

**Town of Garner  
Town Council Minutes  
July 7, 2009**

The Garner Town Council met in regular session at 7:00 P.M. on Tuesday,  
July 7, 2009 in the Town Council Meeting Room

**CALL MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE** - Council Member Singleton

**INVOCATION** - Council Member Singleton

**PETITIONS AND COMMENTS**

Dan Emory, 406 Butler Drive, introduced himself as a 51 year resident of Garner. He said felt he deserved an answer to why the solid waste contract was voted on and passed with the low bid rejected and the high bid accepted.

**ADOPTION OF AGENDA**

Mayor Williams added an item to Old/New Business to discuss a request by Attorneys for Shaw Sanitation Services, Inc. for an Appeal to the Council regarding solid waste contractor selection.

Motion: Kennedy  
Second: Marshburn  
Vote: Unanimous

**CONSENT**

**Minutes from the June 16, 2009 Meeting**

Action: Minutes Approved

**Resolution Adopting the Records and Retention Schedule for Government Records**

On May 19, 2009, the North Carolina Department of Cultural Resources, Division of Archives and History approved a new Records Retention and Disposition Schedule. Each unit of government will need to adopt this schedule which ensures municipalities may not destroy any records prior to the time periods stated in the schedule.

Action: Adoption of Resolution No. (2009) 2016

Motion: Marshburn  
Second: Singleton  
Vote: Unanimous

**END OF CONSENT**

Public Hearing, Special Use Site Plan Request, SUP-SP-09-06, Char-Grill

Presenter: Jenny Saldi

Mayor Williams announced the public hearing and explained the process of the quasi-judicial hearing. He asked any Council member that has had any ex parte communications regarding this matter to disclose them at this time. Hearing none, he asked staff to present the report.

D. Miller & Associates, P.A. are requesting special use site plan approval for a restaurant to be located on Lot 7 in the White Oak Shopping Center. This out parcel is part of a regional retail center with large and small retailers, restaurants and movie theatres. The applicant proposes a one story building with internal access from the shopping center. The building will be faced with the red-brown primary brick of the shopping center. The plan as proposed meets the requirements of the Landscape Ordinance and the Timber Drive East Overlay District.

This project is subject to nitrogen water quality requirements as well as water quantity requirements. This site is part of the White Oak Crossing Retail Project - Phase II. Stormwater quality requirements were handled for the overall development by installing several retention ponds. However an offset payment to the North Carolina Ecosystem Program will be required to reduce the nitrogen export to below the baseline target of 3.6 lbs/ac/yr. The retention ponds also provide for detention of the 1, 10, and 25 year storms. The utility plan has not received final approval from the City of Raleigh. Missing are details on the plan required by the City of Raleigh. The site designer continues to work on the requirements but must have City of Raleigh approval prior to issuance of a building permit.

One of the access points for the project is a new driveway, with shared access, constructed on the adjacent property. This shared access easement along with a maintenance agreement must be recorded prior to release of a building permit for the project.

Norman Karr, Chairman of the Planning Commission reported the Commission recommended approval of this permit subject to the following:

1. The Applicant shall receive final approval of the utility plan from the City of Raleigh prior to issuance of a building permit.
2. Construction drawing approval from the City of Raleigh for the extension of the public sewer line shall be required prior to release of the building permit for the project.
3. The public sewer easement shall be recorded along with the subdivision of the property prior to release of the building permit.
4. A shared access easement and maintenance agreement shall be recorded prior to release of the building permit.
5. The Applicant shall submit written documentation from the shopping center owner approving the location of the dumpster enclosure on top of the private storm water easement.

Council Member Johns asked if indoor seating is included in the plan. Ms. Saldi said the applicant plans a small number of seats in the restaurant.

Mayor Williams called for comments from the public. Mr. David Miller, on behalf of owner said he is here to answer questions. He noted that he has been in touch with the City of Raleigh and expects approval of the utility plan soon.

