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**MINUTES OF THE REGULAR MEETING  
BOARD OF MAYOR AND ALDERMEN  
FRANKLIN, TENNESSEE  
CITY HALL BOARDROOM  
TUESDAY, APRIL 9, 2019 – 7:00 P.M.**

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**Board Members**

Mayor Ken Moore	P		
Vice Mayor Clyde Barnhill	P	Alderman Dan McLendon	P
Alderman Brandy Blanton	P	Alderman Margaret Martin	P
Alderman Pearl Bransford	P	Alderman Ann Petersen	P
Alderman Beverly Burger	P	Alderman Scott Speedy	P

**Department Directors/Staff**

Eric Stuckey, City Administrator	P	Lisa Clayton, Parks Director	
Vernon Gerth, ACA Community/Economic Dev.	P	Michelle Hatcher, Water Management Director	P
Mark Hilty, ACA Public Works	P	Paul Holzen, Director of Engineering	P
Kristine Tallent, ACA/CFO	P	Emily Hunter, Planning/Sustainability Director	P
Shauna Billingsley, City Attorney	P	Kevin Townsel, HR Director	
Deb Faulkner, Police Chief		Joe York, Streets Director	
Rocky Garzarek, Fire Chief		Michael Walters Young, Budget/Analytic Manager	P
Jordon Shaw, IT Director		Lanaii Benne, Assistant City Recorder	P
Tom Marsh, Interim BNS Director		Linda Fulwider, Board Recording Secretary	P
Jack Tucker, SES Director			

**CALL TO ORDER**

Mayor Ken Moore called the April 9, 2019 BOMA meeting to order at 7:12 p.m.

**INVOCATION**

The invocation was given by Alderman Clyde Barnhill.

**PLEDGE OF ALLEGIANCE**

Ben Gordon and Ian Gordon of Scout Troop 137 led the Pledge of Allegiance to the Flag of the United States of America.

**CITIZEN COMMENTS**

**(Open for Franklin citizens to be heard on items not included on this Agenda. As provided by law, the Board of Mayor and Aldermen shall make no decisions or consideration of action of citizen comments, except to refer the matter to the City Administrator for administrative consideration, or to schedule the matter for Board consideration later. Those citizens addressing the Board of Mayor and Aldermen are requested to come to the microphone and identify themselves by name and address for the official record)**

No one came forward to speak

**COMMUNICATIONS: WILLIAMSON COUNTY MAYOR/WILLIAMSON COUNTY COMMISSION**

There were no representatives present

**APPROVAL OF MINUTES**

1. 19-0231 Alderman Petersen moved to approve the March 5, 2019 Special Work Session (CIP), March 26, 2019 Work Session and March 26, 2019 Board of Mayor and Aldermen minutes as presented. Seconded by Alderman Blanton. Motion carried unanimously.

**RECOGNITIONS**

2. 19-0365 **Child Abuse Prevention Month Proclamation**  
Mayor Moore read the proclamation for Child Abuse Prevention Month and presented it to Sarah Pouliot, CASA, and Stacie Blazic, Davis House.

3. 19-0264 **Proclamation of April 30<sup>th</sup> as National Therapy Animal Day**

Prior to reading the proclamation, Mayor Moore introduced the following people and their therapy dogs, Geralda Aubrey and Caity, Carolyn Collins and Sierra, Carla Binney and Arlo, and Rhonda Sherry and Lilly from Music City Pet Partners.

**MISCELLANEOUS REPORTS**

Eric Stuckey recognized Maddison Martin, Admin. This is her last BOMA meeting as she and her family are moving to Florida. Josh King, Planning, who was not present, is leaving City employment to become the Assistant City Planner for the city of Gallatin.

**CONSENT AGENDA**

All items under the Consent Agenda are deemed non-controversial and routine in nature by the governing body. They will be approved as recommended by Committee or staff by one motion of the governing body. The items on the Consent Agenda will not be discussed. Any member of the governing body desiring to discuss an item on the Consent Agenda may request that it be removed from the Consent Agenda and be placed on the Regular Agenda. It will then be considered at that time. Staff recommends that Item Numbers 9-28 be placed on the Consent Agenda.

4. 19-0234 **Consideration of Items 10-17 on the Consent Agenda**

*Vice Mayor Barnhill moved to approve the Consent Agenda Items 10-17. Seconded by Alderman Burger. Motion carried unanimously.*

**OLD BUSINESS**

5. 18-0809 **PUBLIC HEARING: Consideration of ORDINANCE 2018-43, "An Ordinance to Rezone 22.07 Acres from the Detached Residential 1 District (R-1) to the Specific Development-Residential (SD-R 2.04) District for the Property located North of South Carothers Road and East of Carothers Parkway, 4338 and 4340 South Carothers Road (Carothers Chase)."**

**Alderman Ann Petersen, FMPC Representative**  
**Emily Hunter, Planning/Sustainability Director**  
**Amy Diaz-Barriga, Planning Supervisor**  
**Christopher Andrews, Principal Planner**

**[SECOND OF THREE READINGS]**

Chris Andrews: Items 5 & 6 were previously presented to the FMPC on November 15, 2018, presented to BOMA on January 8, 2019, and deferred until February 12, 2019. In February the items were referred back to the FMPC. On February 12, 2019 the item was referred back to FMPC for reconsideration. In February the FMPC voted 7-2 to recommend approval to BOMA. At their February 2019 meeting the FMPC included some amendments to the Development Plan (Item 6 Development Plan). Item 5 is only for consideration of rezoning the property. The applicant is seeking to rezone the property to the Specific Development-Residential (SD-R 2.04) District. The property is within the single-family residential design concept which is within Envision Franklin. The development is proposing only single family residential dwelling units. Staff would like to note that as a result the discussion on January 2019 at the Board meeting as well as the February FMPC meeting, the applicant has made a series of modifications from the initially submitted plan (the next item). Staff recommends approval of the rezoning request.

