



**OAK RIDGE TOWN COUNCIL MEETING
DECEMBER 6, 2012 - 7:00 P.M.
OAK RIDGE TOWN HALL**

MINUTES

Members Present

Ray Combs, Mayor
Roger Howerton, Mayor Pro Tem
Danny Yanusz
George McClellan
Spencer Sullivan

Staff Present

Sandra Smith, Town Clerk
Bruce Oakley, Town Manager
J. Michael Thomas, Town Attorney
Sam Anders, Finance Officer

1. CALL TO ORDER

Mayor Ray Combs called the meeting to order at 7:00 p.m.

- **Invocation**

Howerton led meeting attendees in reciting the Lord's Prayer.

- **Pledge of Allegiance**

2. APPROVE AGENDA

Mayor Pro Tem made a **motion** to approve the December 6, 2012, agenda. **Councilman George McClellan** seconded the motion, and it was passed unanimously (5-0).

3. APPROVE MINUTES OF NOVEMBER 8, 2012, MEETING

Councilman Spencer Sullivan made a **motion** to approve the November 8, 2012, meeting minutes. **Councilman McClellan** seconded the motion, and it was passed unanimously (5-0).

4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Mayor Combs recognized several high school students who were attending the meeting as part of a civics class assignment.

5. TOWN MANAGER'S REPORT

Town Manager Bruce Oakley presented:

- **Board member reappointments.** Oakley said the terms of several Board and Commission members are expiring. All have expressed a willingness to continue serving.

Councilman McClellan made a **motion** to reappoint the following Board and Commission members:

- Nancy Stoudemire to Board of Adjustment;
- Doug Nodine, Nancy Stoudemire and Carl Leybourne to Planning and Zoning Board;
- Tony Cooler to Parks and Recreation Commission.

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

- **Request from Merchants Association of Oak Ridge (MAOR).** This issue, in which MAOR asked to use office space in the Town Hall, was continued from the November meeting in order to have a MAOR representative present to answer questions. Oakley said MAOR President Bruce Frankel was in attendance.

Councilman McClellan disclosed that he is a member of MAOR. He then asked Frankel what the space would be used for. Frankel responded that MAOR wanted to work closely with the town and there were things the two groups could work on jointly. He said giving MAOR an office in the Town Hall would allow them to centralize their marketing materials, meet with new businesses and better support functions and events of the town.

Councilman McClellan made a **motion** to allow the Town Manager to negotiate with MAOR regarding an office in Town Hall. **Councilman Sullivan** seconded the motion, and it was passed unanimously (5-0).

- **Sign permit.** Oakley reported that a sign permit at 8309 Linville Road had been issued in error, allowing a sign larger than previously approved by the Historic Preservation Commission. The Town Council had been updated and advised on the Town's authority regarding the permit; Oakley requested Council's direction on how to move forward with the issue.

Mayor Combs asked if Oakley was asking Council's direction on whether to have permit reissued for the correct size of the sign or to allow the size of the sign to remain as was approved by the Historic Preservation Commission, and Oakley said yes. Combs clarified that the HPC approved a sign of 101 square feet as applied for by CrossFit and that CrossFit later applied for a sign permit from Guilford County that was approximately 200 square feet, and Oakley agreed. The town planner had inadvertently overlooked the difference in the sign's dimensions, and Combs asked if Oakley was asking whether Council wanted to rectify the situation. Oakley answered yes.

▪ Mayor Pro Tem Howerton said his only concern was that he had been a stickler for details from the beginning and had told CrossFit's owners that he would approve anything they did if it was in accordance with the Town's ordinances. Howerton said he was seeing things, such as the sign – which was twice the size of what was originally approved – and he felt the issue should be brought into compliance with the ordinances. He said he felt the Town was setting a precedent and that if one person was allowed to not be in compliance, others would expect the same treatment.

▪ Councilman Yanusz said he agreed with several of Howerton's points. He asked CrossFit representatives who were present at the meeting approximately how much it would cost to bring the current sign into compliance.

