

**MINUTES OF THE  
SUMMERFIELD TOWN COUNCIL  
SPECIAL MEETING  
SUMMERFIELD COMMUNITY CENTER  
SEPTEMBER 28, 2004  
6:30 PM**

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

The meeting was called to order at 6:35 pm by Dena Barnes.

**INTRODUCTIONS:**

Dena Barnes	Bill Trevorrow, Town Attorney
Bob Williams	Michael Brandt, Town Administrator
Carolyn Collins	Dianne Laughlin, Town Clerk
Mark Brown	Bill Bruce, Town Planner
Jane Doggett	
Michael Stewart	

Executive Session (property matters) was removed from the Agenda.

**DISCUSSION OF STONEBRIDGE AGREEMENT:**

Patrick Downs, Attorney, 426 Friendly Avenue, stated that his services were obtained by the Town of Summerfield to assist Attorney Trevorrow in a development and grading dispute which had arisen over the project called Stonebridge. He referenced the final agreement with Premier Communities, LLC which is hereby incorporated by reference and made a part of these minutes after corrections and conditions suggested by Town Council and agreed upon by Premier Communities, LLC.

**TOWN OF SUMMERFIELD / PREMIER COMMUNITIES, LLC  
GRADING RESTORATION SETTLEMENT AGREEMENT:**

THIS SETTLEMENT AGREEMENT (the “Agreement”) is entered into as of September 28, 2004 by and between the Town of Summerfield (“Town”) and Premier Communities, LLC, (“Premier”). The Town or Premier may be referred to as a “Party” or collectively as the “Parties.”

WHEREAS, Premier applied to the Town under Case No. 3 – 04 to rezone a tract located on the north side of N.C. 150 West, approximately six-hundred feet east of High Meadows Road in Center Grove Township, being Guilford County Tax Map 6– 358, Block 718, a portion of Parcels 8, 13, and 23, for a total of approximately 4.57 acres, and

WHEREAS, Premier also applied for plat and grading permits for the installation of roadway, utilities and recreation amenities (the “improvements”) associated with the same tract of land which is known as the plat of Stonebridge, and

WHEREAS, following the rezone, plat and grading permit activities Premier conducted grading on the Stonebridge site for the installation of the improvements, and

WHEREAS, the Parties dispute the scope of the grading activities that were conducted by Premier are consistent with the grading that was authorized under the zoning conditions approved by the Town in Case No. 3 – 04, and

WHEREAS, the Parties dispute whether the preliminary plat approval issued by Guilford County staff on June 9, 2004 constitutes compliance with the Summerfield Development Ordinance’s subdivision procedural requirements, and

WHEREAS, the Parties dispute whether a grading permit issued by Guilford County on June 25, 2004 for the improvements lawfully modified the scope of the grading allowed under the rezone conditions provided for in Rezone Case No. 3 – 04; and

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Premier shall restore the graded areas located contiguous to and on both sides of the roadway and utility corridor (“roadway restoration areas”) according to the Landscape Restoration Plan (“Plan”), which is, along with all specifications and graphic representations contained in the Plan, incorporated as conditions to this Agreement as Exhibit A.
2. Premier shall restore the graded area located contiguous to Highway 150 (“highway 150 restoration area”) according to the Plan as identified in Exhibit A.
3. Understory vegetation within the roadway and highway 150 restoration areas as identified in Exhibit A may be maintained for the purposes of removing non-native or invasive plant species or for the purposes of thinning understory vegetation so as to prevent the decline of the planted material due to unwanted or unattractive overgrowth conditions.
4. All restoration plantings shall be selected from the attached list of approved plants which is incorporated into this Agreement as Exhibit B. Trees and understory plants shall be planted to the density and size specifications set out in the Plan. Premier will, for up to one year from the date the plants are installed, replant according to the specifications identified in Exhibit B any plants that do not survive.

