



**OAK RIDGE TOWN COUNCIL MEETING
APRIL 7, 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
Sam Anders, Finance Officer
Sandra Smith, Town Clerk

1. CALL TO ORDER

Mayor Spencer Sullivan called the meeting to order at 7:00 p.m.

A. Invocation.

The invocation was given by Rev. Karen Kurtz of Oak Ridge United Methodist Church.

B. Pledge of Allegiance.

2. APPROVE AGENDA

Councilman Jim Kinneman made a **motion** to approve the meeting agenda. **Mayor Pro Tem George McClellan** seconded the motion, and it was passed unanimously (5-0).

3. APPROVE MINUTES OF THE MARCH 3, 2016 MEETING

Mayor Pro Tem McClellan made a **motion** to approve the March 3 meeting minutes. **Councilman Doug Nodine** seconded the motion, and it was passed unanimously (5-0).

4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

Arbor Day proclamation. Mayor Sullivan announced a proclamation naming April 29 as Arbor Day in Oak Ridge.

Councilman Kinneman made a **motion** to appoint the Planning & Zoning Board as the Town's Tree Board and to task them with developing a plan to enable Oak Ridge to be named a Tree City by the Arbor Day Foundation. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

Council agreed by consensus to direct staff to return with a text amendment regarding the previous motion.

5. REPORT FROM GUILFORD COUNTY SHERIFF'S OFFICE

Sgt. League reported there had been minimal crime in Oak Ridge in the past month. He advised residents to keep their vehicles locked and remove any valuables.

6. REPORT FROM OAK RIDGE FIRE DEPARTMENT

Chief Steve Simmons said the fire department had received 67 calls (34 medical, 33 fire/service related), and personnel received 255 hours of training. As fire safety tips, Simmons advised residents to store propane gas tanks outside and avoid open burning on windy days. He said April is Safe Digging Month, and advised residents to call 811 and have a utility location service mark where any utility lines are before they do any digging.

7. TOWN MANAGER'S REPORT

A. Request to fund sidewalks.

Town Manager Bruce Oakley requested permission to accept bids for construction of a sidewalk along Oak Ridge Road from Linville Road to Oak Ridge Commons shopping center. He said he had received a preliminary estimate of \$20,148. That cost includes approximately \$500 to have a power pole moved.

Pro Tem McClellan made a **motion** to instruct staff to get bids for a sidewalk along Oak Ridge Road from Linville Road to Oak Ridge Commons. **Councilman Kinneman** seconded the motion, and additional discussion ensued by Council. The motion was passed unanimously (5-0).

B. Litter Sweep.

Oakley announced the annual spring Litter Sweep will be April 16-30. Those wishing to help can contact NCDOT.

8. PUBLIC HEARING

Rezoning Case # RZ-15-07: CU-RPD to Amended CU-RPD. The property is located on Grove Park Drive, Sedwick Way, and Union Grove Road, consisting of the entire Kensington Place subdivision, in Oak Ridge Township. It is approximately 23.9 acres.

Planning Director Bill Bruce presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He explained that the rezoning was somewhat unusual because it involves a subdivision that has already been developed. He said the current zoning was approved in 2007 with conditions that open space remains and public sidewalks be constructed. The rezoning had been approved by Guilford County before the Town's Extra-territorial Jurisdiction (ETJ) existed. The county allowed the developer to post a surety to ensure that the sidewalks would be built. The development was nearly completed now and the developer was requesting a trail be constructed in lieu of the sidewalks. Bruce said

neighborhood residents had expressed concerns regarding the sidewalk. He said the Town's ordinance allowed either the sidewalk or trail; it also required the signature of each property owner affected, which the developer had obtained. Bruce said he recommended approval, as it is consistent with the Land Use Plan and the RPD zoning requirements. The Planning & Zoning Board voted 4-3 to recommend approval.

Planning & Zoning Board chairman Ron Simpson said he believed the majority of Board members were influenced by the unanimous support and request of the residents, but he believed those not in favor of the rezoning were mainly concerned with setting a precedent to give up its right to require sidewalks.

Mayor Sullivan opened the public hearing.

Proponents:

- Kevin Payne, a resident of Kensington Place and the developer, said the sidewalks were a condition of the original rezoning and were to be installed after the fact. He said the neighborhood had sat idle for three years with no activity due to the recession. He said he was now ready to install the sidewalks, but there had been a large push-back from the residents. He said many of them felt like the sidewalk construction would have an economic impact on their property, and because of the closeness of the sidewalk to the houses, many felt they would create a security issue.

