



**OAK RIDGE TOWN COUNCIL MEETING
AUGUST 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

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

1. CALL TO ORDER

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

A. Invocation.

John Haynes, president of Oak Ridge Military Academy, offered the invocation.

B. Pledge of Allegiance.

2. APPROVE AGENDA

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

3. APPROVE MINUTES

Councilman Kinneman made a **motion** to approve minutes of the June 2, 2016 meeting, June 2, 2016 closed session, July 7, 2016 meeting, July 7, 2016 closed session, July 21, 2016 special meeting, and July 21, 2016 closed session. **Councilman Mike Stone** seconded the motion, and it was passed unanimously (5-0).

4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

None

5. REPORT FROM GUILFORD COUNTY SHERIFF'S OFFICE

Master Cpl. Southern reported that seven Part 1 crimes had been reported in the previous month; three were residential break-ins, two were thefts from motor

vehicles, and the others were thefts from unlocked vehicles. He urged meeting attendees to lock their vehicles and lock their garage doors, and to call 911 to report any suspicious activity.

6. REPORT FROM OAK RIDGE FIRE DEPARTMENT

Assistant Chief Sam Anders said in July the fire department received 57 calls, and personnel received 262 hours of training. Anders urged residents to check the air quality prior to any open burning, and said there could be no burning on Code Orange or Code Red days. He said any burning should be monitored until it is completely out, a water hose should be kept nearby, and the area of the fire should be wet down thoroughly when burning is done.

7. TOWN MANAGER'S REPORT

A. Volunteer appointment/reappointment.

Councilman Kinneman made a **motion** to reappoint Tracy Street to the Parks & Recreation Commission. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

B. Recommendation regarding park site plan.

Oakley said the Parks & Recreation Commission had reviewed the qualifications submitted by five firms and recommended the Town contract with the firm of Davis Martin Powell to create the plan for the remainder of construction of Phase II at the park. Oakley said once details have been worked out, he will ask Council to approve the funds.

Mayor Pro Tem McClellan made a **motion** to authorize the Town Manager to negotiate with Davis Martin Powell for design work of Phase II at Oak Ridge Town Park. **Councilman Kinneman** seconded the motion, and it was passed unanimously (5-0).

C. Fogleman Road activity.

Oakley gave an update on the zoning violation on Fogleman Road. He said the Town had filed for injunctive relief in Court, but the judge had a conflict of interest and could not hear the case. Because no other judge was available, a hearing was scheduled for September 6.

Mayor Sullivan said the issue had been on the news and was at the forefront of the Council's attention.

Mayor Pro Tem McClellan said he was very disappointed that Billy Kanoy, owner of Kanoy Properties, had chosen to place a heavy industrial activity on his property, which is zoned General Office-Moderate Intensity without formally consulting the Town. McClellan said the heavy industrial activity is not in compliance with the Town's zoning ordinance. He said Kanoy had evidently decided zoning ordinances do not apply to him or to his company, but McClellan said he believed citizens had a reasonable expectation that ordinances would be enforced with no special treatment given to any company or person.

Councilman Stone said he was shocked at Kanoy's actions, saying he showed a lack of respect for the Town and for the law. He said he was equally disappointed in the Bank of Oak Ridge, whose corporate headquarters are next door to the site, because Kanoy is a member of the bank's board of directors. He said if anyone else placed a hog farm or industrial site beside one of their banks, they would raise Cain. He said if people put pressure on the Bank of Oak Ridge and gave them bad publicity, perhaps Kanoy's bad behavior would change.

Sullivan said you could tell a lot about a person by the way they act, and it was interesting when someone's personal gain was more important to them than the health and welfare of others. He said the Town looks like it does, has high property values, and offers a good quality of life because of the Town's ordinances. He said all citizens should be insulted by what Sullivan called a willful violation that is an affront to the Town, its values and its citizens. He added that the Town and the Council would continue to defend its ordinances.

8. PUBLIC HEARINGS

- A. **REZONING CASE # RZ-16-04: RS-30 and PI to CU-TC-R.** The property is located on the north side of Oak Ridge Road, approximately 200 feet west of Zack Road in Oak Ridge Township. It is Guilford County Tax Parcels 0162860, 0163177, and 0163221, is comprised of approximately 15.9 acres, and is owned by Oak Ridge Society Foundation Inc. The property is located in the Scenic Corridor Overlay Zone and the Oak Ridge Historic District (part).

