

Town of Thompson's Station  
Board of Mayor and Aldermen  
Minutes of the Meeting  
October 10, 2017

**Call to Order.**

The meeting of the Board of Mayor and Aldermen of the Town of Thompson's Station was called to order at 7:00 p.m. on Tuesday October 10, 2017 with the required quorum. Members and staff in attendance were: Mayor Corey Napier; Alderman Brandon Bell; Alderman Ben Dilks; Alderman Graham Shepard; Alderman Brian Stover; Town Administrator Joe Cosentini; Town Planner Wendy Deats; Town Clerk Jennifer Jones and Town Attorney Todd Moore.

**Pledge of Allegiance.**

**Consideration of Minutes.** The minutes of the September 12<sup>th</sup> regular meeting and the September 28<sup>th</sup> special called meeting were presented.

**After discussion, Alderman Bell made a motion to accept the minutes of the September 12<sup>th</sup> regular meeting without the personal statement of Alderman Shepard. The motion was seconded and carried by a vote of 3 to 2 with Aldermen Dilks and Shepard casting the dissenting votes.**

**After discussion, Alderman Bell made a motion to accept the minutes of the September 28<sup>th</sup> special called meeting. The motion was seconded and carried unanimously.**

**Public Comments:**

**Mike Roberts – 1810 Thompson's Station Rd. W –** Concerns regarding rezoning and the drip fields.

**Steven Lugg – 2144 English Garden Way –** Concerns regarding sewer system and drip fields and the tax implications per family.

**Truman Elrod – 2631 Westerham Way –** Will there be an additional pool & rec center for additional planned houses along with an additional exit/entrance?

**Bob Brenson – 2816 Chatham Place Ct. –** Concerns regarding drip fields and environmental implications.

**Kathy Burch Byers – 4635 Columbia Pike –** Concerns with whether the Board is a Board for the People.

**Roger Nixon – 2704 Brenda St. –** Concerns with the sign ordinance controversy and election day definitions.

**Brinton Davis – 2690 Thompson's Station Rd. E –** Complaint of behavior of Aldermen Dilks and Shepard as unethical.

**\*\*\*note\*\*\* Alderman Dilks wanted it noted that Mr. Davis was asked what was unethical and Mr. Davis did not respond.**

**Unfinished Business:**

- 1. Public Hearing and Second Reading Ordinance 2017-011: AN ORDINANCE OF THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF THOMPSON'S STATION, TENNESSEE TO AMEND SECTIONS 1.3 (DEFINITIONS), 2.2.3 (RESIDENTIAL SUBDIVISIONS, WORKPLACE COMMERCIAL CENTER), 3.3.7 (HILLSIDE AND RIDGELINE DEVELOPMENT), AND 4.17 (SIGNS) AND ADD SECTION 3.9.23 FOR STREET LIGHTING WITHIN SUBDIVISIONS OF THE LAND DEVELOPMENT ORDINANCE.**

Mr. Cosentini reviewed the report and the Planning Commission recommends that the Board of Mayor and Aldermen adopt Ordinance 2017-007 to amend the Town's Land Development Ordinance to modify these sections

**Public Hearing was then opened.**

**John Peterson – 3448 Colebrook Dr.** – Against changes in sign ordinance changes.

**Public Hearing was then closed.**

Alderman Dilks then read the following public statement:

This statement is to directly address comments made by Mayor Napier to the *Tennessean* within the past week regarding my lawsuit against the Town of Thompson's Station for the unconstitutional enforcement of its sign ordinance.

In the October 5, 2017 article titled "After lawsuit by alderman, Thompson's Station finally changing sign ordinance", our Mayor was quoted as saying:

"I think the Town handled it as best we could. It's a peculiar situation to say the least.

Apparently, the sign ordinance works for everybody else, and somehow it didn't seem to fit when it came up for a particular political campaign. When that person didn't get the answer they wanted, they sued us."

