

May 7, 2012

The regular meeting of the Town of Franklin Board of Aldermen was held on Monday, May 7, 2012 at 7:00 P.M. in the Town Hall Board Room. Mayor Joe Collins presided. Aldermen Joyce Handley, Farrell Jamison, Billy Mashburn, Carolyn Pattillo and Bob Scott were present. Alderman Verlin Curtis was absent.

Board member absence

Motion was made by Pattillo, seconded by Jamison to excuse Alderman Verlin Curtis from the meeting. Motion carried. Vote: 5 to 0.

Approval of the minutes

Motion was made by Handley, seconded by Pattillo to approve the minutes for the April 2, 2012 and April 19, 2012 meetings as presented. Motion carried. Vote: 5 to 0.

Agenda change

Mayor Collins said I want to add David Linn's street closing request to the agenda.

Motion was made by Pattillo, seconded by Scott to add the following item to the agenda: David Linn's street closing request. Motion carried. Vote: 5 to 0.

Public hearing – rezoning for Garrett & RJW

Mayor Collins opened the public hearing on the rezoning petition for Garrett & RJW at 7:05 P.M. The following persons spoke at the public hearing.

Derek Roland – Land Use Administrator – James Garrett has requested his property located on Depot Street be rezoned from Medical, Institutional, Cultural, Residential (MICR) to Secondary Commercial (C-2). The surrounding properties are zoned (C-2). By changing the zoning they will be able to continue to operate their business. The Planning Board's recommendation is to rezone the property to C-2.

Mayor Collins closed the public hearing at 7:07 P.M.

Rezoning petition for Garrett & RJW

Motion was made by Pattillo, seconded by Jamison to rezone the Garrett & RJW located on Depot Street from Medical, Institutional, Cultural, Residential (MICR) to Secondary Commercial (C-2). Motion carried. Vote: 5 to 0.

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Public hearing – Special use application for Westgate Terrace

Mayor Collins opened the public hearing on the special use application for Westgate Terrace at 7:10 P.M. The following persons spoke at the hearing.

Derek Roland – Land Use Administrator – We have received an application for a special use permit from Fitch Development Group, Inc. to develop a 60-unit affordable housing complex located behind the Westgate Ingles. The parcels involved are part of the Westgate Center and 4.48 acres will be utilized for the development. The site fronts on Roller Mill Road and that will be their access. Utilities are available. It is a requirement that the housing development be within a half mile of a food store and drug store. The Planning Board met on March 27, 2012 and voted to recommend approval of the special use application for Westgate Terrace.

Thaddeus Green – I am concerned about traffic, police protection and increased crime. I have major traffic concerns especially with speeding.

Patty Wall – My property adjoins the proposed complex. I am concerned about the traffic and the increased amount of people living in the neighborhood.

Vance Wall – There will be a lot of people in a small space. The UDO requires no more than 10 units per acre. This is too crowded. How would you feel if this was going in next to you?

Mayor Collins closed the public hearing at 7:23 P.M.

Special use application for Westgate Terrace

Board Discussion –

Alderman Handley – I am concerned about traffic. I spoke with Hollis Fitch and he will be doing a traffic impact study.

Hollis Fitch – Yes, we will do a traffic study.

Alderman Jamison – Is all of Roller Mill Road inside the town limits?

Sam Greenwood – No.

Alderman Jamison – The apartments will be inside town limits?

Sam Greenwood – Yes.

Alderman Pattillo – Does it have to be sixty units?

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Hollis Fitch – Yes, in order to make it financially feasible.

Mayor Collins – You are not going to start with sixty and come back and ask for twenty more?

Hollis Fitch – No.

Mayor Collins – I understand the concerns expressed here tonight.

Alderman Scott – A lot of earth moving. What about storm water runoff?

Hollis Fitch – Westgate has agreed to allow our agency to use their retention pond.

Alderman Handley – Will people moving into the complex go through a background check?

Hollis Fitch – Yes. We will have a security camera system in place.

