

**Town of Garner  
Town Council Minutes  
July 21, 2009**

The Garner Town Council met in regular session at 7:00 P.M. on  
Tuesday, July 21, 2009 in the Town Council Meeting Room

**CALL MEETING TO ORDER**

**ATTENDING:** Mayor Williams, Mayor ProTem Kennedy, Council Members  
Behringer, Johns, Marshburn and Singleton

**STAFF MEMBERS PRESENT:** Hardin Watkins, Town Manager; Rodney Dickerson,  
Assistant Town Manager; Bill Anderson, Town Attorney; Brad Bass,  
Planning Director; Lin Jones, Finance Director; Frank Powell, Town  
Engineer; Tony Beasley, Economic Development Director and Michelle  
Howell, Public Information Officer

**PLEDGE OF ALLEGIANCE:** Mayor Williams

**INVOCATION:** Rev. McClenton, Rand Street Christian Church

**RECOGNITION OF ACHIEVEMENTS**

**Demetrius Hunter, 2009 Public Works Employee of the Year**

Mayor Williams presented Mr. Hunter with his achievement award.  
Mr. Paul Cox, Public Works Director, said Mr. Hunter was nominated for  
the award by his peers. Mr. Cox said this is the first year of the  
award and the way nominations came in, the selection committee had an  
easy job and the award is well deserved. Mr. Hunter thanked Mr. Cox  
and his co-workers for the award and thanked the Council Members for  
the recognition.

**Maria Calder, Retiring with 24 years of service with the Police  
Department**

Mayor Williams commended her for being a special public servant.  
Chief Moss came forward and presented her with a plaque and a retirement  
gift from the Town. He noted that the Town is not only losing 24 years  
of institutional knowledge, but we are losing our Spanish interpreter.  
He thanked her for her many years of service.

**The Garner Senior Center received recognition as a certified "Center  
of Excellence" by the State of North Carolina Division of Aging and  
Adult Services**

Leslee Breen, Division of Aging and Adult Services, presented the  
award. She said on May 21, the Certification team reviewed the Garner  
Senior Center, looking for documentation of high standards. Those  
standards were not only met, but exceeded the requirements.

Torrey Blackmar, Senior Center Director, said this recognition is not  
just for the Town, but Meals on Wheels and Resources for Seniors who  
contributed to their success.

## PETITIONS AND COMMENTS

Mayor Williams said next on the agenda is the time called petitions and comments. This is time that is laid aside for anyone who may wish to address the Council on an item which is not on the agenda. However, there are four people signed up to speak on the sanitation contract which is on the agenda, but he said he will allow them to speak. Mayor Williams asked if there is anyone other than those four people who may wish to speak. After a raise of hands, he said he will let the four who signed up to speak and then anyone else should take a place at the podium.

Daniel Coleman, 517 Rock Quarry Road, Wake County. Mr. Coleman said he supports the Town of Garner for all the wonderful things it does for the citizens, the County and the State. Mr. Coleman said he wanted to draw particular interest to the solid waste contract to be voted on tonight. Wake County today posted results for our schools meeting state education goals, which showed increased performance by 10%; we were able to do this because we fund our schools adequately. The students, staff and parents are dedicated and we have a strong business community. Keeping that in mind he believes it is in our collective best interest where possible to spend public dollars with businesses located in Wake County. This evening the Council has the choice to award the solid waste contract to a Wake County business that submitted the lowest bid, scored the highest points and was recommended by Town staff over all other bidders. We need the \$4.6 million dollars to stay in Wake County so we can keep funding the Wake County's efforts in our school, libraries, law enforcement and other ways. He asked the Council to please vote for Wake County.

Michael Leach, Vice President of the NCAACP, 1109 Chatham Lane, Wake County. He said the NAACP is concerned about the process in which governments operate; they have a fiduciary responsibility to act ethically in managing citizens money and looking at how tax dollars are spent. He said he understood there was a lower bid submitted. He said he hopes the Council will take the recommendation of staff and citizens who are concerned about the process. He said he feels the Council will act in a manner that is ethical and has the integrity he feels they have. He requested Council to take the lowest bid.

Mayor Don Rohrbaugh, 104 Monabreeze Way. He said he read about the garbage bid in the Garner Citizen and was concerned about the cost, so he went after answers. He talked to all of the Council Members except one in person. He talked with Council Member Singleton and asked him to explain why he voted the way he did. The answers left little doubt with all facts. He said he is convinced they were doing the right thing for Garner and supported the 4-1 vote and the bid for All Star.

Rev. McClenton, Rand Street Christian Church. He said he read the article about Shaw Sanitation and knows Shaw Sanitation. He said he lived in a rural area where Shaw was the carrier. He said they are a respectable sanitation company. He found no fault with the bills or picking garbage up on time; if they made a mess, they cleaned it up. With the present company, trash is left beside road and barrels not taken care of as they should be. He said we are in a recession and to spend more money for sanitation does not make sense when you have

someone doing a better job than anyone. He commended Shaw and asked the Council to reconsider. He said this is not about black and white, but money; we don't need to waste money on a higher bid when you can get good service with the low bid.