5. Premier shall construct the Pavilion in the location as identified in Exhibit A. The Pavilion shall not exceed 400 square foot footprint. Access to the Pavilion shall be limited to non-vehicular access.
6. Premier shall, prior to final plat approval, remove the existing mobile home, driveway to the mobile home and all other improvements associated with the mobile home as identified on the Plan.
7. Site Plan review shall occur as follows:
  - A. Premier shall, on or before 10am on October 5, 2004, submit to the Town a Site Plan that complies with the Town's Standard Development Ordinance (SDO) Appendix 2 standards (the "Appendix 2 standards") and the terms of this Agreement;
  - B. The Town shall review the submitted Site Plan to determine if it complies with the Appendix 2 standards and this Agreement;
  - C. The Town shall report to Premier's engineer, Michael Westcott (at 812-3546), on or before October 8, 2004 at 2pm, whether the Site Plan complies with the Appendix 2 standards and this Agreement;
  - D. If the Town does not report to Mr. Westcott on or before October 8, 2004 at 2pm, the Site Plan will be deemed in compliance with Appendix 2 Standards and this Agreement, and the Town shall then promptly submit the Site Plan for review by the Town's Zoning Board, which review will be conducted on October 19, 2004 (see paragraph F, below);
  - E. If the Town reports to Mr. Westcott, prior to 2pm on October 8, 2004, that the Site Plan does not comply with Appendix 2 Standards and this Agreement, the Town staff and Mr. Westcott will meet to discuss and resolve the alleged deficiencies on or before October 11, 2004 at 5pm. The revised Site Plan, if it needs to be revised, shall then be submitted to the Town's Zoning Board on or before October 18, 2004 for it's review pursuant to paragraph F, below;
  - F. If the Town determines that the Site Plan is in compliance with the Appendix 2 standards and this Agreement (pursuant to paragraphs C or D above), then the Zoning Board shall review and approve the Site Plan on October 19, 2004;
  - G. If the Town and Mr. Westcott are unable to resolve the alleged deficiencies, the parties hereto will meet together on or before October 15, 2004, to again try to resolve the alleged deficiencies;
  - H. If the alleged deficiencies can't be resolved, the parties agree to engage Bill Eagles (or another mutually agreeable Guilford County attorney) to

meet with the parties and finally resolve all pending issues regarding alleged deficiencies;

- I. The resolution by Mr. Eagles (or the other mutually agreeable Guilford County attorney) will constitute final Site Plan approval by the Town and the Zoning Board.
8. Premier shall, on or before 10am on October 5, 2004, submit a revised grading permit application to the Town. The revised grading permit shall identify all areas that have been subject to grading activities as defined by the SDO. The Town shall approve the revised grading permit provided the areas depicted in the revised grading permit conform with Exhibit A and the revised grading permit depicts temporary sedimentation and control measures as prescribed by the SDO.
9. Premier agrees that a violation of this Agreement and the terms and conditions contained herein may be subject to enforcement according to the Town of Summerfield Standard Development Ordinance enforcement provisions.
10. Each party represents and warrants that they have all necessary power, authority and legal capacity to execute and deliver this Agreement and to perform its obligations hereunder.
11. This Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof and all prior written or oral agreements and understandings among the Parties with respect thereto are merged herein and superseded hereby.
12. This Agreement shall inure to the benefit of and shall bind the predecessors, successors, affiliates, assigns, officers, managers, directors, shareholders, employees, agents, parent corporations, representatives, beneficiaries and attorneys of the parties, and each of them.
13. No addition to or modification of any provision of this Agreement shall be binding upon any Party hereto unless made in writing and signed by all Parties hereto.
14. The Parties hereto acknowledge and agree that the drafting, terms and provisions in this Agreement were mutually consented to and that no term should be interpreted against any Party on the ground that the other Party drafted it.
15. In the event that any provision of this Agreement should be held to be void, voidable or unenforceable, the remaining portions hereof shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement has been executed as of the date above written.

