

**MINUTES OF
VILLAGE COUNCIL REGULAR MEETING
SEPTEMBER 27, 2016**

**395 MAGNOLIA ROAD
ASSEMBLY HALL
PINEHURST, NORTH CAROLINA
4:30 P.M.**

The Pinehurst Village Council held a Regular Meeting at 4:30 p.m., Tuesday, September 27, 2016 in the Assembly Hall of the Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina. The following were in attendance:

Ms. Nancy Roy Fiorillo, Mayor
Ms. Claire L. Berggren, Councilmember
Mr. John Bouldry, Councilmember
Mr. John R. Cashion, Mayor Pro-Tem
Mr. Clark Campbell, Councilmember
Mr. Jeffrey M. Sanborn, Village Manager
Ms. Lauren M. Craig, Village Clerk

And approximately 122 attendees, including 10 staff and 1 press.

1. Call to Order.

Mayor Nancy Roy Fiorillo called the meeting to order.

2. Invocation and Pledge of Allegiance.

Pastor Rod Stone from the Community Presbyterian Church led the invocation and Mayor Fiorillo led everyone in the Pledge of Allegiance.

Mayor Fiorillo presented a certificate of appreciation for Doug Middaugh to Jeanne Casinella. The certificate noted the commitment to the Village of Pinehurst that Mr. Middaugh has shown over the years and the Council's best wishes for his health. Ms. Casinella accepted the certificate signed by the entire Village Council.

3. Reports.

Manager

- Duke Energy will be doing work to install a new distribution line. Work was scheduled to start in late September and will last 4-6 months.
- The Village Manager read a statement into the record to update the community on the progress of the Greens project. Mr. Sanborn noted staff received the site plan application a few weeks ago and it's been through the staff and the Technical Review Committee and comments were returned on September 15 to the developer. Mr. Sanborn noted once the developer answers the list of questions to the satisfaction of all involved parties, they only need to apply for and receive a State of NC Erosion and Sediment Control Plan permit before the Village can grant a building permit. Mr. Sanborn said he signed an application for the subdivision of the property which shows the sale has gone through and the plat showed the required easements for the two required entrances. Mr. Sanborn noted staff received a very extensive public record request pertaining to the Greens Project from a group of concerned citizens. Mr. Sanborn noted last week there was a brief surge in requests by community members for Council to reconsider their approval of the project. Mr. Sanborn noted the legal framework surrounding this suggestion concludes that the Council may not simply rescind an earlier zoning decision and that any potential change would start back at Planning and Zoning after either a petition by the property owners or a request by the Council. He noted the current property owners have identified rights with respect to development under current zoning and any request initiated by the Village would likely results in a lawsuit that the Village would likely lose.

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Council

- Councilmember Campbell acknowledged that it was Doug Middaugh's idea to invite Duke Energy back for further conversation.

4. Motion to Approve Consent Agenda.

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held unless requested by a member of the Village Council.

- A. Consider approving the addendum to lease agreement for the Welcome Center.
- B. Approval of Draft Village Council Meeting Minutes.
August 9, 2016 Regular Meeting
- C. Public Safety Reports.
Police Department
Fire Department

End of Consent Agenda.

Councilmember Cashion moved to approve the Consent Agenda. The motion was seconded by Councilmember Berggren and passed unanimously with a vote of 5-0.

5. Motion to Recess Regular Meeting and Enter Into a Quasi-Judicial Hearing.

Upon a motion by Councilmember Campbell, seconded by Councilmember Bouldry, Council unanimously approved to recess the regular meeting and enter into a quasi-judicial hearing by a vote of 5-0.

6. Public Hearing No. 1

The purpose of the public hearing is for a special use permit for Dan & Lori Degre in order to establish an accessory dwelling at 1305 Linden Rd. This property is in the R-10 (Single Family Residential) Zoning District. This property is further identified as Moore County Tax Reference LRK # 24452. The proposed accessory dwelling is to be located in the existing attached structure. The applicant is Step One Design.

Kevin Reed, Planning and Inspections Director, explained the applicant Step One Design requests a Special Use Permit in order to convert 676 square feet of the existing single-family home into an Accessory Dwelling at 1305 Linden Road. He noted the Special Use is proposed for land owned by Dan and Lori Degre and the property is located within the Village's Extra-Territorial Jurisdiction. Mr. Reed noted staff has reviewed the application and found it to be complete and that no recommendation on this proposal is available from the Planning and Zoning Board as this item has not been before that Board since the Special Use Permits go directly to the Village Council.

