City of High Point

Municipal Office Building
211 South Hamilton Street
High Point, NC 27261

Minutes

Monday, December 17, 2012

4:45 PM

Council Chambers

City Council

Bernita Sims, Mayor
Britt W. Moore, Mayor Pro Tem
James C. Davis, Foster L. Douglas
Jason P. Ewing, Jeffrey J. Golden,
Judith P. Mendenhall, Rebecca R. Smothers,
Jay W. Wagner

ROLL CALL, PRAYER, AND PLEDGE OF ALLEGIANCE

Upon call of the roll, the following Council Members were present. Council Member Mendenhall offered the invocation; the Pledge of Allegiance followed.

Present 8 - Mayor Bernita Sims, Mayor Pro Tem Britt Moore, Council Member James Davis, Council Member Foster Douglas, Council Member Jason Ewing, Council Member Jeffrey Golden, Council Member Judy Mendenhall, and Council Member Jay Wagner

Absent 1 - Council Member Rebecca Smothers

SPECIAL RECOGNITIONS

"KEEP HIGH POINT BEAUTIFUL" 25TH ANNIVERSARY CERTIFICATE

Rebecca Coplin, Environmental Program Coordinator, along with Justin Gray of the High Point Public Services Department presented the city with a Certificate commemorating the 25th Anniversary for "Keep High Point Beautiful." Ms. Coplin reported there currently are 19 people serving on the "Keep High Point Beautiful" board. Mayor Sims thanked them for the work they do in the community and felt it was important that the community is veing recognized as being beautiful.

2012 Bike Races

Randy Carda introduced other members of their board present at tonight's meeting: Don Redding, Allen Oliver, and David Thompson. He reminded Council that he also appeared before them in August thanking Council for their support in the High Point Cycling Classic event that took place in High Point in July, which drew over 3,000 attendees to the city and was also a very successful fundraiser for the community. The following charitable organizations received monetary allocations from the $36,000 that was rasied during this event:

National Multiple Sclerosis Society Central NC Chapter ($6,000); Y Men's Club ($6,000 with $4,000 being designated for Friends of Youth Fund); High Point Community Clinic ($6,000); High Point Regional Health System Heartstrides Program ($5,000); High Point Regional Health System Fitness Center ($5,000); Family Service of HP Foundation ($2,500); Theatre Art Galleries ($2,500); Oak Hill Elementary Gina Jacobs Memorial Gift ($2,000); and Knights of Columbus LAMB Foundation of NC, Inc. ($1,000). Representatives from each of these charities were present to receive these checks. [applause]

He shared that next year they will be hosting the National Championships and thanked Council for the opportunity to come back and complete the circle.

Mayor Sims recognized Chip Duckett who came in after the presentation had started. Mr. Duckett shared that the National Championships USA Cycling Professional Criteria will be in High Point in 2013-2014. He noted their most important need for these events were for people to attend and thanked the city for their support. Mayor Pro Tem Moore thanked Mr. Duckett for planning the event and also encouraged residents to attend the event.

Best Non-Professional Float in Christmas Parade

David Wall, on behalf of the Holiday Festival Christmas Parade held on November 18th, recognized the Community Development Department for coming in first place in the best non-professional float category for the parade. He also thanked the various City of High Point departments for their assistance in making the parade a success: Police Department, Electrical Department, Parks & Recreation, etc....

Michelle McNair noted the Community Development Department would be presenting an award to the Neighborhood Leader's Council and shared that they have been meeting every month for the past seven years to learn about the local government and to talk about issues facing their residents and to be able to build relationships with other neighborhoods. This group has taken on a project for the last seven years--entering a float in the Christmas Parade and presented to them the awards they have received over the years: 2009 Manager's Choice; 2011 Best Non-Professional Float; 2012 Best Non-Professional Float. She noted it is all about community building and getting to know the neighborhood, the residents int he neighborhood and they have done an excellent job doing this. She also thanked Mayor Sims and the City Council to give them the opportunity to work with this group and do the things they are doing. Mr. Wall presented these awards to Jerry Mingo on behalf of the neighborhood groups and asked those individuals that are part of these neighborhood groups to stand. [applause]

Mayor Sims also expressed her appreciation and thanked the neighborhood organizations for all they do in working hard to build the cohesiveness in family amongst the organizations.

