



**OAK RIDGE TOWN COUNCIL MEETING
JULY 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

Bruce Oakley, Town Manager
Bill Bruce, Planning Director
Sandra Smith, Town Clerk
Sam Anders, Finance Officer
Tom Medlin, sitting in for Town
Attorney Michael Thomas

1. CALL TO ORDER

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

A. Invocation.

A moment of silence was observed.

B. Pledge of Allegiance.

2. APPROVE AGENDA

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

3. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

Mayor Sullivan read the following proclamation issued to the family of former mayor Bill Parrish, who passed away recently:

PROCLAMATION

WHEREAS, the Town Council of the Town of Oak Ridge, North Carolina, notes with deep regret the passing of W.A. "Bill" Parrish, and wishes to acknowledge and express appreciation to his family for his dedicated service to the citizens of Oak Ridge; and

WHEREAS, Bill Parrish was instrumental in the fight to incorporate the Town of Oak Ridge, giving countless hours to ensure that Oak Ridge citizens could control their own destinies; and

WHEREAS, he was appointed interim mayor in 1998 after the Town was successful in its incorporation efforts; and

WHEREAS, he was elected to the Town Council in the Town's first election in 1999, an office he faithfully fulfilled until 2001; and

WHEREAS, he was involved in the battle against a major landfill in the Oak Ridge area; and

WHEREAS, after his service ended and he moved from Oak Ridge, he continued to stay apprised of and in support of the Town's efforts toward growth and progress.

NOW, THEREFORE, by virtue of the authority vested in me as Mayor of the Town of Oak Ridge, North Carolina, I do hereby deem it an honor to extend this proclamation of recognition and appreciation to the family of W.A. "Bill" Parrish, and offer the Town's sincerest condolences for their loss.

IN WITNESS WHEREOF, I have set my hand and caused the seal of the Town of Oak Ridge to be affixed this 7th day of July, 2016.

4. REPORT FROM GUILFORD COUNTY SHERIFF'S OFFICE

Sgt. League reported that last year by this time, the District 1 Sheriff's office had taken about 45 Part 1 calls; this year during the same time period, it had taken only about 18, which is a 59 percent decrease. Last reported period, the office had received 617 calls, with an average response time of 8 minutes 58 seconds. Of the one priority call received, the response time was less than 4 minutes. In Oak Ridge during the same reporting time in 2015, the department had responded to seven Part 1 calls; this year, it had received only one. Recently in Oak Ridge, there had been some shoplifting reported at Lowes Foods and Tractor Supply, a couple of minor drug offenses at Oak Ridge Town Park, and a burglary at Northwest High School. He urged vehicle owners to lock their vehicles and take their belongings, and for neighbors to remain alert.

5. REPORT FROM OAK RIDGE FIRE DEPARTMENT

Assistant Chief Sam Anders said in June the fire department received 59 calls (29 fire/service related, 30 medical,) and personnel received 254 hours of training. As a safety tip, Anders urged residents to stay hydrated outdoors, as it is very easy to overheat – especially for the young and the elderly. He also urged meeting attendees to stay vigilant when children are swimming, even if it is in a kiddie pool, since drowning can occur in just a second.

6. TOWN MANAGER'S REPORT

A. Request to add Hearthridge Court to the N.C. State Maintenance System.

Mayor Pro Tem McClellan made a motion to pass a resolution to add Hearthridge Court to the N.C. State Maintenance System. Councilman Nodine seconded the motion, and it was passed unanimously (5-0).

B. Memorandum of Understanding with Rockingham County.

Mayor Pro Tem McClellan made a **motion** to approve the Memorandum of Understanding with Rockingham County to create a regional water authority. **Councilman Kinneman** seconded the motion. **Councilman Stone** asked to make a friendly amendment to the motion to add the following paragraph:

Whereas, this Memorandum of Understanding only represents a consensus among the jurisdictions on a general regional goal, without being in any way a binding agreement or contract. It is purely aspirational in nature and the Town of Oak Ridge is not bound financially or otherwise to the memorandum, future actions, or objectives of the Regional Water Initiative.

McClellan agreed to the friendly amendment. Council's vote to approve the motion was unanimous (5-0).

C. Amend Town Council meeting schedule due to Early Voting.

Councilman Kinneman made a **motion** to change the Town Council's meeting date in November from November 3 to November 10. **Councilman Nodine** seconded the motion, and it was passed unanimously (5-0).

