

**Tyrone Town Council
Meeting Minutes
February 20, 2020**

Present:

Mayor, Eric Dial

Mayor Pro Tem, Gloria Furr

Council Member, Ken Matthews

Council Member, Linda Howard

Council Member, Melissa Hill

Town Clerk, Dee Baker

Police Chief, Randy Mundy

Planning & Zoning Coordinator, Phillip Trocquet

Court Clerk, April Spradlin

Finance Manager, Sandy Beach

Library Supervisor, Patty Newland

Public Works Director/Engineer, Scott Langford

Town Manager, Brandon Perkins was absent.

Public Comments

Mr. Hank Sanak, who lives at 2035 Castle Lake Drive spoke regarding the Castle Lake Dam. He explained that the state had recently reclassified the dam as a class one dam, similar to the Pendleton dam. He pleaded with Council to lend assistance. He added that the homeowner's association had applied with the County for a grant, which was given to another entity. Mr. Sanak stated that the bill to bring the dam into compliance would be approximately \$800,000 and that they had already spent \$200,000 within the last couple of years. Most lake owners are retired and do not have the \$20,000 it would cost each home owner adjacent to the lake. He asked Council again for their assistance. He ended by asking that the item be placed on a future public meeting agenda for discussion.

Approval of Agenda

Council Member Matthews made a motion to approve the agenda.

Council Member Howard seconded the motion. Motion was approved 4-0.

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Consent Agenda: *All matters listed under this item are considered to be routine by the Town Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.*

Approval of minutes, February 6, 2019

Consideration of two Facility Encroachment Agreements with CSX Railroad for the downtown sewer project.

Consideration for approval of a change order related to site work for the new Municipal Building

Council Member Furr made a motion to approve the consent agenda.

Council Member Matthews seconded the motion. Motion was approved 4-0.

Presentations/Recognition:

Proclamation: 2020 Census

Mayor Dial explained the importance of the Census. By receiving a correct count, it could increase Federal funding for the Town and our Representatives in Congress.

Public Hearing:

1. To consider a text amendment to section 113-128 of Article V of the Zoning ordinance to add Assisted Living, Memory Care, and Independent Living establishments to the permitted use section. *Phillip Trocquet, Planning and Zoning Coordinator*

Mr. Trocquet explained that Mr. Steve Gulas submitted the text amendment application in order to add Assisted Living, Memory Care, and Independent Living institutions to the C-1 zoning district as permitted uses. He added that currently the establishments were not listed in our ordinance, but are however, increasing within the County. It seemed appropriate that the Town addresses them in our ordinance. Nursing Homes are currently allowed in the O-I (Office Institutional zoning district. Mr. Gulas submitted terms as interchangeable uses. Mr. Trocquet suggested that that definitions be used listed in his staff report. He added that they were consistent with uses in the C-1 zoning district. He stated that Nursing Homes were currently allowed within the O-I zoning district which was a lighter zoning. Mr. Trocquet stated that staff recommended adding Nursing Homes to the C-1 zoning district for consistency regardless. The request for Independent Living to be added to the C-1 zoning district was not recommended.

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He added that Independent Living Establishments were typically found in higher density residential districts and usually took the form of age restrictive apartment complexes. Assisted Living and Memory Care facilities are normally found in light commercial districts due to the needed staff and care.

Mr. Trocquet shared that there was public support at the last Planning Commission meeting, and letters of support were submitted. He stated that Planning Commission only approved Care Homes be approved as an overarching term for Assisted Living and Memory Care facilities. Planning Commission also voted to add the definitions and to add Nursing Homes to the C-1 district. He stated that for Council's consideration, Planning Commission Chairman Nebergall requested that Nursing Homes be taken out of the O-I zoning district.

Mr. Trocquet shared that his staff recommendation had changed from what was initially submitted. He recommended denial of the request as presented. He recommended a resubmission to Planning Commission due to all of the ancillary effects the request had on the ordinance. He recommended that all definitions and uses be advertised together for C-1, C-2, and I-I zonings for consistency.

Mayor Dial opened the public hearing for anyone that wished to speak in favor of the text amendment.

Mr. Steve Gulas, the applicant, spoke in favor of the text amendment. He stated that he had petitioned a feasibility study for the south east corner of Highway 74 and Dogwood Trail which was favorable to an Assisted Living facility. He stated that he requested that Assisted Living, Memory Care, Nursing Homes, Independent Living facilities all be listed in the C-1 zoning district. He requested that Independent Living should have a requirement for a meal plan and kitchen. He stated that there was a difference between senior housing, age restricted, and memory care. Mr. Gulas added that it would make sense to place Nursing Homes into the C-1 zoning district. He stated that his plan was to develop his facility within the Highway Quality Growth Overlay District. It would also look nice made with brick, stone, and glass.

Mayor Dial opened the public hearing for anyone that wished to speak in opposition of the item. No one spoke.

Mayor Dial asked Mr. Trocquet to give a quick list of items that he felt needed further consideration from the Planning Commission.

Mr. Trocquet listed: to add and advertise the definitions, advertise to move Nursing Homes into C-1 zoning and to eliminate Nursing Homes from the O-I zoning district per Chairman Nebergall.