Dwight Rogers, 100 Queensbury Court, said this is an economic crisis and the Council should use common sense, not nonsense and said the Council needs to vote the correct way; for Shaw Sanitation.

Ed Stiles, 4932 Wyandot Lane, Garner. He said he opposes the vote to award a bid for the solid waste and recycling contract to All Star for three years at \$360,000 above the lowest qualified bidder. He said he is not a representative of Shaw, but a concerned citizen and activist who believe the taxpayers deserve far better than what they have been given. He said he feels it unconscionable that the Council would stake their reputation of fiscal conservatives to make this usual and illogical move. It is unconscionable that those who voted would resort to "half baked" excuses and then turn around and respond to criticism by saying the public does not understand what is going on. Why not give us a better explanation.

Mr. Stiles said he wanted to address a couple of reasons he has heard. Council Member Kennedy referred to the Five on Your Side video showing the mixing of garbage and recycling that only tells half of the story. Mr. Stiles said he viewed the video and that Nancy Shaw, president of the company, said they will go the extra mile and put additional trucks on all routes. He said Ms. Shaw identified the problem and Shaw took appropriate steps to correct. Mr. Stiles referenced an e-mail exchange between Council Member Behringer and a citizen where Council Member Behringer stated that the Town had problems with yard waste pick up. Mr. Stiles said there are two flaws to that argument; Shaw is not the Town's current provider and this Council awarded the contract to a company that does not have experience with yard waste or recycling. Mr. Stiles referred to an article in the Garner Citizen where a Council Member acknowledges personal ties to the Sims family. One can interpret from that article the Council looks after friends rather than tax payers. Mr. Stiles said the Council should do what is right for the tax payers and accept the low bidder.

Benny Moore, 2305 Atkinson Road said Shaw provides quality service at a quality price. In these economic times we need to save a dollar. He requested the Council allow Shaw to serve the good citizens of the Town of Garner.

Samuel Letterman, 121 New Rand Road asked "Why do you bid for it if you just give it to who you want to."

Commissioner Lindy Brown, 1207 Silverhill Court, said she is speaking as a citizen. She said all of the Council have heard strong advocated concerns and said she comes before this body to ask them to reconsider the proposal and allow Shaw Sanitation to have this contract. She said it is in the best interest of Garner and surrounding areas. She said Shaw has demonstrated their ability to do garbage pick up. She encouraged the Council to express concerns but allow them to do their service and asked the Council to please listen to their constituents.

Dave Camp 1012 Hadrian Drive, said he works in the business world and has experience in bids. Mr. Camp said he knows for certain that less doesn't always mean better, noting this is not a slam on Shaw or prop up to All Star, but there are more things to consider than dollars. He said they have elected officials to do the best thing for them. He said he trusted that with the 4-1 vote the homework was done, bids were reviewed and all things considered to make a decision made in the best interest of the citizens of Garner.

Arnie Osborn, 1309 Brucemont Drive said he is a candidate for Garner Town Council. Mr. Osborne said he is shocked and amazed. He noted that other things are based on price, why can't we get trash pick up based on price. He said he hasn't heard anything bad about Shaw.

Hearing no more comments, Mayor Williams said the Council will vote on the Contract at the end of the agenda.

#### **ADOPTION OF AGENDA**

Motion: Johns  
Second: Singleton  
Vote: Unanimous

#### **CONSENT**

##### **Minutes from July 7, 2009**

Action: Minutes Approved

##### **Town of Garner Street Lighting Policy**

This policy will give developers some flexibility when selecting street lighting systems for their project. The policy covers standard and alternative guidelines and ensures the Town incurs no extra expenses.

This policy was reviewed by the Town Council at the June 29, 2009 work session.

Action: Street Lighting Policy Approved

##### **Ordinance Amending Town of Garner Fees and Charges**

This Ordinance adds one item to the contractually obligated adjustments directly requested by the City of Raleigh Utilities Department based upon the Engineering News Record figures. The City of Raleigh increased the Nitrogen Reduction fees related to water service only.

Action: Adoption of Ordinance No. (2009) 3555

##### **Wake County Tax Report, June, 2009**

The Wake County Board of Commissioners has approved non-cash rebates in the amount of \$4,504.36 for taxes from 2004 to 2008. These actions

occurred in the period from May 1, 2009 to May 30, 2009 and are presented for approval.

Action: Tax Releases Approved

Motion: Johns

Second: Singleton

Vote: Unanimous

#### **END OF CONSENT**

#### **PUBLIC HEARING**

#### **Request to Remove the Four-Way Stop Intersection at Old Scarborough Lane and Hadrian Drive in the Heather Woods Subdivision**

Presenter: Frank Powell

A petition was presented at the June 1, 2009 Public Works Committee meeting opposing the four-way stop intersection at Old Scarborough Lane and Hadrian Drive located in the Heather Woods Subdivision. After review, the Committee directed staff to notify residents along Old Scarborough Lane and a portion of Hadrian Drive of the request. Since that time another petition has been submitted requesting the intersection remains a four-way stop.

