



C O U N C I L M I N U T E S      F E B R U A R Y 1 1 , 2 0 1 4 , 6 : 3 0 P M , S F D C O M M U N I T Y C E N T E R

The meeting was called to order at 6:30pm by Tim Sessoms. The invocation was led by Linda Southard, followed by the Pledge of Allegiance. The following were present:

Council

Tim Sessoms, Mayor  
Dena Barnes  
Mike Adams  
Alicia Flowers  
Dianne Laughlin  
Elizabeth McClellan

Staff

Scott Whitaker, Town Manager  
William Hill, Town Attorney  
Katrina Whitt, Finance Officer  
Valarie Halvorsen, Town Clerk

CONSENT AGENDA

Flowers motioned to approve the consent agenda, including the meeting agenda, minutes of the 1/9, 1/14, and 1/30 meetings, and the financial report. The motion was seconded by Adams and carried unanimously.

PUBLIC COMMENTS

Robert Stoll of 6094 Winsdor Farme Road spoke about the proposed Public Nuisance Ordinance and his feeling that Summerfield should enforce the ordinances already on the books, not add in additional rules, and that the proposed ordinance looks like "big brother."

Jeff Phillips, Guilford County District 5 Commissioner, gave an update on recent accomplishments by Guilford County government and announced his congressional run for the District 6 seat.

Paul Voight of 7715 Summerfield Road spoke of recent theft from his property, alleging that one person who he caught stealing was not charged. He felt that the current rules are not being enforced and the town is dysfunctional due to lack of enforcement of the law.

Don Wendelken of 3406 Windswept Drive read from a document about town incorporation and the basis for the citizens' wish to incorporate, and he highlighted 1996 headlines promising no resulting taxes. He pointed to the town's start and where it is now.

Dwayne Crawford of 1106 NC Highway West read a 1999 letter by then-Mayor Bill Peterson to citizens stating Summerfield's commitment to a zero-cent tax rate and limited government. He noted the town is quickly becoming what we said we did not want to be, stating all signed up for freedom and a chance to live as we want; this is what brought people together.

Rich Lipinski of 5850 Stanley Huff Road spoke of the online code enforcement complaint form that gives an option to be contacted regarding a complaint; however, he said he has never been contacted or gotten a response about the complaints he has filed without filing a public records request.

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Gail Dunham of 5805 Snow Hill Drive felt there has been little public disclosure about the Gordon property purchase and would like all information to be made public. She felt the proposed Public Nuisance Ordinance would hinder the rural nature of Summerfield.

Frances Bean of 5031 US 220 North felt that mobile home park residents were being tossed into the street and that it was wrong to not adequately compensate those unable to move their homes, adding that the council is a disgrace and she is leaving Summerfield.

#### PUBLIC COMMENTS RE: FY2014-15 BUDGET

Gail Dunham of 5805 Snow Hill Drive spoke of the 1/30 budget workshop during which a budget calendar was adopted. She felt there is not enough opportunity for public input and that unfinished projects should be addressed prior to spending millions on the US 220 median.

#### COMMITTEE / EVENT REPORTS

- A. **Finance:** Whitt stated the committee did not meet in January; the next meeting would be 2/17.
- B. **Historical:** Southard said the next meeting would be 2/27.
- C. **Public Safety:** Wendelken stated the next meeting would be 2/19 at the District 1 Sheriff Station.
- D. **Trails & Open Space:** Lambrecht stated the next meeting would be 2/12 unless cancelled by inclement weather.

#### PUBLIC HEARING/ACTION: ANIMAL CONTROL ORDINANCE REVISIONS

Guilford County revised their Animal Control Ordinance to prohibit unattended tethering of dogs. They had asked municipalities they serve to approve the change as well.

Jane Doggett 7986 Highfill Road agreed with disallowing dog tethering, but was concerned about who decides what constitutes tethering and if it will be enforced.

Barnes motioned to adopt the Animal Control Ordinance revisions, seconded by McClellan, which carried unanimously.

