

*****March 9, 2009*****

The Signal Mountain Town Council held its regular monthly meeting on Monday, March 9, 2009, at 6:30 p.m. in the Town Hall. Those present were:

Mayor Bill Lusk
Vice Mayor Susan Robertson
Councilmember Annette Allen
Councilmember Hershel Dick
Councilmember Paul Hendricks

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

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

Minutes

The minutes for the February 9th regular meeting, February 23rd agenda meeting, and the January 9th-10th strategic planning session were discussed. Councilmember Hendricks asked if under the Building Inspection report in the February 9th minutes, language stating a permit was suspended should be changed to indicate it was renewed. Ms. Rogers explained it was suspended because the contractor had failed to work on the project for 180 days, and that permit had not renewed prior to the meeting. Ms. Rogers added that the language could be amended to reflect that. Councilmember Hendricks moved and Vice Mayor Robertson seconded that the February 9th minutes be approved. The motion passed unanimously.

Councilmember Hendricks said that in the February 23rd minutes, the motion regarding the amendment to the climbing ordinance seemed to be worded incorrectly. He said the language indicated that he moved to postpone discussion of the ban until such time as research could be presented to alleviate staff concerns. He said Vice Mayor Robertson made a motion not to remove the ban, and then he amended the motion to indicate the ban would not be removed until such time as information could be presented that would alleviate staff concerns. Vice Mayor Robertson said she thought the Council agreed that an amendment to the motion was not necessary since the issue could be brought up again at any time. Her understanding was that the vote was taken based on the information at hand which included letters recommending against removing the ban from the police chief, the fire chief, TML and MTAS. Mayor Lusk said he remembered the discussion exactly as it was written in the minutes. Ms. Rogers said she and Mr. Johnson would listen to the tape of the meeting to ensure accuracy. Vice Mayor Robertson reiterated to the audience that the issue could be discussed again at any time. Councilmember

Hendricks said the intent of his amendment was to make it explicit that the ban would remain in place, but it could always be addressed in the future. Mayor Lusk moved to postpone approval of the February 23rd minutes. Councilmember Dick seconded the motion, which passed unanimously.

Councilmember Allen moved and Councilmember Hendricks seconded that the strategic planning meeting minutes be approved. The motion passed unanimously.

Citizens Opportunity to Address the Council

Mayor Lusk invited audience members to address the Council. Dun Monroe thanked the Council for listening to the public.

Resolutions

The following resolutions were presented:

1. "A RESOLUTION REAPPOINTING STEVEN JACOWAY AS A MEMBER OF THE TOWN OF SIGNAL MOUNTAIN RECREATION BOARD." Ms. Rogers said Mr. Jacoway's term had ended only a few days ago and that he was one of a few members whose terms had yet to be placed on a systematic staggered schedule. Councilmember Hendricks moved and Vice Mayor Robertson seconded that the resolution be approved. The motion passed unanimously.
2. "A RESOLUTION ESTABLISHING THE TOWN OF SIGNAL MOUNTAIN CLEAN STREAMS TASK FORCE AS AN EIGHT (8) MEMBER SUBCOMMITTEE OF THE CITIZENS ADVISORY COMMITTEE FOR THE TOWN COUNCIL." Councilmember Allen moved and Vice Mayor Robertson seconded that the resolution be approved. The motion passed unanimously.
3. "A RESOLUTION APPOINTING JOHN TUCKER TO THE CLEAN STREAMS TASK FORCE FOR THE TOWN OF SIGNAL MOUNTAIN." Councilmember Allen noted that Mr. Tucker was the first person she asked to join the task force, and she believed he would be a great asset. She noted that his experience as the Chairman of the Department of Biological Research at UTC would be beneficial. Councilmember Allen moved and Councilmember Dick seconded that the motion be approved. The motion passed unanimously.
4. "A RESOLUTION AUTHORIZING THE TOWN MANAGER TO ENTER INTO A REQUIREMENTS CONTRACT WITH G.W. & SON EXCAVATING AND GRINDING WORK COMPANY FOR ALL BRUSH CHIPPING SERVICES REQUIRED BY THE TOWN AT THE RATE OF \$325.00 PER HOUR FOR THIRTY-SIX (36) MONTHS. A COPY OF SAID AGREEMENT AND THE CONTRACTOR'S PROPOSAL IS ATTACHED HERETO." Ms.