This blatant distortion of the truth is so egregious that I felt it had to be addressed tonight. First, I never did, never have, and never will ask our Mayor or any other government official for permission to exercise my constitutionally protected rights. I didn't request an "answer" as Mayor Napier characterized it. Instead it was the Mayor that insisted on selectively enforcing an unconstitutional law, violating my rights and those of my friends and neighbors in the process. To act as if this is some kind of privilege that public officials could either restrict or grant by giving me "the answer I wanted" shows an embarrassing misunderstanding of our rights as U.S. citizens and flagrant disrespect for the values on which our Country was founded.

Second, to believe that Town officials handled this "as best (they) could", shows extremely poor judgement. The Town lost this lawsuit and it wasn't a difficult legal question. The Mayor did the "best he could" to manufacture an election issue by selectively enforcing an illegal ordinance and then tried to fine me \$62,000; a sum large enough to devastate the finances of most families, mine included. Our Mayor makes no apologies for that. Apparently his position is that I had that coming for having the nerve to assert my free speech right against his delusional authority to violate that right.

Thanks to a Freedom of Information Act documentation request, we know that in a September 21, 2016 text message to BZA member Roger Nixon, the Mayor mentions the *Reed v. Town of Gilbert*, Arizona Supreme Court case. It was a 9-0 decision that rendered sign ordinances like the one in our Town unconstitutional. On October 9, 2016 the Mayor emailed Mr. Nixon a newspaper article that told how Mt. Juliet, TN had recently lost a similar case over campaign

signs and cost that Town \$15,000. Mayor Napier apparently has so little respect for the intelligence of the people he serves that he expects us to believe that with the knowledge of those two cases indicating that the Town was on questionable legal ground at best, that he was still doing the “best he could” to act in the interest of Thompson’s Station residents. Finally, to say that the sign ordinance works for everybody else and that I was the only one with a problem is disingenuous. For one, Alderman Stover challenged the ordinance along with me. He certainly had a problem with it. Alderman Shepard also had a problem with it. Our friends who had signs in their yards to show their support of me and Brian surely had a problem with it. Nine Supreme Court justices had a problem with it, as stated in their 2015 ruling. Last but not least, the evidence indicates that then-alderman-candidate and your friend John Peterson also had a problem with it. John wrote in a September 21, 2016 email to Mayor Napier and Roger Nixon:

“I am just furious about this. No campaigns have ever been held to this standard as long as I have lived here and some are in the neighborhood now...”

Curiously enough, John Peterson would later hypocritically collude with the Mayor to try to have me fined and removed from the planning commission, further elucidating their true motivations. Perhaps this ordinance was never challenged before because no public officials ever felt the need to selectively enforce it to try to defeat candidates they don’t like. Perhaps no other campaigns had problems with the ordinance in this election because, despite being informed about other signs, the Mayor chose to selectively enforce this law against only me and Brian Stover. It’s very telling that the Mayor did not raise any issues with signs for the Trump, Clinton, Whitson, or Rogers campaigns; the Town only went after the candidates the Mayor apparently thought he could intimidate and the races he had a strong rooting interest in.

Mayor Napier had numerous opportunities to end this violation of my constitutional rights and plenty of time to think it over. There was no upside to the Town pursuing enforcement and fines. Instead of doing the right thing, he chose to abuse his power in an increasingly transparent attempt to gain politically. After all, if he’s going to stick subdivision residents with new franchise fees and all the risk for expansion of the sewer system, he’ll need the Board votes to do so.

Instead of spending his time making sure the Critz Lane realignment was completed on time or legally instead of illegally purchasing an antique fire truck, our Mayor was busy doing “the best he could” to play dirty politics. Devious actions like those of the Mayor, Roger Nixon, and John Peterson have no place in our government or anywhere else for that matter.

