

*****October 10, 2011*****

The Signal Mountain Town Council held its regular monthly meeting on Monday, October 10, 2011, at 6:30 p.m. in the Town Hall. Those present were:

Mayor Bill Lusk
Vice Mayor Susan Robertson
Councilmember Annette Allen
Councilmember Bill Wallace
Councilmember Dick Gee

Also present were: Town Manager Honna Rogers
Town Recorder Mark Johnson
See attached list for others present

Mayor Lusk led the pledge of allegiance. Stacey Seals, Fire Chaplain, gave the invocation. The roll was called.

Minutes

The minutes for the September 12th regular meeting and October 3rd agenda meeting were discussed. With no additions, deletions, or corrections, both sets of minutes were approved.

Mayor Lusk acknowledged County Commissioner Jim Fields who was in attendance.

Honorary Resolutions

The following resolutions were presented:

1. "A RESOLUTION RECOGNIZING AND COMMENDING THE MOUNTAIN EDUCATION FOUNDATION FOR ITS DEDICATION TO PROVIDING TWENTY YEARS OF ONGOING FINANCIAL SUPPORT TO ACHIEVE AND MAINTAIN EXCELLENCE IN SIGNAL MOUNTAIN K-12 EDUCATION." Mike Taylor was present and gave a history of the MEF and a summary of its objectives. Councilmember Allen moved and Vice Mayor Robertson seconded that the resolution be approved. The motion was approved unanimously. Mr. Taylor and an MEF Board Member Jim Dunbar were presented the resolution.
2. "A RESOLUTION RECOGNIZING AND COMMENDING THE SIGNAL MOUNTAIN HIGH SCHOOL LADIES GOLF TEAM FOR WINNING THE 2011 T.S.S.A.A. CLASS A-AA STATE CHAMPIONSHIP." Councilmember Gee moved and Vice Mayor Robertson seconded that the resolution be approved. The motion was approved unanimously. Members of the team were presented the resolution.

Public Hearing – Mobile Kitchens

The Council temporarily recessed the regular meeting for a public hearing regarding a zoning variance request by *Poppy's Barbecue*.

David Soloff, owner of *Poppy's*, opened the discussion, stating that he was invited by Charlie Pruett of *Pruett's Grocery* to park his mobile kitchen adjacent to the grocery store. He said he had two requests – to be allowed to operate as a true mobile kitchen without any add-on structures, but to add, eventually, additional seating and a covered porch.

Mayor Lusk said that the Planning Commission recommended that the Council approve the request for mobile kitchens with any needed restrictions. Mr. Noblett said that the Planned Commerce Center zone in which this property resides does not currently allow any food to be consumed in vehicles. That provision would have to be amended within the zoning ordinance to allow *Poppy's* to operate at Pruett's. Also, provisions for parking, awnings, a site plan, restroom facilities, dumpster use, temporary power, signage in compliance with DRC regulations, noise, table/furniture use, etc., would need to be added as part of the amendment. Mr. Noblett also noted that a suggestion was made to allow the mobile kitchen as a temporary/experimental use; therefore, a one-year sunset clause could be added. Councilmember Gee asked Mr. Soloff if the kitchen would remain on the property during days *and* nights. Mr. Soloff said it would be easier to leave it on the property continuously, but it could be removed at the end of each day.

Larry McClure, Dunsinane Lane, said that he has worked in food service in establishments all over the country. He said that he was concerned with whether *Poppy's* would be held to the same standards as existing Town restaurants regarding health and safety standards. He also questioned what sanitation and disposal procedures would be used, where food would be prepared, what restroom facilities would be provided, how food would be refrigerated, whether an onsite smoker would be used, what vendors would supply stock, what kind of plumbing and hot water access would exist, and how parking and seating would be addressed. Finally, he noted that conventional restaurants pay taxes and other costs that represent an investment in the Town, and he submitted that without making the same investment, *Poppy's* could simply move to another location if the business isn't successful.

