

Town of Franklin Board of Aldermen
Agenda
Monday, August 2, 2010
7 p.m.

1. Call to order – Mayor Collins
2. Approval of the July 6 and July 15, 2010 minutes
3. 7:05 p.m. (A) Public hearing on the special use application from Bright-Meyers 2001 LLC (Wal-Mart Supercenter)
(B) Consideration of special use application
4. Public session
5. Request to close portions of East Main, Iotla and Phillips streets for Pumpkinfest – Linda Schlott
6. Consideration of request for non-profit funding from the Little Tennessee Watershed Association – Jenny Sanders
7. Sludge digester project with the North Carolina Rural Center
(A) Consideration of affirming resolution
(B) Consideration of capital project ordinance
(C) Certification of minority business participation
8. Ratification of telephone poll regarding the Franklin Hydroelectric Project – Town Attorney
9. Adjourn

NOTE: The September regular meeting will be held Tuesday, September 7, 2010.

August 2, 2010

The regular meeting of the Town of Franklin Board of Aldermen was held on Monday, August 2, 2010 at 7:00 P.M. in the Town Hall Board Room. Mayor Joe Collins presided. Aldermen Verlin Curtis, Jerry Evans, Joyce Handley, Billy Mashburn, Carolyn Pattillo and Bob Scott were present.

Approval of the minutes

Motion was made by Handley, seconded by Pattillo to approve the minutes for the July 6, 2010 and the July 15, 2010 meetings as presented. Motion carried. Vote: 6 to 0.

Public session on the special use application from Bright-Meyers 2001 LLC (Wal-Mart Supercenter)

Mayor Collins opened the public hearing at 7:05 P.M. He said Bright-Meyers 2001 LLC is requesting a special use for a Wal-Mart Supercenter. He said the request is for a larger footprint and larger signage than what is allowed in the Town's UDO. Mayor Collins said these are the only two issues that can be addressed during the public hearing. He said this public hearing is not for opinions. He said we have to follow state statute.

John Henning, Jr. said the Board can only consider evidence given at the public hearing since this hearing is quasi-judicial. He said the Board's decision has to be based on this evidence. He said Alderman Bob Scott will need to rescue himself from the public hearing because of the poll that he put in the local newspapers. Alderman Scott rescued himself from the public hearing and from voting on the special use application.

Michael Grubermann – Land Use Administrator – Bright-Meyers 2001 LLC is requesting a special use consideration for the development of a Wal-Mart Supercenter of about 120,000 square feet with two outbuildings of about 32,000 square feet total and the associated parking. The property is located at the southwest corner of Dowdle Mountain Road and Wells Grove Road. They are also requesting an increase in the allowable signage from 70 square feet to 150 square feet for the free standing sign and attached signage from 250 square feet to 298 square feet. The development is meeting all of the other requirements. A traffic impact study has been done. All roads surrounding the development are North Carolina Department of Transportation roads. There will be some extension of lanes in association with the planned Siler Road extension. The Planning Board met on June 15, 2010 and has recommended the development be approved in accordance with its findings of fact. The Planning Board also recommended approving the 298 square foot sign and the 150 square foot sign for the free standing monument sign. A Neighborhood Compatibility meeting was held on June 8, 2010. All property owners within 400 feet of the property were notified. The property will be annexed. The property is already served by water and will be served by sewer when the Town completes a sewer extension project already approved. Michael Grubermann affirmed his testimony. Information copies are attached.

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Elexa Wagman – Bright-Myers 2001, LLC – We are the developer for the Wal-Mart Supercenter. We have been doing this development for over twenty-five years. This will be a good spot for a supercenter.

Todd Simmons – Freeland and Kauffman, Inc. – We are located in Greenville, South Carolina. We have been working on the site plan at Dowdle Mountain Road. The North Carolina Department of Transportation will be doing improvements to the roads surrounding the development. Our entrance will align with the new road. We are purposing a building with 118,000 square feet with grocery and retail space. There will be 32,000 square feet of shop space. All necessary parking facilities will be done. We will comply with the Town's storm water ordinance. All landscaping requirements have been met. This is the smallest footprint of the three buildings that we are currently doing. The existing Wal-Mart is 90,000 square feet.

Todd E. Salvagin – SRS Engineering, LLC – I am the traffic engineer. We have done a traffic study that will be approved by the North Carolina Department of Transportation.

Sunday Bougef – Scott & Gamble Architects – The signage increase is from 250 square feet to 298 square feet. We need that size for it to fit on our building. We are asking for 150 square feet for the monument sign. It will be a ground based sign.

