

Town of Thompson's Station
Municipal Planning Commission
Minutes of the Meeting
Held On September 27, 2011

Commission Members Present

Millie Halvorson, Chair
Sarah Benson
Tom Evans, Secretary
Willis Gilliam
Carl Hubert
Brad Wilson

Staff Members Present

Greg Langeliers, Town Administrator
Wendy Deats, Town Planner
Doug Goetsch, Town Recorder
Todd Moore, Town Attorney
Richard King, Building Codes Official
Lisa Stewart, Town Clerk

The regular meeting of the Municipal Planning Commission was called to order by Chair Halvorson on September 27th, 2011, at approximately 7:00 p.m., at the Thompson's Station Community Center, with the required quorum. Commissioner George Ross was unable to attend.

Minutes:

The minutes of the August 23, 2011 meeting were previously submitted and were approved unanimously upon a motion by Commissioner Evans, seconded by Commissioner Hubert.

Staff Announcements:

Mrs. Deats stated that the Fall Festival was this past weekend and it was a fantastic, fun fall day; estimating more than a couple thousand people in attendance throughout the day. She thanked everyone who volunteered and the support from Mars and Tennessee Equine Hospital.

Mr. Langeliers noted that October 8th is the Old Tennessee Trail Yard Sale that will be set up at the Farmers Market location on Columbia Pike, and encouraged all to attend and / or participate.

Old Business:

Mr. Langeliers referenced the discussions that have been going on for months regarding the issues in Bridgemore, such as drainage, road topping, letters of credit, etc. The latest news, per Mr. Langeliers, is that we have essentially been contacted by the developer relating to refinancing through his banks and there does appear to be an indication that they are going to get the funding to put down some topcoat and work on some of the other repairs, supposedly by the end of October. Mr. Langeliers has prepared a letter for the lending institute that basically lays out the issues that we have (drainage issue behind the 1100 lots, main driveway and round-about paved with topcoat subsequent to all the binder repairs being done, any other binder repairs that are needed, probably the paving of Robbins Nest Court, a developers agreement signed, a

sinkhole has developed that will need to be fixed per TDEC's criteria, and the open space issue that a quit-claim deed is supposedly being drawn up to address). Mr. Langeliers noted that it had gotten to the point that we ask that the letters of credit be increased by a couple \$100,000; however, he thinks it would benefit everybody to give it one more month to see if this actually happens. The idea is to get a couple \$100,000 worth of work done out there and maintain the letters of credit in their current amounts, which really would be equivalent to raising them \$200,000. If the action is already taken to increase the letters of credit and everything falls apart, then the banks won't do that, it will put us in the position of having to call those letters of credit, which we know are deficient, to go out and do the work and pick up from there. Mr. Langeliers stated that it is Staff's position at this time that we let this work one more month.

Commissioner Hubert stated his concern to be that we have already given the developer a 60 day window to get back with us with his plan of action, and at the end of that 60 days, we were basically given a form letter saying that he needed another 30 days, after which the Planning Commission did not meet due to lack of a quorum, giving him another 30 days; so now we're 240 days out from where we started. His concern is to put some teeth into this and if we don't get action, then we do have to push somehow.

Mr. Langeliers agreed, adding that we will be much better served if indeed what's being discussed happens, and the only thing that we have now that we didn't have before is at least some sort of confirmation from the lending institution that they anticipate a closing on this probably by the end of this week, which would then make the money available to do the work that's there.

Commissioner Hubert noted that he did meet with the developer earlier today and the sinkhole is a big safety issue in regards to the children in the neighborhood. The developer indicated that he would have that fixed in the next week. He suggested an act of good faith from the developer to fix the sinkhole, next to see some movement on the erosion issues behind the homes (which needs to be resolved before they begin top-coating anyway) that can be done before the end of the month. Commissioner Hubert's concern is that we are running out of paving season, into winter, pushed out to spring, then right back where we were.

Mr. Langeliers stated that the indication he got was the developer would try to get the paving done by the end of October. Issues with the sinkhole depends on how it is defined by TDEC and go by their criteria to fix it and the developer said he would start on it and get it done by next week.

Commissioner Hubert referred to an analysis that Mr. Langeliers was having done in regards to costs to take care of the roads, and Mr. Langeliers said it is about \$450,000.

Discussion continued as to whether TDEC has been notified of the sinkhole, who's responsible for that notification, and if the process has even been started or not.

Commissioner Hubert recognized one of the homeowners present that lives on one of the lots where the erosion issue is located. Chair Halvorson asked her to step to the podium and give her name and address. Amy Yarbrough stated she lives at 3816 Robbins Nest Court (lot 1091) in Bridgemore Village. She noted that the erosion issue in her backyard is a big safety concern for all the children who play back there. She asked if the funds the developer is trying to get for the roads will include the money to deal with the drainage ditch / erosion issue.

Mr. Langeliers said yes, that it is part of the package and the developer has been aware; but it doesn't include funds to put a pipe in the ditch and fill it in. We will wait for a design that the developer will bring to us that we can react to.