Council Member Marshburn asked if the ice cream restaurant will have a separate name. Mr. Miller said it will be called "Waffles and Cream" and will have a walk up site facing Timber Drive.

With no additional comments, Mayor Williams closed hearing and called for motion.

Action: Find Application complete and in compliance; Grant permit subject the five conditions specific to the site.

Motion: Behringer  
Second: Marshburn  
Vote: Unanimous

**OLD/NEW BUSINESS**

**Request by Attorneys for Shaw Sanitation Services, Inc. for an Appeal to the Council.**

Presenter: Brian Edlin

Mr. Edlin read a letter on behalf of Shaw Sanitation asking the Council to reconsider awarding the solid waste bid to All Star. The letter is attached herewith as a permanent part of this document.

Mayor Williams said there will be no comment period and asked the Council to refer any questions to the Town Attorney. Mr. Anderson said procedurally, the matter will be coming back to the Town Council irrespective as to whether Shaw Sanitation has appealed the Council decision. The first step in this process is to choose a vendor and the next step scheduled on July 21 is to authorize execution of the contract. There will be an opportunity for discussion at that time. On the legal side, the relevant law is there are some statutes which specify certain procedures regarding contracts. A construction contract according to the N.C. General Statutes is based on a low bid. This is a services contract and is not governed by those statutes and allows the Town discretion. He again reported this matter will come back to the Council in July 21; management proposes to award the contract to All Star.

Action: Heard Appeal; Contract Authorization to be on the July 21, 2009 agenda

**Resolution Supporting an Application to Participate in the North Carolina Main Street Program**

Presenter: John Hodges

The North Carolina Main Street Center is currently accepting applications from communities to participate in the Main Street Program. This program helps small towns recognize and preserve their historic fabric, and, using local resources, build on their unique characteristics to create vibrant central business districts that meet the needs of today's communities. This Resolution shows the Council's support of this application.

Action: Adoption of Resolution No. (2009) 2017

Motion: Marshburn  
Second: Singleton  
Vote: Unanimous

**Ordinance Adopting Amendments to the Unified Development Ordinance**

Presenter: Brad Bass

This Ordinance amends the Unified Development Ordinance (UDO) regarding: 1) the permit time extension requirements as requested by a developer, 2) replacing Board of Aldermen with Town Council throughout the UDO and 3) a minor change to the Garner Road Overlay District to require curb and gutter around landscape areas. A staff report and Ordinance are enclosed.

Action: Adoption Ordinance No. (2009) 3558

Motion: Kennedy  
Second: Singleton  
Vote: Unanimous

**Ordinance Adopting Amendment to the Unified Development Ordinance**

Presenter: Brad Bass

This Ordinance amends the Unified Development Ordinance regarding temporary storage containers. The Town Council conducted a public hearing on July 7, 2008 and referred the matter to the Planning Commission. The Commission tabled it presenting concerns to staff. The Commission received a revised amendment at the June meeting and recommended approval.

Action: Adoption of Ordinance No. (2009) 3559

Motion: Marshburn  
Second: Behringer  
Vote: Unanimous

**Human Resources Committee Recommendations for Advisory Board Appointments**

Presenter: Council Member Singleton

Mr. Singleton said the Human Resources Committee conducted interviews in June with candidates. The Committee recommends Elmo Vance, be re-appointed to the Planning Commission; Chris Farmer and Barbara Barat be appointed to the Planning Commission; Richard Squires be re-appointed to the Parks and Recreation Advisory Committee, David Jeter be appointed to the Parks and Recreation Advisory Committee; Al Batine and Shirley Poole be re-appointed to the Senior Citizens Advisory Committee.

The Mayor and Council extended its appreciation to Norman Karr, Gregg Stahl and Gary Keift for their volunteer service.

Action: Elmo Vance, re-appointed to the Planning Commission; Chris Farmer and Barbara Barat appointed to the Planning Commission; Richard Squires re-appointed to the Parks and Recreation Advisory Committee, David Jeter appointed to the Parks and Recreation Advisory Committee; Al Batine and Shirley Poole re-appointed to the Senior Citizens Advisory Committee.