Alderman Pattillo – We need to talk to someone about the road.

Alderman Scott – The reason this is going here is because it is within walking distance to a grocery store.

Hollis Fitch – Yes.

Motion was made by Handley, seconded by Pattillo to approve the following findings of fact and to approve the special use application for Westgate Terrace. Motion carried. Vote: 4 to 1. Voting yes: Handley, Jamison, Mashburn and Pattillo. Voting no: Scott.

(a) The two parcels included in the application are all currently part of the Westgate Shopping Center area. The parcels are both currently zoned Secondary Commercial (C-2). Parcel 1, PIN #6584536483 is about 3.36 acres and Parcel 2, approximately 1.22 acres of PIN #6584532865. The total acreage of the Fitch Development Westgate Apartments proposal is 4.48 acres. Residential uses are allowed throughout all zoning categories in our UDO. Sufficient buffering is proposed between the development and neighboring single-family uses. The development proposes to have three buildings with six main entrances containing sixty residential units, with a community building/management office, a playground, tot lot and sitting areas as amenities.

(b) The use or development is located, designed and proposed to be operated so as to maintain or promote the public health, safety and general welfare. The developer has indicated that the development will conform to the regulations of the State of North Carolina for affordable housing under the Low Income Housing Credit (LIHTC) development program as administered by the North Carolina Finance Agency (NCHFA).

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(c) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in Section 4.11, of the UDO. The property is currently served by town utilities; adequate capacity is available for the number of units in this development. Roller Mill Road will be the main access to the site.

(d) The use or development complies with all required regulations and standards of the Unified Development Ordinance or with variances thereto, if any, granted pursuant to Section 4.4.14, of the UDO, and with all other applicable regulations. No variances are required at this time and the new development complies or will comply with the UDO with reference to special uses and other zoning provisions.

(e) The use or development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located. The proposed development will not cause disruption to the area surrounding the property. The proposed development will be visible from Roller Mill Road and will over look the Westgate Center area.

(f) The use or development conforms with the general plans for the physical development of the Town as embodied in this Ordinance, the Principles of Growth, the Thoroughfare Plan, and any other duly adopted plans of the Town. The Special Use as proposed is in compliance with the UDO. The land development permit when applied for will meet the UDO requirements before issuance.

The applicant has met the burden of establishing these findings of fact. In addressing the issue of compatibility, as required in paragraph (e) above the applicant has demonstrated compatibility with the particular neighborhood in which the development or use is to be located. The fact that a use is authorized as a special use within a zoning district classification has not given rise to a presumption that such special use is compatible with other uses authorized in the zoning district classification.

Recess

Mayor Collins recessed the meeting at 7:40 P.M.

Mayor Collins reconvened the meeting at 7:45 P.M.

Public session

No persons were present to speak at the public session.

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David Linn request

David Linn – I am hosting Braveheart 5K Race. We will have a brew tasting on June 16, 2012. I want to close down Stewart Street on June 16, 2012 from 10:00 A.M. to 4:30 P.M.

Motion was made by Scott, seconded by Jamison to close Stewart Street on June 16, 2012 from 10:00 A.M. to 4:30 P.M. Motion carried. Vote: 5 to 0.

Request for municipal sewer allocation

Sam Greenwood – Macon Childcare and Educational Center located at 2255 Old Murphy Road is asking for a sewer allocation to their building. The daily flow will be 1,800 gallons. At this time there is a moratorium on this sewer line. However, when the new sewer line is completed that should be lifted. The capacity is available.

Motion was made by Pattillo, seconded by Jamison to grant the sewer allocation of 1,800 gallons per day to Macon Childcare and Educational Center located at 2255 Old Murphy Road. Motion carried. Vote: 5 to 0.

Asbestos abatement proposal for the Whitmire house

Alderman Jamison – I have a quote from NEO Corporation to remove the asbestos from the Whitmire house. I talked to Alderman Curtis and he said the town had looked at doing this removal several years ago with another company. I want to table this decision for now and wait on the second quote.

