

**Town of Garner
Town Council
December 7, 2009**

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

This Organizational Meeting and Swearing In Ceremony for the Newly Elected Officials is Dedicated to the Memory of Mayor F. Donald Rohrbaugh

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; Brad Bass, Planning Director; Frank Powell, Town Engineer; Lin Jones, Finance Director; Tony Beasley, Economic Development Director and Michelle Howell, Public Information Officer

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE - Harrison and Emma Grace Singleton

INVOCATION - Rev. Gary Tesh

PRESENTATION OF PROCLAMATION TO THE FAMILY OF MAYOR F. DONALD ROHRBAUGH

The following proclamation was presented to Mayor F. Don Rohrbaugh's family. The proclamation recognizes him for his years of service to the community and the town.

***Town of Garner
Proclamation in Memory and Honor of former
Mayor F. Donald Rohrbaugh***

***WHEREAS,** Mayor Rohrbaugh served this community as Mayor of the Town of Garner for ten years, a member of the Board of Aldermen for eight years, a Planning Commission member and various other capacities too numerous to list; and*

***WHEREAS,** during a long and productive lifetime, Mayor Rohrbaugh demonstrated in countless ways, his civic leadership and strong dedication to the community earning the respect and affection of people from all walks of life; and*

***WHEREAS,** the Town of Garner will always be indebted to Mayor Rohrbaugh for his early foresight and tireless efforts in planning the historical celebrations and events that were held in honor of the Town's 100th birthday; and*

***WHEREAS,** we mourn the loss of this great humanitarian and friend and extend to his wife, Betty, and his devoted family our sincere sympathy*

and gratitude for his leadership; his foresight in meeting the needs of the citizens of the Town of Garner; his unselfish and dedicated devotion to the duties of his office; and his significant impact on our community; and

NOW, therefore on behalf of the entire Garner community, the Mayor and Town Council, we pause our deliberations to proclaim that this meeting is dedicated to his memory and his honorable service to the Town of Garner.

Adopted this the 7th day of December 2009.

His family received a standing ovation.

PETITIONS AND COMMENTS

Request from Pop Warner Cheerleading Squad for reimbursement of expenses incurred for National Competition in Orlando Florida. This matter is moved to the end of the agenda as New Business.

ADOPTION OF AGENDA - Mayor Williams requested to add a Closed Session to discuss Economic Development pursuant to 143-318.11(A)(4). Council Member Singleton requested to add a closed session to discuss property acquisition pursuant to 143-318.11(A)(5)

Motion: Marshburn
Second: Behringer
Vote: Unanimous

CONSENT

Minutes from November 5, 2009

Action: Minutes Approved

Authorize Execution of Agreement for Sewer Extension, NC 50 and New Rand

This agreement is for engineering services from Municipal Engineering Services Engineering Company for design surveys, design, and easement surveys and plats for the NC 50 Sewer Project that was recently approved by the Town Council. The enclosed staff report provides some information on the project scope.

Action: Execution of Agreement

Resolution Supporting Initiatives of the Triangle Tomorrow and the Reality Action Committee

This Resolution supports the Guiding Principles for Quality Growth as recommended by Reality Check, a joint partnership between Triangle Tomorrow and Urban Land Institute Triangle. The principles and goals are set forth in the attached resolution.

Action: Adoption of Resolution No. (2009) 2034

Request to Connect to the Municipal Water System at 5015 Old Stage Road

This is a request to connect the property located at 5015 Old Stage Road to the Town's water system. The property owners currently share a well with the adjoining property that will be disconnected on January 1, 2010. As required by Garner's Town Code, the property owner must file a petition for annexation.

Action: Request for Utility Connection Approved

Resolution to Investigate Annexation Petition for Raleigh Pediatrics and Herman Collins

Raleigh Pediatrics, 1405 Timber Drive East and Herman Collins, 5015 Old Stage Road has submitted petitions for annexation. This Resolution authorizes investigation of the sufficiency of these petitions.

