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January 13, 2009

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**MINUTES OF THE
SUMMERFIELD TOWN COUNCIL
SUMMERFIELD COMMUNITY CENTER
JANUARY 13, 2009
6:30 PM**

NOTE: The official minutes are a CD recording of the meeting. The following is a summary of the events of the meeting.

The meeting was called to order at 6:32 pm by Mark Brown.

The invocation was led by Linda Southard, followed by the Pledge of Allegiance.

Brown announced that Flowers would not be in attendance tonight. Williams made a motion to formally excuse Flowers from the meeting. The motion was seconded by Barnes and carried unanimously.

INTRODUCTIONS:

Council:

Mark Brown, Mayor
Dena Barnes
Becky Strickland
Bob Williams
John W. Wray Jr.

Staff:

Michael Brandt, Town Manager
Dana Luther, Finance Officer
William Hill, Town Attorney
Valarie Halvorsen, Town Clerk

CONSENT AGENDA:

Strickland asked that item **10C Recommended Comprehensive Plan Committee changes by Plan Consultant** be removed from the agenda, sent back to the committee for discussion, and be brought back to council in February.

Wray made a motion to approve the Consent Agenda, including the meeting agenda as amended, minutes of the December 9, 2008 meeting, Financial Report, and Town Council Budget Amendment #1. The motion was seconded by Strickland and carried unanimously.

ANNOUNCEMENTS

Brown stated the Summerfield Fire Department is hosting a chili cook-off on January 24, 2009 from 11:00am to 2:00pm. Information and entry forms are available at the Fire Station and proceeds benefit the Fireman's Fund. He also noted the January 26 Zoning Board meeting would be moved to the school due to the large numbers expected for the Harris Teeter rezoning and also asked any speakers to hold comments on Harris Teeter to that meeting or the February council meeting, rather than speaking on it tonight.

SPEAKERS FROM THE FLOOR (limited to 5 min. on non-agenda items)

Gail Dunham, 5805 Snow Hill Dr, asked that all town meeting information be posted on the web site accurately, legally, and completely, with the date, time, location, committee and purpose stated, which is simple to do and if the current format doesn't work a new format should be used. She feels that the official policy of posting the information on bulletin boards is not sufficient and would necessitate driving to one of the boards multiple times to get all the information. She

also suggested having newspapers announce the meetings each week. She feels that what is being done now may be legal, but is not good government.

Dwayne Crawford, 1106 NC Hwy 150 W, asked council to consider a November 2009 referendum to change the form of government back to Council-Mayor. He referenced a letter in the December 19, 2008 edition of the Northwest Observer by Bob Williams stating the Sheriff's substation would have brought the town rent money of \$40,000 per year. He presented several documents stating the amount would be \$1 per year and challenged Williams to prove him wrong.

Carolyn Collins, 7504 Somersby Dr, discussed the importance of and requested council consideration of preserving the Saunders Inn. Speaking on behalf of the Historical Committee, she gave background information and history, stating it needs to be moved to be saved. It was donated to the town and there is a pledge by the owner to put up \$25,000 towards the moving expense and \$25,000 toward renovation if it is moved from the property in the next two years. She urged council and staff for their support and asked them to find a location and funds for this important endeavor.

COMMITTEE REPORTS:

- A. **Community Relations:** Brown stated the committee is working on Founders' Day plans.
- B. **Finance:** Luther said the next meeting was Monday January 26, 2009 and the committee would look at new investments and work on budget planning.
- C. **Historical:** Linda Southard noted the next meeting is January 29, 2009, and thanked Carolyn Collins for her work on the Saunders Inn issue.
- D. **Parks & Rec:** Sue Beeson stated there would be an extra meeting on January 22, 2009 to discuss events in the park. She asked for public input on park events and the Phase II opening celebration.
- E. **Public Safety:** Ron Marshburn announced the next meeting on January 21, 2009 and said they are still exploring fire protection water issues.
- F. **SYC:** Reese Walker said the committee has taken down the Christmas decorations from the Tree Lighting event, won Best in Show in the Stokesdale parade, and the February meeting would be at the Board of Elections to learn more about the voting process. Wray offered congratulations on winning Best in Show.
- G. **Comprehensive Plan:** Brandt stated they are meeting the first Monday of each month and are continuing to work on the plan. There will be a late spring open house.
- H. **Athletic Advisory:** Brandt said the grant process is moving forward and the next meeting is Wednesday January 28, 2009 3:30 pm at Town Hall.