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This would all be advertised, brought to the Planning Commission and then to Council for your approval.

Council Member Furr inquired about the C-2 zoning requirements. Mr. Trocquet stated that all uses that are allowed in C-1 are automatically allowed in C-2.

Mayor Dial inquired about parking. Mr. Trocquet stated that the Town's ordinance has a separate parking ordinance and Care Homes are treated similarly to Hospitals are within that ordinance.

Council Member Howard inquired about lot size. Mr. Trocquet stated that in regards to acreage, parking and septic, they would fall under the site plan requirements. He added that the second public hearing would address building and lot square footage.

Council Member Furr asked why there were no current ordinances for Assisted Living and Memory Care Homes? Mr. Trocquet posed that in the past, Nursing Homes were a more common than the types today. Council Member Furr then asked why Nursing Homes were initially placed in the O-I zoning? Mr. Trocquet stated that he assumed it was placed in O-I because it was more intense than residential, but typically it should be in light commercial as well.

Mr. Gulas stated that Dr. Kahn, a local Tyrone physician was offering services at Somerby and that she was excited to hear of Mr. Gulas' plan.

Council Member Furr made a motion to send the request back to Planning Commission for review. Council Member Matthews seconded the motion. Motion was approved 4-0.

2. To consider a text amendment to section 113-128 of Article V of the Zoning Ordinance to amend development standards regarding maximum building size.

Phillip Trocquet, Planning and Zoning Coordinator

Mr. Trocquet stated that Mr. Gulas was also requesting that the current standard building size of 30,000 total square feet be amended to read "Maximum building size- 30,000 sq. ft. footprint or Maximum building size – 45,000 square feet for single story and 30,000 square feet for multi-story. Mr. Trocquet noted that the definitions of nursing homes was listed in his staff report. He stated that the initial approval in 2007 was to limit big box development.

He added that given that big box developments in suburban communities were almost always single-story structures, it did not seem contradictory to the intent of the ordinance to allow a 30,000 square foot maximum footprint requirement. From a size and mass perspective, buildings would be held to the same height restrictions and architectural standards.

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Mr. Trocquet stated that staff did not recommend a 45,000 square foot, single story structure. It contradicts the 2007 ordinance. He added that he believed that any square footage modification for C-1 should also apply to C-2. Mr. Gulas' request is tied into other ordinances and should be consistent. In regards to parking requirements, it would be the same for Care Homes as it is for Hospitals, including a separate septic system approved by Fayette County Environmental Health. A traffic study for the Highway 74 corridor is required for C-1 and C-2. He stated that the Planning Commission approved a 30,000 sq. ft. footprint development and that staff recommended to send the request back through Planning Commission for consistency.

Council Member Hill began a discussion regarding big box stores. She stated that if Council allowed Mr. Gulas' 45,000 square foot building, then 45,000 square foot buildings would be allowed in all of C-1. This would give way to big box stores. Mr. Trocquet stated that the buildings could potentially be big box stores at 45,000 sq. ft. He added that usually big box stores ranged from 30,000 sq. ft. to 200,000 sq. ft. Mr. Trocquet clarified that uses from C-1 were automatically allowed in C-2, however, development standards were not.

Council Member Furr asked for the dimensions of the Goodwill building. Mr. Trocquet shared that he believed it was roughly 26,000 sq. ft. and 22-25 feet tall. She then shared concern of a potential 30,000 sq. ft., three story building. He shared that the height requirement for C-1 was 40 feet. Technically, Goodwill could have an additional floor added and look the same from the exterior, but the square footage requirement would not allow it. Council Member Furr asked if Mr. Gulas' building was approved at 45,000 sq. ft. if it could potentially be a 90,000 sq. ft. building with three floors. Mr. Trocquet clarified that if that were the case, the developer would still have to meet the site plan requirements, such as septic tank requirements, parking, and buffer requirements. He ended by stating that typically variances would not be permitted in cases such as that.

Mayor Dial opened the public hearing for anyone that wished to speak in favor of the item. Mr. Gulas spoke in favor and shared two floor plans. One floor plan was for 30,000 sq. ft. footprint of two stories with eighty units, the other with 45,000 sq. ft. single-story with sixty units. The plans included septic plans and nursing staff on each floor. He stated that if a 45,000 sq. ft. facility was allowed, it would promote corporate offices and/or Assisted Living. He stated that his intent was not to promote big box. He requested 30,000 sq. ft. footprint or 45,000, specific to Assisted Living/Non-Retail.

Mayor Dial opened the public hearing for anyone that wished to speak in opposition of the item. No one spoke.

Council Member Furr asked Mr. Gulas, how many acres was his lot on Highway 74. He stated that his lot was 4.7 acres. Mayor Dial asked how much of the lot was buildable. Mr. Gulas stated that he believed that 30% was dedicated to greenspace. Council Member Furr inquired about the septic system. Mr. Gulas stated that the septic system was an expensive and elaborate system and that he had spoken with Fayette County Environmental Health. He also added that he would have sufficient parking.