Rogers explained that in the past the Town had been part of a five-member inter-local agreement for use of a chipper machine owned by the City of Cleveland; however, there were issues with maintenance on the machine. Also, while Cleveland provided primary staffing for its use, the Town had to provide additional staff and that recently the machine had been malfunctioning. She noted while the parties to the agreement were searching for a new machine, the group was approached by a business that offered to contract chipping services.

She noted that by contracting chipping services, the Town would save approximately \$11,000 in personnel costs and fees. She also noted in the future the Town could terminate the service should it be determined unsatisfactory without affecting other municipalities. She remarked she chose to enter into a contract with this particular business because they offered the lowest and best bid. Councilmember Hendricks said this seemed like a good deal. Mr. Noblett emphasized that this is a "requirements contract" that obligates the contractor to provide services within a certain time period after the request. He also said it was good to be part of an agreement that did not obligate other municipalities.

Councilmember Hendricks said that the Town had pursued outsourcing for other services before, and it had sometimes proven to be a more expensive option. However, in this case it appeared to be cheaper. Councilmember Dick moved and Councilmember Hendricks seconded that the resolution be approved. The motion passed unanimously.

Ordinances

The following ordinances were presented:

1. "AN ORDINANCE AMENDING SECTIONS 2-516 AND 2-517 OF THE SIGNAL MOUNTAIN TOWN CODE, REGARDING THE PLACEMENT OF PLAQUES ON MEMORIAL DONATION TREES WITHIN THE TOWN OF SIGNAL MOUNTAIN." Mayor Lusk noted the old language in the ordinance provided for a large concrete marker for designating an Honor Tree, but the new language provides for a stake. Councilmember Hendricks said this would be better because stakes can be moved more easily as trees grow and their roots expand. Vice Mayor Robertson moved and Councilmember Hendricks seconded that the ordinance be approved.

Councilmember Hendricks asked if the language under section 516(B) meant approval for a tree would have to be given by two committees – the DRC and Tree Board. Vice Mayor Robertson agreed that the language was confusing. Councilmember Allen suggested a form of "template" wording for different honor tree designations. It was agreed that the ordinance language should be changed to indicate the initial plaque design should be approved by the DRC, but the Tree Board and/or the Town Manager should approve specific plaque language.

Councilmember Hendricks said this would create a review step before the plaque is put in place.

Vice Mayor Robertson asked if the language in section 517 (A)(3) & (4) should be corrected; i.e., as it referred to "flush mounting" which would not apply to stakes. It was agreed that the language would be amended to read, "mounted on stakes" instead of "flush mounted" in item (3), and that item (4) be removed. Councilmember Hendricks asked if the language in section 516(D) could be amended to indicate that the donor would be afforded the opportunity to replace the stake if it presented a problem. Ms. Rogers said that would be permissible, if such action is deemed appropriate. Vice Mayor Robertson said the language regarding responsibility for expense might cause confusion; i.e., this ordinance specifies that the donor will purchase the stake at his/her expense, whereas the Honor Tree program indicates the donation will take care of costs. Ms. Rogers said the donor would be responsible for future replacement costs. Mr. Noblett said language could also be added to indicate that the Town will contact the donor in the event a replacement is needed. He also noted a grammatical change mentioned to him by Vice Mayor Robertson in section 516(B), in which the word *all* will be removed from the statement "...all tree plaques shall be approved by the Tree Board".

Mayor Lusk moved to postpone this discussion until the amendments noted above could be made. Vice Mayor Robertson pressed for approval on first reading as there is some urgency since donors and donees are already making plans for Honor Tree ceremonies. Mr. Noblett said this could be approved on first reading subject to the amendments. Vice Mayor Robertson moved and Mayor Lusk seconded that the ordinance be approved subject to the amendments noted above. The motion passed unanimously. Ms. Rogers said the second reading would be scheduled to take place at the March 30th agenda session.