J&B Disposal franchise extension

John Henning, Jr. – J&B Disposal is asking for an extension of five years with an ending date of 2021. The current resolution ends 2016. This would be done by resolution.

Alderman Jamison – Do you have any plans in the future about recyclables?

Bonita Hamstra – It is not feasible at this time. We are continuing to look into this.

Motion was made by Mashburn, seconded by Handley to adopt a Resolution giving an exclusive franchise to J&B Disposal, Inc. for an additional five years until March 5, 2021. Motion carried. Vote: 5 to 0.

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Information briefing on ISO

Warren Cabe – Fire Chief – The ISO inspection is scheduled for June 25, 26 and 27, 2012. We will know within sixty days after the inspection what our new rating will be. We are making sure we have everything in order. As of May 1, 2012, we had over three thousand hours of training. I am very pleased with this. Let me reassure you we are in good shape. Our rating inside town is six and outside town is nine. Jay Gibson has been fixing the hydrants as needed.

Nikwasi Indian Mound

Alderman Scott read the following email: The Town of Franklin sincerely regrets the situation regarding the killing of grass on the Nikwasi Mound. The town apologizes for what has taken place. It is hoped, in light of what happened, that it will open a new dialog between the Eastern Band of Cherokee Indians and the Town of Franklin for further talks and activities to preserve this ancient site. The Town recognizes the historic and cultural value of the Nikwasi Mound and will continue to preserve and protect it in perpetuity. The Town also invites appointment by the Chief and/or Tribal Council of members of the Tribe to become members of the Town's Mound Committee to offer suggestions and to be part of any activities involving the Mound.

Motion was made by Scott to send the contents of the email in a letter to Eastern Band of Cherokee Indians. There was no second. Motion failed. (Additional discussion and explanation follows).

Alderman Jamison – Do you have a copy of the letter from Chief Hicks?

Alderman Scott – No.

Alderman Pattillo – I do not feel that we did anything disrespectful to the Indian Mound. I am hurt that these accusations are being thrown around. It is a matter of trying to find something to go on the mound.

Mayor Collins – I am satisfied that we have been good stewards of the mound.

Alderman Scott – The purpose of my letter of apology is to shed light on this issue. I do not believe the letter points out that this is disrespectful. Seconds are not required for motions.

John Henning, Jr. – I will check. A second is required.

Motion was made by Mashburn, seconded by Jamison that no apology will be issued by the Board of Aldermen to the Eastern Band of Cherokee Indians. Motion carried. Vote: 4 to 1. Voting yes: Handley, Jamison, Mashburn and Pattillo. Voting no: Scott.

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Motion was made by Mashburn, seconded by Jamison for Town Attorney John Henning, Jr. to do an ordinance to prevent foot traffic on the Nikwasi Mound except for maintenance crews. Motion carried. Vote: 4 to 1. Voting yes: Handley, Jamison, Mashburn and Pattillo. Voting no: Scott.

Motion was made by Mashburn, seconded by Handley to abolish the Nikwasi Mound Committee. Motion carried. Voting yes: Handley, Jamison, Mashburn and Pattillo. Voting no: Scott.

Alderman Scott said Alderman Mashburn will you explain the previous motion? Alderman Mashburn said this issue needs to be kept in house. Alderman Scott said the mound committee never took action.

Sam Greenwood said we have five favorable responses and one negative response on Eco-Lawn.

Motion was made by Handley, seconded by Mashburn to use the Eco-Lawn on the Nikwasi Mound. Motion carried. Vote: 4 to 1. Voting yes: Handley, Jamison, Mashburn and Pattillo. Voting no: Scott.

W.K. Dickson water study

Sam Greenwood said the water study is the first step in the expansion of the water treatment plant. He said W.K. Dickson has agreed to do the study at a cost of \$80,000.00. Alderman Mashburn said it is a lot of money to spend, but once the sewer moratorium is lifted this will be a long term approach for water and sewer expansion hook-ups. Mayor Collins said why not get a second proposal since we are not on a time crunch. Mr. Greenwood said it is the quality of the work and how it is perceived in Raleigh.