Sullivan noted one place where the trail would go off the property; he asked Payne if he had written permission for that from that property owner. Payne said the owner of that property, Lonnie Bray, was present at the meeting. Payne presented Sullivan with a letter from Bray, in which Bray stated approval for an easement for the trail. Town Attorney Michael Thomas asked if the property was owned by both Bray and his wife, and Payne said yes. Thomas said the letter was a statement of intent, but it was not legally binding.

- Galen Steele, a Kensington Place resident, said it was unusual to get 100 percent agreement from a neighborhood, but the residents of Kensington Place were unified in this cause. He added that the trail would provide good flow for walkers because it would pick up at the end of the sidewalk in the Pepper Ridge development and go from there.
- Katie Banas, a Kensington Place resident, presented photos to the Council, which are hereby incorporated by reference and made a part of the minutes. The photos illustrated out where the sidewalks would be constructed and how they could be too close to water lines and cause residents to have to dig up water meters, cable boxes, light posts and landscaping. She spoke in favor of having trails instead of sidewalks.
- Katie Saunders of Kensington Place said she thought the sidewalks would detract from the neighborhood, while a trail would enhance it and tie together common areas in the development that are not currently used. She said sidewalks did not seem to be necessary here.

- Michael Cottingham said the neighborhood was full of nice homes with nice people, and he and his wife had selected it when they moved to Oak Ridge. He said the trail would add value to Kensington Place, and the neighbors were all united in support of it instead of sidewalks.

Opponents:

- None

Since there was no need for rebuttal, the public hearing was closed.

After Council questions and discussion, **Councilman Kinneman** made a **motion** to approve the rezoning request based on the following:

1. The proposed zoning amendment is consistent with the adopted Future Land Use Plan of the Town of Oak Ridge. The Planning Board has provided the Council with its written statement that the proposed zoning amendment is consistent with the comprehensive plan, and the Council concurs and adopts the Planning Board's finding of consistency by reference. In addition, the Council further finds that the proposed zoning amendment is consistent with the comprehensive plan because RPD zoning provides for either sidewalks or trails without giving preference to either, so the request for trails is consistent and comparable to sidewalks.
AND
2. The proposed zoning amendment is reasonable. The Council considers the proposed zoning amendment to be reasonable because:
 - A. The report of the Town staff finding the proposed zoning amendment to be reasonable is adopted by reference.
 - B. The Council further finds that the proposed zoning amendment is reasonable because the request enjoys the unanimous support of the residents of Kensington Place. Additionally, it avoids the disruption of existing mature landscaping including trees. This disruption would be counter to the intent of the RPD to preserve open space and tree cover.
AND
3. The proposed zoning amendment is in the public interest. This Council considers the proposed zoning amendment to be in the public interest because:
 - A. The report of the Town staff finding the proposed zoning amendment to be in the public interest is adopted by reference.
 - B. The Council further finds that the proposed zoning amendment is in the public interest because the Oak Ridge Land Use Plan and Pedestrian Plans emphasize walkability. While in the town core sidewalks are appropriate, in districts such as RPD, trails are in character with the type of zoning. That the trail system will be open to the public for all to use supports our goals of a town-wide trail system. The agreement by the HOA to assume full responsibility for maintenance of the trail system within Kensington Place ensures that it will be accessible now and in the future.

Mayor Pro Tem McClellan seconded the motion.

After additional discussion, **Councilman Kinneman** amended his earlier motion to approve the rezoning to include the stipulation that the trail would be a 5-foot-wide, all-weather trail, which would include a solid bed of mulch, with a 20-foot easement. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

