

**PINEHURST VILLAGE COUNCIL
AGENDA FOR REGULAR MEETING OF SEPTEMBER 28, 2010
395 MAGNOLIA ROAD
ASSEMBLY HALL
PINEHURST, NORTH CAROLINA
1:00 P.M.**

1. Call to Order.
2. Invocation and Pledge of Allegiance.
3. Presentation.
4. **Action:** Motion to Approve Consent Agenda.

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held unless requested by a member of the Village Council.

- A. Approval of Draft Minutes:
Special Meetings of August 6 and 24, 2010
Regular Meeting of August 24, 2010
- B. Public Safety Reports:
Police Department
Fire Department
- C. Scheduling of Regular Meeting for Tuesday, October 26, 2010 at 1:00 p.m.

End of Consent Agenda.

5. **Action:** Motion to Receive Budget Amendments Report to Council for the Period August 15, 2010 to September 15, 2010.
6. **Action:** Motion to Recess Regular Meeting and Enter Into a Public Hearing.
7. **Public Hearing #1:** Order providing for extension of Bond Order approved by voters of the Village of Pinehurst in 2003 for \$16,000,000 General Obligation Water and Sewer Bonds.
8. **Public Hearing #2:** Official text amendment to the Pinehurst Development Ordinance Section 10.2.1 Table of Permitted and Special Uses, allowing Bed & Breakfast Inn as a major special use in the R30 (Residential) zoning district. The applicant is Gregory Owen, property owner.
9. **Public Hearing #3:** Official text amendment to the Pinehurst Development Ordinance Section 10.2.1.3 Special Requirements to the Table of Permitted and Special Uses, SR-9, adding additional requirements for Bed and Breakfast Inns including that it shall be located in the historic preservation overlay district, front on a major road thoroughfare, only permitted on residential lots with a minimum of 40,000 sq ft and in existing houses of 9,000 sq ft or greater, and that no new residentially zoned Bed and Breakfast Inn may be located within 2,000 linear feet of another. The applicant is Gregory Owen, property owner.
10. **Public Hearing #4:** Official text amendment to the Pinehurst Development Ordinance Section 10.2.14.20 Sidewalks and to Section 5 Storm Drainage of the *Engineering Standards and Specification Manual*, Section 3 Streets of the *Engineering Standards and Specification Manual*. In addition DWG (drawing) No's 3.01, 3.0-A & 3.02-B Detail of Local Residential Streets and Cul-de-sacs within the *Engineering Standards and Specification Manual* are also proposed to be amended. The purpose of these amendments is to create a procedure in which the Village Council may allow, through a waiver, additions to existing gated residential communities to continue the existing development pattern without having to construct curb and gutter street sections and sidewalks. The applicant is the Village of Pinehurst.

11. **Action:** Motion to Adjourn Public Hearing and Enter Into a Quasi-Judicial Hearing. (All testimony shall be given under oath.)
12. **Quasi-Judicial Hearing:** Official Zoning Map Amendment to rezone two parcels of land consisting of approximately 32.5 acres addressed as 1020 Chicken Plant Rd. This property is currently zoned R-210 (Residential). The proposed map amendment would change the zoning of the property to Conditional Use R-30 (residential w/ a minimum lot size of 30,000 sq. ft.). The applicant and owner of the property is David McAllister. The property is further defined as being Moore County LRK #'s 24540 & 17089.
13. **Action:** Motion to Adjourn Quasi-Judicial Hearing and Re-Enter Regular Meeting.
14. **Action:** Motion to adopt Order Providing for Extension of Bond Order Approved by Voters of the Village of Pinehurst in 2003 for \$16,000,000 General Obligation Water and Sewer Bonds.
15. **Action:** Motion to adopt Resolution #10-33: a Resolution Calling for Publication of Extension Order as Adopted and Other Matters.
16. Other Business.
17. Comments from Attendees.
18. **Action:** Motion to Adjourn.

