

**Town of Garner
Town Council Minutes
September 22, 2009**

The Garner Town Council met in regular session at 7:00 P.M. on Tuesday, September 22, 2009 in the Town Council Meeting Room

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

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

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE - Council Member Marshburn

INVOCATION - Council Member Marshburn

PETITIONS AND COMMENTS:

Mr. John Hodges, Downtown Development Director and Elmo Vance, Chairman of the Garner Revitalization Association (GRA) Board of Directors announced that Garner just received notification from Secretary Keith Crisco, N.C. Department of Commerce of the acceptance into the Main Street Program. Acceptance of this program has been the result of many years of work by elected officials, town staff present and past, the GRA Board of Directors, many volunteers and members of the community. Garner is one of four in this year's group of new communities. Mr. Hodges said this designation reaffirms work done in the past and will give us some valuable resources for the future. Mr. Hodges thanked the Council for their support and noted he received lots of help from Town staff.

Mr. Vance said it was a long process to get this together. He appreciated the harmonious support from Council, town staff, citizens and local legislators. This is a step in a positive direction.

Arnold Osborn, 1309 Brucemont Drive. He said at a recent meeting, the discussion was raised about political signs and their proximity to the road. It was agreed that copies of rules and procedures would be sent out to the candidates for the local school board and upcoming municipality election. In no time at all he received the information and was impressed this was done immediately. What amazed him was that not only were they not moved back, but have doubled and tripled in quantity. He said he feels the signs either need to come down, be moved back or have action taken by staff to correct the problem that the candidates are not doing themselves. He said when he puts his signs up he plans to do it correctly.

Jenny Holt, 4901 Comelio Drive, Greenbrier. Ms. Holt said she comes to the Council to bring attention to the new Smith Elementary School recently built on Maxwell Drive. Maxwell Drive is between the school and the neighborhood and is actually not accessible very easily by foot or bicycle. She said she did some research and found a program called "Safe Routes to Schools." She said she feels that short stretch of road would be a great project to apply for a grant from that program. She said she spoke with the North Carolina representative of the Division of Bike Paths and Sidewalks and was told Garner's district is accepting grant applications for \$50,000 or under. She also spoke with Battle Whitley who said it is a matter of the Town doing surveys and applying for the grant. She wanted to present this as an idea to help make her neighborhood and school more accessible and maybe a little greener. She said other families would also like to walk to school. She thanked the Council and said she would like to turn this over to them as a project.

Mayor Williams said staff will look into this matter.

ADOPTION OF AGENDA: As Presented

Motion: Johns
Second: Singleton
Vote: Unanimous

CONSENT

Minutes from November 25, 2008 Work Session, August 18, 2009 Regular Meeting, August 25 Work Session and September 8, 2009 Regular Meeting

Action: Minutes Approved

Wake County Tax Report, August, 2009

The Wake County Board of Commissioners has approved non-cash rebates in the amount of \$30,509.29 for taxes from 2004 to 2008. These actions occurred in the period from July 1, 2009 to July 30, 2009 and are presented for approval.

Action: Tax Releases Approved

Garner Towne Square Pond Screening Planting Project

This project includes four storm water ponds; three wet retention ponds and one dry detention pond that are required by the Town of Garner Unified Development Ordinance (UDO) to be screened. Grading for these ponds was completed in 2008 as part of a requirement issued by NCDWQ/NCDENR to construct retrofits for money previously received by the Town of Garner for a regional retention pond. Bids were opened for the above referenced project on September 15, 2009. Three bids were sent out and two were received with one no-bid. The low bidder was Johnson Landscaping & Maintenance, Inc. with a total bid of \$14,683.30.

Action: Bid Awarded to Johnson Landscaping & Maintenance, Inc. for \$14,683.30.

Ordinance Amending Town of Garner Fees and Charges for Refuse Containers

During discussions of the solid waste/recycling contract for 2009, the Town Council chose to purchase larger roll-out containers with wheels. The Council anticipates the convenience of the roll-out container will encourage citizens to recycle and make it easier to get the container to the road for pick-up. This Ordinance establishes a fee for the recycling containers and amends the fee for refuse containers.

Action: Adoption of Ordinance No. (2009) 3565

Contract Extension for Town Legal Services

An extension of the contract for William E. Anderson to provide legal services to the Town is presented to the Council annually. Services to be rendered are based on a retainer of \$6,100 per month for an estimated average of fifty-six hours per month, unless other arrangements are required on a particular case or assignment.

Action: Authorized Execution of Contract

Resolution Requesting Authorization to Dispose of Town Property

Chief Tom Moss is retiring from the Police Department in October 2009. The Police Department wishes to present Chief Moss's duty weapon and badge to him upon retirement as allowed pursuant to N.C.G.S. 20-187.2.