**After discussion, Alderman Stover made a motion to approve Ordinance 2017-011, delete section 4.17 (signage) and send that section back to the Planning Commission for review. The motion was seconded and carried by a vote of 3 to 2 with Aldermen Dilks and Shepard casting the dissenting votes.**

#### **New Business:**

- 2. Resolution 2017-020: A Resolution of the Town of Thompson’s Station, Tennessee to approve a Contract to purchase real property from Encompass Land Group, LLC for the Town’s Wastewater System and other Public Purposes.**

Mr. Cosentini reviewed his report and recommended approval of Resolution 2017-020 as presented.

Bucky Ingram came forward to speak and answer questions on behalf of Encompass Development.

Alderman Shepard presented a brief slideshow regarding financing.

**After discussion, Alderman Bell made a motion to defer until the November BOMA meeting so that a work session may be held. After further discussion, Alderman Bell withdrew his motion.**

**Alderman Bell then made a motion to approve Resolution 2017-020 as presented with the contingency that financing will be approved in the November Board of Mayor and Alderman meeting. The motion was seconded and approved by all.**

The meeting then recessed at 9:18 for a break and resumed at 9:26.

- 3. First Reading of Ordinance 2017-012: An Ordinance of the board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee to amend the Town's Zoning Map by rezoning 60 acres southwest of Tom Anderson Rd (Portion of County Tax Map 132 Parcel 006.09) from D1 (Low Intensity Residential) to D3 (High Intensity Residential) and to rezone the remaining 106 acres from D1 to The T1 Zone.**

Mrs. Deats reviewed her Staff report and based on the findings of consistency with the Town's General Plan and that the proposed amendment to the zoning will not have a deleterious effect on the community, the Planning Commission recommends that the Board of Mayor and Aldermen pass Ordinance 2017-012 to amend the zoning map to rezone 60 acres of land (portion of Map 132, Parcel 006.09) from the D1 zone to the D3 zone. The Planning Commission also recommends that the remaining 106 acres be rezoned from D1 to the T1 zoning district.

**After discussion, Alderman Stover made a motion to approve First Reading of Ordinance 2017-012 as presented. The motion was seconded and carried by all.**

- 4. First Reading of Ordinance 2017-013: An Ordinance of the Board of Mayor and Aldermen of The Town of Thompson's Station, Tennessee to amend the Town's zoning map by rezoning 140.1 acres located at 1824 Sedberry Rd (Portion of County Tax Map 131 Parcel 007.01) from D1 (Low Intensity Residential) to D2 (Medium Intensity Residential) and to Rezone 65.12 acres (Portion of County Tax Map 131 Parcel 007) from D1 to T1.**

Mrs. Deats reviewed her report and based on the findings of consistency with the Town's General Plan and that the proposed amendment will not have a deleterious effect on the community, the Planning Commission recommends that the Board of Mayor and Aldermen pass Ordinance 2017-013 to amend the zoning map to rezone 140.1 acres (Map 131, Parcel 007.01) from the D1 zone to the D2 zone. The Planning Commission also recommends that the 65.12 acres of land set aside for drip fields be rezoned to the T1 zone in order to permanently preserve the land.

**After discussion, Alderman Stover made a motion to approve First Reading of Ordinance 2017-013 as presented. The motion was seconded and carried by all.**

- 5. First Reading of Ordinance 2017-014: An Ordinance of the Board of Mayor and Aldermen of The Town of Thompson's Station, Tennessee to amend Section 1.2.7 (Use Districts), Table 2.1 Community Types Criteria, Table 2.3 Community Types, Areas and Civic Spaces, Table 4.3 Transect Zone Non-residential uses.**

Mrs. Deats reviewed her report and the Planning Commission recommends that the Board of Mayor and Aldermen pass on first reading the adoption of Ordinance 2017-014 amending the Land Development Ordinance and set a public hearing and second reading for November 14, 2017.

