



**OAK RIDGE TOWN COUNCIL MEETING  
JANUARY 5, 2017 – 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  
Michael Thomas, Town Attorney  
Sam Anders, Finance Officer  
Sandra Smith, Town Clerk

**1. CALL TO ORDER**

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

**A. Invocation.**

Donovan McCorkle of The Summit Church offered the invocation.

**B. Pledge of Allegiance.**

**2. APPROVE AGENDA**

**Councilman Jim Kinneman** made a **motion** to approve the meeting agenda. **Mayor Pro Tem George McClellan** seconded the motion.

Councilman Doug Nodine suggested changing the meeting agenda to place Citizen Comments ahead of New Business so that interested citizens could speak on the Memorandum of Understanding with Guilford County. Discussion ensued. Mayor Sullivan explained that it was not a public hearing, and such a move could set a precedent; he said citizens could speak about it during the regular period set aside for Citizen Comments.

**Councilman Doug Nodine** made a **substitute motion** to approve the agenda as submitted but switching the order of agenda items 9 (Citizen Comments) and 8 (New Business: Discussion of Memorandum of Understanding with Guilford County). **Councilman Mike Stone** seconded the motion.

Conversation continued, with Council members giving their opinions. Kinneman said he was concerned that allowing the change could make any agenda item open for public discussion in the future. He said other towns forbid public comments on agenda items. He added that the Council wants to hear from citizens, but the MOU would not commit the Town to anything other than a study. McClellan said it was not a public hearing, so he did not see the need to change the agenda. Stone asked if the Town had a policy that citizens were not allowed to speak on agenda items, and

Kinneman said he did not think so. Nodine said he thought people should be able to speak, but it was fine if the Council did not want to hear their comments. Sullivan said the Memorandum of Understanding (MOU) was simply to participate in a feasibility study, and he did not know why information from the public would be relevant to the Council's decision on that topic. He again said he thought the action could set a precedent that the Council would regret.

**Councilman Nodine** withdrew the substitute motion.

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

**3. APPROVE MINUTES**

**Councilman Kinneman** made a **motion** to approve the December 1, 2016 meeting minutes. **Councilman Nodine** seconded the motion, and it was passed unanimously (5-0).

**4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS**

- John Haynes, president of Oak Ridge Military Academy, introduced Cadets John Davenport and George Feng. Davenport and Feng served as leaders for the Toys for Tots campaign, and Davenport reported on its success. Haynes also reported that a \$250,000 gift had been received by the academy from Don Caine, a local businessman and academy alumnus, which was matched by an anonymous organization.

**5. REPORT FROM GUILFORD COUNTY SHERIFF'S OFFICE**

- Master Corporal Southern said there had been only one Part 1 crime in Oak Ridge in the previous month, which was a shoplifting incident at CVS. He said there had been several recent thefts of utility and lawn trailers in the area, and he urged residents to keep trailers locked up.

**6. REPORT FROM OAK RIDGE FIRE DEPARTMENT**

- None

**7. TOWN MANAGER'S REPORT**

**A. Committee/Board reappointments.**

Town Manager Bruce Oakley recommended the reappointment of Gray Cassell as the ETJ representative on the Board of Adjustment and Tammy Gardner as the ETJ North representative on the Planning & Zoning Board. Both appointments would need to be approved by the County Commissioners.

**Mayor Pro Tem McClellan** made a **motion** to request the County Commissioners reappoint Gray Cassell to the Board of Adjustment and Tammy Gardner to the Planning &

Zoning Board. **Councilman Kinneman** seconded the motion, and it was passed unanimously (5-0).

**B. Mountains-to-Sea Trail update.**

Oakley said staff had met with the state trails planner, who thought the Town might qualify for some ConnectNC bond money. The money will be allotted on a first-come, first-served basis, so the Town will need to move quickly in trying to identify the route and where easements will be needed. Oakley recommended an outreach committee be formed, and said former mayor Ray Combs had agreed to serve.

Council members agreed by consensus to form an ad hoc Trails Committee.

**C. Budget meeting schedule.**

Oakley presented the budget meeting schedule for the 2017-18 fiscal year, which will begin with a 5-year capital planning workshop on January 18. The first Budget/Finance Committee meeting is February 6.

**D. 2017 Holiday Schedule discussion (continued).**

**Mayor Pro Tem McClellan** made a **motion** to approve the 2017 Holiday Schedule as submitted. **Councilman Kinneman** seconded the motion.

