



OAK RIDGE TOWN COUNCIL MEETING
DECEMBER 4, 2014 - 7:00 P.M.
OAK RIDGE TOWN HALL

MINUTES

Members Present

Ray Combs, Mayor
Spencer Sullivan, Mayor Pro Tem
George McClellan
Jim Kinneman
Mike Stone

Staff Present

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

Staff Absent

Bill Bruce, Planning Director

1. CALL TO ORDER

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

A. Invocation

B. Pledge of Allegiance

2. APPROVE AGENDA

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

3. APPROVE MINUTES OF NOVEMBER 6, 2014, MEETING

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

4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Mayor Combs announced that on Saturday, December 6, the Town would hold an e-cycling/document shredding event at the Town Park.
- Mayor Combs also announced that the Merchants Association of Oak Ridge would sponsor the Light the Ridge Christmas event on Sunday, December 7, on the campus of Oak Ridge Military Academy.
- Councilman McClellan recognized some students in the audience who were attending the meeting as a requirement for their civics class.

5. TOWN MANAGER'S REPORT

- A. **Approval of 2015 meeting schedule and 2015 holiday schedule.** Town Manager Bruce Oakley requested that the Council approve the two schedules.

Mayor Pro Tem Sullivan made a **motion** to approve the request. Mayor Combs offered a friendly amendment to change the date of the July 2015 Town Council meeting to the second Thursday of the month. **Councilman McClellan** seconded the motion, and it was passed unanimously (5-0).

- B. **Athletic field lighting.** Oakley reported that the Parks & Recreation Commission had recommended that Council approve an increase for the cost of lighting the rented athletic fields from \$12 to \$15 per hour. In response to questions from Council, Oakley said the proposed increase was simply to cover expenses, and that the decision had no bearing on the agreement for park usage with Oak Ridge Youth Association.

Councilman Kinneman made a **motion** to approve the recommended increase. **Councilman McClellan** seconded the motion, and it was passed unanimously (5-0).

- C. **Volunteers needed.** Oakley said the Town was still looking for volunteers to work at the e-cycle event on December 6.

- D. **MPO funding.** Oakley reported that the Town had applied several months prior to the Metropolitan Planning Organization for funding an intersection improvement, including a crosswalk, at the intersection of N.C. 68 and N.C. 150/Oak Ridge Road. He had just received word earlier in the day that the project would be funded, but said he was not sure of the timeline for construction.

6. NEW BUSINESS

- **Discussion of property at 2900 Oak Ridge Road.** Combs said the property, where Big Boyz Toyz was formerly located, has been in the news lately. Combs said the Town has done what it could to mitigate the situation with the property, but that it appeared the Town needed to take the next step. He said Councilman Stone had taken the lead on the issue, and asked Stone to lead the conversation.

Stone said the Town has received numerous calls from citizens about the property, which is currently zoned HI (Heavy Industrial). The two located businesses on the property, Big Boyz Toyz and B&B Welding, have been out of business for well over a year, and Stone explained that the use of the property was considered a legal nonconforming use because the businesses had been in existence before Oak Ridge was incorporated. Stone said the current industrial zoning is inconsistent with adjoining properties, all of which are zoned RS-40 (Residential). He added that current health and safety issues would be discussed by the Town Council, but said the abandoned buildings are unkempt and in physical disrepair. While that is a visual issue, there is also the risk of illegal, illicit or vagrant activities for the Town as well as safety and security risks for the property owner. Stone said the property is currently for sale, and that rezoning would be a part of any development activity.

He said he would like to put the Town in the best situation to address current and future needs of the Town.

Stone asked Oakley what was the process regarding abandoned properties or those with safety risks. Oakley said the Town had acted previously on an abandoned building that the building inspector had deemed unsafe and a public nuisance.

Stone asked how long a legal nonconforming property can remain vacant or be out of business before it has to come into compliance with current Town ordinances. Oakley said he thought the ordinance would allow the property to remain vacant as long as it is structurally sound, but that if someone began to use the property, it would have to come into compliance.

Stone asked what the Town's options are for a property such as this; Oakley said it could leave the property as it is with the hopes that it is maintained or that someone purchases it, but if that happens the new owner could make use of the heavy industrial zoning, which would not be consistent. Oakley added he thought that a junkyard and other undesirable uses for that site were a possibility with the current heavy industrial zoning. He said another option would be for the Town to rezone the property and then require the next owner to request the property be rezoned to something more appropriate.

Stone asked about the Town rezoning the property, and Oakley said it could, but it would be required to go through the same rezoning process as anyone else – the case would be heard and receive a recommendation from the Planning & Zoning Board, and the final decision would be made by the Town Council.

Stone asked if Town Attorney Michael Thomas had any concerns, and Thomas said he agreed with what Oakley had said. He said if the property remains vacant, it could be a health hazard because of such issues as weeds and noxious plants, animals, or other pests; in that case, the Town can abate those types of safety issues and place a lien on the property for the costs. He said there are multiple structures on the property, and if one was deemed unsound – after inspection by either the fire marshal or by a building inspector – he believed the Town has authority to abate that problem by tearing the building down and placing a lien on the property for that cost. Short of rezoning, as Oakley had mentioned, Thomas said the uses of right remain with the property.