**Public Hearing**

With no one coming forward to speak, Mayor Moore declared the Public Hearing closed

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*Vice Mayor Barnhill moved to approve Ordinance 2018-43. Seconded by Alderman Speedy.*

**Comments:**

- ♦ Alderman Petersen expressed concern that some of the lots can only be accessed through another subdivision and not via a regular public street. Other concerns include things that are in the Development Plan.

*Motion to approve Ordinance 2018-43 carried 5-3 with Aldermen Petersen, Blanton, and Burger voting no on Second of Three Readings.*

6. 18-0808 **PUBLIC HEARING: Consideration of RESOLUTION 2018-64: "A Resolution Approving a Development Plan for Carothers Chase PUD Subdivision, for Property Located North of South Carothers Road, and East of Carothers Parkway (4338 and 4340 South Carothers Road)."**

**Alderman Ann Petersen, FMPC Representative  
Emily Hunter, Planning/Sustainability Director  
Amy Diaz-Barriga, Planning Supervisor  
Christopher Andrews, Principal Planner**

Chris Andrews: The applicant is requesting approval of the Development Plan for Carothers Chase PUD Subdivision. The proposed subdivision is 22.07 acres and is planned to contain 45 single family lots and four open space lots. The subdivision is within the Single-Family Residential Design Concept designated in Envision Franklin. The lot sizes are comparable to the adjacent city subdivision and meet the guidelines in Envision Franklin and the COF Zoning Ordinance. In keeping with connectivity standards established within the Zoning Ordinance, staff has requested that the applicant provide connections to adjoining lands. To the west, the applicant has provided both right-of-way and pavement connections to the existing Falcon Creek Subdivision as an extension of Meandering Way. This extension and connection are consistent with the standards found in Section 5.10.4.2 (a), External Street Connectivity, of the City of Franklin Zoning Ordinance.

In early 2018 Williamson County approved the abandonment of five feet of ROW from Biltmore Court adjacent to the proposed Carothers Chase PUD Subdivision eastern boundary. The applicant has not proposed providing pavement all the way to the property line but has provided ROW dedication for any future extension of Meandering Way into the Cross Creek Subdivision. Should a connection to Biltmore Court be provided in the future, the City of Franklin would provide additional pavement.

It was asked at a previous meeting why there was no buffer at the southern end of subdivision near the proposed cul-de-sac for lots 35 and 36, 4348 South Carothers Road. Within the City's Zoning Ordinance, the section addressing Transitional Features – the purpose and intent includes that we would blend new development with existing development form and pattern where the existing development is established and expected to remain. Envision Franklin designates that the larger piece of property (Development Plan triangular piece of property, that resembles Nevada on its side) is designated as single-family residential in Envision Franklin, therefore, allowing smaller lots to be created there. Whether that will happen we can't say. Envision Franklin designates that piece of property, which is in the City limits, as single-family residential making it possible that the property could be subdivided in the future. Also, the property had been considered for redevelopment in the past as part of the Ashcroft Valley Subdivision as late as 2016 indicating that that pattern of development may not remain. As a result of the discussions, at the Board meeting in January and the February Planning Commission meetings the applicant did make a series of modifications from the originally submitted plan. Modifications are shown on pages 4 and 9 of the Development Plan:

- ♦ Applicant added evergreen screening between lots 22 and 25 on the Landscape Plan (page 9, L1.0).
- ♦ FMPC recommended a landscape easement and 5 ft. wide buffer be added between lots 42 and 45. Evergreens to be planted 12 ft. apart. (Landscape Plan)
- ♦ Applicant removed the walking trail from a portion of the open space lot.
- ♦ Applicant shortened the depth of the lots in the cul-de-sac resulting in a 50 ft. buffer within that open space.
- ♦ Applicant provided the standards for the lots on the cul-de-sac. Upland Drive would essentially match the rest of the lots within the subdivision. Typical home square footage as well at the side, rear and front of the building. These two lots at the lot line originally

extended a little farther down, so they bumped it a little bit more to the west by the larger buffer area between Cross Creek and Carothers Chase.

- ♦ Typical Lot Standards that were added so the setbacks would match all the other lots in the subdivision.

Staff recommends approval with the revisions presented and with staff conditions.

Mayor Moore noted there were a number of speakers, and that he received letters that the writers wanted entered in the public record. Those have been put in Granicus and will be available to staff and the public as well.

### **Public Hearing**

- ☛ Mattie Wooding, 502 Cloverleaf Lane: Concerned about the blasting that will occur and what it will do to her property and her house.
- ☛ Michael Sangster, 318 Crooked Oak Ct., Franklin: He is about 150 ft. from the property. Asked about Pre-blasting surveys and if any funds were put aside for blasting damages to homes. Also, construction traffic will damage the roads. When would this begin?
- ☛ Philip Zimmerman, 317 Crooked Oak Ct: The blasting will be just 30 ft. from his property line. He doesn't know any details of what a pre-blasting survey does. He feels it is like the wolf is in charge of the hen house. He feels like it means he will have to spend his own money to be sure his home is cared for and protected. Voiced concern about connectivity. He has mentioned it before. Their neighborhood has spent a lot of time developing community and that will change. It brings a lot of concerning issues.
- ☛ Bill Munson, 2011 Upland Drive: His concerns are traffic in general, construction traffic with a lot of young children, families. It is a pedestrian-friendly and well-established neighborhood. The connectivity that's been proposed doesn't make a lot of sense in the context of the planned subdivision. The one cul-de-sac, the only way the construction can get in, unless he can see a different proposal, is Upland Drive. There is potential for damage including human damage.
- ☛ Cindy Peden, 4348 South Carothers Road, Franklin: Concerned about the density of the homes in the proposed development that are not in line with the surrounding properties, including hers. No consideration whatsoever has been given to putting a barrier or buffer of any kind between her home and the development. She, too, is concerned about the blasting. She's lived there 25 years and has horses. They will be terrified.
- ☛ Dan Horecka, 505 Biltmore Ct., Cross Creek Subdivision: He said Cindy Peden's property is right next to his and what she is referring to are the homes right up next to her property, there is no barrier whatsoever. Her home is very close to the property line just like theirs is. He has communicated his concerns with this development for various reasons. It seems to him like the zoning runs together with the plan. Right now, the zoning is the same as ours, acre plus lots, and as soon as BOMA approves them to be four homes per acre, all of a sudden it changes everything. What makes it worse is that his property with the new development has four homes right up to his backyard. That 50 ft. barrier might seem like a lot, but it is not much more than from where he was standing at the podium to the Board sitting on the dais. Mr. Andrews continues to talk about meeting Envision Franklin. Envision Franklin speaks to this; it says adjacent properties to new developments should be of like size with the properties that are existing. Those four homes are on a smaller piece of land than his right next to it. The planners spend so much time with the developers that they become their advocates. We don't have advocates, we're existing homeowners, property owners need BOMA's help to hold them accountable. They will develop the subdivision and be out the door and we'll be sitting there with whatever you allow them to develop. Get rid of a couple of those lots, please, even if it's acre to acre, but not four homes on the same size property. Please help us in getting rid of a couple of those lots. Hold them accountable.
- ☛ Andrew Friday, 2303 Surrey Lane, Falcon Creek Subdivision, Franklin: He said each of the Board members should have received a letter from the Falcon Creek HOA president. Their HOA has a declaration of covenants, conditions, restrictions and bylaws