Dan and Lori Degre explained they are requesting to remodel the interior of the existing recreation room and to move the entry door. Mr. Degre noted the project meets all required uses and specifications. Mr. Degre noted they will need to remove one bush as a requirement for the new door and will relocate it to another location. Mr. Degre said the new use will remain residential in nature as an in-law apartment which will serve as a place for their adult children to stay when they visit. Mr. Degre noted this project is in conformity with the long range comprehensive plan.

There were no public comments.

7. Motion to Adjourn the Quasi-Judicial Hearing and Re-enter into the Regular Meeting.

Upon a motion by Councilmember Cashion, seconded by Councilmember Berggren, Council unanimously approved to adjourn the quasi-judicial hearing and re-enter into the regular meeting by a vote of 5-0.

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8. Discuss and consider a motion for the request of a special use permit to establish an accessory dwelling at 1305 Linden Rd.

Upon a motion by Councilmember Berggren, seconded by Councilmember Campbell, Council unanimously approved without conditions or restrictions, the Special Use Permit as requested by the applicant, Step One Design. The Village Council has accepted the applicant's Standards of Review and incorporated them into the record as the Council's Standards of Review and Findings of Fact and clearly find that each of the Standards of Review has been met by the applicant. The vote passed by a vote of 5-0.

9. Motion to Recess Regular Meeting and Enter Into a Public Hearing.

Upon a motion by Councilmember Campbell, seconded by Councilmember Cashion, Council unanimously approved to adjourn the regular meeting and enter into a public hearing by a vote of 5-0.

10. Public Hearing No. 2

The purpose of the public hearing is to consider an Official Text Amendment to the Pinehurst Development Ordinance, Section 9.10, "Well Field Protection". This amendment will remove the well field protection regulations from the Pinehurst Development Ordinance in its entirety. The applicant is the Village of Pinehurst.

Kevin Reed, Planning and Inspections Director, explained the Village is proposed an amendment to Section 9.10, "Well Field Protection", of the Pinehurst Development Ordinance (PDO) which would remove the well field protection regulations in its entirety. Mr. Reed explained the NC General Assembly recently passed legislation, which became effective August 1, 2016, regarding the ability for local governments to prohibit or regulate a property owner from constructing and using an irrigation well. He explained that in consultation with the Village Attorney, staff had been advised that our current regulations relative to irrigation wells and the well field protection regulations were not enforceable and should be removed from the PDO. Since August 1st, Village staff has ceased to process applications for irrigation wells and property owners have been directed to Moore County Environmental Health in order to obtain their irrigation well permits. Mr. Reed noted the Planning and Zoning Board voted unanimously to recommend the amendment to the PDO and he noted this is not consistent with the Comprehensive Plan however the existing regulations are in conflict with the state law and therefore this amendment is considered reasonable and in the best interest of the public.

Audience Comments:

- Walter Bull explained he objects to this change made without a written opinion of the attorney for the Village of Pinehurst. Mr. Bull said corrective action should be taken so staff understands its limitations for changing this. Mr. Bull read a memo dated 9/23/2016 between Walter Bull to Jeff Sanborn asking what authority the Village is enforcing for the no drilling and suggested to interact with Randy Gould of Moore County Public Utilities. Mr. Bull said he spoke with Wayne Vest and Randy Gould and they support protecting water quality for Pinehurst and are seeking possible legislation for protecting drinking water from irrigation wells. He noted the Pinehurst Water Committee performed a valuable service by establishing the relationship with Moore County and its customers in the Village. He urged Council to withdraw the text amendment to allow Moore County to react to the legislative changes.
- Randy Gould, Public Works Director for Moore County and also a Pinehurst resident said his job is to protect the water supply for the county and the wells make up a predominant portion of the water. He noted the state law trumps the current protections and the county is seeking other ways to protect the water source and it may not be through the Village's ordinances.
- Manager Jeff Sanborn read an email into the record from Village Attorney Mike Newman to Jeff Sanborn giving his legal opinion.

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Upon a motion by Councilmember Campbell, seconded by Councilmember Cashion, Council unanimously approved to adjourn the public hearing and re-enter into the regular meeting by a vote of 5-0.

Upon a motion by Councilmember Campbell, seconded by Councilmember Cashion, Council unanimously approved to approve Ordinance 16-16 amending the Pinehurst Development Ordinance Section 9.10 "Well Field Protection" and that the proposed amendments to the Pinehurst Development Ordinance are not consistent with the goals outlined in the 2010 Comprehensive Long Range Plan and are considered reasonable and in the best interest of the public as referenced in the memorandum dated September 21, 2016 from Kevin Reed, Director of Planning and Inspections by a vote of 5-0.

