



OAK RIDGE TOWN COUNCIL MEETING
FEBRUARY 4, 2016 - 7:00 P.M.
OAK RIDGE TOWN HALL

MINUTES

Members Present

Spencer Sullivan, Mayor
George McClellan, Mayor Pro Tem
Jim Kinneman
Mike Stone
Doug Nodine

Staff Present

Michael Thomas, Town Attorney
Bill Bruce, Planning Director
Bruce Oakley, Town Manager
Sandra Smith, Town Clerk
Sam Anders, Finance Officer

1. CALL TO ORDER

Mayor Spencer Sullivan called the meeting to order at 7:00 p.m. and recognized Boy Scouts in the audience.

A. Invocation.

The invocation was given by Pastor Andy Cook of The Summit Church.

B. Pledge of Allegiance.

2. APPROVE AGENDA

Councilman Jim Kinneman made a **motion** to approve the meeting agenda after adding Approval of the Closed Session Minutes from the January 7, 2016, Meeting and removing item 5. Report from Guilford County Sheriff's Office. **Councilman Mike Stone** seconded the motion, and it was passed unanimously (5-0).

3. APPROVE MINUTES OF THE JANUARY 7, 2016 MEETING AND JANUARY 7, 2016 CLOSED SESSION

Mayor Pro Tem McClellan made a **motion** to approve the meeting minutes. **Councilman Doug Nodine** seconded the motion, and it was passed unanimously (5-0).

4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

- A special meeting of the Town Council will be held on February 9 at 12 p.m.
- **Resolution in opposition to HB 799 or similar legislation.**

Mayor Pro Tem McClellan made a **motion** to approve a resolution in opposition to HB 799 or similar legislation. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0). The resolution is as follows:

RESOLUTION IN OPPOSITION TO HB 799 OR ANY OTHER LEGISLATION TENDING TO DEGRADE HISTORIC PRESERVATION COMMISSION AUTHORITY

WHEREAS, the North Carolina General Assembly has expressly found that the historical heritage of North Carolina is one of our most valued and important assets, and that the conservation and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the State; and

WHEREAS, in furtherance of these legislative findings the General Assembly enacted Part 3C of Article 19, Chapter 160A of the North Carolina General Statutes, codified as N.C. Gen. Stat. 160A-400.1 et seq., expressly authorizing cities and counties of the State within their respective zoning jurisdictions and by means of listing, regulation, and acquisition:

(1) To safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory; and

(2) To promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole; and

WHEREAS, the Oak Ridge Historic District was created in 1994, and the Historic Preservation Commission of the Town of Oak Ridge has local jurisdiction over the district; and

WHEREAS, the Town Council of the Town of Oak Ridge believes that the Oak Ridge Historic District and other such districts across the state maintain and increase property values, create jobs, contribute to the strength of our economy, afford opportunities for learning, and significantly enhance the cultural identity and public spirit of each community in which they have been identified, preserved, and maintained through the Legislature's delegated authority; and

WHEREAS, in 2015, Representatives Mark Brody and John Ager sponsored HB 799, a bill aimed at historic districts and degrading the authority of local historic preservation commissions, by among other things purporting to add an opt-out right that does not effectively change current provisions for establishing historic district coverage but does foment and encourage anti-historic district attitudes and adds unnecessary municipal expenses to local historic district regulation.

NOW, THEREFORE, BE IT RESOLVED that the Town of Oak Ridge declares its opposition to and calls upon the General Assembly to reject any statewide legislation tending to degrade local authority under any provision of Part 3C of Article 19, Chapter 160A of the North Carolina General Statutes, codified as N.C. Gen. Stat. 160A-400.1 et seq. including but not limited to N. C. Gen. Stat. § 160A-400.4, or any other legislation that would threaten the integrity of local historic districts by encouraging property owners to opt out or by creating other means to alter existing historic districts, or that would threaten current levels of local control of historic districts.

BE IT FURTHER RESOLVED THAT copies of this resolution are to be delivered to the Governor, the President Pro Tem of N.C. Senate, the Speaker of the N.C. House, and members of both Houses of the General Assembly.