#### PUBLIC HEARING/ACTION: PUBLIC NUISANCE ORDINANCE REVISIONS

Whitaker stated the ordinance is not new, but was a revision of one in place since 1999; the draft was also recommended by the Zoning Board. The Comprehensive Plan, created through citizen input in 2010, stated that citizens want attractive community appearance and ordinances to support the same, but that the existing ordinance has limitations that hinder successful resolution to citizen complaints. Whitaker cited Policy 8.9 of the Comp Plan that states: "Proper code enforcement shall be employed to deal with the public health, safety, and appearance issues of ABANDONED AND NEGLECTED PROPERTIES, as well as general trash and debris." The Code Enforcement Officer struggles with certain types of nuisance enforcement due to the lack of police powers to mitigate complaints.

*Sessoms opened the public hearing 7:24pm.*

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Town Hall: POB 970, 4117 Oak Ridge Road, Summerfield, NC 27358

ph: 336-643-8655 / fax: 336-643-8654 / www.summerfieldgov.com

### Proponents

Charles Theisen of 5009 Shoreline Drive stated the town is tasked with ensuring the citizen health and safety. The proposed ordinances would help remediate a situation at 5006 Shoreline Drive including construction debris, junked cars, and other issues. He said the conditions persist even after efforts to remedy via Guilford County Health Department. He felt the ordinance would go a long way towards remediating such blight and asked for consideration of a minimum housing code also.

### Opponents

Jane Doggett of 7986 Highfill Road said there must be consideration of maintaining rural character, which includes old barns and animal smells. She felt the ordinance it too open to interpretation and was vague as written.

Glenn Person of 5876 Stanley Huff Road felt visibility from the roadway is the main issue, that many citizens would be in violation, that it pits people against each other, and that it's vague, unreasonable, unlike Summerfield, and un-American.

Stuart Smith of 5440 Ashby Lane said that passing such an ordinance would result in much time spent by the Board of Adjustment on appeals.

Karen Knight of 7503 William Bailey Road felt each of the ordinances under consideration were too general; she bought her property on the basis of the rural character and limited government, which these ordinances are not representative of. She spoke of her previous negative experience with town code enforcement, stemming from a neighbor making continual complaints. She felt the revision would make things even worse.

Mark Doggett of 7820 Little Pond Lane felt the ordinances already in place are adequate and asked who would define what "adversely affects happiness and emotional stability." A literal interpretation would put many residents in violation. He added that the intent was good, but the wording was not.

Renee Long of 4345 Highway 220 agreed with Doggett about the terminology and wording issues, noting Summerfield is a rural and animals are going to produce odors.

Ronnie Stafford of 3229 Pleasant Ridge Road advised council to be cautious and take the ordinance back to the drawing table.

Palmer Blair of 6093 Windsor Farme Road agreed with the other speakers.

Fred Brown of 2913 Pleasant Ridge Road said the wording was too vague and ambiguous, and that it might work better for a gated community. He understood the intent, but citizens would be at the mercy of the interpreter.

Danny Nelson of 2500 Pleasant Ridge Road agreed with other speakers and noted the ordinance would be enforced by the company contracted to write it, and passing it would generate lots of work for N-Focus. He felt it would pit neighbor against neighbor and that 75-80% of rural residences would have some type of violation. He found it too broad and vague as written and recommended creating a committee to examine to investigate what would be more appropriate.

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Rich Lipinski of 5850 Stanley Huff Road felt the ordinance was too far-reaching, vague, and subjective, and was not appropriate for a rural community.

Stephen Brown of 4304 Appatica Court agreed with the other speakers, felt the ordinance was unnecessary, and that it was a clear example of government infringement on property owner rights. He stated citizens want to have rural character, not to live in a cookie-cutter place.

Ginny Luckhardt of 5301 Timber Pegg Drive felt that issues could be worked out through communication with and help among neighbors and that it would be difficult to enforce consistently within 25 square miles. She agreed that there are some problem areas, but thought it was overreaching and did not allow property owners enough time to remedy a perceived violation.

Gail Dunham of 5850 Snow Hill Drive felt hiring "pretty police" is an expensive way to spend citizen tax dollars, the town is too heavy-handed, the ordinance did not comply with the Comprehensive Plan, wording is too vague, and having N-Focus draft and enforce the rules was a conflict of interest.

*Attorney Hill was excused at 8:16pm.*

William Brown of 6116 Percheron Trail also agreed with other speakers and felt it is a conflict of interest that N-Focus is contracted to enforce an ordinance they wrote, that the information about the public hearing should have been disclosed earlier, and hoped that council would reach a rational conclusion.