Mr. Powell presented the following staff report.

A petition has been submitted from a group of individuals in the Heather Woods Subdivision requesting that the Town remove the four-way stop condition at the intersection of Old Scarborough Lane and Hadrian Drive. The petition was signed by 48 residents, representing 42 households. A review of the petition indicates that there is concern about potential traffic accidents or "near misses" at that intersection as a result of the four-way stop condition.

This four-way stop was ordained in June of 2002 based upon a petition submitted by area residents representing 47 households. The four-way stop signs were requested in an effort to reduce speeding on Old Scarborough Lane. A copy of the, then, Board of Aldermen meeting minutes concerning this matter are attached.

At that time the Engineering Department recommended against the installation of the four-way stop signs at this intersection. Our current position on this matter remains unchanged.

The Manual of Uniform Traffic Control Devices for Streets and Highways (MUTCD) recommends that "multiway stops" should ordinarily be used only in certain instances. The MUTCD is considered to be the transportation "bible" for the installation and use of traffic control signs. The instances when MUTCD recommends that multiway stops should be used are as follows:

- The volume of traffic on the intersecting roads is approximately equal and at least 300 vehicles per hour for any eight hours of an average day.

- Where traffic signals are warranted and urgently needed, the multiway stop is an interim measure that can be quickly installed.
- An accident problem exists, as indicated by five or more reported accidents of a type susceptible of correction by a multiway stop in a twelve period.

Also the MUTCD states that stop signs should not be used for speed control. A copy of the applicable MUTCD sections is attached to this memorandum.

In addition there are numerous studies, articles, etc. that recommend against using stop signs to control speed. One such analysis/study was done by Carl R. Dawson, Jr. PE in 1991 and, in my opinion; this study seems to provide a reasonable and accurate summary of the findings of many other studies conducted on this matter. Accordingly much of the following discussion is taken directly from that study. The most often cited reasons for not using multiway stop signs are presented below.

- Stop signs reduce speed in a very limited zone immediately adjacent to the stop sign and may actually result in increased speeds in the areas outside of this zone. Studies have shown that stop signs have a significant effect on driving within a narrow zone perhaps 100 - 200 feet surrounding the signs. Stop signs have no significant effect on driving speeds outside of this zone of influence. Some studies suggest that installing stop signs to control speeds may actually result in increases in driving speeds. It is believed that drivers are quick to recognize what they perceive to be an unnecessary restriction and try to make up for the delay caused by the signs.
- There is some concern that using multiway stops increases the potential for accidents at an intersection. These include rear-enders and potential accidents caused by confusion of who has the right-of-way (it would appear that this is the primary issue associated with this particular petition).
- Stop signs perceived to be unnecessary and which do not meet the standard warrants tend to some extent to be ignored by drivers, whereas signs placed for right-of-way purposes are more likely to be obeyed. From personal observation there are numerous vehicles which routinely only come to a "rolling stop" below 5 MPH at this intersection and some vehicles which will pass through the intersection at higher speeds. It is also noted that numerous tickets have been issued at this intersection by the Police Department.
- There are costs associated with unnecessary stop signs in and above the actual cost of installing the sign itself. For those motorists obeying the stop condition these costs are increased vehicle operating costs, time lost, additional noise pollution, and increased air pollution. The cited study indicates that the cost in increased vehicle operating costs and time lost is about \$0.08 per stop/acceleration cycle as expressed in 1990 dollars. Obviously the cost for those drivers that do not obey the stop condition and then receive a driving citation is significantly higher.

Accordingly, based upon the information presented above the Engineering Department continues to recommend that stop signs not be used in general, and in this case specifically, for speed reduction.

Mayor ProTem Kennedy asked if there have been any accidents since the four-way stop signs were installed and if any recent data has been collected. Mr. Powell said he did get speed information over the last two weeks which was an average speed of 22 miles per hour.

Council Member Johns asked if the signs were originally placed because of accidents or by request of residents. Mr. Powell said he remembers that it was more volume than speeding.

Council Member Marshburn asked if there are other situations where similar signs have been requested. Mr. Powell said there have been and he opposed those for the same reasons.

Mayor Williams asked for a show of hands for those wanting the stop signs to remain and those that wanted them removed. Approximately four requested the signs be removed and approximately ten requested they remain.

Gary Lee, 509 Old Scarborough Lane, said he has lived there for 20 years. Mr. Lee said he was employed with NC Department of Transportation for 40 years; his job was to design streets and highways. Mr. Lee said after review of the staff report, he would have concluded that the Town's Engineering Department made the same recommendation he would have made. Mr. Lee said he reviewed both petitions and said that most of the people go to destinations north; shopping, restaurants, jobs, etc. Anyone north of intersection would not have to go through that intersection. Anyone south has to deal with it everyday. All of those on the south side signed the petition to take the signs out. Mr. Lee said that some of the people signed the petition live on Buffalo Road and most of the ones that don't live on Old Scarborough want to keep the Four-Way stop.