established by Falcon Creek, notarized in the State of Tennessee, right here in Williamson County. Regarding the four homes on the proposed cul-de-sac at the end of Upland Drive, lots 42, 43, 44 and 45: This cul-de-sac can only be accessed by way of Falcon Creek. There is no other access point. Construction traffic would have to come up Upland Drive. The documents he referenced contain include language that speaks to properties, architectural controls, HOA regulations and annexation of properties. Currently, to our knowledge, this is being reviewed by a City attorney, Shauna Billingsley. If we haven't heard back from this how can BOMA approve the plan be approved without these covenants and bylaws being interpreted by both parties. In another sense of connectivity, we feel our covenants and bylaws speak to these four homes being brought into Falcon Creek should be connected to Falcon Creek. Essentially, they are being brought into our community. Envision Franklin states, "Single-Family Residential lots should be sized to be consistent with existing lots of adjacent neighborhoods." The Falcon Creek average home is 1500-1700 sq. ft. This plan, currently, that was just changed shows that the average typical house size could be upwards of 3000 sq. ft. The Planning Commission added the buffer zone because he petitioned it with several other people. Instead of giving us the standard 15 ft. transition, they gave us 5 ft. He lives about 5 ft. from where the blasting will occur. Blasting is a huge concern for him as a taxpaying citizen of Franklin that he would be expected to pay any money to cover any damages.

- Kendra Correia, 1070 Meandering Way, Falcon Creek: As BOMA is aware, homes in Falcon Creek sustained damage from blasting during the Lockwood Glen development. Carothers Chase development will be blasting in a much closer proximity than Lockwood Glen. Why do taxpayers and citizens of Franklin have to be financially impacted by Carothers Chase. It's not reasonable that the residents of Falcon Creek bear the cost of repairs to their homes which can be tens of thousands of dollars if the damages are caused by Carothers Chase development. Nor should they have to pay for pre-imposed blasting inspections at a cost of \$2,500 and more in order to prepare proof of damage to submit to the blasting company's insurance company for restitution for damage repair. Carothers Chase should not inflict any negative financial impact of surrounding residents. Residents of Falcon Creek would like to ask the builder, Jeremy Boczulak of West End Builders who hires the blasting company to come to the podium this evening and explain the current blasting notification and damage resolution process to BOMA and the citizens at hand. A Falcon Creek committee is currently gathering data on the homes damaged within the community. As further damage is inevitable we would like to ask for a meeting of representatives from Falcon Creek, the Planning Department, BOMA and West End Builders to develop a plan to manage the issue of blasting damage and the costs associated to residents involved. To our knowledge this is the first build in Franklin for Sunnybrook Investments, LLC and the builder, West End Builders in Franklin. If this issue is not addressed and carefully managed, the widespread damage and long-term impact to Falcon Creek will be the legacy of the builder, and the developer and the City of Franklin. Tonight the residents of Falcon Creek ask for your help in protecting our homes and the stability of the community during the Carothers Chase community development.
- Michael Severs, 2338 Surrey Lane: He and his wife Peggy have lived in Falcon Creek for 23 years. They've always known there would be further development, but they had hoped for responsible development. What they are seeing here is not responsible development. The blasting in such close proximity to homes just within 100 ft. They've heard the noise of the excavation of the lots on South Carothers and Carothers Parkway, have felt the vibrations from blasting and some of their neighbors have had damage from that. But this is practically right up against our homes. They wonder what will happen when they have damage. Will the noise like the excavation noise go on for



another three years as it has with the other developments? They are concerned about that. They would like to see responsible development