Downs spoke to various portions of the agreement for clarity, displaying exhibits A & B as referenced in the agreement and stating that fulfilling this agreement should bring them into compliance. He emphasized point 7H, which recommends Bill Eagles or another mutually agreeable Guilford County attorney to act as mediator. He and Bill Trevorrow stated they thought this was a favorable agreement, with everything on the table, and recommended the Council accept it.

Downs stated that Michael Brandt, Town Administrator, attended the meeting Premier Communities and that he also thinks this is a doable agreement for both parties.

There was discussion if DOT would sign off on the plan, and if the fence were still there and who would be responsible after Premier leaves.

Councilman Brown stated that it looks like a good resolution to the problem and ask Bill Bruce and Michael Brandt to keep an eye on the environmental issues. He reported that it is a common practice in Guilford County to allow extra for grading and that our Development Ordinance should be tightened up to express the town's desires.

After some discussion, a motion was made by Bob Williams to accept the agreement with the recommended changes. The motion was seconded by Jane Doggett.

Dick Feulner had five points that he wanted to see addressed:

1. On the planning schedule, pink dogwood trees are listed, and he stated that they are not natural to the area, but are ornamental and the trees should be white dogwood.
2. He stated the agreement puts the burden on the HOA and he asked if they would be informed of the consent agreement.
3. He said he saw no responsibility by anyone should the plants die.
4. He stated that the town should consider being reimbursed for legal services in this case
5. He suggested that if projects are not done as scheduled, it should come back to the town and be denied.

Trudy Whitacre suggested that swamp and willow oak be planted in swampy low areas and Jane Doggett suggested a botanist possibly be consulted.

Bill Trevorrow stated that we could follow up on that and responsibility and replacement if trees should die and Patrick Downs stated we can anticipate clarification of this.

After some discussion, the Council voted unanimously in favor of the motion to accept the agreement with recommended changes.

There was a recess from 7:29 PM until 7:40 PM.

#### **FINANCIAL MATTERS:**

Dena Barnes explained that the Finance Committee only has the authority to make decisions on investments up to \$500,000.00 and that we have had a big influx of money with the property tax. She reported that there is over \$1,008,000.00 in the Money Market Account and two CD's which are maturing.

Barnes reported that Michael Brandt has found the Town can participate in State Mutual Funds, with no penalties, but the rate would fluctuate. Betsy Ingram stated she would check on those rates.

The Finance Committee suggested moving \$1,000,000.00 from the Money Market to a twelve monthly CD at a rate of 2.6 and move \$485,000.00 to Mutual Funds.

After some discussion about the upcoming CD's maturing, a motion was made to accept the Finance Committee's recommendation by Carolyn Collins and seconded by Jane Doggett. The motion carried unanimously.

Bill Bruce explained Amendment One, stating that these are not general obligation bonds, but are restoration funds, i.e., buildings, etc.

Dena Barnes reported that the John Locke Society is opposed to it.

Bill Trevorrow stated that it is under "Economic Development" and that the NWO will do an article on the subject.

There was some discussion as to who would benefit if it passes and would the Town of Summerfield ever need it.

Dena Barnes led the discussion about Michael Brandt as Finance Officer, with statutory responsibilities along with those referred to him by Town Council and Brandt stated that he and the Finance Committee would compile a schedule of guidelines and procedures for the Finance Officer.

Doggett asked if the limits set six years ago are appropriate for today's economy.

Bill Trevorrow stated that he had inquired and received a response Monday from Aqua America, learning that their original attorney had retired on September 1. He reported that another attorney has expressed an opinion. He stated that Aqua America will discuss this issue with their review board and if anything is sent to his office, in his absence, his secretary will forward it to Town Hall.

With no further business before the Town Council, a motion was made to adjourn at 8:10 PM by Bob Williams and seconded by Carolyn Collins. The motion carried unanimously.

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Dena Barnes, Mayor

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Dianne Laughlin, Town Clerk