PUBLIC HEARINGS

A. Five year franchise for the provision of solid waste and recycling services for residents of the Town with Republic Waste Services (first reading)

Brandt stated the contract would be for 58 months rather than 60, with the same terms and conditions as we currently have, and Republic has agreed to waive the CPI cost increase if the town chooses the 5 year agreement. He further noted the fees for town properties would be waived, there are provisions for state law changes in regards to recycling, and provisions for changes in Guilford County requirements.

Brown opened the Public Hearing at 7:02 pm. Hill noted there must be a total of two Public Hearings and two votes per statute. As there were no speakers, Brown closed the Public Hearing at 7:03 pm. Wray asked if Hill had reviewed the contract and he replied affirmatively.

Wray made a motion to approve the five year franchise with Republic Waste Services. The motion was seconded by Strickland and carried unanimously. The next Public Hearing will be held during the February 10, 2009 council meeting.

B. Watershed Modification Case #02-08 WM (Continued from December 9, 2008 meeting)

Request for minor modification to the Watershed Critical Area (WCA) Tiers 2 and 3.

Owned by Harvey T. Marshall. The property is located at 4310 US Highway 220N being Guilford County tax map 01-0035, block 0853, parcel 017, in Bruce Township

Brandt discussed the case, reading from the Staff Report, noting the request was to extend the allowable built upon area from the town standard of 4% to the state standard of 12%, that it was compatible with the Long Range Plan, and the Zoning Board voted 4 to 0 to recommend approval with the recommendations of reducing the trail width by 2 feet and consideration of using engineered mitigation techniques for storm water/surface water protection. He further noted the need for findings of fact for approval which were then read into the record as follows:

1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the watershed requirements, and all of the following conditions exist:

a) If the applicant complies with the provisions of the watershed requirements, the applicant can secure no reasonable return from, nor make reasonable use of the subject property. The modification must be the minimum possible deviation from the terms of the Ordinance that will allow the reasonable use of property

Response: A portion of the property is located in the future right-of-way of US 220, which will impact the existing single-family home, potentially causing it to be removed. It is unreasonable to assume that the current property owner would chose to rebuild a single-family home in an area not conducive to residential development. The proposed use of the property as a public parking area for up to 27 vehicles is a reasonable use of the property that seeks no financial gain for the Town of Summerfield. The request to develop 12% of the property is the minimum necessary deviation to adequately provide a safe, handicapped accessible, access point to a public greenway.

b) The hardship results from the application of the Ordinance to the property rather than from other hardships such as deed restrictions or other hardships.

Response: The location of the property within the Tier 2 Critical Watershed is the hardship, not deed restrictions or other hardships.

c) The hardship is due to the physical nature of the applicant's property, such as size, shape, or topography, which is different from that of neighboring property.

Response: The property is located within the Tier 2 Critical Watershed which makes it different than other properties. Under State regulation the site could be allowed to develop up to 12% built upon area in this location.

d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the ordinance, and then comes to the Board or Governing Body for relief.

Response: The applicant has not violated any provisions of the Ordinance at this time. The relief requested does come after the applicant has made arrangements to lease purchase the property after the date of the ordinance. However, this action by the Town of Summerfield will allow the closure of an existing parking lot located approximately 700 feet south of the property located on Strawberry Road. This existing parking lot is immediately adjacent to Lake Brandt and is well within the Tier 1 Watershed Critical Area. In addition, closure of this lot will provide significant public safety improvements along a section of Strawberry Road. Therefore the public purpose of issuing the modification significantly improves both the environmental safety and public safety of the community. The existing home may be removed in the future if the Town purchases the property outright. Thereby reducing the built-upon area of the property by approximately 2%.

e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread.

Response: Tier 2 Watershed Critical Area makes up a very small portion of all developable property in Summerfield therefore the hardship is peculiar to the property and is not widespread.

2) The modification is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

Response: This modification will allow a total of 16,800 square feet of new development within the Watershed Critical Areas of Summerfield. This is such a small impact to the overall built-upon area that the modification meets the general purpose of the Ordinance. In addition, steps taken during and after construction to control water run-off from the site will preserve the spirit of the ordinance by increasing the watershed protection standards over the existing property. The property owner has removed an old barn and a trash pile will be removed. The site is located immediately adjacent to property owned by Guilford County and the City of Greensboro that will not be further developed, thereby providing a large area of groundwater recharge and permeable surface area for any additional run-off created by the development of the site.

3) In granting the modification the public safety and welfare have been assured and substantial justice has been done.