Adopted this the 4th day of February, 2016.

5. REPORT FROM OAK RIDGE FIRE DEPARTMENT

Assistant Chief Sam Anders reported that in January, the department had 54 calls (27 medical, 27 fire/service related). As a fire safety tip, Anders recommended everyone learn at least two ways out of a room, since people often become disoriented in a smoke-filled room. He also encouraged everyone to practice fire drills at home twice a year.

6. TOWN MANAGER'S REPORT

Town Manager Bruce Oakley recommended the re-appointment of Debbie Shoenfeld and Mac McAtee to the Historic Preservation Commission.

Mayor Pro Tem McClellan made a **motion** to approve the re-appointments Debbie Shoenfeld and Mac McAtee to the Historic Preservation Commission. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

7. PUBLIC HEARING

Oak Ridge Future Land Use Plan Update. The Oak Ridge Future Land Use Plan Update steering committee presented the Commercial Town Core Transition Zone as a part of the Oak Ridge Future Land Use Plan Update for adoption.

Ann Schneider, a member of the Land Use Plan Update steering committee, said the issue of the Commercial Town Core Transition Zone had been remanded to the committee for further consideration by the Town Council at its last meeting. The plan is hereby incorporated by reference and made a part of the minutes. Schneider said the committee had declined to consider the matter further, and instead unanimously decided to let it stand as originally proposed. She said the committee felt this was a relatively minor element of the Land Use Plan and was surprised by many of the comments about it at the Council's January meeting, but it stood behind the plan. Schneider explained the process regarding how the Commercial Town Core had been considered, and said the committee had identified the area just south of Fogleman Road as unique, based on traffic issues and the fact that it is already bound on two sides by commercial development. She said later in the committee's review of street plans, members had identified that intersection as an area that needed some solution to address traffic and safety. She said while committee members were reluctant to expand the Commercial Core, they believed the ideas of the uniqueness of that area and traffic and safety concerns coalesced to create the Commercial Core Transition Zone, but agreed that there should be significant restrictions. She said the proposed plan would limit any development in that area to low-impact office, residential or mixed use, and would incorporate traffic safety improvements. It also proposed certain design elements and significant landscaping that must be adhered to, which reflected the committee's priority to retain the character of the property.

Schneider said she believed the restrictions proposed would increase the Town's leverage on what it believes will be inevitable requests for commercial zoning there,

and she thought that the committee was offering a strategy that was in the Town's best interest. Schneider said there had been an impressive level of transparency, integrity and community mindedness on the committee, and that no one member had tried to convince the other members to include the property in the Commercial Town Core. She said the rationale is clear, objective, and looks out for the well-being of all the residents of Oak Ridge.

Sullivan opened the public hearing.

Proponents:

- Ann Schneider spoke in favor of the plan, saying the full Land Use Plan Update committee had recommended approval of it unanimously, as did the Planning & Zoning Board. An overwhelming majority of more than 100 residents who attended the open house spoke favorably about the plan, and she gave the names of those residents who had spoken in favor of it at the January Town Council meeting as well as those who had sent letters and emails in support. She said all members of the Historic Preservation Commission were also in support of the plan as proposed.

- William Donnell, who owns property in Oak Ridge, said he supported the Commercial Transition Zone.

- Frank Whitaker said he was familiar with the property in question, and that considering the location, noise and traffic, commercial was the highest and best use for it. He said it was common sense to approve the Commercial Core Transition Zone.

Opponents:

- Herbert Cole said he had lived in Oak Ridge since 1997 and encouraged three of his adult children to also move here. Cole, who owns the property adjoining the proposed Commercial Core Transition Zone, said he had purchased the property as an investment, that he wanted to be treated fairly, and that he was opposed to the plan as presented.

With no one wishing to speak in rebuttal, Mayor Sullivan closed the public hearing.

