



**OAK RIDGE TOWN COUNCIL MEETING
SEPTEMBER 5, 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 7:01 p.m.

A. Invocation.

Rev. Susan Mitchell of Oak Ridge United Methodist Church offered the invocation.

B. Pledge of Allegiance.

2. APPROVE AGENDA

Mayor Pro Tem Jim Kinneman made a motion to approve the meeting agenda. Councilwoman Ann Schneider seconded the motion, and it was passed unanimously (5-0).

3. APPROVE MINUTES

Councilman George McClellan made a motion to approve the minutes of the August 1, 2019 regular meeting. Councilwoman Schneider seconded the motion, and it was passed unanimously (5-0).

4. RESOLUTIONS, PROCLAMATIONS, ANNOUNCEMENTS

None

5. REPORT FROM GUILFORD COUNTY SHERIFF'S OFFICE

- Capt. George Moore, the new commander of District 1 of the Guilford County Sheriff's Office, reported that there were 64 calls for service in Oak Ridge in August. Of those, about one-third were in response to burglar alarms going off. There were three property thefts and a theft from a motor vehicle. Moore said there had been an

uptick recently in motor vehicle breakings & enterings in the District 1 area, especially at parks and trails. He encouraged residents to protect their valuables by leaving them at home or locking them in the trunk.

6. REPORT FROM OAK RIDGE FIRE DEPARTMENT

- Chief Steve Simmons reported the department responded to 79 calls in August. Of those, 38 were of a medical nature and 41 of a fire/service nature. Department members received 221 hours of training. Simmons reminded residents that school is back in session and asked them to be cautious and watch for buses and children. He also asked that they exercise patience in navigating school traffic.

7. PUBLIC HEARINGS

- A. **REZONING CASE # RZ-19-01:** CU-GB (Conditional Use-General Business) to Amended CU-GB (Amended Conditional Use-General Business). The property is located on the south side of Oak Ridge Road, approximately 350 feet east of the intersection with NC 68 in Oak Ridge Township. It is Guilford County Tax Parcels 0166219, 0166213, and 0166212, consisting of approximately 1.93 acres. It is in the Greensboro (GW-III) Watershed, Historic District Overlay Zone and Scenic Corridor Overlay Zone, and is owned by Oak Ridge Foundation, Inc.

Planning Director Sean Taylor 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. He said the rezoning had been approved at a previous Town Council meeting, but the applicant had reapplied in order to modify the conditions. Taylor said the applicant had asked to remove the requirement of a preservation easement for the entire Oak Ridge Military Academy campus. He said in this particular rezoning, the applicant again asked to exempt the same list of uses that are generally allowed under the GB (General Business) zoning, but the development condition was changed to reflect that structures listed as part of the Oak Ridge Military Academy National Historic District may not be demolished as long as the applied for rezoning stays in place. Buildings to be included with this rezoning application are the former Donnell and Holt Store, the 1938 infirmary and the cooks' house. Taylor said the Planning & Zoning Board considered the case and voted unanimously to recommend approval.

Mayor Sullivan noted that this parcel is on 2 acres and it also included the former post office building. Councilman McClellan asked if all parties involved had agreed to the conditions, and Taylor said yes. Mayor Pro Tem Kinneman asked if the request was not as much about changing the zoning as it is about preserving the historic buildings, and Taylor answered yes. Councilwoman Schneider said she understood changing the development condition was not as strong a protection as requiring a preservation easement. Taylor agreed, but said that it was taking time to get the preservation easement in place and the property owners wanted to move forward. Schneider said she hoped the Town could still try to get a preservation easement on the property in the future.

Sullivan opened the public hearing.

Proponents:

- Dr. Steve Wilson, 2317 Oak Ridge Road, representing Oak Ridge Foundation, spoke in favor of the rezoning of a portion of the Oak Ridge Military Academy campus and said he was there to answer questions. He said an individual was getting ready to open an aviation simulation business in one of the buildings and first the property had to be rezoned. Wilson said there had also been inquiries about the old infirmary, and he had also talked to Historic Preservation Commission members about a possible community center in the old infirmary. He noted that there was a long list of uses that would be exempted.