Action: Adoption of Resolution No. (2009) 2035

Motion:
Second:
Vote: Unanimous

END OF CONSENT

Motion: Singleton
Second: Kennedy
Vote: Unanimous

ADMINISTRATION OF OATH OF OFFICE BY THE HONORABLE ELAINE MARSHALL, SECRETARY OF STATE

Newly elected Council Members Kathy Behringer and Gra Singleton were administered the Oath of Office with their family members present.

ELECTION OF MAYOR PRO TEMPORE

Council Member Singleton nominated Council Member Behringer for the position of Mayor Pro Tem, seconded by Mayor Pro Tem Kennedy. Mayor Pro Tem Kennedy motioned to close the nominations, seconded by Council Member Johns. The vote was unanimous to elect Council Member Behringer as Mayor Pro Tem.

Ms. Behringer said she acknowledges all of her supporters and thanked her family for their support. She said she is happy to be re-elected and humbled by the number of votes she received. She said the School of Government teaches elected officials how to govern. She understands the role of a public servant and promises to make decisions based on the best interest of the community.

RECEPTION - Recess for 30 Minutes

RECONVENE - Roll Call

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

OLD/NEW BUSINESS

Authorization of Grant Submittal Applications

Presenter: Rodney Dickerson

Mr. Dickerson reported Town staff was made aware of several grant opportunities that have fast approaching deadlines. A resolution of support from the Town Council should improve our chances of receiving a grant. Staff will prepare a resolution similar to the one from Apex who received a SAFER grant earlier this fiscal year. We also understand that a letter of support from a member of Congress can be beneficial; Mr. Dickerson said he would contact Congressman Etheridge's office for this letter.

1) Staffing for Adequate Fire and Emergency Response (S.A.F.E.R.) Grant.

This is a competitive grant program designed to provide cost-share support for local fire fighting, emergency rescue, and emergency medical services. The objective of the SAFER grant is to get trained front-line emergency personnel to the scene to help local departments comply with national operational standards. The grant will pay 100% of the salary and benefits for personnel for two years if the applicant agrees to fund the positions for at least a year after the funding ends. We intend to apply for 9 firefighters to be stationed at the new Garner Fire Station 4. Town staff will collaborate with Garner Fire and Wake County to apply for this grant. Wake County Public Safety staff will attempt to get a similar resolution approved by the County Commissioners, however, their meeting schedule may not allow this to happen prior to the grant deadline. Deadline is December 18, 2009.

We are still working out the details for the sharing of operational costs for Station #4. Early discussions have centered on hiring 7 firefighters for that station. However, we believe with this grant opportunity it would be prudent to apply for 9 to comply with the national standards and to make the most of this potential funding source. It is agreed that if we do not receive this grant the request for personnel would go back to 7.

2) Energy Efficiency and Conservation and Block Grant Program. These funds are intended to help expand local energy efficiency efforts and reduce energy use in the commercial, residential, transportation, manufacturing, or industrial sectors. The first topic area, the "Retrofit Ramp-Up" program, will award up to \$390 million for innovative programs that are structured to provide whole-neighborhood building energy retrofits. These will be projects that demonstrate a sustainable business model for providing cost-effective energy upgrades for a large percentage of the residential, commercial, and public buildings in a specific community. Possible approaches could include innovative partnerships between the public and private sector, utility retrofit and audit programs, alternative financing, retail partnerships, and others. DOE expects to make 8 to 20 awards under this topic area, with award size ranging from \$5-75 million.

The second topic area, the "General Innovation Fund," will award up to \$64 million to cities, counties and State-recognized Indian Tribes that were not eligible to receive population-based formula grant allocations from DOE under the Energy Efficiency and Conservation Block Grant program. These funds are intended to help expand local energy efficiency efforts and reduce energy use in the commercial, residential, transportation, manufacturing, or industrial sectors. DOE expects to make 15 to 60 awards, with award size ranging from \$1-5 million.