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**ASSEMBLY HALL – VILLAGE HALL
395 MAGNOLIA ROAD
PINEHURST, N. C.**

1:00 P.M.

The Village Council of the Village of Pinehurst held a Regular Meeting on Tuesday, September 28, 2010, at 1:00 p.m. in the Assembly Hall of the Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina with the following in attendance:

The Honorable Virginia F. Fallon, Mayor
The Honorable Joan M. Thurman, Mayor Pro-Tem
The Honorable Douglas A. Lapins
The Honorable Mark W. Parson
Mr. Andrew M. Wilkison, Village Manager
Ms. Linda S. Brown, Village Clerk
And approximately 50 persons in the audience.

Excused absence- The Honorable Nancy Roy Fiorillo

1. CALL TO ORDER.

Mayor Virginia F. Fallon called the meeting to order.

2. INVOCATION AND PLEDGE OF ALLEGIANCE.

Village Manager Andy Wilkison led in an invocation followed by the Pledge of Allegiance to the American flag led by Mayor Fallon.

3. PRESENTATIONS.

Senator Harris Blake presented a book of documents to Mayor Fallon from the signing of the Sister City Agreement with Zhijiang Dong Autonomous County, Hunan Province, P.R. China in July 2010.

Councilmember Lapins presented a Resolution and a paperweight bearing the emblem of the Pinehurst Centennial to Mr. Norman Brown honoring his service as a member and chairman of the Community Appearance Commission. (Copy of Resolution #10-28 is in the 2010 Resolution Book.)

4. APPROVAL OF CONSENT AGENDA.

All items listed below were considered routine or had been discussed at length in previous meetings and were enacted by one motion. No separate discussion was held except on request by a member of the Village Council.

- A. Approval of Minutes of:
 - Special Meetings of August 6 and 24, 2010
 - Regular Meeting of August 24, 2010
- B. Public Safety Reports- Police and Fire Departments.
- C. Scheduling of Regular Meeting for Wednesday, October 27, 2010 at 1:00 p.m.

End of Consent Agenda.

Councilmember Thurman moved to approve all the items listed and considered routine on the

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Consent Agenda. The motion was seconded by Councilmember Lapins and the Consent Agenda was unanimously approved.

5. BUDGET AMENDMENTS REPORT TO COUNCIL.

Councilmember Lapins moved to receive the Budget Amendments Report to Council for the period August 15, 2010 to September 15, 2010. The motion was seconded by Councilmember Thurman and carried unanimously.

6. RECESS REGULAR MEETING AND ENTER INTO A PUBLIC HEARING.

Councilmember Parson moved to recess the Regular Meeting and enter into a Public Hearing on Planning and Zoning and Other Matters. The motion was seconded by Councilmember Lapins and carried unanimously.

7. PUBLIC HEARING #1: Order Providing for Extension of Bond Order Approved by Voters of the Village Of Pinehurst in 2003 For \$16,000,000 General Obligation Water and Sewer Bonds.

Comments:

Village Manager Andrew M. Wilkison, 395 Magnolia Road, Pinehurst, NC 28374, summarized the history of the 2003 Bond Order passage and explained the option of extending the Bond Order.

Douglas Middaugh, 400 Pine Vista Drive, Pinehurst, NC 28374, noted that the voter approval in 2003 was for the money to be spent to purchase the Village of Pinehurst water and sewer system. He requested that if Council spends the money now, it be used for the same purpose, not purchase of another water and sewer system.

8. PUBLIC HEARING #2: Official text amendment to the Pinehurst Development Ordinance Section 10.2.1 Table of Permitted and Special Uses, allowing Bed & Breakfast Inn as a major special use in the R30 (Residential) zoning district. The applicant is Gregory Owen, property owner.

Comments:

Director of Planning and Inspections Andrea Correll introduced the Public Hearing and entered into the record a statement that the proposed amendments to the Pinehurst Development Ordinance are consistent with the 2010 Comprehensive Long-Range Village Plan. (Copy of the Comprehensive Plan Consistency Statement dated September 28, 2010 is in the Minute File.)