D. Amend Historic Preservation Commission meeting schedule.

Councilman Kinneman made a **motion** to change the HPC's meeting schedule from the second Wednesday of the month to the third Wednesday. **Councilman Nodine** seconded the motion, and it was passed unanimously (5-0).

E. Amend park facility rental fee schedule to include amphitheater and grill rental rates.

Mayor Pro Tem McClellan made a **motion** to amend the park facility rental fee schedule. **Councilman Kinneman** seconded the motion, and it was passed unanimously (5-0).

F. Bids for sidewalk construction.

Town Manager Bruce Oakley reported that two responsive, responsible bids had been received for construction of the sidewalk along Oak Ridge Road from Linville Road to Oak Ridge Commons. The second bid, which was just received, was for \$70,546. He said several years ago, the project had been estimated to cost \$45,350. Oakley said he had learned the day of the meeting that another firm might want to bid on the project. He said Council can move forward and select one of the bids already received, or it could table the issue until a date certain, since the bids have expiration dates.

Council discussion ensued. In response to a question, Oakley said he had requested bids of about 15 companies; most were not interested. Councilman Nodine, who was familiar with the firm that now may be interested in bidding, said he had gotten some basic unit costs from the company and there could be a big difference in price.

Mayor Sullivan made a **motion** to schedule a special meeting for Thursday, July 21, at 3 p.m. to consider the bids and act at that time. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

G. E-cycle event.

Oakley announced that another E-cycle event would be held at the Town Park on December 10.

7. **PUBLIC HEARINGS**

Special Use Permit Case # RZ-16-02: AG-SP to Amended AG-SP. The property is located at 4541 Peeples Road, in Oak Ridge Township, is Guilford County Tax Parcel #0162299, and is comprised of approximately 14.01 acres. It is owned by David S. Cole. The property is located in the Scenic Corridor Overlay District and the Greensboro (GW-III) Watershed Overlay. The applicant seeks an amendment to an existing Special Use Permit for a Rural Family Occupation.

Mayor Sullivan explained that this would be a quasi-judicial public hearing, meaning each member of Council would be acting both as an independent judge and a member of Council. They were tasked with being impartial, and were not to express individual opinions on this matter or take the individual opinions of others into consideration. The Council was to consider the evidence, apply the standards established in the development ordinances, make findings of fact, and render a decision. He said those wishing to speak must come to the podium and be sworn in. He explained what constituted a conflict of interest: a fixed opinion; undisclosed ex parte communications with anyone about the case; a close familial, business or other relationship with an affected person; or a financial interest in the outcome of the matter. He asked if any Council members had such a conflict. Each of the Council members said they had no conflicts, but had received a group email from Lori Cole, inviting them to contact her or David Cole and to visit the property. Sullivan said he had responded to the email, declining the visit.

Town Planner Bill Bruce, Lori Cole, David Cole and Andy Michels were sworn in.

Bruce read the property description into the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said the request is to amend the Special Use Permit for a Rural Family Occupation. The applicant is currently approved for a pottery studio, including pottery classes and pottery sales. The current Special Use Permit includes a condition that limits public access to only the entrance on Peeples Road. Bruce said the entrance on Highway 68 was to be gated and only to be utilized for residential use. He said the applicant would like to amend his permit so that the public could access the property from the entrance on Highway 68. He said from what he could tell from the record, the condition had been added for two reasons: 1) because of traffic safety concerns on N.C. 68, and 2) the Rural Family Occupation requires that any building associated with the business be located behind the principal residence. The applicant was proposing that the condition be removed.

Bruce said at staff's request during initial conversations, the applicant applied for and received a commercial driveway permit from NCDOT for commercial access at that location. He said it was staff's opinion that changing the access does not change the location of the principal residence and business, but the property's address on Peeples Road and the orientation toward Peeples Road would not change; he said he did not believe changing the access would change anything in the Development Ordinance in that respect. He said the applicant had provided a community outreach statement, and he had provided each Council member with a copy of it, explaining

the extensive outreach done in the neighborhood. Bruce reminded the Council that during its consideration of the Special Use Permit amendment, it must determine the required findings of fact have been satisfied, based on relevant or credible evidence presented. He also reminded Council that although the Special Use Permit for the Rural Family Occupation is under consideration, the only request to be considered is removing the condition regarding the driveway access from Highway 68.