Response: Public safety is improved by the closure of the existing Strawberry Road parking lot in two ways- direct environmental contamination of Lake Brandt from untreated parking lot run-off and public safety by removing a hazardous traffic situation with limited parking areas immediately adjacent to Strawberry Road. The proposed parking lot will provide a safe, accessible, location for access to the trail and is further from Lake Brandt providing more opportunity for run-off to be managed and cleaned.

Barnes asked if reducing the trail width would still be handicap accessible and Brandt replied affirmatively. Strickland asked about the cost of using the recommended engineered mitigation techniques and what it would entail. Brandt replied it is such a small area that it would involve a swale which would discharge similarly to a lawn.

Brown opened the Public Hearing at 7:16 pm and hearing no speakers, closed it at 7:16 pm.

Strickland made a motion to approve Watershed Modification Case #02-08 WM with the conditions recommended by the Zoning Board, reducing the trail width by 2 feet and consideration of using engineered mitigation techniques for storm water/surface water protection, based on the finding of fact that it will be least possible deviation from the ordinance to allow for reasonable use of the property and incorporating all other findings of fact made by the Zoning Board as previously read into the record by Brandt. The motion was seconded by Williams and carried unanimously.

C. Sex Offender Ordinance prohibiting access to town parks and recreation property and facilities for registered sex offenders.

Brown opened the Public Hearing at 7:19 pm.

Dwayne Crawford, 1106 NC Hwy 150 W, stated this was a "feel good" effort that really had no teeth as it does not address any of the following: anyone who has never committed a sexual offense that chooses to do so in the park for the first time, multiple offenders who have never been caught, offenders that have been caught but not convicted, convicted offenders that care not for breaking the law. The only time it has teeth is when a convicted offender is caught in the park, so he asked what it accomplished. He further asked why this was being done when there is no effort to ask contractors to check on illegal workers, which is already a law on the books.

Beth Kaplan, 7979 Highfill Rd asked if this would give the Sheriff more power.

John Plybon asked if there would be signs erected and Hill answered there was a requirement to give notice with sign. Plybon asked about the penalty and Hill stated it was a misdemeanor. Brandt stated if there is a sex offense committed in the park that is a whole other issue to be prosecuted also.

Jeff Johnson, 6106 Bascom Dr, asked if this ordinance would open the town up to any litigation. Hill replied that as it was modeled after an ordinance successfully defended by the Town of Woodfin.

Brown closed the Public Hearing at 7:27 pm.

There was discussion about conformity of such ordinances with other towns within Guilford County as requested by the Sheriff's Office.

Strickland asked about official town events and meetings, which Brandt replied there is an exemption to allow for public participation in voting for example. Luther asked about Founders' Day and Brandt noted that Founders' Day was not an official town meeting, but it was held on school grounds. There was discussion about the different rules applying to schools, which fall under the Lunsford Act. Luther asked why the ordinance was limited to Parks & Rec facilities and did not incorporate town facilities and Hill replied it was a First Amendment issue.

Following a brief discussion, Wray made a motion to approve O-2009-001 Ordinance Prohibiting Sex Offenders from Entering Parks and Recreational Facilities. The motion was seconded by Williams and carried unanimously.

Break from 7:41 pm to 7:49 pm.

BUSINESS FROM TOWN MANAGER

- A. Approval of additional services contract with Miller Landscape Architecture related to the development of Summerfield Athletic Park phase 2 (\$20,000 lump sum contract for construction drawings, bidding services, and construction management)**

Brandt stated the need was for an additional \$20,000, which is 4% of the proposed \$500,000 grant amount. By making the decision to apply for the PARTF grant the extent of the proposed construction at the SAP is larger than originally anticipated. In addition, because the property is being developed in two phases that will flow together if the grant is approved the bid documents must carefully separate phase 1 and phase 2 activities so as to avoid potential conflicts with the grant requirements and construction of the site. He noted the drawings will need to be done at some point whether or not the grant is approved. Strickland asked why this was not brought up at last month's meeting and Brandt replied he knew there would be an expense, but not the amount. He noted that some of this may be covered by the grant money because this would be part of the construction documents. Strickland stated she is concerned about the economy and council is being asked almost every month for more money for recreation. She stated she is going on record to say that this is the last time she will approve any more money for ball fields. Brown asked where the money was coming from and Brandt stated it was coming from the fund balance. Luther stated there was \$1.15 million under the construction budget for the ball fields and the money would come from there for now but at budget time the actual cost will be considered and there will be separate decisions on the total cost of the project and decisions will be based on whether or not the grant money is received.