Tim Montgomery, 413 Old Scarborough Road, said he lives two houses from the stop signs and he started the petition to keep stop sign. Mr. Montgomery said he is doing this as a parent and wants to keep children safe. Mr. Montgomery said he feels it was put there for a reason. Mr. Montgomery said he did look at some data and the speed limit according to the Garner Police from last month noted an average of 22 mph; however, there is a high rate of traffic that occurs from 3:00 to 7:00 P.M.

Mr. Montgomery said this is an active neighborhood with lots of people walking. He said he does not go through it everyday, but said he is impacted with ten children living at three or four houses from the stop sign. He said he did not know about the first petition, but this petition affects the entire subdivision having over 80 names. He said that the entire block signed for the signs to stay. He asked the Council to consider keeping the four-way intersection because it helps slow people down.

Mike Bullard, 506 Old Scarborough Lane, said he is one of the residents living on the south side that is in favor of retaining the

sign. He said he appreciates recommendation and said he is a professional engineer. He said if he had been called in as a technical professional to look at existing standards he would have come to same conclusion as the Town Engineer; however, he does not speak as engineer, but as a resident who is affected. He said he has lived there before and after installation of the stop signs. When the signs were placed there because of concerns about excessive speed and cut through traffic from Buffaloe to Aversboro. He said it is their perception that it accomplished those goals. He said it does represent an inconvenience, but contends this is a minor inconvenience relative to benefits offered by the stop signs. He asked the Council to please consider this information when they make their decision.

Gary Davis, 421 Old Scarborough Lane, said he has lived at the intersection of the four-way stop signs since July 1988. He said they were the first family and were there for five months before anyone moved in. He said he has seen wonderful growth in area; Summers Walk, Autumn Oak and lots of families. Prior to installation he said he observed excessive speeding as it is the main street in the subdivision. He said he has observed cars racing side by side and passing on the street and he firmly believes a stop sign in this development will not eliminate but will discourage speeding and cut-through traffic. He asked the Council to keep the signs in place for continued safety of all residents, young and old.

Ann Mainor, 409 Old Scarborough Lane, said she wants the stop signs to stay. She said she runs there a lot and can't imagine not having a stop sign. She said there are a lot of families in the neighborhood; this is not an aging neighborhood as was said earlier. There is more traffic going on old Scarborough Lane. She said removal of the stop signs will encourage speed and she does not want to take that chance.

George Passley, 417 Old Scarborough Lane said he is a City of Raleigh Police Officer and his job is to enforce and protect. He said he can not think of a better place to have a stop sign. Mr. Passley said that one person killed is too many. He asked the Council as elected officials to make proper and right decision.

Allison Balentine, 418 Old Scarborough Lane, said she lives adjacent to the stop sign. Ms. Ballentine said her husband was killed by speeding; she tries to teach her children the danger of speeding. She said if the Council votes against sign, it removes everything she has been trying to teach her children. She also noted this is a school bus stop.

Sandy Montgomery 413 Old Scarborough Lane, said good arguments have been made supporting keeping stop sign. Ms. Montgomery said she did collect many of signatures on the second petition (to keep signs). She said the problem is that people use Old Scarborough as a cut through and she worries about what will happen if the signs are removed. She said it is working and it does make people stop. She restated that this is a bus stop for North Garner Middle School and Timber Drive. She said we need to keep this neighborhood safe and she feels the signs are working. She requested the Council keep the four-way stop signs.

Mayor ProTem Kennedy asked if the group that signed the petition to remove the signs is represented. Mr. Lee said that most of them could not be here, but he is overwhelmed and feels the community has spoken. Mr. Lee said he could live with it either way.

Amaka Flynn, 108 Heatherwood Drive, said she is a candidate for Garner Town Council. Ms. Flynn said this is a "no-brainer" and she felt the Council's job is to watch out for citizens' best interest and our families.

Elaine Heintzelman, 805 Old Scarborough Lane, said she is the longest distance away from the sign and doesn't mind the stop signs.

Amanda Mason, 405 Old Scarborough Lane, said her daughter catches the bus at that sign and doesn't see any sense in taking stop signs away.

Deanna Clack 414 Old Scarborough Lane said she is two houses from the sign and has two children.

Mayor Williams closed the public hearing.

Action: Deny Request to Remove Stop Signs

Motion: Singleton

Second: Behringer

Vote: Unanimous

## **OLD/NEW BUSINESS**

### **Contract for Solid Waste and Recycling Services**

Presenter: Rodney Dickerson

At the work session on June 29, the Town Council selected All Star as the Town's Solid Waste Provider. Contracts for Solid Waste and Recycling are enclosed.

As part of the Contract, detail specifications and the Town's Ordinance are included and will have to be abided by the selected contractor. Following are a few minor changes to be made:

- 1) Town Ordinance, provide a definition for putrescible
- 2) Specifications, 1) change where appropriate that the Town provides the recycling containers, 2) add user fee for recycling containers will be paid when purchasing a building permit, and 3) the contractor will add corrugated cardboard as an accepted recyclable.
- 3) Contract, added a section regarding faithful performance of work

Mr. Dickerson said the term for both contracts is three years.