- Greg Glass, 1010 Brentwood Point: He said he grew up on this property. It's the land where he was raised. He asked BOMA to support the Resolution. His family has owned this land for over 80 years and all these fine people have become our neighbors. Five generations have lived on this land starting with my great-grandfather William Carothers. The plan presented is a plan recommended for approval by the Planning Commission, it complies with the City Zoning Ordinance. My father and I have been with this project every step of the way. We want to be good neighbors. We have heard all the issues brought before this body. The plan before you has addressed these issues. Additional landscaping for the northwest, increased buffer on the northeast, removal of the walking path. These are the things we've heard and we want to help our neighbors with as we move forward. This is a transitional neighborhood. These roads were always stubs right up to the line and have always been intended to continue onto our property. We hope to create a legacy for our family, a legacy that will allow his family to stay in this area for many more generations. He would appreciate BOMA's support for this resolution.
- Doreen Caffyn-Parsons, 2301 Surrey Lane: Very concerned about the blasting. Their home and one other are within 5-10 ft. of the blasting. Imagine blasting 5-10 ft. from City Hall and thinking nothing would happen. Repeated blasting is a very serious situation. Very concerned about it. Also concerned about the roads, the traffic coming through the roads, the building traffic, we're wondering if works in safety, which is a TDOT requirement to check on children or pedestrians in all traffic and the Transportation Management Plan could be provided to the developer and have this reviewed so if they do anything there we know our children are relatively safe when they walk to the school bus stop, and they cross roads and the big trucks coming through. Her home is impacted by the proposed cul-de-sac and they are extremely close to where the blasting would be. They are asking BOMA to fight for them because they are existing taxpayers and are part of Franklin.
- Wendy Warnica, 2017 Upland Drive: She said ditto to the other speakers, except for Mr. Glass, on what was said on behalf of Falcon Creek.
- Michael Dewey, 2925 Berry Hill Drive, Nashville: As everyone knows this is a very difficult property because it is sandwiched between two existing subdivisions. We carefully planned this subdivision over the 18 months and applied revisions throughout the course of the process from the feedback received from City Planning, Engineering, Fire, Utility and other departments, the community, the Planning Commission and BOMA. We met with staff and in November 2017 to initially review the project and at that time they asked to make some revisions which they did. A neighborhood meeting was held on May 9 before we even submitted the plan. From November to April a lot of consideration was given to this Development Plan. A neighborhood meeting was held on May 9, at that time concerns were raised about connectivity, we coordinated with staff over the next 6-8 weeks trying to get a resolution to avoid connecting the streets. We understand about the importance of the connectivity and life safety and kept the connectivity. On July 26 a joint Conceptual Work Session was held. During this meeting a commissioner asked if the lots could be larger in the rear of the property. That resulted in 5 lots being reduced to 4 lots. That's the reason the lots were bigger in the rear. The stub street in the back, Upland Drive, is intended to terminate. It is currently a stub street for future development. This proposal includes making it a dead-end or it will be permanently cut off for future development from this point forward. A permanent dead-end. Envision Franklin is COF's long-range plan and is 150 pages. A lot of time and effort has been put into this document. Envision Franklin sets forth the framework and provides support in making these land use decisions. One element is identifying where inadequate or non-existent services are and sewer is not available in Cross Creek. That

is one of the reasons staff Engineering had us make that connection to Cross Creek on Biltmore Court. We've listened to community and listened to staff and we tried to make the revisions this past year to make this best development that we could. We believe this meets all requirements of Envision Franklin and ask for your support.

With no one else coming forward to speak, Mayor Moore declared the Public Hearing Closed

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*Vice Mayor Barnhill moved to approve Resolution 2018-64. Seconded by Alderman Speedy.*

Discussion:

- ♦ Vice Mayor Barnhill mentioned the comments and concerns of residents about blasting 2-3 ft. from their homes. He asked Chris Andrews to address that.
- ♦ Mr. Andrews: The City doesn't have any regulations on blasting or inspecting blasting. That is all done through the State Fire Marshal's office. He noted that information had been forwarded to the residents in Falcon Creek.
- ♦ Vernon Gerth: Several neighbors have asked this question. As Mr. Andrews said, blasting is regulated by the State. The typical process is the developer/builder will secure the services of a firm to survey the properties, and in the past, we've asked and will to continue to ask if that firm provides a copy to the residents. They also monitor the blasting to make sure it stays within regulated level. Between the survey and monitoring of the blasting in the area, they have sufficient information, and their insurance will cover any claims that result from that.
- ♦ Alderman Speedy: Asked if the pre-blast survey would be paid by the developer. Mr. Gerth answered, yes. Alderman Speedy asked about the post-blast survey, how are citizens to know now or a year down the road if there was damage and who would pay for that type of survey.
- ♦ Mr. Gerth said he had no information on that but could certainly look into it. Obviously, assess the current condition. There are pictures taken should there be any cracks in plaster or drywall, and structural damage to foundations that would be assessed on the pre-blast survey. He thought there would be a time period for the property owner to file a claim, should they see any damage. We can look into that detail.
- ♦ Alderman Speedy asked if it has been documented that there was blasting damage in Watkins Glen. Do we just assume how many homes may have been damaged? How do we know that?
- ♦ Mr. Gerth related he was not aware of that and would check with the City Fire Marshal who works closely with the State Fire Marshall. We would hope that with the developer in the area and those pre-inspection surveys, that the property owners allow the pre-inspection survey to be conducted. Then they will have the information on who to contact should some damage result. Since we are the City we would be more than happy to provide that bridge if there is any lack of communication between the developer and the property owner. Obviously, there is the documentation that needs to be validated on the front-end. That needs to be worked out between the parties involved. We have high expectations that developers building in our community will communicate at a very high level.
- ♦ Alderman Speedy: Regarding the blasting, we just assume a certain level of blasting or a lot blasting. At what stage do we actually know whether there is blasting for 6 lots or all 45 lots. At what point do we know some of that information.
- ♦ Mr. Andrews: The developer might be able to provide a little more information about that. He didn't know if they had done all the geotechnical surveys to know all the depths, etc. and everything yet that would require excavation. We don't know at this point.
- ♦ Mr. Gerth explained the process: This is the Development Plan stage. This plan is a general conceptual plan. Upon approval of any Development Plan if it's approved, then the next step is to move into the Site Plan, and that is where the geotechnical work gets done, and the engineering work and it starts with the grading and planning of the infrastructure and roadway. The true impact of what will be blasted or simply excavated.