Mayor Pro Tem McClellan made a **motion** to amend the Land Use Plan adopted on January 7, 2016, by the Oak Ridge Town Council to include with Commercial Town Core Transition Zone with the following modifications:

1. The southern boundary of the Commercial Town Core Transitional Zone will be shown at three-quarters of a mile from the N.C. 68/N.C. 150 intersection, to line up with the boundaries of the Town Core;
2. The following two sentences will be added to Policy 3.3.4: "The precise boundary of the Commercial Town Core Transitional Zone is deliberately undefined to allow flexibility for future development. Proposals that appear to extend beyond the apparent boundary may be appropriate if the intent of the Commercial Town Core Transitional Zone is met;" and
3. The Collector Street Plan will be revised to show the Fogleman Road intersection with N.C. 68 aligned with the 68 Place entrance.

Councilman Kinneman seconded the motion.

The Council then entered into a long discussion of the plan.

Councilman Kinneman agreed with Schneider that the Land Use Plan is simply a plan that doesn't force anything and doesn't change the zoning of any property. He said the only zoning any property owner is entitled to is the way the property was zoned at the time of purchase. Any proposed rezoning requires the applicant to petition the Town and argue why the change is in the best interests of the Town, Kinneman said, and he added that the plan does not prevent anyone from doing that. He said the plan gives developers options on the types of development that might be approved at the corner of Fogleman Road and N.C. 68. He also thought it was a good idea to modify the Collector Street Plan to show the realignment of Fogleman Road, although any changes would have to be approved by the Department of Transportation. He said the Commercial Core Transition Zone on the plan does not guarantee that the tract will be developed, and it does not take away the rights of anyone. He said a committee of Town volunteers came up with the plan, they had held several open houses and conducted a survey, and that the plan was not developed in secret or in a vacuum.

Mayor Pro Tem McClellan said he approved of the process, although he understood what Cole was saying. He said the additional verbiage he had proposed gives the Land Use Plan flexibility. He said the plan is a positive step into the future, and that the opening of I-73 will change many things, including traffic. McClellan said he supported the plan as he had amended in his motion.

Councilman Stone said he would hold the bulk of his comments until later, but that he planned to make a substitute to McClellan's motion. He said last month the Council had instructed the Land Use Plan committee to get together again and present something to the Council, but that they did not. He said the Council needed to vote on the plan as the committee had presented to it, not on an amendment made on the fly. He said he had not heard McClellan's motion prior to the meeting, and he considered that a problem.

Councilman Nodine said it appeared the change to the Commercial Core was being made to address a traffic problem, but he had not heard anyone tell him what the problem was, or what changes were being seen or that they expected to see. He said he thought traffic on N.C. 68 should be reduced because of I-73, and he was not sure how traffic became such an issue that it would require the Council to allow commercial development south of Fogleman Road. Nodine said when he served on the Planning & Zoning Board, the Board's objective was to keep commercial development north of Fogleman Road, he was unsure what had changed, and he was unsure what was driving the request for this single parcel. Nodine said if the Town did not want a strong commercial area, this proposal could be a solution; he said he was sure there were other properties surrounded on two sides by commercial development, and he asked that the plan be changed to identify all parcels that need this same special treatment.

Mayor Sullivan said there had been a great deal of change since the original Land Use Plan was created, and that the Council had commissioned the committee to modify that plan anticipating future growth. The committee had produced a proactive, visionary plan, Sullivan said, and they had gone through a laborious process before proposing the addition of the Commercial Transition Zone. He said Mayor Pro Tem McClellan's motion seeks to address the traffic factor, and he admitted there had been some confusion on the Council's part as to precisely where the Transition Zone boundaries fell. He said the idea of a Commercial Core

Transition Zone could be a useful tool going forward regarding some properties that might not be suitable for higher-impact commercial uses.

Councilman Stone made a **substitute motion** to discuss and vote on the Land Use Plan as submitted by the Land Use Plan committee without the added amendments in McClellan's motion. **Councilman Nodine** seconded the motion.

Councilman Kinneman said one of Council's roles is to take information it is given and approve it, or to make changes if they are warranted. He said the Council had done that many times, and that on-the-spot changes were not unusual. He said he had no problem with the requested modifications, and he was not in favor of the substitute motion.

Mayor Pro Tem McClellan said the modifications proposed in his motion allow for flexibility and address some concerns heard at the last meeting. He also said he would not support Councilman Stone's substitute motion.

