City of High Point

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

Minutes

Monday, August 4, 2014

5:30 PM

Council Chambers

City Council

Bernita Sims, Mayor
James C. Davis, Mayor Pro Tem
Foster L. Douglas, Jason P. Ewing,
Jeffrey J. Golden, Judith P. Mendenhall,
Britt W. Moore, 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 Douglas offered the invocation; the Pledge of Allegiance followed.

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

Absent 1 - Council Member Britt Moore

MISCELLANEOUS

140224 **Proclamation - National Night Out**

Proclamation declaring Tuesday, August 5th as National Night Out in High Point.

Attachments: National Night Out Locations

National Night Out 2014

Council Member Golden read the Proclamation declaring Tuesday, August 5th as National Night Out in High Point into the record. The Proclamation was presented to Officer Mike Prevost and Mayor Sims reported that Council was given an itinerary of events for National Night Out for the various neighborhoods.

REGULAR AGENDA ITEMS

FINANCE COMMITTEE - Council Member Moore, Chair
Committee Members: Wagner, Davis and Sims
(all were present except for Chairman Moore)

Due to the absence of Chairman Moore, Mayor Pro Tem Davis chaired this portion of the meeting.

140225 **Contract - Purchase of Street Sweeper**

Approval of contract using the Houston-Galveston Area Council (HGAC) to purchase a 2015 Tymco Model 600 Street Sweeper at the contract cost of $234,525.00; and declare a 2007 Johnson street sweeper as surplus property and direct staff to dispose of said equipment through the online auction process.

Attachments: Contract - Street Sweeper HGAC

This matter was discussed during a Finance Committee meeting held at 4:30 p.m. prior to this meeting. The Committee recommended approval.

Approved contract using the Houston-Galveston Area Council (HGAC) to purchase a 2015 Tymco Model 600 Street Sweeper at the contract cost of $234,525.00, and declared a 2007 Johnson street sweeper as surplus property

and directed staff to dispose of said equipment through the online auction process.

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

140226 **NCDOT - Reimbursement Schedule - Traffic Signal Maintenance**

Approval of Municipal Agreement with the North Carolina Department of Transportation (NCDOT) for a new reimbursement schedule (Schedule C) for traffic signal maintenance.

Attachments: NCDOT - 2014-15 Schedule - Traffic Signal Maintenance

This matter was discussed during a Finance Committee meeting held at 4:30 p.m. prior to this meeting. The Committee recommended approval.

Approved the Municipal Agreement with the North Carolina Department of Transportation (NCDOT) for a new reimbursement schedule (Schedule C) for traffic signal maintenance.

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

140227 **Resolution - Reconveyance of Property - Marsh Furniture**

Adoption of a Resolution authorizing the reconveyance of City Property to Marsh Furniture as shown on the attached map.

Attachments: Marsh Furniture - Reconveyance of Property

Marsh Furniture - Affidavit of Publication

Resolution No. 1399/14-39
Introduced 8/4/2014; Adopted 8/4/2014
Resolution Book, Volume XVIII, page 121

This matter was discussed during a Finance Committee meeting held at 4:30 p.m. prior to this meeting. The Committee recommended approval.

Adopted Resolution authorizing the reconveyance of City property to Marsh Furniture as shown on the map, which is hereby attached in Legistar as a permanent part of these proceedings.

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

140228 **Budget Ordinance Amendment - Kilby Hotel & First Baptist Church Asbestos Abatement**

Adoption of a Budget Ordinance in the amount of $120,000.00 amending the General Fund to appropriate funding for the Kilby Hotel and First Baptist Church on Washington Street for asbestos abatement.

Attachments: Budget Ordinance Amendment-Kilby- First Baptist Asbestos Abatement

Ordinance No. 1787/14-65
Introduced 8/4/2014; Adopted 8/4/2014
Ordinance Book Volume XVIII, Page 119

This matter was discussed during a Finance Committee meeting held at 4:30 p.m. prior to this meeting. The Committee recommended approval.

Adopted the Budget Ordinance amending the FY 2014-2015 Budget in the amount of $120,000 amending the General Fund to appropriate funding for the Kilby Hotel and First Baptist Church on Washington Street for asbestos abatement.

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

140229 **Budget Transfer - Core City Development**

Council is requested to approve transfer of funds from the Core City Development account unit to the City Manager's accounting unit.

Attachments: Core City Budget Transfer

This matter was discussed during a Finance Committee meeting held at 4:30 p.m. prior to this meeting. The Committee recommended approval.

Approved the transfer of funds from the Core City Development accounting unit to the City Manager's accounting unit.

