

**Town of Garner  
Town Council  
September 8, 2009  
Minutes**

The Garner Town Council met in regular session at 7:00 P.M. on Tuesday, September 8, 2009 in the Town Council Meeting Room

**CALL MEETING TO ORDER**

**ATTENDING:** Mayor Williams, Mayor ProTem Kennedy, Council Members Behringer, Johns, Marshburn and Singleton.

**STAFF ATTENDING:** Hardin Watkins, Town Manager; Rodney Dickerson, Assistant Town Manager; Brad Bass, Planning Director; Jenny Saldi, Senior Planner; Tony Beasley, Lin Jones, Finance Director; Economic Development Director and Michelle Howell, Public Information Officer

**PLEDGE OF ALLEGIANCE:** David Griffith, Troop 320

**INVOCATION:** Mayor ProTem Kennedy

**PETITIONS AND COMMENTS:**

1) Mr. Harold Annis, President of the Garner Veterans' Memorial Committee, was present to give an update on the design competition for the memorial. On July 10, the Committee advertised the design competition and accepted applications until August 7. A total of 23 architect firms have entered the competition from large and small firms widespread throughout the state. On October 23, the final submittal is due and will be judged at the Garner Chamber of Commerce. The unveiling of the winning entry will be done at the Veterans' Day Celebration and Site Dedication on Veterans' Day, November 11. He said the Committee is on track with the schedule they submitted when the Council authorized the use of a memorial at Lake Benson Park. The Committee was very pleased with the number of applicants which far exceeded expectations. He said they have a good ceremony planned for Veteran's Day.

2) Mr. Rich Barta, Core Properties, Charlotte, NC, said he has been keeping abreast on the controversy of spending \$144,000 on the driveway turn out for the proposed Timber Dive East. He proposed to the Council they rescind the need for that money. He said hopefully that decision will help people refocus their energy on more formal areas. He said we can collectively decide how to contact NC DOT.

**ADOPTION OF AGENDA:** Mayor added a Proclamation regarding returning troops to the agenda.

Motion: Singleton  
Second: Johns  
Vote: Unanimous

**CONSENT AGENDA**

**Minutes from August 3, 2008**

Action: Approval of Minutes

**Ordinance Establishing Stop Street Intersections**

This Ordinance establishes stop street intersections at Southerby Bluffs Court and Heather Park Drive in the Heather Park Subdivision.

Action: Adopt Ordinance No. (2009) 3563

**Resolution Declaring Trash Collection Projects**

This Resolution declares the Town's unprepared trash pick-up special projects for 2009/2010 as provided by our solid waste ordinance. Pickup dates for the fall unprepared waste cleanup will begin the weeks of November 1, November 8 and November 15. The spring unprepared cleanup will begin the weeks of March 15, March 22 and March 29. These projects will be based on the normal garbage collection routes.

Action: Adopt Resolution No. (2009) 2024

**Resolution to Set Public Hearing on Annexation for 700 Waterfield Ridge Place**

The United Methodist Conference has submitted a petition for annexation. The property consists of 14.59 acres and is located at 700 Waterfield Ridge Road. The petitions are sufficient under state law to proceed with the annexation process. This Resolution sets October 5, 2009 as the public hearing date on the annexation.

Action: Adopt Resolution No. (2009) 2025

**Resolution Authorizing Sale of Surplus Property**

Staff requests authorization to declare the property set out in this Resolution as surplus to be sold on the GovDeals on-line auction website. GovDeals is an E-bay type municipal on-line auction group that has been approved by the N.C. League of Municipalities.

Action: Adopt Resolution No. (2009) 2026

**Ratify Change Order Batch No. 3 for White Deer Park Construction Project**

Change Order Batch No. 3 in the amount of \$18,921.61 for the White Deer Construction Project was reviewed by the Council at the August 25 Work Session. The staff memo included in this agenda describes the changes.