Councilman Stone then spoke for 18 minutes from a prepared statement. He said he had been assured by the mayor that he would see the motion before it was made, and the fact that he did not should be a concern to both Council members and citizens. He said at the January meeting, the issue of the Commercial Core Transition Zone had been pulled from the Land Use Plan at the last minute by the committee. Although comments were received on that area and in spite of directions for the committee to revisit the Commercial Core Transition Zone in a public meeting, it had failed to do that, saying it had already received enough feedback. He said the fact that the committee had pulled that part of the plan in January and then presented it unchanged, despite comments that made it appear that the Commercial Town Core Transition Zone were unpopular, made him question the motives and approach. He said the fact that the committee had proposed changing the Town Core boundaries by drawing circles without regard to property lines or owners was equitable and fair, but that was not what this issue was about. He said the committee had suggested the owner of the property in the Commercial Core Transition Zone get special consideration. Stone asked why the committee was trying to put together a plan for one parcel when no one had ever said they might want to develop that property and the owners of the property are unnamed because it is owned by an LLC. He said the perception was that agendas were at work that have nothing to do with the advancement of Oak Ridge but something to do with giving advantages to individuals who prefer to remain nameless. He said allowing commercial development on the south side of Fogleman Road was creating sprawl, and it was never intended for the committee to look at only one property; instead, it should have considered all the properties and come up with a proposal for them in order to be fair and consistent. He added that the Town had no authority to tell N.C. DOT what to do, that the committee should have looked at the traffic study for the I-73 connector, and he referred to a study that said the opening of I-73 could reduce traffic on N.C. 68 by 60 percent. He said the Commercial Core Transition Zone was an exception to the plan, that the Council did not manage by exceptions, and that the citizens of Oak Ridge deserve nothing less from the Council.

Councilman Nodine asked about whether the boundary line for the Commercial Core Transition Zone was intended to be "fuzzy." Schneider said the committee did not specifically discuss that. She said they had talked about the approximate size of the parcel immediately to the south of Fogleman Road, but said the understanding

was that all lines on the plan are somewhat indistinct. She said the recommendation from the committee was as presented, and that the committee did not pull the Commercial Core Transition Zone from consideration, but had agreed to it as a result of discussions by Council. She said at its January meeting the Council had asked the committee to further consider the area, but it had not been directed to meet.

Nodine asked for more clarification about the exact area covered in the Commercial Core Transition Zone, and Town Manager Oakley said he thought the committee's recommendation was regarding the area, not a specific parcel. Planning Director Bill Bruce said on the original map, the Town Core boundary and the Commercial Core Transition Boundary would have appeared to be pretty much the same.

Mayor Sullivan said there had been some questions, which led to Mayor Pro Tem McClellan's motion to try to provide some clarification. Regarding Stone's comments, Sullivan said he had a long conversation with Stone in which they discussed the elements that would likely be in the motion. Sullivan said he could not provide Stone with a copy of the motion as requested because he did not write it, but that the elements in the motion had not been sprung on him that evening as Stone had alleged. He said that although the committee of 12 volunteers had spent 15 months on the plan, the Town Council always has the prerogative to amend any plan it is presented. He said he did not consider 15 or 30 acres to be sprawl, that the Land Use Plan had identified the property that was the one most likely to receive development pressure and that the committee felt they needed to find a way to control what type of development would be put there. He said he thought McClellan's motion was a good one.

Stone then asked who pulled the Commercial Core Transition Zone from the Land Use Plan that had been approved in January. Kinneman said that portion of the plan had been excluded from consideration because the Town Council had made that motion. Stone continued, saying he wanted to know specifically who made that call.

As debate continued, Mayor Sullivan called the question. Council then voted on Stone's substitute motion to approve the plan as originally presented, which failed by a 1-4 vote (Stone did not vote, so his vote counted as an affirmative).

Discussion then continued on Mayor Pro Tem McClellan's motion, with Councilman Stone asking if any other areas in the Land Use Plan are deliberately undefined. Regarding placing the realignment of Fogleman Road on the plan, Councilman Nodine asked what impact that would have on development of the property. Planning Director Bruce said the road realignment would be required unless the developer applied for and was granted a waiver.