Linda Harris, President of MBA, said that she had e-mailed MBA members concerning this issue. She received four responses from members and two from consumers. One business owner was in favor of allowing *Poppy's* to conduct business, saying that the Council shouldn't interfere with business growth. Another responder said the Town is a "brick and mortar" community and should remain so. Another indicated that a mobile kitchen would not be in keeping within the atmosphere of the community. Another said it wouldn't be fair to the other businesses with conventional restaurant expenses. One of the consumers said that the Town doesn't need that type of restaurant. The other said that it wouldn't fit within the community.

Dun Monroe, Cherokee Lane, asked if *Poppy's* would pay a property tax. Mr. Noblett said that it would not, except perhaps through the lease. This would therefore not generate net additional property taxes.

Russ Holmes, owner of *517 Subs*, read a letter that he had delivered to the Council earlier in which he disagreed with an ordinance amendment, noting the following concerns: that *Poppy's* would draw business from other restaurants without having to pay typical establishment expenses; that a mobile kitchen could leave at any time without a significant investment in the Town; that the kitchen could use water brought in from a residence and therefore pay resident utility rates; that tanks would sit outside instead of truly being self-contained; that electricity use could create a noise issue. He also said that close proximity to his own restaurant might create an issue with *Poppy's* customers wanting to use *517 Subs*' restrooms and seating, and since the proposed amendment would not require use of the grassy area, *Poppy's* might locate directly beside *517 Subs*. He said that he wasn't opposed to a barbecue restaurant, but that restaurant should occupy a fixed structure. He noted that he does have a financial concern regarding losing business. He also said that he doesn't mind mobile units if they are only used for a very limited time, such as those used for the Hwy 127 yard sale.

Grady Williams, owner of *Guthrie's*, asked if a grease trap would be required. Mr. Noblett said that the health department would determine that. Ms. Rogers said that if it is a true mobile kitchen, a grease trap is not required. Mr. Williams asked what would stop another mobile kitchen from coming in if the amendment were passed. Mr. Noblett said that a special permitting process could control it, and the number of outstanding permits could be limited. Mr. Williams asked for clarification on how restrooms would be addressed. Mr. Noblett said that facilities would have to be provided, either by a nearby business or portable toilets, that would have to be reviewed by the DRC. Mr. Williams suggested that *Poppy's* move into an actual building

Brenda Monroe, Cherokee Lane, said that a mobile kitchen would create an aesthetics issue, particularly if portable toilets are used. She asked how *Poppy's* could adhere to "mobile" rules when the intent is to eventually become permanent. She said that *Poppy's* should conduct business inside a permanent building.

Brian West, a local business owner, said that new business should be encouraged; however, it isn't fair to give another business owner the competitive advantage of lower costs. He said he was required to comply with ADA standards and other costly regulations when his business started, and he was recently informed that new fire codes require additional improvements. He also noted that the kitchen itself is a giant sign and that the DRC has strict compliance guidelines. He said that wastewater would be an issue because *Poppy's* current location contains two large, unsightly wastewater tubs.

The public hearing was closed.

Mr. Soloff rebutted, saying he knew that he would face resistance, primarily from local business owners. He noted the following:

Pruett's Grocery will require rent and payment for water use. Pellets are used instead of wood for smoking. *Poppy's* must comply with the same health regulations as other businesses. The competitive advantage complaint isn't valid; that is, someone shouldn't be denied a business permit just for achieving lower costs. *Poppy's* did pursue the purchase of an actual building, but a moratorium on a new grease trap at the time made it less desirable. Wastewater tanks used would be smaller than those at his current location, and *Pruett's* grease traps and dumpsters would be used for disposal, the cost for which would be included in a pro-rata share of *Pruett's* lease. Mr. Soloff also added that he thought *Pruett's* leased from the same party that the other businesses in the area leased from. The trailer would be made presentable as he is committed to the mountain. The County only requires that a bathroom be provided to employees, which *Pruett's* could provide. Food sold by any restaurant in the Town could be eaten inside cars. *Poppy's* does have a refrigerator and freezer. *Poppy's* vendors are all reputable and commonly used. Everything will be cooked on site. The smoker could be used offsite. He was unsure of whether *Poppy's* would pay property tax. Mr. Noblett said that the lease would determine whether *Poppy's* would pay it.