Staff believes that the Town's best prospect of receiving a grant would be in the Retrofit Ramp-Up category. Staff will designate North Garner as the neighborhood target because of its mix of older residential, commercial and public-owned facilities. We already have some potential projects outlined in the CIP for several public facilities. The Neighborhood Improvement Manager and I will work to complete this grant application. Deadline is December 14, 2009.

Council Member Johns asked if the Council chose to apply for the "Ramp Up" grant, would staff be able to handle it. Mr. Dickerson said administration of that grant would take a lot more time and staff than we have available.

Council Member Marshburn noted the S.A.F.E.R. grant does not require specific matching funding. Mr. Dickerson said the first two years has no match. The elected body would have to guarantee the positions for one year after grant funding ends.

Mr. Dickerson said he is still working out operations with the Fire Department and Wake County staff initially they are considering seven positions. The Fire Department plans to use the two positions approved last year and re-allocate their time.

Council Member Marshburn asked if the Town will be responsible for budgeting the positions when the grant expires. Mr. Dickerson said the costs will be shared with Wake County.

Action: Adoption of Resolution No. (2009) 2036 Supporting the Staffing for Adequate Fire and Emergency Response (S.A.F.E.R.) Grant;

Motion: Kennedy
Second: Singleton
Vote: Unanimous

Adoption of Resolution No. (2009) 2037 Energy Efficiency and Conservation and Block Grant Program; submit grant application for energy study for the Town of Garner

Motion: Kennedy
Second: Singleton
Vote: Unanimous

Request for Funding from the Pop Warner Cheerleading Program

This matter was presented under "Petitions and Comments". Ms. Ewing informed the Council that the cheerleaders placed first in local competition and went to perform in Regional Competitions in Charlotte. Placing first there, they have been invited to compete in the Nationals in Orlando, Florida.

Council Member Marshburn asked if they will be receiving any money from the Civitan Club. Ms. Ewing said the Civitans Club have "fronted" some funding for the girls, with a time frame to pay them back. Some of the girls have sponsors, but a few have not been able to get any one.

Council Member Johns asked how many girls. Ms. Ewing said 16 girls for a three-day and four-night trip. She said the group has been working since August. The girls work six to ten hours a week and must maintain a high Grade Point Average. She introduced Johnsie Johnson and Teresa Harper who work with the girls.

Council Member Singleton said he spoke with Mr. Randall Johnson who is a member of the Civitan Club about fund raising efforts which may help them get some money when they return.

Council Member Marshburn observed this cause is a good one and he hopes they do well at the nationals. He explained there is a mid-year funding policy, but he does not see where this event fits under the type of funding allowed by municipalities.

Mr. Dickerson said according to the Attorney, it fits under the Parks and Recreation umbrella, noting we have funded them in the past.

Council Member Marshburn asked how much funding are they asking. Ms. Ewing said whatever the Council can give; they need \$5,000, but they do not expect the Council to give that much. Council Member Marshburn said that certainly the concept of other fund raising may produce funds at a later date. Ms. Ewing said they have been doing fund raising events since October. They sold donuts and held two fundraisers, one at Buffaloe Wild Wings and another at Chick Fil-a.

Mr. Johnson Randall, member of the Civitan Club requested to address the Council, stating his heart is with the Civitans. He said the Town is wonderful in supporting the Pop Warner Program which has a separate budget. The Pop Warner Program is used for payment of officials, uniforms and field maintenance. This is the second time this has happened where the Civitan did not anticipate this expense. He said the Civitans would appreciate any help the Council could give them.

Council Member Kennedy said they should let the Council Members who wished to donate personally to whom they should make a check payable, asking if this goes into a "pool" giving everyone an equal chance. Ms. Ewing said any extra money will go to those who have not been able to cover expenses.

