

**MINUTES OF
VILLAGE COUNCIL REGULAR MEETING
FEBRUARY 25, 2014**

**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, February 25, 2014 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
Mr. Clark H. Campbell, Councilmember
Mr. John R. Cashion, Mayor Pro-Tem
Ms. Claire L. Phillips, Councilmember
Mr. John C. Strickland, Councilmember
Mr. Andrew M. Wilkison, Village Manager
Ms. Lauren M. Craig, Village Clerk

And approximately 61 attendees, including 5 staff and 2 press.

1. Call to Order.

Mayor Nancy Roy Fiorillo called the meeting to order.

2. Invocation and Pledge of Allegiance

Andrew M. Wilkison, Village Manager offered the invocation and led everyone in the Pledge of Allegiance.

3. Reports

Manager

- Will have one item under Other Business about US Open preparation.

Council

- Councilmember Strickland noted he and Councilmember Cashion attended the regional transportation authority to see the different projects in consideration around the county.
- Mayor Nancy Fiorillo announced Andy Wilkison's retirement with the Village of Pinehurst as of December 1, 2014.

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. Approval of Draft Village Council Meeting Minutes
 - January 14 Regular Meeting
 - January 15 Special Meeting
 - January 22 Special Meeting
 - January 28 Regular Meeting
 - January 28 Closed Session
 - January 29 Special Meeting
- B. Resolution 14-09 reappointing member to the Board of Adjustment for the Village of Pinehurst (Hardt)
- C. Report on Review of Investment Policy
- D. Motion to Receive Budget Amendments Report to Council for the Period January 16 – February 15, 2014.

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End of Consent Agenda.

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

5. Motion to Recess Regular Meeting and Enter Into a Joint Meeting with the Pinehurst Planning and Zoning Board for a Public Hearing.

Councilmember Strickland moved to recess the Regular Meeting and enter into a joint meeting with the Pinehurst Planning and Zoning Board for a Public Hearing. The motion was seconded by Councilmember Campbell and passed unanimously with a vote of 5-0.

6. Public Hearing No. 1

To consider Official Text Amendments to the Pinehurst Development Ordinance in order to amend Section 2.2 Definitions, Section 10.2.1 Table of Permitted and Special Uses and Section 10.2.1.3 Special Requirements to the Table of Permitted and Special Uses. The purpose of this amendment is to define a "Retirement Community" and include it as a permitted use in the OP (Office and Professional) Zoning District and establish special requirements for retirement communities. The applicant is Julie Shea Sutton.

Bruce Gould, Senior Planner introduced the joint Public Hearing before the Village Council and the Planning and Zoning Board to consider an official text amendment to the Pinehurst Development Ordinance in order to amend Section 2.2 Definitions, Section 10.2.1 Table of Permitted and Special Uses and Section 10.2.1.3 Special Requirements to the Table of Permitted and Special Uses. He noted that in accordance with the Pinehurst Development Ordinance the Planning and Zoning Board shall review this application and make a recommendation to the Village Council for their consideration. Therefore, the Village Council should not take action on these proposed amendments until a recommendation from the Planning and Zoning Board is made at their next meeting on March 6.

Julie Sutton, the applicant, 4605 Union Church Road Carthage, NC, thanked the staff for working with her on this amendment and she noted the three conditions and noted the changing needs and desires of the community. She thanked the adjacent property owners who are attending in support of this text amendment.

John Farrell, 21 Grey Abbey Drive, shared his concern for the broad based unrestricted text amendment to the development ordinance. He inquired about any studies that have been done on this need and recommended not approving this since the public has not been aware of this possible change.

Ken Lloyd, property owner of 4176 Murdocksville Road, has lived on the property discussed for 36 years. He noted it is a good location for senior apartments to take advantage of the amenities surrounding it. He explained that 5 acres would be the senior apartments and he and his wife will build on the remaining 5 acres. He shared that the Council has seen the extensive surveys and studies and the desire for this.

Doug Middaugh, audience member, reminded Council about the extensive discussion on this matter by numerous parties and the Council vote on April 9, 2013. He noted his disapproval of this development providing a transition in that particular the area.

Mayor Fiorillo noted the need to comply with Fair Housing Laws in North Carolina and therefore Council made the determination to hear this again.

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7. Motion to Adjourn Public Hearing and Enter into a Quasi-Judicial Hearing

Councilmember Strickland moved to adjourn the public hearing and enter into a Quasi-Judicial Hearing. The motion was seconded by Councilmember Cashion and passed unanimously with a vote of 5-0.

8. Quasi-Judicial Hearing No. 2

To consider an Official Zoning Map Amendment. This map amendment would rezone one parcel of land consisting of approximately 5 acres. This property is addressed as 4176 Murdocksville Rd. This property is further defined as being a part of Moore County LRK # 22010. This property is currently zoned R-10 (Single-family Residential). The proposed map amendment would change the zoning of the property to Conditional Use OP (Office and Professional) for the purpose of developing a "Retirement Community" consisting of 56 units. The applicant for this rezoning is Julie Shea Sutton. The property owner is Kenton R. Loyd.

