

Town of Garner
Board of Aldermen
Work Session Minutes
September 30, 2008

The Town of Garner Board of Aldermen met in a regular work session on Tuesday, September 30, 2008 at 7:00 p.m. in the Town Hall Board Room.

MEMBERS PRESENT: Mayor Ronnie Williams, Mayor Pro Tem Buck Kennedy, Alderman Gra Singleton, Alderman Jackie Johns, Alderman Ken Marshburn and Alderman Kathy Behringer

STAFF MEMBERS PRESENT: Hardin Watkins, Town Manager; Rodney Dickerson, Assistant Town Manager; Bill Anderson, Town Attorney; Brad Bass, Planning Director; Lin Jones, Finance Director

ACTION ITEMS

1. Resolution Regarding Transfer of Garner Franchise

Mr. Watkins introduced Mr. Bob Sepe from Action Audits and Ms. Catherine Rice from Triangle J Council on Governments. Mr. Sepe and Ms. Rice monitor the cable franchise agreements for the Town. Also in attendance is Ms. Andi Curtis from Time Warner Cable.

Mr. Sepe reported Time Warner Cable (TWC) is spinning off from the Time Warner parent company. As a part of this process, the Town of Garner must approve any franchise changes within 120 days of proposed transfer date.

Mr. Sepe explained currently the debt load for TWC is around \$900 per person. With the spin-off, that debt load will increase to around \$1600 per customer. Mr. Sepe said this debt load will be passed on to the customer with higher prices for services. He continued to say Auction Audits and Triangle J recommended TWC upgrade the cable system. That recommendation was not followed. Additionally, there is an outstanding issue with the Town's government access channel.

Mr. Sepe reported previously a TWC office in Garner operated the government access channel. That office was closed and the responsibilities for running the channel were delegated to the Town. Town staff requested a feed from Town Hall to the TWC office be installed to maximize the capabilities of the access channel. TWC said in a letter, they needed more time for research into the matter. Mr. Sepe said additional time is not available because of the urgency of approving the spin-

off. Mr. Sepe recommended the Board deny the spin-off and franchise transfer agreement until the issues are worked out with the government access channel.

Alderman Kennedy asked if the franchise fees will be affected by the spin-off. Mr. Sepe said there will not be any adverse affects of the spin-off. Alderman Marshburn asked if the Town was required to pay a fee for the government access channel. Mr. Sepe said the channel is in the franchise contract and that a connection must be made with TWC and Town Hall. The question now becomes how the connection will be made between the two offices. Mr. Sepe said the connection should be a fiber connection because fewer problems develop from the connection.

Alderman Johns asked what TWC's recourse is if the Town denies the resolution and postpones the transfer. Mr. Sepe said TWC will be more motivated to resolve the issues. Ultimately, TWC can take the Town to court, but since the disputed amount is only \$14,400, it is unlikely that amount would warrant going to court.

Mr. Watkins recommended the Board adopt a resolution denying the spin-off because Mr. Sepe is representing staff's point of view.

Ms. Curtis explained to the Board the franchise agreement is not being transferred. Time Warner Entertainment, a subsidiary of Time Warner Cable, will is the holder of the franchise and will continue to hold the franchise. She said there is plenty of time to resolve the access channel issues. She explained the franchise agreement does not say that a fiber feed connection was required. She said the spin-off and the access channel should be handled separately. There are many different solutions to the access channel issues.

Ms. Curtis reiterated the franchise agreement will not change. All the rules and guidelines will be the same as previously stated. The only group that will change is the parent company of the group that holds the franchise.

Ms. Curtis explained the rates and the spin-off are unrelated. Because of the changing economy and the increase in prices for fuel, health care, and other business related items, the rates may go up. The increased debt load is normal for a company spinning off their parent company. The rates will not increase because of the debt load.

Alderman Kennedy asked how all the different companies in the Time Warner family were related. Ms. Curtis explained currently 84% of the TWC interests are held by Time Warner, Inc. and the other 16% of the interest are publicly traded. After the spin-off, 100% of TWC interests will be publicly traded. She said Time Warner Entertainment is held by Time Warner Cable.

