

**River Bend Town Council
Work Session Minutes
August 11, 2022
Town Hall
5:00 p.m.**

Present Council Members: Mayor John Kirkland
Don Fogle
Brian Leonard
Barbara Maurer
Buddy Sheffield
Bud Van Slyke

Town Manager: Delane Jackson
Deputy Town Clerk: Jennifer Barrow
Police Chief: Sean Joll
Town Attorney: Dave Baxter

Members of the Public Present: 45

CALL TO ORDER

Mayor Kirkland called the meeting to order at 5:00 p.m. on Thursday, August 11, 2022 at the River Bend Town Hall with a quorum present.

VOTE - Approval of Agenda

Councilman Leonard motioned to amend the agenda by removing item number four as Ellis Development had withdrawn their request for rezoning. The motion carried unanimously.

Presentation - The Case Against Rezoning-Councilman Buddy Sheffield

Councilman Sheffield presented the slide show presentation he prepared.

Discussion - Development Agreement Options

Councilman Leonard stated that Ellis Development has asked that the Town Council consider creating a development agreement. Ellis Development has also asked if the Town Council would consider updating the zoning ordinance to allow for conditional zoning. Councilman Leonard stated that he would like to have the discussion and asked the Town Attorney to weigh in, as there has been some discussion about whether or not the state laws or statute allows that. Town Attorney Dave Baxter stated that the statutes are somewhat vague on the conditional zoning piece. Mr. Baxter stated that he has reviewed the information and finds that many of the provisions that deal with conditional zoning are permissive. He stated that it was his opinion that there would need to be an ordinance amendment to allow the conditional zoning, and to have the procedure in there for petitioning for it. Otherwise, someone could come in and essentially force the Town to consider conditional zoning. The Town Attorney further stated that it is also his opinion that the Town would need to put something in the ordinance that provides for an orderly procedure for making that amendment, and for putting property into a conditional zone. The Town Attorney stated that it was also his opinion that development agreements do not particularly require it be in an ordinance to allow it. The Town Attorney stated that it says that the Town may include it in the ordinance and establish procedures that lead to the approval of a development agreement. In addition, the Town Attorney stated that the approval of a development agreement is a very public process and requires a public hearing in order for it to be approved in final form. Therefore, it is not a situation where it is a private contract. The Town Attorney stated that the terms of it will be discussed many times in open session with public input. Councilman Leonard then asked if the Town Attorney could give the Council an idea of some things that would typically be in those type of agreements that are legally enforceable. The Town Attorney stated that he could and referred

to what has been discussed with this rezoning such as site-specific conditions, requirements for features of the land, buffering, density, what utilities would be installed, and/or amenities. The Town Attorney further stated that all of those things are legally enforceable. The Town Attorney also stated that the agreement runs with the land and is recorded in the Register of Deeds Office. If the land sold, the development agreement itself would be preserved and the conditions would still be enforceable. Councilman Leonard then asked the Town Attorney if that meant that the Town could come to an agreement with whoever the developer may be to craft an agreement that meets the needs of the Town. The Town Attorney stated that was correct. Councilman Leonard also stated that he would like for the Council to work with Ellis Development's attorneys, Town Manager Jackson and the Town Attorney to address a development agreement based on what we have learned, on what they have proposed, and what we have heard from the citizens of River Bend. Councilman Leonard then stated that as a Council, they could then go through that process where they will have input that will allow the Town to create an agreement that they can hopefully be satisfied with. Councilman Leonard stated that he would also like to start the process of updating the Town's zoning ordinances to reflect the current wave of how the state is driving this kind of issue. Councilman Leonard stated that he would like to have the Planning Board reevaluate and update the ordinances to reflect the fact that the Town will have conditional zoning and any other provisions that are needed to control future development in the best interest of the Town. Councilwoman Maurer then asked if Ellis Development reapplied and decided to move forward with the current zoning, would the Council still be able to have this agreement that would be more site specific and would create conditions that would allow the Town to have more control over. The attorney stated that was correct. Councilman Sheffield added that if the developer were willing to move forward with the current zoning, the Council would not be going through all of this. Councilman Leonard stated that the whole point of having the development agreement would be to grant the Council more control. Councilman Sheffield stated that the question is whether the Council wants a development agreement with a company that wants to overcrowd the space. Councilman Fogle stated that the Council needs to focus on the ordinance change first, and then focus on the development agreement. Councilman Fogle stated that he feels the Council should put a framework in place that lays out what the Council's priorities are, and then determine if some sort of a development agreement can be made with any future developer. Councilman Leonard then deferred to the Town Attorney. The Town Attorney stated that he would consider those items to be two separate issues. He further stated that the Council could have both conditional zoning and a development agreement. The Town Attorney stated that the Council can put a lot of the site-specific conditions into the conditional zones as opposed to the agreement, then the development agreement would focus more on amenities, utilities, and other things of that nature. The attorney then stated that both the development agreement and the ordinance amendment to allow for conditional zoning can be done simultaneously because both go through the same process. The process for a development agreement is the same as a zoning map amendment.

VOTE - Work with the Town Attorney, Manager, and Ellis Development to Craft a Development Agreement

Councilman Leonard motioned to direct the Town Attorney, Town Manager and Ellis Development to craft the terms of a development agreement for the Council to consider. The motion failed with 4 nays and 1 aye (Leonard).

VOTE - Amend Zoning Ordinance to Include Conditional Zoning

Councilman Leonard motioned to begin the process of amending the Town's Zoning Ordinance to allow for development agreements, conditional zoning or any other means to allow the Town to have greater control over future development. The motion passed with 4 ayes and 1 nay (Sheffield).