Bruce reviewed for Council the required findings of fact:

- That the proposed use requires a Special Use Permit under the Development Ordinance. He confirmed that a Rural Family Occupation does require a Special Use Permit per the Development Ordinance.
- That the proposed conditions meet or exceed the development standards and all required conditions and specifications found in the Development Ordinance. Bruce confirmed that the existing use with the proposed amendment meets all development standards associated with a Rural Family Occupation, and the request meets the conditions found in the Development Ordinance.
- That either the use as proposed, or the use as proposed subject to such additional conditions as the owner may propose or the Council may impose, is consistent with the purposes of the District and compatible with the surrounding uses. Bruce said the Council needed to make that determination based on testimony offered by the applicant.
- That the Special Use Permit shall be granted when each of the following findings have been made by the Town Council:
 - The use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
 - The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
 - The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development for Oak Ridge. Bruce again said Council should make that determination based on credible evidence presented by the applicant.

Bruce said he had a copy of the application and site plan if Council would like to view it, and he was available to answer questions.

Mayor Sullivan called for any questions. Councilman Kinneman asked if NCDOT had granted a commercial driveway permit and had not requested any modifications, and Bruce said that was correct.

Mayor Sullivan opened the public hearing. He said both proponents and opponents would be allowed to speak, and if there is any opposition, the applicant would be given the opportunity to rebut. He reiterated that only factual evidence can be presented and considered, and he asked speakers to limit their comments to factual information and not simply opinions.

Proponents:

David Cole said he was seeking to open the driveway on Highway 68 for business traffic to his pottery shop. He said that on December 6, 2001, he was approved for a Special Use Rural Family Occupation Permit to allow him to operate his pottery business. He said at that time, he was unaware of the option to apply for a business driveway permit through NCDOT and had agreed to the Town's condition on his Rural Family Occupation for a gate at the highway entrance. Mr. Cole said in May 2016, he applied for a commercial driveway permit, which was approved, and which deemed the entrance from Highway 68 was safe for commercial use. He asked the Council to remove the condition restricting business access at the entrance from Highway 68. He said it had been a long road, and said he really needed the Council's help.

Mayor Sullivan asked Mr. Cole if he planned to leave the driveway open at all times, or only for shows or events. Mr. Cole said the intent for the condition to be removed was to allow the gate to be open during business hours so it could be used by customers. He said at the present time, it is only open to family and friends, and is closed during kiln openings and special events. He said his intent was to leave it open during business hours, and cited an example of perhaps Tuesday from 10 a.m. until 5 p.m.

Councilman Kinneman asked if Mr. Cole intended to install a sign. Mr. Cole said he had thought about it, and he already had one sign on his property on Peeples Road. He said at this time, he would just like to focus on this condition and consider signage later, but that he hoped to be able to install a sign.

Mayor Pro Tem McClellan asked Mr. Cole if his business hours would include special events. Mr. Cole said currently he worked as both a potter and an EMT for Cone Health, so his hours are somewhat erratic. He said pending the outcome of this decision, he hoped to begin having more regular retail hours during the day as well as special events, such as he has had for the last 15 years.

Lori Cole, David Cole's wife, read a statement that said her husband was a college educated, professionally trained potter. His lifelong pursuit has been art, and he focused on pottery in college. She said he graduated from Barton College with a B.S. in Ceramics in 1989.

Sullivan said the Council appreciated the background, but asked that Mrs. Cole keep her testimony relevant to the Special Use Permit.

Mrs. Cole said on August 6, 2001, David was involved in a near fatal accident, a fact that is relevant now. Although he was in recovery for 18-24 months, he approached the Council in 2001 not long after the accident. Mrs. Cole said her husband was not necessarily in a state of mind as a result of the accident to actually question and pursue proper procedure that he needed once he applied for the Special Use Permit, and he was willing to do whatever was asked that evening and didn't have the wherewithal to question or seek use of the driveway. She said as a result, the pottery business had struggled in the last 15 years. She said the staff report suggested that they were still in compliance with the Rural Family Occupation. She said there were only two concerns initially when the condition was placed on the property: the traffic safety issue, and the location of the buildings in association with their home. She said the business is located behind their home and their address is still on Peeples Road, and they are not seeking to make any changes to the property – just to make the use of their driveway. She said NCDOT said the driveway is sufficient, and she asked Council to defer to NCDOT's expertise regarding traffic issues.