Tree City Program

Andy Piper with the Planning and Development Department recognized KAO Specialties America for their participation in the Tree City Program. He shared that in 2011, the city did a tree inventory in the Core City area and identified a number of planting spaces and KAO had approached the city about their desire to get involved with this project. They agreed to provide a donation to plant trees and in October, a total of 60 trees were planted using KAO's donation. They also provided volunteers to go out and help plant the trees and asked for the volunteers present to stand so they could be recognized. [applause] He noted the trees were planted in several locations along Richland Creek from West Grimes Avenue to Tryon Avenue and also in Goldston Park as well as along W. High Avenue and encouraged Council to go see the trees that were planted.

Mayor Sims thanked staff and KAO for their donation and being part of the

Tree City Program and felt it was very important when the city decided to be a "Tree City," it spoke volumes about the direction of the community.

CLOSED SESSION- ATTORNEY/CLIENT PRIVILEGE

Mayor Sims announced the need for Council to go into closed session for the purposes of consulting with the city's attorneys employed by and/or retained by the city in order to preserve the attorney-client privilege between the attorneys and the city and to establish or instruct the staff concerning the position to be taken and negotiations for the acquisition of real property.

At approximately 5:00 p.m., Council Member Mendenhall then moved to enter into closed pursuant to N.C. General Statute 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body and N.C. General Statute 143-318.11(a)(5) to establish or instruct the public body's staff concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease. Council Member Douglas made a second to the motion, which carried unanimously. [8-0 vote] [Council Member Smothers was absent].

Council reconvened into open session at 5:30 p.m. with no announcements being made as a result of the closed session.

REGULAR MEETING ITEMS

120321 **Contract - Bid No. 14 - Corrosion Inhibitor Chemicals - Ward WWTP**

Award of contract for Bid No 14 for the purchase of corrosion inhibitor chemicals for the Ward Wastewater Treatment Plant. Purchasing and the Public Services department recommends that contract be awarded to Shannon Chemical Corporation in the amount of $111,291.60 which is the lowest responsible, responsive bidder meeting specifications.

Attachments: Bid No. 14 - Corrosion Inhibitor for WWWTP.pdf

This matter was discussed during a Committee of the Whole Finance Meeting held at 3:30 p.m. prior to this meeting.

Approved contract with Shannon Chemical Corporation in the amount of $111,291.60 which is the lowest responsible, responsive bidder meeting specifications.

A motion was made by Council Member Mendenhall, seconded by Mayor Pro Tem Moore, that this Contract be approved. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120322 **Contract - Davis Martin Powell - Skeet Club Road Widening Project**

Council is requested to approve contracts with Davis Martin Powell for professional services related to NCDOT project U-3615B, Skeet Club Road Widening in the total amount of $96,190.00.

Attachments: Skeet Club Widening - Exemption for Qualifications - Davis Martin Powell.pdf

This matter was discussed during a Committee of the Whole Finance Meeting held at 3:30 p.m. prior to this meeting.

Approved contract with Davis Martin Powell for professional services related to NCDOT project U-3615B, Skeet Club Road Widening in the total amount of $96,190.00.

A motion was made by Council Member Mendenhall, seconded by Mayor Pro Tem Moore, that this Contract be approved. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120323 **High Point Housing Authority - Conveyance of Remnant Property**

Council is requested to adopt a Resolution authorizing the conveyance of remnant property from the Grimes Avenue extension project to the High Point Housing Authority.

Attachments: Housing Authority -Conveyance of Property Return.pdf

Resolution No. 1277/12-78
Introduced 12/17/2012; Adopted 12/17/2012
Resolution Book, Volume XVII, Page 127

This matter was discussed during a Committee of the Whole Finance Meeting held at 3:30 p.m. prior to this meeting.

Adopted Resolution authorizing the conveyance of remnant property from the Grimes Avenue extension project to the High Point Housing Authority.

A motion was made by Council Member Mendenhall, seconded by Mayor Pro Tem Moore, that this Miscellaneous Item be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120324 **Revised Sewer Use Ordinance**

Council is requested to adopt a revised Sewer Use Ordinance which provides for an updated Pretreatment Program that initiates a Fat, Oil & Grease (FOG) program to meet the revisions to requirements in the NCAC 15A 02H.0900 - Local Pretreatment Programs as enforced by the North Carolina Department of Environment and Natural Resources - Division of Water Quality (NCDENR-DWQ).

