

**GEORGETOWN-SCOTT COUNTY PLANNING COMMISSION  
REGULAR MEETING  
MINUTES  
September 10, 2015**

The regular meeting was held in the Scott County Courthouse on September 10, 2015. The meeting was called to order by Chair Rob Jones at 6:00 p.m. Present were Commissioners Jeff Caldwell, Janet Holland, Regina Mizell, Byron Moran, John Shirley, Steve Smith, Mark Sulski, and Frank Wiseman, Director Joe Kane, Planners Megan Chan and Matt Summers, Engineer Brent Combs, and Attorney Charlie Perkins.

Motion by Holland, second by Caldwell, to approve the August invoices. Motion carried.

Motion by Mizell, second by Wiseman, to approve the August 13, 2015 minutes. Motion carried.

Motion by Smith, second by Moran, to approve the September agenda. Motion carried.

Postponements/Withdrawals

The Oakleaf Townhomes and the Golf Townhomes of Cherry Blossom, Phase 5 applications were postponed to the October meeting.

Consent Agenda

There were no items for the Consent Agenda.

Jeff Brashear Cluster Road Maintenance Bond

Mr. Kane reported that there are seven lots and one preserved area that access the road in question. A portion of the road failed before it had a chance to be dedicated or accepted by the County.

In a memo to the Commission, Mr. Perkins reviewed the history of the road construction and bonding, and outlined the action that the homeowners request be taken by the Commission. They have offered to contribute the cost of the repair (over the \$5,200

maintenance bond currently held), but ask that the Commission file suit against Mr. Brashear for the contributed amount and repay them upon collection. Mr. Perkins was unsure whether the Commission is allowed to sue for money for reimbursement purposes.

He stated that a memo was received on this day by Harold Simms, representing Mr. Brashear, which presented another option. Mr. Simms suggested filing a declaratory judgment action, which would ask the judge to determine the rights and responsibilities of all parties. The filing would include the problematic note on the plat, and such a filing would not be as costly as a suit against Mr. Brashear.

Commissioner Sulski asked Mr. Perkins why the homeowners don't file suit themselves, not including the Commission. Mr. Perkins stated that that has been discussed, but money that could be contributed toward fixing the road would be consumed by the cost of filing suit.

Commissioner Smith asked if the Commission filing suit would set a precedent for other such cases. Mr. Perkins stated that each situation would be looked at individually.

Commissioner Holland asked what can be done to prevent this happening in the future. Mr. Perkins stated that this situation has unique circumstances and a change in our procedures would not necessarily have prevented it.

Chairman Jones expressed concern about staff time being spent on repairing a private road. Mr. Perkins stated that it wasn't intended to remain a private road. It was intended to be public, we approved the standards to which it was built, and we inspected it.

Discussion continued on whether the Commission should file suit on behalf of residents. Mr. Perkins supported Mr. Simms's suggestion.

Those intending to speak before the Commission were sworn in by Mr. Perkins.

Harold Simms stated that KRS 418 sets up a mechanism called Declaratory Judgment Action that allows courts to be more serviceable to parties who have a controversy. He stated that he did not necessarily propose that the Commission pursue the action, but he felt that it would not be appropriate to proceed without the Commission as a party because they hold some of the bond money and it is their regulations that are at issue.

Mr. Simms reviewed the process of filing such an action.

Commissioner Sulski agreed with Chairman Jones that the Commission should not initiate such a suit on behalf of residents.

Mr. Combs addressed the bonding procedure that was in place at the time the road was built and the inspection procedure.

Commissioner Wiseman felt that the developer should be responsible for the road if it fails due to an act of God. Mr. Perkins stated that one of the issues is where one person's obligation ends and others pick it up.

Mr. Perkins asked the Commission to authorize using the \$5,200 maintenance bond currently held and taking contributions from the lot owners and the owner of the reserved lot to get the road repaired. Then if nobody files suit, it ends there. If a party does file suit, the Commission will deal with whatever is filed. But the road will be repaired.

Mr. Simms suggested that the \$5,200 maintenance bond be left in place because there is a two-year waiting period before the County will accept the road. Any road failures in that time could be caught early and repaired.

Sheri Scott, one of the homeowners, felt that the Planning Commission should support the filing of a suit as suggested by Mr. Simms because a clarification of responsibilities would benefit all developers and homeowners. She stated that for homeowners to have to completely rebuild a failed road has never been the intention of the Planning Commission.

Commissioner Smith agreed.

Katrina McLean, another homeowner, stated that she filed an open records request in the past and never saw evidence of a final inspection prior to the final course of asphalt being laid. The inspection procedure was briefly discussed again.

Ms. Scott stated that another issue that has prompted coming to the Commission is whether the homeowners can even repair the road since it belongs to the developer.

Chairman Jones asked Mr. Perkins to estimate the amount of time he would spend on this case. Mr. Perkins stated that it is a unique case in that there will be cooperation, so the time spend would be reasonable compared to what is achieved.

Ms. Scott stated that she did not wish to be labeled as a defendant in a lawsuit. Mr. Simms and Mr. Perkins stated that they did not care who is the defendant or plaintiff. Mr. Perkins stated that in a declaration of rights case it does not matter.

Commissioner Shirley stated that this is a unique situation and felt that the Commission should assist both sides to resolve it.

Mr. Perkins stated that if not enough homeowners contribute to cover the cost of the repair, they will have to wait for the results of the lawsuit to determine when the road will be repaired.

**Motion by Shirley, second by Caldwell, to authorize the Planning Commission to collect funds from the lot owners and to assist in the road repair with normal bidding and supervisory field work. Motion carried 8-0.**

Comprehensive Plan Steering Committee appointments

Mr. Kane asked the Commission to create a Steering Committee that would not only guide the process but act as a sounding board, appoint subcommittees, and decide if special studies or public hearings are needed. He recommended that the committee be made up of three Magistrates or their appointees, three City Council members or their appointees, three Planning Commissioners, one Sadieville and one Stamping Ground council member, and three at large members who would be appointed by the Planning Director.

Having more Planning Commissioners was discussed.

**Motion by Smith, second by Sulski, to create a Steering Committee as recommended by Mr. Kane. Motion carried.**

Chairman Jones and Commissioners Smith and Wiseman volunteered to be the Planning Commission members.

The meeting was then adjourned.

Respectfully,

---

Rob Jones, Chair

Attest:

---

Charlie Perkins, Secretary