



**OAK RIDGE TOWN COUNCIL MEETING  
OCTOBER 3, 2019 – 7:00 P.M.  
OAK RIDGE TOWN HALL**

**MINUTES**

**Members Present**

Spencer Sullivan, Mayor  
Jim Kinneman, Mayor Pro Tem  
George McClellan  
Doug Nodine  
Ann Schneider

**Staff Present**

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

**1. CALL TO ORDER**

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

**A. Invocation.**

Pastor Andy Cook of The Summit Church offered the invocation.

**B. Pledge of Allegiance.**

**2. APPROVE AGENDA**

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

**3. APPROVE MINUTES**

*Mayor Sullivan made a motion to table approval of the September 5, 2019 meeting minutes. Councilwoman Ann Schneider seconded the motion, and it was passed unanimously (5-0).*

**4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS**

- Mayor Sullivan announced that former Oak Ridge resident Wendell Ott had passed away on September 24 and will be buried in Mississippi. Ott served on the Town's Board of Adjustment from 2004 until 2013, serving as chairman 2004-2011.
- Town Clerk Sandra Smith announced that the Northwest Observer was sponsoring a candidates' forum on October 17 at 7 p.m. at Town Hall.

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

- Detective Sgt. Matt Suits of District 1 of the Guilford County Sheriff's Office reported that there were 83 calls for service in Oak Ridge in September including two burglaries, one larceny of a motor vehicle and larcenies reported at Goodwill and Lowes Foods.

## 6. REPORT FROM OAK RIDGE FIRE DEPARTMENT

- Chief Steve Simmons reported that the department responded to 82 calls in September, which included 37 of a medical nature and 45 of a fire/service nature. Department members received 199 hours of training during the month. Simmons reminded attendees of the upcoming firemens' barbeque and that October 6-12 is Fire Prevention Week.

## 7. PUBLIC HEARINGS

**CASE # SUP-19-01:** The Town of Oak Ridge Town Council was requested to hold a public hearing concerning the issuance of a Special Use Permit for an Accessory Use Manufactured Dwelling. The property is located on the north side of Bunch Road, approximately 1,055 feet east of the intersection of Bunch Road and Oak Ridge Road (NC Hwy 150), in Oak Ridge Township. It is Guilford County Tax Parcels #0163161 and 0163136, consisting of approximately 5.37 acres. It is in the Greensboro (GW-III) Watershed and Scenic Corridor Overlay Zone, and is owned by Ronald and Iris McMichael Inc.

Mayor Sullivan announced that a special use permit is a quasi-judicial procedure, which requires Council to do findings of fact in making its decision and testimony to be sworn. He said the Council has this type of procedure infrequently, and he asked Town Attorney Michael Thomas to provide some preliminary instructions to the Council.

Thomas said that this is a quasi-judicial procedure for a special use permit and is not like a traditional public hearing in the sense that only those people with legal standing such as applicants, their witnesses or staff can offer testimony to be received into evidence. He said there are four standards or conclusions of law that must all be reached in order to grant the special use permit and all must be based on one or more facts that the Council needs to hear during testimony. He said if there were any conflicts of interest, any fixed opinions or any ex parte communications about the case outside of the hearing, they need to be disclosed by the Council.

All Council members responded that they had no conflicts of interest.

Thomas said the outcome of the case must be based only on evidence presented. He said it is not unusual for people in a town the size of Oak Ridge to have perhaps viewed the property. He asked if any Council members had seen the property and said they would need to disclose that information and whether that had caused them to have a fixed opinion. He said the main point was that Council members needed to base their decision on evidence received that night. Thomas said statute required that only a simple majority vote was required, so three votes from Council would be needed to approve or deny the request.

Mayor Sullivan said he and nearly anyone driving down Bunch Road had seen the property, and Councilman McClellan and Mayor Pro Tem Kinneman said they had also seen it while driving. Thomas said the main point was that it not affect Council's ability to render an impartial decision. He said quasi-judicial proceedings involve Constitutional protections, which is different from a rezoning process, which is legislative. He added that it was customary at that time to have all witnesses come forward and be sworn at the same time.

Town Clerk Smith then swore in Planning Director Sean Taylor and Caleb Sides, the applicants' grandson, who would be speaking on their behalf.

Mayor Sullivan opened the public hearing.

- Planning Director Taylor read the property description and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said the request was for an accessory dwelling unit (manufactured dwelling). He explained that the applicant currently has an existing principal dwelling on both lots, and he also had a manufactured dwelling unit on each property prior to the Town's adoption of the special use permit requirement for accessory manufactured dwellings. Both were legally non-conforming to the ordinance. Taylor said the applicant would now like to place manufactured dwelling units back in the previous locations of the ones that were removed. In order to do that, a special use permit is now required. He presented the staff recommendations and the facts as identified by staff.

