

The Signal Mountain Town Council held its regular monthly meeting on Monday, March 11, 2013, at 6:30 p.m. in the Town Hall. Those present were:

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

Also present were: Town Manager Honna Rogers
Town Attorney Phillip Noblett
Town Recorder Carol White

Vice Mayor Robertson led the pledge of allegiance. Stacey Seals, Fire Chaplain, gave the invocation.

Minutes

The minutes for the February 11th regular meeting were presented. There being no changes, the minutes were approved.

The minutes for the February 25th special agenda meeting were presented. There being no changes, the minutes were approved.

Public Hearing

1. Amending Section 613 of the Zoning Ordinance (Planned Unit Development).

Dun Monroe, Cherokee Lane, asked if the Town received tax dollars based on square footage of residences. Honna Rogers, Town Manager, explained that residential assessments are based on the value of the property. Mr. Monroe expressed concern that the Town would forgo revenue due to the fact that a proposed PUD would have less density and smaller square footage than the usual homes in the area.

Additionally, Mr. Monroe expressed concern over the loss of impact fees that are based on square footage. Phil Noblett, Town Attorney, explained that while homes in Jack Kruesi's proposed PUD might contain smaller units with less square footage than a larger home on a larger lot, the development itself is expected to be an improvement for the whole Town. He also stated that state law forbids the Town from collecting impact fees.

2. Rezoning Tax map #089-060 (proposed Wild Ridge subdivision) from RE to LDR.

Ms. Rogers informed Council that if it chooses to pass the proposed PUD Ordinance, this rezone would not be required. Vice Mayor Robertson explained that the rezone from RE to LDR is only necessary in the event the PUD Ordinance fails to pass. Under the new ordinance, PUD's are allowed in all zoning districts in the town, not just in LDR.

Councilmember Gee asked for a definition of Residential Estate. Mr. Noblett explained that this is a zoning district that allows for larger properties (minimum ½ acre) that sometimes have some type of agricultural character.. For instance, with three or more acres, an owner can have livestock. Additionally, only single-family dwellings are allowed, and multi-family residences are excluded.

Councilmember Gee remarked that the change from Residential Estate to Low Density Residential would actually increase the density of housing. Mr. Noblett agreed with this assessment.

Vice Mayor Robertson explained that the current PUD could only exist in Low Density Residential. However, passage of the proposed PUD Ordinance presented at this meeting would allow a PUD in Residential Estate zones as well.

Citizen Comments

Vice Mayor Robertson invited comments from the audience.

Noah Long, Woodcliff Circle, stated that he was floored and saddened to hear of Ms. Rogers' resignation. He felt she has done a tremendous job for the Town and wanted to publically commend her for the service she has done for him personally and for the Tree Board.

Jeff Duncan, Ravine Road, commended Sam Powell and Bill Fronk for the tremendous job they have done to protect the park lands. However, he disagreed with them regarding conservation easements. Dr. Duncan stated that he feels this type of easement is non-democratic in that it cannot be changed after enacted. He questions whether one Town Council can tie the hands of future Councils. Dr. Duncan informed the Council that it is his belief that resolutions can be worded in such a way as to achieve the conservation goals of the Council. He named Hampden, Maine; Tamworth, New Hampshire; Erie County, PA; Philadelphia, PA; and Mountain Lakes, New Jersey as examples of cities that have protected public lands without conservation easements.

Ron Galante, Ballard Bluff, asked if this meeting would be the last opportunity for resident input on the matter of conservation easements. Vice Mayor Robertson assured Mr. Galante that the Council would bring the matter up several more times before any final action is taken.

Councilmember Gee asked if conservation easements would be eligible for a public referendum or vote. Mr. Noblett explained that the Town's charter and state law do not have any provisions for an initiative of this nature to be put to a vote.

Mr. Galante asked that the Council do research on this issue and bring the information back to the residents for their input. Councilmember Gee requested that Mr. Noblett search for alternative methods to bring this matter before the residents for a vote.

