

**Town of Garner
Town Council Minutes
January 4, 2016**

The Council met in regular session at 7:00 p.m. in the Council Meeting Room.

CALL MEETING TO ORDER/ROLL CALL: Mayor Ronnie Williams

Mayor Williams, Mayor Pro Tem Behringer, Council Member Johns, Council Member Kennedy, Council Member Marshburn, Council Member Singleton

PLEDGE OF ALLEGIANCE: Council Member Johns

INVOCATION: Hardin Watkins, Town Manager

INDUCTION OF MAYOR PRO TEMPORE

The Honorable Monica Bousman, Wake County District Judge, administered the Oath of Office to Mayor Pro Tempore Kathy Behringer

PETITIONS AND COMMENTS

Neal Padgett, Chamber of Commerce President, introduced two new Chamber staff members, Beverly Adams and April Wood. Mr. Padgett also expressed appreciation for the partnership between the Chamber and Town of Garner.

ADOPTION OF AGENDA

Motion: Johns
Second: Marshburn
Vote: Unanimous

PRESENTATIONS

Presentation to Cub Scout Troop 391 for Best Overall Entry and to newhope church for Best Truck and Trailer in the 2015 Town of Garner Christmas Parade.

Presenter: Jill McAllister, Events & Box Office Coordinator

Ms. McAllister reported over 6,000 people attended Garner's 2015 Christmas Parade and announced the parade winners.

Mayor's Award – Christy's DancExplosion
Best Overall Entry – Garner Cub Scout Pack 391
Best Marching Band or Unit – Lowe's Grove Middle School Drumline & Dance Team
Best Truck with Trailer (or Float) – newhope Church

Garner Cub Scout Pack 391 and newhope Church were in attendance to receive their award.

CONSENT

Agency Funding Request

Following budget adoption, agreements were prepared and forwarded to each of the agencies receiving appropriations this year. Once approved, the Town makes a payment to the organizations in accordance with the schedule set out in each agreement. An agreement was executed for Garner Magnet High School Band Boosters.

Action: Authorize Execution of Agreement

Motion: Kennedy
Second: Singleton
Vote: Unanimous

PUBLIC HEARINGS

The next three public hearing items are quasi-judicial hearings to consider special use and conditional use permit applications. The Town Attorney explained the procedures to be followed in these hearings. The Clerk administered an Affirmation of the Oath to: Brad Bass, Jenny Saldi, Chad Essick, Tim Carr, Kurt Pfifer, Lyle Overcash, Mike Burch, and Tom Anastassi.

Special Use Permit SUP-SP-15-10, YMCA

Presenter: Jenny Saldi, Senior Planner

WithersRavenel requested a special use permit approval for YMCA to be located off Aversboro Road. The zoning is MF-1, and the property is 13.92 acres in size; it can be further identified as Wake County PIN 1710138336.

Ms. Saldi gave the following staff report.

This application proposes the construction of a 35,000 square foot building on a 13.92 acre site. The proposed building will be constructed of brown and tan brick with metal panels in gray and sky blue and a blue standing seam metal roof. The current zoning on the site is Multi-Family 1. The plan as proposed meets the requirements of the landscape ordinance and the fire code requirements. Parking is based on the square footage of the building and the developed park area; i.e. pool area and shelter; 246 (7 accessible) are required, 272 (7 accessible) have been provided. This site does not contain a FEMA designated floodplain, however, wetlands are present but remain undisturbed. Connection to public water and sewer is proposed. A public sewer main extension is required to serve the property to the north. The extension and associated easement is shown on the plans. Construction drawing approval from the City of Raleigh will be required before a building permit is issued. Two points of access are proposed. The northern drive is a right-in, right-out only, reinforced with a concrete median in Aversboro Road. The southern drive is a full service drive. Other road improvements include road widening, with curb and gutter construction and sidewalk, to accommodate a deceleration lane for the full service drive and left turn lanes for the site and Old Scarborough Lane. This project is subject to nitrogen and water quantity requirements along with watershed water supply protection requirements (85% TSS removal) and water quantity requirements. Multiple storm water control measures are being installed and will handle the 1, 10 and 25 year storms along with reducing nitrogen and meeting the 85% TSS removal requirement for this site. A payment to a private mitigation bank will be required. A traffic study was requested to evaluate traffic impacts associated with the development of the new YMCA facility. Locations analyzed included: Aversboro/Timber Intersection, Aversboro/Old, Scarborough Lane Intersection (Site Access #1), Aversboro/Site Access #2, and Aversboro/Bufaloe Road Intersection. The study concluded all intersections studied should operate at acceptable levels of service during built-out conditions with the exception of the exit movements from Site Access #1 to Aversboro Road at its intersection with Old Scarborough Lane during the PM peak. This intersection was also evaluated for signal warrant. According to the study the intersection does not project to meet sufficient warrants to require signalization. Staff is waiting on NCDOT to complete its review of the Traffic Study and its recommendations. A condition is proposed requiring the applicant to provide any improvements required by NCDOT. As part of this development, an 8 foot wide asphalt path is proposed, connecting the YMCA site to the existing greenway trail in White Deer Park.

