

April 2, 2012

The regular meeting of the Town of Franklin Board of Aldermen was held on Monday, April 2, 2012 at 7:00 P.M. in the Town Hall Board Room. Mayor Joe Collins presided. Aldermen Verlin Curtis, Joyce Handley, Farrell Jamison, Billy Mashburn, Carolyn Pattillo and Bob Scott were present.

Approval of the minutes

Motion was made by Pattillo, seconded by Jamison to approve the minutes for the March 5, 2012, March 19, 2012 and March 24, 2012 meetings as presented. Motion carried. Vote: 6 to 0.

Proclamation for National Nurses Week

Motion was made by Handley, seconded by Curtis to proclaim the week of May 6-12, 2012 as National Nurses Week in Franklin. Motion carried. Vote: 6 to 0. A copy of the proclamation is attached.

Public hearing – rezoning for Mary Ann Creswell, et al

Mayor Collins opened the public hearing on the rezoning petition for Mary Ann Creswell, et al at 7:05 P.M. The following persons spoke at the public hearing.

Michael Grubermann – Land Use Administrator – We have a similar situation to the one on Windy Gap Road occurring on Collins Lane. Mary Ann Creswell would like to subdivide her lot to place a manufactured home on the property for a family member. Her property at 44 Collins Lane is zoned Residential (R-1) and in order to do what she desires the zoning would need to be rezoned to Residential (R-2). She asked her neighbors to join in the rezoning petition. Therefore, there are six parcels with six owners involved in this petition. The six properties total 2.03 acres and encompass all but three Collins Lane addresses. The Planning Board met on February 21, 2012 and their recommendation was to approve the rezoning to Residential (R-2).

Jean Welch – Will rezoning these properties lower the value of my property?

Mayor Collins – We cannot tell you that information.

Mayor Collins closed the public hearing at 7:10 P.M.

Rezoning petition for Mary Ann Creswell

Motion was made by Pattillo, seconded by Curtis to rezone the following properties located on Collins Lane to Residential (R-2). Motion carried. Vote: 6 to 0.

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Mary Ann Creswell	#6585708784	0.50 acre	44 Collins Lane
Mark S. Young	#6585709898	0.18 acre	35 Collins Lane
Michael Melton	#6585708802	0.28 acre	73 Collins Lane
John S & Linda Grant	#6585709816	0.23 acre	51 Collins Lane
Carol Collins	#6585706688	0.51 acre	108 Collins Lane
Clarence A. Cullins	#6585800991	0.33 acre	17 Collins Lane

Public hearing – Special use application for Ferrell Gas

Mayor Collins opened the public hearing on the special use application for Ferrell Gas at 7:13 P.M. The following persons spoke at the hearing.

Michael Grubermann – Land Use Administrator – We have received an application for a special use permit from Ferrell Gas to locate a distribution facility on 0.75 acres of a 7.46 acre parcel owned by Dennis Stamey. This property is located at Old Dairy Barn Road and Burnette Road. The actual site on the property has been moved to be west of the town’s pipeline easement. The location is just west of the above intersection. This change was so that the tanks will be placed in accordance with state and local requirements of distance from the creek and property lines. This is the most remote of the several sites that were under consideration. The Stamey property is an existing satellite annexation and is zoned C-2. It is beyond our ETJ and none of the surrounding properties are zoned. The Planning Board met on February 21, 2012 and made a recommendation to approve the findings of fact and to approve the special use application to Ferrell Gas.

No other persons spoke at the public hearing.

Mayor Collins closed the public hearing at 7:15 P.M.

Special use application for Ferrell Gas

Motion was made by Mashburn, seconded by Curtis to approve the following findings of fact and to approve the special use application for Ferrell Gas. Motion carried. Vote: 6 to 0.

(a) The 7.49 acre parcel where the 0.75 acre site for the facility is located at and to the west of the water pipeline easement for the Town of Franklin, as shown on the map with the application. The site will contain two 30,000 gallon propane storage tanks. Ferrell Gas has indicated that they do not plan to store other empty tanks at this site. The site meets the compaction requirements for the fill and the state standards for distances required from the facility. The owner of the property, Dennis Stamey, has indicated that the Army Corps of Engineers has approved his fill work. The site will be fenced and have security.