David McRae of McRae Signs, who had painted CrossFit's sign, asked to address Council. McRae said he had been in the sign business for 36 years. He said the 101-square-foot sign was based on a conceptual rendering of CrossFit's building, which was not to scale. Many issues can cause changes to occur during construction including code, construction and design issues. He had designed the sign based on Guilford County's sign ordinance. Although the design of the front of the building had changed, the sign itself had not, McRae said. HPC had been given a concept to approve, and the actual sign had been based on the county ordinance. He showed Council photos of the design he had initially wanted to do, which had been "toned down considerably" with the application of gray instead of white paint and switching a brighter red color for the darker red. The hand-painted sign was in keeping with a more historical sign, McRae said. He said he would be glad to answer Council's questions.

Yanusz said he understood McRae said he designed the sign based on Guilford County standards, and McRae said yes. Yanusz asked if it was usual and customary for anyone in the construction industry to do designs to scale, and McRae said his company did conceptual designs all the time. Yanusz asked if when designs are being presented for review of appropriateness whether they should be done to scale so everyone is "on the same page," and McRae said Guilford County requires a scaled drawing; he pointed to an edited photo of the building showing the size of the sign that had been submitted to the county with the sign permit application. Using the county's formula, McRae said a 211.5-square-foot sign would be allowed – which is larger than the sign painted on the CrossFit building.

McRae said he did not have anything to do with the sign being presented to HPC, but that he had sent Mark Smith and Chad Gimbert of CrossFit a number of sign designs. Yanusz said he was trying to determine what had been presented to HPC, and McRae pointed to the drawing he understood from Gimbert had been presented. He reiterated that that he had simply guessed at the sign's size based on how big the building appeared to be and that the design presented to HPC was not to scale. McRae said he understood HPC wanted to see what the sign looked like and that he could have provided a to-scale drawing had he known HPC wanted one. The sign concept HPC had approved had not changed; the building, during construction, was what had changed, he said. Yanusz asked if the disconnect was because there was a concept and then a to-scale drawing and they were different, and McRae said yes.

▪ Councilman McClellan read from HPC meeting minutes where Mark Smith said McRae had installed many signs in Oak Ridge; McClellan asked how many signs that was, and McRae said his company had worked exclusively at 68 Place and helped the original owners write the sign criteria for that development based on the Historic Guidelines. McClellan pointed out that 68 Place was not in the Historic District. McClellan asked about other signs McRae had done, and McRae said he had done many signs over the years; McClellan asked how many were in the Historic District, and McRae said he was unable to give a number.

McClellan pointed out that what is submitted to HPC is considered evidence and is what the Commission bases its decisions on. McClellan said the submission to HPC regarding

the size of the sign said it would be 101 square feet. McRae countered that it was merely a conceptual drawing.

McClellan again referred to HPC meeting minutes in which Chairman Steven Lantz had asked if the sign was shown to scale; Mark Smith had said it was close and that it did not exceed the maximum of 125 square feet. McRae said the sign installed was actually 174 square feet, and the 125-square-foot measurement Smith was referring to was based on the conceptual drawing. McClellan said his point was that the evidence the decision was based on said the sign would be 101 square feet. McRae said it was not his intent for HPC to base its decision on that measurement.

- Councilman Sullivan said it sounded as if McRae based the sign that was approved by HPC on the conceptual drawing, and McRae said yes and that his "best guess" of the building's front measurements were based on the size of the doors. Sullivan said he did not believe the size of the building had changed, and McRae said the pitch of the gable on the front of the building had been altered, which changed the amount of wall space on the front of the building.

Sullivan said the footprint of the building had not changed, although the pitch of the roofline may have, and that the problem is that there is a significant discrepancy between the dimensioned drawing that had been presented to HPC and a later drawing submitted to the town planner. The town planner had not picked up on that discrepancy, which is what Council was now trying to deal with, Sullivan said.