Linda McVey, 290 Beulah Hill Road, Pinehurst, presented a petition signed by over 100 neighbors. (Document #1 is in the Minute File.)

Byrd Gwinn, 185 Cherokee Road, Pinehurst, a member of the Pinehurst Planning and Zoning Board (P&Z), stated that he cast the lone dissenting vote at the last meeting of the P&Z when this issue was before them. He is of the opinion that the text amendment benefits one and upsets 200 individuals. The amendment would bring commercialization into a residential area. Possibly in the future someone could request another B&B and another text amendment to allow it.

Jane Vallone, 20 Barrett Road E., Pinehurst, stated that this use would injure the value of adjoining property. She feels the use is not in harmony with the surrounding area.

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Diane Shelby, 70 E. McKenzie, Pinehurst, declared that though the Planning and Zoning Board (a group of volunteers) has approved the text amendment, citizens want protection by elected officials. She feels property values will fall. An editorial in The Pilot asked, "What's the big deal?" It is a big deal if it is next door or across the street from you.

Sam Shelby, 70 E. McKenzie Road, seconded everything his wife just said. He stated that bad things happen by erosion, not a landslide. He feels the folks living nearer should be the most listened to; consider what this decision will change.

Percy Bennett, 22 Coldstream Lane, Pinehurst, Chairman of the Planning and Zoning Board, stated that he is aware of some of the concerns of residents who live near the subject property. He reviewed some of the information brought to the Planning and Zoning Board: 1) the B&B will raise property values since Mr. Owen will raise the value of his property, 2) noise- did visual, physical inspection of property- closest home is 35-40 feet away, area where activities would take place is on other side of house- probability of a noise probability is zero, 3) paying guests will be confined to interior areas of house, 4) traffic- would add four cars, 5) opening floodgates to others- text amendment was written VERY tightly- must move forward, Pinehurst cannot stay the same- we are trying to maintain control of the changes, and 6) owners of property will be on site when renters are there.

Tom Shannon, 35 Graham Road, Pinehurst, presented and read portions of a letter from Anne Brechtelsbauer of 315 Beulah Hill Road. (Document # 2 is in the Minute File.)

James Buck, 60 Linden Road, Pinehurst, stated that there is no compelling need for a B&B. No change in circumstances prompted the request for rezoning.

Gregory Owen, 5 Shaw Road NE, Pinehurst, thanked the citizens who spoke because their comments today were not personal. He stated that his house would not be used for weddings, and he would not serve alcohol, lunch or dinner. He feels a B&B would fit in with the historic aspects of Pinehurst.

Robert Hughes, Shaw Road, Pinehurst, declared that this is spot zoning, no matter how it is phrased. The standards were proposed just to fit Mr. Owen's application. He suggested a study be done on the idea of B&B's, not just one application.

9. **PUBLIC HEARING #3:** Official text amendment to the Pinehurst Development Ordinance Section 10.2.1.3 Special Requirements to the Table of Permitted and Special Uses, SR-9, adding additional requirements for Bed and Breakfast Inns including that it shall be located in the historic preservation overlay district, front on a major road thoroughfare, only permitted on residential lots with a minimum of 40,000 sq ft and in existing houses of 9,000 sq ft or greater, and that no new residentially zoned Bed and Breakfast Inn may be located within 2,000 linear feet of another. The applicant is Gregory Owen, property owner.

Comments:

Mayor Fallon explained that this Public Hearing is connected to the previous Public Hearing since it also addresses the bed and breakfast issue. If anyone spoke in the first hearing and does not have any more information to offer, perhaps it would speed things up if you would decline to speak again.

Colin Bentley, 2701 Wentworth Circle, Pinehurst, noted that an attempt was made to rezone this property years ago, and Council refused it. The courts upheld the denial. Today's proposal is spot zoning.

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Doug Middaugh, 400 Pine Vista, Pinehurst, agreed that this is spot zoning and expressed his amazement that the text amendment has gotten this far.