Tim Jones of 5015 Shoreline Drive felt it would pit neighbor against neighbor and added that the town seal says "friends of liberty" and this ordinance was not representative of that. He asked if there was a complaint log maintained by the town and how citizens would be protected from malicious complaints. He felt the ordinance is in violation of the 4<sup>th</sup> amendment right against unnecessary search and seizure and that N-Focus would act as enforcer, judge, and jury. If it is approved, He felt it would impact the poor most.

Dwayne Crawford of 1106 NC 150 West felt there is potential for harassment as it may be used by citizens to go after neighbors for real or perceived violations. There needs to be a way to address those who chronically submit unwarranted complaints.

### **Rebuttal**

Charles Theisen of 5009 Shoreline Drive agreed that the ordinance as written was vague and should only apply to residential areas.

*Sessoms closed the public hearing at 8:26pm.*

Sessoms stated the Zoning Board spent considerable time trying to revise the ordinance into something that would work for Summerfield, but he does not think it would work as written, that council members are citizens also and are not interested in big government. He thanked the speakers for sharing their thoughts and helping council set a course and direction.

Flowers felt the town owed Mr. Theisen an apology for the lack of abatement on Shoreline, which should have been remedied under the current ordinance. Whitaker responded that Mr. Ganus had been dealing with the issue, but the current ordinance limits abatement powers and certain parts of



this nuisance situation, such as junked vehicles, would need to be processed through the court system. Flowers felt the proposed ordinance is not what Summerfield is about.

Laughlin relayed that she would probably have violations based on the proposed ordinance and feels it needed much more work. Flowers, McClellan, and Adams stated they would also be in violation. McClellan did not feel this would be appropriate outside of residential areas. Adams said some parts of the ordinance were appropriate, but overall it was too vague and ambiguous as written. Flowers was against the ordinance and felt it is a vehicle for N-Focus to fill their coffers.

Barnes motioned to table the item and rework the proposed ordinance based on what other rural areas have in place. The motion was seconded by Adams and carried unanimously.

*Recess from 8:38pm to 8:53pm.*

**PUBLIC HEARING/ACTION: ABANDONED, NUISANCE, & JUNKED VEHICLES ORDINANCE**

Whitaker relayed that N-Focus drafted this ordinance because of challenges with abating nuisance vehicles. During a public hearing on this matter during the 12/18 Zoning Board meeting, the Board voted 3 to 2 to recommend approval of this ordinance with amendments to omit all references to "abandoned vehicles." Whitaker explained some challenges of the current set-up of not having a stand-alone policy and instead relying on wording embedded within the Development Ordinance.

*Sessoms opened the public hearing at 8:55pm.*

**Proponents**

(none)

**Opponents**

Adrian Williamson of 3901 Lewiston Road said he had inoperable cars on his property, that he lists the cars as personal property and pays taxes on them; he does not consider them junked or abandoned. In the 50 years living there, he has only had one complaint and resolved it successfully.

Gail Dunham of 5805 Snow Hill Drive thought much of discussion of the previous ordinance applied to this one as well. She stated it was almost more invasive than the previous, that it does not comply with the Comprehensive Plan, that it's a 4<sup>th</sup> amendment violation, and it's heavy-handed.

Tim Jones of 5015 Shoreline Drive felt the town should think carefully before entering private property and taking something. He was currently driving a car that sat in his yard for over year giving him time to gather the money needed to repair it. He felt the ordinance was not well-thought out and did not want Summerfield to turn into a police state.

Danny Nelson of 2500 Pleasant Ridge Road said restored junked cars was a hobby and one can see the results of saving old cars at car shows. He believes that most people would not be bothered if the vehicles were out of view.

*Sessoms closed the public hearing at 9:08pm.*

Flowers felt the proposed ordinance was overkill and it is not the role of government to regulate "happiness and emotional stability." She felt the vehicles should be allowed if they were screened from public view.

McClellan stated the potential for rust and engine fluids entering groundwater should be considered. Laughlin stated some of the language is contained in the existing ordinance, which should be suitable for Summerfield. Adams asked if the General Statutes referenced in the current ordinance were enforceable. Whitaker stated they were, but that the intent of the proposed ordinance was to provide enforcement power that the current ordinance lacked. Whitaker explained the inability to tow a nuisance vehicle without a lengthy court process and gave a long-pending example in which a property owner rebuffed all notification efforts and therefore abatement had not been possible given the UDO-embedded language. Flowers felt the proposed ordinance was too restrictive and attempted to regulate the aesthetics of town.