- ♦ Alderman Speedy: How does that information get communicated to the community? Is there a reset stage where the developer says this can't be done because we would damage homes?
- ♦ Mr. Gerth wasn't sure we've ever experienced that. The approval of a Development Plan makes some assumptions of the entitlements, the number of lots, the configuration, the location of the roadway. It's really when the developer and the design team get into the Site Plan that they can take advantage of those entitlements. If for some unforeseen circumstances, the topography, the rock is not conducive for allowing the property to be developed as planned, then they have to adjust. If they change the Development Plan substantially they have to come back, or they make minor modifications and maybe don't realize all the lots and density they have planned there. The most expensive work is done by Civil Engineers in the Site Plan.
- ♦ Vice Mayor Barnhill referred to comments made by one of the speakers about the City Attorney and asked Shauna Billingsley if she wished to comment on that.
- ♦ Ms. Billingsley: The City, does not review the covenants and restrictions in neighborhoods. We are not bound by them. They are an agreement made between the homeowners and the HOA. She hasn't seen them, but at the same time, the City as a whole is not bound by them. If it says anything about how the City will act or not act, it's not binding on us. That doesn't mean that whatever happens in the HOA they don't have a private action, they certainly could, but as far as between the City and them, we aren't a party to that.
- ♦ Alderman Martin: Directed her comment to Michael Dewey saying she appreciates what he did to modify a lot of the things that were talked about earlier. The reason she voted for the rezoning is she feels the property owners have a right to develop their land. Because it's such a difficult piece of land, she thinks there might be areas in those limits where some small lots could be. Although the small lots do not have a place adjoining the larger lots that are already there. She felt like she couldn't support the Development Plan. She understands what everybody said, and everybody has their own place to come from. These homes have been there, and we do believe in putting lots backing up to others that are like size, and these homes that have been mentioned that are larger, the lots that are larger she feels need to be protected. There are other places these smaller lots might fit but not here. She will not support the Development Plan.
- ♦ Alderman Burger: So, the developer is paying for the pre-blast survey, correct? Who pays for the post-blast survey. She said the builder, developer and applicant are all here and she requested that information be acquired right now.
- ♦ Mr. Gerth: That is reflective of Alderman Speedy's question, but, we'll have to look at that because he isn't sure if a post-blast survey is conducted if the blasting levels remain within acceptable levels. We will find that out.
- ♦ Mr. Dewey: We were asked to reach out to the contractor last time we were here. We did that, and we have exchanged correspondence and they gave us some information tonight. They said if any structure is within 300 ft. of blast area, the owner of the property must be offered a pre-blast survey at no cost. The owner can refuse after five days of the first notice that the blasting firm is not obligated to wait to begin blasting. He asked if that answered Alderman Speedy's question of when they will be notified and the distance.  
Seismographs are not required however if blasts are not monitored by seismographs the blasting firm must adhere to scale distance. Scale distance tells the blasting firm that allowable pounds per delay at certain distances. The biggest point that homeowners need to be aware of that they would feel the blast, feel their home shake. It does not mean any damage is being done to their home. Studies have shown that rapid temperature change does far more damage to homes than the blasting. Very similar to a strong clap of thunder.



- ♦ Alderman Burger asked did they indicate who pays for the post-blast survey should someone need that.
- ♦ Mr. Dewey: His understanding is post-blast survey is not required unless the property owner is notified.
- ♦ Alderman Burger: So, what we are not determining now is if, for example, “Mr. Smith” has cracked walls after the blasting and he wants a post-blast survey. Do we know if he pays for the post-blast survey or does the developer?
- ♦ Mr. Dewey: He understands that “Mr. Smith” reports it to his insurance company. It goes by state law. Required to do it like every other subdivision.
- ♦ Alderman Burger: her constituents had a problem with that and they had to get with their insurance company. And it didn’t work out well. She is assuming it’s going to be on the homeowners. Alderman Burger went on to say she is all for connectivity for streets. More connectivity everywhere. She thinks walking trails are great in subdivisions, and she was sorry to see that taken out. She has problems with this whole thing. Appreciates all the hard work that has gone into this. She didn’t vote for rezoning. It is the wrong plan for this area. As to some things said here tonight, we all have these places where we live, and we don’t like to change. She has lived in two places before where things dramatically changed. A greenway trail was stuck in her yard which actually ended up helping to sell her home. After living in different places, she realized that a lot of these things going in around our homes are not detrimental to our property values. She is for connectivity. She asked Mr. Andrews if he thought this plan met Envision Franklin, and about the outlining areas of the homes on the outer parcels that may not be as large, but at the same time they do meet Envision Franklin.
- ♦ Mr. Andrews: The areas in question against Mr. Horecka’s property, if there are lots that are incompatible in terms of less than 75% of the adjacent lots. Right now, we aren’t actually not even talking about adjacent lots because there is that open space (50 ft.) in between. If those lots were actually touching Mr. Horecka’s property that’s when they would have to expand in size. But since they are not actually adjacent the incompatible lot size buffer is applied. It scales based on the size of the development. In this case it is over 10 acres and required to be a Class C buffer 50 ft. When there is that discrepancy of the lot sizes, there has to be a buffer to meet the intent of the zoning ordinance. With respect to Ms. Peden’s property, again with transitional features, that’s a section of the Zoning Ordinance speaking to lots that are anticipated to be some sort of established development pattern. He doesn’t believe that is part of the platted subdivision. That is acreage that was subdivided at some point. Within Envision Franklin that property is classified as Single-Family Residential. If they were to come in with the subdivision at some point staff could feasibly support it if it met the requirements of Envision Franklin and the Zoning Ordinance.
- ♦ Alderman Burger said maybe she didn’t like that explanation but if it is the correct explanation for following Envision Franklin. She noted Planning Director Emily Hunter was shaking her head as well, and she sort of have an issue with that, but said she wasn’t challenging that, but if you tell me that is correct with how it is with the buffer, even if it is a 50 ft. buffer, which is the minimal requirement. Is that correct? (Yes) Someone said tonight that sometimes our planners become the advocate of the developers. She would argue with that. She thinks they do their jobs really well. I think you are here to make sure that Envision Franklin is followed and even though I don’t care for the answer you gave me about how that works out that is still allowable, I might not like that, as long as it is lining up with Envision Franklin and you are giving that direction to the developer, she will not argue with that. She just wanted to make that clear.
- ♦ Alderman Bransford: Every time she hears this Development Plan it feels like we are trying to fit a square into a round hole. She appreciates the developer who has met with us and talked this through, and appreciates the staff working with the developer on this. She has never felt good about this fit with these two communities where we are trying to

fit this development into this area. Highly concerned about the blasting. She can't see how 50 ft. or so is not going to impact homes versus Lockwood Glen which is several hundred feet away from this area. Blasting damage is more likely than not, in her opinion. The construction traffic to get into this area will come through these neighborhoods and that is concerning. She is struggling with this square trying to fit in this round hole. She knows we have this Envision Franklin, but feels this is not a good fit, so she will not be supporting the Development Plan at this juncture.

