

**Town of Garner  
Town Council Minutes  
July 19, 2016**

The Council met in regular session at 7:00 p.m. in the Garner Police Department Training Room located at 912 7<sup>th</sup> Avenue.

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ronnie Williams

**PLEDGE OF ALLEGIANCE:** Council Member Jackie Johns

**INVOCATION:** Council Member Jackie Johns asked Tony Chalk to provide the invocation.

**PETITIONS AND COMMENTS**

**ADOPTION OF AGENDA**

William E. Anderson, Town Attorney requested to add a closed session to the agenda pursuant to N.C.G.S. 143-318.11(a)(1) and N.C.G.S. 143-318.11(a)(3) to discuss perspective litigation.

Motion: Marshburn  
Second: Behringer  
Vote: Unanimous

**PRESENTATIONS**

**CONSENT**

**Minutes**

Action: Adopt Minutes from April 26, 2016 Work Session and June 6, 2016 Council Meeting.

**Resolution to Establish 2017 Employee Holiday Schedule**

Presenter: Stella Gibson, Town Clerk

This Resolution sets forth the Town of Garner employee holidays for 2017.

Action: Adopt Resolution (2016) 2295

**Resolution Declaring Surplus Property**

Presenter: Tony Chalk, Town Engineer

This Resolution authorizes surplus of the old generator from Town Hall.

Action: Adopt Resolution No. (2016) 2296

**Exemption from Procurement Procedures**

Presenter: Tony Chalk, Town Engineer

As discussed at the June Work Session, the Engineering Department is requesting an exemption to procurement procedures in order to engage S&ME for materials inspections and geotechnical work on the new Recreation

Center. The attached resolution will give the Town Manager authority to exempt the Town from qualification-based selection requirements per N.C.G.S. 143-64.32

Action: Approval of Resolution of Exemption

Motion: Kennedy  
Second: Marshburn  
Vote: Unanimous

## **PUBLIC HEARINGS**

### **Rezoning Application CUD-Z-16-08 and Conditional use Permit CUP-SB-16-04, Clifford Road**

Presenter: Brad Bass, Planning Director

Mayor Williams announced this public hearing was a quasi-judicial hearing and asked Town Attorney William E. Anderson to explain the procedures to be followed in this hearing. As this was a continuation of the Public Hearing held on July 5, 2016, those speaking were reminded they were still under oath.

Mayor Williams asked Council to disclose any ex parte communications. Hearing none, Mayor Williams opened the public hearing and asked Mr. Bass to provide the staff report.

Action: Adopt Ordinance (2016) 3821; Approve CUP-SB-16-04 with 8 site specific conditions.

Hopper Communities is requesting to rezone a 46.8 acre tract of land located on Clifford Road from R-40 to R-9 C188 and request for conditional use permit approval of a 115 lot single family subdivision. The existing zoning of R-40 allows single-family lots of at least 40,000 square and the R-9 district allows single-family lots of at least 9,000 square feet. Public water is available along Clifford and the developer is planning to extend public sewer to the development. A fee-in-lieu of parkland dedication is required and open space requirements are met. The site does not contain a FEMA designated flood plain; however, the project is subject to both water quantity and quality requirements. The Fire Inspector has reviewed and approved the subdivision plans. Access to the site is provided with three entrances on Clifford Road and street stubs to the north, south and east for future access. Sidewalks have been provided as required. The design and location of the mail kiosk has been approved by the Garner Post Master. The Planning Commission discussed this matter at their June 13, 2016 meeting and unanimously voted to approve this project. Mr. Bass also pointed out the changes made to Rezoning Condition No. 7.

Joseph Hayes of 116 Trabridge Lane thanked the developers for meeting with the homeowners and hearing their concerns. Mr. Hayes stated he would like to see signage delineating the Sutton Springs subdivision from this property. He also expressed concern that because the undisturbed buffer would be on private property who would address violations made to the buffer.

Will Cummings of 126 Painted Rock Court also thanked the developers for their time and felt they were able to work through some items. Mr. Cummings expressed concern regarding the enforcement of violations within the buffer, sediment in the ponds, and the impact of additional traffic on the roads.

