

**Town of Garner  
Town Council Meeting  
December 22, 2009**

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

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

**STAFF MEMBERS PRESENT:** Hardin Watkins, Town Manager; Rodney Dickerson, Assistant Town Manager; Bill Anderson, Town Attorney; Lin Jones, Finance Director; Sonya Shaw, Parks & Recreation Director and Tony Beasley, Economic Development Director

**OTHER STAFF PRESENT:** Paul Cox, Public Works Director; Forrest Jones, Operations Manager and Will Wigal, Asset Manager and Donna Wigal, Finance Department

**CALL MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE:** Council Member Kennedy

**INVOCATION:** Council Member Kennedy

**RECOGNITIONS**

Tucker Dupree, U.S. Paralympics World Champion Team Certificate presented by Council Member Marshburn

CAPT. Jesse Dodson and CAPT. Laura Katherine Dodson Certificate presented by Council Member Kennedy

Buster Stancil, Town of Garner Employee, Retiring December 31, 2009 Certificate presented by Council Member Johns

**PRESENTATIONS**

A proclamation was presented to Coach Doug Merrill by Council Member Singleton

Doug Merrill is a coach from Ohio who will run from Boston to Key West in support of The Power-up Foundation to raise awareness of teenage suicide prevention. Coach Merrill began on October 6, 2009 running a half marathon each day and will run through the winter. On Sunday December 20, Coach Merrill will run from Raleigh to Johnston County along Old Garner Road and NC 50.

Coach Merrill thanked Mr. Watkins and Chris Clayton for running along with him.

**PETITIONS AND COMMENTS - NONE**

**ADOPTION OF AGENDA - As Presented**

Motion: Kennedy  
Second: Marshburn  
Vote: Unanimous

**CONSENT**

**Minutes from November 17 and December 7, 2009**

Action: Adoption of Minutes

**Wake County Tax Report, October, 2009**

The Wake County Board of Commissioners has approved non-cash rebates in the amount of \$7,168.00 for taxes from 2004 to 2008. These actions occurred in the period from October 1, 2009 to October 31, 2009 and are presented for approval.

Action: Tax Releases Approved

**Resolution Supporting School Acres Enforcement Initiative**

This Resolution recognizes support of the Town Council for a proactive enforcement project in the School Acres neighborhood.

Action: Adoption of Resolution No. (2006) 2038

**Resolution to Set Public Hearing on Annexation Petitions for Raleigh Pediatrics and Herman Collins**

Raleigh Pediatrics, 1405 Timber Drive East and Herman Collins, 5015 Old Stage Road has submitted petitions for annexation. The petitions are sufficient under state law to proceed with the annexation process. This Resolution sets January 19, 2009 as the public hearing date on the annexation.

Action: Adoption of Resolution NO. (2009) 2039

**Ordinance Amending 2009 - 2010 Operating Budget**

This amendment budgets funds for purchase orders which were issued but the items were not received by fiscal year end June 30, 2009.

Action: Adoption of Ordinance No. (2009) 3568

**Ordinance Amending 2009 - 2010 Operating Budget**

This amendment budgets funds for tax reimbursement per a Development Incentive Agreement, provides funding for engineering services related to sewer line installation between Highway 50 and New Rand Road, provides funding for Information Technology Virtualization Project and provides funding for Christmas Bonuses as approved by the Council on December 7, 2009.

Action: Adoption of Ordinance No. (2009) 3569

**END OF CONSENT**

Motion: Behringer  
Second: Kennedy  
Vote: Unanimous

**ACTION/DISCUSSION**

**Request from UNC School of Government for Donations to the David M. Lawrence Distinguished Professorship**

Presenter: Hardin Watkins

The David M. Lawrence Distinguished Professorship will be a lasting legacy that honors his leadership as a teacher and advisor. For forty years Mr. Lawrence has provided valuable information to public officials, counties and boards. Pledges from local governments have ranged from \$50 to \$3,000 and some have been spread over three years. Should the Council wish to make a donation, staff recommends no more than

\$1,500 spread over three years, beginning in next year's budget. A list of municipalities who have pledged is included in the agenda. Council Member Marshburn asked if this pledge is early on in the process for agency funding program.

Council Member Singleton stated he had a concern regarding program partners for agency funding program. He said Council stated they were not going to fund any new agencies.

Council Member Marshburn said this request does not fit in the agency funding category of new agencies. He said this is an exception outside of the perimeters.

Mayor Pro Tem Behringer stated the School of Government does not exist in a lot of municipalities and she is in favor of the funding.

Mayor Williams asked if the pledge funding is over a period of several years.

Council Member Kennedy said we should commit to this pledge and the Town Manager can work it into the budget process.