Town Attorney Michael Thomas said although the staff report said the uses would be exempted, they were intended to be excluded. He explained that excluded and exempted have different meanings. He said that Council's vote should reflect that the uses would be excluded, and he asked Wilson if there were any objections to the uses listed being excluded. Wilson said no.

Opponents:

- None

The Mayor closed the public hearing.

Councilwoman Schneider moved to approve the proposed zoning amendment that amends the development conditions for the Conditional Use-General Business zoning of this property, owned by the Oak Ridge Foundation, based on the following:

- *The Town Council concurs with the Planning Board's written statement that the proposed zoning amendment is consistent with the adopted comprehensive plan of the Town of Oak Ridge, and the Council adopts the Planning Board's finding of consistency by reference.*
- *The Council concurs with the Town staff's finding that the proposed zoning amendment is reasonable and adopts that finding by reference.*
- *The Council further concurs with the Town staff's finding that the proposed zoning amendment is in the public interest and adopts that finding by reference. The Council finds that the proposed zoning amendment is in the public interest because it will prevent the demolition of the National Historic District buildings on this property, each of which are also contributing structures within the Town's Historic District.*

Councilman George McClellan seconded the motion.

Councilman McClellan said he was glad all parties came together to protect structures located in the Historic District.

Mayor Pro Tem Kinneman said it was a good thing to preserve and protect the historic structures. He said it was also good that the preservation easement is still being sought.

Councilman Nodine asked what uses would be allowed. Taylor said within the development ordinance, LB (Limited Business) had some of the uses desired but not all of them. On the other hand, GB (General Business) had more of the types of uses desired, but many the applicant did not want. Taylor said the CU-GB (Conditional Use-General Business) zoning seemed to be the best way to handle the desired uses while excluding many others. Nodine asked if the allowable uses were the types of businesses Council had said were wanted in the Town Core, and Taylor said yes.

Councilwoman Schneider said she was grateful to ORMA for employing this solution, and Mayor Sullivan thanked all parties.

Council's vote in favor of the motion was unanimous.

- B. **REZONING CASE # RZ-19-04:** PI (Public and Institutional) to CU-PI (Conditional Use-Public and Institutional). The property is located on the south and north side of Oak Ridge Road at the intersection with NC 68 in Oak Ridge Township. It is Guilford County Tax Parcels 0162858 and 0166211, consisting of approximately 69.9 acres. It is in the Greensboro (GW-III) Watershed, Historic District Overlay Zone and Scenic Corridor Overlay Zone, and is owned by Oak Ridge Foundation, Inc.

Planning Director Taylor 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. He said the case is tied to the rezoning just approved by the Council, and he referred the Council to the conditional uses and development condition, which says buildings associated with this rezoning application may not be demolished as long as the rezoning requested stays in place. The list of buildings included is Maple Glade, Alumni Hall, King Gymnasium, Whitaker Dormitory, Linville Chapel, the Commandant's House, the 1921 Well, and Oakhurst Dormitory. Taylor said staff recommends approval of the rezoning, as it meets Objective 1.1 of the Land Use Plan, which mentions preservation of historic resources. He said the Planning & Zoning Board unanimously voted to recommend approval.

Mayor Sullivan opened the public hearing.

Proponents:

- Dr. Steve Wilson, 2317 Oak Ridge Road, representing Oak Ridge Foundation, said the intention of this rezoning was to protect the historic structures on the Oak Ridge Military Academy campus.

Opponents:

- None

The Mayor closed the public hearing.