Upon a motion by Councilmember Bouldry, seconded by Councilmember Berggren, Council unanimously approved to adjourn the regular meeting and enter into a public hearing by a vote of 5-0.

11. Public Hearing No. 3

The purpose of the public hearing is to consider an Official Text Amendment to the Pinehurst Development Ordinance, specifically Section 9.13, "Fences Walls and Columns" and Section 10.2, "Definitions". This amendment will clarify how the height of fencing is measured from existing grades, modifies the design regulations for picket, post and rail and board/shadow box/solid fence types, adds the definition for a column and requires a public hearing for Council to modify the requirements for temporary fencing. The applicant is the Village of Pinehurst.

Kevin Reed, Planning and Inspections Director, explained the Planning & Zoning Board had been previously tasked with reviewing the Village's fence regulations for potential changes and modifications. The P&Z appointed a subcommittee that included Village staff, P&Z members and members of the Community Appearance Commission (CAC). He explained the subcommittee presented its findings to the full P&Z Board at its August 4, 2016 meeting when a public hearing was conducted on the proposed amendments to the PDO. The Board continued its discussion until its September 1st meeting and at that time voted unanimously to recommend to the Village Council that the proposed amendments be approved. Mr. Reed noted the changes Council directed staff to make after the September 13 work session discussion.

Audience Comments:

- Ronnie and Julie Black of Spring Lake Drive, asked Council to allow the solid fencing of vinyl or wood. Ms. Black noted she sees a lot of the fencing that is allowed and is not attractive. Ms. Black said she is asking to allow the solid privacy fences of vinyl or wood. She noted they started putting up a fence in her yard this year and was contacted by the Village that it was not an allowable type in Pinehurst. Staff noted the proposed amendment would allow the completion of their fence.
- Al Hoy of Pinehurst No. 6 noted he reviewed fences for a while as a member of the CAC and noted his concerns about the quality of fences. He said he researched the suggestion of the 70% increase and found material that was not a significant increase. Suggested 5/8 inch thickness to keep the quality.
- Frank Pacifico of McKenzie Road East asked the definition of fences because homes near him have fences in the front yard with stakes and roping and he didn't think this was allowed. Kevin Reed noted that he assumes these are barriers are put into place to protect the sod that is along the right of way. Mr. Pacifico thought the shoulder of the road should be accessible to drivers.
- Lin Goldhymer asked why privacy fences are needed. She said every house in California had a privacy fence and here in Pinehurst a lot of the large lots have trees that do not need fences.

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She said the developers are clear cutting lots and taking away the natural privacy. She asked if we will do something to prevent the deterioration of the land around here.

12. Motion to Adjourn the Public Hearing and Re-Enter the Regular Meeting.

Upon a motion by Councilmember Campbell, seconded by Councilmember Bouldry, Council moved to adjourn the public hearing and re-enter the regular meeting by a vote of 5-0.

13. Discuss and consider an ordinance amending the Pinehurst Development Ordinance Section 9.10, "Well Field Protection".

See vote noted under #10. Council took action immediately after the Public Hearing.

14. Discuss and consider an ordinance amending the Pinehurst Development Ordinance Section 9.13, "Fences Walls and Columns" and Section 10.2, "Definitions".

Councilmember Campbell thanked the Planning and Zoning Board for putting together suggestions for the fence ordinance. Upon a motion by Councilmember Campbell, seconded by Councilmember Cashion, Council unanimously approved Ordinance 16-15 amending the Pinehurst Development Ordinance Section 9.13, "Fences Walls and Columns" and Section 10.2, "Definitions" and that the proposed amendments to the Pinehurst Development Ordinance are consistent with the goals outlined in the 2010 Comprehensive Long Range Plan and are considered reasonable and in the best interest of the public as referenced in the memorandum dated September 21, 2016 from Kevin Reed, Director of Planning and Inspections. This was approved by a vote of 5-0.

15. Discuss and consider an ordinance amending Chapter 111, "Mobile Vendors", of the Pinehurst Municipal Code in order to permit food trucks in the Hospital Development and Recreational Development Zoning Districts.

Kevin Reed, Planning and Inspections Director, explained staff prepared a draft ordinance to the Pinehurst Municipal Code which would allow mobile food vendors, specifically food trucks, in the Village's Hospital Development and Recreational Zoning District. Upon a motion by Councilmember Berggren, seconded by Councilmember Bouldry, Council unanimously approved Ordinance 16-13 amending the Pinehurst Municipal Code Chapter 111 "Mobile Vendors" in order to permit food trucks in the hospital development and recreational development zoning districts by a vote of 5-0.