Motion was made by Mashburn, seconded by Pattillo to approve a contract with W.K. Dickson to do the water study for the Town of Franklin in the amount of \$80,000.00. Motion carried. Vote: 5 to 0.

Discussion on North Carolina Department of Transportation right of way mowing

Alderman Pattillo – Our mowing has been getting a lack of attention. The Board needs to vote on this. Property owners have been notified by letter about mowing. I called the state and they are willing to work with us. They can only mow three times per year. They are willing to take over the no mow areas. We are looking at doing Eco-Lawn.

Sam Greenwood – We have identified areas to switch to no maintenance mowing.

Alderman Handley – We cannot let this go on. We need to work together and do something.

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Mayor Collins – It has been the policy to mow and the Board did not make this decision. This bothers me. I would like us to get back where we were with our streets. It is not fair for those who do mow.

Sam Greenwood – You have property owners who have stepped up and others who have not. The best thing to do is to continue to notify property owners of their responsibility.

Alderman Handley – What is our policy right now?

Sam Greenwood – The issue on private property is that the Town does not have a policy. It is dangerous for Town employees to be on private property. We need to work with property owners who are not mowing.

Mayor Collins – I am not satisfied with this hit and miss mowing. I think that we mow what we have always mowed.

Sam Greenwood – You are backing up.

Alderman Jamison – We do not need to get on private property.

Sam Greenwood – The economic factor is should Town workers be mowing? Two workers are getting ready to retire.

Alderman Pattillo – What are we going to do? It is tourist season.

Sam Greenwood – Give it another couple of weeks. We will continue to notify owners.

Alderman Mashburn – On one side we are talking about grass and another side is the sidewalk.

Mayor Collins – Are we going to mow between the sidewalks and gutters.

Sam Greenwood – Town streets will be maintained.

Motion was made by Jamison, seconded by Handley to continue to take care of town roads, sidewalks and gutters and not mow private areas and work with property owners and the North Carolina Department of Transportation and look at doing Eco-Lawn. Motion carried. Vote: 5 to 0.

Other business

Departmental reports are attached.

May 7, 2012 meeting continued,

Continuation of meeting

At 9:15 P.M., motion was made by Handley, seconded by Pattillo to continue the May 7, 2012 meeting to Monday, May 21, 2012 at 5:30 P.M. Motion carried. Vote: 5 to 0.

Call to order

The regular May 7, 2012 meeting of the Town of Franklin Board of Aldermen was continued at 5:30 P.M., Monday, May 21, 2012 in the Town Hall Board Room. Mayor Collins presided. Aldermen Verlin Curtis, Joyce Handley, Farrell Jamison, Billy Mashburn, Carolyn Pattillo and Bob Scott were present.

ABC Contract

John Henning, Jr. said we will be giving \$50,000.00 in earnest money to Bright-Myers. He said the ABC Board will lease the building from the Town. Mayor Collins said we need an appraisal of the property done to prove the value. Sam Greenwood said an appraisal will be done as a part of the loan process. He said we cannot borrow the money if the appraisal is too low. Mr. Henning said this is an offer tonight and not a firm contract. Mayor Collins said we are spending \$1,250,000 on the purchase and \$250,000 on maintenance. He said at 4% interest over twenty years the cost will be two million dollars. Mr. Greenwood said the \$240,000 is an operating cost and not a capital cost. Alderman Mashburn said we formed a committee and the committee made a recommendation to us. He said I think we should go with the recommendation. Mayor Collins said I want the public to know the facts. He said the rent is not going up where the ABC Store is now. Alderman Scott said the money is going out of state. Alderman Jamison said the store rent would be over \$1,400,000 in twenty years and we would not have anything. Mayor Collins said we need to put the interest rate in the contract lower than five percent. Mr. Henning, Jr. said we could do that change. Mayor Collins said what is the reason the ABC Board cannot purchase? Mr. Greenwood said the Town is in a better fiscal position than the ABC Board. Mr. Greenwood said we would have the debt and ownership of the property. Alderman Scott said what about the taxpayer? Mr. Greenwood said we will not be using tax money. He said the money will come from alcohol sales.