Discussion of the matter was continued from the December 2016 meeting, when Nodine had said he thought the number of holidays taken by the Town seemed excessive. Sullivan said the holiday schedule mirrors the State holiday schedule and is the same as the Council has adopted for at least the last three years. Kinneman spoke in favor of approving the holiday schedule, and encouraged the manager to get a quote for an employee salary and benefits study. Kinneman said since the Town does not have many services for which citizens come to town hall, adopting the holiday schedule as submitted was neither inconveniencing the public nor losing tax dollars. He also said the proposed schedule matches the County holiday schedule. McClellan agreed, saying the Council still has flexibility if the study shows the Town is not on target with its employee salaries or benefits.

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

**8. NEW BUSINESS**

**Discussion of Memorandum of Understanding with Guilford County.**

Sullivan said he had provided Council with a memo giving background that led to the drafting of the agreement, which would be between Guilford County and the towns of Oak Ridge, Summerfield and Stokesdale. He said citizens likely did not know about the agreement unless they had read articles published recently in the Rhino Times and the Northwest Observer. Sullivan read from a prepared statement, saying the Town has sought to provide its citizens with "long-term options to the issue of a clean, safe, plentiful and reliable water supply, recognizing the fragile, finite nature and uncertainty of adequate yields of groundwater that we get from our wells." He explained the history of the Town's dealings with Aqua America and the 2005 contract for Aqua to build a municipal water system, which Aqua later

defaulted on. Sullivan also discussed the dialogue with Rockingham County over the last two years about possibly being a source of municipal water for northwest Guilford County, and a Memo of Understanding passed in 2016 to aid Rockingham County in applying for ConnectNC bond money.

Sullivan continued, saying this past year \$14.5 million was allocated in the state budget for the formation of a water authority between Rockingham County, Guilford County, and at least one of the municipalities in those counties. Rockingham County and its municipalities later said they were not interested in being part of a water authority, only a water supplier, so the MOU has been modified. The County Commissioners and the Stokesdale Town Council had already unanimously adopted the MOU. Sullivan noted that the agreement was very limited in scope and only proposed conducting a feasibility study. He said conducting the study was crucial to determine whether creating a water authority was even feasible.

**Mayor Pro Tem McClellan** made a **motion** to adopt the MOU. **Councilman Kinneman** seconded the motion.

Kinneman said he wanted to make it clear that the MOU states that any party can terminate its interest before funds have been spent with just a 30-day notice to the other participating parties. He said he moved to Oak Ridge in 2000 and did not believe any rezoning case ever came forward since then without citizens expressing concern about water. He said he knew former council member Roger Howerton and his neighbors had experienced contamination of their water, and there were some areas of town where citizens did not have adequate water. He said all the MOU does is express the Town's interest in a feasibility study, and it does not obligate the Town any further. He said he was not a hydrologist and he thought the Town needed some expert advice.

McClellan said the document was an extremely limited, single-purpose agreement and only expressed the Town's interest in a feasibility study. He agreed with Kinneman that the document contained a "back-out provision," and the study was how the Town could determine what it might be getting itself into.

Stone said he had concerns, which he had not kept hidden. He said the MOU currently stated that each of the parties will pay 25 percent of the cost of the feasibility study, and although Senator Phil Berger's office said that would be changed to say the state would pay for the study, it did not say that now. He said the Town needed to stop doing business on a promise and a handshake, and he preferred to wait until the wording had been changed by the legislature. He said by adopting the MOU, the Town would obligate itself financially. Stone expressed concern about the firm doing the feasibility study essentially "creating a sales brochure" for itself to do the engineering work on the water system. He said he thought it would be incumbent upon the Town to approve a provision to not allow the firm doing the study to bid on the project.

Nodine said he was not convinced the current subsurface water the Town depends on is not adequate, even if the population of the Town grows from 7,000 to 30,000 residents. He said there were only three reasons for a public water system – poor quality water, poor quantity water, or economic development. He cited reasons he thought none of those were a concern, and quoted a 1998 USGS study which says northwest Guilford County has a water recharge rate of about 700 gallons per day

per acre. He said that was more than twice what would be needed if every acre of Oak Ridge were developed at the current density allowable. Regarding economic development, Nodine said that was to encourage businesses, and there are no industrial areas noted on the Land Use Plan.