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

Pending Items

140191 **Resolution - Lease of High Point Theatre Property - Theatre Art Gallery (TAG)**

Council is requested to adopt a Resolution authorizing the City to enter into a lease with the Theatre Art Gallery (TAG) at the High Point Theatre. **(This item was presented to City Council at the July 21st meeting and deferred to the August 4th agenda to allow staff time to assemble further information on the lease.)**

Attachments: Resolution - Theatre Arts Gallery - Lease Agreement
TAG Agreement

Mayor Pro Tem Davis moved to remove this matter from the pending list and add it to the Regular Agenda so it could be considered at tonight's meeting. Council Member Mendenhall made a second to the motion, which carried unanimously.

Resolution No. 1400/14-40
Introduced 7/21/2014; Adopted 8/4/2014
Resolution Book,Volume XVIII, Page 122

Adopted Resolution authorizing the City to enter into a lease with the Theatre Art Gallery (TAG) at the High Point Theatre.

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

COMPREHENSIVE PLANNING COMMITTEE - Council Member Smothers, Chair

Pending Items

140221 **Manager's Report - re: Core City**

Presentation on Core City responsibilities as directed by City Council. **(At the July 21st City Council Meeting, this item was postponed for disucssion at a later date.)**

Attachments: Requested Changes to the City Project Structure (Memo)

Note: This matter has been pending since being first introduced on July 21, 2014.

OTHER NEW BUSINESS

140230 **Change in Meeting Schedule - Labor Day Holiday**

Due to the Labor Day Holiday, Council is requested to change the meeting date of the City Council Meeting scheduled for Monday, September 1st, 2014 to Tuesday, September 2, 2014 at 5:30 p.m. for the Regular Agenda; Public Comment Period at 6:00 p.m. and Public Hearings at 6:15 p.m.

Approved the meeting schedule and changed the meeting date of the City Council Meeting scheduled for Monday, September 1, 2014 to Tuesday, September 2, 2014 at 5:30 p.m. for the Regular Agenda; Public Comment Period at 6:00 p.m. and Public Hearings at 6:15 p.m..

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

PUBLIC COMMENT PERIOD - 6:00 P.M.

Mayor Sims opened up the floor for public comment with the following people speaking during the Public Comment Period.

John Aspley, 517 W. Green Drive, addressed Council regarding the High Point Showroom Tax. He explained that he has talked numerous times with various city staff and officials because he feels there needs to be some clarification in

the ordinance because of its broadness. He specifically mentioned Subsection 3 of the Ordinance which states "there is hereby levied a privilege license tax on every person engaged in the business of operating a wholesale, home furnishings showroom" and he interpreted this to mean "wholesale" to the Furniture Market. He noted that he did look up the word "wholesale" on Google and it defined "wholesale" as "the selling of goods in large quantities to be retailed by others." Mr. Aspley went on to share that the property he currently occupies at 517 W. Green Drive has a lien on it because the tax has not been paid and pointed out his business is open 52 weeks a year and he sells retail as well as sells to designers and to decorators, but he does not sell wholesale. He noted the property actually is owned by Mrs. Jane Hunt, who is not very well and he agreed to purchase the property from her to give her some funds to give her a decent end to her life, but the sale of the property has been blocked because of the lien. He felt the city has misconstrued what the City Council was trying to achieve when the showroom tax was implemented. He pointed out there are other businesses that are not being levied the showroom tax and noted he has given a list of these businesses to the city.

Council Member Mendenhall noted that she did talk to Mr. Aspley about his concerns and felt some of the issue might be the sign that says "Showroom Entrance" displayed at his business. She explained that because of the Furniture Market, the word "showroom" is defined in another way. She noted she did contact the Furniture Market Authority and they have been advertising his business in their publications in conjunction with the Furniture Market, and agreed to remove him from their directory/publications if he chooses to be classified as a retailer. She suggested that Mr. Aspley declare himself a retailer. Mr. Aspley took exception to this and made the comment that this is not how the dictionary defines "showroom" and pointed out that High Point does not write the dictionary. Regarding his "Showroom Entrance" sign, he explained he is simply attempting to show his customers the entrance into his business because his business covers an entire city block with a front and a rear.

Council Member Smothers asked why staff has made the determination that Mr. Aspley's business is a showroom. City Attorney JoAnne Carlyle explained that he has held himself out as a showroom under the Market Authority with the transportation and advertisement through the Market Authority. She also noted that each time Chip Vanderzee with the city has gone out and investigated and spoken with him, Mr. Aspley has told him it has been a mix of wholesale and retail and that the sign also indicates his business is a showroom. Council Member Mendenhall pointed out there is also a timing issue because the tax is due at one point and the Market Authority starts putting its information together at another time. Ms. Carlyle explained that this still would not correct the lien and would not correct the taxes that were applied while he was holding himself as a showroom. She pointed out a lien of this type should not hold up the sale of property because he should be able to pay the lien to get a clear title to the property.