Councilwoman Schneider moved to approve the proposed zoning amendment from Public and Institutional to Conditional Use-Public and Institutional for this much larger property, also owned by the Oak Ridge Foundation, based on the following:

- *Town Council concurs with the Planning Board's written statement that the proposed zoning amendment is consistent with the adopted comprehensive plan of the Town of Oak Ridge, and Council adopts the Planning Board's finding of consistency by reference.*
- *Council concurs with the Town staff's finding that the proposed zoning amendment is reasonable and adopts that finding by reference as well.*
- *The Council concurs with Town staff's finding that the proposed zoning amendment is also in the public interest and adopts that finding by reference. The Council further finds that the proposed zoning amendment is in the public interest because it will prevent the demolition of the National Register buildings on this property, each of which is a major contributing structure within the Town's Historic District.*

Councilman George McClellan seconded the motion, and Council's vote in favor was unanimous (5-0).

- C. **TEXT AMENDMENT.** Amendments proposed to Chapter 30 of the Oak Ridge Code of Ordinances to ensure compliance with state statutes, to amend portions of the Utilities standards in the subdivision ordinance and to amend Conditional Use Districts ordinance. Proposed amendments include but are not exclusive of Article I - Definitions; Article VII - Zoning; Article VIII – Subdivisions.

Town Manager Bill Bruce presented the text amendments, which are hereby incorporated by reference and made a part of the minutes. The first was recommended by the Town Attorney and changes the language in the development ordinance regarding conditional use districts to more clearly identify them as conditional zoning. The second changes apply to Section 30-9 Definitions and Section 30-863 Utilities. After explaining each of the changes, he said the Planning & Zoning Board voted 4-3 to recommend approval.

Bruce said Envirolink is also assisting the Town in changing its Water System Ordinance in Chapter 46; those changes are related to some of the changes proposed in Section 30, but they do not require a public hearing. He suggested Council may want to move on to the New Business item on the agenda to hear about those changes. Council concurred.

Bruce said Cecil Rhodes and John Mullis of Envirolink were present at the meeting to answer questions regarding the proposed changes to Chapter 46, which are listed under New Business and which also have to do with a municipal water system. Bruce presented a slide show prepared by Envirolink, which is hereby incorporated by reference and made a part of the minutes. Council members asked many questions, which were answered by Bruce, Mullis, Rhodes and Finance Officer Sam Anders.

Planning & Zoning Board member Jason Streck said the Board had discussed the text amendment at its meeting. He said Board members were asked to only consider the text amendment itself, not whether they were in favor of a municipal water system or not. He said the Board had made some suggestions for language changes, which he thought had now been incorporated. Streck said four members of the Board voted in favor of the text amendment and three voted against. He said he thought the three who voted against did so because they opposed a water system.

Sullivan opened the public hearing on the text amendment.

Proponents:

- Roger Howerton, 2106 Oak Ridge Road, said many people knew the issues he and his neighbors had dealt with regarding the water as a result of contamination. He said he had studied the materials available prior to the meeting and although they didn't include financial detail, he thought if a 30-unit subdivision had one or two community wells that are deeded to the Town, that is the beginning of a municipal water system. He said he thought this was a great starting point, and if he were purchasing a new house, he would be pleased to know that he could turn to the Town if there were a problem with the water. If said if a developer considered being part of such a Town system as an asset, it might sway some people to purchase a unit from

them instead of one with another community well operator. He said he recommended approval of the text amendment.