9. CITIZEN COMMENTS

- Nick Heflin, Zaina Kuseybi, and Kiana Villanueva, representing the Northwest High School We the People team, announced a fundraiser for the group's trip to represent North Carolina at the national competition in Washington, DC, would be held April 9, 6-9 p.m., at Bistro 150.
- Town Clerk Sandra Smith announced Canine Capers would be held April 30 at Oak Ridge Town Park. Smith said she had raffle tickets for the event, and many great prizes were being offered, even for those who do not own dogs.
- Chad Gimbert said he was a 20-year resident of Oak Ridge and one of the owners of CrossFit Oak Ridge. He said since fall 2012, CrossFit had been in a lengthy disagreement with the Historic Preservation Commission, but they had obtained a Certificate of Appropriateness (COA) after completing work on the building. He said CrossFit then expected to be free, but the Town had decided to carry out legal actions with two fines it had imposed. Gimbert said they did not feel the fees were valid and were prepared to defend themselves in court, but they would like to avoid an ugly, costly court case that only benefitted the attorneys involved. Gimbert said he was present at the meeting to publicly request a meeting to try to resolve the issues between CrossFit and the Town. He said CrossFit's only desire was to promote a healthy, active lifestyle, and he would appreciate being able to focus on the business and provide a benefit to the community.
- Patti Paslaru said since CrossFit had been mentioned, she wanted to point out that they continue to say they just want to operate as a fitness complex, but she did not believe CrossFit's licensing included parties, such as the one held the previous weekend. She said when CrossFit continues to disregard the rules of the Town and its licensing, and then comes and asks to be forgiven, she as a citizen had an issue with that.
- Steve Miller of Kensington Place said the rezoning earlier in the meeting showed what could happen when people get together to try to get along. Regarding the issue between CrossFit and the Town, there comes a point when "you have to say enough is enough," he said. He said the situation seemed silly, and while he did not know all the details, sometimes people just need to get together and make a decision in order to move forward.

10. MONTHLY FINANCIAL UPDATE

Finance Officer Sam Anders presented the financial report, which is hereby incorporated by reference and made a part of the minutes. He also presented a request for a budget amendment in the amount of \$14,053.25; those items are in the Financial Activity Update, which is also hereby incorporated by reference and made a part of the minutes.

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

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

11. COMMUNITY UPDATES

A. Historic Preservation Commission.

Chair Ann Schneider reported:

- That the Commission had made comments on the proposed Bojangle's. Although the property is outside the Historic District, one of the zoning conditions was that it conform to Historic District standards.
- Several ads had run recently in the Northwest Observer, including ones regarding the new grant program and the usual annual ad regarding remodeling or landscaping in the Historic District.
- Several people attended the info session regarding the grant that would benefit the Town by helping preserve historic properties. A grant review panel of outside experts will provide advice on awarding the grants, with final decisions expected in June. The grant is a reimbursement program and requires at least 50-percent participation by the property owner.
- The historic marker dedication ceremony at Ai Church is scheduled for April 23, and will be followed by a brief reception.

B. Parks & Recreation Commission.

Chairman Bill Edwards reported:

- The grand opening of the amphitheater with a Music in the Park event will be held April 9.
- Canine Capers will be held on April 30.
- The grand opening of the Cascades Preserve will be held May 6 at 4 p.m. Edwards thanked the Northwest Observer for the front-page article on the Cascades.
- RidgeFest is scheduled for June 2-4.

C. Finance Committee.

Chairman John Jenkins presented the committee's budget recommendation for FY 2016-17. The draft budget will be posted on the Town website, Jenkins said, and public hearings will be held in May and June before the budget is adopted.

D. Planning & Zoning Board.

Chairman Ron Simpson reported:

- The Board had made a recommendation on the Kensington Place rezoning.
- The Board had also voted unanimously in favor of a site plan for a 9,400-square-foot office building beside McDonald's.
- The Board voted unanimously in favor of a subdivision plan for Gumwood Estates, which would consist of 19 lots on 38 acres, on Gumwood Road. The property had previously been rezoned RS-40 but had not been developed.

E. Board of Adjustment.

No meeting

13. CITIZEN COMMENTS

- None

14. COUNCIL COMMENTS

- Councilman Kinneman said reading the full record of the actions of the Town against CrossFit shows that there were multiple opportunities for CrossFit to appeal the fines the Town imposed on them. He said there was a formal hearing when the fine was applied, and the period of time for them to respond expired without CrossFit taking any action. He said the situation was not of the Town's doing. Regarding Paslaru's comments on uses of the property that are not allowed in their zoning, Kinneman said he specifically asked CrossFit when they rezoned the property if they wanted to zone for any uses other than a fitness center, and they specifically said no. When CrossFit rents out its property, Kinneman said, they are knowingly violating the zoning, and there is no ambiguity on that. He said for CrossFit to ask for relief from the fines when they continue to violate their zoning is somewhat difficult to take; if CrossFit is going to ask for relief, there needs to be some contrition, some promise not to continue violating the zoning, and some mitigating circumstances – but there is none of that.

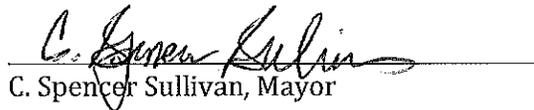
15. ADJOURNMENT

Councilman Kinneman made a **motion** to adjourn the meeting at 8:43 p.m. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:



Sandra B. Smith, NCCMC, CMC, Town Clerk



C. Spencer Sullivan, Mayor