**After discussion, Alderman Bell made a motion to approve First Reading of Ordinance 2017-014 as presented. The motion was seconded and approved by all.**

- 6. Resolution 2017-021: A Resolution of the Town of Thompson's Station, Tennessee to approve a contract to purchase real property from Ferrari Partners, LP for the Realignment of Critz Lane.**

Mr. Cosentini reviewed his report and recommended that the Board of Mayor and Aldermen approve Resolution 2017-21 as presented.

**After discussion, Alderman Stover made a motion to approve Resolution 2017-021 as presented. The motion was seconded and approved by all.**

- 7. Resolution 2017-022: A Resolution of the Town of Thompson's Station, Tennessee to approve a Contract Amendment with First Response, Inc. for services related to the cleanout of Lagoon 1 of the Town's Wastewater plant and to authorize the Mayor to sign the Agreement.**

Mr. Cosentini reviewed his report and recommended that the Board of Mayor and Aldermen approve Resolution 2017-022 as presented.

**After discussion, Alderman Stover made a motion to approve Resolution 2017-022 as presented. The motion was seconded and approved by all.**

Alderman Shepard then read the following statement:

Re:

*Board of Mayor and Aldermen Minutes of the Meeting June 13, 2017*

I am making this statement to improve the official record with regard to a disagreement between Town Administrator Joe Cosentini and myself that occurred during the June 13, 2017, Board of Mayor and Aldermen meeting. In my opinion, the meeting minutes Town Staff prepared and the Board accepted by 3-2 vote did not accurately reflect the discussion or its serious nature.

This disagreement involves the Tollgate Village Developer's current plan for a secondary access road and Town Staff's role in helping secure its approval by our Planning Commission.

Both Town Administrator Cosentini and Town Planner Wendy Deats actively supported the Developer plan which:

- Hurts Tollgate Village property values;
- Worsens quality of life of Tollgate residents;
- Harms all Thompson's Station residents by making it less likely Tollgate's "commercial in the front" vision will ever be fulfilled and accompanying sales tax revenue will ever be generated;
- Almost certainly will shift the estimated \$2 million cost burden of widening Columbia Pike and the West Harpeth River Bridge from the Developer to all Tennessee taxpayers; and
- Unnecessarily delays highway infrastructure improvements for perhaps a decade or more

All Town residents should know the Tollgate Village Concept Plan and supporting Traffic Study called for the Developer to pay for a full left and right turn secondary access road onto Columbia Pike to support commercial development AND a "connector" road to Independence High School. The Developer's current plan and most recent traffic study, in contrast, do not require construction of the "connector" road and worse, simply require construction of a relatively cheap "Right-in Right-out only" secondary access road.

All residents also should know that Town Staff routinely sends Developer traffic studies to an independent third party for review. In this case, Mr. Jeff Hammond, a traffic engineer employed by Nashville based RPM Transportation Consultants, provided a written report and concluded the Developer's "Right-in Right-out only" plan was "*undesirable*" and "*not recommended.*"

Unfortunately, shortly before the Planning Commission vote on the Developer request, Mr. Hammond suddenly reversed his written report conclusions and sent an email to Town Planner Deats saying he no longer opposed the "Right-in Right-out only" plan.

When I asked Mr. Hammond why he reversed his findings, he replied via email and stated, "*It is my understanding that the Development team met with TDOT staff who approved a Right-in Right-out condition.*"

This statement is inaccurate and I said Mr. Hammond's "understanding" was inaccurate during the June 13<sup>th</sup> BOMA meeting. TDOT did not approve the Developer's "Right-in Right-out only" plan. In fact, at that time the Developer had not even applied for approval.

It is important to mention that according to Mr. Bob Murphy, President of RPM Transportation Consultants, Mr. Hammond reversed his written report conclusions due to "*an email received by Jeff on March 16, 2017, from Brandon Baxter ...*"

Mr. Baxter is a traffic engineer serving the Tollgate Village Developer.