Action: Adoption of Resolution No. (2009) 2029

Motion: Kennedy
Second: Marshburn
Vote: Unanimous

END OF CONSENT

Public Hearing on a Resolution Directing Project to Extend Sewer Services to NC 50 and New Rand Road to be undertaken

Presenter: Frank Powell Town Engineer

This Resolution directs a project that extends sewer services to residents on NC 50 and New Rand Road. The project consists of the installation of approximately 970 linear feet of wastewater collection pipe and associated appurtenances. Staff proposes 100% of the cost of this project be assessed to property owners for approximately \$6,300 per lot.

Council Member Johns asked if the \$6,300 per lot included the one with existing service. Mr. Powell responded by stating that the cost is divided equally among the property owners. Mr. Barefoot is not receiving betterment, therefore he is not assessed.

Mayor Williams opened the Public Hearing.

Glen Barefoot, 1401 Benson Road, said he appreciated what the Town has done and the project plans have moved along well. However, a contact by a NC Department of Transportation (NCDOT) representative turned it up side down. He said he was approached by Tinette Hales in the NCDOT Right-of-Way Division stating they would extend sewer to his property and the only cost to him is \$1,031 for connection to the sewer line. The way things are going he said he feels the Council needs to place the project on hold until we can find out from NCDOT what is going on.

Mr. Powell explained he was told by Mr. Barefoot that NCDOT would extend the sewer line to his property and he would only have to pay connection fees. Mr. Powell said he contacted Ms. Hales and her response is that NCDOT does not plan to extend the sewer line. He read the e-mail from Ms. Hales: "As previously stated, NCDOT will not, and never intended to connect the property owners on Benson Road to public sewer. One property owner will need to have minor repairs done, and the others will not be affected by the project."

Mr. Powell said if in fact NCDOT was going to extend sewer, he would have suggested that the Town continue with the project and NCDOT give the Town money they had budgeted to help reduce the cost to the residents.

Mr. Barefoot said Tinette Hales came to his house and left a document on his table. He confirmed her offer for NCDOT to run sewer to his property and it would cost him \$1,030. He said now, it seems like a big hoax.

Council Member Johns asked if anyone else received a letter. Mr. Ronald Thompson said he received a letter also.

Mr. Barefoot said the appraisal received from NCDOT was on letterhead, but the itemized cost was not. Mr. Barefoot also said he was told NCDOT had received all the necessary permits.

Council Member Singleton said this needs to be tabled until we can get an answer from NCDOT.

Ms. Sue King, 1413 Benson Road said she would like clarification on who has jurisdiction to decide who puts in sewer.

Mr. Powell said the permitting authority is the City of Raleigh. Any permits NCDOT received would be from them.

Ms. King said she did not understand why they contacted Mr. Thompson and Mr. Barefoot, but no one else.

Mr. Powell explained the necessary encroachment that is required gets less and less as you get toward Timber Drive; no physical improvements are needed on those New Rand Road properties.

Ms. King asked if NCDOT provides sewer to those two properties is there a chance it won't be provided for the rest of the properties.

Mr. Powell said the Town is proposing to go behind the homes to serve the twelve properties rather than just the five on NC 50. If it ends up that NCDOT were to extend sewer to just those two property owners the Town

could still do a project to extend sewer to the other properties on NC 50. That would not provide any relief for the houses that front New Rand Road unless we decided to go back to the original plan and extend it to all of them. In addition, we would be installing a sewer line to serve the same amount of properties that only one line is needed to do.

Mr. Powell said he has an e-mail from the NCDOT Right-of-Way Department that said it is not their intent to put in sewer. She said she contacted Mr. Barefoot to let them know they were not going to run the sewer line. Mr. Barefoot said she contacted him and he told her he has turned this over to an attorney.

Ms. Behringer asked why Ms. Tinette contacted him to begin with. Mr. Barefoot said she had two items when she contacted him. She had the amount of settlement of the right-of-way donation and attached to that was the outline of the cost of sewer.

Council Member Singleton said he feels this matter should go to the Public Works Committee to be reviewed when staff and property owners can get an answer from NCDOT.

Ed Harrellson said he has been trying to get sewer to his house over the years, but it has always been unaffordable. This project looks like it is feasible. Mr. Harrellson asked if NCDOT does extend sewer to the NC 50 properties, will it cause the other property owners assessments to increase. Mr. Powell said that question is open for debate but it appears the project area has not changed so the properties would be divided, but now there are two more property owners who will not have to pay, so it would appear the Town would need to pick up the cost of three lots. Mr. Anderson said he did not know the answer, but it depends on the final plans.

Mr. Harrellson said he is thrilled about the project, and is glad Mr. Barefoot started this, but hopes it doesn't raise the cost where it is no longer affordable. He said the last time he talked with the Town it was going to cost around \$23,000.

