

**Town of Garner
Town Council Minutes
July 6, 2010**

The Garner Town Council met in regular session at 7:00 P.M. on Tuesday, July 6, 2010 in the Town Council Meeting Room

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

STAFF MEMBERS PRESENT: Hardin Watkins, Town Manager; Rodney Dickerson, Assistant Town Manager; Bill Anderson, Town Attorney; Brad Bass, Planning Director; Eric Copeland, Deputy Chief; Tony Beasley, Economic Development Director, Reggie Buie, Neighborhood Improvement Manager and Michelle Howell Public Information Officer

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE - Council Member Marshburn

INVOCATION - Rev. Travis Tobin

RECOGNITION OF HOMEOWNER'S ASSOCIATION

Brownstone Village, Lynn Harke

PETITIONS AND COMMENTS

Dennis Hazel, 3712 Vesta Drive, noted a few weeks ago, the Council recognized the Greenbrier Homeowners' Association for their leadership and contribution to their community. Since two Council Members were not at that meeting, they wanted to come back and thank them. Council Members Singleton and Marshburn thanked them for coming back and staying involved.

ADOPTION OF AGENDA

Mayor Williams added an item to New/Old Business to discuss materials being distributed at the July 3 event; Council Member Kennedy added discussion of a nepotism policy for the Garner Volunteer Fire-Rescue Board of Directors.

Motion: Kennedy
Second: Singleton
Vote: Unanimous

CONSENT

Mr. Dickerson requested to remove consideration of Ordinance No. (2010) 3588 regarding combustible landscaping materials from Consent to present changes to the Council.

Minutes from May 18 and June 22 Meetings; May 25 and June 28 Work Session and June 7 Special Meeting

Action: Minutes Approved

Ordinance Amending Town of Garner Fees and Charges

This Ordinance increases the Town of Garner construction fees and will carry out contractually obligated adjustments directly requested by the City of Raleigh Utilities Department. Additionally, this Ordinance contains fees associated with Animal Control. These fees are currently in the Town Code but need to be added to the Town's Fees and Charges.

Action: Adoption of Ordinance No. (2010) 3587

Motion: Singleton

Second: Kennedy

Vote: Unanimous

END OF CONSENT

Ordinance to Prohibit Combustible Landscaping Materials

This Ordinance amends Section 4-8 Article 1, Fire Prevention and Inspections by prohibiting pine straw or other combustible landscaping materials with a fire rate of spread more than 24 inches per minute to be placed, kept, or stored within ten feet of buildings with combustible exterior construction.

Mr. Dickerson said subsequent to review, he received a memo from the School of Government notifying the Town that amendments related to the Fire Code must be approved by the N.C. State Building Code Council. Therefore, the test has been altered to language acceptable by the Building Council and as written is in compliance with the NC Building Code.

Mr. George Rucker, Dixie Construction, said he owns property on Aversboro Road that will be affected by this Ordinance. He said his property generated its own mulch due to the number of pine trees. He said he will have to replace the pine straw either with grass seed, sod or a whole lot of mulch. Mr. Rucker said he prefers to remove the pine trees and plant grass, but this will take longer than the effective date proposed in the Ordinance. It will take this fall and next spring to make it look decent. He asked the Council to consider an extension of about a year for those residents in his similar situation. He suggested that hardiplank and brick be exempt since it is not combustible material. Council Member Marshburn explained that the Ordinance only addresses combustible material.

Council Member Kennedy said at their last discussion, the Council decided on a February 2011 effective date. He suggested the February date be for new construction and to allow a grace period to June, 2011 for existing construction.

Council Member Kennedy suggested keeping the effective date of February and allow people to come in and request a waiver.

Mr. Anderson suggested staff reword the Ordinance and bring back to the Council for consideration. Council Member Marshburn agreed, but said he does not want to delay this matter for too long.

Action: Table Request until July 12, 2010.

Motion: Marshburn
Second: Behringer
Vote: Unanimous

PUBLIC HEARINGS

Announcement of Justice Assistant Grant

The Police Department is eligible for a Justice Assistance Grant (JAG) through the U.S. Department of Justice in the amount of \$11,831 with no local match required. The Police Department would like to utilize these grant funds to purchase four years hosting of PowerDMS web-based policy and procedure management, compliance training, certification testing, and employee survey software. The grant application is available for review by the Council and to the public for comment from citizens and community organizations.

Mayor Williams opened the public hearing and asked for questions or comments. Hearing none, Mayor Williams closed the public hearing.

Action: Receive Public Comment; Grant Accepted

Motion: Marshburn
Second: Johns
Vote: Unanimous

OLD/NEW BUSINESS

Distribution of Materials at Town Sponsored Events

Mr. Watkins said there have been inquiries that followed the July 3 celebration regarding someone handing out leaflets at the park. Following the policy in place, we asked them to move outside to the sidewalk. After hearing some comments; we feel we may need to re-work that policy. He said he can get relevant staff members and come back with a revised policy at a future date.

Mr. Anderson said he feels this problem can be solved by working with management and then discuss with Parks and Recreation staff. We need to be attuned to the fact that freedom of speech is the right of the individual rather than those listening. The Town can set guidelines, i.e. number of people. If someone is offering only a leaflet, we need to err on the side of allowing them to hand it out.

Council Member Kennedy said he feels this is an infringement on his rights; perhaps they can have vendor space and not disrupt the intended purpose of the event.

Council Member Johns said that if someone comes to you, you have the right to accept or reject the information.

Council Member Marshburn said he is confident that any decision made was not purposely infringe on his rights. The intent was to have reasonable provisions so we can have orderly events and accommodate the rights of all citizens.