Action: Pledge of \$1,500 payable over a period of three years.  
Motion: Marshburn  
Second: Kennedy  
Vote: 4 to 1; Kennedy, Johns, Marshburn and Behringer Yes and Singleton No

**Unified Development Ordinance Text Amendment Regarding Sign Regulations**

Presenter: Brad Bass

Business operators are requesting the Town consider a text amendment to the UDO in order to allow a third freestanding sign for Gateway Plaza that would be used as a multi-tenant sign for all of the in-line businesses. If the Council concurs, staff recommends a public hearing for February 1, 2010 to consider an amendment to UDO.

Action: Public Hearing set for February 1, 2010  
Motion: Singleton  
Second: Behringer  
Vote: Unanimous

**Acceptance of Recreational Open Space in Bainbridge Subdivision and Transfer of Land to DOT for Timber Drive Extension Project U-4703**

Presenter: Brad Bass

This resolution formally accepts the offer of dedication of recreation open space as shown on the Bainbridge Subdivision Plat recorded in Book 1980 Page 601. The Council is requested to consider authorization of the execution of a Deed for Highway Right-of-Way that conveys this property to the North Carolina Department of Transportation for the Timber Drive Extension Project.

Council Member Marshburn asked will the Town still obtain a small portion of the property.

Mr. Bass replied yes, but most of this property is in the flood plain.

Action: Adoption of Resolution (2009) 2040  
Motion: Singleton  
Second: Marshburn  
Vote: Unanimous

Action: Authorized execution of a Deed for Highway Right-of-Way that conveys this property to the North Carolina Department of Transportation.

Motion: Behringer  
Second: Johns  
Vote: Unanimous

#### **Resolution Adopting the Town of Garner Capital Improvement Plan, 2010 - 2014**

Presenter: Rodney Dickerson

The Capital Improvement Plan (CIP) is a resource guide to which changes can be made year to year depending on priorities and the funding stream. The CIP can be a useful tool for justifying and programming expenditures to meet the needs of Town staff and citizens. The 2010-2014 Capital Improvement Plan is enclosed for the Council consideration

Council Member Kennedy congratulated staff on all the hard work put into the Capital Improvement Plan document. He also stated how streamlined it was.

Action: Adoption of Resolution No. (2009) 2041

Motion: Kennedy  
Second: Marshburn  
Vote: Unanimous

#### **COMMITTEE REPORTS**

Council Member Singleton reported on the Law & Finance Committee meeting which met on December 17, 2009. The following was discussed:

##### **Parking on Bonica Creek Drive, Rosemoor Subdivision**

Action: Update given with no action recommended

##### **Dead leaning trees threatening private property**

Action: Update given with no action recommended; Provisions are in the Town Code

Council Member Singleton said a Law & Finance Committee meeting will be held on January 14, 2010 to discuss the following items:

1. Request for Consideration to Allow Chickens Inside Town Limits
2. Urban Deer Archery Hunting Season Program, Bow and Hunting for Deer Inside Town Limits
3. Foster Care for Animals/Number of Dogs Allowed for Rescue

Attorney Anderson said with the January 14<sup>th</sup> meeting there may be a possibility to discuss the nuisance ordinance related to the foster care for animals/number of dogs allowed for rescue.

Council Member Kennedy asked if the Council is requested to consider an ordinance to allow the hens in the Town limits.

Council Member Singleton said the hens are only allowed on one acre lots. He said the Council needs to consider a limit on hens being allowed as well as requirements for coops and setbacks.

Council Member Kennedy asked if restricted covenants should be addressed.

Attorney Anderson replied restricted covenants is a private matter.

Council Member Singleton said larger cities have the least restrictions. He asked are the chickens going to be allowed on smaller lots. Mr. Bass said the Town allows chickens in R-20 and R-40 zoning.

Council Member Marshburn said the greater issue for him is the limit on the number of chickens per lot.

Mayor Williams said the Law and Finance Committee have more work to do on this subject.

Council Member Marshburn stated the ConAgra Committee met on December 11, 2009. The meeting conducted was for the employees on budgeting and finance information. He said there will be a follow up meeting held in March 2010 and he will give a final report on the monies that are left. He said the money has been approved for financial assistance.

#### **MANAGER REPORTS**

##### **Star Tracker**

Mr. Watkins said there are 14 open items. He said on Buffaloe Road and Vandora Springs Road North Carolina Department of Transportation is finished with the subsurface work and plans to schedule the pavement repairs. NCDOT may temporarily patch if they have difficulty getting the permanent work done at this time.

Council Member Johns asked how the bridge repair is fairing.

Mr. Watkins replied there is grout being put underneath to fill in the voids and the work is still in progress. Mr. Cox stated due to the weather there has been a delay in the schedule.

Mayor Williams asked Mr. Cox to report on the leaf collection. Mr. Cox said leaves are being picked up on schedule. There are very few calls coming in on solid waste issues.

Mayor Pro Tem Behringer said All-Star knocked over a mailbox in Heather Hills while picking up trash. She said Mr. Sims fixed the resident's mailbox in two days and they were very pleased.