The Planning Commission reviewed this plan at their meeting on December 14, 2015 and unanimously voted to recommend approval of SUP-SP-15-10 as listed on the Special Use Permit.

Mayor Williams asked Council to disclose any ex parte communications. Hearing none, he opened the public hearing.

Mr. Carr, Vice President of Facilities for YMCA provided a brief chronology of the project. Although, the property was donated in the mid 1970's, the \$7M fundraising campaign to construct the facility did not begin until 2013. The YMCA currently operated in 10 locations in Garner, serving over 1100 students. This permanent facility will allow an increase in the number of programs provided as well as group fitness programs, a gym, an outdoor pool, and many other amenities to enhance fitness.

Mr. Overcash advised Council of the traffic study performed in October 2015 which confirmed the YMCA will not impact the values of surrounding properties, nor impact the traffic on Aversboro Road.

Hearing no additional comments, Mayor Williams closed the public hearing and called for a motion.

Action: Find the application is complete and in compliance; Approve Permit Subject to: 1) The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Town Council, a copy of which is filed in the Town Hall. Any deviations from or changes in these plans must be pointed out specifically to the administrator in writing and specific written approval obtained as provided in the Unified Development Ordinance; 2) If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect; 3) All applicable permit approvals shall be obtained by the applicant.

Motion: Kennedy

Second: Singleton

Vote: Unanimous

Conditional Use Permit CUP-SP-15-24, Sheetz

Presenter: Jenny Saldi, Senior Planner

Sheetz, Inc. is requesting conditional use approval for a Sheetz retail/fuel retail business to be located at 40 Cabela Drive at the northwest corner of US HWY 70E and Jones Sausage Road. The zoning is Service Business (SB), and the property is 1.86 in size; it can be further identified as Wake County PIN 1720297392.

Ms. Saldi gave the following staff report.

This application proposes the construction of a 6,407 square foot building on a 1.86 acre site. The proposed building will be constructed of red brick and gray stone as approved building materials in the Unity of Development Plan for White Oak NW. Detail is added with the signature red awnings and red standing seam metal roof. The current zoning on the site is Service Business Conditional Use District 62 and within the US 70/401 Overlay District. The plan as proposed meets the requirements of the landscape ordinance and fire code requirements. Parking is based on gross square footage of the building ; 32 (2 accessible) are required, 49 (2 accessible) have been provided. The site does not contain a FEMA designated floodplain. Connection to water and sewer have been proposed. This site has three points of access off the internal street system; two off Cabela Drive and one off Eagle Wing Way. Sidewalk locations were determined during subdivision approval. Proposed with this plan are pedestrian connections to the north and to the south. This project is subject to nitrogen water quality requirements as well as water quantity requirements. This site is part of the White Oak Northwest project and is subject to both storm water quality and quantity requirements. The developer is installing an offsite storm water BMP that will handle detention of the 1, 10 and 25 year storms and also provide some nitrogen removal. However, there will be an offset payment to a private mitigation bank for this project. A

lighting plan was submitted; however, it does not meet the requirements for lighting of parcels within the US 70/401 Overlay District. The Town has recommended a condition which requires these issues to be resolved prior to review by Town Council.