Attachments: Revised Sewer Use Ordinance.pdf

Ordinance No. 6965/12-81
Introduced 12/17/2012; Adopted 12/17/2012
Ordinance Book Volume XVII, page 155

This matter was discussed during a Committee of the Whole Finance Meeting held at 3:30 p.m. prior to this meeting.

Adopted a revised Sewer Use Ordinance which provides for an updated Pretreatment Program that initiates a Fat, Oil & Grease (FOG) program to meet the revisions to requirements in the NCAC 15A 02H.0900 - Local Pretreatment Programs as enforced by the North Carolina Department of Environment and Natural Resources- Division of Water Quality (NCDENR-DWQ)

A motion was made by Council Member Mendenhall, seconded by Mayor Pro Tem Moore, that this Ordinance be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120337 **Ordinance - Budget Amendment - Support of Carolina Field of Honor Project**

Council is requested to adopt a budget ordinance amending the 2012-2013 Budget Ordinance to appropriate funds in the amount of $43,231.00 in support of the Carolina Field of Honor Project in the Triad Park.

Attachments: Carolina Field of Honor.pdf

Ordinance No. 6966/12-82
Introduced 12/17/2012; Adopted 12/17/2012
Ordinance Book Volume XVII, Page 156

This matter was discussed during a Committee of the Whole Finance Meeting held at 3:30 p.m. prior to this meeting.

Adopted ordinance amending the FY 2012-2013 Budget Ordinance appropriating funds in the amount of $43,231.00 in support of the Carolina Field of Honor Project in the Triad Park.

A motion was made by Council Member Mendenhall, seconded by Mayor Pro Tem Moore, that this Ordinance be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120325 **Resolution of Intent - Street Abandonment Case 12-13**

Approval of a Resolution of Intent that establishes a public hearing date of January 22, 2013 to consider a request from the Technical Review Committee to abandon the unimproved portion of the Conrad Avenue right-of-way, lying west of Palmer Street.

Attachments: 01. ROI SA12-13.pdf

Resolution No. 1271/12-72
Introduced 12/17/2012; Adopted 12/17/2012
Resolution Book Volume XVII, page 121

Adopted Resolution of Intent establishing a public hearing date of January 22, 2013 to consider a request from the Technical Review Committee to abandon the unimproved portion of the Conrad Avenue right-of-way, lying west of Palmer Street.

A motion was made by Mayor Pro Tem Moore, seconded by Council Member Wagner,

that this Resolution be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120326 **Resolution of Intent - Street Abandonment Case 12-14**

Approval of a Resolution of Intent that establishes a public hearing date of January 22, 2013 to consider a request from the Technical Review Committee to abandon the unimproved westernmost 405 feet of the Rankin Place right-of-way.

Attachments: 02. ROI SA12-14.pdf

Resolution No. 1272/12-73
Introduced 12/17/2012; Adopted 12/17/2012
Resolution Book Volume XVII, page 122

Adopted Resolution of Intent establishing a public hearing date of January 22, 2013 to consider a request from the Technical Review Committee to abandon the unimproved westernmost 405 feet of the Rankin Place right-of-way.

A motion was made by Mayor Pro Tem Moore, seconded by Council Member Mendenhall, that this Resolution be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120327 **Thomas Built Buses, Inc. - Right-of-way Encroachment Case 12-06**

A request by Thomas Built Buses, Inc. to allow a security fence and pedestrian gate to encroach into the right-of-way of Tryon Avenue.

Attachments: 03. Staff Report RE12-06.pdf
thomas built buses encroachment map #120327

Doug Loveland of the Planning and Development Department provided an overview of the staff report, which is hereby attached in Legistar as a permanent part of these proceedings.

Council Member Moore asked what prompted this request. Eddie MacEldowney with Davis Martin Powell & Associates, explained they are trying to control ingress and egress of their plant for security purposes due to material losses and people being on the property that should not be.

Approved Right-of-way Encroachment Case 12-06 as requested by Thomas Built Buses to allow a security fence and pedestrian gate to encroach into the right-of-way of Tryon Avenue.

A motion was made by Council Member Mendenhall, seconded by Council Member Wagner, that this right-of-way encroachment be approved. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

PUBLIC HEARINGS - 5:30 P.M.