Jennifer Hester of 140 Sutton Springs Drive asked if additional bushes could be planted near the pond area to delineate the two subdivisions to prevent people from other neighborhoods coming into theirs and using their amenities or as a cut-through. She also expressed concern regarding the impact of additional traffic on the roads.

Corey Hocutt of 148 Sutton Springs Drive stated he had the same concerns as his neighbors as well as concern regarding the size and quality of homes proposed for this project.

Council Member Singleton asked Mr. Bass about the possibility of working with Wake County or NCDOT to upsize the sediment ponds to minimize runoff.

Council Member Kennedy asked Ms. Hester if she or the other residents who have small bushes or trees had considered planting additional bushes. Ms. Hester responded that she had considered planting cedar trees, but was concerned they would be removed because they would be below the 6' minimum. Council Member Kennedy asked about planting trees on her side of the fence and Ms. Hester responded she did not want to do that because it would use up her entire yard.

Council Member Behringer encouraged anyone experiencing trespassing to contact the police department.

Joe Falkner of the CE Group reported that after the last meeting, a typical lot layout was done depicting a maximum foot print for a single-family home (over 2,000 sq. ft.) with a 2-car garage. Because their lots are 150' deep, this will allow a nice backyard. He also stated a drawing showing the buffer as it relates to each home was sent to the residents of the Sutton Springs subdivision. Changes were made to the proposed vegetation around the storm water ponds which were pushed back more onto their side of the project and a decorative black aluminum fence added.

Bill Harrell of Hopper Communities thanked the residents for attending the community meeting. He stated he feels the 20' buffer is fair and leaves enough room to provide an aesthetically pleasing backyard. Any larger buffer would jeopardize the marketability of the lots.

Council Member Kennedy stated as far as the concerns raised regarding sediment control and ordinance enforcement are legitimate and there are laws in place to help remedy those. Regarding foot traffic, he stated having private residences along the back property line will likely prevent strangers trespassing. Regarding signage for the property line, Sutton Springs can provide that if they feel it's necessary. The 20' buffer is sufficient and it seems that the residents of the Sutton Springs subdivision want the new homes to provide a buffer they were not willing to provide for themselves. The roads have been a concern since the new school was proposed on New Bethel Church Road. The Council has similar concerns on Hebron Church Road.

Council Member Singleton stated he understands the concerns about traffic, but one of the best ways to get these narrow state roads improved is through development. Enforcement of tree removal can be clarified with language.

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

Mr. Bass suggested enforcement could be addressed through Homeowner's Association documents to place first responsibility on the Homeowner's Association. He also added that this will be required prior to final plat recordation.

Action: Adopt Ordinance (2016) 3821; Approve CUP-SB-16-04 with 8 site specific conditions. 1) Road widening with curb/gutter sidewalk improvements shall be extended on Clifford Road between Streets A and F, 2) Left turn lanes shall be provided on Clifford Road at Street B and at Street F, 3) A fee-in-lieu of parkland dedication shall be paid to the Town of Garner prior to issuance of each building permit, 4) The applicant shall be responsible for roadway improvements as required by the NC Department of Transportation, 5) Homeowner Association documents must be filed with the first final plat submittal, 6) Developer to include language in covenants that requires the Homeowner's Association to replace any vegetation inappropriately taken out by

the property owner, 7) Installation of signs to designate the property line of the new subdivision, and 8) Upsize sediment pond per Town staff and Wake County regulations.

Motion: Marshburn  
Second: Johns  
Vote: Unanimous

## **NEW/OLD BUSINESS**

### **Authorization to Amend Fire Prevention and Protection Ordinance**

Presenter: Tony Beasley, Inspections Director

Mr. Beasley asked the Council to set a Public Hearing for August 1, 2016 to consider an Ordinance which authorizes the Town Inspection Department to utilize third party proprietary software to track and manage commercial fire system inspection, maintenance, and testing requirements. The request also includes adding clarifying language to Section 4-37(c) to include the Director of Inspections and/or Chief Fire Inspector to those authorized to take enforcement action. The Law & Finance Committee discussed this matter at their July 27, 2016 meeting and fully supported this request.