Motion was made by Handley, seconded by Pattillo to approve the offer to purchase the property from Bright-Myers, to require an appraisal of the property to support the amount of the loan, for the interest rate not to exceed 4% interest, the loan contingent on the ABC Board lease agreement and to authorize the town manager signature. Motion carried. Vote: 5 to 1. Voting yes: Curtis, Handley, Jamison, Mashburn and Pattillo. Voting no: Scott.

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Reconsider decision from May 7, 2012 Town board meeting regarding David Linn street closing request

David Linn said I did not understand that the Town did not own Stewart Street. He said the property owners are not in agreement with closing the street. He said I am asking that the street be closed east of the alley on June 16, 2012 from 10:00 A.M. to 4:30 P.M.

Motion was made by Mashburn, seconded by Handley to reconsider the May 7, 2012 decision to close Stewart Street. Motion carried. Vote: 6 to 0.

Motion was made by Handley, seconded by Pattillo to close the section of Stewart Street east of the alley on June 16, 2012 from 10:00 A.M. to 4:30 P.M. with the understanding that access to Stewart Street will be left open. Motion carried. Vote: 6 to 0.

Asbestos abatement for the Whitmire house

Motion was made by Pattillo, seconded by Curtis to set aside \$17,000.00 in next year's budget to remove asbestos from the Whitmire house. Motion carried. Vote: 6 to 0.

Presentation of the proposed Fiscal Year 2012-2013 budget

Sam Greenwood said I am presenting you the proposed Fiscal Year 2012-2013 budget. A copy of the proposed budget is attached.

Motion was made by Handley, seconded by Mashburn to accept the presentation of the proposed Fiscal Year 2012-2013 budget. Motion carried. Vote: 6 to 0.

Other business

Mayor Collins said we voted at the May 7, 2012 meeting to continue to mow. Sam Greenwood read the motion about mowing. He said we are working with the owners. He said we will mow between the sidewalk and street.

Alderman Scott said Chief Hicks will be sending a letter to the board about the Nikwasi Mound.

Alderman Scott said what is the status of the biker's rally? Sam Greenwood said they will be submitting a plan to the TDA on Wednesday.

Continuation of meeting

At 7:00 P.M., motion was made by Curtis, seconded by Pattillo to continue the May 7, 2012 meeting to Tuesday, May 29, 2012 at 5:30 P.M. Motion carried. Vote: 6 to 0.

May 7, 2012 meeting continued,

Call to order

The regular May 7, 2012 meeting of the Town of Franklin Board of Aldermen was continued at 5:30 P.M., Tuesday, May 29, 2012 in the Town Hall Board Room. Mayor Joe Collins presided. Aldermen Verlin Curtis, Joyce Handley, Farrell Jamison, Billy Mashburn, Carolyn Pattillo and Bob Scott were present.

Work session on proposed Fiscal Year 2012-2013 budget

Sam Greenwood briefly explained his budget message. The following items were briefly discussed: (1) full time landscaping employee, (2) increase in water/sewer rates, (3) governing body contribution level, (4) pay plan implementation amounts, (5) IT budget, (6) Picking on the Square, (7) TDA expense and (8) language in Section 2 in Budget Ordinance.

The Board decided to change the following: (1) add \$17,000 for asbestos removal and (2) to increase the governing board contributions to \$40,000.

Adjournment

Motion was made by Handley, seconded by Curtis to adjourn the meeting at 6:50 P.M. Motion carried. Vote: 6 to 0.

Joe Collins, Mayor

Janet A. Anderson, Town Clerk