Mayor Williams offered an opportunity to representatives of All Star and Shaw to address the Council.

Tommy Sims, All Star, said he is a Garner resident and has worked with father in the waste business in Virginia and in Clayton. He said he is excited about providing service in Garner.

Craig Jackson, Vice President and CFO of Shaw Sanitation. Mr. Jackson said Shaw has been in business in Wake County for over 30 years. The Company is owned by Nancy Shaw. He said he would like for the Council to rescind the action taken to award the contract to All Star. Shaw has grown to 14,000 customers with years of municipal experience with Raleigh. Shaw received a good reference from City of Raleigh. He said Shaw can provide service for less money than the company for which the Town plans to award the contract. He said they serve 4700 customers with recycling service in addition to waste services. Shaw meets specifications and is willing to do the job for less money. He admitted they have no experience with leaf pick up, but neither does All Star. Shaw scored high on objective criteria and was recommended by staff.

Mayor Williams asked Council to make motion.

Council Member Singleton suggested if the Council has comments, now is a good time to make them.

Council Member Behringer asked how many of the audience live in the Garner Town limits. Approximately 20 of 100 raised their hands. Council Member Behringer said the second highest bidder was Republic who was eliminated based on ongoing service issues, particularly with yard waste leaves. That left the Town with Shaw and All Star to choose. Shaw was the low bidder; however, their bid on the yard waste segment was approximately a little more than half of the amount bid by the other contractors. Ms. Behringer said this was a red flag for her particularly when Shaw says that don't have experience with leaf collection. Council Member Behringer said she questioned how they can perform that service at nearly half the price two other contractors gave us when they all wanted to bid low to get the contract. She said she still has concerns with mixing recycle and solid waste. She said the media's allegations about a conflict of interest because of Sims family is inappropriate. She said no one from local media has contacted her on her position on this issue. Newspapers implied the contract was awarded because Mr. Sims is a hometown guy but she feels they are the best choice for what Garner citizens want. Council Member Behringer said she received only three e-mails and responded to them all and hopes she has explained her position.

Council Member Singleton said Council Members make decisions every day about five core services which are trash pick-up, roads, water, sewer and 911. He wanted to explain how we got to this point. Since the Town gave up providing waste services, we have had three providers; Waste Industries, Waste Management and Republic Services. The Town now has more people wanting to recycle and has made a commitment to recycling. After a budget meeting in May, bids had been opened and reviewed; he met with Mr. Dickerson and Mr. Watkins for over an hour to look at the information initially. The discussion was about whether we maintained the same type services, which is semi-automated trash pick-up, and recycling. After that meeting, a couple of days later, he sent an e-mail on 5/18 confirming some figures in the bid

submitted by Shaw. He requested a meeting with Shaw and reemphasized what we had discussed and the importance of leaf season. Mr. Singleton said the more he thought about this the more he liked the idea of a local company that we can easily contact and actually get into Garner quickly. On May 20, the story regarding Shaw mixing the garbage and recycling was shown. On May 21, he said he sent Mr. Dickerson an e-mail stating he had watched the show and read the response from Nancy Shaw. Council Member Singleton said this troubled him greatly. Based on e-mails, this is not the first time this has happened. The Vice President said one thing and Ms. Shaw said another. At that time he said his thoughts on Shaw definitely changed, low price or not. That is the first point of why he voted to award the contract to All Star, it revolves around the story. Mr. Jeffrey's said it is their policy to recombine the garbage and recycling, but Ms. Shaw said it is not their policy. Ms. Shaw said Mr. Jeffreys was nervous and didn't handle the interview well. WRAL asked about low density routes. If they were not on a low density route why was the recycling being put in the trash and not in side the doors. TV-5 said Mr. Jeffreys wavers on how often it happens and he later faxed the 30 page list of impacted routes (low density) of which none of the original four citizens that complained were on. Council Member Singleton questioned, did they put recyclables in with trash and dispose of them and what did they do in the past? He understands they kept the customer that made the complaint and gave 15 months free service. The Town had a bad experience with another company that said they were recycling, and they weren't. Because of that they had to pay the Town \$50,000. His concerns are that he feels we have half of the story. If we have an issue with a company, how they respond says a lot. This is one reason why we are looking at local contractors.

The second item of concern is technology. Council Member Singleton said he met with Mr. Dickerson, Mr. Jones and Mr. Cox for about 9 hours in different meetings asking them lots of questions. Mr. Dickerson noted at a meeting with Shaw that recyclables list on the website is not complete. Shaw agreed the web site was out of date and needs some attention, but it was not a priority. On May 28, Mr. Watkins, Dickerson and Cox met with Shaw at their office. They asked again about the website. In May 2009, the holiday schedule was for 2006/2007. Mr. Singleton said that is a concern. Our staff wants to communicate with their people via e-mail because there is a date and time and the complaint is recorded. All Star does that, their website is current. Shaw said they will consider handling communication via e-mail to have a "time stamp." He said his concern is they would update the website, but that took months; will this be the same situation?