Mayor Fiorillo explained the process of a Quasi-Judicial Hearing and noted anyone wishing to speak should be sworn in by the Village Clerk.

Bruce Gould, Senior Planner, introduced the joint Quasi-Judicial Hearing before the Village Council and the Planning and Zoning Board. The applicant requests a conditional use rezoning of +/- 5 acres currently zoned R-10 (Residential) to CUOP (conditional use office and professional) in order to construct a 56 unit Retirement Community. He explained the need to issue a conditional use permit at the time of this rezoning decision. Staff recommends approval of the rezoning request. The comprehensive plan consistency statement was also read and entered into record.

Julie Sutton, the applicant, 4605 Union Church Road Carthage, NC, shared the concept plan and elevations and floor plans of the proposal noting it would be compatible with the adjacent uses in the surrounding properties. Ms. Sutton noted the Comprehensive Plan identifies this tract in the ETJ as higher density residential and the six conditions exceed the quality of buildings and material in the surrounding areas. Ms. Sutton explained that adjacent property owners made extra effort to show their support and shared an email from Jay Arnett (2nd largest shared property line owner) for Council.

Ken Lloyd, property owner of 4176 Murdocksville Road, noted he would be available for questions. He shared that on the original deed in 1920 this was Leonard Tufts' property and thinks he would be pleased for a facility like this to be on this property.

John Farrell, of 21 Grey Abbey Drive, explained he is against the rezoning. He expressed concern that there is no guarantee that the residents will be 55 or older and this needs to be enforced at all times and documented.

Rita Blackburn, Vice President from Excel Property Management, explained there are age restrictions and they cannot lease to anyone younger than 55. She noted her company takes pride in high occupancy and lease enforcement and they have to abide by the Affordable Housing Program.

John Farrell inquired more about the age restriction and the anticipated annexation. Mr. Farrell raised the issue of parking and thinks the development needs 2 spaces per living unit and inquired about golf carts. He shared his opinion that the Village should not change its height requirement and that a multi-story apartment building is not age friendly.

Julie Sutton said the floors are ADA accessible and 10% of units will be fully accessible with roll-in showers. She explained this was a joint concept plan development between the designers and the Village of Pinehurst staff and she feels this is a good site plan that flew through the technical review committee because of this interaction and shared process.

Rita Blackburn explained the other properties her company manages and their success for similar type buildings and design.

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John Farrell inquired about the size of the units.

Kevin Hardt, Planning and Zoning Board Chairperson, confirmed that this is active adult not assisted living.

Councilmember Strickland asked about the financing of this development and the demographic data that showed the demand for such a property.

Julie Sutton explained the financing structure and noted that a market study found that this property would only capture 10% of the need for such a development in Moore County.

Joel Shriberg, Planning and Zoning Board member asked about the average occupancy rate of all 69 properties of Excel Management. Rita answered this with 95%.

Betty Sapp, Planning and Zoning Board member asked if there are other criteria to live in the development such as salary. Ms. Sutton explained the rents are not subsidized but there are several rent levels based on income.

John Farrell asked if a building superintendent would live onsite and inquired who the future owner of this property is by the legal name. It was explained that Align Development and Julie Sutton are partnering to develop this but there will be a syndicator who purchases the tax credits and they will remain part owners.

Doug Middaugh noted the legal notices have always noted an LRK for the property and questioned if the zoning decision would remain with the LRK if property was sold for a different purpose.

9. Motion to Adjourn the Joint Meeting and Quasi-Judicial Hearing and Enter into a Pinehurst Village Council Public Hearing.

Councilmember Cashion moved to adjourn the joint meeting and the Quasi-Judicial Hearing and enter into a Pinehurst Village Council Public Hearing. The motion was seconded by Councilmember Strickland and passed unanimously with a vote of 5-0.

10. Public Hearing No. 3

To consider the matter of annexation of the Cotswold neighborhood into the Village of Pinehurst.

Andy Wilkison, Village Manager introduced the public hearing regarding the annexation of the Cotswold neighborhood into the Village of Pinehurst.

John Scanlon, 8 Buckingham Place, President of the homeowners association for Cotswold, said this is the third time before the Council. He explained that several meetings have been held and documents made available to all residents. Mr. Scanlon noted reasons many are in favor: police protection, having a voice by voting in Village elections, having Village take more proactive role in supervision of developer, and avoiding future conflicts amongst homeowners to finance road repair and drainage maintenance.

John Wake, 8 Stanton Circle, noted that he refutes the idea that a legislative annexation represents the desires of the majority of the Cotswold property owners. He provided background regarding the annexation statutes. He explained that a group has formed called the Citizens Against Pinehurst Annexation and they believe the vote is suspicious and incomplete. Members of CAPA ask to delay the request to Representative Boles until the Cotswold board provided the full accounting of the up-to-now secret ballot.

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Roger Simmons, 5 Tewkesbury Court, shared he is on the board of directors now but not during the time of the negotiation. He has lived at Cotswold for a few years and believes it is good fiscal management for the property owners to request this. He thinks the vote is probably fair.

