

**Town of Garner  
Town Council Minutes  
April 5, 2010**

The Garner Town Council met in regular session at 7:00 P.M. on Monday, April 5, 2010 in the Town Council Meeting Room

**COUNCIL MEMBERS PRESENT:** Mayor Williams, Mayor Pro-Tem Behringer, Council Members Kennedy, Johns, Marshburn and Singleton

**STAFF MEMBERS PRESENT:** Hardin Watkins, Town Manager; Rodney Dickerson, Assistant Town Manager; Bill Anderson, Town Attorney; Brad Bass, Planning Director; Tony Beasley, Economic Development Director, Reggie Buie, Neighborhood Improvement Manager and Michelle Howell Public Information Officer

**CALL MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE** - Council Member Marshburn

**INVOCATION** - Council Member Marshburn

**PRESENTATION OF THE ALL AMERICAN RELAY 2009 AWARDS**

Jill Cottengim, Angela Matthews and Nikki Martin presented the Town of Garner with the All American Relay 2009 Award. Ms. Cottengim said she is very proud of this recognition and wanted to share it with the Town of Garner. Ms. Cottengim said she became involved in the event in 1998 and has been a co-chair and chair and is a cancer survivor. The All American Award recognizes growth, retention, Relay branding, diversity, and leadership in incorporating the 5D's within Relay events and throughout the year. The 5D's include: Fundraising Development, Event Development, Leadership Development, Team Development, and Survivorship Development.

The Garner Relay rose over \$1 million in the first ten years and rose over \$170,000 last year.

This is the second year the event is being held at Lake Benson Park. This year there are more teams than ever, more participants than ever, more survivors and more luminaries sold. The event begins with the survivor ceremony at 5:00 P.M. and ends on Saturday morning.

**RECOGNITION OF HOMEOWNER'S ASSOCIATIONS**

Tiffany Woods, David Parker  
Greenbrier Estates, Wanda Nicholson  
Bingham Station, Kim Swartz

**PETITIONS AND COMMENTS: NONE**

## **ADOPTION OF AGENDA**

Council Member Kennedy asked to add a discussion on the subject of building financial capacity. This item becomes I-3 on the agenda.

Motion: Kennedy  
Second: Singleton  
Vote: Unanimous

## **CONSENT**

Minutes from March 16, 2010

Action: Minutes Approved

### **Request to Connect to the Municipal Water System at 5011 Old Stage Road**

This is a request to connect the property located at 5011 Old Stage Road to the Town's water system. The property owners currently share a well with the adjoining property which was disconnected on January 1, 2010. As required by Garner's Town Code, the property owner must file a petition for annexation.

Action: Granted Utility Connection

### **Request for Connection to Public Water, 5400 Jones Sausage Road**

This is a request to connect the property located at 5400 Jones Sausage to the Town's water system. This is a condition of the building permit as required by the Wake County Health Department. As required by Garner's Town Code, the property owner must file a petition for annexation.

Action: Granted Utility Connection

### **Resolution to Investigate Annexations, ANX-10-02 and ANX-10-03**

Sydney Collins, 5011 Old Stage Road, ANX-10-02 and George Jones, 5400 Jones Sausage Road has submitted annexation petitions related to the previous requests for utility connections. This Resolution authorizes investigation of the sufficiency of these petitions.

Action: Adoption of Resolution No. (2010) 2048

### **NC 50 Sewer Line Easements**

The Town attorney recommends compensating Mr. and Mrs. Ronald Thompson, 1407 Benson Road, and Mr. and Mrs. David Brewer, 1002 New Rand Road, each \$710 for replacement of chain link fencing which will be relocated because of the sewer line.

Action: Approved Compensation

**Powell Drive Sidewalk Easement**

The Town Attorney recommends compensating Mr. Lenzie Leach, 726 Powell Drive, and \$350 for loss of his cedar tree due to the North Garner sidewalk construction.

Action: Approved Compensation

**Authorize Town Attorney to File Civil Lawsuit**

The Town Attorney requests authorization to file a civil lawsuit against Edward Alvin and Anthony G. Fennell to enforce zoning, junked auto and nuisance ordinances at 217 Weston Road.

Action: Approve Lawsuit

**Resolution Authorizing Annual Music on Main Community Events**

This Resolution authorizes closing Main Street from Purvis Street to New Rand Road for annual Community Events pursuant to the Town's Special Event Policy, from May until October on dates designated by the Town Manager or his designee.

