before the track was opened or after. Mr. Wright stated that it was built after or about the same time.

Michael Poindexter, 6220 US Hwy 220 S., Asheboro, Pastor of the Lighthouse Baptist Church, stated that they do not want to shut down the facility. Their concern is the latest request for the expansion of classifications. He relayed statements made during the Planning Board meeting of an exchange between Attorney Ben Morgan and Attorney Amiel Rossabi, as follows:

Morgan asked the applicant to state their definition of an OHV again. Rossabi... said an honest definition would be any off road vehicles, meaning any vehicle that is not made to use on the road. Morgan asks if he said ANY off highway vehicle...Rossabi agreed that it could be ANY off highway vehicle. He said it could even be a tank truthfully...

Rev. Poindexter said if the church and neighbors have misinformation about the expansion then it came from attorneys representing BKM.

Rev. Poindexter said when he heard the impact that Zoo City is making on the lives of young people, even though they, as a church, feel BKM was operating outside of what it were zoned for, those young people needed the influence in their life if it will take them off the streets. Lighthouse Baptist Church wants to support that and not hinder it. After the March Commissioner meeting they invited anyone concerned from the community to meet and a proposal was drafted and sent to Zoo City but no response has been received. He said conditions and classifications were not very defined and the proposal asked for concrete stipulations.

He said as a church, they desire to co-exist. He hopes a settlement can be made that gives the neighbors some kind of peace and yet allows the facility to remain open.

Susan McKenzie, 211 Edna St., Asheboro, said when Mr. Maness first opened, it was their understanding the facility would be used for training children to race not for sanctioned racing for all ages. She said Mr. Maness is part of the community and they are willing to work with him. Of the people that stood up earlier in the meeting, she said maybe “a handful actually live” nearby. She says she can hear the noise from her home.

She stated that Mr. Maness had stated he had held two off-road events in the past and she asked why this hearing was even happening if Mr. Maness was “going to do what he wants to do anyway.” Ms. McKenzie said they don’t want for him to shut down, but asked that the noise not increase.

Scott Etheridge, 4305 New Hope Church, Rd., asked for a count of people in opposition. Mr. Dale counted and estimated 60 people.

Mr. Etheridge said he found out about the rezoning request when he received notification of the hearing held in February 2016. No one had ever said anything about the noise because most just assumed the facility was operating as they had been zoned. He said he feels the noise level has gone beyond what anyone expected. Mr. Etheridge built his home in 2010 and understood that it was a “practice facility” and had no problem with it since he also rides a motorcycle. He stated he had no problem with a practice facility but there is a “difference between practice and racing.” Mr. Etheridge said that at the Planning Board meeting it was stated that former County Planning Director, now County Manager, Hal Johnson had approved “racing” as allowed at this

location under his interpretation of the 2008 conditions. Mr. Etheridge said that if this was true, he would sit down. However, he believed that what Mr. Maness was told was that he was allowed to have a few non-profit charity events each year but Mr. Maness was never approved for a fully sanctioned motorcycle racing facility. Mr. Etheridge said since the initial application to rezone, go-carts have been removed and OHVs have been added. He referred to the June Planning Board meeting where different definitions were given in regards to the definition of an OHV, which he says is a concern.

Mr. Etheridge said the Commissioners charged the Planning Board with a job and the Planning Board has denied the request twice. "In the minutes, you can see that the Planning Board tried to work with all parties for something that was agreeable to all." He asked the Commissioners to lock in the conditions so the enforcement officers have a guideline to follow.

Mr. Etheridge asked that the Commissioners consider the list of recommended conditions from the Richland Community that were presented to the Planning Board and included in the agenda packet.

Chairman Frye asked Mr. Etheridge the same question as Mr. Wright regarding the alternate motion made at the zoning hearing and whether he would accept the conditions presented. Mr. Etheridge said they would take any help that the Commissioners could give them. He elaborated on the number of requested Sundays with special hours stating that eight would equal two months during the summer.