Alderman Marshburn asked Ms. Curtis her opinion about the resolution to deny the spin-off. Ms. Curtis said staff and the consultants have presented many issues unrelated to the spin-off. The vote is only about whether or not to approve the spin-off. Ms. Curtis said that of the 27 states TWC is in, the only municipalities that have taken issue with the spin-off are municipalities that are being represented by Action Audits.

Alderman Singleton said that Action Audits has done a good job representing the Town. Many of the issues the Town has had have been addressed.

Alderman Behringer said because of the difficulties the Town has had in the past getting problems with TWC resolved; she is hesitant to trust TWC. Alderman Behringer continued to say the Garner office was closed with no notification to the public.

Alderman Kennedy suggested that the spin-off will create a better way of doing business for TWC and eventually filter down to the customers. It will improve service and operations. He said this Board meeting was the first time he has heard about the fiber optic feed.

Ms. Curtis said the spin-off will allow for better service for the customer. She said TWC is the most successful of the Time Warner companies and now the chief executive officer and chief operations officer will be able to make decisions as to what is best for TWC and not all of Time Warner, Inc. There will be a new operations center in Morrisville with the most up-to-date technology.

Alderman Singleton explained that the Town wants the most up-to-date technology with the fiber optic feed. Ms. Curtis said the franchise only requires a feed and TWC cannot put \$15,000 into every municipality.

Alderman Kennedy asked about expanded services to the area. He reported several isolated areas have more programming than the Raleigh/Garner area. Ms. Curtis said previously programming contracts were setup differently from city to city; now the contracts are setup region to region. The old contracts still must be honored.

The Board discussed what information will be needed to approve the spin-off on October 6, 2008. Alderman Singleton recommended a letter come from TWC stating they will install the fiber optic feed within 90 days of the commitment letter. The Board agreed to postpone action until the commitment letter is received.

ACTION: Postpone action until Time Warner Cable agrees to install a fiber optic cable from Town Hall to the Time Warner Operations Center.

Discussion Items

1. Solid Waste Extension and Proposed Fee

Mr. Dickerson reported staff has been in negotiations with Republic over the past several months. Staff agreed to an extension until the Board approves an official contract extension. Republic has asked for a 50 cent increase per resident plus Consumer Price Index (CPI) increases. The CPI is 3.5% currently.

Mr. Dickerson said the CPI increase was factored into the budget, while the \$0.50 increase was not. He reported the total impact on the budget will be \$44,099, but it will only be \$31,884 in this fiscal year. The estimation is based on an average increase of customers. Since the housing growth is down, this increase may not be as prevalent.

Mr. Dickerson said staff's concern is not the price, but the service is the concern. Staff proposed an increase based on performance. Last month, the Town received 74 calls of missed pickups. Republic is working on improving this call number.

Mr. Dickerson said the Town would like to start accepting bids for solid waste service in late winter. He said generally, the town accepts new bids every five years. Waste Management help the solid waste contract for five years and now Republic has had the contract for five years.

The Town will be using the upcoming leaf season as an indication on how sound Republic's service is. An additional part of the bids will be to evaluate the costs of new trends in solid waste such as rollout recycling cans and automatic pickup. Additionally, the Town may look into partner with other municipalities to provided solid waste service.

Mr. Watkins said staff is encouraged by the discussions with Republic. They verbally agreed to a contract extension and the regional director indicated they understand the service standards. The service standards in the contract will now be more heavily enforced.

Alderman Behringer said the upper management changes frequently. She does not believe they are in a position to negotiate because of the current level of service. Mr. Watkins said the Town has a contingency plan, but at the beginning of leaf season, the plans are not realistic. The extension allows the Town 9 to 10 months to get the new contract in place.

Alderman Singleton said the Republic is receiving less than 1% complaints each month. Mr. Dickerson said that the amount of staff time is way too much for managing a contract.

Mr. Watkins said the price is very good even with the increase compared to what other towns are paying. Alderman Behringer requested staff update the Board with schedule of the leaf pick up. Mr. Watkins said staff will increase the public relations efforts to inform everyone on when and where to place the leaves.

Alderman Kennedy asked if the Town was required to take the low bid on service contracts. Mr. Dickerson said the Town was not required.