Mayor Sullivan read aloud a request from Bob Dischinger of Evans Engineering, on behalf of LD Equity, the developer, that requested the case be continued to the October 6, 2016 meeting of the Town Council. The request said it was being made to address concerns expressed by neighbors and the Planning & Zoning Board.

In response to a question, Planning Director Bill Bruce said if the applicant submits a substantially different plan, the case would need to be heard again by the Planning & Zoning Board.

Councilman Kinneman made a **motion** to continue the public hearing to the October 6, 2016 meeting of the Council and send the case back to the Planning & Zoning Board if necessary. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

- B. **REZONING CASE # RZ-16-03: AG to RS-40.** The property is located on the west side of Bridgehead Road, approximately 1,900 feet south of Oak Ridge Road, in Oak Ridge Township. It is Guilford County Tax Parcels 0167806 and 0167835, is comprised of approximately 29.3 acres, and is owned by Gregory H. and Mary B. Campbell, and heirs of Richard Parker Barrow. The property is located in the Greensboro (GW-III) Watershed.

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. Bruce said there were no conditions submitted, and the applicant was requesting a straight RS-40 zoning. He reminded Council that any type of site map shown would be for illustrative purposes only and would not be binding. He said there had been significant discussion about the ordinance allowing a maximum of 50 lots off a

single entrance. He said staff had done some extra research and gone back to 2003 to listen to tapes during the public hearing to be sure the ordinance was being interpreted correctly. He said he had issued a memo earlier to the Council explaining that he thought staff had been interpreting the ordinance incorrectly. Bruce said he did not believe the intention of the Town Council at that time was to limit development on roads like Bridgehead and Scoggins, and said the 50-lot maximum applies to subdivision streets. He said an earlier request to rezone the property to Rural Preservation District (RPD) had been denied, as there were no significant resources being preserved to merit that zoning. Bruce said staff recommended approval of this request, as the zoning was consistent with the Land Use Plan, and the Planning & Zoning Board also voted 5-0 to recommend approval of the request.

Mayor Sullivan opened the public hearing

Proponents:

Anthony Donato said he was the buyer and developer of the property. He said he had come before the Council previously asking for approval to zone the property RPD, but that had been denied, and he had listened to the Board's concerns. Donato said at that time, one of the owners also had some reservations about the rezoning, but family members had worked out a plan and they are unified in their request for RS-40 zoning. He said they hoped to get 27 lots on the property, but probably would not get that many, and they anticipated having lots of about 1.1 acres each. He said community outreach had been done, as he had sent out letters to property owners within 1,000 feet of the property and had held a meeting, although turnout was sparse. He said after the Planning & Zoning Board meeting, he had sent another letter, inviting neighboring property owners to call him.

Dede Cunningham said one of the concerns previously stated had been regarding the 50-lot maximum rule, but the determination that it applies only to subdivision streets does allow for additional future development on Bridgehead Road. She said in November 2015, she had contacted Ernie Wilson with NCDOT and provided him with a copy of the plan for RPD zoning. She said she had an email from Wilson where he said 27 houses would create an additional 270 trips per day on Bridgehead Road; she said his opinion was that the road was well under capacity. With the change in the zoning request to RS-40, she again contacted Wilson, and he reiterated as long as the number of homes did not increase, Bridgehead Road was sufficient to handle the traffic. She said she also emailed Bobby Norris with NCDOT, who is Wilson's boss; she said Norris had said the design standard for a local connector road is to accommodate 4,000 trips per day. With an additional 270 trips per day, he said Bridgehead was well under capacity of the 4,000 trips per day it was designed to handle. She said she also asked Norris if he had any concerns about the intersection of Bridgehead Road and N.C. 150. She said he reported that there was no reason why improvements would be warranted there. Cunningham said she had also asked Norris about the finish of Bridgehead Road, and he said the compact aggregate finish of the road was the same as used on many low volume roads in the state and that if changes were needed, the DOT would handle them. She said Norris also said the additional homes on the road might cause the road to be repaved sooner, and he did not feel a Traffic Impact Study was needed because the development was small. She asked the sellers of the property to come to the podium and speak.