- Frank Whitaker, 2338 Oak Ridge Road, said Council should look at the proposed water system long term. Whitaker said unless someone could make a good case that such a system would be a loss, he thought Council should consider approving the text amendment. He said if the Town wanted to consider building a municipal system, this was a good way to start, even if there was some initial loss.
- Patti Dmuchowski, 7320 Hidden View Drive, said her house was on a private well, something that had always concerned her since it was unknown if it might go dry at some point or if the quality was poor. She said she understood that the proposed system would be self-sustaining, and she trusted Council to do its due diligence.
- Phyllis Anders, 1837 Oak Ridge Road, said she understood residents with private wells would not have to connect to the system unless they wanted. The proposed system would be self-sustaining and would not raise taxes. Anders said that, if approved, this would be the first step taken in addressing water needs in Oak Ridge.
- Kyle Anders, 5289 Williard Road, said he thought Council would be making a wise decision. He said he knew about the system proposed many years ago by Aqua through his involvement with the fire department. Anders said the systems installed in each subdivision would be created by an engineer and would be self-sufficient and, at a later date, the Town would be able to install hydrants that would benefit the fire department. He said the lower the fire insurance rating, the lower residents' costs would be for homeowners insurance.
- Martha Pittman, 8018 Fogleman Road, said she had kept an open mind, and she had no ideological objections to creating a water system in the method proposed. She said the system would begin small and grow, and she understood any seed money would be placed in a separate enterprise fund and could be paid back. She said she still had questions, but she had concluded that the system is feasible. Pittman said clean, reliable, safe water is necessary for quality of life and the proposed system would be built to American Water Works Association standards. She said if Council moves forward, she encouraged them to do their due diligence, keep their promise not to affect current residents, and monitor the system carefully.

Opponents:

- Jerry Cooke, 7911 Quiet Place, said water was a critical issue, but his problem with the idea is that the Town would simply be drilling wells, not creating a water source. He asked why the Town would want to get into the water business, and said the supporters were being idealistic to believe the Town can be a better water provider than Aqua, which is a public utility. He said he had not heard of anyone who was unhappy with Aqua. He said the Town would not start out with a system for a 30-unit subdivision because it takes a while to build out a subdivision and that builders would try to

develop their properties in phases so they did not have to install a community well. Cooke said representatives of Envirolink were present at the meeting, but asked how many other companies the Town would talk with regarding operating its proposed system. He asked if the Town was trying to establish a monopoly or generate more bureaucracy. Cooke said the Council recently approved a 48-unit subdivision on 29 acres, so it seemed like Council members did not have much concern about water. He said the solution was to discuss water with a public utility that has access to a river, since nothing Council has proposed would produce another drop of water.

- Van Tanner, 6605 Ashton Park Drive, said he concurred with Cooke. He said to say the proposed system would not affect current residents is a lie, because it would create a liability for taxpayers. He asked what would happen if a well became polluted, went dry or machinery broke down because there was no magical money. He said it sounded to him as if Council members did not like Aqua. He said he asked 15 of his neighbors, and none of them were dissatisfied with Aqua. He said he did a survey on Nextdoor.com, and of 141 people, 10 said they would like to have a municipal water system. He said government traditionally did not perform better than a private entity, and he encouraged the Council to slow down since they had just started talking about creating a municipal system.
- Mike Stone, 8112 Hunting Cog Road, also spoke in opposition. He said he had spoken with his insurance company, who said insurance rates would not go down with the creation of such a system. He said he had the same issue that several Planning & Zoning Board members had – that they were being asked to consider the wording of the text amendment, but not whether there should actually be a water system. He said there was angst among citizens that there had not been a big town meeting where everybody came and talked about a water system. He said because citizens did not have a place to discuss and get their questions answered, they were going to social media sites like Nextdoor.com.

Rebuttal – proponents:

- None

Rebuttal – opponents:

- None

Sullivan closed the public hearing.

Councilwoman McClellan made a motion to adopt the text amendments to Chapter 30 of the Oak Ridge Code of Ordinances as presented. Mayor Pro Tem Kinneman seconded the motion.

Council discussion/questions:

- Councilman McClellan said he would support adopting the text amendments because creating a water system in the proposed manner will not raise taxes, it does not require anyone with a private or community well to connect, and it will be self-sustaining. He said Council will be responsible for

setting rates and the Town will contract with someone to run the system, and that would make Council accountable to citizens.