This information reveals a "fruit of the poisonous tree" situation.

- A Developer representative, Mr. Baxter, gave false and inaccurate information to Mr. Hammond, our Town traffic engineer.

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- Mr. Hammond, based on false and inaccurate information provided by the Developer's representative, subsequently dropped his professional unbiased finding that the "Right-in Right-out only" plan was "*undesirable*" and "*not recommended*."
- Town Administrator Cosentini and Town Planner Deats then immediately dismissed Mr. Hammond's written report; trumpeted Mr. Hammond's sudden reversal; and used that reversal as basis to recommend approval of the Developer's "Right-in Right-out only" access road plan.
- Our Planning Commission, based on Mr. Hammond's email reversal AND Town Planner Deats' inaccurate statement and explanation of that reversal, led our Planning Commission to approve the Developer's plan.

During discussion prior to the vote, Town Planner Deats told our commissioners that Mr. Hammond abandoned his findings that the Developer plan was "*undesirable*" and "*not recommended*" because "*one of the pieces of information that Mr. Hammond did not have was that TDOT had been working with the Developer and that a Right-in Right-out operation was appropriate at this time.*"

Town Planner Deats' statement was inaccurate and harmful because it led commissioners to think TDOT had approved the "Right-in Right-out only" plan.

The truth is TDOT and the Developer had **NOT** been working on this plan. In fact, there was only one meeting in which this proposed plan was presented to TDOT and both Town Administrator Cosentini and Town Planner Deats attended. Furthermore, all TDOT officials who attended that one meeting would testify they did not make any determination of appropriateness with regard to the "Right-in Right-out only" plan.

Phil Trammel, TDOT Region 3 Traffic Engineer Manager, maintains that his team simply encouraged the Developer to apply. The only commitment TDOT made was to review the "Right-in Right-out only" plan and make a determination after an application was submitted.

Why Town Planner Deats made her inaccurate and harmful statement remains unknown. Although I asked several times for an explanation, neither she nor Town Administrator Cosentini proved cooperative. This lack of cooperation and dismissal of my attempt to determine the historical facts surrounding this event is behavior I regard as unprofessional.

What we do know is that in response to my June 13, 2017, BOMA meeting comments, Town Administrator Cosentini objected and said he "*wholeheartedly disagreed*." When I asked what he disagreed with, Town Administrator Cosentini declared he was "*not going to get into specifics*." When I asked if he disagreed with my assertion that Town Planner Deats told the Planning Commission that TDOT determined a Right-in Right-out only access was appropriate at this time, Town Administrator Cosentini abruptly cut off discussion by stating, "*I am done*."

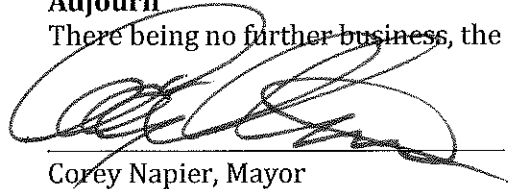
Town Staff provided inaccurate information to our Planning Commission and deliberately chose not to cooperate and help me understand the true history of this event. Both are serious matters and Town Staff and the Board should not censor this information and exclude it from our official historical record.

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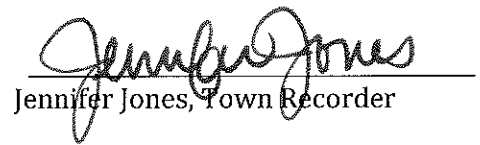
Let me end by clearly stating that I am disappointed with Town Staff's active and ongoing support of the Developer's "Right-in Right-out only" plan which our independent traffic engineer found to be "*undesirable*" and "*not recommended*" and a plan that, left unchanged, will harm all people who drive on Columbia Pike and all Tennessee taxpayers.

**Adjourn**

There being no further business, the meeting was adjourned at 10:15 p.m.



Corey Napier, Mayor



Jennifer Jones, Town Recorder