Greg Campbell spoke, saying family members had come together on the sale and development of the property. He said the Planning & Zoning Board had recommended approval, the 50-lot maximum issue had been solved, and the buyer had taken extensive steps to contact the neighbors and allow them to shape the project. Regarding the entrance to the property, he said the 64-foot access from the property to Bridgehead Road is adequate. He said open and unused land can be a burden to property owners, and he asked for approval of the request.

Steven Barrow said Campbell and the other speakers had touch on nearly everything. He said he believed the subdivision would make the Town more attractive to others, and he hoped all issues had been addressed.

Opponents:

Sherrie Watson spoke on behalf of several members of the Watson family. She said she understood the 50-house maximum ordinance had been interpreted differently than it was previously, which would allow the Watsons to further develop property on Bridgehead Road. Watson asked what guarantee they had that it would not be interpreted differently in the future. She said they still had some concern that the entrance to the development would be in a curve. She said correcting the curve in the road would require the taking of someone's property. She emotionally said that it was difficult to imagine an additional 25-27 houses on the sparsely developed road, and that because Bridgehead Road is so narrow, vehicles have to slow down and move over when meeting another car.

Sam Anders said his family owns land across the road from the Campbells. He said he had strong opposition to marginal land being packaged together for development, particularly when road access was not adequate.

Rebuttal - Proponents:

Dede Cunningham said, regarding Sherrie Watson's comments about the road, that she had an email from NCDOT saying Bridgehead Road and others like it were capable of handling 4,000 trips per day. She said she understood Anders' concerns, but Bobby Norris with NCDOT had said if traffic impacts were determined to be significant, they would be addressed by NCDOT.

Anthony Donato said they would work with NCDOT and their engineer to ensure the entrance to the development is as safe as possible. He said he intended to continue the community outreach once site plans are developed so that neighbors' concerns can be addressed.

Rebuttal - Opponents:

None

The public hearing was closed.

Council discussion/questions:

Councilman Kinneman asked about the intersection at N.C. 150 and Bridgehead Road; Bruce said he was not sure what NCDOT would require at that intersection. Sullivan said any changes there would be up to NCDOT and not the developer.

Mayor Pro Tem McClellan asked Cunningham additional questions about the road surface and the list of roads to be repaved. He asked if Cunningham had supplied

copies of the emails she discussed to the Town Clerk for the record, and she presented copies to the clerk, which are hereby incorporated by reference and made a part of the minutes.

Councilman Nodine asked how residents can get assurance that the 50-lot maximum per subdivision street interpretation would not change. Bruce said the ordinance could be amended to add clarifying language if that was Council's pleasure.

Councilman Stone made a **motion** to approve rezoning case RZ-16-03 based on the following:

1. The proposed zoning amendment is consistent with the adopted development 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 the Oak Ridge Land Use Plan specifically recommends RS-40 zoning for development on tracts outside the town core with marginal environmental, agricultural, historic or community open space value. This parcel clearly matches with those attributes.
- 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 Oak Ridge ordinances and planning guidelines provide that property owners should have a reasonable expectation to use and/or develop their property within the Town's ordinances. The proposed zoning amendment meets this threshold and the proposed development makes appropriate use of the property without substantially impacting the area and adjoining neighbors.
 3. The proposed zoning amendment is in the public interest. The 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 RS-40 is the lowest density zoning for a major subdivision. As such, it provides for measured development in a manner least disruptive to adjoining properties and residents.

Councilman Nodine seconded the motion, and after additional discussion, it was passed by 4-1 vote (Kinneman voting against).

9. CITIZEN COMMENTS

- Randy Floss spoke on behalf of the Merchants of Oak Ridge and the Parks & Recreation Commission and thanked the Town for its support of RidgeFest. Because the fireworks were rained out, RidgeFest Reloaded has been scheduled for September 10. It will include live music, events for kids, food trucks and fireworks. Floss also spoke as the homeowner association president of Oak Ridge Plantation;

he said Blythe Construction had been contracted by NCDOT to resurface the streets in his neighborhood, and they had done an outstanding job.

- Martha Pittman, who lives on Fogleman Road, thanked Town staff, the manager and Council for the consistent enforcement of zoning laws and ordinances and for protecting the Fogleman Road area. She said the industrial use on Fogleman Road needs to be shut down. She also urged penalties that would strongly discourage such action in the future be included in the ordinance.
- Tom Wright spoke about the beauty of Oak Ridge, and the issues Zack Road area residents will face with the proposed rezoning. He also said the biggest eyesore in Oak Ridge is the auto shop located on Oak Ridge Road, and said he did not understand why that business is not up to code unless it had somehow been grandfathered. He also said that drinking went on at the property, and asked the Council to address the issue.