Sullivan added that HPC is a quasi-judicial body and anything presented was as if it were in a court of law. McRae said he had never been informed that a "hard drawing" giving exact dimensions was needed to be presented to HPC and that he had no knowledge of HPC's requirements. He said there was no intent to "sneak" anything in so that a larger sign could be obtained, that the sign is legal, and that the issue simply involved a misunderstanding by HPC. Sullivan pointed out that it was a dimensioned drawing that was submitted to HPC, and it was a dimensioned drawing that was approved.

- Mayor Combs said he liked the work of McRae Signs and appreciated the candor McRae had used in responding to Council's questions. Combs asked whether McRae saw the sign permit before starting work on the sign; McRae said he believed Mark Smith had the permit at that time. Combs asked again if McRae had seen the permit, and McRae said no. Combs said he understood that no permit had been applied for when work on the sign began; McRae said Combs was most likely correct. Combs said McRae had been in the business for a long time and knew that before work began, a sign permit was necessary. McRae said he thought Gimbert had gone to pick up the permit, and Combs again asked if the sign was started before McRae saw the sign permit, and McRae said yes and he thought the sign permit was at Guilford County at that point.

Regarding the drawings McRae had submitted to HPC as a "concept," Combs said he noted there was no horse head above the "M" in "Mustang Fitness," yet when McRae started work on the sign, the additional horse head was part of that design. Combs said that the second horse head had not been part of the "concept" drawing submitted to HPC, and McRae said it was; he added that he had sent Smith and Gimbert several layouts of possible signs, and Gimbert asked him to send them one without the additional horse head.

McRae said CrossFit had submitted the concept drawing without the additional horse head to HPC, but when it was time to begin work, Gimbert asked him to include the additional horse head. When McRae began painting the sign, he got a call from Gimbert saying the extra horse head was not on the drawing approved by HPC, but McRae had failed to remove that element from his files. Combs asked McRae if HPC had ever seen the additional horse head above the "M," and McRae said no.

Setting the square footage issue aside, Combs asked McRae if one might logically conclude that HPC had approved the version of the sign without the extra horse head and, as a professional with many years' experience, if there would not be concern about the difference in what HPC had approved and the sign being installed on the building. Had it not been seen by Town staff, Combs asked if the sign would have been completed with the additional horse head on it, and McRae agreed, saying his version of the drawing included the additional horse head. McRae said the additional element was removed, and Combs said his point was that it was only removed after Town staff saw it.

Combs said staff had not noticed the difference in the size of the sign, and McRae said he didn't understand the difference. Combs said that was his point – that the head was something staff could easily see was different on the sign, but that the difference in size was not. Combs said he thought the "disconnect" was in how McRae saw things and how the Town and its Boards and Commissions saw them. McRae said there is a process, and Combs said perhaps that process did not correspond with the Town's processes. McRae said perhaps the process should be tweaked and that if the Town wants specific requirements, it should make them better known.

▪ Councilman Sullivan asked if the permit were changed to 101 square feet as had been approved by HPC, what the consequences and remedies for CrossFit would be. Oakley said if the sign permit were changed to reflect 101 square feet, the existing sign would immediately be in violation of the COA and would be a zoning violation. CrossFit could:

- Appeal the Enforcement Officer's decision within 15 days to Board of Adjustment;
- Apply for a COA for the larger size sign. That application would be heard at HPC's January meeting, which would put CrossFit very close to the time the civil penalties were set to begin;
- Do both of the above.

▪ Councilman Yanusz again asked McRae what would be the approximate cost to bring the sign into compliance at 101 square feet and if there was a way to do it by only altering portions of the sign. McRae said the entire sign would need to be rescaled. Councilman McClellan asked if McRae would be able to attend the HPC meeting if CrossFit elected to apply for an amended COA, and McRae said yes.

Councilman McClellan made a motion to revoke the sign permit as incorrectly issued and reissue it correctly for 101 square feet. **Councilman Sullivan** seconded the motion, and it was passed unanimously (5-0).