Ms. Ewing said the checks are to be made payable to the Garner Civitan and she can be reached at 235-7580.

Action: No Action taken

COMMITTEE REPORTS

Council Member Singleton reported that the Law and Finance Committee met last Thursday. The three items on the agenda were: 1) allowing hens in the town limits with restrictions; 2) bow hunting for deer in the town limits and 3) parking near stop signs. Parking near stop signs on Poole Drive is being resolved by adding warning signs. Items 1 and 2 will be discussed further at a January Law and Finance Committee meeting.

MANAGER REPORT

1. Star Tracker

Council Member Marshburn noted activity regarding the Vandora Springs Road bridge and requested an update. Mr. Powell, Town Engineer said he thinks N.C. Department of Transportation is injecting gravel into the lower level of the bridge for support. Mr. Watkins said he will ask Mr. Cox, Public Works Director to call Mr. Briley with NCDOT for an update.

2. Modifications to the Garner Road Grant Program

Background

The Garner Road Overlay District was adopted by the Town Council on October 21, 2008. Thirty-five existing businesses were affected by the Overlay District retrofit landscaping requirements. Under the provisions of the Overlay District existing businesses have two (2) years to comply with landscaping requirements (December 2010). In conjunction with the adoption of the Garner Road Overlay District the Town Council authorized the Garner Road Grant Program as a means to assist existing business owners comply with retrofit landscaping requirements. The Grant Program, as it is currently structured, requires the property owner to install all improvements upfront at their cost according to a Town approved plan. When the installation is complete staff inspects the property for compliance and the Town then reimburses the owner 75% of the Town's original cost estimate for that particular project in year one (50% in year two). To date nine businesses have completed the required improvements with a total grant allocation of just over \$23,000. This represents approximately 55% of the actual costs incurred by property owners. The primary contributing factor to this situation appears to be higher actual costs to install curb and gutter around landscape areas than what was originally estimated by staff. As you recall, the original staff proposal did not include the use of curb and gutter around new landscape areas. This provision was added by Council when they adopted the Overlay District.

Due to the curb and gutter requirement staff is encountering the following issues:

1) The use of different contractors by property owners without price comparisons in some cases has resulted in fluctuations of actual costs from one project to another as well as noticeable differences in the quality of work;

2) There has been resistance from some property owners about the upfront expense of installing curb and gutter and the financial impacts that has as well as not being able to receive 75% of the cost they incur due to low Town cost estimates for curb and gutter and;

3) Discovery by staff after we started the grant program that some properties where curb and gutter was required actually needed to encroach into the road right-of-way thereby requiring an Encroachment Agreement with DOT. Under the current arrangement the burden and expense of obtaining this agreement would be the responsibility of individual property owners.

The above noted factors led Staff to re-evaluate the current structure of the Grant Program. We enlisted the assistance of the Engineering Department and field inspected all remaining sites where the use of curb and gutter was required. With Engineering's assistance, a second set of cost estimates were calculated using more recent cost factors for the required improvements (including an increase in curb/gutter cost per foot and a contingency amount). This has resulted in an increase in the estimated total costs of the Grant Program if the Town implements the recommended changes suggested below.

After completing this assessment, Staff recommends the following changes to the Garner Road Grant Program be considered.

1) The Town takes over the installation of curb & gutter for the 16 remaining properties where it is required. This means the Town would develop

a bid package (plans & specifications) for these properties and go through a process to select a contractor to install the curb and gutter. The Town would be responsible for obtaining the necessary Encroachment Agreements with DOT. Once the curb and gutter is installed by the Town's contractor, property owners at their cost, would then be expected to install the required landscaping which would be inspected by the Town. This ensures better quality control of the work, reduces the cost burden on property owners and avoids individuals having to work through DOT review procedures

Property owners would have to sign a contract with the Town (prior to the bid going out) agreeing to participate and also allow the Town's contractor to install the curb and gutter on their property. The Town Attorney is drafting the required documentation. Staff has made preliminary contact with most of the affected property owners about this possible change. If property owners opt not participate then they are responsible for installing all required improvements. More discussion is needed regarding if improvements are completed by December 2010 by those not participating would they still be eligible for a 50% Town grant as originally outlined in the Grant Program.