The third item is All Star is in Garner. With current and previous contractors an area supervisor may service Garner and other areas. If a problem occurs, it takes time to get here. When they asked Shaw about this they were told Mr. Jeffreys will be the supervisor over Garner as one of his duties, working out of their office in Wake Forest. All Star said if they get the contract they will have a Garner team; the trucks will be located in Garner. The current vendor had an office near K-mart in Garner, but now they come from Durham. Shaw comes from Wake Forest. If you have a Garner business with a

Garner office, someone can get here quickly. All Star is a member of the Garner community.

The fourth item is experience. Council Member Singleton said Shaw has been in business for more than 30 years, has long term employees and a good reputation. They are a solid company that has been in business for years; no question there. All Star is in its sixth year of operation. Mr. Singleton said he called Mr. Sims to get this information. Mr. Andy Sims has been in business for 43 years, 33 on his own and Tommy worked for him for 13 years. In his business, Mr. Sims has sold and assembled carts and set up and designed routes in communities all over the southeast. This is what Tommy has known all his life and he has seen the business from different perspectives. Council Member Singleton said Mr. Sims gave him some information about the company. Based on some correspondence these two companies have been intertwined for years and have worked together on occasions. Mr. Singleton read a letter from Mr. Shaw to Mr. Sims which thanks Mr. Sims for his association. This letter speaks highly of both companies.

Item five relates to the number of employees. Shaw has 40 and All Star has 8. All Star will be hiring and buying new trucks.

Item six is about the cost difference. The difference between the two is a lot of money; he understands the importance of that. Council Member Singleton said that he dealt with a similar issue in the late 90's where the low bid was awarded on a 3-2 vote. The issues from that company were numerous and problematic for the Town. There is the up front cost and the after the fact cost. This is a tough economy and we have had to cut costs and budget revenues are down. He said when making this decision we want to chose who will provide highest level of services. We haven't had the same level of service since the Town got out of solid waste business. Newspapers report items that cost more money but you never read about money saved. The Town saved money on sidewalks and paving, but you don't hear about that.

Item seven is that we talk about people we know. Council Member Singleton said he grew up here and when you are here all of your life, you know people; we promote ourselves as having a small town atmosphere. He said he never has and never will do political favors. Just because he and the Sims' live on the same cul-de-sac, he can't help that. He said he hopes people understand that he is not stupid enough to embarrass himself by doing something like that.

Item eight is that he has been on the Council for years noted that no one does more background research than he does. This is a service contract and we are looking for the highest level of service. Council Member Singleton said All Star will give local service close to what Town did when it provided the solid waste service and that is why he supports All Star.

Council Member Marshburn said they all appear to be good reputable companies. He expressed his appreciation to Town staff for the thorough report provided. He thanked fellow Council Members for their input; this is a difficult decision. Some items that appear before the Council are routine, this decision was not. He said he believes each member of the Council wants to provide the best level of service.

He also believes honest people can look at situations and come away with different views, as what is here this evening. He said there is some irony in what is happening this evening given the vote and the vote the Council took earlier. It seems that some of the people in this audience applauded this Council when we took a vote in direct contradiction to staff recommendations and yet it seems that some would suggest that we should never or we should not in this instance go against recommendations made by this staff. All of the companies that have made bids have strong attributes. Council Member Marshburn said he voted for All Star because he feels they are in the best position to provide the service we are seeking. He said he likes the fact a smaller and newer company, which gives them incentive to operate well. Customer satisfaction is important to citizens. There will be a supervisor specifically to handle Garner area. He said he believes our citizens expect that all facets of trash pick up, yard waste and recycling be handled properly, effectively and efficiently. As we continue to emphasize importance of recycling and provide larger containers, we should see an increase in recyclable materials as other towns have experienced. Council Member Marshburn said he believes a contract with All Star will serve the Town well. He said he knows people will disagree and he respects that right. As we move beyond this discussion and issue we will continue to work together as a Council for common good of our citizens.

Mayor ProTem Kennedy said the Solid Waste Contract is the largest "service" contract the Town administers other than the GVFD where we have a financial interest and ownership in equipment and facilities in that service. Solid Waste represents approximately 6% of the annual budget. He explained that a service contract is not the same as a Construction contract. Price is one of the factors in a service contract, but not the only one. The N.C. General Statutes imply the governing body is to select a provider/vendor on the basis of service. Our initial selection was based on who the Council felt would provide the highest level of service, which at that time was All Star. Mayor ProTem Kennedy said as a basis for this decision he would like to provide reasons for his decision. For the past 3 years, Town staff has carefully tracked complaints involving solid waste. For the record, complaints have averaged about 150/month ranging from as low as 100 to as high as 250 complaints in some of the more challenging months, such as during the leaf pick-up season. He said to some, 150 - 250 complaints per month would seem to be quite a lot. But we should also recognize the solid waste contractor makes approximately 54,000 "touches" per month. That's about 4 complaints per 1,000 household "touches". Therefore, about 1 in 40 households has a complaint every month. Complaints or the lack thereof, are important because they represent time and money. Mayor ProTem Kennedy said he has received a number of phone calls and has had personal conversations with individuals who asked him to explain the basis of his vote. They specifically asked for the "rest of the story" and acknowledged they had heard and read only one side. Mayor ProTem Kennedy presented the following service issues: 1) For the past couple of years, Garner has experienced solid waste problems we do not want to duplicate. Inadequate resources dedicated to leaf collection in the fall have been the primary concern. The problem of leaf collection extended well past the 1<sup>st</sup> of the year. When one firm underbids that service by almost 50%, as did Shaw, there is a measure