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(b) The use or development is located, designed and proposed to be operated so as to maintain or promote the public health, safety and general welfare. Ferrell Gas has indicated that they will conform to the regulations of the State of North Carolina and the Franklin UDO for their facility.

(c) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in Section 4.11, of the UDO. The property is not currently served by town utilities and at this time none are required. The only traffic that will be generated will be from their vehicles accessing the facility. Travel distance to Route 64 is very short.

(d) The use or development complies with all required regulations and standards of the Unified Development Ordinance or with variances thereto, if any, granted pursuant to Section 4.4.14, of the UDO, and with all other applicable regulations. No variances are required at this time and the new development complies or will comply with the UDO with reference to special uses and other zoning provisions.

(e) The use or development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located. The proposed development will not cause disruption to the area surrounding the property. The proposed development is in an area that is basically industrial and any housing is an extended distance from the site.

(f) The use or development conforms with the general plans for the physical development of the Town as embodied in this Ordinance, the Principles of Growth, the Thoroughfare Plan, and any other duly adopted plans of the Town. The Special Use as proposed is in compliance with the UDO. The land development permit when applied for will meet the UDO requirements before issuance.

The applicant has met the burden of establishing these findings of fact. In addressing the issue of compatibility, as required in paragraph (e) above the applicant has demonstrated compatibility with the particular neighborhood in which the development or use is to be located. The fact that a use is authorized as a special use within a zoning district classification has not given rise to a presumption that such special use is compatible with other uses authorized in the zoning district classification.

Public session

No persons were present to speak at the public session.

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Street closing request for Smoky Mountain Rumble

Scott Cochran – US Rider News - We are requesting permission to close the streets that are normally closed during the annual Pumpkin Festival from Thursday night at 10 P.M., August 17, 2012 to Sunday night at 10 P.M., August 19, 2012 for the Smoky Mountain Rumble downtown. We want to place vendors in tents and trailers on these streets. We want to locate a stage on Main Street at the end near the funeral home with live bands during the day and evening up to 11 P.M.

Alderman Scott – I am against this event. You should have come earlier with street closing requests.

Scott Cochran – We have had a similar event in Helen, Georgia for the past several years. We have an action plan and there have been no problems.

Alderman Scott – Where is the money to pay for overtime to the police and for the trash pickup?

Mayor Collins – There cannot be live music if there is a visitation or funeral at the funeral home.

Alderman Pattillo – The TDA has approved this event. Helen has had no problems. We need to try it one time.

Russell Bowling – I will let them use my parking lot on Friday night, but not on Friday during business hours.

Scott Cochran – The stage location is planned near the Motor Company Grill so that alcohol can be served.

Alderman Mashburn – I am not in agreement for four days. It will not be your decision how many streets will be closed for this event. The Board will need to make that decision.

Alderman Jamison – We will need access for emergencies.

Alderman Curtis – We will have to see if there will be legal issues about serving alcohol on the streets.

The Board did not take action on this street closing request. Scott Cochran agreed to provide additional information on the concerns of the Board.

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Resolution to the North Carolina General Assembly

Motion was made by Scott, seconded by Curtis to adopt a resolution to the North Carolina General Assembly to petition Congress that the U.S. Constitution be amended to firmly establish that money is not speech, and that human beings, not corporations, are persons entitled to constitutionally protected political speech. Motion carried. Vote: 6 to 0. A copy of the resolution is attached.

Set public hearing for Garrett & RJW Holdings rezoning request

Motion was made by Pattillo, seconded by Scott to set the public hearing for Garrett & RJW Holdings rezoning request for Monday, May 7, 2012 at 7:05 P.M. Motion carried. Vote: 6 to 0.

Set public hearing for Westgate Terrace Affordable Housing special use application

Motion was made by Handley, seconded by Jamison to set the public hearing for the Westgate Terrace Affordable Housing special use application for Monday, May 7, 2012 at 7:10 P.M. Motion carried. Vote: 6 to 0.

Appoint Derek Roland to the Macon County Planning Board

Motion was made by Curtis, seconded by Pattillo to appoint Derek Roland to the Macon County Planning Board. Motion carried. Vote: 6 to 0.