The Planning Commission reviewed this plan at their meeting on December 14, 2015 and unanimously voted to recommend approval of CUP-SP-15-24 with one site specific condition as listed on the Special Use Permit.

Mayor Williams asked Council to disclose any ex parte communications. Hearing none, he opened the public hearing.

Mr. Burch introduced Tom Anastassi who advised Council that Sheetz is a family owned and operated company with 616 stores in 6 states; 76 of those in North Carolina. Sheetz is open 7 days/week 24 hours/day and employes an average of 32 part-time and full-time employees per store. They were voted best employer nationally by Forbes Magazine.

Hearing no additional comments, Mayor Williams closed the public hearing and called for a motion.

Action: Find application complete and in compliance; Approve Permit Subject to: 1) The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Town Council, a copy of which is filed in the Town Hall. Any deviations from or changes in these plans must be pointed out specifically to the administrator in writing and specific written approval obtained as provided in the Unified Development Ordinance; 2) If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect; and 3) All applicable permit approvals shall be obtained by the applicant.

Motion: Marshburn
Second: Johns
Vote: Unanimous

Special Use Permit SUP-SP-15-09, Bryan Road Elementary School

Presenter: Brad Bass, Planning Director

CLH Design is requesting approval of a special use permit for Bryan Road Elementary School to be located off Bryan Road. The zoning is R-40 and is 50.44 acres in size. This public hearing is continued from the December 15, 2015 Town Council Meeting.

Mr. Kenneth Haywood reintroduced himself and commented that WCPSS understands that it is the desire of the Town to have Bryan Elementary on a paved road, and shared that it is the belief of the WCPSS that the weight of the cost of paving cannot be solely the responsibility of the school system on a state maintained road. He recognized the many hours that all involved parties have invested into creating a positive outcome. He believes he is now presenting an acceptable package that is worthy of approval. He feels that NCDOT will be contributing a significant portion of the funds but at this moment does not know for certain if that will take place or what that dollar amount would be. Mr. Haywood stated that it is his hope that this will not hinder final approval of the special use permit. The site plan itself has not changed but, only the road design improvements on the amended site plan. It is his intent to present a total picture of what Bryan Road will look like, and that the road work will be full and complete, so that in the future when the middle school is developed, there won't be any road issues to discuss.

Mr. Anderson requested Mr. Haywood to read, for the record, the conditions that are being presented. Mr. Haywood stated: "When the Town of Garner has approved, and provided funding for the extension of sidewalks from the intersection of Ackerman Road and Bryan Road south to tie into the sidewalk constructed by the applicant as part of its revised site plan. And, if that time, any sidewalk improvement requires a flood study from the applicable state agency or federal agency the option of the Town of Garner would jointly share, in equal cost sharing arrangement, the cost of the flood study. After receiving the report and recommendation of the flood

study, if the outcome garnered the desire to move forward with the sidewalk project, both parties must then agree on the least expensive sidewalk installation. If the parties agree on the cost and the form of the sidewalk then the Town of Garner will jointly share in equal cost sharing arrangement, the cost of the sidewalk improvement. “

Mr. Anderson asked the Mayor and Council to allow Mr. Chalk and Mr. Bass to present several items for the record and placed into record a document that Mr. Chalk had referred to in the previous meeting regarding when to pave a gravel road.

Mr. Bass walked the Council through the original submission and then shared the subsequent changes that have taken place as the submission has been revised. Council Member Kennedy asked if the first and originally presented plan included full curb and gutter, paved road and sidewalk along the complete frontage of the school, and Mr. Bass confirmed that this was so.

Mr. Bass then moved on to present the changes relating to subsequent modifications.