John Henning, Jr. – Town Attorney – The UDO requires that the Board does this process for a special use permit. This hearing is not a critique of the UDO. That is not the question before us tonight.

Marty Kimsey – If the footprint increase is not approved it will stop the project. Construction in the private sector is down. I am in favor of granting the special use permit.

Emily Dale – I have served on the Macon County Planning Board. If this special use is granted, it will establish a precedent.

Darrell Reynolds – I am in favor of the space and the sign. We have freedom of choice. If you do not like the supercenter do not use it. This is progress.

Bob Carpenter – I want to commend the Board for their professional manner tonight. The signage and footprint is a legitimate process for Wal-Mart. Our unemployment is over 9 percent. I am in favor of the footprint and signage increase.

Rod Pohlenz – Using that corner will cause a traffic problem.

John Cantrell – I am a high school teacher. Concerning the road system, the North Carolina Department of Transportation needs to consider the middle schools that are nearby.

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Narelle Kirkland – It is a nightmare to come in and out of the supercenter located in Sylva and Clayton.

R. Mark Addy – I represent the owners of the shopping center that Wal-Mart currently rents from in Franklin. Any further expansion will cause a large vacancy in their shopping center. The owners of the shopping center are against Wal-Mart building a new store.

Debby Boots – There should be a requirement of a public hearing on the project. They need to show their plans. We need to be more informed. I want the special use permit to be denied.

Norma Ivey – I am opposed to expanding the footprint because of the soil surface that will be disturbed. There will be an increase in temperature. The roads are dangerous.

Brent Martin – We need more clarification. You need to deny the permit in the best interests of the citizens.

Angela Martin – They need to show a picture of the sign. I am opposed to the sign change.

Mike Kegan – I am against the size of the development. This is the worst area to put this development.

Sarah Southerland – You need to support small business owners. The developers are not from our community.

Mayor Collins closed the public hearing at 8:10 P.M.

Consideration of special use application

Motion was made by Pattillo, seconded by Curtis to adopt the following findings of fact and to approve the special use application for Bright-Meyers 2001, LLC. Motion carried. Vote: 5 to 0.

Findings of Fact:

- (a) The parcels included in the application are currently zoned Secondary Commercial (C-2) and the application presented requests special use approval for the development of 33.04 acres to include three buildings of retail development and the associated parking. This development includes a Wal-Mart Supercenter of about 120,000 square feet and two additional buildings totaling 32,000 square feet. The application also requests consideration of changes in sizes of the allowable square feet for the Wal-Mart attached sign and up to 150 square feet for the development's free standing monument sign.

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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. The developer has indicated that the development will conform to the regulations of the UDO and will not negatively impact the surrounding area. Landscape buffering, lighting, storm water management and other aspects of the development will be in compliance with the UDO requirements.
- (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 sewer; however, it is served by town water and adequate capacity is available for the addition of the number of buildings/units in this development. Sewer will be extended to the site by the town as part of a sewer extension project planned by the town. North Carolina Department of Transportation will be the approving body of the access to and from this development as it is fronted by Department of Transportation roads. A traffic analysis has been done by the developer and has been provided to the North Carolina Department of Transportation for its approval. North Carolina Department of Transportation will decide what improvements are to be installed by the developer.
- (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 and the new development complies or will comply with the UDO with reference to special uses and other zoning provisions before permits are issued.
- (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 is predominately situated with the surrounding land either vacant or lightly populated. There is a landscape buffer that will be provided along the property that abuts residentially zoned areas to the south and west. There is a significant elevation change from this development to the adjoining roads and surrounding properties. The proposed development will not cause disruption to the area surrounding the property.
- (f) The use or development conforms to 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 and will be in compliance with the UDO. The land development permits when applied for will meet the UDO requirements before issuance.

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The applicant in the opinion of the Board of Aldermen 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.

Recess

Mayor Collins recessed the meeting at 8:15 P.M.

Mayor Collins reconvened the meeting at 8:32 P.M.

Public session

Narelle Kirkland – I had a plan five years ago to do a park in frogtown. Now the Drakes are developing the property commercially. I have a plan for the Whitmire property. I think you should do a park and an amphitheatre on the property.

Request to close portion of East Main, Iotla and Phillips streets for Pumpkinfest

Linda Schlott said Franklin Main Street is requesting that East Main, Iotla and Phillips streets be closed for Pumpkinfest. She said the streets would be closed from Friday, October 22, 2010 at 6:00 P.M. until Saturday, October 23, 2010 at 6:00 P.M. She said the detour route is right on Riverview Street, left on White Oak Street, left on Iotla Street, right on Church Street, left on Harrison Avenue and back to Main Street. Ms. Schlott said we have North Carolina Department of Transportation permission. Information copies are attached.