Richard Kull, 97 McKenzie Road W, Pinehurst, noted that Pinehurst is the fastest growing community in North Carolina except for Cary. The Village Council saved the property we are standing on from a multi-million dollar nursing home, and the company went bankrupt four years later. The company withdrew its application after a huge public outcry. This is a smaller version of the same thing. 150 signatures were taken by seven people in two to three days. This shows overwhelming disapproval for the project. There is no justification for the project; the only beneficiary is Mr. Owen.

Byrd Gwenn, 185 Cherokee Road, Pinehurst, reiterated the maxim- do the most good for the greatest number of people. This is a big deal.

Steve Saye, 40 McCaskill Road W, Pinehurst, said he was frustrated by the lack of facts of some of the speakers. Change is good if it is managed well. This house is not sustainable as a single family residence, but the issue is much bigger than that. We need to look at what could happen in the next 30 years. We need to look forward instead of always looking backward. While not specifically supporting Mr. Owens, he feels we need to move forward toward positive progress, instead of always saying "no" to any change. We need to maintain the legacy but not stand in place and let it rot.

James Buck, 60 Linden Road, Pinehurst, feels the requirements are arbitrary- one bath per two bedrooms contradicts "upscale."

Gregory Owen, 5 Shaw Road NE, Pinehurst, applicant, replied that his house has one bath for each bedroom and noted that Martha's Vineyard has 29 B&B's.

Marilyn Hughes, Shaw Road, Pinehurst, complained that citizens need earlier notice of process. She assumes Mr. Owens has the best of intentions, and we cannot legislate behavior, but she feels we must be protected from bad behavior. She also feels that we are opening a process, and we do not know where it will go.

Justin White, building contractor for Mr. Owen's house, stated that he supports Mr. Owens' application. He stated that he has seen evidence that Mr. Owens intends to restore the house as it was originally. There may be others in Pinehurst who agree that this is a good project, but they may not be in attendance today.

Tom Campbell, Planning and Zoning board member, stated that the study done by the Planning staff did not find B&B's lower property values.

Councilmember Lapins asked if B&B's would have commercial garbage pick-up. Answer- since it is a business, it would qualify. Mr. Lapins stated that he wishes Mr. Saye had been at the morning Council meeting.

Councilmember Parson agreed that the morning agenda was aggressive; Council discussed issues concerning progress.

Mayor Fallon agreed that citizens should attend the morning Work Sessions.

10. **PUBLIC HEARING #4:** Official text amendment to the Pinehurst Development Ordinance Section 10.2.14.20 Sidewalks and to Section 5 Storm Drainage of the *Engineering Standards and Specification Manual*, Section 3 Streets of the *Engineering Standards and Specification Manual*. In addition DWG (drawing) No's 3.01, 3.0-A & 3.02-B Detail of Local Residential Streets and

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Cul-de-sacs within the *Engineering Standards and Specification Manual* are also proposed to be amended. The purpose of these amendments is to create a procedure in which the Village Council may allow, through a waiver, additions to existing gated residential communities to continue the existing development pattern without having to construct curb and gutter street sections and sidewalks. The applicant is the Village of Pinehurst.

Comments:

Director of Planning and Inspections Andrea Correll introduced the Public Hearing and entered into the record a statement that the proposed amendments to the Pinehurst Development Ordinance are consistent with the 2010 Comprehensive Long-Range Village Plan. (Copy of the Comprehensive Plan Consistency Statement dated September 28, 2010 is in the Minute File.)

**11. ADJOURN PUBLIC HEARING AND ENTER INTO A QUASI-JUDICIAL HEARING.
(All testimony shall be given under oath.)**

Councilmember Thurman moved to adjourn the Public Hearing and enter into a Quasi-Judicial Hearing. The motion was seconded by Councilmember Lapins and carried unanimously.