Wray made a motion to approve the \$20,000 for the drawings. The motion was seconded by Williams and carried unanimously.

B. Lease agreement for the property located at 4310 US 220 for the use as a parking lot for public trail access

Brandt stated the agreement was for council review and if acceptable would be sent to the Marshall family for their approval. The lease amount proposed is \$500 per month. Following a brief discussion about lease renewals and payments being applied to the purchase price, Wray made a motion to approve the lease concept. Strickland asked for an amendment to note that the lease price not to exceed \$500 per month and Wray agreed. The motion was seconded by Strickland and carried unanimously.

C. Recommended Comprehensive Plan Committee changes by Plan Consultant

Continued to the February 10, 2009 meeting

D. Update on Town Website revision

Brandt noted diligent work was being done to update and revise the website that should address concerns and comments made previously.

E. Report on meetings and activities (if any)

Brandt will attend a census meeting this week with other local jurisdictions and attended a PTCOG meeting in December. He stated there was an Open House for the Harris Teeter rezoning held last week that was well attended. He clarified the difference between an open house and a town public hearing, noting that open houses are done as a courtesy to the citizens, and letters were sent to everyone within a quarter mile to make them aware of it.

BUSINESS FROM COUNCIL

A. Re-appointment of Zoning Board members and alternates

Strickland noted there was only one application for reappointment and Brandt said applications were expected from all, with the exception of Lisa Kim, who does not wish to be reappointed as an alternate. Strickland asked if there were limits to the number of terms one could serve and Hill will look into it. Brown suggested voting on reappointing Lovett and asking Brandt to check on applications from the others. He further suggested advertising for applicants.

Wray made a motion to reappoint Richard Lovett to the Zoning Board. The motion was seconded by Barnes. Strickland stated the law about term limits needs to be addressed and followed if there is such a mandate. The motion carried unanimously.

B. Report on meetings or activities (if any)

Wray thanked Jane Wilson for her suggestion to have applications on hand at each meeting and suggested announcing the need for volunteers and posting it to the web site.

Strickland asked Hill to clarify rules for the posting and notification of meetings and events. Hill stated in order to be subject to the Open Meetings law (NC G.S. 143-318.10) the following conditions must be met: it must be a public body; must have at least two members; it must be authorized to exercise at least one of the following functions: legislative, policy making, quasi-judicial, administrative, or advisory. A public open house for a rezoning case is not a public body as no action can be taken and therefore not subject to the Open Meetings law. As to meetings required to be notices, such as Zoning Board meetings, public hearings are to be advertized in a newspaper of general circulation for two consecutive weeks between 10 and 25 days before the hearing. There is no requirement whatsoever to send mailed notices to surrounding neighbors. Summerfield currently goes well beyond the state statute requirements, far, far exceeding them, in an attempt to make citizens aware of meetings. Strickland asked to eliminate the website calendar and just use text so the public could more easily find meeting information. Brandt is looking into a number of options such as that with the new web site design.

BUSINESS FROM THE MAYOR

A. Ordinance Prohibiting Smoking in Town Buildings

Brown stated the Guilford County Health Department requested that each county municipality enact an ordinance or official policy prohibiting smoking in government buildings. The county plans to consider a countywide prohibition in 2009 and they would like all municipalities to have already passed their own regulations prior to that time.

By consensus, it was decided to hold a Public Hearing in March or April.

B. Report on meetings and activities (if any)

Brown stated he and Brandt attended the PTCOG Board of Delegates meeting December 17 and discussed elections, audit issues, ozone and air quality requirements, and other issues. On January 7 there will be a Solid Waste meeting to come up with a solid waste plan, which is an ongoing concern and mandated by the state. Brown also attended a mayors' meeting in Oak Ridge last week and the League of Women Voters luncheon earlier today.

OTHER BUSINESS (if any)

Wray asked the clerk to ensure that each committee member had an application on file.

Williams thanked all who attended the Harris Teeter Rezoning Open House, stating it was a very good turnout.

COMMENTS FROM THE COUNCIL

Barnes thanked Carolyn Collins for her work on the Saunders Inn issue and Strickland asked that the committee consider setting up a private foundation for fund raising.

There was a brief discussion on setting up dates for budget workshops and meetings.

With no further business before the Town Council, a motion was made at 8:46 pm by Wray to adjourn. The motion was seconded by Williams and carried unanimously.



Mark E. Brown, Mayor



Valarie Halvorsen, Town Clerk