16. Discuss and consider an ordinance amending the Pinehurst Municipal Code as it pertains to regulatory traffic sign installations in the Village of Pinehurst.

Manager Jeff Sanborn explained the need to modify the Pinehurst Municipal Code language regarding the authority to installing regulatory traffic signs from Chief of Police to Village Manager. Upon a motion by Councilmember Cashion, seconded by Councilmember Berggren, Council unanimously approved Ordinance 16-14 amending the Pinehurst Municipal Code Section 70.04 as it pertains to the installation of traffic signs for the Village of Pinehurst by a vote of 5-0.

17. Discuss and consider a resolution to grant a sewer easement on the Public Services property to Moore County Public Utilities (re-route sewer service on Spur Road).

Jeff Batton said Moore County Public Utilities is requesting the Village grant a sewer easement on the Public Services property to re-route sewer service on Spur Road. Mr. Batton shared a map of the general location of the request. Upon a motion by Councilmember Bouldry, seconded by Councilmember Campbell, Council unanimously approved Resolution 16-25 granting a sewer easement to Moore County Public Utilities by a vote of 5-0. Jeff Batton gave a brief update on the Public Services facility renovation project.

18. Presentation of the Fiscal Year 2016 Annual Performance Report.

Natalie Dean presented the FY 2016 annual performance report and noted this is the third year the Village has used its Balanced Scorecard Report. Within the report, staff included three year trend data and includes Key Performance Indicators (KPIs). Each KPI is assigned a score based on staff's performance based on the goal that was set and the red flag thresholds. Ms. Dean also noted areas where the Village set national benchmarks. Ms. Dean noted 99% of residents in every neighborhood in

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Pinehurst rated the quality of life as good or excellent. Ms. Dean reviewed the results for the KPIs under the Customer, Internal, Workforce, and Financial Perspectives. Ms. Dean congratulated Village staff for their hard work and for setting five national benchmarks in a single year.

19. Discuss and consider a resolution authorizing the sale of surplus capital assets.

John Frye, Financial Services Director, explained Village Ordinance #08-04 authorizes the Village Manager to sell surplus assets with an estimated market value of less than \$5,000. He noted the Village has three items listed that could potentially bring it over \$5,000 at auction which would need Council's action to authorize the sale. Upon a motion by Councilmember Cashion, seconded by Councilmember Berggren, Council unanimously approved Resolution 16-24 authorizing the Village Manager to dispose of certain surplus capital assets for the Village of Pinehurst by a vote of 5-0.

20. Discuss and consider a uniform rental service agreement for the Village of Pinehurst.

John Frye Financial Services Director, explained the Village utilizes uniform rental services in the Public Services, Fleet, Harness Track, and Buildings & Grounds departments and the current five-year contract with Aramark is set to expire November 9, 2016. Mr. Frye explained staff formed a selection team to consider a new vendor and the team considered uniform quality, service, and cost. In making their recommendation, the team considered three providers, including our current provider Aramark, UniFirst, and Cintas. Staff recommends that the Village enter into a five-year service agreement with UniFirst Corporation under the National Joint Powers Alliance (NJPA) cooperative purchase contract for uniform rental services. Upon a motion by Councilmember Bouldry, seconded by Councilmember Berggren, Council unanimously approved to authorize the Mayor or her designee to execute the contract with UniFirst Corporation for the provision of uniform rental services by a vote of 5-0.

21. Discuss and consider a road resurfacing contract with Riley Paving.

Assistant Village Manager Jeff Batton and Ralph Morgan, Infrastructure Superintendent, explained staff is requesting Council's authorization to enter into a contract with Riley Paving, Inc., the lowest responsible bidder for the FY 2017 Annual Street Resurfacing & Improvement Project. Mr. Bowen explained the current budget for this activity is \$900,000 which will include \$376,350 for Riley Paving to resurface 1.9 miles. He said another \$248,000 is allocated for this 1.9 miles to other contractors for .50 miles of sub-base reconstruction, a few drainage repairs, and 3.8 miles of shoulder restoration. Upon a motion by Councilmember Bouldry, seconded by Councilmember Campbell, Council unanimously approved to authorize the Mayor or her designee to execute the contract with Riley Paving, Inc. for the FY 2017 Annual Street Resurfacing and Improvement Project by a vote of 5-0.