- Mayor Pro Tem Kinneman said some residents with Aqua systems are satisfied, but he had heard about quite a few who are not, complaining about things like low water pressure and poor customer service. He said the proposed water system would not help him, but he said he thought the Council's obligation was to look forward to the future. He said the Town had always planned that when an opportunity presents itself, the Town will connect to a surface water system, something it still may do in the future. Kinneman said when the system comes online and if the Town is not satisfied with the operator, it can fire them – something it cannot do with Aqua. He said the Town had no jurisdiction or leverage to make Aqua change its standards or to hold it accountable. He said the proposed water system will not affect development, because that is dictated by septic.
- Councilman Nodine said he owned a water system in the 1980s, and said he constantly had to raise rates and do special assessments of the users, something that is not feasible in subdivisions with only 30 users. He said he had heard about how the money would go into a separate enterprise fund, but when the first well goes dry it will cost the taxpayers. Nodine said based on the projections he had seen, he would not support the system as proposed.
- Councilwoman Schneider said she had talked with several people and there was lots of conversation on the topic online. Regarding obtaining water from somewhere else, she said the recent desktop regional water study seemed to indicate the underground water supply in nearly all parts of Oak Ridge is plentiful. She said she understood the system would not impact property taxes because it would be paid for by those who are on it. As a customer on an Aqua system, she said the company's performance is not great and their prices are about 20 percent higher than the model the Town is contemplating. Looking back over the last 5 years, Schneider said developers had engaged Envirolink to serve all the community well systems that have been approved, not Aqua. She added that nearly all those subdivisions have opted for a community well system over private wells, so the Town's plan would not change anything as far as that is concerned. She said this was a small, modest plan with great potential.
- Mayor Sullivan said water had been discussed since the Town incorporated in 1998. He said a large system with a private company and a regional system with other communities had both been deemed to be too expensive. He said the proposed system would build on what had already been happening in Oak Ridge for years by the Town accepting and managing community well systems. Sullivan said the supply of water worldwide was ultimately limited and it was important that the Town Council, as a matter of public trust, provide for the health, safety and welfare of its citizens. He said due diligence still needed to be done, which was clearly outlined in the Resolution of Intent passed by the Council.

Council's vote in favor of the motion was 4-1 (Nodine voting against).

8. NEW BUSINESS

Amendments proposed to Chapter 46 Utilities, Article II. Water System Ordinance

Mayor Pro Tem Kinneman moved to approve the text amendment as presented. Councilman McClellan seconded the motion, and it was passed unanimously (5-0).

9. OLD BUSINESS

REZONING CASE # RZ-19-02: AG (Agricultural) to RS-40 (Residential–Minimum 40,000 sq. ft. lots). The property is located on the south side of Oak Ridge Road, approximately 400 feet west of the intersection with East Harrell Road, in Oak Ridge Township. It is Guilford County Tax Parcels #0163029 and 0163041, consisting of approximately 52.596 acres. It is in the Greensboro (GW-III) Watershed, Scenic Corridor Overlay Zone, and is owned by Spencer Sullivan, Linda Sullivan, Ruth Edwards, Ruby Dance and Susan Thomas. *(Second vote - Continued from August 1, 2019 meeting)*

Mayor Sullivan asked for clarification from Town Attorney Thomas about the state statute that requires a two-thirds majority vote of the entire Council in order to pass any act on the day of introduction. Thomas explained how that had been impossible to do on this rezoning in August since Councilwoman Schneider was absent and Mayor Sullivan was recused because of his relationship to the case. Thomas said there was no impediment to holding the advertised public hearing, which Council had done.

Mayor Pro Tem Kinneman moved to recuse Mayor Sullivan for Rezoning Case #RZ-19-02. Councilwoman Schneider seconded the motion, and it was passed unanimously (5-0).

Councilman McClellan made a motion to approve rezoning request RZ-19-02. Councilwoman Schneider seconded the motion, and it was passed by a 4-0 vote.

With Mayor Sullivan returned to the dais, Councilman McClellan made a motion for a 5-minute recess. Councilwoman Schneider seconded the motion, and it was passed unanimously (5-0).