Andy Michels, a 24-year resident of Oak Ridge, said the Coles are a wonderful family that provide excellent pottery. Michels said the Coles had complied faithfully with the restriction not to open the driveway on Highway 68. He said there are a lot of homes and businesses on Highway 68 with no special turn lane, and that is all the Coles are asking for. Allowing the driveway from N.C. 68 to be opened would allow better access to the property. There are many driveways that have vehicles turning into them, and Michels said he believed this would be the same or even less traffic.

Opponents:

None

Council questions/discussion:

Sullivan closed the public hearing, and reminded Council that it was to consider the application and its congruity to the ordinances, and to only take factual evidence into consideration. He suggested the Council use the format of the staff report for discussion, and said questions may be asked of the applicants and staff. He asked Kinneman to keep track of the findings of fact during the discussion.

Kinneman asked Bruce if Highway 68 in the area of the Cole's driveway has a fairly long sight line in both directions. Bruce said he thought that was a fair generalization, and he thought DOT would analyze sight lines and distances for appropriateness before issuing a driveway permit. Kinneman asked if there would be a traffic light at Peeples Road and N.C. 68 when I-73 is opened, and Bruce said he was not sure. Kinneman pointed out that there is already a traffic signal at N.C. 68 and Lebourne Road. Kinneman asked if the traffic count on N.C. 68 was supposed to decrease when I-73 is opened, and Bruce said yes, that is what DOT's model suggests.

McClellan asked how visitors would know where to turn in to the property, and asked if the Coles intended to install a sign. Bruce said the Rural Family Occupation does allow the applicant to have a sign, and he would just have to apply to staff for approval. McClellan asked if the applicant would meet the requirements for a sign, and Bruce said he would think so. McClellan said he thought there was a good line of sight there, as opposed to the driveway at the Old Mill.

Stone said it was a fact that the applicant had applied for and received a driveway permit from NCDOT. He said the fact that NCDOT would approve that permit probably negates the 2001 condition about traffic safety, because that is something DOT would likely evaluate. He said it had already been mentioned that I-73 was going to decrease the traffic on N.C. 68 by about 30 percent. He said he was a little perplexed about Council's concern back in 2001 regarding traffic safety. Stone said it was also a fact that the Coles were not changing the location of any buildings on their property, and the business is still located behind the principal residence. Stone said he believed issues surrounding the conditions put on the Coles had both been resolved. He said it was a fact that there were no proposed changes to the property or the current use of the property, so none of those items had any bearing on what staff had outlined as the four required findings of fact. Stone said the only change would be access to the property.

Nodine said he looked at the entrance to the site. Looking north from Peeples Road to Reedy Fork Creek was about 3,600 feet, and looking further north from Reedy Fork Creek to the Old Mill was about another 3,600 feet. The first section had one

road intersecting road, one institutional use, two houses and one commercial use, if this request is approved. On the section further north from Reedy Fork Creek to the Old Mill, there are two roads, one institutional use, one commercial use and five houses. He said it seemed the issues concerning the first section of road cited were less than what had been an accepted standard. He said, in contrast to Stone, his understanding was that DOT reported a 60 percent reduction in traffic on N.C. 68 once I-73 is opened.

Sullivan said of the recommendations outlined in the staff report and in staff's comments, one had to do with the use being consistent with the purposes of the zoning district. He said the Coles already had a Special Use Permit and it was not changing – only another driveway access would be added. Regarding health and safety, he said other Council members had adequately addressed that topic. He said there were long sight lines, and he would consider the access to the Old Mill comparable to what the Coles are requesting, and in terms of topography and location, that access is much more severe. Of the location and character of the use being in harmony with the area, he said he thought Nodine had sufficiently addressed that.

