

**MINUTES  
JANUARY 5, 2010**

**SPECIAL MEETING  
5:30PM**

Mayor and all Council Members present.

Mayor Swaim declared the meeting in session and led the Invocation and Pledge of Allegiance.

**APPEAL OF ORDER TO ABATE A PUBLIC NUISANCE ROY GLENN  
FREEMAN PROPERTY LOCATED AT 303 NORTH MINERAL SPRINGS  
DRIVE**

**Background:**

On December 9, 2009 a neighboring property owner came to the Town Hall and made a complaint against Mr. Roy Glenn Freeman's property located at 303 N. Mineral Springs Drive (copy attached).

On December 15, 2009 I went to Mr. Freeman's property to determine if the property was in violation of the Ordinance(s). Upon investigation, I determined that the property was in violation and issued a "Notice of Declaration of and Order to Abate a Public Nuisance" (copy attached).

Later that same week, Mr. Freeman came to my office to discuss the findings and the order to abate the nuisance conditions. He spoke at length about other properties in Town that are also in violation of the Ordinance as well as ongoing issues that he has had with his neighbor. I told Mr. Freeman that, according to the Town Ordinance, he had fifteen days time to correct the problems or to file an appeal of my order. He then stated that he wanted to appeal my order to abate.

On December 31, 2009 I spoke again with Mr. Freeman. At that time he told me that he had decided to get out of the business of recycling and would be cleaning up the property. He asked for a ninety (90) day time extension to allow him to complete cleaning up the property.

On January 4, 2010 Lynn and/or I spoke with all of the members of the Town Council about Mr. Freeman's request for a time extension. All agreed to allow the extension if he would start showing progress within a short time period. I wrote a new letter to Mr. Freeman granting him the requested time extension and personally delivered it to him at

approximately 4:00 pm (copy attached). Shortly after I arrived back at Town Hall, Mr. Freeman called and told me that he was not satisfied with the situation and still wanted to meet with the Town Council to discuss my order. I do not understand exactly what his issue is at this point, as I believed that I had granted him exactly what he had asked for.

Due to the fact that Mr. Freeman has appealed my order, the disposition of this case now lies with the Town Council. You may uphold my order or modify it in any way that the Council chooses. The Council may also find that I was too lenient in granting the time extension and change the amount of time that Mr. Freeman has to comply with the order. Be aware that any decision made may be used in the future as a precedent in similar cases.

### **Other Considerations:**

This situation appears to stem from an ongoing dispute between neighbors. After speaking with Mr. Freeman and his neighbor, Ms. Palmer on several occasions I have heard a number of disputes raised by both parties. These include access to the rear of the property to allow for logging trucks to enter / exit and access to a sewer tap located near the property line between their properties.

### **Sewer Tap Issue:**

The issue of the sewer tap is somewhat complicated. The exiting tap for the neighbor's home is located near the property line between her and Mr. Freeman's property. The tap appears to be shared by both properties. Ms. Palmer has experienced sewer backups on multiple occasions over the past several months. When she first came to the Town about her sewer problems, we told her that her home was on a septic tank instead of public sewer. This was true according to our records, as this property was not being billed for sewer service. Ms. Palmer had one or more plumbers come to her property to attempt to locate the septic service and correct the problems. After they could not locate the septic tank, Ms. Palmer came back to the Town for help. We gave her some dye to pour into her house's plumbing and then watched in the manhole in front of her home. The dye did come through into the manhole, proving that the house is attached to the public sewer.

At some point later, Mr. Freeman told us that the house had been hooked up to sewer by a former Town employee after hours and was not reported to the Town. This would explain why we did not know that it was connected to the sewer.

Later, Ms. Palmer came to Town Hall requesting a new sewer tap so that she would not be sharing a connection with Mr. Freeman's property. I tried to arrange a resolution between Ms. Palmer and Mr. Freeman that would allow Ms. Palmer to continue using the tap as it is located presently. At one point, Mr. Freeman agreed then later changed his mind.

Ms. Palmer has paid the \$700.00 tap fee. The sewer line in front of her house is 15 – 20 feet deep; deeper than our employees and equipment can handle. We have gotten estimates from utility contractors for installing the tap and the lowest estimate totaled \$9,000.00. According to our sewer use ordinance, the Town can make the property owner cover any extra costs associated with providing sewer service. A less expensive option would be for us to make a more shallow tap directly into the manhole but this would require Ms. Palmer to install a small pump to access the sewer service. There are other properties in Town (and most every other town that provides sewer service) that have sewer pumps. I believe that the Town has paid for the pump in the past in such instances. This option would also require Ms. Palmer to do some fairly extensive plumbing changes within her home and yard.

**Zoning Issue:**

Another underlying issue is the zoning of the property that Mr. Freeman is using for his recycling business. The property is zoned B-3 (Neighborhood Business). According to the Town's Zoning Ordinance the B-3 district is for "*A neighborhood business district for small scale retailing of goods and services to the adjacent residential neighborhood. Uses should be encouraged that are low traffic generators, employ few people, and operate in relatively small work spaces. (A Wal-Mart discount store would not be allowed, but a specialty shop such as a women's dress shop or a small appliance repair shop would be encouraged.)*"

This zoning probably dates back to the time when the building was used as a small neighborhood store and I'm not sure if Mr. Freeman's current use of the property is in keeping with the intent of the Ordinance. In fact the way that Mr. Freeman is using the property probably qualifies as a junk yard as defined in the Zoning Ordinance (see below).

***Junk Yard*** - *An establishment operated or maintained for the purpose of storing, dismantling, salvaging, recycling, buying or selling scrap or used materials such as paper products or articles such as machinery, vehicles, appliances, and the like.*

Glenn Freeman spoke first before the Board and presented receipts for hauling items off with dates. He also presented a signature sheet with other tax paying citizens wondering about other properties that need to be cleaned up besides his. Glenn kept drifting to the sewer problem issue, but Mayor Swaim explained that the meeting was only called for the ordinance clean up issue. Mayor Swaim asked Glenn about cutting the hoses which would allow Freon to escape into the air. Glenn denied cutting the hoses. The original ordinance is 15 days and the Town offered Glenn a 90 day extension, but Glenn decided at the meeting to clean up the lot within the 15 day grace period.

Claudia Palmer spoke next and brought proof to the Board to show that Glenn Freeman was cutting the hoses which allowed the Freon to escape. "Freon is a nonflammable gaseous or liquid fluorinated hydrocarbons employed primarily as working fluids in refrigeration and air conditioning and as aerosol propellants". Claudia also called the

Environmental Health Specialist, Chuck Wood in Yadkinville (336-679-4244) and he is doing an investigation of the property for gas toxics.

The two neighbors continue to dispute and they will need to work it out between the two of them.

Council Member Pardue agreed to the **15** day clean up which was the original order and Council Member Moore seconded the motion, unanimous vote.

With no pending business to discuss Council Member Pardue made the motion to adjourn and it was seconded by Council Member Casstevens, unanimous vote.

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Mayor, Lindbergh Swaim

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Town Clerk, Lynn Trivette