Jean Dolan, Alexian Village, said she'd been a resident of the town for 55 years and has witnessed councils selling and giving away town lands. She wants the the Town to protect its parkland from development in whatever way the Council can do it.

Tom Baird, Corral Road, supports protecting our parks and green space, but does feel that it is an overreach for the Council to think they can put in perpetuity conditions that impact future generations. He feels we should have faith in future councils to manage the Town and its property the way they see fit for future generations. He does not feel it is our place to do it right now.

Noah Long, Woodcliff Circle, stated that he agrees that public property is vital to the community. He is distressed that the current resolution does not provide for exploration of other options that are available. He informed Council that they should bring all available options before the residents. He stated that there are multiple options and is disappointing that Council has brought forward a resolution that states they are going to only explore one option. Mr. Long is concerned that the TN Land Trust is managed by trustees, none of whom live in the Town. He stated that the conservation easement is a creature of tax law that is in place to compensate individuals who donate land for the public good, but should not be used to tie up public property for future generations.

Britt Reynolds, St. Charles Street, stated he was in agreement with the previous speakers. Mr. Reynolds feels that all concerned wish to take development off the table for these public lands. He stated that conservation easements might be the only tool to protect these lands in perpetuity. He further stated that other options (such as restricted deeds) have not proved to be permanent. He feels that people are afraid of the "in perpetuity" portion of the proposed easements. Mr. Reynolds said that we don't own public lands, but we are its custodians. We need to make it clear that we are just that and should not trade, sell, or develop these public lands, but instead make sure they are protected.

Cheryl Carico, Crown Point Road, asked why a private owner donating property to the conservancy is different from the Town donating to the conservancy? After all, the individuals who originally donated the property under discussion did so with the expectation that the land would be used as parks in perpetuity. Ms. Carico stated that a parcel of dedicated land comes with the privilege to protect it or develop it. Which privilege will the council and the residents choose, she asked?

Resolutions

1. "A RESOLUTION COMMENDING HUNTER SWINK FOR HIS SERVICE ON THE SIGNAL MOUNTAIN BOARD OF ADJUSTMENT AND APPEALS FOR MECHANICAL CODES."

Councilmember Gee made a motion to approve the resolution. Councilmember Wallace seconded the motion. All present being in favor, the motion passed.

2. "A RESOLUTION COMMENDING RUSTY SEWELL FOR HIS SERVICE ON THE SIGNAL MOUNTAIN DESIGN REVIEW COMMISISON."

Councilmember Allen made a motion to approve the resolution, with Councilmember Gee seconding. Vice Mayor Robertson commended Mr. Sewell for his excellent service on both the DRC and the Clean Streams Task Force. She said she hopes that Mr. Sewell will return to serve the town in the future when he has more time. The motion was approved unanimously.

3. "A RESOLUTION COMMENDING TISH GAILMARD FOR HER SERVICE ON THE SIGNAL MOUNTAIN PARKS BOARD."

Vice Mayor Robertson introduced the resolution. Councilmember Allen made a motion to approve the resolution. Councilmember Wallace seconded the motion. Ms. Gailmard was present. The Council thanked her personally for her service on the Parks Board. All present being in favor, the motion passed.

4. "A RESOLUTION REAPPOINTING ED GARBEE AS A MEMBER OF THE TOWN OF SIGNAL MOUNTAIN'S DESIGN REVIEW COMMISISON."

Councilmember Allen made a motion to approve the resolution. Councilmember Gee seconded the motion. All present being in favor, the motion carried.

5. "A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR A TRACTOR WITH A SIDE MOUNTED BOOM MOWER IN THE AMOUNT OF SIXTY-NINE THOUSAND NINE HUNDRED NENETY-NINE AND 00/100 DOLLARS (\$69,999.00) AND AUTHORIZING THE TOWN MANAGER TO EXECUTE ANY NECESSARY DOCUMENTS IN CONNECTION WITH THIS AWARD."

Councilmember Allen made a motion to approve the resolution. Councilmember Gee seconded the motion. Ms. Rogers explained that this is a budgeted purchase in the vehicle replacement fund. There was a lower bid; however, that bid did not meet specifications. All present being in favor, the motion passed.