Councilman Kinneman said the Council needed to move forward to avoid being stuck in analysis paralysis. Councilman Stone responded that he could count to three.

Councilman Nodine asked when additional Commercial Core Transition Zones would be considered; Oakley responded that this was the only one on the plan at the present time, but that the Town considers revising the plan about every 5 years. Councilman Stone asked who was pressuring the Town to include the Commercial Core Transition Zone in the Land Use Plan, and Oakley said staff had met with

several developers over the last 10 years about that tract. Mayor Sullivan responded to Stone that there was no personal agenda being pushed, and added that the committee of citizens had done an incredible job of developing an objective plan. He said the Council could consider other properties to be included as inquiries for development are received, and that he was not opposed to that after all the development ordinances have been updated to reflect the Land Use Plan.

Council then voted on McClellan's motion, and it was passed by a 3-2 vote (Stone and Nodine voting in opposition).

8. CITIZEN COMMENTS

- Pat Tillman, a candidate for the District 3 School Board election, introduced himself and said he had been endorsed by Mayor Pro Tem McClellan, Sheriff BJ Barnes, Greensboro City Councilman Tony Wilkins, and County Commissioners Hank Henning and Jeff Phillips.
- Larry Stafford said Early Voting starts on March 3, and gave the dates and hours for Early Voting and for Election Day. He reminded audience members that the last day to register in order to be able to vote in the Primary Election was February 19.

9. OLD BUSINESS

Brame LCID Landfill permit extension request. Per Section 30-1059(b)(1)c of the Oak Ridge Code of Ordinances, Benjamin Brame requested a renewal of a land clearing and inert debris landfill (minor) operations permit. The property is located at 8735 Warner Road, on the south side of Warner Road, approximately 1,500 feet east of Happy Hill Road, in the Oak Ridge ETJ. The property is zoned AG.

Planning Director Bill Bruce presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said as a result of discussions after the January meeting, the following conditions were offered by the applicant:

1. This will be the final 3-year permit extension request. The landfill will be filled and capped by February 2019.
2. Hours of operation will be 7 a.m.-6 p.m. Monday-Friday, and 8 a.m.-3 p.m. Saturdays. No Sunday hours.
3. The gate will be closed and latched when the landfill is not in operation.
4. Warner Road will be swept when debris is present on the road.

Benjamin Brame, owner of the landfill, clarified that he could work on his property on weekends, but that no equipment would be moved in the landfill area except during business hours.

Councilman Stone called Stacey Garner, the neighbor who had complained about the landfill in January, to the podium and asked her impression of the conditions. Garner said she thought 7 a.m. was too early to begin work on weekdays; she added that she thought 8 a.m. was more fair to the neighborhood, and that she thought 9 a.m. or

even 10 a.m. would be better for Saturdays to allow neighbors to sleep in. Stone told Brame that the Council was providing what he considered to be leniency in considering a 3-year extension since the landfill had been operating for 16 months since its last permit expired. He asked if Brame would consider a start time of 8 a.m. during the week in exchange for receiving a 3-year extension. Stone debated the start time with Brame and Bob Westall of Thomas Stanley Grading & Hauling, the landfill operator, saying that it was not unreasonable to expect compromise on the part of the applicants. Westall asked if the landfill could be to open at 7:30 a.m. on weekdays. He said if they had to agree to 8 a.m. in order to get the permit, they would do so, although Brame said he thought that was unfair.

Another neighbor of the LCID landfill stood and spoke from the floor, and Mayor Sullivan repeatedly asked her to stop speaking. As she continued to speak, Mayor Sullivan banged the gavel and asked her to be seated.

Council members continued the discussion and asked questions. Sullivan said that problems arise when businesses are located beside residences, and that it is sometimes difficult to make compromises without ending up with something that does not make either side happy.