Dean Robinson, 1 Windsor Terrace, attended the homeowners meeting and the ballot was sent to the address on record of every homeowner. He explained you could sign and mail it in or take it to the meeting. He explained the vote was counted by a resident (secretary of the association) and by the management company. He noted an invasion of privacy regarding Mr. Wake's request to see the ballots.

Bill Goshorn, 3 Castlecombe Court, explained that he lives in Cotswold and his previous neighborhood out of the state was also very similar to this situation. He explained that the Village of Pinehurst is functioning for Cotswold just as the management company did for his previous city noting that the Village can best deal with immediate roads and drainage issues.

Shirley Wake, 8 Stanton Circle, addressed the pictures used in the McGill Associates memo regarding the flooding issue and said these are not representative during normal pooling of rain. She questioned the need to spend money to correct the situation. She also noted that Dr. Brenner has not agreed to sign the terms of annexation.

Donald Wade, 5 Buckingham Place, has been a resident for 5 years in Cotswold and he realizes the drainage system needs fixing. He noted there is a future problem for road repair which is a big ticket item also and that the disadvantage is increased property taxes but the advantages are the services listed provided by the Village. He believes annexation is the better choice for the long term.

Kathy Williford, 4 Stanton Circle, stands in support of annexation and said the points are all well taken.

Katharina Stephen, 1 Buckingham Place, has been here for 5 years. She reviewed the annexation laws and noted this is not a simple annexation. She explained that a number of problems have risen due to the actions or inactions of the developer and the Village has not enforced its own ordinances and codes. She noted the developer has not signed the agreement and a number of residents would like to take time to fully understand the implications of annexation and explore options. She asked what has changed that the Village now appears very interested in forcing an annexation and what is the great urgency? Ms. Stephen asked Council to step back and put this on hold until the residents can get the information and options.

Pat Corso, of the Homeowners Association, believes the process has been fair and the ballots have been made available to the Village as a record if needed. He explained that only the secretary and property manager have seen these ballots and all minutes have been made available after the homeowners association meetings. He shared that annexation will stabilize the current situation and give services to the neighborhood that are valuable for now and the future. He explained that over a 3-1 margin, residents who voted by ballot have asked for annexation. If annexed he believes the neighborhood would feel confident that the Village would protect and provide and maintain the quality of life.

Councilmember Strickland clarified the vote number which is 32-10. The annexation statutes sets forth two ways to annex property and it is common for the legislature to annex areas that do not meet either of the options and this has been done several times in Pinehurst.

Councilmember Cashion has a feeling there is a compromise that the three parties can come to. He is interested in looking into other alternatives before the March 11 meeting such as the Village making a contribution to the process of getting the storm water problem fixed by splitting this evenly with the homeowners, developer, and Pinehurst.

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Councilmember Campbell said this is food for thought and would like information about when this was approved by the Village.

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

Councilmember Cashion moved to adjourn the public hearing. The motion was seconded by Councilmember Strickland and passed unanimously with a vote of 5-0.

12. Community Transformation Grant Opportunity for West Pinehurst Community Park

Mark Wagner, Director of Parks of Recreation, explained the need to apply for grant funding as part of the Region 6 Community Transformation Grant (CTG). He explained that the CTG is funded through the NC Division of Public Health and the CDC focusing on improving the health of communities. Mark Wagner would like to apply to the CTG for funding to conduct a Master Plan for the 67 acres the Village owns on Chicken Plant Road currently referred to as West Pinehurst Community Park. Has been advised to apply now for the full \$40,000 grant application in hopes to get this fully funded. Council reached a consensus supporting Mr. Wagner to apply for this grant.

13. Audit Contract for FY 2013-2014

John Frye, Director of Financial Services, explained that each year at this time we award the Village's audit contract to an independent auditor in accordance with North Carolina General Statutes. Based upon the professional service received from the current auditors, he recommends the Village continue its relationship with the firm Dixon Hughes Goodman, LLP which is located in Southern Pines. Upon a motion by Councilmember Strickland, seconded by Councilmember Phillips, Council unanimously approved to authorize the Mayor or her designee to enter into a contract with Dixon Hughes Goodman for the audit contract in the amount of \$28,450 by a vote of 5-0.

14. Budget Amendment - Moore Alive Project

John Frye explained the need for the budget amendment to support the Moore Alive Project. Upon a motion by Councilmember Phillips seconded by Councilmember Cashion, Council unanimously approved Ordinance 14-07 amending the budget for the payment of the Partners in Progress invoice for the "Moore Alive" project and digital marketing campaign by a vote of 5-0. (A copy of the Ordinance can be found in the Ordinance Book.)

15. Other Business

- Andy Wilkison and Council discussed the temporary fence type that the USGA has requested to install around the perimeter of the golf course for increased security for the US Opens. The Manager noted this would be a difference for some residential properties and Council determined to have the USGA notify the property owners.

16. Comments from attendees.

- None.

17. Motion to Adjourn.

Councilmember Cashion moved to adjourn the Regular Meeting. The motion was seconded by Councilmember Strickland and carried unanimously. The Regular Meeting adjourned at 7:37p.m.

Respectfully Submitted,


Lauren M. Craig
Village Clerk