Motion: Singleton  
Second: Johns  
Vote: Unanimous

## **Manager Reports**

1. Star Tracker. Mr. Watkins reported on the Greenbrier traffic calming request; as of July 11 staff will have completed recording of speed counts and speed cushion installation is scheduled for July 13.

Council Member Marshburn asked the status of the lead left turn traffic signal at Timber Drive and Aversboro Road. He reported a number of incidents where vehicles making a left turn are not yielding to oncoming traffic. Mr. Bass said this will have to be evaluated by N.C. Department of Transportation. Council Member Kennedy said this was discussed during the site plan approval of Aversboro Road Elementary School. Mr. Watkins said he will research this matter.

Council Member Behringer asked the status of the Garner Road yard maintenance. Mr. Watkins said this task has been assigned to Mr. Buie.

2. Sign Violations
3. Planning Enforcement Report, June 2009
4. Planning Commission Summary, June 2009
5. Personnel Report for July
6. He reported the receipt of the Certificate of Achievement for finance and reporting. A local representative from Government Officers Finance Association will present a plaque at an upcoming meeting.

## **Attorney Reports**

None

## **Council Reports**

### **Council Member Marshburn**

- Stated that July 3<sup>rd</sup> carried out with no problems; he commended staff for the great job of cleaning the park. He thanked all associated with the event and said he personally enjoys the event.
- He asked the status of the sidewalk project at Aversboro Road and Vandora Springs Road. Mr. Watkins said the project is 90% complete.

### **Council Member Behringer**

- She stated that several people have thanked her as a Council Member for having the July 13 Celebration.
- She asked the status of the road work on Pearl Street. Mr. Dickerson said he will find out and report back to the Council.
- She talked with Representative Ross about Timber Drive extension. Rep. Ross said she understood there is only a one month delay and encouraged discussion with Rep. Jackson. Mr. Bass said the current bid date is May 2010.

### **Council Member Johns**

- He echoed comments from other Council Members regarding the successful event on July 3.

- He asked what is going on with ConAgra. Mr. Watkins said they are moving forward with plans. We are doing continual building inspections so they can get construction completed on the north side with plans to have production up by August 1. The challenge is getting the packaging department up and going; he encourages calls of support to ConAgra on behalf of those workers. He added that ConAgra is interested in a "thank you" event for emergency staff and others involved.

**Mayor Williams**

- He reported the Mayors' Association Summer outing will be held at the Mudcats game on Friday, July 31. He asked the Council to let the Clerk's office know by July 20 if they plan to attend.
- He reported a public hearing to be held on July 21 regarding the four way stop intersection at Old Scarborough and Hadrian Drive.
- He said he will speak to the Civitan Club regarding the emotional aspects of the ConAgra incident.

**Council Member Singleton**

- He noted that Mr. Edlin's comment was incorrect regarding the solid waste bids adding that Shaw was the second lowest bidder. He noted that the Council has also spent hours researching and contemplating this matter; this was not a quick decision.
- He said the July 3 Celebration was a wonderful event. He complimented staff on the trash removal; reporting cans were emptied before they were full. He said there were long waits at the porta-johns and said he felt we can use more facilities in more locations. He also said he felt Police need to be at Timber Drive and Aversboro Road sooner than 5:45.

**Council Member Kennedy**

- He said July 3 was a well organized event and he was approached by at least five people in 24 hours complimenting Garner on the event. He noted the park was clean at 9:00 AM on Saturday morning.
- He asked if there is a particular problem with the sidewalk installation at Vandora Springs Road. The area from Fowler Drive to Gleneagle Drive has been in the same state for a while.
- He asked if there has been any activity from property owners regarding landscaping incentives on Garner Road. Mr. Bass said several have taken advantage of the program and he will provide and update at an August meeting. There will be a second round of notifications to the property owners.

**Adjournment 8:45**

Motion: Kennedy  
Vote: Unanimous

Respectfully Submitted

Judy Bass