Chairman Frye read from the Planning Board Minutes: *Rossabi said that they would reluctantly agree to the 25 events allowed, reluctantly agree to "six" Sundays a year rather than the original 10 they proposed and the five the Board has requested (he said they had already reduced it to eight for the current proposal)... They do not agree to omit the OHVs...*

Mr. Etheridge stated it didn't "matter what he (Mr. Maness) agreed to because they (Mr. Maness and attorneys) had already thrown down the gauntlet again tonight. If they don't get it, then they're closing. So they can't accept anything less than what they've asked." Chairman Frye said the minutes from the Planning Board meeting also state that Mr. Maness would accept. Mr. Etheridge replied, "I know. What is it? I don't know." Chairman Frye said "their (Planning Board) only issue was the OHV." Mr. Etheridge said Sunday was a much larger issue than the minutes reflect but said he would agree to the five Sundays or whatever the Commissioners could do to help the Richland Community. He said Mr. Maness and his attorneys asked for ten Sundays which would be every Sunday for two months during the summer. He said the BKM representatives always say they intend something to be a certain way and then it's not.

Mr. Etheridge then read the comments of Mr. Spivey from page 16 of the June 7 Planning Board draft minutes and said this was an example of how BKM has initial intentions but that they become something else: *Spivey said he was asked if an OHV could be trucks and he said that it is a broad term for any off highway vehicle... and assured the Planning Board by stating that trucks are not used at this facility.* Mr. Etheridge said it is important the way that it is said, "Trucks are not used at the facility." "Are not used means present tense Mr. Chairman. It does not mean they will not be used in the future."

Chairman Frye stated the alternate motion that Mr. Ridge made included only five Sundays instead of the eight and Mr. Rossabi had said BKM would not agree to that because they had already reduced it to eight Sundays for the current proposal. Chairman Frye then said Mr. Rossabi had said that they would reluctantly agree to the 25 events and wanted eight Sundays but they would accept six a year instead of the five the Planning Board proposed but that they do not agree to omit the OHV.

Mr. Etheridge again stated whatever the Commissioners “could do to give their community some peace.”

Commissioner Haywood said in his research he found that noise pollution contributed to heart disease in such a way that it yielded a cost of \$3.9 billion a year. Mr. Etheridge said that your hearing is always on, even when you sleep, so you may not be sleeping soundly with noise in the background. Commissioner Haywood continued and said that Dr. Louis Hagler had said that noise pollution was a cumulative effect and that it degraded residential, social, working and learning environments with corresponding real economic and intangible well-being losses. “It interferes with sleep, concentration, communication, recreation and even contributes to dementia, Alzheimer’s and those kinds of issues related to the mind.”

Mr. Etheridge next discussed the tax revenue the County collects from the residents in Richland Township to be nearly \$100,000 (\$85,070.19 per documentation he presented from a Tax Department report). He said if this is allowed to be a full-on motor sports facility, the Commissioners could anticipate that citizens may begin to challenge the assessed tax value of their homes because they may not be sellable.

Amiel Rossabi, Attorney, also representing Maness, said they are trying to find a balance that also supports the community and believes that is what everyone is trying to do. He said Mr. Maness answered all the questions the Commissioners asked about their three concerns: buffers, the PA system, and hours of operation. He said it is untrue that they have not worked with others in the neighborhood. He said he sent an email to Mr. Wright asking to begin the dialog since the Technical Review Committee had asked for that but has had no reply from Mr. Wright. Then he referred to the comment made by Mr. Etheridge earlier in the meeting; “why even dialog?”

He said none of the conditions being requested are adding more noise and if they add the OHVs, it was stated that their mufflers make less noise. He said they have given facts and not “made up” information. This is about rezoning a piece of property and not about one or two particular people. Everything is subject to interpretation, but the Technical Review Committee understood the request and advised approval. Mr. Maness has been willing to work with the community and tried to be a good neighbor by reducing his request.

Chairman Frye again quoted Mr. Rossabi from the Planning Board minutes: *Rossabi said that they would reluctantly agree to the 25 events allowed, reluctantly agree to “six” Sundays a year* He said that he now has a picture showing the “like” vehicles as discussed...They do not agree to omit the OHVs... and asked if that still stands. Mr. Rossabi asked “in light of the evidence that OHVs have better mufflers systems, is the OHV really and issue?” Mr. Maness

“has done it only twice in eight years and maybe only twice more in the next eight years. Can’t see the future, but don’t want to turn down anything whether it’s a fad or not.” Chairman Frye said he did not know, but needed to clarify because he didn’t know how the other Commissioners were going to vote. Chairman Frye said another question was whether they get modified. Mr. Rossabi replied that “anybody can modify anything” and added that the Technical Review Committee said the request was enforceable as submitted.