Councilman Stone made a **motion** to approve the 3-year permit extension requested by Brame LCID Landfill with the following conditions:

1. This will be the final 3-year permit extension request. The landfill will be filled and capped by February 2019.
2. Hours of operation will be 7:30 a.m.-6 p.m. Monday-Friday, and 8:30 a.m.-3 p.m. Saturdays. No Sunday hours.
3. The gate will be closed and latched when the landfill is not in operation.
4. Warner Road will be swept when debris is present on the road.

Councilman Nodine seconded the motion, and it was passed unanimously (5-0).

10. NEW BUSINESS

A. Establishment of Finance Committee ordinance.

Town Manager Oakley presented the ordinance and a list of suggested members, which is hereby incorporated by reference and made a part of the minutes, for the Council's consideration.

Councilman Kinneman made a **motion** to approve the Finance Committee ordinance and to appoint the members as presented. **Mayor Pro Tem McClellan** seconded the motion, and it was approved unanimously (5-0).

B. Subdivision Case # Sub-16-02: Unified Development Plan for Shiloh. The property is located on the west side of Happy Hill Road, approximately 1,200 feet north of Warner Road, in Oak Ridge Township. It is Guilford County Tax Parcels 0164944 and 0167835. This Unified Development Plan consists of 76 proposed lots, open space, and right-of-way dedication on a total of approximately 82.76 acres. The zoning is CU-RPD, the developer is D. Stone Builders, and the surveyor is Hugh Creed Associates.

Planning Director Bruce presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said the development ordinance required a Unified Development Plan (UDP) be approved and filed with the Register of Deeds for any RPD zoning district. The UDP must include relevant sketch plan lines, phase lines, street locations, and other information. Bruce said this was not a public hearing, but merely a technical review. He said the UDP meets the requirements of the Land Use Plan, and that staff recommends approval. He added that the Planning & Zoning Board also recommended approval.

Councilman Kinneman made a **motion** to approve the Unified Development Plan for the Shiloh subdivision. **Councilman Nodine** seconded the motion, and it was approved unanimously (5-0).

11. MONTHLY FINANCIAL UPDATE

Finance Officer Sam Anders presented the financial report, which is hereby incorporated by reference and made a part of the minutes.

Mayor Pro Tem McClellan made a **motion** to approve the financial report. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

12. COMMUNITY UPDATES

A. Planning & Zoning Board.

Chair Ron Simpson reported that the Board had met in January and approved the UDP for the Shiloh subdivision, the preliminary plat for Shiloh, and the preliminary plat for the Carriage Cove North subdivision.

B. Board of Adjustment.

No meeting

C. Historic Preservation Commission.

No meeting

D. Parks & Recreation Commission.

Chairman Bill Edwards reported:

- Phase II construction at the park is complete.
- Dates have been set for 2016 Music in the Park events and Movies in the Park events.
- Canine Capers, an annual event to benefit the bark park, has been scheduled.
- The sound system for the amphitheater is being discussed.

E. Finance Committee.

Chairman John Jenkins said the annual budget process had begun, and the first meeting will be held on February 15. Jenkins encouraged citizens to attend and be part of the process.

13. CITIZEN COMMENTS

- Andy Cook of The Summit Church said the church has been in Oak Ridge for about 3 years and is now looking for 15 acres or so on which to build a permanent structure.

14. COUNCIL COMMENTS

- **Councilman Kinneman** encouraged meeting attendees to give blood and encouraged citizens to vote.
- **Mayor Pro Tem McClellan** reminded citizens that this was the first election where voters would be required to show a photo ID. He thanked meeting attendees and Town volunteers.
- **Councilman Stone** thanked meeting attendees, Summit Church, staff and volunteers. He asked those in attendance to not confuse political comments and the Council's work with personal issues. He said he had the greatest respect for staff and fellow Council members.
- **Councilman Nodine** jokingly said he thought Stone's comments were personal.
- **Mayor Sullivan** said government is sometimes messy, and that all those involved are passionate. He said it was a unique experience to sign the \$1 million check recently to pay off the park.

15. ADJOURNMENT

Mayor Pro Tem McClellan made a **motion** to adjourn the meeting at 9:33 p.m.
Councilman Stone seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:



Sandra B. Smith, CMC, Town Clerk


C. Spencer Sullivan, Mayor