*Council questions:*

Mayor Pro Tem Kinneman asked if the request was to allow two additional manufactured dwelling units. Taylor explained that one will definitely be added, and the applicant wanted the option to add another. Kinneman asked if the request was to allow for both accessory manufactured dwellings, and Taylor said yes. Kinneman asked whether the units would be single or doublewide units, and Taylor said he would let the applicant testify on that. The applicants' representative responded that they would be doublewide units that were 1,500 square feet. Kinneman asked if there was existing septic on the property, and Taylor said both well and septic were already in place.

Councilman Nodine asked if the plot plan illustrated where the dwelling units were previously or where they would be placed, and Taylor said yes to both.

- Caleb Sides, 7815 Spencerbrook Drive, Summerfield, spoke on behalf of the applicants. He said this was family land and the applicant just wanted to place a doublewide mobile home on the property.

With no further evidence, Sullivan closed the public hearing. He asked Thomas if Council should now begin to deliberate on the findings of fact. Thomas said Council should look at the four conclusions or standards and the preferred approach, and the one Thomas said he would recommend, would be to do that by consensus, as a

motion was not necessary to make a finding unless other Council members objected. He said that would lead to a motion to either pass or deny the request.

Councilwoman Schneider suggested the Council, by consensus, accept the staff report as one of the bases of the findings of fact. McClellan and Sullivan agreed. She also said she did not see any way that approving the request would endanger the public safety. She said manufactured dwellings had been on the property in the past, and there had been no incidents to her knowledge. She added that there seemed to be sufficient room around them, so she saw no issues with public safety.

Mayor Pro Tem Kinneman added that the units would be new, so they would meet the latest codes.

Councilman McClellan said the use seemed to be harmonious with the surrounding area.

Thomas said rather than going down the list, basically the facts Councilwoman Schneider had noted were that the units would be going into the same footprint as before, they would be utilizing the same septic system as wells as before, and they were new. Councilman Kinneman had said that the units were updated so it would be an updated use as well.

Schneider said she did not believe Council had heard that the units were new, and McClellan agreed. Sullivan said the applicants' representative had testified that they were new.

Sullivan said the Council had established the required conditions and specifications to put homes back in those spots. He said McClellan had made the point that said the use would be consistent with adjoining properties. Thomas said there was no public necessity requirement and the question for Council was whether the use would substantially injure the value of adjoining or abutting property. He said again that the Council was hearing that this was the same use as before. He said he thought it would be OK to infer that it would not injure the value because it was the same use as before, and Sullivan agreed.

Schneider said the request meets the Land Use Plan and the existing agricultural zoning, and that it was not inconsistent in terms of the number of units in the surrounding low-density zoning.

Sullivan said it was the same use as previously established, so it is not a new use or a change. It was simply establishing a manufactured dwelling on the same spot as it existed before.

Thomas then directed Council to the fourth fact, and said although the he did not want to steal Councilman McClellan's thunder, the reason he had Planning Director Taylor put in the note after that fact on the staff report was that under case law in the state, when you have special use permit zoning, you have already determined that the use is harmonious. It was just whether someone got a permit that qualifies per the conditions for it. So the use is already harmonious unless you hear evidence that rebuts that.

Sullivan said he thought Council had established all the requirements in the different areas.

Schneider noted that the application conforms with the Town's Ordinance, Article 7, Section 30-331 under permitted uses section.

*With the findings of fact summarized, Mayor Sullivan made a motion to grant the special use permit. Councilman McClellan seconded the motion, and it was passed unanimously (5-0).*

## **8. TOWN MANAGER'S REPORT**

Town Manager Bill Bruce gave a brief update on the continuing effort to do due diligence on the proposed municipal water system. He presented slides, which are hereby incorporated by reference and made a part of the minutes, to summarize the steps for full implementation of creating such a system. He noted the steps that had been completed and what was yet to be done. Bruce said the Town planned to host a public open house in November to allow for comments and questions from residents. He said he would continue to keep the Council updated.

Bruce made an announcement that several boards and committees need volunteers: Board of Adjustment needs an ETJ representative and an alternate; Planning & Zoning Board will soon need two alternates; and Historic Preservation Commission needs an alternate.

## **9. PUBLIC COMMENTS**

- Kevin Bagwell, 1843 Oak Ridge Road, expressed concern about crime in the area, saying he had recently been the victim of a home invasion.
- Van Tanner, 6605 Ashton Park Drive, thanked Councilman Nodine for his support of Oak Ridge Youth Association. He said since it is political season, he understood that personal agendas would guide much discussion. Tanner said he was no exception to that, and he would continue to promote things he was passionate about, one of which was children. He said since he has school-age children involved in recreation, he is concerned that they have access to adequate park resources. He said that does not mean he is against any other aspect of park development, as he loves walking trails, natural beauty and playgrounds for children younger than his. As a candidate for Town Council, he said it was not surprising that others would paint him in an unbalanced manner to fit their own agendas. While he could accept that, Tanner said he could not allow such political ploys to bring harm to ORYA because of his involvement with that organization, something some Town Council members had done. He said he could stand it, but it was unfair for volunteers, families or children involved in ORYA to suffer from his election. Tanner said in order to separate ORYA from that abuse, he would resign from the ORYA Board the following day, and while he would continue to be involved with the organization, he would have no official position.