2. "AN ORDINANCE TO AMEND THE SIGNAL MOUNTAIN TOWN CODE, TITLE 6, TO ADD A NEW SECTION 6-104 ENTITLED 'SPECIAL EVENT POLICE SERVICES AND FEES.'" Ms. Rogers said there had been requests recently for officers to be present at special events, i.e., road closures for fund raising races. This amendment would change Town policy to require officers for special events to be "on duty" rather than "off duty". Citizens requesting police services would be asked to pay for such services at the officer's regular rate of pay. This would allow the officer to be covered under the Town's liability policy and by worker's compensation. Councilmember Dick moved and Councilmember Allen seconded that the ordinance be approved. Councilmember Hendricks asked if this would place a financial burden on not-for-profit organizations. Police Chief Boyd Veal said on duty services would still be provided for widely-attended community events. The motion passed unanimously.
3. "AN ORDINANCE TO AMEND SIGNAL MOUNTAIN TOWN CODE, TITLE 10, TO REVISE SECTION 10-102, TO PROVIDE RULES AND

REGULATIONS FOR THE KEEPING OF CHICKENS AND OTHER FOWL WITHIN THE TOWN.” Mayor Lusk thanked Patrick Hagan for his research on this subject. Mayor Lusk, Vice Mayor Robertson and Councilmember Dick also thanked Councilmember Allen for her additional research and all the information she had presented to the Council as they considered the ordinance. Councilmember Dick noted he grew up on a farm and especially appreciated their efforts. Councilmember Hendricks moved and Councilmember Allen seconded that the ordinance be approved. However, Councilmember Hendricks noted under section 3(D), the language stated the setback would be 25 feet from adjoining property lines, whereas he thought the agreed-upon setback was 15 feet. Vice Mayor Robertson said she thought although the 15-foot setback had been considered, but Mr. Noblett had recommended 25 feet. Mr. Noblett agreed that was so. He also said the setback from streams was increased to 50 feet and that he had added language to allow that application for variances be approved by the Planning Commission. He also noted that, in item (H), the language “all chickens shall be humanely treated” was added; in item (A), lot size restrictions were omitted; and in item (K), an effective date was erroneously omitted, but the language now read that the ordinance would be effective for one year after the date of its enactment. Councilmember Hendricks asked if a new ordinance would have to be created after the one-year trial period for continuance or if a resolution would suffice. Mr. Noblett said a new ordinance would be necessary. The motion passed unanimously.

Other Discussions

Councilmember Dick thanked all Town employees for doing good work.

Councilmember Hendricks opened a discussion of a water fee increase by Tennessee American Water Co. He said the public needed to know what actions the Town might take.

Ms. Rogers summarized the issue as follows:

Tennessee American was required by the Tennessee Regulatory Authority (TRA) in January to raise municipal water rates for Chattanooga. This occurred during the final days of a hearing between Chattanooga and Tennessee American in Nashville, and Town personnel were unaware that the Town’s rate was also being discussed along with Walden’s Ridge Utility District. The TRA order called for a 12.77% increase in the Town’s rate. Tennessee American personnel have indicated that there is not much leverage opposition. The TRA’s plan is to make all municipalities’ rates the same; however, this isn’t fair to the Town as it pumps its water up the mountain. This increase will cause the minimum water bill to go up \$26 per year. Walden has asked if the Town would be interested in joining them in protesting this increase via an appeal, which must be submitted by March 13th.

Mr. Noblett said he had reviewed the ruling by the TRA, noting the Town had 60 days (i.e., until March 13th) to appeal the ruling. He said the ruling was the result of a lengthy hearing involving numerous experts. He noted the Town does not have the ability to ask for a reconsideration of the ruling by the TRA because of a 15-day time limit after the ruling which had passed. Any appeal must be made for judicial review by the Tennessee Court of Appeals. He asked if the Council was interested in joining the appeal. Mayor Lusk asked what the cost would be. Mr. Noblett said the work would require going through records of the hearings to determine if the Town owning its own pumping station was considered. He said the pumping station would be the most significant basis for argument. Councilmember Robertson asked when the Town's contract with Tennessee American ends. Ms. Rogers said it is June 30th, 2009 and the TRA indicated in the ruling that multi-year contracts would not be used in the future.

Councilmember Hendricks asked if the Town could file an appeal now and withdraw later, if it is determined it has no strong evidence regarding the pumping station. Mr. Noblett said that would make counsel appear foolish. Ms. Rogers said we could wait to file the appeal until Friday. Councilmember Dick asked what the Town pays per 1000 gallons for water now. Ms. Rogers said the minimum is \$1.061. Councilmember Dick commented that the Town had saved money over the past twelve years through multi-year contracts. Ms. Rogers agreed, saying increases were small during that time. Mr. Noblett said Tennessee American originally asked the TRA to approve a 20% increase for Chattanooga, but that was cut back substantially. He also said the issue for the future is to determine if it is worth opposing increases in similar hearings. Ms. Rogers said there is no guarantee what the new rate will be, and the appeal may only result in further negotiations that could result in an even higher increase.