Councilman Kinneman made a **motion** to adopt the following findings of fact:

- The ordinance requires a Special Use Permit, and that condition has already been met, as one has already been issued. The Town put a special condition on that Special Use Permit, but the Special Use Permit had been issued, and that is a fact.
- The proposed conditions meet or exceed the development standards and all required conditions and specifications found in the Development Ordinance. As mentioned, the accessory buildings are located behind the house and meet the requirement that those types of buildings be located behind the principal residence, so that already exists.
- That either the use as proposed, or as the use as proposed subject to such additional conditions as the owner may propose or the Town Council may impose, is consistent with the purposes of the District and compatible with surrounding uses. Those conditions were met when the initial permit was offered. Regarding health and safety, a driveway permit was issued by NCDOT, so the Council is depending upon NCDOT's professional opinion.
- The Special Use Permit shall be granted when each of the following findings of fact have been made by the Town Council:
 - That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted. The driveway permit issued by NCDOT has addressed safety concerns and the questions on sight lines, and the Council is depending on NCDOT's professional opinion that this is a safe location for a commercial driveway.
 - That the use will not substantially injure the value of adjoining or abutting properties, or that the use is a public necessity. Specifically addressing adjoining or abutting properties, the business has been at this location for 15 years, and with the outreach done with the neighbors, there had been no information that this change would negatively impact the surrounding property values.
 - That the location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Jurisdiction and its environs. The original Special Use Permit had already been awarded, and

this request is not changing the character of the business. It is just changing the access.

Mayor Pro Tem McClellan seconded the motion, and it was passed unanimously (5-0).

Councilman Kinneman made a **motion** to approve the application to remove the condition as specified. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

8. CITIZEN COMMENTS

Micah Spencer, who was scheduled to offer the invocation at the meeting, apologized for being late, and said the invitation to give the invocation was one he took seriously. Mayor Sullivan said he would be invited to offer the invocation at another Council meeting.

Jerry Cooke spoke about the possibility of NCDOT putting a roundabout at the intersection of N.C. 68 and Oak Ridge Road. He gave examples of roundabouts that worked well and ones that did not. He said a roundabout might look nice, but the objective of the intersection is to allow vehicles to flow through without creating a bottleneck. Mayor Sullivan said he shared many of Cooke's concerns, and at this time, the DOT is just surveying the area and will allow the Town opportunities to make its wishes known.

9. MONTHLY FINANCIAL UPDATE

Finance Officer Sam Anders presented the financial report and a budget amendment, which are hereby incorporated by reference and made a part of the minutes. He said it was also time for the annual letter of engagement with his firm to be approved.

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

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

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

10. COMMUNITY UPDATES

A. Planning & Zoning Board.

No meeting

B. Board of Adjustment.

No meeting

C. Historic Preservation Commission.

Town Clerk Sandra Smith reported:

- At the previous meeting on June 8, the Commission reviewed and approved five COAs.
- The Commission also approved the first round of Historic Heritage Grants. The \$5,250 in grants will leverage more than \$36,000 in exterior improvements to key historic structures in Oak Ridge.

D. Parks & Recreation Commission.

Smith also gave the following report on behalf of the Parks & Recreation Commission:

- Plans were discussed for RidgeFest Reload, to be held on September 10 in conjunction with Music in the Park.
- The Commission discussed and voted on a recommendation for new park facility rates to include the amphitheater.
- The decision to elect a new chair was tabled until next month.
- Discussion was held about Heritage Day, which will be held in October in the park and will celebrate life in Oak Ridge in the past.
- Upcoming events include Music in the Park on July 9.

E. Finance Committee.

No meeting

11. CITIZEN COMMENTS

- Larry Stafford thanked the Council for delaying its meeting in November due to Early Voting. He said another Early Voting site will be open in November at GTCC at Leabourne Road.
- Sam Anders asked the Council to remember there are a small number of farmers who have to travel through Oak Ridge on tractors that would be required to go through a roundabout, if one is built. He said farm equipment does not lend itself to making traffic maneuvers at speed.
- Phillip Hanks, a member of Merchants of Oak Ridge, asked the Council to consider including a report from the group during Community Updates.

12. COUNCIL COMMENTS

- Councilman Nodine said when the Town first heard about a possible roundabout from NCDOT, Council had talked about the Town hiring an engineer. He asked to know where that issue stood. Oakley said the Town is continuing to work with DOT, but they did not have a design yet.

13. CLOSED SESSION

A closed session was held to consider the qualification, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public offer or employee pursuant to N.C.G.S. 143-318.11(a)(6).

Councilman Kinneman made a **motion** to go into closed session at 8:45 p.m. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

Councilman Kinneman made a **motion** to return to open session at 9:17 p.m. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

Mayor Pro Tem McClellan made a **motion** to give the Town Manager a 2 percent salary increase. **Councilman Kinneman** seconded the motion, and it was passed unanimously (5-0).

14. ADJOURNMENT

Councilman Kinneman made a **motion** to adjourn the meeting at 9:18 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