Action: Ratify Change Order Batch No. 3

Motion: Kennedy  
Second: Marshburn  
Vote: Unanimous

**END OF CONSENT**

*The Council will receive all testimony presented for quasi-judicial hearings; however the Council may delay consideration to a later time.*

**Conditional Use Permit, Garner Volunteer Fire-Rescue and EMS, Station 4**

Presenter: Jenny Saldi

Mayor Williams asked anyone needing to provide testimony to come forward and be sworn: Taking the oath was: Brad Bass, Jenny Saldi and Zack Pierce. Ms. Saldi reported CLH Design is requesting conditional use permit approval for an emergency services building to be located on a 4.13 site located at 125 Spaceway Court. The one story building is 11,658 square feet in size of which 4,890 square feet is dedicated to the apparatus bays. The building will be constructed with a brown brick with darker brown brick bands adding visual interest. The standing seam metal roof is gray. Buffers are shown

as required; 7 ½ foot perimeter buffer along the west and southeast property lines and a 65 foot perimeter buffer along the northeast property line. An evergreen shrub edge is proposed along the 65 foot buffer to provide additional screening for the adjacent residential properties. A stream, which runs along a portion of the north east property line, is subject to the Neuse River Buffer requirements. The 50 foot buffer is shown as required and remains undisturbed. A total of 34 parking spaces are required; of these, 2 must be handicap accessible. This site does not contain a FEMA designated floodplain. The plan, as proposed, meets fire code requirements, has a sprinkler system and one hydrant on site. Water and sewer service connections are proposed from the existing mains along Spaceway Court. Two points of access are proposed with this site plan; one for emergency vehicles and the other for the parking area.

The application is consistent with all adopted town plans and policies and was recommended for approval by the Planning Commission.

Zack Pierce, CLH Design, said he was available for questions.

Council Member Singleton asked if there will be warning signs at the intersection of Spaceway and Raynor Road. Ms. Saldi said this was not required by N.C. Department of Transportation due to the low traffic volume.

Council Member Behringer asked Chief Mitchell why the Town needs an additional Fire Station in that area.

Chief Mitchell said we are not meeting response time goals. Everyone in the Garner area, including within the Town limits will benefit from the additional station. Some of Raynor Road is in the Town limits. This station will relieve Station 3 of some County calls. There will be six to nine fire fighters hired, but no extra equipment will be purchased.

Mr. Watkins explained the agreement by stating this is an agreement the Town entered with the Wake County. The Town is responsible for 15% of the construction costs which can be spaced out over ten years and due after the issuance of the Certificate of Occupancy. The Town's responsibility is only for the fire portion, rescue is County funded. Once opened, the Town will look at a formula for a fair operating expense.

Council Member Singleton said Garner has one EMS facility and it will benefit that as well.

Mayor Williams closed the public hearing.

Carol Hutchison, Planning Commission Chair, reported the Planning Commission met on August July 13 and unanimously recommended approval as conditioned.

Action: Find Application Complete; Granted Permit with standard conditions.

Motion: Singleton

Second: Kennedy

Vote: Unanimous

## **Resolution Authorizing Street Closure for Special Event**

Presenter: John Hodges

The Garner Revitalization Association requests the closing of the portion of Main Street from Purvis Street to Rand Mill Road for a community event to be held October 22, 2009 or in the event of rain, October 26, 2009 from 5:00 to 11:00 P.M. Main Street businesses will be notified in advance.

Council Member Marshburn said this was the fifth annual event; he asked Mr. Hodges if he has been made aware of any complaints. Mr. Hodges said he has not and this is a good way to show off the downtown to people that don't normally go there.

Action: Adopt Resolution No. 2027

Motion: Behringer  
Second: Marshburn  
Vote: Unanimous

## **Resolution Regarding Funding Arrangement between the Town of Garner and Garner Volunteer Fire-Rescue, Inc.**

Presenter: Rodney Dickerson

The Town Council has authorized a portion of the property tax levy not to exceed \$.055 to Garner Volunteer Fire-Rescue, Inc. for FY 2009-2010. This Resolution sets forth funding arrangements discussed and agreed upon by the Garner Town Council and Garner Volunteer Fire-Rescue, Inc. at the August 25 work session.