Action: Adoption of Resolution No. (2010) 2049

Motion: Johns  
Second: Behringer  
Vote: Unanimous

**END OF CONSENT**

**Public Hearing on Unified Development Ordinance Amendment, UDO-10-02  
Presenter: Brad Bass, Planning Director**

Mr. Bass presented the following staff report:

Background:

The Planning Department was approached by Glenda Peele who currently operates the Garner School of Arts at 411 Coldwater Drive in Garner about expanding her business to include music lessons (piano, guitar, drums etc.)The property in question is zoned O&I. During our evaluation of her inquiry we discovered the UDO classifies this type of land use as a personal service under Retail Sales and Service category which is not allowed in the O&I District (use only allowed in commercial zoning districts). Ms. Peele has requested the Town of Garner to consider amending the UDO to allow this use in the O&I District (**see attached**). The Town Council reviewed this matter at its March 1, 2010 meeting and authorized a public hearing be set for April 5, 2010 to formally consider the requested text amendment.

Findings:

- Under the old Land Use Ordinance (zoning regulations prior to the UDO) this type of use was considered an educational instruction activity and was permitted in the O&I District.

- The North American Industry Classification Manual identifies this type of use under the general category of **Education Services** and specifically as a Fine Arts School offering instruction in dance, music, art, drama, etc.
- The UDO identifies Education Facilities as a broad land use category that allows a wide range of educational uses in the O&I District (business schools, colleges & universities, public/private schools, trade/vocational schools, etc.)
- Based on the above findings it appears this use (dance/music instruction) is not properly classified in the UDO and therefore a text amendment to place this use under the Educational Facilities category is appropriate. This would allow the use to be permissible in the O&I District.

**Summary of Proposed Text Change:**

- Amend Use Table to permit Music/Dance/Art Instruction as a permitted use in the NC, CBD, O&I, CR and SB zoning districts;
- Add language under Education Facilities category to specially include instruction in music, dance, art, etc. and;
- Remove language regarding instruction in music, dance, art, etc. from the Retail Sales category.

Mayor Williams opened the public hearing and asked for questions and comments. Hearing none, he closed the hearing.

Action: Refer to Planning Commission

**OLD/NEW BUSINESS**

**Resolution Supporting the Application for a North Carolina Main Street Solutions Fund Grant**

Presenter: John Hodges, Downtown Development Director

The NC Department of Commerce has established the Main Street Solutions Fund to support small businesses in Main Street communities in Tier 2 and Tier 3 counties in North Carolina. The initial fund will award approximately \$2,000,000 to between seven and twelve projects ranging in amounts from \$20,000 to \$300,000.

This Resolution supports the project and authorizes the Garner Revitalization Association to apply for the grant on behalf of the Town of Garner.

Two types of projects are eligible - private investment projects and public improvement projects. Public improvement projects must be matched on a 1:1 ratio by the Town. GRA has evaluated several private project ideas, but has not been able to secure investment and timeline commitments required by the grant. The improvements of Montague Street proposed in the Historic Downtown Garner Plan have been identified as

a public improvement project that best meets the guidelines of the grant, addressing the following:

- The North Garner Plan and the Historic Downtown Garner Plan have identified lack of visibility and accessibility from Highway 70 as barriers to revitalization of the Downtown area
- Businesses have closed, relocated or chosen not to locate in the Downtown area due to this lack of visibility, accessibility and connectivity from other parts of the town
- The Montague Street Enhancement Project has been identified in the Historic Downtown Garner Plan as a high priority public infrastructure project
- Completion of this project will encourage private investment, business development and job creation in the Downtown area

In addition to the potential funding, submission of this project for the Main Street Solutions Fund provides Garner an opportunity to introduce the Historic Downtown Garner Plan to the Department of Commerce, the Local Government Commission and the League of Municipalities whose representatives will evaluate the proposals.

In order to submit this project in application for the grant, the Council will need to adopt a resolution of support for the project and commit matching funds. Cost estimates for the project are being completed this week, and are estimated to slightly exceed the \$600,000 that the grant and matching funds would provide. The Resolution will also authorize the Garner Revitalization Association to apply for the grant on behalf of the Town of Garner.

This Resolution supports the project and authorizes the Garner Revitalization Association to apply for the grant on behalf of the Town of Garner.

Council Member Marshburn asked when would we know if this grant was approved. Mr. Hodges said he expects an announcement around first of May. He said the money will be placed in a separate account and the Town will administer the funds.

Motion: Kennedy  
Second: Behringer  
Vote: Unanimous

Action: Adoption of Resolution No. (2010) 2050

**Ordinance to Amend the Town Code Related to Nuisance Enforcement**  
Presenter: Bill Anderson

The notice given to violators required in the Town Code is modified for chronic violators. A chronic violator is a person who owns property whereupon, in the previous calendar year, the Town gave notice of violation at least three times under any provision of the public nuisance ordinance. The Town may notify a chronic violator of the Town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall

become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail.