12. QUASI-JUDICIAL HEARING: Official Zoning Map Amendment to rezone two parcels of land consisting of approximately 32.5 acres addressed as 1020 Chicken Plant Rd. This property is currently zoned R-210 (Residential). The proposed map amendment would change the zoning of the property to Conditional Use R-30 (residential w/ a minimum lot size of 30,000 sq. ft.). The applicant and owner of the property is David McAllister. The property is further defined as being Moore County LRK #'s 24540 & 17089.

The Village Clerk swore in all who will give testimony.

TESTIMONY:

Director of Planning and Inspections Andrea Correll introduced the Public Hearing and entered into the record a statement that the proposed amendment to the Pinehurst Zoning Map is consistent with the 2010 Comprehensive Long-Range Village Plan. (Copy of the Comprehensive Plan Consistency Statement dated September 28, 2010 is in the Minute File.)

David McAllister, owner of subject property, stated that he purchased the property in 2003 and discussed an access road with Pinewild. The annexation ended those discussions. After the Village purchased the property across the street, he decided that he could develop his property for 30 houses. He has talked with Moore County Public Utilities about two existing wells on the property. If he cannot hook onto the Pinewild water system (Pinewild owns the lines, Moore County provides the water), Moore County has said they may run a water line down Chicken Plant Road.

Councilmember Lapins stated that he does not see how this meets the Comp Plan.

Director of Planning and Inspections Andrea Correll pointed out that the extraterritorial area is in the Comp Plan. After Council adopted the Green Initiative, Mr. McAllister submitted his application. Lots are 30,000 sq. ft. Mr. McAllister has addressed the concerns of the neighbors.

Councilmember Lapins asked what plans had been made for sewer.

Ms. Correll replied that there would be septic tanks.

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John Johnson, who had signed up to speak, stated that he was present only to answer questions from citizens or the Council.

MOTION: Councilmember Lapins moved to approve the rezoning of two parcels of land consisting of approximately 32.5 acres addressed as 1020 Chicken Plant Road from R-210 (Residential) to Conditional Use R-30 (Residential with minimum lot size of 30,000 sq. ft.) with the general concept plan recommended by the Planning and Zoning Board and agreed upon by the applicant as part of the record and a condition of approval. He also moved to approve in the affirmative the five Findings as outlined in Section 7.2.4 of the Pinehurst Development Ordinance in order to approve the Conditional Use Permit. Councilmember Parson seconded the motion, which was unanimously approved by a vote of 4-0.

13. ADJOURN QUASI-JUDICIAL HEARING AND RE-ENTER REGULAR MEETING.

Councilmember Lapins moved to adjourn the Quasi-Judicial Hearing and re-enter the Regular Meeting. Councilmember Parson seconded the motion, and it carried unanimously.

14. MOTION TO ADOPT ORDER PROVIDING FOR EXTENSION OF BOND ORDER APPROVED BY VOTERS OF THE VILLAGE OF PINEHURST IN 2003 FOR \$16,000,000 GENERAL OBLIGATION WATER AND SEWER BONDS.

The Manager explained the need for extending the Bond Order. Councilmember Parson moved to adopt the Order Providing for Extension of Bond Order Approved by Voters of the Village of Pinehurst in 2003 for \$16,000,000 General Obligation Water and Sewer Bonds. The motion was seconded by Councilmember Lapins and was unanimously approved by a vote of 4-0. (Copy of the Order Providing for Extension of Bond Order of 2003 is in the Ordinance Book and in the Minute File.)

15. RESOLUTION #10-33: A RESOLUTION CALLING FOR PUBLICATION OF EXTENSION ORDER AS ADOPTED AND OTHER MATTERS.

The Manager explained the need for Resolution #10-33. Upon the motion of Councilmember Thurman, seconded by Councilmember Lapins, Resolution # 10-33 was unanimously approved by a vote of 4-0. (Copy of resolution is found in the Resolution Book and in the Minute File.)