6. PUBLIC HEARINGS

Voluntary Annexation. Voluntary annexation of areas within Oak Ridge's Extraterritorial Jurisdiction for which the Town of Oak Ridge has received petitions for voluntary

annexation from all the owners therein under NCGC 160A-31 and as authorized by the North Carolina General Assembly.

- No citizens spoke either in favor of or in opposition to the voluntary annexation.

In response to a question from Combs, Oakley explained that this was the first of two public hearings on the matter. Only a small number of properties were to be voluntarily annexed, and they included one large property which was to become the Cascades Park (located at 7353-7383 Goodwill Church Road, Kernersville, NC). The property is owned by Guilford County and the Town is partnering with the County on some development and maintenance of the tract. There were also a few citizens who had requested their properties become part of the Town (Timothy G. and Elizabeth R. Bullins, 200 Barden Drive, Kernersville; Alex J. Papp, III, and Elaine M. Papp, 201 Barden Drive, Kernersville, NC; and Paula Swisher, 5421 Union Grove Road, Oak Ridge), some of whom were present at the meeting, Oakley said. Another public hearing will be held and an ordinance approved on the issue.

There were no questions from Council.

Councilman McClellan made a **motion** to accept the first reading of the voluntary annexation. **Councilman Sullivan** seconded the motion, and it was approved unanimously (5-0).

7. CITIZEN COMMENTS

None

8. MONTHLY FINANCIAL UPDATE

Finance Officer Sam Anders presented:

- The town is continuing to maintain a strong balance sheet position.
- Liquid assets are \$3.4 million, liabilities are roughly \$25,000, and net assets are about \$3.385 million.
- Fairly low revenues of \$33,333 were received the previous month. Total expenditures were \$64,253, so the fund balance was decreased by just under \$31,000.
- On January 18, 2013, another annual payment on the park note would be made. Regulatory reports had been made as required, and the transfer to take the money from the fund balance and make the wire transfer had been set up.
- The next big wave of property tax receipts should come in January.
- The annual audit was given the previous month and all filings in connection with it have been made.

Councilman Sullivan made a **motion** to accept the monthly financial reports as submitted. **Councilman Yanusz** seconded the motion, and it was passed unanimously (4-0) (Mayor Pro Tem Howerton had briefly stepped out of the meeting).

9. CITIZEN COMMENTS

- Phil McNamara was recognized by Mayor Combs. McNamara lives in Oak Ridge Plantation in the Town's Historic District, and was present to address Council on Duke Energy's plans to top trees in his yard, which abuts N.C. 150. McNamara said he had met with a representative of Asplundh, who is trimming the trees, as well as the Duke Energy forester. McNamara said Duke Energy's plans would basically give a "flat top" to Leland cypress trees that provide a screen and noise abatement for the Oak Ridge Plantation neighborhood, but also have aesthetic value. While he said he understood the need to keep the right of way clear, he asked if there was anything the Town might do. Duke Energy had agreed to delay its schedule by nine days. McNamara said anything after that might involve an injunction against Duke to keep them from trimming the trees until the utility might one day relocate their lines underground.

Mayor Combs said McNamara had "won my heart," because he, too, was concerned about the tree trimming practices. The Town had attempted to do something about the N.C. 68/N.C. 150 intersection in the past, only to be told Duke Energy had the right of way there. There was likely nothing the Town could do to help. Combs said the Town would do what it could to support McNamara emotionally and strategically, but that it could not support him financially. If McNamara came up with alternatives that seemed legitimate and feasible, Combs said the Town would like to hear about it.

McNamara said the property's developer did not lay it out well by planting trees under the power lines "without regard to their future potential." He said he didn't want the Town to be shocked when Duke Energy resumed its trimming and the trees in his area had a "flat top."

10. COMMUNITY UPDATES

- **Pedestrian Plan**

Jesse Day, a planner with Piedmont Triad Regional Council who is helping with the plan, said the process is about halfway finished. He provided several handouts for Council, including an introduction of the plan, selected results from the survey and feedback from public events, a map, and a list of possible improvements to be made in the Town. Day said currently 27 miles of sidewalks have been suggested in the town, and costs can range from \$50-\$200 per linear foot. A "top 10" list has been developed, and there was a lot of interest in connecting the town core, including the park, school and Oak Ridge Commons. The Committee is continuing to work on the plan, and will come back with a much more detailed plan for Council's approval in a few months.