#### **ATTORNEY REPORTS - NONE**

#### **BOARD REPORTS**

Council Member Kennedy

- He asked if the speed signs that are attached to the school signs are temporary.

Mr. Watkins replied yes, they were mounted on speed limit signs by the police. The police will move the speed radar around where there are speeding problems or complaints. Mr. Watkins said there has been research done on solar panel for school districts which are scattered around Cary.

He asked about the yard sales that occur on Mr. Sample's property. Mr. Bass replied this is not allowed under the UDO, but he will need check with the attorney. Mr. Watkins said the property owner has to give rights for trespassing to the police before they can go on the property. Mr. Watkins said Mr. Sample does not want to do this.

He said to watch out for certain companies which are good stock options. He said ConAgra made the list. He stated Butterball purchased their trademark from ConAgra.

Council Member Singleton

- He said there are five different ways to add school signs. A free standing sign, an existing pole, a free standing wood pole and/or steel pole and two lights over the lanes with a sign in the middle and a string of lights with a flashing sign.
- He requested an additional directional signage at the intersection of Highway 70 East/West and Timber Drive for White Deer Park.
- He thanked Council and Mr. Watkins for their support in the School Acres Neighborhood Program. He said property owners are already making some adjustments.

Mayor Pro Tem Behringer

- She said she had a visit from a resident that lives in the apartments in the Historic Auditorium building. The resident spoke of some maintenance issues that need to be addressed. Mr. Watkins said nothing has happened with any concerns to the Town. He said the property owner needs to handle these issues with the regional manager who is on site. He said private parties have to work things out. Ms. Behringer said the resident had concerns about safety.

Attorney Anderson stated the Town is not responsible for these issues.

Council Member Marshburn

- He asked if the property owners are responsible for where the residents park. Mr. Watkins replied the contract spells out all the details. Mr. Marshburn said the parking lot should be repaved. Mr. Watkins said the management company chose not to repave.
- He reported the Police Department has a program called Shop with a Cop for the holidays.
- He commended Mayor Williams on his service and the proclamation he received from the Mayors Association.
- He said Judy Bass, Town Clerk has been working on procedures for meetings. He would like to see this on the January work session for discussion.

Mayor Williams

- He reminded Council of the Public Works luncheon to be held on December 23, 2009. He said the prayer breakfast will be held on January 14, 2010 at the First Baptist Church.

**ADJOURNMENT OF REGULAR MEETING AT 8:34 WITH A 5 MINUTES BREAK**

MOTION: GRA  
SECOND: BUCK  
VOTE: UNANIMOUS

**RECONVENE THE MEETING WITH A WORK SESSION AT 8:45 PM**

The Council will convene the December 22 meeting with a work session to discuss the following:

**Alcoholic Beverage Policy**

This policy proposed contains changes made by the Council at the October work session.

Presenter: Sonya Shaw, Parks & Recreation Director

Ms. Shaw shared the feedback given by the residents. She reviewed the revised policy and the permit requirements.

She said the residents had a few concerns. The asked about personal safety and if alcohol will be served without supervision.

She said the residents were fine with the policy after details were given to them about their concerns.

Council Member Johns asked how will the off duty police officer get selected and how will they get paid. Mr. Watkins replied the off duty police officer is handled by the Deputy Chief Copeland. The officer will receive their pay through the regular payroll system. The invoice will be sent to the person who scheduled the event.

Mayor Williams asked if you rent the facility for four hours, do you get the \$200 deposit back. Ms. Shaw replied yes they do. Mayor Williams also asked if the Towne Players are exempt for the fees. Me. Shaw replied only the Council can make that decision.

Council Member Marshburn said if the Towne Players chose to use the facility, they need to follow the same rules.

Council Member Singleton asked if the special use event is a onetime thing. Mr. Shaw replied yes. He asked if the insurance policy is only good for one time. Ms. Shaw replied yes, if there is more than one time then a rider is needed.

Council Member Singleton asked how is the serving time handled during the intermission.

Mr. Watkins said specific events end serving time with a guideline of one hour or 45 minutes. He said there needs to be an agreement upon on the time limit and it needs to be strict on whatever is decided.

Council Member Kennedy stated the policy is well organized, easy to read and user friendly. He said the sample list of the fees is good and easy to see. He said in his observation, the deposit is a lot of the money being paid out. He said the insurance coverage being \$500 is good. He feels we need to move forward with this policy.

Council Member Singleton said the Towne Players can get an insurance rider and it will help being down their cost less than half.

Council Member Marshburn said he agreed to have other venues come to the auditorium and the fees are competitive. He said this will bring in others because of the fees and venue.

Action: Consent agenda item for January 4, 2010 meeting

Motion: Marshburn

Second: Kennedy

Vote: Unanimous

There being no additional items the meeting was adjourned.

**ADJOURNMENT: 9:10 PM**

Motion: Johns  
Second: Marshburn  
Vote: Unanimous

Respectfully Submitted

Catherine Reynolds, Deputy Town Clerk