Stone said he was a firm believer in property rights, but in this case, his issues and concerns were not inconsistent with supporting property owner's rights. He said surrounding property owners also have rights that should be protected along with those of the property owner. He said the fact that the property is for sale brings up another conversation, and that under the current conditions, he thought the Town should act. He said he was prepared to make a motion, but asked if any other Council members would like to comment.

Councilman McClellan said if the Town does nothing, the current HI zoning would allow many uses. He asked if an asphalt plant was one of those uses. Oakley said whatever uses fall in the development ordinance under heavy industrial zoning would be allowed, and that some of those uses might have noxious odors or other concerns for neighbors. He added that there could be some limitations on how the property could be used due to its size. McClellan asked what zoning staff would

recommend if the Town Council decided to rezone the property. Oakley said staff had discussed the issue with the town attorney and would recommend RS-40; if a new owner wanted to use the property for commercial or industrial use, they could apply for that type of zoning at the time. McClellan asked if a new owner could apply for LI (Light Industrial) zoning, and Thomas said yes, but that any rezoning request from the property owner could include conditions.

Mayor Pro Tem Sullivan said he thought the current HI zoning is inconsistent with the Land Use Plan, but that the nonconforming use had been grandfathered. He said the property is also in the Town's scenic corridor, but the Town had been unable to enforce that because of the grandfathering issue. He added that the property is in a state of disrepair and is an eyesore. He said that he, like Stone, is in favor of individual property owner's rights, but in this case, he was also in favor of a third-party rezoning should the Town Council decide to undertake that. Sullivan said the property needs to be cleaned up, and that any rezoning initiated by the Town would in no way prevent a future owner from using the property for commercial purposes – it would just require them to come back to the Town and seek an appropriate conditional-use rezoning. Sullivan said he could not envision anyone purchasing the property and building a house on it because there was too much involved to make that economically feasible, but that he could envision a more appropriate commercial use.

Councilman Kinneman said in considering property owner's rights, he felt it was unlikely that the property would be purchased for HI use because it is relatively small. Regarding McClellan's question, he said an asphalt plant might be allowed on the property legally but not physically because of its size. He said the Council's possible rezoning would not take away any financial opportunity from the current landowner, and that he felt it was unlikely any HI use would both fit the property and conform to the ordinance. Should the Council decide to rezone the property to RS-40, Kinneman said he thought that would give the Town and the property owner the best opportunity to rezone the property appropriately.

Mayor Combs asked Oakley if he had communicated with the property owner prior to the meeting, and Oakley said yes, and that he believed a representative was present.

Adam Duke, an attorney with the firm of Bell, Davis & Pitt introduced himself and said he was representing the property owner, Truliant Federal Credit Union. Duke said he was at the meeting to monitor what was going on, but that he had gotten a sense that it was a possible fait accompli. He said his and Truliant's position was that they had been notified three days earlier that discussion of the property would be on the meeting agenda. He said he had written Oakley a letter the day before the meeting and copied Thomas, requesting more time to research the Town's ordinance regarding a third-party rezoning that would allow the Town to rezone the property without Truliant's consent. He agreed that the property was an eyesore, and said Truliant was willing to address the Council, but asked for more time given only a three-day notice. Duke said the process seemed to be on a fast track, adding that Truliant did not want to be in this position, but because of the previous owner's actions, Truliant had to exercise its legal rights and reclaim the property. He said he was happy to answer any questions from the Council, but again asked for more time before the Town took action.

Combs clarified that whatever motion Stone might make would be to give instructions to staff, not to rezone the property. He said Duke would be given adequate time to address the issue when the case comes before the Planning & Zoning Board and the Town Council for a final decision. He added that was the same amount of time anyone would be given. Combs said discussion of the property had been ongoing for some time, and that the rezoning request might receive a recommendation to deny by the Planning & Zoning Board and be turned down by the Town Council. He said the Council could not do much more that evening than ask staff to pursue the rezoning, and that he thought Duke would have adequate time to address the issue.

Kinneman said any rezoning would not solve any nuisance issues, and that the owner would still be required to mow the grass and address any hazards on the property.

Combs thanked Duke for attending the meeting, and said Truliant may come up with a rezoning plan of their own. He said he hoped Duke and Truliant would work with Town staff on the issue.

Stone said the property currently fails to comply with the ordinance and the zoning is inconsistent with the surrounding properties. He said RS-40 zoning would provide consistency with the surrounding land. He said there are health and safety risks that negatively affect the values of the properties in Oak Ridge.

Councilman Mike Stone made a **motion** to instruct staff to initiate rezoning the property from HI to RS-40. **Councilman McClellan** seconded the motion.

After additional discussion on various possibilities, Sullivan said if Truliant came forward with a better alternative on the rezoning, the Town would likely withdraw its application. Stone reiterated that the RS-40 zoning was just a starting point because it matches the surrounding property, but that there was nothing in the motion to imply the property would remain zoned RS-40. Thomas reiterated that if the property owner poses a viable alternative that looks feasible from a planning standpoint, the Town could withdraw its application in deference to the property owner. Combs asked if Duke would pass that information on to Truliant, and Duke said yes.