6. "A RESOLUTION AUTHORIZING THE AWARD OF A SOLE SOURCE CONTRACT TO WALDEN'S RIDGE UTILITY DISTRICT (WRUD) FOR HYDRANT INSTALLATION WITHIN ITS SERVICE AREA IN AN AMOUNT NOT TO EXCEED SIXTY THOUSAND AND 00/100 DOLLARS (\$60,000.00)."

Councilmember Gee made a motion to approve the resolution. Councilmember Allen seconded the motion. Ms. Rogers explained that this contract reflects the cost of installing the hydrants already purchased for the newly annexed areas of Fox Run and Windtree subdivisions. She explained that this is a budgeted item. All present being in favor, the motion carried.

7. "A RESOLUTION AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH CHATTANOOGA MARKET TO OPERATE THE 2013 FALL HODGEPODGE."

Councilmember Wallace made a motion to approve the resolution. Councilmember Allen seconded the motion. All present being in favor, the motion was passed.

8. "A RESOLUTION AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO ENTER INTO DISCUSSIONS WITH THE LAND TRUST FOR TENNESSEE TO DEVELOP CONSERVATION EASEMENTS FOR THE PROTECTION OF CERTAIN PARK PROPERTY OWNED BY THE TOWN."

Councilmember Allen made a motion to defer this resolution. Vice Mayor Robertson seconded the motion for discussion.

Councilmember Allen stated that she had contacted the two towns mentioned in the letter written by Jeff Duncan, published in the newspaper on Thursday. Neither town has yet responded to her request for information. Councilmember Allen is concerned that any mechanism previously considered by the Council (such as deed restrictions and ordinances) leaves the protection of town parklands open to a future council's decisions to sell or develop the land. Councilmember Allen cited an example of a future Council that might authorize the building of a water park at Rainbow Lake. That decision would then affect all the generations that come after them. Councilmember Allen stated that she wants to get the highest use out of the land for the most people, and she believes that goal will be achieved by preserving the land as parkland in perpetuity and not for development in perpetuity. However, if there were another mechanism that would achieve that goal, she would support it.

Bill Fronk, North Palisades Drive, stated that there is a nationwide problem with preserving land. He believes the reason is because no legislative group can bind the hands of a future legislature. Towns can pass laws and pass resolutions, but all it takes is one Council and a majority vote to change that. Once the bulldozers destroy the land, it is pretty hard to reverse that.

Mr. Fronk informed Council that there was a symposium at the University of Chicago about 10 years ago. A property law professor (who has now been appointed at Vanderbilt) presented a paper there. Mr. Fronk stated that this professor had declared that "Conservation easements are a relatively new tool for preserving land when you consider state or local government donating land to a non-profit conservation trust. But, this approach is more effective at ensuring the perpetual conservation of land than anything else a local government can do."

Mr. Fronk further stated that he believes that other options will not preserve the land in perpetuity. By having conservation easements, the Town is making it more difficult for future Councils to change the use of those dedicated lands. Mr. Fronk also expressed his belief that preserving parklands in perpetuity gives the Town a lot of strength to plan for the future and to maintain the beauty of the land that Signal Mountain residents value so much. Conservation easements give the Town an opportunity to maintain that value.

Tish Gailmard, Ravine Road, stated that all present want the same end, which is to preserve the park properties. The question is, what is the best means to achieve that goal. Ms. Gailmard thinks we need to be very progressive and thorough in our thoughts, and in order to do that, the Council needs to explore all options.

Tom Baird, Corral Road, stated that the Council is currently the steward of the land; however, there will be a different Council in 30 years who will be stewards of the land, too. Mr. Baird stated that we need to trust that those people will do the right thing. He agrees that we all want parks, but he does not believe that the way the Council is going about it is right.