Motion was made by Handley, seconded by Pattillo to close the streets as requested. Motion failed. Vote: 2 to 4. Voting yes: Handley and Pattillo. Voting no: Curtis, Evans, Mashburn and Scott.

Consideration of request for non-profit funding from the Little Tennessee Watershed Association

Jenny Sanders said the Little Tennessee Watershed Association is requesting \$4,000.00 from the non-profit funding pool to continue the campaign to protect the quantity and quality of the headwaters of the Little Tennessee River. Information copies are attached.

Motion was made by Scott, seconded by Pattillo to approve the request of \$4,000.00 from the non-profit funding pool to the Little Tennessee Watershed Association to be used only in the campaign to protect the quantity and quality of the headwaters of the Little Tennessee River. Motion carried. Vote: 6 to 0.

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Sludge digester project with the North Carolina Rural Center

Sam Greenwood said the improvements at the wastewater treatment plant are in two phrases. He said the sludge digester project is in the second phrase. Mr. Greenwood said we can possibly use federal stimulus funds for this project. He said we may be able to receive grant funds from the North Carolina Rural Center this fall. He said we need to comply with the Rural Center's requirements by adopting the necessary documents. Informational copies are attached.

Motion was made by Mashburn, seconded by Evans to affirm the Resolution with the North Carolina Rural Center. Motion carried. Vote: 6 to 0. A copy of the resolution is attached.

Motion was made by Mashburn, seconded by Evans to adopt the capital project ordinance for the Sludge Digester at the wastewater treatment plant. Motion carried. Vote: 6 to 0. A copy of the ordinance is attached.

Motion was made by Mashburn, seconded by Evans to approve the Certification of Minority Business Participation. Motion carried. Vote: 6 to 0. A copy of the certification is attached.

Ratification of telephone poll regarding the Franklin Hydroelectric Project

John Henning, Jr. said we need to ratify the telephone poll taken Friday, July 23, 2010 approving the letter to John Dorney with the Division of Water Quality in regard to the Franklin Hydroelectric Project.

Motion was made by Evans, seconded by Curtis to ratify the telephone poll taken Friday, July 23, 2010 approving the letter to John Dorney with the Division of Water Quality in regard to the Franklin Hydroelectric Project. Motion carried. Vote: 6 to 0.

Utility Agreement with North Carolina Department of Transportation

John Henning, Jr. said we need to approve a utility agreement with the North Carolina Department of Transportation for the extension of the Town's water line along Siler Road. He said the cost is \$162,500.00. He said the water line will be suspended under the new bridge. He said we will be made aware of any change orders. Sam Greenwood said the bridge will be able to support the line. He said by extending this line we can loop it to the water line on Wells Grove Road. He said we need this line package before the Department of Transportation goes out for bids in September. Mr. Greenwood said this is the cheapest way to do this water project. Alderman Mashburn said where are the exhibits? He said this is the first time we have seen this project. He said we have never paid for these lines in the past. Alderman Scott said the Board never endorsed this bridge or road project in the past. He said who will benefit from this extension? Mr. Greenwood said nobody for a while. Mr. Henning, Jr. said the project will cost

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more in the future. Mr. Greenwood said the Department of Transportation can design the bridge to put the water line on it now. He said it will benefit the Town in the future. He said most likely we cannot put the water line on the bridge later. He said there is no specific user now. Alderman Curtis said it will cost a little over \$100.00 per foot for 1,500 feet of line. Alderman Mashburn said are we going to have to add to the line later? Mr. Greenwood said we will sign off on the plans before they are put to bid. Alderman Mashburn said is the cost estimate correct? Mr. Greenwood said they are using the same specifications that we have to with the state.

Motion was made by Mashburn, seconded by Evans to approve the Utility Agreement with the North Carolina Department of Transportation in the amount of \$162,500.00. Motion carried. Vote: 5 to 1. Voting yes: Curtis, Evans, Handley, Mashburn and Pattillo. Voting no: Scott. A copy of the agreement is attached.

Other business

Departmental reports are attached.

Adjournment

Motion was made by Scott, seconded by Mashburn to adjourn the meeting at 8:35 P.M. Motion carried. Vote: 6 to 0.

Joe Collins, Mayor

Janet A. Anderson, Town Clerk