Vice Mayor Robertson moved and Councilmember Gee seconded that the ordinance be discussed now. The following ordinance was therefore presented: "AN ORDINANCE TO AMEND THE SIGNAL MOUNTAIN ZONING ORDINANCE TO INCLUDE AMENDMENTS TO SECTIONS 610.05 AND 610.07.02 IN THE ZONING ORDINANCE FOR THE PLANNED COMMERCE CENTER ZONE TO PROVIDE FOR ALLOWING MOBILE KITCHENS OR FOOD TRUCKS WITHIN SUCH ZONE SUBJECT TO CERTAIN CONDITIONS."

Councilmember Gee asked Mr. Soloff about the intent of *Poppy's* proposed temporary status. Mr. Soloff said that permanence is the intention, and he expects that it will be permanent but is unsure of when that would occur. Ms. Rogers noted that the grease trap moratorium was lifted, but TDEC grants approval on a case-by-case basis. Councilmember Gee asked if improvements to make the trailer appear permanent were still planned. Mr. Soloff said that is his secondary request, and if it is allowed health department regulations would require permanent hookups, thus it would become a permanent structure. Councilmember Gee asked if making improvements would serve as the basis of permanence or if ultimate permanence would be achieved by moving into a building. Mr. Soloff said that the improvements would be the basis, but he reiterated that improvements were a secondary request.

Vice Mayor Robertson said that she had received more comments on this issue than she had on the tax increase, and most of them were opposed to mobile kitchens. She noted that upon her entrance into the Council, a wise woman advised her to "listen to the community; they'll tell you what they want". She noted that Councilmember Gee had previously argued that government shouldn't intrude by forcing a "level playing field" which would undermine the basis of capitalism; however, she noted that it might be equally intrusive for government to give one business an unfair advantage over others. She said that with that in mind, she reviewed previous zoning changes made during her

fee for irrigation system disconnection/reconnection had been proposed. She explained that disconnecting an irrigation system for the winter months results in an average net savings of \$130 per customer if the Town is notified. A customer who fails to disconnect a system or to notify the Town that a system has been disconnected will be billed for the entire year. Ms. Rogers explained that \$25 is the standard cost for disconnecting or reconnecting water service. She suggested that in the case of irrigation systems, it would be appropriate for the Town to provide a reduced rate for seasonal disconnection and reconnection. She said the Council could choose to institute a fee or alternatively, since there typically weren't many requests to disconnect, it could monitor the need over time and discuss a fee later. Councilmember Allen moved and Councilmember Wallace seconded that the resolution be approved. Before the vote, Councilmember Gee asked Ms. Rogers if she thought the irrigation system fee should be approved. Ms. Rogers noted that irrigation disconnections and reconnections could result in a large project for town employees because there are approximately 200 irrigation systems in the Town. She noted it is important to at least cover the Town's costs. Mr. Noblett cautioned that a new fee would require passage by ordinance. Ms. Rogers said that the irrigation fee ordinance could be passed now and become effective next fall to allow time for notification. Mayor Lusk suggested passage of the policy on that condition. Vice Mayor Robertson moved and Councilmember Gee seconded to approve the resolution subject to passage of an ordinance that would allow a \$35 connection/disconnection fee for irrigation systems. The motion passed unanimously.

5. "A RESOLUTION APPOINTING C. DUDLEY MEADOWS AS A MEMBER OF THE TOWN OF SIGNAL MOUNTAIN'S HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD." Mr. Noblett explained that Alexian village often asks for bond issues through this board. Mayor Lusk moved and Councilmember Gee seconded that the resolution be approved. The motion passed unanimously.

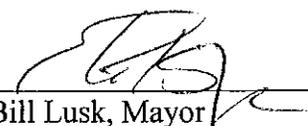
Other Discussions

Ms. Rogers noted that the Town would soon finalize an agreement with Chattanooga and Walden's Ridge Emergency Service to provide hydrants to the Palisades Road/Balmoral area. She noted that the Chattanooga hydrants will be purchased and owned by Chattanooga, but Town personnel will install them and provide service. She said that this would provide a significant benefit to people in this area.

There being no further business, the meeting was adjourned.



Recorder



Bill Lusk, Mayor