Attorney Robert Wilhoit, representing the Board of Commissioners, asked if Mr. Rossabi and Mr. Maness would agree that the restriction be that the original equipment not be modified on that type of vehicle since it is quieter and Mr. Trotter had disclosed that it is quieter than the other items being used. Mr. Rossabi asked the Commissioners to give the conditions as a package and he would consult with Mr. Maness.

Commissioner Allen asked Mr. Rossabi if they would accept the conditions that Planning Board Member Ridge presented. Mr. Rossabi asked that those be restated. Commissioner Allen read the following:

Ridge made the motion to approve the conditions as they were presented by the applicant, with the following exceptions:

- 1. The addition of the word “to only include” dirt bike, motocross, ATVs, UTVs, (specifically excluding OHVs), on racing track and trail. No more than 25 racing events allowed per year.*
- 2. Monday, Tuesday, Thursday hours of operation during the months of September through May will be 9 a.m. – 9 p.m. and Monday, Tuesday, Thursday hours of operation during the months June through August will be 9 a.m. – 10 p.m.*
- 3. The Sunday events scheduled would be 12 p.m. – 8 p.m. (five Sundays a year - 7 a.m. – 8 p.m.).*

Mr. Rossabi asked to consult with Mr. Maness while the remaining speakers made presentations.

Cody Futrell, 225 Water Mill Rd., Kernersville, stated he is a former motor cross rider. He’s been coming to Zoo City for several years and drives there every week. He often stays overnight and volunteers at the track to help out with the kids. He said he wouldn’t trade his “nights at the track for the best Saturday night party in the world.” He and fellow participants recently held a charity fundraiser for another rider who has leukemia and several of the participants shaved their heads in support and to boost confidence of the patient.

Anthony Copple, 6254 US Hwy 220 S., Asheboro, stated he had lived at that address for over thirty years and his parents have lived there longer. He said the dirt bikes were sometimes so loud that it made it difficult for his daughter to hear him yell out to her when she’s playing in the yard and it was not fair to Ms. Brewer who had dust and dirt “kicked all over her” from the track.

Mr. Copple said in reality, this meeting shouldn't be happening but because of the type of zoning the asphalt plant had also allowed for the motor cross facility. He stated that Rev. Poindexter is speaking on behalf of his church members who are only there a few hours a week but Mr. Copple said he is home every day. "It is different when you live in the community." He said it has never been the neighbors' intention to shut Mr. Maness down but there have to be some limits and preferred that the 2008 ruling stand. What BKM asked for was something different than what the community got. He asked the Commissioners not to believe that silence is approval. He said neighbors didn't complain and probably should have but they all thought BKM was doing what was allowed and the community didn't know any different. He stated the neighbors and BKM are victims of the success of the facility. He said people predicted it would get out of hand and now it is here.

Kay Copple, 6356 US Hwy 220 S, Asheboro, stated she has no ill will toward Mr. Maness and understands that he wants to provide young people a place to practice as he asked in 2008. She thought the property was to revert back to Residential Agriculture (RA) when the asphalt plant closed and said nearby property owners were told that during a public hearing regarding the asphalt plant. She still opposes the facility and any expansion as he has already overstepped boundaries that were initially placed. "This has affected the quality of life of many residents in the mostly residential community." A home is a place you go to and rest at the end of a day but many have found it difficult to do that because of the noise. She said it was hard to ignore the sound of bikes that happen for many hours at a time.

Hearing no additional comments, the public hearing was closed at 10:20 p.m.

Chairman Frye thanked everyone for their participation. He reiterated that it is the obligation of the Board of Commissioners to approve or deny the request that the Planning Board denied and that the conditions could be amended.