Budget amendment

Motion was made by Pattillo, seconded by Mashburn to approve the budget amendment presented by Janet Anderson. Motion carried. Vote: 5 to 1. Voting yes: Curtis, Handley, Jamison, Mashburn and Pattillo. Voting no: Scott. A copy of the budget amendment is attached.

Request from Macon County to waive previous legal agreement for Macon Middle School

Sam Greenwood said Macon County has requested that \$16,006.26 in the 2006 legal agreement between the Town of Franklin, McGill Associates and L-J Construction be forgiven by the Town of Franklin for the Macon Middle School sewer project. Alderman Curtis said I did not agree to anything at the meeting. He said I believe the county owes the money but I am willing to forgive it. Alderman Jamison said I have concerns about future agreements between the county and town is going to be an issue. Jack Horton said the Town put the sewer to Macon Middle School for the county. He said the sewer pipe over the Little Tennessee River washed out twice. He said the county redesigned the sewer line when the new intermediate elementary school was constructed and the county paid \$175,000.00 to do so.

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Motion was made by Curtis, seconded by Mashburn to forgive Macon County the \$16,006.26 agreed to in the L-J Construction lawsuit. Motion carried. Vote: 6 to 0.

Consideration on new utility interlocal agreement

John Henning, Jr. said I have a utility interlocal agreement with Macon County for your consideration. He said I have talked to Chester Jones about this agreement. He said no action needs to be taken at this time.

Report on Cove Crossing sewer line

Alderman Curtis said the Cove Crossing subdivision wants to get rid of a pump station. He said they will install four feet of sewer line at their expense and will be getting the necessary easements.

Motion was made by Handley, seconded by Pattillo to accept the sewer line from Cove Crossing Subdivision when completed. Motion carried. Vote: 6 to 0.

Final recommendation for ABC store location

Sam Greenwood said the recommendation from the ABC Committee is to purchase a site from Bright-Myers in the new Wal-Mart Shopping Center for a 6,400 square foot building to be constructed in the amount of \$1,250,000.00. Mayor Collins said what about the property offered by Mark Berry to the town? Alderman Curtis said we met with Mark on Monday about his offer; however, we did not receive the necessary written information by the Thursday deadline. Mayor Collins said I would like to give consideration to Mr. Berry. Alderman Curtis said his building plans are not complete and his price is the same. Alderman Handley said the traffic flow will be better at the Wal-Mart center. Alderman Mashburn said I do not agree with the statements about the earnest money. Mr. Henning, Jr. said this would not be binding to the town. Alderman Scott said I am against spending this amount of money when there are empty properties in town.

Motion was made by Pattillo, seconded by Handley to accept the ABC Committee recommendation and to authorize Town Manager Sam Greenwood to sign the letter of intent with Bright-Myers for a 6,400 square foot building to be constructed in the amount of \$1,250,000.00. Motion carried. Vote: 5 to 1. Voting yes: Curtis, Handley, Jamison, Mashburn and Pattillo. Voting no: Scott.

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Agenda change

Sam Greenwood said we need to add the following item to the agenda: consideration of a replacement resolution of the award of the wastewater system improvements.

Motion was made by Curtis, seconded by Handley to add the following item to the agenda: consideration of a replacement resolution of the award of the wastewater system improvements. Motion carried. Vote: 6 to 0.

Resolution of award of the wastewater system improvements

Sam Greenwood said you need to pass this resolution because of changes to the wording. He said this resolution will replace the previous resolution passed on February 6th, 2012.

Motion was made by Pattillo, seconded by Mashburn to adopt the revised Resolution of Tentative Award for the Wastewater System Improvements in replacement of the resolution passed on February 6th, 2012. Motion carried. Vote: 6 to 0. A copy of the resolution is attached.

Other business

Alderman Jamison said the asbestos inspection was finished today at the Whitmire property. He said I will have a report at the next meeting.

Departmental reports are attached.

Adjournment

Motion was made by Handley, seconded by Curtis to adjourn the meeting at 8:45 P.M. Motion carried. Vote: 6 to 0.

Joe Collins, Mayor

Janet A. Anderson, Town Clerk