120331 **S. Lowell Easter - Land Use Plan Amendment Case 12-07**

A request by S. Lowell Easter to change the Land Use Map designation for approximately 80.5 acres from Local Convenience Commercial and Restricted Industrial to Mixed Use Development. The site is lying along the east side of Eastchester Drive, between Regency Drive and the northern terminus of Empire Street.

Attachments: 04. Z12-13 Staff Report.pdf

Resolution No. 1273/12-74
Introduced 12/17/2012; Adopted 12/17/2012
Volume XVII, page 123

The joint public hearing for this matter and related matter **120332 Rezoning Case 12-13** was held on Monday, December 17, 2012 at 5:30 p.m. as advertised.

Heidi Galanti of Planning and Development provided an overview of the staff report for Land Use Plan Amendment Case 12-07.

Following the presentation of the staff report, Mayor Sims opened the public hearing and asked for any comments. For specific comments made regarding this request, please refer to **120332 Rezoning Case 12-13**.

Adopted the Resolution changing the Land Use Map designation for approximately 80.5 acres from Local Convenience Commercial and Restricted Industrial to Mixed Use Development.

A motion was made by Mayor Pro Tem Moore, seconded by Council Member Mendenhall, that this Amendment be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120332 **Ordinance - S. Lowell Easter - Rezoning Case 12-13**

A request by S. Lowell Easter to rezone approximately 80.5 acres from the Conditional Use Planned Unit Development-Mixed (CU-PDM) District and Conditional Use Light Industrial (CU-LI) District to a Planned Unit Development-Mixed (PDM) District. The site is lying along the east side of Eastchester Drive, between Regency Drive and the northern terminus of Empire Street.

Attachments: 04. Z12-13 Staff Report.pdf

Ordinance No. 6967/12-83
Introduced 12/17/2012; Adopted 12/17/2012
Ordinance Book Volume XVII, page 157

The joint public hearing for this matter and related matter **120331 Land Use Plan Amendment Case 12-07** was held on Monday, December 17, 2012 at 5:30 p.m.

Herb Shannon of Planning and Development provided an overview of the staff report which is hereby attached as a permanent part of these proceedings. He explained that one item did come up regarding the perennial stream and flood zone area along the eastern portion of the site and this was one of the reasons the applicant was looking at a multi-family option due to some of these environmental features impacting this portion of the site.

At this time, Mayor Smothers opened the floor for any comments in support of or in opposition to this request.

Charlie Melvin, 300 N. Green Street, representing the applicant, spoke in favor of the request. He noted there are three Limited Liability Corporations that own the 80 acres that comprises this request. He explained that they had always envisioned there would be some residential component of the Piedmont Centre. For this particular site, Mr. Easter felt it was important that he have a specific plan for the multi-family portion (the residential portion) and a potential developer of that so he has been in discussions with Frank Auman and Seth Coker of Signature Properties, long-time and experienced developers of multi-family uses. He pointed out that this particular site does have some environmental considerations and they think this type of development will give them the needed flexibility for addressing these environmental concerns. He explained that just before the Planning and Zoning Commission meeting in November, they were informed that a protest petition had been filed by LMD Properties which prompted a continuance for the hearing to allow them the opportunity to get together and work out the concerns. He noted LMD's primary concern was not to have residential development next to their office building on Piedmont Parkway, but they resolved to amend the request by eliminating any residential uses south of the perennial stream and LMD no longer had any objections, which resulted in withdrawal of the protest petition.

Jeff Benson, 4208 Six Forks Road, Raleigh, representing LMD Properties, the property owner immediately to the south of the property of which LMD Properties is a sister entity to the company, New Breed, that operates out of this facility and also has other office buildings in the immediate area as well. He noted they did not think the multi-family development was keeping with the spirit of what they were looking for in a professional business park. He confirmed they did meet with the applicant and with staff's assistance, they were able to reach a compromise and although they still have some questions as to whether the northern portion is best used as apartments, but satisfied enough to withdraw their protest petition.

Richard Valitutto, 4043 Piedmont Parkway, Vice President and General Counsel of New Breed Logistics, the company that is the tenant of LMD in the office building. He pointed out the company currently employs over 600 in this office park and the office atmosphere was what attracted them to this location to begin with and was very important to their company. He pointed out they would still be opposed to any future zoning change in the southern area that would abut their property.