The other nine (9) properties where only landscape improvements are needed would be required continue under the current Grant Program structure.

2) Cost Estimate Revisions Based on Town Installation of Curb/Gutter

Original Town Grant Cost Estimate (with sign/dumpster option included)	\$107,000.00
Total Grant Funds Expended to Date	<u>\$ 23,054.25</u>
Remaining Grant Allocation Estimate	\$ 83,945.75
Revised Town Grant Cost Estimate	
Revised Cost Estimate for Remaining Properties (less landscaping)	\$111,046.28
Town Share on Sign/Dumpsters Option	<u>\$ 15,500.00</u>
Total	<u>\$126,546.28</u>

Staff compared the revised total cost estimates for curb and gutter installation by the Town with the revised estimated total landscape installation costs that would be made by property owners. We estimate that the Town's share of expenditures would be slightly over 75% of the revised total estimated costs and the property owners share would be just under 25% of revised total estimated costs.

Cost increases reflect more realistic estimates for curb and gutter (increase per foot from \$16 to \$27.50) and a contingency factor (\$13,172) that was not included in the original cost estimate.

3) Options

a) Move forward with the recommended changes to the Grant Program and authorize staff to obtain a contractor through normal bid procedures to install curb and gutter on properties where it is required. This option would require an additional \$42,600 of Town funding which includes a contingency amount (\$13,172) that was not part of the original cost estimate. If authorized Staff would develop a bid package and submit it in January

2010 and select a contractor by late February 2010. Work could begin in mid March with completion by late April 2010. Property owners could complete landscape improvements by May 15 or wait until fall 2010 to complete landscaping. Regardless all landscaping would have be complete by December 2010.

b) Move forward with the recommended changes to the Grant Program but delay implementation until fiscal year 2010-11 in order to budget the additional funds (\$42,600) through the normal Town budget process. If funding is authorized Staff would develop a bid package and submit it in July 2010 and select a contractor by mid to late August 2010. Work would begin in early September 2010 with completion by late October 2010. Property owners would be expected to complete landscape improvements by December 2010.

Mr. Watkins said this was one of the first steps of the implantation of the North Garner Plan. He said as a preference from a budget side, staff would prefer Option B in next years budget, understanding this would be one of our top priorities. Staff will still have to submit eight encroachments to NCDOT.

Council Member Kennedy asked if Option B will put everything on hold until summer or can we operate under budget limitations. Mr. Bass said we can continue to move forward; we are designing plans. There will be some variation, but we will have our own contractor. Council Member Kennedy said he did not have a problem option b.

Council Member Marshburn asked if there is a concern about the property owners that have already met requirements and will they feel disadvantaged. Mr. Bass said this was discussed and he said he feels we can look at this issue.

Action: The Council agreed to budget \$42,600 and move forward with Option 3 (b) as presented in the staff report

3. TT&E Site Plan Changes

The Town Council approved the site plan in 2008 regarding the expansion of the TT&E facility located on Garner Road. As part of the CUP approval a condition was placed on the permit requiring the installation of the curb and gutter, sidewalk and road widening along the property frontage on Garner Road. The owners have requested the Town to consider issuing a conditional C.O. to allow them to put their new shredder in operation before December 31, 2009 without final completion of the required roadway improvements and the new driveway on Garner Road being operational. The owners understand this arrangement would be contingent upon a letter of credit being posted with the Town of Garner to cover the costs of the roadway improvements and any other remaining site improvements in an amount that is acceptable to the Town prior to the issuance of the CO. The roadway improvements were delayed due to some miscommunication from a major utility provider regarding the timing of the relocation of an existing cable along Garner Road where the road widening needs to take place. Accordingly the roadway improvements cannot be completed until Spring 2010.