Adams made a motion to table consideration of the proposed Abandoned, Nuisance and Junked Vehicle Ordinance until it could be edited to align reasonably with what is appropriate for Summerfield. The motion was seconded by Barnes and carried 4 to 1 (Flowers opposed).

#### **BUSINESS FROM TOWN MANAGER**

##### **A. Zoning Board reappointments/appointments (Jeff Davis, Scott Henson, Dwayne Crawford):**

Flowers asked that staff provide attendance records any time a reappointment is on the agenda.

Laughlin motioned to reappoint Jeff Davis as a voting member of the Zoning Board, seconded by Barnes, which carried unanimously.

Adams motioned to reappoint Scott Henson as a Zoning Board alternate, seconded by McClellan, which carried unanimously.

Flowers motioned to appoint Dwayne Crawford as a Zoning Board alternate, seconded by McClellan, which carried 4 to 1 (Barnes opposed).

##### **B. I-73 municipal agreement with NCDOT (Edgefield Road to Haw River):**

This agreement was for the design and construction of I-73, which will be a four-lane divided interstate from NC68 to US220 called Project R-2413 A&B. NCDOT requested approval of the agreement prior to the project let date of 2/18/14. Laughlin and Flowers asked if approval was a formality only. MPO representative Craig McKinney was present and noted that the project is coming regardless of approval and that the agreement was mainly a notification, yet town approval was needed to secure the release of federal funds.

Flowers motioned to acknowledge receipt of the NCDOT Municipal Agreement for Project R-2413 A&B, seconded by Laughlin, which carried unanimously.

##### **C. A&Y Greenway design and RFQ process (Hwy. 220 pedestrian tunnel to Centerfield Rd.):**

Trails and Open Space Committee member Paul Lambrecht gave an overview of the committee's progress and stated the need to work with NCDOT and the MPO. He gave a video presentation showing the southern route as proposed by the committee after many meetings and much

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discussion. Whitaker, Lambrecht, and McKinney answered questions about the RFQ process and potential access/land issues.

Following brief discussion, Adams made a motion directing Whitaker to work with the MPO and the Trails and Open Space Committee to begin the process of soliciting qualified design firms and to bring a proposed contract and pricing back for consideration. The motion was seconded by Flowers and carried unanimously.

#### BUSINESS UPDATES, OR COMMENTS FROM MAYOR AND COUNCIL

During an Essentials of Municipal Government conference, Adams learned that council should oversee the big picture and not get into minutiae. He recommended holding a retreat to work on operating together as an effective governing body and to create a strategic plan for Summerfield, which is different than a comprehensive plan.

#### CLOSED SESSION

Barnes motioned to recess to closed session at 9:51pm for the following reason: A. to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege as provided under NCGS 143-318.11(a)(3). The motion was seconded by McClellan and carried unanimously.

*(Item B "to instruct the public body's staff or negotiating agents concerning the price and other material terms concerning real property as provided under NCGS 143-318.11(a)(5)" was removed due to absence of the attorney.)*

Barnes motioned to return to open session at 10:14pm, seconded by McClellan, which carried unanimously.

#### OTHER BUSINESS

Whitaker stated a new location was needed for this year's Founders' Day event due to on-going construction at the Fire Department. The Founders' Day Committee came to consensus on two possible locations: Summerfield Athletic Park and Laughlin Professional Development Center, pending Laughlin's permission, but he had not heard back from the center. Whitaker noted the goal is to find a long-term location that works logistically. Flowers made a motion to use Summerfield Athletic Park as the 2014 Founders' Day event location. The motion was seconded by McClellan. Following brief discussion, Barnes offered a substitute motion to move the event to Summerfield Athletic Park provided the committee could work out the logistics. The motion was seconded by Adams and carried unanimously.

With no further business, a motion was made at 10:20pm by Barnes to adjourn. The motion was seconded by McClellan and carried unanimously.



Tim Sessoms, Mayor



Valarie R. Halvorsen, Town Clerk

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