- ♦ Mr. Andrews: At Site Plan it will be determined where the construction entrance will be. The City and the developer will not advocate, the only four lots that will need access for construction traffic through Falcon Creek would be on the cul-de-sac. The primary construction entrance would be on South Carothers Road. Damage for the roads, the developer is required to post both bonds for construction of any roads they are going to create as well as the maintenance of other roads they access.
- ♦ Alderman Speedy: This property is in his ward and he has had multiple meetings, and as Margaret Martin said last time, it is a left-over little sliver of land. All the easily developed land has been developed and here we are at this juncture, it is hard for him because like Alderman Martin said, the property owner has a right to develop this land. The developer has come to the planning staff. In Envision Franklin lines are pulled out to support something or not support something. It's a land use plan, but ultimately it has to meet the design ordinance. It appears from the revisions they've done that they've met all the zoning ordinances. Subjectively, he may not like it, but it is hard to sit up here and be judge and jury when someone has done everything we've asked them to do. At the same time, he completely understands every homeowner sitting here the fears of blasting. Safety. The biggest investment that they have in their life, property value, and no one up here is a blasting expert. It's almost like it is hinging on this blasting and we're just unaware of post-blast surveys. Was there damage from Lockwood Glen, how much blasting is going to be done here. We're going from R-3 in Falcon Creek to one acre and 5-acre lots in Cross Creek. It's never going to be perfect for either side of this piece of property. That's what is difficult. I do think the bottom lots for the Peden property could be amended. We could do another landscape easement or something, I think she deserves that. The Horoeke property, I get it, but then he has a 50 ft. buffer, it's a zoning ordinance. If we have problems with this, it's like we should change our Zoning Ordinances. Franklin is a difficult place to develop and if someone comes in and tries to do exactly what we've told them, it's hard to vote down, but at the same time, if he lived in Falcon Creek, he would be extremely scared of blasting. And these unknowns from Lockwood Glen Yes, these roads were stubbed out, yet we knew there was going to be development at some point in time and we know we don't like change and growth, so this is hard. Need some more answers on the blasting.
- ♦ Alderman McLendon: Some of the very reasonable complaints are not things that we can do anything about. Not lawfully. We can't tell a developer that you can't develop anything because it's going to create construction traffic and noise. That is not a valid basis lawfully for us to decline an applicant. While he sympathizes with those complaints he doesn't think it a valid basis on which the Board of Mayor and Aldermen could deny a plan. For what it's worth some of those complaints are also temporal, they will come, and they will go. The blasting is not something we even can regulate. We are stuck with the blasting rules as given by the State. He will continue to make this remark as long as he holds office that the same state legislators who tell us how grievous it is for Washington, DC to tell Tennessee how to do things don't blink before doing it at the state level and expect us to live with it. We can't change or deny or do anything about the blasting impacts. He had a question on the property described as looking like Nevada. While he gets the bazaar math Mr. Horoeke is stuck with under our Zoning Ordinance, he doesn't see how the equation works with Nevada (Ms. Peden's property). He asked Mr. Andrews to explain that.

- ♦ Chris Andrews: As Mr. Dewey said, this has been a discussion for quite a while, and the property that Ms. Peden owns, I don't believe is part of the platted subdivision that was developed with a common scheme of development. One of the goals in the transitional features section of the Zoning Ordinance says to blend new development with existing development form and pattern where the existing development is established and expected to remain.
- ♦ Alderman McLendon: So, because she owns a large piece of property that might be subdivided, she's not getting the same benefit of protection from our ordinance as Mr. Horeoka is getting next door
- ♦ Mr. Andrews: That property was included in the Development Plan prior to and we don't know if she was (inaudible – over talking)
- ♦ Alderman McLendon: He believes staff has read the ordinances that we have given them and applied them as best they can, and maybe even perfectly correctly. His complaint is not with staff but with the idiots that gave you these rules. So, we'll have to try to fix that because it makes no sense to him that the property that is larger and more "pristine" if you will, doesn't get the same benefit of this meager 50 ft. buffer that Mr. Horecka's property gets. Let me make sure how that went down. Because the planner that drew this up elected not to have the lot lines touch, in which case they would have had to be comparably sized they then got to fall back on this 50 ft. buffer. That's not even two first downs, that's not much. Again, he finds fault with the law givers not the law appliers. We may never know if we can address the cul-de-sac at the north end of this. I think it is ironic that you have one neighbor say these lots are too small and another neighbor say these houses are too big. They are both right from the perspectives they hold. Factually, if not rhetorically too. This is a difficult piece of property. He likes to try to tell people what the rules are and then if they comply with the rules say grace over what they've done, but to do that removes an element of judgment. He thinks it is staffs' job to read the rules we've given them and apply them, but for this Board to make judgment calls, otherwise we're just sitting up here rather robotically saying yes. It causes him concern. He thinks Mr. Horecka's complaint is fair about the four lots backing up to his. It's not just the lot width, the size of those lots may aggregate to his lot. They could be narrow and deep and be just as deep but that would be a somewhat different problem, but these lots combined may be no larger than his lot. That's definitely true for Ms. Peden. The cul-de-sac problem at the north may never be fixed, there is terrain and topography and all that is an anomaly he doesn't like. He understands why Falcon Creek people don't want four houses at the end of their street that don't belong in their HOA. When I leave this job, I'm going to try to leave it with a clean conscience that I can rest easy upon. And this troubles me.
- ♦ Alderman Petersen: Did she understand in a comment that there is a 50 ft. buffer between lots 36 and 35 is Ms. Peden's lot?
- ♦ Alderman McLendon: No, the 50 ft. buffer is between the four that are to the west of Mr. Horeoka. Ms. Peden's lot get's no buffer. Because staff has read the rule that we gave them and concluded it's likely to change and therefore...not entitled to the same protection.
- ♦ Alderman Blanton: She was going to let her vote be her voice but feels a little peer pressure to talk. She agrees with Alderman Martin and believes in property rights and thinks that's why a lot of our developments even happen. She also agrees with Alderman Bransford. We all know Dan Horeoka because he has been here fighting something similar prior, but things seemed to be like in size and now we're here for the same fight on a different development. To her, maybe go to Estate Lots, she doesn't know, but this doesn't work for her either.
- ♦ Vice Mayor Barnhill: After listening to most of these comments he wonders how this property could ever be developed. Falcon Creek wants smaller Cross Creek wants larger. Is there any rule or regulation, anything that the developer hasn't followed in