In response to a question from Council, Oakley said the tenant had been notified about zoning issues at the property, and that he had also been notified about a second violation for starting to paint the building, which is located in the Historic District.

- Richard Lamb said he had the same concerns as Wright, and said he had come by the auto shop on the way home from work between 2 a.m. and 3:30 a.m. and had seen kids playing on cars, people drinking, and a party going on at the property.

Mayor Sullivan advised anyone who witnessed underage drinking or drinking alcohol in public to call 911 without hesitation. He said the Town is trying to address the other issues, but it has to follow due process.

Mayor Pro Tem McClellan asked that the sheriff's department be asked to step up patrols in the area.

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.

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

11. COMMUNITY UPDATES

A. Merchants of Oak Ridge.

Patti Stokes said the 48-member group was small but mighty. She said in June, the group had awarded a \$1,500 scholarship to local resident Andrew Cunningham. Proceeds from Run the Ridge went to Next Step Ministries and Operation Xcel. Regarding RidgeFest Reload, she said the merchants were glad to partner with the Town.

B. Board of Adjustment.

Chair Nancy Stoudemire said the Board had met for the first time this year in July and had denied a request for a variance to build a garage that was too close to the road.

C. Historic Preservation Commission.

Chair Ann Schneider reported:

- The changes to the auto shop's exterior were supposed to go through the Commission. If not, the Town generally contacts the property owner, and a Notice of Violation with civil penalties can be issued.
- At the HPC meeting, the rezoning request near Zack Road was approved by the Commission, who determined it would have little or no effect on the Historic District.
- Signs were placed at the Larkins House and Sawyer House stating that improvements were being made as a result of the Town's Historic Heritage Grants. Signs will also be placed at the Sanders-Blaylock House and Alumni Hall at Oak Ridge Military Academy when work begins there.
- The Commission is still hopeful they can get someone to relocate the log cabin on the Berrier property before it is developed. If not, the developer has agreed to hold a salvage day.

D. Parks & Recreation Commission.

Town Clerk Sandra Smith reported on behalf of the Parks & Recreation Commission:

- Music in the Park events are held the second Saturday of each month. August 13 will feature Cruize Control, and September 10 will feature Shaggin' Maggie and will be held in conjunction with RidgeFest Reload.
- A special meeting was held August 1 to review RFQs submitted by firms interested in drawing specifications for the remainder of Phase II development at the park and to choose the general elements to be purchased for the new playground.

E. Finance Committee.

No meeting

F. Planning & Zoning Board.

Vice Chair Bobbi Baker gave a detailed description of the meeting in which the Board heard the rezoning cases on Bridgehead Road and the one on N.C. 150 near Zack Road.

12. CITIZEN COMMENTS

- Micah Spencer commended the residents, Council, staff and volunteers of Oak Ridge. He said he would miss them and being a Parks & Recreation Commission alternate as he goes off to college.

- Gary Blackburn said he and his wife were recipients of one of the Historic Preservation Grants, and he thanked the Council, Ann Schneider and the HPC for making the money available.

13. COUNCIL COMMENTS

14. CLOSED SESSION

A closed session was called to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body pursuant to N.C.G.S. 143-318.11(a)(3).

Councilman Kinneman made a **motion** to go into closed session at 9:11 p.m. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

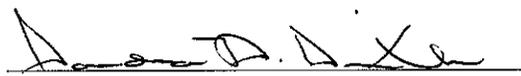
Councilman Kinneman made a **motion** to return to open session at 9:46 p.m. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

Mayor Sullivan announced that no action had been taken during the closed session.

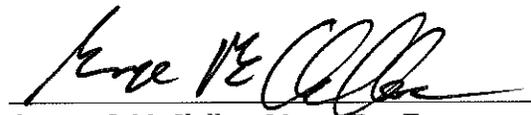
15. ADJOURNMENT

Councilman Kinneman made a **motion** to adjourn the meeting at 9:46 p.m. **Mayor Pro Tem McClellan** seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:



Sandra B. Smith, NCCMC, CMC, Town Clerk



George S. McClellan, Mayor Pro Tem