The Town Manager stated that the current representative, Patty Leonard, has agreed to reappointment.

VOTE - Appointment of ECC Representative

Councilman Van Slyke motioned to approve Patty Leonard as the Town's ECC representative. The motion passed unanimously.

Discussion - Advisory Board Ordinance Amendment

Councilman Fogle proposed limiting advisory board chairpersons to two consecutive one-year terms effective immediately. Councilman Fogle stated that he was encouraged to see the residents in attendance and resident participation in Town affairs. He also stated that he was encouraged by the potential for more citizen involvement in the Town's advisory boards. He further stated that one way to encourage such participation would be to ensure that the leadership of the advisory boards change on a regular basis, so that new potential members have an opportunity to build off of what has already been created. Councilman Fogle stated that many residents in attendance have contacted him about the rezoning, and he has encouraged many of them to run for office. Councilman Fogle also stated there are many of whom he has encouraged to join an advisory board. Councilman Fogle then stated that he hopes that residents will take that to heart and seriously consider doing so. Councilman Fogle stated that this term limit proposal was briefly discussed at the Fall 2021 council/advisory board chairperson meeting and no chairperson objected to this concept. Councilman Fogle stated that privately, several people have approached him and have expressed their support for this change. Councilman Fogle further stated that it may seem a bit odd, but many of the chairpersons continue in that role simply because no one else on the committee or the advisory board steps up, therefore feeling an obligation to continue. Councilman Fogle stated that they deserve a chance to step aside without feeling that they are letting their other fellow committee members down. Therefore, Councilman Fogle proposed that any existing chairperson voted in for the fiscal year 2023 who was also a chairperson for one or more consecutive years prior to that, not be able to serve as chairperson for fiscal year 2024. Councilman Leonard stated that although having new leadership could be a good thing, it has been difficult to fill advisory board positions and he is concerned that this amendment could cause the loss of valuable leaders. Councilman Sheffield stated that if there were an abundance of people who wanted change, then the thing for them to do would be to step up and serve on an advisory board, which would allow the board to elect whomever they wished to serve as chairperson. Councilman Sheffield stated that if the person was willing to do the job, he was in favor of it. Councilman Sheffield stated that these positions are volunteer positions, and to force term limits on volunteers seemed a little odd. Councilwoman Maurer then stated that creating term limits for advisory board chairpersons or any other office would be a destructive action. Councilwoman Maurer stated that it is based on an erroneous supposition that the changing of a chairperson of an advisory board is going to encourage more participation on the boards. Councilwoman Maurer stated that it is difficult enough to find and retain volunteers on Town advisory boards as it is. Councilwoman Maurer pointed out that the officers of the advisory boards, as Councilman Leonard stated, are elected annually and are voted for by the members of the board. Councilwoman Maurer then asked what would be gained by restricting the ability of the members to elect the leader of their choice, and what message does the Council send to its volunteers if told they can elect their Vice Chairperson & Secretary but not their Chairperson because they have run out of years. Councilwoman Maurer stated that there is no need to put term limits on chairpersons, and feels that the Council should vote that down. Councilman Fogle stated that many residents in town have told him that there are cliques in town that run everything, therefore why would anyone want to join an advisory board that is stuck in the past and not open to new ideas.

VOTE - Direct the Town Manager to Amend the Advisory Board Ordinance to Limit Chairpersons to Two Consecutive One-Year Terms With The Issue Being Presented to The Council In the Event That a Chairperson Cannot Be Selected

Councilman Fogle motioned to direct the Town Manager to amend the Advisory Board Ordinance to limit advisory board chairpersons to two consecutive one-year terms with the issue reverting to the Council in the event that a chairperson cannot be selected. The motion failed with three nays and two ayes (Van Slyke, Fogle)

Discussion - CBDG Lien Subordination Request

There was no discussion as the request had been withdrawn.

Discussion - Fishing Dock Proposal


The Mayor began the discussion by providing some background information on the current dock by stating that it was a feature installed approximately thirty years ago by the original developer. The Mayor stated that the dock is in a deteriorated state and needs to be replaced. Councilman Sheffield stated that his concern with the proposal is the highlighted area that says, "due to fluctuating material costs, which includes boat lifts, we reserve the right to pass any significant material price increases along to the customer". Councilman Sheffield stated that he felt that particular wording should be stricken from the proposal. The Manager stated that if the Council would like to pursue these contract terms at the proposed price, he would draft a budget amendment to be voted on during the next council meeting—only then can the Town enter into this contract because the budget amendment puts the funds in place. The Manager also stated that this contract is somewhat generic and that the contractor, Bobby Cahoon, has completed many projects for the Town and has always done so for the exact price in the proposal. The Manager stated that this proposal can be fine-tuned, as this current proposal is likely standard language for regular customers. Councilman Leonard stated that he would like to move forward with this proposal. The Manager stated again that with a consensus from the Council that this is the size and price they would like to proceed with, he will have all of the particulars worked out for the next Council meeting where the Council can officially make this move. The Manager stated that if the Council is not interested there is no need for a budget amendment to be drafted. Councilman Van Slyke stated that from a finance point of view, he agrees that this is the track the Council needs to follow.

REVIEW AGENDA FOR THE AUGUST 18, 2022 COUNCIL MEETING

The Council reviewed the agenda for the August 18, 2022 Council Meeting.

ADJOURNMENT/RECESS

There being no further business, Councilman Sheffield moved to adjourn. The motion carried unanimously. The meeting adjourned at 6:16 p.m.



Jennifer Barrow
Deputy Town Clerk