Nodine said creating a water/sewer authority would create a new government body that would have the power of eminent domain, the ability to access taxes, and the right to require people to tie on to the system, and that Council would lose its ability to control where growth occurs. He said he wanted more information required in the MOU, and that was why he was interested to hear citizens' opinions. Nodine said he agreed with Stone that there should be a provision in the document saying the firm that does the feasibility study cannot file working drawings, and that would keep the study from becoming a "sales brochure." He said he would also want a provision added to the MOU requiring the study to include information on subsurface water. He said he would like to see the 1998 USGS study updated.

Sullivan said he had been a member of the water committee for many years. He said the legislation needs to be clarified to allow state money to pay for the study, so there will be no cost to the Town. He said Senator Berger believes the current legislation already allows for that, but he is going to make it clear. Sullivan said he disagreed with Stone that the MOU would obligate the Town financially because the legislature would change the wording regarding the \$14.5 million appropriated and divide it between Guilford and Rockingham counties; it would also extend the date for the creation of a water authority from June 2017 to June 2018.

Regarding banning an engineering firm from bidding on the project if they do the feasibility study, Sullivan said there were very few firms with the expertise to prepare a study and design a water system of the size and scope of the one proposed. He said the potential design contracts would be worth a lot more to a firm than preparing a feasibility study, and adding that caveat might leave the Town with firms bidding to do the study that had less expertise than some others; it could also eliminate qualified firms from bidding on the project. He said eliminating competition could increase the cost of the study, and any firm that would falsify information in the study would risk ruining its reputation.

Sullivan said Nodine had cited the 1998 USGS study regarding quality and quantity of water, and that the recharge rate discussed in the study occurs in the regolith, which is the area under the ground that includes clay and soil. He said below that there is bedrock, and the water used in wells comes from the bedrock. He said water gets into the bedrock by seeping into it very slowly over time, and that only a fraction of water in the regolith makes it into the bedrock, creating a very limited supply. He said the porosity of the regolith is around 35-50 percent, and the porosity of the bedrock is only 1-3 percent. Regarding water quality, Sullivan said everyone in the area talks about the minerals in the water here, and he said heavy metals also cause him concern. He cited traces of lead in the well at Oak Ridge United Methodist Church, as well as incidents of uranium contamination found in the area in the last few years. Sullivan said recent legislation greatly limits the requirement to hook on to a water system, and that many of the concerns cited by Nodine were unfounded. He said much of the discussion should not even be taking place because the MOU was simply to decide if the Town wanted to be a participant in the study.

Further discussion ensued. Kinneman said he thought none of the reasons cited by Nodine were reasons he thought the Town would need a water authority. He cited

fire protection, saying the Town essentially has the same number of water sources it had in the early 1960s. He said one of the things a town should provide to its citizens is reliable water. McClellan said any additions to the document would require the Town to go back into negotiations with the other municipalities involved, that the MOU is a single-purpose document, and the Town would have the ability to back out. He agreed with Kinneman about fire protection. Stone said he thought there was no reason to hurry to adopt the document, and the Town should wait until the legislation and costs are clarified. He said the current legislation does include the power of eminent domain, taxing authority and special assessments, and the ability to use private wells for public water systems. He said there is no way of knowing when water in the area will run out. Stone said he did not see going back into negotiations as a big deal, and that he was not included in the drafting of the MOU; McClellan said Stone had been kept informed at staff meetings. Sullivan asked Council members to stay on topic, which was simply about the MOU. Sullivan added that he should have terminated any conversation about water quality and quantity. Kinneman and Nodine said they thought the MOU needed to be modified to include evaluating the groundwater.

Town Attorney Michael Thomas verified that the MOU does not bind the Council in any way except to say that it was on board in the process of trying to line up a consulting engineering firm for a feasibility study, and once one is lined up, the Town still has the right to back out and not have to pay anything. He said the MOU was intentionally loose, and if the Council approves it, they will then go to the next step in approving a contract for the study. He said if the Council asks through staff for additional items to be added to the contract, because it is a joint understanding, they will have to get the other participants to agree to those changes as well.