Staff requested the owners to have their traffic consultant evaluate the current operating conditions during peak times on Saturdays. We advised that both DOT and the Town of Garner would evaluate the findings to determine if their request for a conditional C.O. would be possible from a traffic impact perspective. The Traffic Engineers concluded that there should not be any safety concerns regarding existing queues on site blocking Garner Road. They also advised that in their opinion there should be sufficient capacity for

storage on site with the operation of shredder on an interim basis. DOT reviewed the traffic report and will allow the C.O. to be issued without all roadway improvements based on the posting of a letter of credit and provided the new driveway on Garner Road is blocked with a concrete barrier to ensure traffic cannot use it during this interim period.

Action: Proceed with issuance of a conditional C.O. for the project once all required site improvements and building inspections are completed and a letter of credit has been posted

4. N.C. 50 Sewer Project, Addition of Parcel

Insert Franks memo

Action: Approve additional parcel; notify property owners of the change of work scope probable decrease in assessment

5. Building Permit Activity

6. Personnel Report November 2009

COUNCIL REPORTS

Council Member Marshburn

- Commended Garner Police for working with the Wake County Traffic Safety Task Force in efforts toward DWI enforcement, speed enforcement, seat belt enforcement, and other traffic safety initiatives.
- He thanked all of the departments that participated in the Saturday events; they did an admirable job under circumstances of inclement weather.
- He extended his congratulations to Council Members Behringer and Singleton; he congratulated Council Member Behringer for being elected Mayor ProTem.
- He reported delivering thank you letters to Town Hall from the 3rd grade students at Timber Drive Elementary who attended a recent field trip at Town Hall.

Mayor ProTem Behringer

- She commended the staff of All-Star for pickup up one of her elderly neighbor's trash from his back yard.
- At the 300 block of Penny Street, trash containers are being left on the street continuously.
- The Woman's Club tour of homes on Sunday raised more money than ever, which means more money can be given in scholarships.

Council Member Johns

- He requested the Council consider giving holiday bonus to the staff and suggested \$200 like last year. The Council agreed, but expressed concerns since this matter has been discussed and a conscience decision was made to not include in the budget. If the Council wants to make this a practice, the decision needs to be made in the next budget cycle.

Action: Give full-time employees and year round part-time employees a \$200.00 holiday bonus

- He reported limbs piled on the street at 301 Main Street.

Council Member Singleton

- He acknowledged that this is the third time Secretary Elaine Marshall has administered the Oath of Office to him. He thanked the Council for allowing his children to lead the Pledge of Allegiance.

Council Member Singleton

- He reported a potential safety problem leaving White Deer Park. Because of the current road alignment, vehicles get too far into the road at the stop sign. He said he understands the engineering staff feels that painting a stop bar may make people more aware.
- He said the Council works well together and there are a lot of things on the plate. He congratulated Council Member Singleton and Behringer and congratulated Council Member Behringer for being elected mayor ProTem.

Mayor Williams

- He asked each Council Member if they are satisfied with Committee assignments and to let him know if any changes are requested.
- He appointed Council Member Marshburn to the Wake County Sustainability Task Force.
- He asked if anyone was interested in changing the format of the meetings and combining work session items at the second regular meeting.
- He asked if Mr. Bass would invite the new Planner to an upcoming meeting.

CLOSED SESSION, Pursuant to N.C.G.S. 143-318.11(a) (4) to discuss Economic Development, Project Orbit and N.C.G.S. 143-318.11(a)(4) to discuss land acquisition.

Motion: Marshburn
Second: Johns
Vote: Unanimous

Returned to regular session 10:50.

The Council returned to the regular meeting and then adjourned at 10:50.

Motion: Kennedy
Second: Singleton
Vote: Unanimous

Respectfully Submitted

Judy Bass, Town Clerk