Mayor Sims asked if staff looked at the egress on Regency from Tract C and the limited site distance problems with the island. Mark McDonald, Director of Transportation, noted they did not for this particular case, but he was aware that the landscaping needs to be cut back in order to maintain the site distance. It is the expectation that they would be able to make that turn.

At this time, Mayor Sims asked if there was anyone else present who would like to speak in support of or in opposition to this request. There being none, the public hearing was closed.

Adopted ordinance providing for the rezoning of this property from the Conditional Use Planned Unit Development-Mixed (CU-PDM) District and Conditional Use Light Industrial (CU-LI) District to a Planned Unit Development-Mixed (PDM) District based on consistency with the city's adopted plans; that it is in the interest of the public and it is consistent with staff's analysis section in the staff report. Conditions offered by the applicant address objectives of the Land Use Plan and will ensure development of the zoning site will be compatible with adjacent uses and promote the higher standards envisioned for a PUD development.

A motion was made by Council Member Ewing, seconded by Council Member Mendenhall, that this Ordinance be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120333 **Resolution - City of High Point - Street Abandonment Case 12-10**

A request by the Technical Review Committee to abandon unimproved excess right-of-way width from a previous cul-de-sac along N. Pendleton Street adjacent to 201 and 210 N. Pendleton Street.

Attachments: 05. Staff Report SA12-10.pdf

Resolution No. 1274/12-75
Introduced 12/17/2012; Adopted 12/17/2012
Resolution Book Volume XVII, page 124

The public hearing for this matter was held on Monday, December 17, 2012 at 5:30 p.m. Doug Loveland of Planning and Development provided an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings.

Following the presentation of the staff report, Mayor Sims opened the public hearing and asked if there were any comments in support of or in opposition to this request. There being none, the public hearing was closed.

Adopted Resolution abandoning the unimproved excess right-of-way width from a previous cul-de-sac along N. Pendleton Street adjacent to 201 and 210 N. Pendleton Street with the retention of a 20-foot electric utility easement along the western portion of the right-of-way.

A motion was made by Council Member Mendenhall, seconded by Council Member Davis, that this Resolution be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120334 **Resolution - City of High Point - Street Abandonment Case 12-11**

A request by the Technical Review Committee to abandon the unimproved portion of the western terminus of Brookdale Avenue.

Attachments: 06. Staff Report SA12-11.pdf

Resolution No. 1275/12-76
Introduced 12/17/2012; Adopted 12/17/2012
Resolution Book Volume XVII, page 125

The public hearing for this matter was held on Monday, December 17, 2012 at 5:30 p.m. Doug Loveland of Planning and Development provided an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings.

Following the presentation of the staff report, Mayor Sims opened the public hearing and asked if there were any comments in support of or in opposition to this request. There being none, the public hearing was closed.

Adopted Resolution abandoning the unimproved portion of the western terminus of Brookdale Avenue with the retention of the 30-foot sanitary sewer easement.

A motion was made by Council Member Mendenhall, seconded by Council Member Davis, that this Resolution be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120335 **Resolution - P. Hunter Dalton - Street Abandonment Case 12-12**

A request by P. Hunter Dalton to abandon all of Obsidian Court, being located south of Marble Drive, and east of White Farm Lane.

Attachments: 07. Staff Report SA12-12.pdf

Resolution No. 1276/12-77
Introduced 12/17/2012; Adopted 12/17/2012
Resolution Book Volume XVII, Page 126

The public hearing for this matter was held on Monday, December 17, 2012 at 5:30 p.m. Herb Shannon of Planning and Development provided an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings.

Mayor Sims asked if this will be a public or private street and staff noted it would be a public street.

Following the conclusion of the staff report, Mayor Sims opened the public hearing and asked if there was anyone present who would like to comment. There being none, the public hearing was declared closed.

Adopted Resolution abandoning all of Obsidian Court, being located south of Marble Drive and east of White Farm Lane.

A motion was made by Council Member Mendenhall, seconded by Council Member Wagner, that this Resolution be adopted. The motion PASSED by an 8-0 unanimous vote. [Council Member Smothers was absent]

120336 **Ordinance - City of High Point - Text Amendment Case 12-04**

A request by the City Manager's Office to amend the Development Ordinance to allow a canopy to project into the street setback in a Shopping Center (SC) District with certain limitations.