Nodine said he wanted to make sure the Town had input to include the investigation of subsurface water, and Sullivan said the Town would have input in what becomes a part of the feasibility study. Nodine said he had no input into the wording of the MOU, so how did he know he would get input later. Sullivan said the MOU was drafted by Marty Lawing, Guilford County manager, who had experience in setting up a water authority in Brunswick County. Council members then discussed Requests for Qualifications (RFQs) by firms interested in preparing the feasibility study. Nodine asked why RFQs would be solicited because all that would do is supply information such as how many years a company had been in business. Oakley said RFQs are what state law requires and the parties would then say what they wanted to see in proposals; if the parties do not like what firms put in their proposals, they do not have to approve the contract. Sullivan commented on the limited time period, saying the \$14.5 million dollars would be lost if setting up the water authority – not the MOU or feasibility study, which would take several months to complete – is not completed by the deadline. Stone said the Council did not know what the updated legislation would say, so he asked why the Council would approve the MOU until that had happened. Sullivan and Kinneman said the legislation would have no bearing on the MOU, and that the Town could back out if it did not like what the updated legislation says.

**Councilman Stone** made a **substitute motion** to delay the vote on the MOU until the state legislature convenes and revises HB 1030 and its references to Rockingham County, and includes the clarification that the state will pay for a feasibility study and there will be no expense to the Town of Oak Ridge. **Councilman Nodine** seconded the motion, and it failed with a 2-3 vote (Stone and Nodine for; Kinneman, McClellan and Sullivan against).

**Councilman Stone** made a **substitute motion** to add to the MOU item 1.a. that the firm selected for the feasibility study not be able to participate in the planning, construction or operation of any future water system. **Councilman Nodine** seconded the motion, Stone's substitute motion failed with a 2-3 vote (Stone and Nodine for; Kinneman, McClellan and Sullivan against).

**Councilman Nodine** made a **substitute motion** to add to the MOU under item 2 that the study include an evaluation of the bedrock subsurface water supplies that we have. **Councilman Stone** seconded the motion. After additional discussion, Council's vote on Nodine's substitute motion failed with a 2-3 vote (Stone and Nodine for; Kinneman, McClellan and Sullivan against).

Council's vote on the original motion by Mayor Pro Tem McClellan to adopt the MOU as presented passed with a 3-2 vote (Kinneman, McClellan and Sullivan for; Stone and Nodine against).

**Councilman Kinneman** made a **motion** to direct staff to negotiate as a part of item 1 that the scope of work for the feasibility study include the quantity and quality of the groundwater in Oak Ridge. **Councilman Nodine** seconded the motion, and it was passed unanimously (5-0).

## 9. CITIZEN COMMENTS

- Patti Paslaru, a member of the Planning & Zoning Board, said the issue of water is always raised at P&Z Board meetings. She said she was worried that the Town would be giving up all its options if it joins a water authority, and she was concerned about the power of eminent domain and other items included in the legislation. She said Oak Ridge was the smallest of the four municipalities involved, yet it would be paying for 25 percent of the costs, something she equated to taxation without representation.
- Jerry Cooke, an Oak Ridge resident and developer/owner of Oak Ridge Commons and Oak Ridge Marketplace, said he was against the adoption of the MOU. He said if Aqua America had proposed a water system for Oak Ridge would cost \$30 million, what would \$14.5 million do for the entire northwest Guilford County area. He said water was important to everybody, but he had not heard anyone talking about not having water. He said he had just learned about the MOU recently, there was no public hearing or discussion, and Council needed to keep everyone informed about possibly creating a water authority. Sullivan said the MOU was simply to allow a study to see if it was feasible to consider a water authority. Cooke said he thought Council was beating a dead horse because there was no water problem in Oak Ridge. He asked how many citizens had come to Council with water concerns, and Sullivan, McClellan and Kinneman all said citizens had expressed concerns to them; they cited the Gumwood Road and Merriman Farms areas. Cooke said people had obviously been working on this a long time, and Sullivan said the enabling legislation was only passed the previous July. Cooke said if there were that many people in Oak Ridge with water problems, perhaps the Town should create a list and see how it could help those residents.
- Roger Howerton, a former member of the Town Council, said he knew of seven Oak Ridge wells contaminated by a leaking underground tank at a service station. Regarding

water quantity, Howerton said it was not good to be in the middle of a shower and have the water cut off, which was something he experienced for years and that it was finally corrected. He talked about his experience with the fire department and how difficult and expensive it was to send tankers out to get water from nearby ponds to fight a fire. He expressed his concern about the Piedmont Sanitary Landfill and what would happen if its liner leaks, especially since water in this area generally flows from northwest to southeast, putting the Town right in its path. Howerton said he had worked on the water committee for years, only to see Aqua America back out of its agreement with the Town. He said the area is continuing to grow, and asked if the Council was satisfied that it would meet current demands for water, and if it was going to keep in step with growth. Howerton urged the Council to think about the future, where the Town was going, and how it was going to get there.