Mr. Jaan Utno, 1006 New Rand Road said his property is at the end of the proposed service area. He said this will cost a large sum of money and that now is a bad time for him. He said his septic tank is in perfect condition.

Council Member Kennedy said it sounds like NCDOT may be retracting its statement through Mr. Powell. He asked Mr. Barefoot to keep the Council informed and asked Mr. Powell if we are under any time constraints.

Mr. Powell said we are not under time constraints, but his intent and desire is to get this moving so the project can be done before NCDOT starts the Timber Drive project. If there are no damages to the septic system, the only issue then will be that the estimates are based on good prices.

Council Member Singleton said once the project is authorized, he estimated 30 days to get design firm, 90 days for the design, 30 days to bid and 90

days to construct, that assuming we get necessary encroachment agreements from NCDOT.

Action: Refer to Public Works until a Final Decision is made by NCDOT; the Public Works Committee will make a recommendation to the Council

Motion: Singleton

Second: Johns

Vote: Unanimous

Committee Reports

Mayor ProTem Kennedy reported the Transportation Committee is moving along. They will make a presentation to the Council at the September Work session.

Council Member Singleton reported the Ad Hoc Committee on fire and rescue services met on Monday with Mayor Protem Kennedy, Mr. Watkins and Mr. Dickerson to plan future meetings and information gathering. The next meeting will be held in October.

Manager Reports

1. Star Tracker
2. Investment Report
3. Enforcement Report for August

Council Reports

Council Member Singleton

- He referred to Mr. Osborn's comments about signs and said he spoke to the Manager about that yesterday morning. He said we either need to enforce the Ordinance or get rid of the ordinance. He said staff is already working on that.

Mr. Watkins said in a follow up of Mr. Johns concerns at the last meeting and what Mr. Singleton brought up yesterday, he noted the Planning Department has sent another notification to the parties and will begin enforcing the Ordinance by tomorrow. Staff is more interested in compliance rather than penalties. Any signs collected will be stored at Public Works and will be available for pick-up.

Council Member Marshburn noting that it appears we are enforcing the matter and said he took exception to someone implying that we do not enforce the ordinance.

- He referred to Ms. Holt's request regarding sidewalks on Maxwell Drive. He said he encouraged her to come to the Council with this request. Mr. Watkins said he will investigate.

- Montague Street has had a new line put in from US 70 to Main Street. One area has been patched, but on the extreme east the asphalt is raised and has not been compacted, so they must not be finished yet. Since they made two cuts, will they be responsible for repaving the whole street? He said he hopes they are not finished because it is a mess. Mr. Johns noted they still have pipes out there so they must not be finished.

Council Member Johns

- He reported that there is still an odor at Main Street and Montague Street and asked staff to take another look. Mr. Watkins noted this is an item in Star Tracker that will be reopened.
- He reported a number of signs on Main Street and Garner Road that are not in compliance. There are some in the median on Garner Road.
- He said he attended the service for ConAgra on Friday night at Poplar Springs Church. It was a nice service, but poorly attended due to the short notification period. He said he would like for the Town to send a letter to the ConAgra's corporate office and encourage them not to discontinue service so people will not lose jobs.

Council Member Behringer

- She reported attending the last GRA meeting. She is pleased to hear about the Main Street Program; this may help us get access to funds that may not have otherwise been available.
- She attended the Garner Educational Foundation on Monday. Ralph Smith has coordinated a scholarship fund in honor of Chief Moss. Garner Educational Foundation will manage this scholarship. So far, he raised over \$3,000.
- On October 31, Garner Educational Foundation is sponsoring a fundraising breakfast at O'Charleys from 6 AM to 10 AM. This is to raise money to pay for scholarships for graduating seniors at Garner Senior High School. She will soon have tickets available.
- On October 22 from 7:00 P.M. to 9:00 P.M., there will be a Self Defense class for women taught by Officer Young. The class is free and will be held at the Garner Woman's Club. This is a very worthwhile class.
- She noted on a previous item she reported regarding loitering of teenagers should have stated Fifth Avenue and not Seventh Avenue.

Council Member Marshburn

- He said he attended an event at Lake Benson Park this weekend where he received compliments on the maintenance and beauty of the park.
- He asked if the Town would give any consideration to fitness stations on or around the trails at Lake Benson Park.
- He commended staff on the Litter Sweep Project and said this is a wonderful community project.

Mayor Williams

- He reminded everyone of the Chamber Banquet to be held on Thursday evening.
- He commended Michelle Howell for her efforts on the new programming of the Town's PEG channel.
- He suggested we can have some work session items at these short meetings and not have so many work sessions.

Adjournment 8:20

Motion: Kennedy
Second: Marshburn
Vote: Unanimous

Respectfully Submitted

Judy Bass, Town Clerk