Attachments: 08. TA12-04 Staff Report.pdf

Ordinance No. 6968/12-84
Introduced 12/17/2012; Adopted 12/17/2012
Ordinance Book Volume XVII, Page 158

The public hearing for this matter was held on Monday, December 17, 2012 at 5:30 p.m. Bob Robbins of Planning and Development provided an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings. He reported that staff has no objections to the amendment, but noted it could really be argued that the ordinance has established somewhat of a precedent with all of the encroachments that are permitted by ordinance. This specific request speaks to open canopies on buildings in the SC District located along a local street. He noted that it is unlikely there are very many applications for this amendment throughout the city because the qualifiers tend to limit this.

Mayor Sims asked why the change is needed if not dealing with situations very often and questioned the need for changing the ordinance. Mr. Robbins explained it was a matter of not having someone else have to go through the process of a variance for something like this.

Mayor Sims opened the public hearing and asked if there was anyone present who would like to comment. There being none, the public hearing was closed.

Adopted Ordinance amending the Development Ordinance to allow a canopy to project into the street setback in a Shopping Center (SC) District with certain limitations based on consistency with the City's Land Use Plan and adopting staff's findings as outlined in the staff report. Additionally, the City Council considers this action to be reasonable and in the public interest because: 1) the Development Ordinance already addresses the encroachment of canopies and similar building projections in several specific instances, and this amendment is not inconsistent with those exceptions; 2) the amendment will have a limited application; and 3) such an amendment allows for increased flexibility in the development of non-residential property.

A motion was made by Council Member Mendenhall, seconded by Mayor Pro Tem Moore, that this Ordinance be adopted. The motion PASSED by an 8-0 unanimous vote. [Council

Member Smothers was absent]

APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS

120338 **Approval of the following minutes:**

Combined Meeting held Monday, December 3rd @ 4:45 p.m.
Organizational Meeting held Thursday, December 6th @ 9:00 a.m.

Attachments: December 3 2012 HPCC.pdf
December 6 2012 HPCC.pdf

Approved the minutes of the preceding meetings.

A motion was made by Council Member Mendenhall, seconded by Council Member Wagner, that these minutes be approved as submitted. The motion PASSED by an unanimous vote. [8-0 vote- [Council Member Smothers was absent]

BOARDS AND COMMISSIONS APPOINTMENTS AND VACANCIES

120328 **Appointment to Planning & Zoning Commission**

Council Member Jim Davis is recommending the appointment of Ozzie Hough to the Planning & Zoning Commission to fill the Ward 5 slot and will fill an unexpired term. Appointment effective immediately and will expire 7/1/2013.

Attachments: HOUGH Ozzie.pdf

Approved the appointment of Ozzie Hough to the Planning & Zoning Commission.

A motion was made by Council Member Davis, seconded by Council Member Mendenhall, that this Miscellaneous Item be approved. The motion PASSED by an unanimous vote.

120329 **Appointment to Historic Preservation Commission**

Council Member Jim Davis is recommending the appointment of Tom Lugarich to the Historic Preservation Commission to fill the Ward 5 slot left vacant by the resignation of Diane Peace. Appointment effective immediately and will expire 7/1/2014.

Attachments: LUGARICH Tom 2012.pdf

Approved the appointment of Tom Lugarich to the Historic Preservation Commission.

A motion was made by Council Member Davis, seconded by Mayor Pro Tem Moore, that this Miscellaneous Item be approved. The motion PASSED by an unanimous vote.

120330 **Appointment to the Parks & Recreation Commission- Mark Gaither**

Mayor Pro Tem Britt Moore is recommending the appointment of Mark Gaither to the Parks & Recreation Commission as his At-Large appointment to fill the unexpired term of Jeffrey Golden. Appointment effective immediately and will expire 7/1/2014.

Attachments: GAITHER Mark 2012.pdf

OLLIS Gary 2012.pdf

Approved the appointment of Mark Gaither to the Parks & Recreation Commission.

A motion was made by Mayor Pro Tem Moore, seconded by Council Member Golden, that this Miscellaneous Item be approved. The motion PASSED by an unanimous vote.

120339 **Appointment to Citizens Advisory Council**

Council Member Jason Ewing is recommending the appointment of Scott Niebauer to fill the Ward 6 seat on the Citizens Advisory Council. Appointment effective immediately and will expire 5/31/2014.

Attachments: NIEBAUER Scott 2012

Approved the appointment of Scott Niebauer to the Citizens Advisory Council.