- Ray Combs, former Oak Ridge mayor, said several things had been said – primarily by Stone and Nodine – which he wanted to correct. He challenged Nodine’s interpretation of the USGS study, saying the 696 gallons per day per acre referred to what was in the regolith, but that very little of that gets into the bedrock where drinking water comes from. He cited the same statistics as Sullivan, saying the porosity of the regolith is 35-50 percent, but the porosity of the area where drinking water comes from is only 1-3 percent. He said while 696 gallons per day per acre is plenty, that amount is also shrunk by evaporation, vegetation, stream flow and storage in the bedrock. He said Stone’s question – how much water is down there – scares him to death because no one knows the answer. He said developing a water system is a long-term event, and he would be dead before there are water lines on his street. He said the population has increased greatly since 1998, and asked how many more holes had been poked in the ground since then. Combs thanked the three Council members who voted in favor of allowing the study. He asked Stone and Nodine to acknowledge publicly for the record that they are against a water system, and let the chips fall where they may.

## 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 accept the financial report. **Councilman Stone** seconded the motion, and it was passed unanimously (5-0).

## 11. COMMUNITY UPDATES

### A. Planning & Zoning Board.

Chairman Ron Simpson said at its last meeting the Board had approved one subdivision case. He said the Tree City USA application had been approved, and acknowledged Planning Director Bill Bruce for his help, and Kinneman, who asked that the designation be initiated.

Kinneman acknowledged Simpson and Bruce, as well as Nancy Stoudemire, who headed the Tree City USA subcommittee.

**B. Merchants of Oak Ridge.**

Phillip Hanks said he was pleased to have been elected president of the Merchants of Oak Ridge. He said information on the scholarship for Northwest High School students could be found at [merchantsofoakridge.com](http://merchantsofoakridge.com).

**C. Board of Adjustment.**

No meeting

**D. Historic Preservation Commission.**

Chair Ann Schneider reported:

- The Commission did not meet in December, and its next meeting is January 18.
- The Design Review Subcommittee had met with owners of a property on Linville Road. A COA was issued in September, but the property owners wanted to amend it to pursue a different style of house. The subcommittee allows applicants to get informal guidance before going through a quasi-judicial review by the HPC.

**E. Parks & Recreation Commission.**

Chair Phillip Hanks reported:

- He appreciated all those who attended the tree lighting during the Light Up the Night luminary event on December 3 in the park. He thanked Councilman Nodine for donating the Christmas tree in the park.
- The Commission is planning lots of events in the park for this year.

**F. Finance Committee.**

The committee will begin meeting in January.

**12. CITIZEN COMMENTS**

- Amy Klug, owner of the Old Mill of Guilford, expressed concern about the use of explosives recently near the mill. She said the mill was built on laid stone on a bed of rock, and the explosions shook the mill. She also expressed concern about the dam and whether the explosions could have breached it.
- Steve Holmes, a Parkchester Place resident, said he appreciated the banter during the water discussion. He said he had concerns about litigation and other issues regarding Parkchester Place and the decision to connect two subdivisions there. He said his property had been flooded with mud, and the developer of the adjoining property had failed to address his concerns. He asked the Town to get involved. He also mentioned an issue with the same developer who he alleged had removed a 20-foot easement that belonged to the subdivision where he lives, something that was now being handled by attorneys.

- Sam Anders, a partner of Linville Road Properties, discussed a situation with Bojangles' regarding the sign for his building. He asked if there was a way for the Town to withhold issuing the Certificate of Occupancy (CO) for Bojangles' until the issue was resolved.

Planning Director Bruce said it was not clear if there was a zoning issue that the Town could enforce or if it was simply a disagreement between the two parties involved. Bruce said he would look into the situation.

- Ann Schneider commended the work done by the current and former councils regarding appropriate options for Oak Ridge's water, saying the hardest but most rewarding thing leaders can do is look toward and lead toward the future.

**13. COUNCIL COMMENTS**

**14. ADJOURNMENT**

**Councilman Kinneman** made a **motion** to adjourn the meeting at 9:55 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

  
C. Spencer Sullivan  
Mayor