22. Other Business.

- Mayor Fiorillo explained she checked with Southern Pines earlier in the day and they have not received an application from Publix yet and at the last meeting the Village Council determined not to make a statement yet.

23. Comments from Attendees.

- Manager Jeff Sanborn reread his statement from the Manager's report about the status of the Greens project.
- Bart Boudreaux, on behalf of the Pinehurst Matters group, shared the group's online petition results. Mr. Boudreaux said the group was denied a slot on the Council's agenda but they have received 554 signatures opposing the rezoning in two weeks. Mr. Boudreaux shared common themes, consistent with the Civic Group, which included concern of scale, the location near the Arboretum, impact on the aesthetics and quaintness, too much traffic, and the Village Council's quick decision to avoid input. Mr. Boudreaux noted he was disappointed with how the Village Council made this decision and he is concerned there were ulterior motives. Mr. Boudreaux said the Council should rescind the decision of the rezoning.
- Kaye Pierson of Pinehurst No.6 asked Manager Jeff Sanborn to repeat the process for a rezoning. Kevin Reed helped explain the process and the vested rights test in NC law. Ms. Pierson recently moved back to property in Pinehurst No. 6 and she is concerned about the Greens Project. Ms. Pearson quoted sections of the NewCore Master Plan and suggested

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revisiting this plan since it was written 16 years ago. She noted the design, density, and development statements should not be compromised, there should be a minimum of 45% of open space, the project should be consistent with the scale of existing Village core, the project should extend the scale and character of the Village, and the condensed summary of participants input.

- Judy Davis of the Pinehurst Civic Group said this self-inflicting wound could have been prevented by engaging dialogue among the citizens. Ms. Davis explained the Civic Group is still receiving comments about the proposed Publix development and she has shared the concerns about traffic along Morganton Road. Ms. Davis shared information about the meeting with the developer in Southern Pines. Ms. Davis noted, as a voter, that Council should share and ask more questions to show the public what they are thinking and how they are approaching votes.
- Jack Farrell pointed out that he requested to be on the agenda but was denied. Mr. Farrell noted he and his family have been involved in Pinehurst over 60 years and this is one of the saddest things that could happen to this community. He also said Jeff Sanborn responded there is no practical or legal way for the Village to resend this vote but he suggested that the Village Council could be the applicant and for the due process of the community to be respected.
- Joan Owen of CCNC thanked the Council for the gateway sign on Morganton Road. She said CCNC worked very hard at getting people to respond to the online survey regarding the proposed Publix Development and she feels that delaying writing a letter to Publix is a big mistake. She explained that the Halpern property in Greensboro has listened to the opposition and Trader Joes and Publix have both backed out of that particular property.
- Jim Rhor noted his frustration and feels the apartment project is inappropriate. He noted after the work session, he wrote several emails asking the Village Council a question and didn't get the answer yet. Mr. Moore said the Council was elected to represent the public and he asked why they made this decision in light of overwhelming opposition.
- Keith Junk of Pinewild thanked Natalie Dean for the annual performance report and suggested adding a question asking resident satisfaction with the performance of the Village Council.
- Rebecca Beard said this is a high issue among the citizenry and said she is curious about the decision making of how this 72 unit apartment is a benefit to the community. Ms. Beard noted she voted for Mayor Fiorillo due to her expertise in city planning. Ms. Beard said she thinks this project looks like a dormitory. She said this has caused a divide in the community and there is an element of distress. Ms. Beard asked Council to revisit the Olmstead plan for Pinehurst and said there is a wealth of information about why it is so special and she can't imagine the adverse impact that this apartment complex will make. She urged Council to regain the public trust and to look at the mission and vision for Pinehurst for 50 years and what the population and lifestyle will be.
- John Taylor expressed agreement with Joan Owen's comment to proceed with writing the letter to Publix now. Mr. Taylor said he has been a property owner for 23 years in Pinehurst and he was present at the public hearing regarding the apartment complex. He said the process followed here was horrific and he asked how Council could hold a vote unanimously with no discussion. Mr. Taylor explained conflicting pressures can go into decision making but he thinks it's important to know why the decision was made. He noted 700sf apartments are not going to rent for a lot of money. Mr. Taylor said he would appreciate understanding more about the process that was taken and he said elections have consequences.

24. Motion to Adjourn.

Councilmember Campbell moved to adjourn the Regular Meeting. The motion was seconded by Councilmember Berggren and carried unanimously. The Regular Meeting adjourned at 7:20p.m.

Respectfully Submitted,


Lauren M. Craig
Village Clerk