Commissioner Kemp made a motion to approve the proposed request that the Planning Board denied, as follows:

1. Operation Hours for Motorized Events: (to include dirt bike, motocross, ATVs, UTVs, and OHVs on Racing Track and Trail); (No more than one race to be held at a time); No more than 30 racing events allowed per year.
 - a. Monday, Tuesday, Thursday 9 a.m.– 10 p.m.
 - b. Wednesday 9 a.m. – 6 p.m.
 - c. Friday – Saturday 7 a.m. – 11 p.m.
 - d. Sunday 12 pm – 8 pm (Eight Sundays a year – 7 a.m. – 8 p.m.)
2. Operation Hours for Non-Motorized Events (to include cross country trail, bike events, BMX events, foot races, obstacle runs, mud runs, maniac runs, and ninja warrior events)
 - Sunday – Saturday 7 a.m.– 11 p.m.
3. Extended Hours:
 - a. New Year's Eve and Day 7 a.m. – 11 p.m.
 - b. October – 12 nights – 7 a.m. – 11 p.m.
4. Public Announcements Allowed at All Events

5. Firearm Events Prohibited.
6. Go-Carts, Demolition Derby, and Tractor Pull Events Prohibited.

Commissioner Lanier seconded the motion.

Commissioner Allen asked to amend the motion and suggested the Sunday hours to read as 12:00 noon until 8:00 p.m. for motorized events not allowing any to being at 7 a.m.

Chairman Frye suggested to also change the non-motorized days and hours to Monday – Saturday, 7 a.m. – 11 p.m. with eight Sundays a year – 7 a.m. to 8 p.m. and Commissioner Kemp said he was willing to accept the revision to the motion.

Commissioner Kemp also asked that they discuss some restrictions to be placed on the OHV. He recalled that Attorney Wilhoit suggested language be added to the conditions that no modifications on equipment be allowed on the OHVs and said that would be acceptable to him. Other Commissioners agreed.

The Clerk stated that a mug bog was not listed in the prohibited events list and asked if the Commissioners wished for that to be included. Mr. Rossabi said the mud bogs were already removed from the application. The consensus of the Commissioners was to add so that it is clarified.

There was additional discussion about the non-motorized days and hours of operation and the Clerk asked for confirmation on the Commissioners' decision regarding whether it was to be Sunday through Saturday from 7 a.m. – 11 p.m. or Monday through Saturday from 7 a.m. – 11 p.m. with only eight Sundays 7 a.m. – 8 p.m. The Commissioners decided to remove the restricted eight non-motorized Sunday events from the previous discussion and leave the non-motorized as it was presented.

The Chairman asked the Clerk to read back the motion and amended conditions. The Clerk did so, as follows:

On motion of Kemp, seconded by Lanier, to approve the rezoning request with the following conditions:

1. *Operation Hours for Motorized Events: (to include dirt bike, motocross, OHVs without modification to original factory equipment, ATVs and UTVs on Racing Track and Trail); No more than one race to be held at a time; No more than 30 racing events allowed per year.*
 - a. *Monday, Tuesday, and Thursday 9 a.m. – 10 p.m.*
 - b. *Wednesday 9 a.m. – 6 p.m.*
 - c. *Friday and Saturday 7 a.m. – 11 p.m.*
 - d. *Sunday 12 p.m. – 8 p.m.*
2. *Operation Hours for Non-Motorized Events (to include cross country trail, bike events, BMX events, foot races, obstacle runs, mud runs, maniac runs, and ninja warrior events)*
 - *Sunday – Saturday 7 a.m. – 11 p.m.*

3. *Extended Hours:*
 - a. *New Year's Eve and Day 7 a.m. – 11 p.m.*
 - b. *October – 12 nights – 7 a.m. – 11 p.m.*
4. *Public Announcements Allowed at All Events*
5. *Firearm Events Prohibited.*
6. *Go-Carts, Demolition Derby, Mud bogs and Tractor Pull Events Prohibited.*

Chairman Frye asked Mr. Maness if he understood and if he agreed to the conditions. Mr. Rossabi stated that BKM agreed to accept the conditions as amended.

The Board then voted 3-2, with Frye and Haywood opposing, to approve the request of BKM Randolph, LLC. with the amended conditions, as determined consistent with the following standards and policies contained within the Growth Management Plan; and having further found from information and testimony provided at public hearing, the proposed rezoning is reasonable and in the public interest.

Policy 1.3 The benefits of economic development should be balanced against the possible detrimental effects such development may have on the quality of life enjoyed by area residents.

Policy 1.4 The continued growth of Randolph County's tourism industry will be encouraged.

Adjournment

At 10:40 p.m., on motion by Haywood, seconded by Kemp, the Board adjourned.

Darrell L. Frye, Chairman

Phil Kemp

Stan Haywood

Arnold Lanier

David Allen

Amanda Varner, Clerk to the Board