A motion was made by Council Member Ewing, seconded by Council Member Mendenhall, that this Miscellaneous Item be approved. The motion PASSED by an unanimous vote.

120340 **Appointment to Parks & Recreation Commission- Gary Ollis**

Council Member Jim Davis is recommending the appointment of Gary Ollis to the Parks & Recreation Commission to fill the Ward 5 slot. Appointment effective immediately and will expire 7/1/2015.

Approved the appointment of Gary Ollis to the Parks & Recreation Commission.

A motion was made by Council Member Davis, seconded by Council Member Ewing, that this Miscellaneous Item be approved. The motion PASSED by an unanimous vote.

120341 **Reappointment to the Parks & Recreation Commission- Jerry Southern**

Council Member Jason Ewing is recommending the reappointment of Jerry Southern to the Parks & Recreation Commission to fill the Ward 6 slot. Appointment effective immediately and will expire 7/1/2015.

Approved the reappointment of Jerry Southern to the Parks & Recreation Commission.

A motion was made by Council Member Ewing, seconded by Mayor Pro Tem Moore, that this Miscellaneous Item be approved. The motion PASSED by an unanimous vote.

120342 **Appointment to the Planning & Zoning Commission- Cynthia Davis**

Council Member Foster Douglas is recommending the appointment of Cynthia Davis to the Planning & Zoning Commission to fill the Ward 2 slot left vacant by the resignation of Keith McInnis. Appointment effective immediately and will expire 7/1/2015.

Since this matter did not appear on the agenda, motion was made by Council Member Ewing, seconded by Council Member Mendenhall to suspend the rules so it could be placed on tonight's agenda for consideration. The motion carried unanimously.

Approved the appointment of Cynthia Davis to the Planning & Zoning Commission.

A motion was made by Council Member Douglas, seconded by Council Member Golden, that this Miscellaneous Item be approved. The motion PASSED by an unanimous vote.

120229 **Boards and Commissions - Vacancies**

Attached is the current list of vacancies for all Boards and Commissions.

Attachments: term expirations 2013 (January 22 2013 agenda)

This information is attached for informational purposes only. No action is needed on this item.

130015 **Representation by Attorney Tom Terrell**

Council is requested to go on record as to the willingness to work with Tom Terrell representing the city on various matters.

Attachments: Letter to Tom Terrell (signed)

Conflict of Interest Update

City Attorney JoAnne Carlyle reported that Council had requested that she contact the School of Government to receive their input/opinion as to whether or not Tom Terrell who works with the law firm of Smith Moore has a conflict of interest in representing the developers at 350 South as well as the City of High Point. She noted some Council members voiced concerns as well as citizens about Tom Terrell representing the city in litigation against Davidson County and at that time, she tried to make it clear that the city was not in litigation with Davidson County and had only appeared before Davidson County in requesting a Special Use Permit at that time. She explained that she did share the facts with Chris McLaughlin at the School of Government and he said he did not see that there is a conflict. She further explained that what happens with the ethics obligation on behalf of an attorney, is the attorney has to decide whether or not he/she has adverse clients they are representing and if they are considered adverse in their interests, then the attorney has to decide whether or not they can adequately represent the interest on both sides and not short change either side. She went on to say that even if they are adverse, which the School of Government does not believe 350 South developers and the City of High Point are adverse clients of Mr. Terrell, but if this were the case, then the attorney, Mr. Terrell, could request each client to offer a consent or waiver for disclosure purposes. She pointed out that this particular instance does not arise to that occasion; however, City Manager Boynton had already given something to Mr. Terrell at the direction of Council earlier in representing the City of High Point. Mr. McLaughlin suggested one of the things that the city could do, although he was of the opinion that there is a conflict, is that the City Council could offer something else in writing that voices the Council's opinion as a board that this is or is not a conflict of interest. Mr. Terrell has made a request of his other client, 350 South, and that they, too, have given him something which should not be Council's concern. Following providing the update to Council, Ms. Carlyle asked Council that they make a decision and vote as a board as to whether or not they want a "continuing waiver" which means it would be a continuing consent to allow Tom Terrell to represent the City of High Point and asked that this be voted on with the understanding that the city attorney's office and also the manager's office as well as the City Council continue to monitor the situation and if anything else comes up, then the Council could certainly withdraw the consent.