Action: Adopt Ordinance (2016) 3824; Set Public Hearing on August 1, 2016

Motion: Behringer  
Second: Johns  
Vote: Unanimous

### **Request to Extend Garner's Extra Territorial Jurisdiction**

Presenter: Jeff Triezenberg, Assistant Planning Director

Mr. Triezenberg presented information which outlines staff's recommendation to the Wake County Board of Commissioners for permission to extend Garner's ETJ (zoning and subdivision authority) to a net additional 6,699 acres of land in the Town's current County-designated short-range and long-range urban services area. This is a year-long process which includes public information meetings, and will affect approximately 1,215 properties.

Action: Adopt Resolution (2016) 2297

Motion: Kennedy  
Second: Behringer  
Vote: Unanimous

## **COMMITTEE REPORTS**

## **MANAGER REPORTS**

- garner info
- Finance Report - will be presented at a future meeting.
- Budget Adjustments
- Building Permit & Activity Report
- Mr. Hodges advised Council of the \$226,000 appropriation from the Wake County Community Use

of Schools Fund for the construction of park amenities at the future Bryan Road Elementary School site.

- Provided a list of important dates relating to the Comprehensive Plan Update (Garner Forward) and information for citizen participation.
- Reminded Council of the following events:
  - Social Media Training – July 21<sup>st</sup> at 10:00 a.m.
  - Neighborhood Leadership Academy Graduation Ceremony – July 21<sup>st</sup> at 6:30 p.m.
  - Advisory Board Orientation – July 28<sup>th</sup> at 11:30 a.m.
  - Chamber Connect Conference – August 4<sup>th</sup> at 11:30 a.m.

## **ATTORNEY REPORTS**

Mr. Anderson requested a closed session per N.C.G.S. 143-318.11(a)(1) and N.C.G.S. 143-318.11(a)(3) to discuss perspective litigation.

## **COUNCIL REPORTS**

Council Member Kennedy

- Noted that 15 new single-family home permits were issued in June.
- Asked if the tree and shrubs at the intersection of Aversboro Road and 7<sup>th</sup> Avenue could be removed or trimmed to allow a better view of the new Town Hall construction area.
- Asked that in anticipation of the high school opening, if the Police Department could evaluate the speed limit on New Bethel Church Road.

Council Member Singleton

- Reported graffiti on the trees in the Cloverdale park.
- Expressed appreciation for the acts of kindness and appreciation being extended toward the Police Department as well as the ‘Thank You Garner Police’ signs being seen around town.

Council Member Johns

- Reported the ditches between Parker and Highway 70 need to be cleaned.
- Reported seniors who frequent the Garner Senior Center have requested additional handicap spaces.
- Reported attending the Town Hall ground breaking ceremony last week and declared it a ‘great day’ in Garner.

Council Member Behringer

- Reported the opening of Gabe’s in North South Station on Saturday at 8:00 a.m.

Council Member Marshburn

- Commended the Public Works Department for their work at Lake Benson Park Dog Park and asked when the formal opening would be. Ms. Shaw advised the grand opening should be in mid-August.
- Also attended the ground breaking ceremony; felt it was a great event for the Town.
- Expressed his appreciation to the Police Department for the good work they do and encouraged citizens and police officers to engage in meaningful conversation and work together.

## **CLOSED SESSION**

Pursuant to N.C.G.S. 143-318.11(a)(1) and N.C.G.S. 143-318.11(a)(3) to discuss perspective litigation.

Pursuant to N.C.G.S. 143-318.11(a)(5) to discuss possible real estate acquisition and the Town's negotiating position regarding such real estate.

Motion: Marshburn  
Second: Kennedy  
Vote: Unanimous

**RETURN TO REGULAR SESSION AND ADJOURNMENT: 10:03 p.m.**

Respectfully Submitted,  
Stella Gibson, Town Clerk