16. OTHER BUSINESS.

- **MEMO- DIRECTOR OF PLANNING AND INSPECTIONS ANDREA CORRELL- ORDINANCE #10-47 IS CONSISTENT WITH THE 2010 COMPREHENSIVE LONG-RANGE PLAN.**

Councilmember Parson moved to adopt the memo prepared by Director of Planning and Inspections Andrea Correll, and dated September 28, 2010 as the Council statement that draft ordinance #10-47 is consistent with the Village of Pinehurst's 2010 Comprehensive Long-Range Plan. Councilmember Thurman seconded the motion, which was unanimously approved by a vote of 4-0. (Copy of the memo is found in the Minute File.)

- **ORDINANCE #10-47: AN ORDINANCE AMENDING THE PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO SECTION 10.2.14.20 SIDEWALKS AND TO SECTIONS 3 AND 5 AND DRAWINGS #3.01, 3.02-A, AND 3.02-B OF THE ENGINEERING STANDARDS MANUAL.**

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The Manager explained the need for the Ordinance #10-47. Upon the motion of Councilmember Lapins, seconded by Councilmember Parson, Ordinance #10-47 was unanimously approved by a vote of 4-0. (Copy of the ordinance is found in the Ordinance Book and in the Minute File.)

- **REQUEST FOR AN OFFICIAL TEXT AMENDMENT TO THE PINEHURST DEVELOPMENT ORDINANCE SECTION 10.2.1 TABLE OF PERMITTED AND SPECIAL USES ALLOWING BED AND BREAKFAST INN AS A MAJOR SPECIAL USE IN THE R-30 (RESIDENTIAL) ZONING DISTRICT.**

Councilmember Lapins moved to deny the request for a text amendment to the Pinehurst Development Ordinance section 10.2.1 Table of Permitted and Special Uses allowing bed and breakfast inn as a major special use in the R-30 (residential) zoning district. Councilmember Parson seconded the motion to deny the request. The motion carried by a vote of 3-1, with Councilmember Thurman casting the dissenting vote. The request was denied.

- **REQUEST FOR AN OFFICIAL TEXT AMENDMENT TO THE PINEHURST DEVELOPMENT ORDINANCE SECTION 10.2.1.3 SPECIAL REQUIREMENTS TO THE TABLE OF PERMITTED AND SPECIAL USES, SR-9 ADDING ADDITIONAL REQUIREMENTS FOR BED AND BREAKFAST INNS INCLUDING THAT IT SHALL BE LOCATED IN THE HISTORIC PRESERVATION OVERLAY DISTRICT, FRONT ON A MAJOR ROAD THOROUGHFARE, ONLY BE PERMITTED ON RESIDENTIAL LOTS WITH A MINIMUM OF 40,000 SQ. FT. AND IN EXISTING HOUSES OF 9,000 SQ. FT. OR GREATER, AND THAT NO NEW RESIDENTIALLY ZONED BED AND BREAKFAST INN MAY BE LOCATED WITHIN 2,000 LINEAR FEET OF ANOTHER.**

Councilmember Lapins moved to deny the request for an official text amendment to the Pinehurst Development Ordinance section 10.2.1.3 special requirements to the Table of Permitted and Special Uses, SR-9 adding additional requirements for bed and breakfast inns including that it shall be located in the Historic Preservation Overlay District, front on a major road thoroughfare, only be permitted on residential lots with a minimum of 40,000 sq. ft. and in existing houses of 9,000 sq. ft. or greater, and that no new residentially zoned bed and breakfast inn may be located within 2,000 linear feet of another. Councilmember Parson seconded the motion to deny the request. The motion carried by a vote of 3-1, with Councilmember Thurman casting the dissenting vote. The request was denied.


17. COMMENTS FROM ATTENDEES.

Sam Shelby stated that our uniqueness is worth fighting for, and he appreciates the Council suffering to make this decision.

18. ADJOURNMENT.

Councilmember Thurman moved to adjourn the Regular Meeting. The motion was seconded by Councilmember Lapins and carried unanimously. The Regular Meeting adjourned at 3:55 p.m.

Respectfully Submitted,


Linda S. Brown, CMC
Village Clerk