Mayor Pro Tem Davis asked Mr. Aspley if he has a privilege license from the city for his business and Mr. Aspley responded that he does not. Mayor Sims then asked Mr. Aspley about his attempt to purchase the property that he is currently leasing. Mr. Aspley noted that initially the showroom tax was not being levied on this property, but then when he filled out a questionnaire sent to him by Mr. Vanderzee and answered "yes" to the question--"do you sell wholesale," it prompted the showroom tax being charged. He again argued the point that in the true sense of the word, "wholesale," he should not be charged the showroom tax. He asked Council to revisit the ordinance. Mayor Sims noted Council Members Wagner and Ewing are already looking into this, but the outstanding lien on the property still has to be satisfied in order for anyone to get clear title to the property once it is sold. She reminded Mr. Aspley that Council Member Mendenhall has already informed him of how the process works and what needs to happen so he is no longer charged the showroom tax. Council Member Mendenhall confirmed that she did advise Mr. Aspley that if he would apply for a retail license, the Market Authority would stop promoting his business and there would be no more showroom taxes levied because he would be listed as a retailer. Council Member Smothers felt the Market Authority is a separate issue and pointed out how he is classified by the city determines whether or not he is assessed a showroom tax.

At this time, Mayor Pro Tem Davis mentioned that he has been to Mr. Aspley's business on two or three occasions (without having a market pass to get in) and it seemed like a retail store to him. Mayor Pro Tem Davis thought the lien would be applied to the person operating the business, rather than the property owner. Further discussion followed on who is actually legally responsible for paying the showroom tax. He asked if it might be possible to waive the lien that is on the property. Mr. Aspley reminded Council that the city is full of stores with the same situation that are not being charged with the showroom tax. Mr. Aspley again argued that this property is not taxable under the High Point Wholesale Home Furnishings Showroom Tax Ordinance and he asked that it be removed because it was illegal.

Mayor Sims asked Interim City Manager Randy McCaslin to work with Mr. Aspley in an attempt to bring some resolution to this situation as to how his business should be classified, how he is operating, and to investigate whether or not there are other businesses doing the same thing and not being charged a showroom tax. Mayor Sims assured Mr. Aspley that staff would speedily work on it and would get an answer to him soon.

PUBLIC HEARINGS - 6:15 P.M.

COMMUNITY HOUSING & NEIGHBORHOOD DEVELOPMENT COMMITTEE - Council Member Douglas, Chair

140223 **Ordinance - Demolition of First Baptist Church - Washington Street**

Consideration of an ordinance to demolish the First Baptist Church located at 701 Washington Street and award contract to Abatemaster, Inc. for abatement and removal of asbestos. **(This item was presented at the July 21st City Council meeting and deferred to the August 4th agenda to allow for advertising of the demolition.)**

Attachments: Demolition Ordinance - First Baptist Church- Washington Street
Affidavit of Publication - First Baptist Church

Ordinance No. 1788/14-66
Introduced 8/4/2014; Adopted 8/4/2014
Ordinance Book, Volume XVIII, Page 120

Chairman Douglas: Is there anyone here to speak on this matter at 701 Washington Street, First Baptist? Madam Mayor, I would just like to find out a little more about the legal aspect of where we're headed with this.

Council Member Smothers: To recapture some of the cost and the comments that were made in Finance? It might be worthwhile to explain why we had a finance item and now this item.

City Attorney JoAnne Carlyle: Well the law requires it to be advertised for two consecutive weeks, one time each week and then for Council to actually vote upon it, which is why the ordinance is before you tonight. There isn't an ordinance that applies specifically to abatement of asbestos, which is why it's called an ordinance to demolish. Obviously, too, we know that when we go in there, we're not sure what is going to happen and we needed to go ahead and adopt this to protect the city in the case we go in and find ourselves in need of going ahead and demolishing it.

Mayor Sims: So, the original intent is just to go in and clear the building of any asbestos?

City Attorney Carlyle: According to the manager, that is what he desires you make a decision on tonight. It's just there's no other legal way for you to do that and it's just to have legal rights to go in and clean out the asbestos without adopting an ordinance that is before you. We had to have some legal right to go on the property.