Mr. Dickerson said it was discovered there was a misunderstanding how the fire department funding allocation would be handled. After a meeting with staff and members of the Garner Volunteer Fire-Rescue, the following was discussed and set forth in Resolution NO. (2009) 2028.

### Items to include in updated agreement - 2009

- Town tied to all equipment and facilities.
- Town to mirror all useful County language used in their agreement with GVFD, Inc.

### GVFD, Inc. / TOG Funding Arrangement Proposal for Consideration

- 5.5 cents for FY 09-10
- Lin Jones will estimate "overage" in early June 2010. ("Overage" is defined as that portion of revenue that exceeds the amount of revenue projected to be collected in the FY 09-10 Town Budget)
- Lin Jones will send a memo to the Town Council in early to mid June 2010 stating what he projects the FY 09-10 "overage" to be. Copy of said memo will be provided to GVFD, Inc. at this time.
- GVFD, Inc. will provide a letter to Town Council indicating (with details) what the overage will be used for. Council agrees that this letter is for the purpose of being informed; not seeking approval for what "overage" is being used for. However, Town will ensure and insist that funds will not be applied or used for county-only facility or equipment items.
- Council will consider approval of a budget amendment memorializing the above actions at the second Council Meeting in June 2010.
- This policy will supersede all other minutes from the FY 09-10 Budget discussion process.

Action: Adopt Resolution No. (2009) 2028

Motion: Kennedy  
Second: Marshburn  
Vote: Unanimous

**Ordinance Amending Chapter 13, Personnel Rules and Regulations**

Presenter: Sheila Cain

The Council approved a revised Longevity Program during the adoption of the FY09-10 Town budget. The revised program was previously recommended by the Benefits Review Team and the Town Manager and reviewed and approved by the Town Attorney. The revisions include placing a maximum on the longevity award for active fulltime employees who were employed as of 9/8/09 but not yet eligible for the program and ceases the program for those hired after 9/8/09.

Council Member Behringer asked how we compare to other municipalities. Ms. Cain said we looked at others when the Town's employee benefits were reviewed. There are several that offer it, but ours was one of the most generous longevity programs. It is a valuable benefit, but costly.

Council Member Johns noted this is what we already have, no program for new employees and a cap on the current salaries. Ms. Cain explained that those employees already vested will remain the same. Anyone becoming eligible will have a maximum that can receive.

Council Member Marshburn asked if this will be a significant savings for the Town in the future. Ms. Cain said it will; there will be a gradual cost savings. Council Member Marshburn asked if Ms. Cain felt it is a current trend to phase out this program. Ms. Cain said some have removed the program, but she can not say there is a pattern to formulate a trend.

Action: Adopt Ordinance No. (2009) 3564

Motion: Marshburn  
Second: Behringer  
Vote: Unanimous

**Proclamation in observance of September 19, 2009 as "Welcome Home Day" in the Town of Garner for the North Carolina National Guard 449<sup>th</sup> Theater Aviation Brigade.**

Mayor ProTem Kennedy read the following proclamation:

WHEREAS, the Town of Garner supports the men and women who volunteer to serve in the United States Armed Forces; and

WHEREAS, the North Carolina National Guard's, 449<sup>th</sup> Theater Aviation Brigade is stationed in the National Guard Armory at the Raleigh-Durham International Airport and makes Morrisville home; and

WHEREAS, in 2008, the 449<sup>th</sup> Theater Aviation Brigade was called to active duty and deployed to Iraq; and

WHEREAS, the Citizen Soldiers of the 449<sup>th</sup> Theatre Aviation Brigade served bravely and honorably in a combat theater bringing great credit upon the United States Army, the North Carolina National Guard, and themselves; and

WHEREAS, the Citizen Soldiers and families of the 449<sup>th</sup> Theatre Aviation Brigade have sacrificed so that others may enjoy the freedoms that our country enjoys and believes to be the foundation for world peace; and

WHEREAS, the 449<sup>th</sup> Theater Aviation Brigade safely returned to the United States in September, 2009; and

WHEREAS, the Town of Garner, in conjunction with the United Service Organizations, Veterans of Foreign Wars Post 7383, and the American Legion Post 67 wish to recognize and thank these soldiers and their families for their service;

NOW, THEREFORE, I, Ronnie S. Williams, Mayor of the Town of Garner, on behalf of the Garner Town Council, do hereby proclaim September 19<sup>th</sup>, 2009 as "Welcome Home Day" in Garner for the North Carolina National Guard's, 449<sup>th</sup> Theater Aviation Brigade.