Mayor ProTem Behringer said she supports freedom of speech, but does not want materials forced on her that she doesn't want to take.

Mr. Anderson said he will bring something to the Council for review.

Action: The Town Manager and Attorney to Present Policy for Council Review

Nepotism Policy for Garner Volunteer Fire Rescue, Inc. Board of Directors

Mr. Watkins said Wake County staff has re-written its contract with emergency agencies to address nepotism at the Board level. Town staff has modified the County policy to read as follows:

No family member of: 1) the Fire Department's Chief Officer, 2) the President of the Board of Directors, 3) any GVFRD, Inc. Board member, or 4) any GVFRD, Inc. full-time employee shall serve as a member of the Department's Board of Directors. "Chief Officer" shall be defined as the person designated by the Board as the Fire Chief of the Department. "Family member" shall be defined as a parent, spouse, child, or sibling of the member, including a parent, child, or sibling of the member's spouse. If a family member as defined herein is a properly elected or appointed director at the time this Agreement is entered, then and in that event, the Board of Directors shall: 1) request the resignation of such member or take any other action available under the current by-laws to insure that the family member does not serve as a director during the performance of this fiscal year's contract, 2) change the by-laws at the next legal opportunity to insure that no family member serves as a director during the performance of this contract.

Council Member Kennedy said he recommended policies for the staff and Board of Directors as separate items and suggests the policy directed to the Board of Directors be incorporated into a letter and sent to the Fire Department stating an effective date of July 6.

Council Member Marshburn asked if the policy is intended for the makeup of the Board of Directors? Mr. Watkins said it is and suggested taking the policy from the Town's Personnel Manual and incorporate that into a letter to send to the Fire Department.

Council Member Kennedy said he feels we need to move forward. He suggested this policy be effective today and that resignations will be expected by July 13, 2010.

Action: Approved Policy Effective July 6, 2010; Resignations to be submitted by July 13

Motion: Kennedy
Second: Singleton
Vote: Unanimous

COMMITTEE REPORTS - None

MANAGER REPORTS

1. Star Tracker
2. Planning Enforcement/June
3. Sign Violations/June commended Jason Brown.

ATTORNEY REPORTS

Request closed session at appropriate time

COUNCIL REPORTS

Council Member Kennedy

- He asked staff to follow procedure with the Fire Department to see if the requested payment of the additional \$50,000 was in fact paid and applied to Fire Station #3. Council Member Kennedy said he feels the Fire Department will be forthcoming on telling us what happened this past year; it is a good idea to see if it was applied twice in past years. He said we should find out within the next six weeks. Council Member Singleton asked staff to contact Wake County and get a copy of the budget for the last two or three years to see if it was budgeted twice.
- He congratulated Jason Brown for receiving his certification as a Certified Zoning Official and Sheila Cain for receiving Certification as a Senior Professional in Human Resources.
- He commended staff on the great July 3 event.

Council Member Singleton

- He said the July event was great. He said the water stations were not properly attended and ran out of soap and towels. He heard mixed comments regarding the fireworks; the event was great and the fireworks lasted 28 minutes. He commended staff on getting trash removed throughout the evening. He thanked the staff for all they did.
- He asked if there will be distance markers on the trails at White Deer Park. Ms. Shaw said she will make sure it is included in the sign package for the greenway.

Council Member Johns

- He agreed with the other Council Members on the great July 3 Event.
- He reported a split storm drain on Main Street and St. Mary's Street. It appears to have been run over with a heavy truck.

Council Member Behringer

- She continued the praise on the July 3 event stating the organization of moving the traffic is phenomenal. She said once again we have outdone everybody.
- She said the sidewalks at Broughton, Avery and Powell Streets look wonderful and it gives a facelift to the neighborhood.
- She reported trash scattered at 316 and 318 W. Garner Road. There was a trash can full of toys that were emptied, but the can was left laying on its side with some toys scattered.
- She reported one of the Triangle Transit meetings on light rail and commuter rail is being held in Chapel Hill tomorrow. Mr. Bass said there are two next week, one in Knightdale and one in Apex. We are also represented on the Wake County Technical Committee consisting of planners in the development that will provide input into the analysis.

Mr. Watkins said he, Mr. Bass and Ed Johnson (CAMPO) met and shared comments. We are contemplating having something to present at these hearings on the Town's view points. Mr. Bass said there is follow up with Mr. Johnson, hoping to get our information for a presentation. Mr. Watkins said we want to share with them that light rail should come to Garner. Mr. Johnson said he agreed a light rail would work in downtown Raleigh and link to Garner.

Council Member Marshburn

- He commended the staff on the July 3 event; it was a wonderful weekend of activities.
- He said he was pleased to see the Town was listed in the League's Green Challenge as only one of four in the County.
- He reported reading the Summary of State Budget Provisions of cities and towns. He was wondering if someone on town staff will look to see if there are positive or negative impacts. Some of it talks about additional positions in the Department of Corrections that can aid local government.

Mayor Williams

- He reminded everyone of the Senior Center's twenty year anniversary.
- He reminded everyone of the Main Street tour on Friday. Everyone will meet at Town Hall at 8:30 AM. Council Members Kennedy, Behringer, Johns and Marshburn plan to attend.

Closed session pursuant to N.C.G.S. 143 318 (11)a(3) to confer with counsel regarding matter of prospective litigation in a zoning nuisance enforcement case and 2) pending litigation regarding the Oxford House vs. Town of Garner, Case # 509CV2SL.

Motion: Kennedy
Second: Singleton
Vote: Unanimous

The Council returned to Regular Session

ADJOURNMENT: 9:15 PM

Motion: Kennedy
Second: Singleton
Vote: Unanimous

Respectfully Submitted,

Judy Bass, Town Clerk