Councilman McClellan asked how finishing the sidewalk on Linville Road between CrossFit and State Employees' Credit Union had rated in terms of priority with citizens, and Day said because that area is only about 175 feet, that short area was not included. He estimated it would cost about \$17,500 to complete the sidewalk in that area. Day said that area was given a high priority because it was near the park, school and town core area and was on a high-traffic road.

Mayor Combs said he looked forward to the final report.

- **Fire Department**

Anders gave the report in place of Fire Chief Steve Simmons and presented five safety points to keep in mind this time of year.

- **Historic Preservation Commission**

Debbie Shoenfeld reported on HPC's activities for the last two months. In October, HPC met twice. On October 10, members discussed the progress of the Historic Inventory Project and the final draft of the Design Guidelines, which have been sent to Council for approval.

At a special meeting on October 17, HPC focused on CrossFit's proposals for addressing items that were found to be out of compliance at HPC's September meeting.

In November, the Commission considered three COA requests and continued to work on the Historic Inventory/Marker Project.

To date, HPC had not received any plans, drawings, samples, etc. as required of CrossFit as a result of the COA approved on October 17, 2012. Shoenfeld said it was HPC's understanding that installation of all landscaping at CrossFit is to be completed by December 12, 2012, and that the COA approved on October 17 was being appealed to the Board of Adjustment on December 13, 2012.

- **Parks & Recreation Commission**

Bill Edwards reported that the Town was being well served by work being done on the Pedestrian Plan and that the park always wanted to be a part of the Town's core development.

Edwards also presented the Oak Ridge Youth Association's Usage Agreement for the town park for 2013. Mayor Combs asked if the Usage Agreement was approved by the Commission, and Edwards answered yes.

Councilman Sullivan made a motion to approve the park Usage Agreement for ORYA for 2013. **Council McClellan** seconded the motion, and it was passed unanimously (5-0).

- **Planning & Zoning Board**

No meeting, no report

- **Board of Adjustment**

No meeting

- **Finance**

No report, but will begin meeting in about the next month

11. CITIZEN COMMENTS

- Mac McAtee, a member of HPC, thanked Council for their action on the sign issue at CrossFit.

12. COUNCIL COMMENTS

- **Mayor Pro Tem Howerton** also thanked the Town's boards and committees, saying they make Council's jobs easier.
- **Councilman Yanusz** wished everyone a Merry Christmas.
- **Councilman McClellan** said the past year since he had been elected to Council had been thrilling, and it was his privilege to serve. He was pleased with Council's decisions on the sign issue earlier in the evening and to allow Voluntary Agricultural Districts in the Town, and said he hoped work could get underway on sidewalks in 2013. He wished all a Happy Hanukkah and Merry Christmas.
- **Councilman Sullivan** agreed it had been an interesting first year on Council, and wished everyone a Merry Christmas and a blessed holiday season.
- **Mayor Combs** also wished all a Merry Christmas.

Town Attorney Michael Thomas spoke about the lease approval for office space for the Merchants Association of Oak Ridge; if the lease is less than one year the Town will not need to advertise the transaction but can authorize it by resolution after it has been negotiated by staff. Regarding the voluntary annexation petitions, Thomas said only one public hearing is required, and that Council has authorized acceptance. The second hearing which was referred to had to do with two additional properties that belong to Ms. Paula Swisher; once information has been confirmed and voluntary annexation approved, those two properties will also be included in the submission to the Justice Department.

13. ADJOURNMENT

Councilman McClellan made a **motion** to adjourn the meeting at 8:33 p.m. **Mayor Pro Tem Howerton** seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:



Sandra B. Smith, Town Clerk



Ray Combs, Mayor