Adopted this the 8<sup>th</sup> day of September, 2009.

Council Member Marshburn asked staff to see if we can get the Commanding Officer to come to a Town Meeting.

Action: Endorse Proclamation signed by Mayor Williams

Motion: Kennedy

Second: Singleton

Vote: Unanimous

**Committee Reports** - Council Member Marshburn said he missed the last ConAgra United Way Meeting. Mayor Williams who also serves on the Committee said they set aside money for those seriously injured and try to get money in the hand of those that need it most.

#### **Manager Reports**

1. Star Tracker
2. Building Permit Activity
3. Invested Funds July 2009
4. Planning Commission Summary, August 2009

Council Member Marshburn recognized an increase in building permit activity. Mr. Watkins said partially due to permits in Eagle Ridge and Village at Aversboro. In addition, Rock-Ola is doing an expansion with a different restaurant theme.

#### **Attorney Reports**

Mr. Anderson requested a closed session pursuant to 143 318 11(a)(3), to discuss litigation in the case of Shaw Sanitation vs. Town of Garner, Wake County Case #09cvs18411 and a closed session pursuant to N.C.G.S. 143-318-11(a)(4) regarding Economic Development.

#### **Mayor ProTem Kennedy**

- He said the attendance at the sidewalk event was very good; he continues to see people using the sidewalks.

#### **Council Member Singleton**

- He asked when the recycling containers will be delivered.

Mr. Dickerson said they will be delivered on September 17. We are getting the word out through to the media, the public access

channel and a flyer on the roll-out containers. Mr. Watkins added that we will also go door to door to give information as well as use the reverse 911 system to notify residents by phone. Mr. Watkins noted that some townhouses do not have space for two large containers. The Town will purchase the small recycling container from Republic for a reduced cost.

- He reported the recycling was not picked up at 113 New Haven Court.
- He thanked staff for arranging the sidewalk dedication. He said this was a good project and has lots of activity.

#### **Council Member Johns**

- He said he agrees with everyone about the sidewalk dedication.
- He asked if the Town is enforcing political signs.

Mr. Watkins said we will take a look at this. He said staff did make regulations available to candidates and suggested staff send a "gentle" reminder.

#### **Council Member Behringer**

- She reported the recycling truck speeding on Penny Street. She asked staff to remind them the speed limit is 25 mph. She also reported they toss the cans rather than returning them as they were.
- She reported a cable hanging over the bushes at Creech Road near the Banks house.
- She reported that since school started, there are lots of teenagers hanging around the sidewalk at Forest Hills.

#### **Council Member Marshburn**

- He asked if the Town had any control on the size of the street identification signs at some of the major intersections. He said he noticed Raleigh has larger signs and there is some benefit in having larger and more readable signs. Mr. Watkins said if there are particular signs, we can inquire to North Carolina Department of Transportation.
- He reported an invitation from Kids Voting to an event on October 17. He said he has a conflict but wanted to mention this is a reputable organization and they do a good job of getting information out to students.

#### **Mayor Williams**

- He reported the 106<sup>th</sup> birthday of Essie Perry. There will be a birthday party on September 16, 2:00 at Lawndale Manor.

Closed session under N.C. General Statutes Section 143-318.11(a) (3) to discuss litigation, and specifically Shaw Sanitation vs. Town of Garner, Wake County Case # 09CVS18411

Motion: Marshburn  
Second: Kennedy  
Vote: Unanimous

**Closed Session pursuant to N.C.G.S. 143-318-11(a) (4) regarding  
Economic Development**

Motion: Singleton  
Second: Kennedy  
Vote: Unanimous

**Return to Regular Session and Adjourn at 10:50.**

Motion: Kennedy  
Vote: Unanimous