Council's vote in favor of the motion was unanimous (5-0).

7. CITIZEN COMMENTS

- Frank Whitaker said another option for the property at 2900 Oak Ridge Road would be for the Town to purchase the property, clean it up and resell it. He said the continued commercial use of the structures on the property could be an eyesore, and that his suggestion might be in the best interest of Oak Ridge. Combs said while that is a possibility, the question would be whether the Town could purchase and clean up the property without losing a great deal of money.

8. MONTHLY FINANCIAL UPDATE

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

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

9. **COMMUNITY UPDATES**

A. **Planning & Zoning Board**

Chairman Doug Nodine said the Board met and unanimously recommended approval of the site plan for the addition to the town park.

B. **Parks & Recreation Commission**

Chairman Bill Edwards said the 2015 Usage Agreement with Oak Ridge Youth Association for the park was included in Council's information packet, and it is hereby incorporated by reference. He presented it for approval, saying it would be effective January 1, 2015.

Edwards also gave an update on Phase 2 construction, saying the final details were being hammered out so the project could be put out for bid. He said the Parks & Recreation Commission would likely submit a final plan to the Town Council in January for approval.

Councilman McClellan made a **motion** to approve the 2015 Usage Agreement between the Town and the Oak Ridge Youth Association. **Mayor Pro Tem Sullivan** seconded the motion, and it was passed unanimously (5-0).

C. **Fire Department**

Chief Steve Simmons reported that November had been busy, and that it was the fourth month in a row in which the department had responded to more than 60 calls. Simmons said the department had responded to 66 calls in November: 25 of a medical nature and 41 of a fire/service-related nature. In addition, firefighters had received 201 hours of instruction, installed one car seat, attended three public education events, and maintained an average response time of 4½ minutes.

On behalf of the fire department, Simmons thanked Council for discussion of the property at 2900 Oak Ridge Road. He said the fire department had been notified of conditions in one of the structures through the fire inspector, and he had warned his firefighters to be particularly cautious should they have to enter the building.

With winter approaching, Simmons urged residents to stock up on water and other items they might need in case of a power outage. For guidance, he urged citizens to visit www.readyguilford.com or call the fire department.

Simmons also commented on the number of teenagers in the area who have died recently as a result of excessive speed while driving, and urged those with teens to

talk to them about the dangers of such conduct. He also gave several fire safety tips regarding Christmas trees and decorations, and wished everyone a safe and merry Christmas.

D. Finance Committee

No meeting, no report

E. Board of Adjustment

Oakley reported the Board would have a meeting in December.

F. Historic Preservation Commission

HPC chair Ann Schneider reported that three Certificates of Appropriateness had been approved at the November meeting. The first was to repair water damage and reclad the foundation of Linville Chapel at Oak Ridge Military Academy; another application is expected for changes to be made to the building's front porch. The second COA was presented by Kevan Combs and Land Solutions for Marian McDougal for a subdivision on Linville Road. Schneider said the case was very interesting and raised many questions, most of which will be addressed when individual structures for the property are approved. The third COA was for the amphitheater, restroom and connecting walkways at the Oak Ridge Town Park.

Schneider announced that HPC alternate Cara Townsend had resigned because she has taken a new job working for Gov. McCrory in Raleigh. The Commission now has only one alternate, and more are needed, she said.

10. CITIZEN COMMENTS

None

11. COUNCIL COMMENTS

Councilman McClellan said he was excited about the changes to be made at the intersection of N.C. 68 and N.C. 150. He wished everyone a Merry Christmas and a Happy Chanukah, and said serving the citizens of Oak Ridge was an honor.

Mayor Pro Tem Sullivan said the upcoming weekend on the Ridge would be busy, and he hoped everyone could participate in the e-cycling and Light the Ridge events. He encouraged everyone to give to local churches and charities who are involved in helping to feed the hungry, and he quoted Mother Teresa, who said, "Not all of us can do great things. But we can do small things with great love."

Councilman Kinneman said he was excited about sidewalks associated with the changes at the N.C. 68/150 intersection and other sidewalk connections throughout the Town. He wished those in attendance a happy and safe holiday season, and urged attendees to give blood if they can.

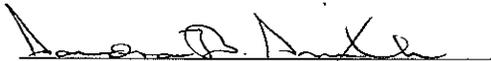
Councilman Stone also wished everyone a Merry Christmas, and urged them to help someone less fortunate or find a way to give to others.

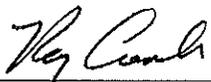
Mayor Combs urged everyone to attend the Light the Ridge and e-cycle events, and said the improvements at the N.C. 68/150 intersection were a big deal that the Town had been working on for 13-14 years. While the Town does not know what the final plan will be, it should make the area much safer, he said.

12. **ADJOURNMENT**

Councilman Kinneman made a **motion** to adjourn the meeting at 7:59 p.m. **Mayor Pro Tem Sullivan** seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:


Sandra B. Smith, CMC, Town Clerk


Ray Combs, Mayor