



The following minutes were taken at the public hearing and special monthly meeting of the Mayor and the Board of Aldermen at 6pm on Thursday May 13, 2021, at the Town Hall in Abita Springs, Louisiana. Mayor Curtis opened the Public Hearing to discuss Instrument 2021-002. The mayor introduced one of the Town's attorneys, Paul Harrison, to begin the discussion.

**PUBLIC HEARING:** Mr. Harrison explained that based on La R.S. 33:4780.23, the Town was considering Instrument 2021-002, An Ordinance to Terminate the Development Agreement, Executed on January 18, 2018, between the Town of Abita Springs and Lonesome Development L.L.C. He went on to state that the question before the Board was whether the developer, Lonesome Development L.L.C., acted in good faith, in connection with the agreement's terms and conditions. Mr. Harrison presented exhibits to substantiate failures on the part of the developer to act in good faith. The first presented exhibit was an overlay of an aerial view of the phases of the development, reflecting premature and complete deforestation of phases 1 through 5 and a portion of phase 6 by the developer. It was established that Lonesome failed to apply for the required clearing permit, in violation of the Town's Tree Ordinance, the Town was therefore unable to evaluate the impact of tree clearing activities, making it difficult to assess the damage. Further exhibits included photographs of a gas pressure gauge, a sign critical of Mayor Curtis, posted by the developer, and excerpts from the transcription of the testimonies of Paul Mayronne, Tim Henning, and Cindy Chatelain. Mr. Harrison used these to support the Town's position that the developer did not apply for a clearing permit, engaged in unprofessional communication, and had not requested their attorney to review, nor had they reviewed applicable Town ordinances, all contributing to their bad faith. Town Attorney, Edward Deano added that infrastructure inspections required by the agreement and the Town's Subdivision Regulations were not performed. Equally important and supporting earlier points made by Mr. Harrison, Mr. Deano stated that it is hard to claim that you are in good faith with the laws of Abita Springs if you have not read them nor have you charged your attorney with reading them. Next, Mr. Deano explained the distinction between a development agreement and other contracts. He noted that a development agreement has the power to freeze the application of ordinances and deals with a party that administers public funds. With this, it is necessary to have a method to terminate the agreement when things do not proceed in good faith. The method prescribed by Louisiana statute to ascertain whether the applicant demonstrated good faith compliance with the terms of the agreement is a periodic review. If, as a result of such periodic review, the municipality finds and determines, on the basis of substantial evidence, that the applicant has not complied in good faith with the terms or conditions of the agreement, the municipality may terminate or modify the agreement. Mr. Deano defined "substantial evidence" as evidence that a reasonable mind could accept as adequate to support a conclusion. He then summarized the supporting evidence including the failure on the part of the developer to review the Town's laws, the unlawful clearing of land, and the lack of compliance with the terms and conditions of the development agreement relative to engineering inspections during the installation of crucial infrastructure. Additional information presented by Town staff showed the failure on the part of the developer to comply with their obligation to file the