Commissioner Benson stated, as a Planning Commissioner, it is not proper for citizens to address the Planning Commission in this form, and she appreciates Mrs. Yarbrough's concerns and she doesn't mean to alienate you at all about the Planning Commission, but it is not normal procedure for citizens to address the Planning Commission in an open forum.

Commissioner Gilliam clarified that we have no idea what the developer is going to do about this drainage ditch / erosion issue yet. Mr. Langeliers stated that to be correct. Commissioner Gilliam pointed out that he has been on the site and expressed his sentiment to Mrs. Yarbrough; however, he asked if there will be any consideration given to the water flow across the road. Again, he referenced Mark Marlin being out approximately \$6,000 of his pocket for things this developer was supposed to do for him that he had to bear the expense of. He referenced the suggestion of a concrete drainage ditch that would only move the problems down-stream to someone else.

Commissioner Hubert offered previously that the calculations for the detention pond may be insufficient for the water flow. Commissioner Gilliam noted that he looked at the detention pond and it's built backwards.

Chair Halvorson asked if the Town's Engineer reviewed these calculations, and Commissioner Benson pointed out that she thought Staff was instructed at the last meeting to evaluate the drainage onto the Marlin property because it was her impression that our Engineer did not review the down-stream flow. Mr. Langeliers stated that to be a time consuming and expensive project – they have started to do it – in order to evaluate it accurately, we will have to obtain approval to get on private property, or do general investigations based on County topography maps and USGS maps. He asked how much do we want to spend to evaluate it, noting it was designed by a professional engineer on the front end, and the Town had an Engineer on staff at that particular time that reviewed this particular set of plans. Until more recently, we were under the impression that this had been constructed per the approved plans. Now there is some indication that there may have been some modifications because there was a set of drawings that was designed by Gresham Smith and Partners and then modified by Ferlisi and Company; and we have never been able to track down the drainage calculations that Ferlisi and Company did. We have found the engineer that worked with Ferlisi and Company and the developer is trying to get those calculations from him.

Commissioner Benson pointed out that we have had difficulties with other detention ponds in this development and she brought this up at the last Planning Commission meeting. She was not made aware at that meeting that we thought it would be too expensive a proposition to investigate the downstream issues. Commissioner Benson stated that she was under the impression that the developer had been responsible for, and had taken care of, the downstream issues, but apparently that did not happen – which was also discussed at the last Planning Commission meeting.

Mr. Langeliers stated that it was subsequent to the last Planning Commission meeting that we had an opportunity to talk to the consulting engineer as to what the cost would be, so they were not asked before that meeting. He added that this was designed by an engineer and whether it's not designed right, not functioning right, not working right, as much as any of us can speculate, we don't know. Unless we have the actual drainage calculations from the previous design group, we will never know that; so the question is how much do we want to investigate, spend, and study to determine the solutions at the end.

Commissioner Gilliam stated that he doesn't think it is the Town's job, but that it needs to be the developer to investigate, study, and bring this information to Staff. Commissioner Hubert pointed out that this property has not been released yet.

Commissioner Wilson asked if we have any 'as-builts' of the original detention ponds, swales, elevations, etc.? Mr. Langeliers replied that we do not have 'as-builts' and there is a lot of construction left to be done out there and, at some point in time, we suspect those things will happen.

Mr. Langeliers referenced the downstream property owner and if he feels damaged by the development, he should hire an attorney to sue the developer for damages. The Town getting any more involved is not going to be good for us.

Commissioner Benson stated that some of these issues have been going on and brought before this Planning Commission for approximately four (4) years now, and apparently the developer did not accept responsibility. She still thinks that we bear the responsibility, as the Planning Commission, for anything we've approved that effects adjacent property owners. She asked Town counsel's opinion. Mr. Moore stated that we have the responsibility to follow the guidelines and Subdivision Regulations to review the engineering that's presented to us. It is our responsibility to oversee and make sure that the work is done in compliance with the plans that were approved, and that's what in large part, the Letters of Credit are there to insure. He noted that the problem, as he understands it in this situation, is that, for whatever reason, we've gotten into a situation where the Letters of Credit are most likely insufficient to cover the combination of the roads issues and erosion issues that have arisen.

Commissioner Hubert noted that, through his own investigation, determined that the Town did not have the most current drawings, 'as-builts', or the calculations. He spoke with the developer today and was told the calculations were done. Commissioner Hubert suggested we make it the

developers responsibility to maintain the fact that the construction and engineering was proper to eliminate these problems. The Town should not spend any money to prove the developers point. If the developer provided the calculations, then the Town Engineer could review them, go on-site, and determine if it was built correctly; then if it was not, then the developer has not met his liability issues.

Mr. Langeliers agreed, adding that he will modify the letter that he's preparing to the developer / lending institution to include language requiring 'as-builts', drainage calculations, and demonstrate how it functions. Commissioner Hubert suggested the developer provide a certified letter from an engineering group stating it to be correctly engineered and built to the specifications.