Mr. Davenport shared his concern that generally, if you have uses that are permitted in C-1 that have no conditions it is difficult to isolate one specific use to allow a bigger building. Allowing different sizes for different uses makes it difficult to enforce.

Council Member Furr shared with Mr. Gulas that Council went through hoops to prepare that particular property for him, potentially for a hotel. One year later, you want an Assisted Living facility, what is next? Mr. Gulas shared that the feasibility study showed that the Assisted Living facility would be best suited for the property. The developer has built fifteen, they like the area and want to move forward. Council Member Furr added that Mr. Gulas mentioned an office building also. Mr. Gulas clarified that in regards to uses, it may help a future developer to allow a 30,000 sq. ft. footprint.

Mayor Dial shared with Mr. Gulas that there was definitely a need for Assisted Living facilities. Council's issue was not with the use or need. By making changes to that particular property, it would make changes to C-1 across the entire Town.

Council Member Howard clarified the two plans; 30,000 sq. ft. footprint, two story, with eighty units or 45,000 sq. ft., one story with sixty units.

Council Member Howard made a motion to send the request back to Planning Commission for further review.

Council Member Hill seconded the motion. Motion was approved 4-0.

Mayor Dial requested that Planning Commission evaluate all C-1 properties to make sure there would be no collateral damage. Mr. Davenport suggested that in situations such as this, that there be additional weeks between the Planning Commission meetings and the Council meetings in regards to public hearings. This would allow staff to have approved minutes for Council to review to better form their decisions. He recommended having the Planning Commission hold a public hearing during their first meeting of the month, which is the second Thursday then Council would have their public hearing at their first meeting which is the first Thursday. This would allow an extra Planning Commission meeting in between for approval of Planning Commission minutes.

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Mayor Dial shared his concern with the Planning Commission potentially cancelling a meeting due to lack of agenda which would mean five weeks for a petitioner to have their item be heard at a Council meeting. Mr. Davenport suggested having draft minutes available to Council for their packets. He added that the additional time would allow staff to breath and to prepare packets, reports and minutes. Council agreed with Mr. Davenports proposal.

New Business:

3. Consideration to approve the limited warranty deed from Tyrone, LLC to the Town of Tyrone for property and access easement for the lift station on the sewer expansion project.

Mr. Davenport shared that the initial plan for the sewer expansion was to have a lift station located near the Library, on the west side of the CSX railroad tracks. The gravity line is designed to bring flow to the lift station, through the force main and connect to the next lift station to the north. A private entity was aware that the project was taking place and they wanted to participate. Brent Holdings, LLC (Brent Scarborough) was asked about their interest in the project. Mr. Scarborough stated that he wished for the lift station to be moved to the east side. He has property on the east side and it would be a more feasible means to the lift station. Mr. Davenport stated that Mr. Scarborough agreed to pay the cost to move the lift station, provide the property and an easement access on Valleywood Road. Mr. Davenport explained to Council that the deed from Tyrone, LLC to the Town was before them. The fee simple land is large enough to build the lift station and would include an access easement connected to Valleywood Road for maintenance. He stated that the reason the deed acceptance was on the agenda, was that property had to be received in public. Mr. Davenport made it clear that this was not a means to pay for the lift station, it was an agreement assuring a developer would pay to have the lift station moved from the west side to the east side for his property.

Council Member Furr made a motion to approve the limited warranty deed.

Council Member Matthews seconded the motion. Motion was approved 4-0.

4. Consideration of an agreement with Tyrone, LLC for reimbursement for the costs associated with placing a sewer lift station on the East side of the CSX rail line.

Mr. Davenport stated that the agreement explained that Brent Holdings, LLC conveyed property to us tonight, sufficient to build a lift station with an access easement. The agreement also states that if said property was not sufficient, Brent Holdings, LLC would find suitable property withing fourteen days. If all else fails, the Town will place the lift station back on the west side.

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He added that whatever the cost of the lift station, pumps and generator. In this cast it would be a larger cost to both as the elevation increases on the east side with a cost difference of \$93,000. The cost for boring under CSX lines, gravity lines, pipes and casings are estimated at \$142,000. Mr. Davenport explained that the Town was not relying on a private entity to pay for our system and design. We are fully prepared to pay, Brent Holdings, LLC would be paying their extra cost to move the lines to the east side. The agreement covers all the issues and deadlines for payments.

Council Member Matthews made a motion to approve the agreement for reimbursement.
Council Member Furr seconded the motion. Motion was approved 4-0.

Staff Comments

Chief Munday shared that he met with County representatives for their sixth and final meeting regarding the updated Hazard Mitigation Plan. He stated that Council would be receiving a paper and electronic copy soon, plus a proclamation.

Executive Session

Council Member Matthews made a motion to move into Executive Session to discuss items of real estate acquisition.
Council Member Furr seconded the motion.

Council Member Howard made a motion to reconvene.
Council Member Hill seconded the motion. Motion was approved 4-0.

Adjournment

Council Member Hill made a motion to adjourn. Motion was approved 4-0.
The meeting adjourned at 8:18 pm.

Eric Dial, Mayor

Dee Baker, Town Clerk

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