final plat within the required time period. The mayor recounted a conversation wherein representatives of the developer falsely claimed that timely third-party engineering inspections were conducted. Town Engineer Andre Monnot confirmed this fact. There was additional testimony as to the lack of information provided to the Town, by the developer, regarding the installation of gas lines. It was noted that the Town had no knowledge of the installation details including the identity of the installer and other information necessary to maintain compliance with the Department of Natural Resources Pipeline Safety Regulations. It was emphasized that this would all become the Town's responsibility with the possibility of the Town incurring future liability for the developer's shortcomings. Later testimony by Town Engineers Andre Monnot and Jean Thibodeaux confirmed that the inspections were not performed during the infrastructure installation and that later inspections revealed a number of failures. Mayor Curtis addressed the Board and attendees stating that as an alderman he supported the ordinances to approve the Abita Meadows development. He explained that after becoming mayor and later learning of activities by the developer that conflicted with the Town's ordinances of law and the terms of the development agreement, that he unsuccessfully reached out to discuss issues relative to the infractions. It was noted that subsequent meetings with the developer yielded mixed results. Lonesome Development LLC Attorney, Paul Mayronne addressed the Board. He asserted that the developers are experienced and qualified, developing some of the finest subdivisions in St. Tammany Parish. He expressed his opinion that the principals of Lonesome Development L.L.C., Don McMath and Tim Henning, are among the best developers you could hope to have in Abita Springs and are honorable people. Mr. Mayronne challenged Mr. Deano's definition of substantial evidence and the claim that the developers failed to adequately communicate with the Town, asserting that the developers unsuccessfully tried to reach out to the mayor on several occasions. He also shared his view regarding the development agreement stating that the agreement takes precedence. He explained that there is specific language in the development agreement that says that if there are provisions in the town ordinances that are inconsistent, not just in conflict, but inconsistent with the provisions in the development agreement that the development agreement will control. Mr. Mayronne expressed his belief that his clients understood that the Town's flow chart was to provide guidance for construction and noted that the chart made no reference to a requirement for submission of the final plat within one year of preliminary plat approval. With this, he sees no basis for a claim of bad faith. Mr. Mayronne went on to say that the development agreement specifies that disputes are to be handled in the State of Louisiana 22<sup>nd</sup> Judicial District Court. He encouraged the Board to allow the court to review the facts and decide the outcome. Later, Mr. Deano reminded listeners that La R.S. 33:4780.23 provides for the modification or termination of the agreement, if as a result of the periodic review, the Town were to find substantial evidence, that the applicant has not complied in good faith with the terms or conditions of the agreement. He impressed upon the Board that it was fully within the scope of their authority to act. The call for public comment was made. Residents communicated their lack of confidence and observations regarding the unprofessional way in which the development was proceeding. One resident made the point that prior successes don't guarantee future positive outcomes, referencing Canal Development, their prior good reputation, and the unfortunate results of their project at the Hard Rock Café. Upon conclusion of the public comment period Alderman Patterson made a motion to close the hearing seconded by Alderman Saussy. Yeas: 4, Aldermen Contois, Patterson, Randolph, and Saussy Nays: 0, Abstentions: 0, Absent:1, Alderman Murphy.

**Town Council Meeting - Roll Call:** Aldermen Contois, Patterson, Randolph, and Saussy were present. Alderman Murphy was absent.

**Old Business:** Alderwoman Randolph made a motion to amend Instrument 2021-002, to add the following language: *“E) Whereas, gas lines have been installed in the development without advising the town of who installed the lines. Although, the development agreement requires the installer to be approved by the Town of Abita Springs.”* and *“F) Whereas, the developer has shown a complete indifference to complying with the Code of Ordinances of the Town of Abita Springs..”* The motion was seconded by Alderman Saussy. The vote was, Yeas: 4, Aldermen Contois, Patterson, Randolph, and Saussy Nays: 0, Abstentions: 0, Absent:1, Alderman Murphy. Alderwoman Contois offered her thoughts regarding the topic, setting forth the following points. She stated her conviction that the purpose of government is to protect the health safety and welfare of its citizens and that agreements should be crafted toward that end. Ms. Contois added that Abita Springs is an appealing place where people want to live and visit. She emphasized that Abita Springs is not against development. She affirmed that she is pro-growth in a safe, attractive, and naturalistic way and supports good development. She went on to speak of the question before the Board regarding whether the developers acted in bad faith. Ms. Contois reviewed earlier points including failures on the part of the developers. She asserted that inspections done after rather than during the installation process is disconcerting. She questioned whether this level of inspection could ever be considered equivalent to inspections executed at the appropriate time during the development process. She offered that a seasoned developer of 30 years should know to call for inspections and that some of the things presented appear to have been very intentional. Ms. Contois went on to question the clearing of six phases with no protection from the damaging rainwater runoff that has continued for over a year. She shared her thoughts about the disparaging sign that the developers placed on Hwy. 36, expressing her feelings about what it indicates, and what we might expect from the developers moving forward. She summarized by repeating that the Town supports good development. Mr. Saussy made a motion to adopt Instrument 2021-002, **An Ordinance to Terminate the Development Agreement, Executed on January 18, 2018, Between the Town of Abita Springs and Lonesome Development LLC** as amended, seconded by Mr. Patterson. The vote was Yeas: 4, Aldermen Contois, Patterson, Randolph, and Saussy, Nays: 0, Abstentions: 0, Absent:1, Alderman Murphy.

Mr. Patterson made a motion to adjourn the meeting, seconded by Ms. Randolph. The vote was Yeas: 4, Aldermen Contois, Patterson, Randolph, and Saussy, Nays: 0, Abstentions: 0, Absent:1, Alderman Murphy.