Mayor Lusk asked for Mr. Noblett's opinion on what should be done. Mr. Noblett said any decision needs to be made quickly as to whether or not to appeal. Mayor Lusk asked what the Town's chances of success were. Mr. Noblett said that is difficult to determine without a copy of the hearing's transcript, which would only be provided to us for a fee. Ms. Rogers said the Town had already paid for a copy of the portion of the transcript that mentioned Signal Mountain, which included no apparent language regarding the pumping station. She said she could give Mr. Noblett this document and could also contact Chattanooga personnel to see if they have a full copy. Councilmember Robertson asked if the TRA had the legal right to standardize rates. Mr. Noblett said they did, and he reiterated that it is unfair for the Town to be charged the same increase after consideration of our pumping station. Mayor Lusk noted that at one time, the Town had contacted Tennessee American about pumping water up the mountain for the Town, but the request was refused. Councilmember Hendricks said he wondered if accepting the increase would give the Town leverage to demand pumping services from Tennessee American. Ms. Rogers said they didn't actually refuse this service when we spoke with them, but their method of implementation would not be economical. Councilmember Dick said he agreed, noting that that was the response he'd been given in previous years.

Councilmember Hendricks asked if Ms. Rogers had a recommendation. Ms. Rogers said she would need to confer with Mr. Noblett and perform more research, although she felt

the Town didn't have a very strong argument. Councilmember Hendricks asked if a quorum and vote would need to be held before Thursday to vote on the issue. Mr. Noblett said the notice of appeal is a simple document, and the decision can be delegated to the Town Manager and Attorney. He also noted the appeal would have to be filed at the Court of Appeals in Nashville. Ms. Rogers said she recommended delegating the decision to herself and Mr. Noblett, and she would contact the Council before action is taken. Councilmember Hendricks said he was doubtful of a good outcome, but noted the Town can always withdraw later. Mayor Lusk said it was worth an effort, and moved to delegate this decision to Ms. Rogers and Mr. Noblett. Councilmember Dick seconded the motion, which passed unanimously.

Department Reports

Police

Police Chief Boyd Veal reported that the department would be accepting applications for a new officer. He is working on budget requests and annual staff reviews. Three Lieutenants were involved in MTAS management training.

Mayor Lusk said he walked with Officer Hill around the middle and high schools and was amazed by the amount of activity that Officer Hill was responsible for monitoring. Chief Veal said Officer Hill was appreciative of the Mayor's visit.

Fire

Fire Chief John Vlasis reported that there had been a lot of training recently, including a management symposium in Cleveland, during which fire department representatives Ms. Rogers had previously worked with were complimentary of her. MTAS management training was also hosted at the fire hall. The Chaplain was sent to training to be an instructor for Critical Incident Stress Management. Chief Vlasis congratulated Mr. Noblett for getting the President's award from the Bar Association.

Water

Utilities Director William Sanders reported that there were four major leaks during the month. "Welcome" in German had been removed from the Town sign. Concrete and landscaping work was performed. There are also upcoming valve replacements, at which time homeowners will be notified of temporary suspension of service. Councilmember Hendricks asked approximately how long it takes to do that. Mr. Sanders said it could range from a few hours to more than one day.

Library

Librarian Karin Glendenning reported that she recently attended a workshop in Maryville on how to perform a summer reading program on a budget. The second annual "Poetry

Night" will be held on April 23rd. On April 1st, well-known fiction writer Jill McCorkle will be present to discuss her work and preparations are being made for this.

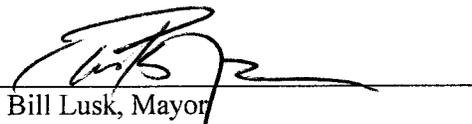
Public Works

Ms. Rogers reported on public works activities in Public Works Director Loretta Hopper's absence. The leaf pickup season is essentially complete, but two more spring pickups are scheduled. There are upcoming pothole repairs. ERI completed the first phase of pavement analysis under the pavement management program. Vice Mayor Robertson asked if Ms. Rogers knew what roads would be paved this year. Ms. Rogers said Ms. Hopper knows. Vice Mayor Robertson asked if our requests were finalized for stimulus funds. Ms. Rogers said it was final, as part of a recommendation from Chattanooga, but the state still must approve it. Mayor Lusk noted that if nothing changes, \$400,000 to \$450,000 would be available.

There being no further business, the meeting was adjourned.



Recorder


Bill Lusk, Mayor