Commissioner Wilson stated that it is the developers responsibility to provide the Town with 'as-builts', calculations, etc.; and he should have sets of any / all original plans that were submitted to the Town. Commissioner Wilson suggested that we set a schedule such as, within two (2) weeks from tonight, the developer bring a letter to Town Staff with a time line stating when he will present the requested documentation (ie: approved / signed paving contract, letter from bank defining status, etc.). His concern is that this will continue to be unresolved and the paving plants will close for the winter, leaving this development hanging again until March or so of next year.

Mr. Langeliers stated that he understands and has no problem asking for those things; and part of the problem is that we have been asking but until we have either a big enough carrot or a big enough stick, we'll continue to be asking. He thinks we have a little bit of both here so he'll go ahead and do that tomorrow – set up a time line and e-mail it to everyone. Mr. Langeliers noted that what we need to be prepared for, if it doesn't happen at any of those particular times; because if it doesn't and we are not in a position to do anything about it (except to pull Letters of Credit that we know won't do what we want to do), then it isn't going to strengthen our hand. Our strongest place is in the preliminary plat and understanding that it goes no where; and probably the more forceful thing we may have to do would be an action as it relates to that particular property. The preliminary plat does not have to be approved, obviously, with all these other issues out there.

Commissioner Wilson stated that even if a Special Meeting needs to be called, this needs to be dealt with because the residents of Bridgemore Village are having to live with these problems every day. He asked, if the documentation is not provided, could we stop construction and development and not allow any permits to be pulled until the infrastructure is taken care of. Mr. Langeliers noted that to be essentially what we did in Tollgate Village, and he would argue that we are very close to doing that. He said the one difference is that it looks like there is a bank working with the developer that will put a loan package together that will include money to do the things that we want done.

Commissioner Wilson suggested a 60 to 90 day time frame be allowed and after that, no permits can be pulled until the safety issues are addressed. Commissioner Hubert noted that most plans

and calculations could be provided within a week since they were already done. His concern is the sinkhole and the erosion issue behind the three (3) homes.

After further discussion, Chair Halvorson proposed that the Town continue to work with the developer and Staff send a letter setting a time line for the various issues previously addressed.

Chair Halvorson referenced a letter she received from Richard Johnson, President of the Callie Home Owners Association, regarding Graceland Church (pictures were distributed). At the September 28th, 2010, Planning Commission meeting, we asked that the church have a gate installed so that the road would not be accessible to the public except during church events. The gate that was installed is not adequate, and Mr. Johnson states in his letter that he has even seen the minister of Graceland Church driving around the gate himself. Apparently one issue being that some are driving around the gate, and another being that the restrictive covenants for Callie Subdivision do not allow for a metal or chain-link type fence / gate. She realizes the church does not fall within the restrictive covenants but as an adjoining property, they should somewhat mirror the subdivision's covenants and character. Chair Halvorson asked for the Commissioners thoughts since the gate does not meet the intent of their action last September.

Commissioner Wilson stated that if this is not acceptable, could a citation be issued against the property owner? Chair Halvorson asked, since this has been brought to this Commission before, if any letters were sent previously to the church / property owner? Mr. Langeliers stated that we have talked to the people at the church. He said there's probably some question as to whether or not the Planning Commission has the authority to set conditions; that if they meet the criteria set forth in the site plan and the zoning ordinance that they're entitled to an approval. Another complicating issue is that the road isn't ours necessarily and is a County road – we haven't annexed the rest of that subdivision. Mr. Langeliers said that another complicating issue is that, subsequent to the action by the Planning Commission, which (the way he understood it) was more of a request from the Planning Commission and they agreed to do it. Since then, we've had people come to us and say they don't want a gate there at all, and so we get back to the question of who wants what. He would like to see the Callie Home Owners Association take a vote at their next meeting to understand that they're all on board with this; then approach the church again.

OTHER:

Item 1 - Review Suspended Plats in Tollgate Village.

Mr. Langeliers stated that Staff has prepared easement documents that have been signed by the representative of the developer at Tollgate Village that will secure between 20 - 28 acres for the Town to use as drip fields, which will help us with our issue with TDEC as it relates to not having secured drip fields for our permit; and they await the Mayor's signature. He thinks its all ready to go. Staff would recommend that the Planning Commission take an action to un-suspend the Tollgate Village plats conditioned on two (2) items:

1. That the easement documents on the drip field acres be executed and recorded; and
2. That the Town's lawsuit and the T. S. Basin counter-suit be mutually dismissed.

This document on the easement also recognizes that everyone pulling a permit henceforth in Tollgate Village is subject to a \$1,700 effluent disposal fee.

After further discussion, Commissioner Gilliam made a motion to un-suspend the Tollgate Village plats, contingent on the following:

1. That the easement documents on the drip field acres be executed and recorded; and
2. That the Town's lawsuit and the T. S. Basin counter-suit be mutually dismissed.

Commissioner Evans seconded the motion, which passed unanimously.

New Business:

There was none at this time.

There being no further business, the meeting was adjourned at approximately 8:06 p.m.

Signed:


Millie Halvorson, Chair

Attest:


Tom Evans, Secretary

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