Council Member Kennedy asked Mr. Haywood back to the podium and shared with him that it is the collective intent of the Council to leave the premises this night with a plan that will work and that Mr. Haywood could take back to the WCPSS Board and receive approval. Council Member Kennedy commented that it is not reassuring to see a revision that includes a third party (NCDOT) without addressing the fact that they are not listed or mentioned in the SUP. He recommended that Council go back to the original UDO because he sees the additional paving situation being resolved with NCDOT. Council Member Kennedy stated it is important to keep the installation of the traffic signal at the high school intersection (Hebron Church and White Oak) as part of the application, as traffic studies have shown that to be highly recommended and that a prior agreement between the Town of Garner and WCPSS warrants this.

Mr. Haywood asked Fred Ash of the Wooten Company to address why going back to the original proposal is not advisable because NCDOT standards have changed, and that by going back, this would increase costs by a million dollars. Mr. Ash commented that the difference in costs that Mr. Haywood referred to is not only attributed to curb and gutter but also the storm drainage infrastructure that goes along with curb and gutter. The only other change that would affect cost is the pavement depth changing from a depth of three inches of asphalt to two inches in the latest proposal.

Ms. Betty Parker, representing WCPSS Real Estate, shared that when NCDOT looked at the road proposal it was recognized that by adjusting the design it would eliminate the need for additional deceleration lanes so that the roadway turns directly into the school site. The other difference from the original plan was that the three lane element that now extends the entire frontage of the school was not included in the original plan.

Council Member Kennedy reiterated the need to maintain the UDO to conform to Town of Garner requirements.

Mr. Anderson clarified what Council Member Kennedy was trying to impart on Mr. Haywood about returning to the original submission, and Mr. Haywood now understood the reasoning. Ms. Parker stepped forward to remind Council Member Kennedy that NCDOT's recommendation for a full third lane is not represented on the original submission and to not have that in the planning submission would be much more costly when the middle school would come into play, because the curb and gutter would have to be modified. Mr. Haywood added that the bid packages are divided; one is for the school construction and one is for the road construction. Ms. Parker is concerned that pulling the request to pave the entire length of road might compromise the funding process from NCDOT.

Council Member Marshburn wanted to clarify that what is being said by all parties is not to make the Board of Education do any more than the Town would require of any other developer and felt we should return to the original UDO requirements. Ms. Parker said that there is more than the UDO at stake in this circumstance. If the WCPSS would say that they were willing to do that, as in the original submittal, the question then becomes

whether NCDOT is going to deem it a requirement to have the southern part of Bryan Road paved before they will give WCPSS a driveway permit. Mr. Anderson stated that he did not think this would be an issue due to a recent superior court ruling.

Ten minute recess.

Council Member Kennedy requested Mr. Haywood define the three way partnership. Mr. Haywood reiterated that the WCPSS would be taking the lead and working with NCDOT and the Town of Garner to construct and pave the road in its entirety, with the connection of the Sutton Springs development and providing a three lane road for the entirety of the school frontage returning to a two lane road for the remaining section of the road.

Mr. Anderson commented if the Council moves forward on this project there would be three conditions that Mr. Haywood could take to the WCPSS Board; 1) the joint flood study, 2) the joint construction of the sidewalk at the end of the existing paving, and 3) the installation of the traffic signal.

Council Member Kennedy expressed concern of how the NCDOT will react to the proposal. Mr. Haywood shared that he feels that the WCPSS will react very favorably to the Council's willingness to work through this and yes, a school will be built, and the remaining issue will be then isolated to the funding of the road.

Hearing no additional comments, Mayor Williams closed the public hearing and called for a motion.

Motion: Council Member Singleton made a motion to approve Special Use Permit SUP-SP-15-09. Finds that the application complies except for the curb and gutter for which the Council will deviate under the special circumstances presented by these unique facts. The three standard conditions to the project with the following conditions are to be added: 1) A joint flood study and future sidewalk to the uppermost 200 feet towards Ackerman Road will be cost shared between the Town of Garner and the Wake County Public School System, 2) Because the elementary school will cause more increased traffic flow than was anticipated in CUP-SP-14-15 for South Garner High School. The WCPSS shall monitor the intersection of White Oak Road and Hebron Church Road, and Ackerman Road and Hebron Church Road and if either or both roads have elevated traffic levels at that time, WCPSS shall be responsible for the installation to have the signal in accordance with NCDOT/Town of Garner requirements. The WCPSS and the Town of Garner will equally share the cost of the signal installations at these two intersections.