Jeff Duncan, Ravine Road, stated that national, state and county parks are protected by legislation, not easements. He stated that there should be ways to put protections in place. Dr. Duncan suggested a conservation ordinance could protect the parklands by requiring two separate votes from two different councils, which would be separated by an intervening election.

Dun Monroe, Cherokee Lane, suggests that those residents who do not want conservation easements provide ideas as to what other uses of the land would be better than green space.

Following resident comments, a vote was taken on the motion to defer going forward with the resolution to begin discussions with the TN Land Trust to explore the options Dr. Duncan posed. All present being in favor, the motion passed.

Ordinances

1. "AN ORDINANCE TO AMEND AND RESTATE THE SIGNAL MOUNTAIN ZONING ORDINANCE, ARTICLE VI, SECTION 613 ENTITLED PLANNED UNIT DEVELOPMENT (PUD)."

Councilmember Allen made a motion to approve the first reading of this ordinance. Councilmember Wallace seconded the motion.

Councilmember Allen explained that this is a revised Planned Unit Development Ordinance to replace the one currently in the Zoning Ordinance. Councilmember Allen stated that a recent request by a developer resulted in finding that the current PUD ordinance is confusing, unclear and does not facilitate the Town or the developer in moving forward. Councilmember Allen stated that a PUD is meant to be a unified development that has some extras for the community (i.e., environmental enhancements or specific housing desired by the community). In exchange for those extras, the developer would get a relaxation of the Zoning Ordinance provisions and other regulations required by the Subdivision Regulations. Councilmember Allen stated that the Council, the Town Attorney, and the Planning Commission have closely reviewed the proposed ordinance.

The language of Section 613.04, paragraph (B) was discussed. It was agreed that the language of this paragraph is unclear. Although the intent would remain the same, the language will be clarified prior to the second reading.

Following further discussion, the words "Town Council" in the second sentence of Section 613.06, paragraph (H) will be revised to read the "Planning Commission".

In Section 613.06, paragraph (K) the word "should" in the first paragraph will be removed and replaced with the word "shall".

Finally, Section 613.06, paragraph (K), subparagraph (3) will be removed in its entirety.

There being no further changes or discussion, the Vice Mayor called for the vote. All present being in favor of approving the first reading of the ordinance as amended, the motion was passed.

2. "AN ORDINANCE DESIGNATING AND REZONING THE PROPERTY LOCATED AT TAX MAP 089-060 FROM RESIDENTIAL ESTATE DISTRICT TO LOW DENSITY RESIDENTIAL DISTRICT."

Councilmember Allen made a motion to table this ordinance. Vice Mayor Robertson seconded the motion. All present being in favor, the motion carried.

3. "AN ORDINANCE DESIGNATING AND ZONING CERTAIN RECENTLY ANNEXED PROPERTIES LOCATED WITHIN AND ADJACENT TO THE WINDTREE SUBDIVISION AS LOW DENSITY RESIDENTIAL DISTRICT WHICH IS FOUND TO BE CONSISTENT WITH THE SIGNAL MOUNTAIN LAND USE PLAN."

Councilmember Allen made a motion to approve the first reading of this ordinance. Councilmember Gee seconded the motion. All present being in favor, the motion carried.

4. "AN ORDINANCE DESIGNATING AND ZONING CERTAIN RECENTLY ANNEXED PROPERTIES LOCATED WITHIN AND ADJACENT TO FOX RUN SUBDIVISION AS LOW DENSITY RESIDENTIAL DISTRICT WHICH IS FOUND TO BE CONSISTENT WITH THE SIGNAL MOUNTAIN LAND USE PLAN."

Councilmember Gee made a motion to approve the first reading of this ordinance. Councilmember Wallace seconded the motion. All present being in favor, the motion passed.

Discussions

Honna Rogers informed the Council and those in the audience of a meeting to explain the proposed Conservation Subdivision Regulations tomorrow night at 6:00 p.m. at Town Hall. The public is invited to attend.

Ms. Rogers introduced and welcomed the new Fire Chief, Eric Mitchell, to the Council.

There being no further business, the meeting was adjourned.



Bill Lusk, Mayor



Recorder