Council Member Douglas asked how this would appear since they determined it would not be a conflict of interest for the attorney to make sure the appearance is correct for the city in the fairness for those who come to Council in opposition. Ms. Carlyle explained there are no set of standards or rules for professional conduct that Council has to abide by like there is for attorneys. She noted that Council has the right to vote to not allow Mr. Terrell to continue representing the city and not consent to this--even if there is not a conflict. Council Member Douglas stated he wants to make sure that it does not hinder the ability for the Council to view it in a biased way because of his relationship with Council, his on-going relationship with the city, and 350 South--the other client and asked about those in opposition of this being approved and how it would affect their quality of life, etc...

Council Member Mendenhall pointed these are decisions that the City Council should make. Council Member Douglas still questioned the appearance of Mr. Terrell representing the city while also representing a client that has come before the City Council on a case where there has been objections voiced. Ms. Carlyle noted this was certainly something that the City Council should take into consideration when a vote is taken, but reiterated there is no professional conduct rule that applies to this for the City Council as a board and there were only rules that apply to Mr. Terrell as an attorney. She reminded Council that the School of Government does not feel this is a conflict of interest and is certainly not to the point requiring a waiver or a consent. Council Member Douglas argued that everything ethically was not in black and white and explained he was just looking at it from an appearance standpoint.

Mayor Sims explained that Council did give instruction and direction to the city attorney to contact the School of Government and ask if there was a conflict of interest with this situation and this clearly has been reported back to Council that in the School of Government's opinion, that does not exist. She felt it is an expectation on the part of the citizens for Council to be able to differentiate between our feelings and pointed out all of Council should know what the decision-making processes will be and that there will be instances where individuals will come before Council and they will be representing Council in other ways and cases. She felt the public has enough confidence in Council that they can make the right decisions without being swayed by the fact that an individual is employed by the city in other ways. Council Member Douglas reiterated his concerns and noted they had nothing to do with Mr. Terrell as a person, but rather the appearance of what it looks like for the city.

A motion was made by Council Member Mendenhall, seconded by Mayor Pro Tem Moore, to go on record as to the willingness to work with Attorney Tom Terrell representing the city on various issues. The motion PASSED by a 7-1 vote as follows:

Aye: 7 - Mayor Sims, Mayor Pro Tem Moore, Council Member Davis, Council Member Ewing, Council Member Golden, Council Member Mendenhall, and Council Member Wagner

Nay: 1 - Council Member Douglas

Absent: 1 - Council Member Smothers

For Information Only:

Reports from Council

Council Member Wagner reported that he attended the City Project meeting last Monday and the Holiday Stroll was a huge success. He also encouraged everyone to attend the concert featuring Tony Griffey at Wesley Memorial on Tuesday, December 18th at 7:00 p.m. at Wesley Memorial United Methodist Church with all proceeds benefitting Open Door Ministries.

Mayor Pro Tem Moore reported on the Chamber of Commerce meeting he attended. Skip Alston made a presentation on the initiative for the Civil Rights Museum in Greensboro and noted they would be seeking additional funding in the future from agencies in an effort to make the museum more of an educational component.

He also wished everyone a Merry Christmas and reminded those present that High Point University would be opening up their campus on December 19th and 20th for some holiday festivities and for the public to view the campus decorations.

Council Member Mendenhall reported that she attended the ribbon cutting for the new Arts Council facility on Centennial and that the Southwest restoration project group has been very active.

Council Member Davis acknowledged the retirement of long-time employee Gary Pressley in the Parks & Recreation Department.

Mayor Sims reported that she attended a meeting in Greensboro regarding an economic development opportunity for the city. She also traveled to Raleigh to meet with the Metro Mayors and spoke to 4th grade students at Kirkman Park and Fairview School and issued them a Mayor's challenge to read 4,000 books by May. She asked City Council members to be thinking about suggestions on a reward for them should the students reach this goal.

Meeting Reminder

Mayor Sims reminded Council that this meeting would be adjourned to 9:00 a.m. on Thursday, December 20th at the Chamber of Commerce to hear an update from the City Project on the Duany Study.

ADJOURNMENT

At 6:49 p.m. and there being no further business to come before Council, the meeting was adjourned to 9:00 a.m. on Thursday, December 20, 2012 at the Chamber of Commerce.

Respectfully Submitted,

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Bernita Sims, Mayor

Attest:

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Lisa B. Vierling, MMC
City Clerk