- Carol Shina, 8400 Parkchester Place, spoke against the proposed water system, saying it will change the entire community and she had never seen it on a ballot. She asked if it could be brought to citizens for a vote.

**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.

*Councilman McClellan made a motion to accept the Finance Officer's report. Councilwoman Schneider seconded the motion, and it was passed unanimously (5-0).*

**11. COMMUNITY UPDATES**

**A. Oak Ridge Youth Association.**

Board member Van Tanner reported that fall sports were about half finished. He said the organization was renewing its partnership with Oak Ridge Military Academy for use of its facilities for basketball, and they hope to expand that to other sports. He said the annual usage agreement for the park had been submitted to the Parks & Recreation Board for a recommendation, and representatives planned to meet with Guilford County Schools personnel to discuss use of the facilities at Oak Ridge Elementary.

**B. Parks & Recreation Advisory Board.**

Vice Chair Phyllis Anders reported the Board had discussed the ORYA usage agreement, a request to use the amphitheater by a Brown Summit Middle School student and a 5K by the Hindu temple. She said engraved brick sales are continuing with proceeds to go to the veterans' memorial, Heritage Day was a great success, and the final Music in the Park would be held October 12.

**C. Oak Ridge Military Academy.**

No report

**D. Planning & Zoning Board.**

No meeting

**E. Mountains-to-Sea Trail Committee.**

Co-chair Martha Pittman reported on a group hike celebrating the 42<sup>nd</sup> birthday of the Mountains-to-Sea Trail. She said the committee had a booth at Heritage Day, broke ground on a new trail, and was offering T-shirts for sale. She also asked Council for permission to have the money raised on T-shirt sales placed into a restricted fund to be used for other MST efforts.

*Mayor Pro Tem Kinneman moved to set up a restricted fund to support the MST Committee. Councilman McClellan seconded the motion, and it was passed unanimously (5-0).*

**F. Merchants of Oak Ridge.**

No report

**G. Historic Preservation Commission.**

Chair Debbie Shoenfeld said the Commission had approved two COAs for Philip Cooke at the previous meeting. They also had a successful booth at Heritage Day. In conjunction with the Special Events Committee, the Commission has now kicked off sales of raffle tickets, to be followed by tour tickets, of the Christmas at Maple Glade event on the campus of Oak Ridge Military Academy. Vice Chair Caroline Ruch gave further details about the event. They asked that proceeds from the event be placed in the grants fund to be used for preservation of historic buildings at ORMA.

*Councilwoman Schneider moved to allow movement of the proceeds of the tour and raffle to be transferred to the grant fund once final accounting has been completed. Councilman McClellan seconded the motion, and it was passed unanimously (5-0).*

**H. Special Events Committee.**

Chair Patti Dmuchowski reported that the committee sold slices of cake from the baking contest at Heritage Day and made about \$80 for the veterans' memorial, and also sponsored the baking and beard contests. She said plans were being made for the Thanksgiving Parade/Light Up the Night event on November 23, and plans were continuing for a veterans' memorial.

**12. PUBLIC COMMENTS**

- None

**13. COUNCIL COMMENTS**

- Councilwoman Schneider responded to comments that had been made by Van Tanner, saying she was confused because the Council had been incredibly supportive of Oak Ridge Youth Association. She offered several examples of how the Town had treated ORYA fairly.
- Mayor Sullivan said he felt compelled to respond to Tanner's comments, saying he was shocked and alarmed and that there was no way ORYA either suffers or had been abused by the Town, any members of the Council, or any of Town staff. As Sullivan continued, Tanner stood and tried to interrupt, but Sullivan told him multiple times that he could sit down or leave because he was not allowed to speak at that time. Sullivan said he would be contacting ORYA President Tom Collins the following morning to discuss Tanner's accusations. He said he could not recall any other time during his 8 years on Council when he had lost his temper, but he would not stand for false statements being made.

**14. ADJOURNMENT**

*Mayor Pro Tem Kinneman made a motion to adjourn the meeting at 8:18 p.m. Councilman McClellan seconded the motion, and it was passed unanimously (5-0).*

Respectfully Submitted:

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Sandra B. Smith, NCCMC, CMC  
Town Clerk

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Spencer Sullivan  
Mayor