of concern that there may be inadequate resources assigned to Garner during our most critical period, 2) There is a preference to have the equipment garaged in Garner. Only one contractor, All Star, proposed to make that commitment to service, and 3) There is a preference to have a supervisor assigned exclusively to Garner. Only one provider, All Star, proposed to make that commitment to service, and 4) There is a preference to be the "premier" client and we will be the primary client of All Star.

Mayor ProTem Kennedy said there have been unfounded claims about All Star that he would like to address:

1) The claim that the owner of All Star is approximately 40 years old and was introduced to the solid waste industry as a teenager.

There is another solid waste hauler in Garner (Freddie Buffalo) that was much younger than All Star when he landed the Solid Waste contract in Knightdale and held it for 13 years before selling the business. No one ever questioned Freddie Buffalo's lack of experience. Mr. Kennedy said he believes the "lack of experience" claim is unfounded.

2) The claim that the Town Council has reduced employee benefits to balance the budget and the savings on the solid waste contract could restore lost benefits and increase salaries.

No benefits were taken away from employees. Merit raises averaged 2.9%; there was no "cost of living adjustment" because the COLA for 2008 was 0.1%; longevity pay was continued for vested employees; the 401(k) contribution of 5% of salary was continued; and there was no change in the manner in which medical insurance is provided.

The claim that Council used reduced salaries and benefits to cover the solid waste cost is more than unfounded, it is grossly misleading and it's an outright untruth. More importantly, it undermines the credibility of Council. It is unfortunate and actually quite sad that you have been advised with such willful and misleading information. You can expect more from your Council than the picture being portrayed.

Mayor ProTem Kennedy also presented the following additional facts:

1. Taxes were not raised to balance the budget nor were employees penalized with respect to salaries and benefits.
2. There is a concern for unknown costs that may arise, most importantly reductions in revenues than rising costs. The Town's budget is balanced without impacting employees and there is a sufficient contingency account in the budget for those unknowns.
3. The most critical question and hardest question to answer: "Is it worth \$120,000/yr to contract for what the Council believes will be the highest level of service?" Solid waste service impacts every household in Garner. Once a week, minimum; twice a week, every other week. \$120,000 is a lot of money more than what most of us in this room make,

which represents approximately \$1.25/household per month. Mr. Kennedy said he feels it will be worth the cost.

4. The Town has reduced contributions to "service agencies" such as Garner Educational Foundation, Garner Area Ministries, Garner Chamber and others by approximately \$12-\$15,000. (Service agency funding represents about 0.5% of the budget)
5. The Garner Fire Department and Police Department budget were increased. The budget for EMS is paid by the County. The Council's commitment was to maintain a high level of service for those critical services. The vote on June 29th was a commitment to maintain a high level of service.

Mayor ProTem Kennedy said he believes that Schools, Public Safety and Public Services are the benchmarks of how we choose to locate. In order to enhance or optimize service to the public positions for Economic Development Director, Neighborhood Improvement Manager, and Public Information Officer were created and filled by existing employees. He said he believes the Council's objective of enhancing services will be achieved. Likewise, the decision to choose All Star is a commitment to service.

Mayor ProTem Kennedy summarized that solid waste is a service contract and not a low bid contract. Service contracts impact everyone in Garner and not a select few. Mr. Kennedy earlier cited four service qualities that separate All Star from the other firms making proposals. He said he trusted that the citizens of Garner, would want their Council to ensure continued superior service to all citizens.

Council Member Johns asked staff to explain the purpose of a bid. Mr. Anderson said the Town was considering a number of options such as the type of pick up, single driver operating a truck, whether to go from bins to carts, so the Town asked people who responded to provide prices for different options and see how they measured to determine which one to choose. The Town wanted to see a lot of options.

Mr. Dickerson said the purpose of a bid is to see what options are out there. We know there are a lot of large vendors, but we wanted to see what else was out there and look at different methods. We also explored possibilities that we may not have considered in our bid. In other words, the purpose of a bid is to get as much information as possible.

Council Member Johns said in the 1980's he was opposed to contracting waste services because every three years the Town would have to make this decision. We started looking at this in June and had concerns about the economy. He said he supported Shaw for the contract because of the money savings. Mr. Johns said he did not know anything about the performance of either All Star or Shaw. He said the Council is elected to save money and get best service. He said he can't tell people that one will provide better services; he hasn't heard complaints about either one. He supported Shaw because they were the lowest bid. He said the Town has always gone with lowest bidder; in addition staff recommended Shaw. The staff was looking at the money. This year we cut the budget trying to save money and now we are trying to give up \$120,000 per year. Council Member Johns said we should award the contract to the lowest bidder. He said if you are not going

to recognize the lowest bidder, there is no point in having a bid. He said the Council should support lowest bidder and that is the purpose of sending out bids. Council Member Johns said we should respect the taxpayers and citizens and save money.