Mayor Pro Tem Kinneman moved to reconvene the meeting. Councilwoman Schneider seconded the motion, and it was passed unanimously (5-0).

10. TOWN MANAGER'S REPORT

A. Board/Commission recommendations.

Councilman McClellan made a motion to approve the reappointments of Phyllis Anders to the Parks & Recreation Advisory Board and Patti Paslaru to the Planning & Zoning Board, as well as to appoint Jason Streck as a regular member to the Planning & Zoning Board and Maureena Shepherd as an alternate to the Planning & Zoning Board. Mayor Pro Tem Kinneman seconded the motion, and it was approved unanimously (5-0).

B. Contract for Municipal Fire Protection and Rescue Services.

Bruce stated that the contract had not been updated since 1999, but it only contained minor changes and there was still no cost to the Town. He said the contract had been reviewed by the Town Attorney and approved by the Oak Ridge Fire & Rescue Company.

Councilman McClellan made a motion to approve the contract with Oak Ridge Fire & Rescue Company. Councilwoman Schneider seconded the motion, and it was approved unanimously (5-0).

C. Addition of Berrier Ridge Court to the state maintenance system.

Councilman McClellan made a motion to approve the resolution adding Berrier Ridge Court to the state maintenance system. Councilwoman Schneider seconded the motion, and it was passed unanimously (5-0).

D. Addition of Oakhurst Downs Drive and Rymack Drive to the state maintenance system.

Councilman McClellan made a motion to approve the resolution adding Oakhurst Downs Drive and Rymack Drive to the state maintenance system. Councilwoman Schneider seconded the motion, and it was passed unanimously (5-0).

E. Resolution for disposal of surplus property.

Councilman McClellan made a motion to authorize the Town Manager to dispose of surplus property valued at less than \$30,000. Mayor Pro Tem Kinneman seconded the motion, and it was passed unanimously (5-0).

11. PUBLIC COMMENTS

- None

12. MONTHLY FINANCIAL UPDATE

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

11. COMMUNITY UPDATES

A. Special Events Committee.

Chair Patti Dmuchowski reported plans were being made for the Thanksgiving Parade/Light Up the Night event on November 23, money was still being raised for a veterans' memorial, and the committee had a presence at Heritage Day.

B. Oak Ridge Youth Association.

Board member Van Tanner reported on the number of youth signed up for various fall sports, and he said the Teen Leadership group was discussing a spooky trail in the park for Halloween.

C. Parks & Recreation Advisory Board.

Vice Chair Phyllis Anders reported the Board had met with Jim Ford of McGill, the firm handling the parks and recreation survey. She said the Board had also discussed reappointments, commemorative brick sales, Music in the Park and Heritage Day.

D. Oak Ridge Military Academy.

No report

E. Planning & Zoning Board.

Member Jason Streck said that in addition to the rezonings discussed earlier in the meeting, the Board also reviewed two subdivision cases, which were both approved unanimously.

F. Mountains-to-Sea Trail Committee.

Co-chair Martha Pittman reported on a workday to ready the trail for the 42nd birthday of the Mountains-to-Sea Trail. She said the committee would have a booth at Heritage Day and was continuing its trail-building efforts. Pittman also said the trails need to be given specific names in case emergency response is ever needed.

G. Merchants of Oak Ridge.

No report

H. Historic Preservation Commission.

Town Clerk Sandra Smith said the Commission met the previous month and continued the case for signage at the new Rio Grande restaurant and called for a Design Review Meeting.

12. PUBLIC COMMENTS

- None

13. COUNCIL COMMENTS

14. ADJOURNMENT

Mayor Pro Tem Kinneman made a motion to adjourn the meeting at 9:45 p.m. Councilman McClellan seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:

Sandra B. Smith, NCCMC, CMC
Town Clerk

Spencer Sullivan
Mayor