Envision Franklin, any request, anything that was not followed? As Alderman McLendon said, the idiots who made these rules are the idiots sitting up here, the Planning Commission and us, so we voted on those things. Those are the rules and guidelines we set up to govern by. The rules and guidelines we set up that should remove personal feelings from our decisions. We should be able to look at the rules and make the decisions based on the guidelines we have. He doesn't see how, when each side wants the opposite, the property is wide enough to accomplish that. Ask anybody, how would you develop this piece of property. The property owners said they have lived on that property for 80 years. They have a right to develop their property. It's a difficult piece of property, he understands that, and he understands the buzz word "blasting" and possible damage. A lot of the information we have gotten the 2-3 ft., 5 ft. and this and that, those are not accurate statements. Unfortunately, or fortunately we blast at a lot of different locations. He said he had to be perfectly candid that at his house windows shake several times a week. He can blame the County for that. The rock crusher out on Carter's Creek Pike blasts. He's in Willow Springs. It is just one of those things that he wanted to tell them. How can the property ever be developed if the excuses heard tonight are used? We might as well redo the Zoning Ordinance or whatever or just back out of this proposal altogether.

- ♦ Alderman Martin asked why the lots don't touch.
- ♦ Mr. Andrews: The designer of the property put open space there. They aren't required to abut to the properties in Cross Creek.
- ♦ Alderman Petersen: Wanted to say something about similar lot size, adjacent or close to other lot sizes. The comment was that it fits the lot sizes, and she made the point that it is now being said this fits the lot sizes in the City of Franklin. It never fit the other side of this where it was Cross Creek and the others. It never fit that. At least in the Colletta Park, if that is what it was called. They did fit some property and made it similar to the lots, larger in the back, however they had a lot more land to work with. But this not fitting the Cross Creek and the other parts that have the bigger lots. But then, when you get over to the four at the end, they don't fit Falcon Creek. Lot 42 backs up to three plus lots. So, it doesn't fit. The other thing generally speaking, what happens is they are supposed to be kind of appropriate to the lots that are close by them, then as it moves away, one thing says the smaller lots could be in the middle, but it's not that, but this, even though a very difficult place to develop, it seems like they have been unable to fit the things in our land use plan or Zoning Ordinance.
- ♦ Alderman Burger: They do have a right to develop their property, of course. They are here for the Development Plan as well, she doesn't necessarily think people have a right to the Development Plan and if this Board doesn't find it the right one.
- ♦ *Vice Mayor Barnhill: Based upon what the audience has listened to tonight and based upon what the developers heard, he would make a motion to defer this for a certain period of time and let the developer come back with a different Development Plan, knowing what you've listened to, on what you've heard. Is that a proper motion?*
- ♦ Shauna Billingsley: It's a proper motion but you've gotten two readings out of three. The problem is if they amend the plan and bring it back to you, they still have to go back to Planning Commission. It would be better to vote it up or down tonight, then if they want to take your comments and reapply then work from there, because they are going to have to go back to Planning either way.
- ♦ Vice Mayor Barnhill withdrew his motion.
- ♦ Alderman Petersen: Well, just a minute, I just heard, and I just asked the question if we approve this and approve the third reading, it will never come back to any public body and staff will approve everything else from here on.
- ♦ Ms. Billingsley: The Site Plan.
- ♦ Alderman Petersen: That is her point, though. It would never come back through a public body.

- ♦ Eric Stuckey: You've got a Development Plan that sets a broad guidance for how the property develops. It sets entitlements. A change goes through the process completely so it's a very different question.
- ♦ Mayor Moore: First of all, he would take issue with staff being an advocate for developers. Staff works with neighborhoods, they work with comments that are made and they work with developers. He thinks they are unbiased. We give them a playbook to play by, and they play by the book. I've seen them turn things down multiple times. I'm a little confused because...I think that everybody that got up to speak tonight spoke about the blasting, and his only comment, and he rarely makes comments, was the last meeting, one of his comments was to Mr. Dewey about the blasting. Mr. Dewey wasn't very forthcoming with any comments about that until he got back up for the second time tonight which really frustrated the Mayor a bit because even though it is a State related issue, these citizens want to know, so that really frustrated him. He doesn't know how the vote will come out, but he thought the Board was ready to vote and move on.

*Regarding the motion to approve Resolution 2018-64, Development Plan for Carothers Chase, Mayor Moore asked for a show of hands for those in favor of approval, and a show of hands for those opposed. The motion FAILED by a vote of 1-7 with Alderman Speedy the lone vote for approval.*

**7. 18-1158 Consideration of Road Impact Fee Offset Agreement (COF 2018-0231) with Sunnybrook Investment Company, LLC for the South Carothers Road Widening Project (Carothers Chase PUD)**

**Paul Holzen, Director of Engineering**

**Jimmy Wiseman, Assistant Director of Engineering**

Mayor Moore asked for a motion to withdraw this item as it is moot due to the failure of Resolution 2018-64.

*Vice Mayor Barnhill moved to withdraw Item 7, COF Contract 2018-0231, Road Impact Fee Offset Agreement for Carothers Chase. Seconded by Alderman Bransford. Motion carried unanimously.*

**NEW BUSINESS**

**8. 18-1215 Consideration of RESOLUTION 2019-33, A Resolution Authorizing City Staff to Request Letters of Interest for Developing the City of Franklin Owned Property Located at 405 Fifth Avenue ("The Hill") as an Owner-Occupied Attainably-Priced Residential Neighborhood.**

**Eric Stuckey, City Administrator**

**Vernon Gerth, Assistant City Administrator**

*Alderman McLendon moved to approve Resolution 2019-33. Seconded by Alderman Blanton.*

- ♦ Alderman Petersen asked about price points and who would purchase the land.
- ♦ Mayor Moore explained this is vague for a reason. This is just testing the waters. One option includes a community building and the other is entirely residential.