Mona Parks said she voted for each of the Council Members and trusted their judgment to make decisions based on facts. She said we were given part of the facts but didn't hear a lot of history on All Star. We haven't heard how the small company has handled similar issues. She expressed concerns with the number of staff All Star has and she asked what guarantee based on facts that this company can do a more superior job. The Council admitted to making a mistake on the last contract, what guarantee does the Council have that they are not making another mistake, that All Star will do a superior job. She asked how can you guarantee a smaller company can provide that service and how they handle conflicts.

Harry Jeffreys, Vice President of Shaw Sanitation and Nancy Shaw's son, said he has been hearing a lot of things that are inconsistent. Mr. Sims does have a great story. He said Council Member Singleton said he was not sure about some things, but he never called Shaw to ask. Shaw has bid on Raleigh contracts for years. He said Town staff did a great job on their presentation. Shaw cares about their customers. In 1984 as we were growing, the carts did not grow with us. We always gave the Sims family opportunity for our business and we don't compete with All Star, we compete with Republic Services, Waste Management and Waste Industries. In 2005 Shaw purchased Waste Management's customers. He said the way Shaw's business grew is the way Council has indicated they want All Star to grow. Now Garner feels Shaw is too big. Also, we didn't know we had an opportunity to bring trucks to Garner. Mr. Shaw said they wanted to save the Town money. It makes no sense to be chastised for underbidding (yard waste). Mr. Jeffreys said that Shaw met many times with the Town. There has been attention given to only a few of many customers. Mr. Jeffreys said he felt if the Council had come and visited Shaw Sanitation, their views would be different. He said he feels the concerns with the WRAL report regarding recycling are truly profound. The amount of All Star's cost is \$120,000 more per year, but he does not feel they are \$120,000 per year better than Shaw. All Star is great story merging; hopefully Garner's complaint calls will go down. This was a tough situation, and he wanted the Council to understand that Shaw stays clean on everything they do. Mr. Jeffreys said he does not understand when staff is expected to make decision and evaluates everything and is not supported, adding what is staff here for but to make decisions and evaluate.

Council Member Johns made a motion to award the contract to Shaw Sanitation  
Council Member Johns motion died for a lack of second.

Action: Authorize Manager to Execute Contract with All Star

Motion: Kennedy  
Second: Marshburn  
Vote: 4-1  
Council Members Kennedy, Singleton, Behringer and Marshburn  
- Yes; Council Member Johns - No

### **Manager Reports**

1. Star Tracker
2. Building Permit Activity
3. Investment Report

### **Attorney Reports**

Requested Closed Session pursuant to N.C.G.S. 143 318 11 (a)(3) to confer with Council regarding a pending lawsuit regarding Digzit.

### **Council Reports**

Mayor ProTem Kennedy

- He commended Deputy Chief Copeland and Sgt. Weaver on their follow through on drug activity at Northview Street.
- He reported a request and contact information regarding a sewer connection request near US 401 to the Manager.
- He thanked staff for all of the hard work to get the sidewalks completed at Aversboro Road and Vandora Springs Road.
- He reported the first meeting with Urban Collage regarding the North Garner Marketing Plan will be held tomorrow.

Council Member Marshburn:

- He said he took Mayor Williams' challenge and ran around the completed four miles of sidewalk on Vandora Springs Road and Aversboro Road.
- He reported that Carol Hutchins is the new Chair of the Planning Commission
- He reported a portion of the trail at Lake Benson near a drain pipe under the trail has some erosion; the top layer of gravel and dirt is washing away. Coming from the parking lot near the large shelter going toward the Lake the area is located near where two trails "intersect" just beyond the small picnic area.

Council Member Johns:

- He reported trash located on the street going into Bryan Woods Apartments and beside the Pastor's house (GUMC).
- He reported complaints about an odor in the back yard of the house located on the east side of Montague Street at the intersection with Main Street.
- He reported that the fence was removed from the property located beside the Town's property on Avery Street and has not been replaced.

Council Member Behringer:

- She reported two individual complaints about an odor near the Dempsey Benton Water Treatment Plant on NC 50
- She has received a request to extend sidewalks from Lake Benson Park to the Lakemoor Subdivision. Mr. Watkins said this will be evaluated in the upcoming Transportation Plan review.

Council Member Singleton:

- He visited Greenbrier subdivision to see the traffic calming devices that have been installed. It is a dramatic improvement in appearance and he said he feels it may be effective.

Mayor Williams:

- He reminded everyone of the Celebration at the Senior Center in honor of their Certificate of Excellence achievement.

Adjourned: 11:00

Motion: Kennedy  
Vote: Unanimous

Respectfully Submitted

Judy Bass, Town Clerk