ACTION: Consider Contract Extension and Budget Amendment on the Consent Agenda for the October 6, 2008 Meeting

2. Garner Transportation Plan Update

Mr. Bass reported the Transportation Plan was discussed at the September 15, 2008 meeting and the Planning Department is back to recommend a contract for plan. Mr. Bass said a needed to be appointed with community members, town staff, Planning Board members, Board of Alderman, and business community members. The streetscape aspect of the project will also need

a steering committee. This committee will include Garner Revitalization Association Board Members and Beautification Committee, the Board of Aldermen, and citizens of North Garner.

Mr. Bass reported there are several tasks associated with updating the transportation plan. These will include looking at the transportation prediction model, map and cross section analysis, local connectivity and interconnectivity, sidewalks, and public transportation. One aspect of this plan is to have periodic updates on a website. A work session will be held with the entire Board to allow an opportunity to provide direct feedback on the Plan. Additionally, the contract will allow a project implementation and prioritize plan, short and long term goals, and merging the Comprehensive Plan and the North Garner Plan into the Transportation Plan.

Mr. Bass said that a resource site online will be available for updates. The schedule is a year long. The groundwork is to be completed in October. Mr. Bass said he would like to get everything done in 2009. There will be several phases including: finding phase, field discussions, issues and opportunities, discussions with stakeholders, and visual and conceptual development. The drawings and concepts will be specific enough to go straight into construction with final designs of Garner Road, Benson Road, and Main Street.

Mr. Bass said the Planning Department will come back to the Board at the second meeting in October for consideration of the Steering Committee. Mr. John Hodges, Executive Director of the Garner Revitalization Association, said the Association is putting together a list of names for the Streetscape Committee. They will include general members of GRA, members of the Beautification Committee, and citizens that live in downtown Garner.

Mr. Hodge updated the Board on businesses on Main Street. He said three different organizations that are opening or already opened are the karate studio, a children's consignment shop, and a graphics studio. He reported that the graphic's studio is very impressive. The awning and brick was professionally cleaned and the streetscape was cleaned up.

Alderman Kennedy asked what the total cost will be for the completed project. Mr. Bass said the completed project will cost \$95,000 with 75% used on the Transportation Plan and 25% going towards a Streetscape Plan.

Mr. Watkins said Mr. Bass will send an email to the Board providing information on the procedure for providing information to the Planning Department on submitting ideas and recommendations of steering committee members.

Alderman Singleton asked how many Board members are needed. Mr. Bass said four are needed - two to serve on each steering committee. Alderman Kennedy said he would like each Board member to be involved in the process.

ACTION: Consider Members of both the Streetscape and Transportation Plan Steering Committee

3. Town of Garner Flood Plain Map Amendment

Mr. Bass reported that the Timber Drive extension is encroaching on the flood plain. The North Carolina Department of Transportation has requested the Town adjust the flood plain map. The area effective is very small area, but 21 total properties are affected. The process will include sending a letter, filling out paperwork, and notifying all the property owners. Mr. Bass said the contact for the project will be NCDOT. Mayor Williams recommended the Board place approval on the consent agenda for the October 6, 2008.

ACTION: Consideration of support of Flood Plain Amendment to be placed on the consent agenda for the October 6, 2008 Board Meeting.

4. Request to Include Miss North Carolina Achievement on Official Town Sign

Mr. Williams said the Board of Aldermen will not fund anymore signs. He said if Harold Garner, Chairman of the Miss Garner Scholarship Pageant, raised the funds to pay for the signs, the Town would help find a location for those signs.

Mr. Watkins said if Mr. Garner raises the funds, the Town would still need to consider how the sign will look. He said that NCDOT will probably not allow the sign to be placed in the right-of-way for highway 70.

Alderman Kennedy said he would like to include all the Miss North Carolina's on the welcome sign. The board decided not to discuss the sign until the Pageant had funding.

ACTION: None

5. Update on Fire/EMS Station #4

Mr. Dickerson reported Wake County has expressed interest in putting a fire station in east of Garner. The County has determined that the optimum location is off Raynor Road on Spaceway Court. Mr. Watkins said the County did a very extensive search. This location will serve the majority of the area. The one exception is an area on New Bethel Road. This area is served through a mutual aid agreement with Johnston County.