The Inspections Department and the Town Attorney recommend an Ordinance amending Section 6-24 of the Town Code regarding notice to chronic violators of the nuisance ordinance consistent with a 2009 statute change.

Motion: Marshburn  
Second: Singleton  
Vote: Unanimous

Action: Adoption of Ordinance No. (2010) 3578

#### **Discussion of Building Financial Capacity**

Council Member Kennedy said this was discussed at the Planning Retreat and the March work session. He said he has been hearing hints of a budget challenge this year. Revenues are down and we need to decide how we can balance the budget and develop financial capacity to accomplish capital improvements. He suggested the Council discuss and if it is something the Council agrees is worthwhile then we can give the manager direction.

Council Member Marshburn said the Council was asked at the March work session to choose their five top priorities. Each Council Member gave their priorities.

Council Member Singleton said we need to maximize revenue opportunities as much as possible and requested to add that to the list. He said he did not prioritize because he felt the Council should consider all of them.

Council Member Marshburn asked if our fees structure is consistent with other towns. Mr. Dickerson said we are in the mid-range.

Action: Manager to present Revised Document at April 20 Meeting for Adoption Consideration

**Committee Reports: None**

#### **Manager Reports**

1. Star Tracker
2. Enforcement Reports
3. Mr. Dickerson presented some clarification of the questions raised at the March work session regarding the 2010 Legislative agenda proposed by the Wake County Mayors.
  - Using debt to finance past retirement. This item was proposed by Morrisville. They have not been in the local government retirement system for long and are required to pay from the beginning. This does not affect the Town of Garner, but it would not hurt to advocate on their behalf.

- Boarding of homes. This proposes to shorten the time of abatement to six months. Mr. Anderson said there are statues in place that we can use. Mr. Dickerson said he will compare the current statutes with the proposal and report to the Council.
- Modernization. He will review the 21 page document and try to summarize for the Council.

4. Mr. Dickerson provided an update on the EMS situation. He reported that Commissioner Gurley said he will not be interested in assumption of Garner EMS if they don't want it. Chief Frederick said it is their desire to remain independent; therefore this matter was removed from the Wake County Commissioners agenda.

#### **Attorney Reports**

Mr. Anderson said he has secured all easements for the North Garner sidewalk project except one. He said he will file an eminent domain lawsuit tomorrow. All except three easements have been signed for the NC 50 sewer line project.

#### **Council Reports**

Mayor Pro Tem Behringer

- She reported tall grass on some of the vacant lots on West Garner Road, mostly in the 300 block and at the corner of West Garner Road and Cofield Alley. Trash is being thrown out as people walk or drive by in this same area as well as on West Main Street near the 200 block. She said we need to explore some way to discourage this behavior.
- She clarified the location of some malfunctioning street lights near Hammond and US 70. She said the lights are out on Hammond, all except one between Mechanical and US 70 and on the south side of US 70 on Timber Drive.

Council Member Marshburn

- He asked the Clerk to present some dates when the Council could take the Ethics training on Webinar.
- He reported that on Saturday, April 24, some of the local churches are engaged in an operation similar to the town's neighborhood enhancement efforts.

Council Member Kennedy

- He asked if a date has been set for letting the bid for Timber Drive extension project. Mr. Bass said he will be in contact with NCDOT staff and provide a schedule to the Council and Manager.
- He commented that the recognition of the Home Owners Associations is certainly in line with the intent of the Neighborhood Improvement Manager position.

Council Member Singleton

- He asked if there was a schedule on paving New Rand Road, noting there has been an area being "milled" only at the entrance to Pinehurst park subdivision.
- Referring to the All American Relay award, he suggested we move the sign around every thirty days, maybe at some of the parks, welcome to Garner signs and places of high visibility.
- He reported being contacted by Kristen Warren regarding the Town's position on not allowing her to bring a "backyard" hen to Earth Day at White Deer Park. Ms. Warren was told by the Parks and Recreation Director that she could bring display/presentation material, but no hens. Mr. Watkins explained that Earth Day will be held on April 17 at White Deer Park. Most of the exhibitors there are the ones the Town staff has contacted. There has been conversation back and forth with Ms. Warren; she planned to bring an information board and wanted to bring a hen. Ms. Shaw said she did not want to embarrass the Council by using a Town facility to provide information on something the Council opposed, so she suggested Ms. Warren educate with an information board. Mr. Marshburn said he is inclined to support town staff. Town Attorney Bill Anderson provided insight into the matter that pointed the Council towards allowing a hen to be present at the event. After discussion, the Council agreed to have her bring the hen, but she must provide information about where hens are allowed which is consistent with the Town's Ordinance.

**Adjournment: 8:50**

Motion: Kennedy  
Vote: Unanimous