*Motion to approve Resolution 2019-33 carried 7-1 with Alderman Martin voting no.*

**9. 19-0325 ★Consideration of Procurement Award to JLD Preservation Consulting, LLC of Nashville, Tennessee in the Total Amount of \$7,950 for Hincheyville Historic District National Register Listing Update Consulting Services for the Planning and Sustainability Department (Purchasing Office Procurement Solicitation No. 2019-006; \$10,000 to be Budgeted in 110-84950-41700 for Fiscal Year 2020; Contract No. 2019-0103.**

**Emily Hunter, Planning/Sustainability Director**

**Amanda Rose, Preservation Planner**

*Vice Mayor Barnhill moved to approve Contract 2019-0103. Seconded by Alderman Burger. Motion carried unanimously.*



## CONSENT AGENDA

10. 19-0219 **Consideration of ORDINANCE 2019-04, An Ordinance to Establish All-Way Stop Control at the Intersection of Rural Plains Circle and Hughes Crossing.**  
[Second and Final Reading] Paul Holzen, Director of Engineering  
*Ordinance 2019-04 approved unanimously on Second and Final Reading*
11. 19-0218 **Consideration of Procurement Award to Best Cleaners of Columbia, LLC, d/b/a New Brand Cleaners of Columbia, Tennessee in the Total Estimated Annual Amount of \$68,858 for Garment Cleaning, Pressing, Minor Repair and Alteration Services for the Police Department (Purchasing Office Procurement Solicitation No. 2019-005; \$36,508 Budgeted in 110-82260-42110 for Fiscal Year 2019; Contract 2019-0077)**  
Deb Faulkner, Police Chief  
*Contract 2019-0077 approved unanimously*
12. 19-0332 **Consideration of Professional Services Agreement (COF Contract 2019-0091) with CDM Smith, Inc. for the Robinson Lake Dam Rehabilitation Project in an Amount Not-to-Exceed \$602,300.00**  
Lisa Clayton, Parks Director  
Paul Holzen, Director of Engineering  
Jonathan Marston, Assistant Director of Engineering  
*COF Contract 2019-0091 approved unanimously.*
13. 19-0201 **Consideration of a Request for Sanitary Sewer Availability Approval for 1261 Lewisburg Pike (Map 106H, Parcel 04600)**  
Michelle Hatcher, Water Management Director  
*Approved unanimously*
14. 19-0312 **Consideration of a Request for Sanitary Sewer Availability for 1357 Ascot Lane (Map 0890, Parcel 01200)**  
Michelle Hatcher, Water Management Director  
*Approved unanimously*
15. 19-0271 **Consideration of Liquor License Renewal for Berry Farm Wine & Spirits (Satish Patel, Managing Agent), 4000 Hughes Crossing, Suite 160, Franklin, TN 37064-1484.**  
Lanaii Benne, Assistant City Recorder-Records  
*Approved unanimously*
16. 19-0294 **Consideration of Event Permit for the Rodeo Parade sponsored by the Franklin Noon Rotary Club on May 11, 2019 in Downtown Franklin.**  
Deb Faulkner, Police Chief  
*Approved unanimously*
17. 19-0299 **Consideration of Event Permit for Wine Down Main Street sponsored by the Boys and Girls Club of Middle Tennessee on November 2, 2019 in Downtown Franklin.**  
Deb Faulkner, Police Chief  
*Approved unanimously*

## RECEIPT OF REPORTS AND ITEMS APPROVED ON BEHALF OF THE BOARD

18. 19-0326 **Filing of the State of Tennessee Form CT-0253 Related to a Lease Agreement with US Bank for leasing of Equipment**  
*Acknowledged* Eric Stuckey, City Administrator  
Kristine Tallent, Assistant City Administrator/CFO
19. 19-0137 **COF Contract No. 2019-0048, An Agreement Between the City of Franklin and Robert Jeffrey Fulmer and Sonja Ann Fulmer relating to the Property located at 999 Scramblers**

**Knob (Tax Map 052, Parcel 039.00) Recorded in Deed Book 6793, Page 643 in Williamson County, TN.**

*Acknowledged*

**Michelle Hatcher, Water Management Director**

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20. 19-0139 COF Contract No. 2019-0049, An Agreement with Robert Jeffrey Fulmer and Sonja Ann Fulmer (Tax Map 052, Parcel 03900) Recorded in Deed Book 6793, Page 643 in Williamson County, TN.

*Acknowledged*

**Michelle Hatcher, Water Management Director**

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21. 19-0152 COF Contract No. 2019-0051, An Agreement Between the City of Franklin and James Jason McConnell and Francesca French McConnell, related to Property located at 1205 Scramblers Knob, Deerfield Section 2, Lot 29 (Map 52, Parcel 49)

*Acknowledged*

**Michelle Hatcher, Water Management Director**

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22. 19-0153 COF Contract No. 2019-0052, An Annexation Agreement between the City of Franklin and James Jason McConnell and Francesca French McConnell, Deerfield Subdivision, Section 2, Lot 29 (Map 52, Parcel 49)

*Acknowledged*

**Michelle Hatcher, Water Management Director**

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## **EXECUTIVE COMMITTEE DID NOT CONVENE**

### **EXECUTIVE SESSION**

23. 19-0235 Consideration of Motion to Enter Executive Session for Purpose of Reviewing Various Matters of Pending Litigation.  
Shauna Billingsley, City Attorney

### **RETURN FROM EXECUTIVE SESSION**

24. 19-0238 Consideration of Matters from Executive Session

**Dr. Ken Moore, Mayor**

## **ADJOURN**

*Vice Mayor Barnhill moved to adjourn. Seconded by Alderman Burger. Motion carried unanimously.*

Meeting adjourned @ 8:44 p.m.

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Dr. Ken Moore, Mayor

Minutes prepared by: Linda Fulwider, Board Recording Secretary, City Administrator's Office—4/23/2019 12:08 PM