Mr. Watkins said the Town is interested in helping to fund the new fire department because of the growth. Additionally, there is a need for an EMS Station at that location. The plan will be presented to the Wake County Board of Commissioners next week. The cost sharing for the Fire Department will include 84.5% will be covered by the County and 15.5% will be covered by the Town. The EMS Station will be entirely funded by the County. If the Town annexes the area, the agreement will change.

The land acquisition is will cost \$55,800 and the construction will be \$325,500. Mr. Watkins said the Town did not budget for this cost. The County has agreed to lend the Town money and the Town will pay the County back at a rate not to exceed 5 percent. The agreement on operation will be 25 years.

Mr. Watkins said Garner Fire will be involved because they manage the current Town stations. If the Town ever decides to create a municipal fire department, then the Town will purchase the fire building at fair market value.

Mr. Watkins said the County is very anxious to get the station built because there are currently people paying for the fire tax but not receiving fire service. Mr. Dickerson said this is primarily a County issue. Alderman Kennedy is concerned that the operation costs will be significantly more expensive than the building costs. He would like to address the long term fire protection needs in the Town.

Mr. Watkins reported that the County Budget Analyst believes this is a very fair number. There is a need for this area to be served. Mr. Dickerson said there are already are trucks available for the station.

Alderman Kennedy would like to have a third party examining all the issues. Mr. Watkins said there have been discussions on the County level on hiring someone to do this.

Mr. Dickerson said the County will be voting on this interlocal agreement on Monday at 2 p.m. The Fire Commission and the attorneys involved have all approved the agreement.

The Board would like to have more discussions with all parties involved to discuss the short term and long term plans of the fire department.

ACTION: Place on the October 6, 2008 agenda for consideration.

6. North Carolina League of Municipalities Annual Conference

Mr. Watkins reported that the Deputy Town Clerk, Maggie O'Neill, emailed the Board the dinner options for the conference. Mr. Watkins, Mayor Williams, Alderman Kennedy, and Alderman Marshburn said they will not be able to attend the Saturday workshop.

Mayor's Report

Mayor Williams reported the Butterball Grand Opening is Thursday at 11 a.m. and Fireman's Day is on Saturday. Next week is Garner Magnet High School's Homecoming.

Board Reports

Alderman Singleton would like to have a closed session to discuss economic development. He would also like to discuss the Greenbrier Traffic Calming measures.

Alderman Singleton said the Wake Education Partnership meeting will be held at Eagle Ridge. The cost is \$10 to attend. Mr. Watkins said he was encouraged to attend. Mayor Williams said he would like the Partnership to support the 40% Free and Reduced Lunch rate.

Alderman Singleton said the East Raleigh students are being bused to Garner while the Garner students are being bused to Cary. Mayor Williams explained that East Garner Middle School, Garner Magnet High School, and Aversboro Elementary School will likely be on the bond referendum. Additionally, at least two Board of Education members will not be seeking reelection.

Alderman Kennedy said the governor is encouraging everyone to reduce costs. The Board needs to begin to think about general instructions and expectations for the manager. Mayor Williams said each department should not be expected to save 2% as the state departments are doing. Each department is different and has different needs.

Mr. Lin Jones said the biggest fear is the state pulling all the shared revenues. He said all of the Town's deposits are insured and there have been no alerts from the Local Government Commission. After discussing with other Wake County Towns, they are sticking with Wachovia and honoring the existing contract. There maybe some concern with getting credit. That is not an immediate concern, though.

Attorney Report

Mr. Anderson said there have been no negative comments in relationship to the sidewalk acquisitions. He reported out of the 35 letters, only a third has been returned. He would like hold another open house soon, prior to sending out condemnation letters. One of the issues is the fair amount of absentee owners on Aversboro Road. Mr. Anderson will work with the Engineering Department to contact each of the property owners.

The Board entered into closed session under N.C.G.S. 143-318.11 (a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations at 10:37 pm.

MOTION: Singleton
SECOND: Marshburn
VOTE: Unanimous

Adjournment: 11:29 p.m.

Respectfully Submitted,

Margaret O'Neill

October 28, 2008