Council Member Kennedy asked for clarification as to how far the sidewalk was to extend in the most northern part of the property. Ms. Parker responded that the sidewalk stops 200 feet short of the boundary point to where the road connects the Sutton Springs pavement, which is part of the cost share agreement.

Second: Kennedy
Vote: Unanimous

NEW/OLD BUSINESS

AT&T Easement

Presenter: Tony Chalk, Town Engineer

AT&T has requested additional easement from the Town on property that the Town owns off Buffalo Road near the Scarborough Ridge Subdivision. The proposed easement is needed to reconfigure the easement to the existing equipment installation along with some additional easement for cable installation.

Action: Consider Approval of Easement Request

Motion: Kennedy

Second: Singleton
Vote: Unanimous

Timber Drive Sidewalk Project Additional Work

Presenter: Tony Chalk, Town Engineer

In order to relocate the existing guardrail, the fiber optic lines belonging to Time Warner cable and NCDOT along with power lines belonging to Duke Energy need to be relocated. In addition, NCDOT requires a blank conduit for their installation.

Action: Authorize Additional Work in the amount of \$30,829.00

Motion: Kennedy
Second: Singleton
Vote: Unanimous

Capital Area Soccer League Contract

Presenter: Rodney Dickerson, Assistant Town Manager-Operations

Continuation of contract with Capital Area Soccer League (CASL) under the existing terms until a new contract is executed. The current contract expires on January 24, 2016. The current fee of \$25,000/yr. to the Town will be prorated for the amount of time the existing contract stays in effect. Staff is currently in discussions with soccer officials in order to draft the new terms.

Action: Consider Continuation of Existing Contract

Motion: Singleton
Second: Behringer
Vote: Unanimous

COMMITTEE REPORTS

MANAGER REPORTS

1. garner info
2. Town Council and Wake County Commissioners Joint Meeting scheduled for January 11, 2016
Mr. Hodges asked for clarification of topics of discussion for the joint meeting. Topics identified by Council were fire services, ETJ, and SRO.
3. 120 E. Main Street Expenses for GVFR Use
Mr. Dickerson advised Council that the Town will incur one-time and on-going costs associated with the recent relocation of GVFR. These funds were not budgeted, therefore, a budget amendment will be placed on a future agenda when the appropriate funding mechanism has been identified. GVFR has indicated these expenses cannot be absorbed in their existing budget.
4. Mr. Watkins congratulated Mr. Dickerson on his role of serving as Interim Town Manager, thanked the Town for the opportunity to serve for 8 ½ years, and expressed how proud he was of what the Town had accomplished during his tenure.

ATTORNEY REPORTS

COUNCIL REPORTS

Council Member Marshburn

- Asked for confirmation that work at White Deer Park would be complete this week and Mr. Chalk assured him it would be.
- Stated the Retreat Planning session with Peg Carlson went well.

Mayor ProTem Behringer had nothing to report.

Council Member Singleton

- Asked if the sidewalk project on Timber Drive was complete and if so, why were the barrels still there. Mr. Chalk stated the barrels were there to taper traffic while conduit was installed, but he will speak to the contractor about removing them.
- Stated with the approval of the special use permit for the YMCA, Council may want to consider extending the sidewalk to Aversboro Road.

Council Member Kennedy

- Asked about standing water on part of the walking area in White Deer Park. Mr. Chalk advised that this may happen in heavy rain, but recedes quickly.
- Recently tripped on a sidewalk where trees are separating sections and asked about a sidewalk survey to see if/how many need to be repaired so funding can be budgeted.
- YMCA had initial goal to raise \$7M which they have almost met. An anonymous donor has pledged a matching grant up to \$250,000 until January 31. The YMCA is requesting the Town extend its support for an additional year to be able to participate in the grant match.

Council Member Johns

Reported a tree leaning over Montague Street that may need to be removed/trimmed.

Council Member Marshburn

Expressed thanks to Mr. Watkins on his new position in Burlington.

ADJOURNMENT – 10:43 p.m.