Council Member Mendenhall: So, after the abatement is done on the asbestos, assuming that the building is still standing and assuming the

Kilby stuff is finished, will we then have another ordinance for demolition?

City Attorney Carlyle: You will not. This will be pending then. At that point in time, there will have to be a decision made as to whether or not you will follow through with that or not. This is kind of just preparing us for the unknown, just in case.

Council Member Golden: So it will go into pending tonight and in the event we need to do anything else, we will have to bring it out of pending?

City Attorney Carlyle: No, you have to go ahead and vote on it tonight. It won't go into pending, but the vote on this ordinance allows us to actually access the property. We don't have anything by law that we can ask you to adopt that gives you the authority to go on the property just for the purpose of removing the asbestos. And especially in this particular case, we've got a building that we're not sure how stable it is once we go in it. If we get in there while we're removing the asbestos and we have to do more, then at that point, Council has already given that approval so we can do what we need to do.

Council Member Mendenhall: So this says that it was delayed from July so that we could advertise for demolition. Is that the way the wording?....

City Attorney Carlyle: That's correct. That's advertising two weeks….you have to advertise one time per week for two weeks in a row. Two consecutive weeks and the last advertisement went out on Friday.

Council Member Mendenhall: So it was advertised for demolition even though we're talking about abatement of asbestos.

Mayor Sims: So this document of October…I think it says the 21st, is that right? Include a site no later than October 21st, when in actuality unless Council comes back and changes something in this process, that is the date that we have determined that the building needs to be down and the site cleared?

Council Member Ewing: That was last year.

City Attorney Carlyle: That was the order for 2013. So that's been out there just waiting for this ordinance to be effectuated in order for that ….

Mayor Sims: So what's the date in doing all this since this was in there as of this date? What's the new date? No date?

City Attorney Carlyle: There is no date. From this time, staff will go forward with Abatemasters.

Interim City Manager Randy McCaslin: We will go forward with Abatemasters for the asbestos removal. Quotes will be brought back for the demolition.

Mayor Sims: I have a little bit of a problem with approving a demolition with no protection in the order itself-in the ordinance that says what the timeframe is. I don't like the idea that it's just sitting there and at any point in time, somebody wants to pull the trigger, they can do that because we've adopted this ordinance. I'm not comfortable with that.

Council Member Ewing: Well that timeframe was ten months ago.

Mayor Sims: But at least there was a timeframe, which we didn't adopt it apparently because it's before us now. So at this point we're talking about doing it for the purpose of removing the asbestos, which I understand. I don't have an issue with that, but I still believe there needs to be some other something in here that gives a classified period of time that we're talking about holding this open, as opposed to an open-ended document that at any point in time and that's the way it appears to me, that we can just go in and say, okay, we're going to effectuate the demolition because we have a document that says we can.

Council Member Ewing: So something from a time standpoint that we say October 1st, the manager will seek bids on demolition?

City Attorney Carlyle: What you're looking at right now when you talk about that October date, your staff….the hearing officer is the inspector and what happens is he had that and he determined that it should be demolished. He brought it to you for approval and then to effectuate that, then you have to follow the procedures for adopting the ordinance. I guess

if you wanted to put a date in it, you could, but obviously your inspector has already supplied that order recommending that it be done by October, 2013.

Planning Director Lee Burnette: Yes, that was the order to the property owner.

City Attorney Carlyle: So, basically what you're seeing before you is staff has recommended that it be demolished on or before that date. That's allowing the property owner to take action. They did not do so, then legally you have to take action yourself then with the advertisement and the adoption of the ordinance to effectuate what your inspector has ordered.

You either adopt an ordinance or you don't. If you were to put some clause in there that delayed it, then it really truly hasn't been adopted for Abatemasters to go in and remove the asbestos.

Mayor Sims: We've got documents in here dated last November and last October and with language in it that doesn't even apply to the present day circumstance. That's kind of what I'm feeling. So if we go in and adopt this, as I said before, in all actuality, it's done. If they decide on this date or the day after…we've gone in, this is where we are and let's tear it down. I mean if that's what we're going to do, then let's talk about it that way, but let's not talk about it and say we're going to do abatement when you have the right to literally go in and take the building down. That's what I'm saying. There's no protection-not that I think that we need to be doing that-but there's nothing in here that sort of allows for anything. Once we adopt it, it's adopted. It's my understanding, right? What's that 30 days?

Planning Director Lee Burnette: If that's what the order of the ordinance says to carry forward then that's it. Just from a practical situation, we've got two unsafe buildings or what was an unsafe building that has already collapsed. Both of them have asbestos. We've got a situation where the one that has collapsed, Abatemasters-and we have a representative here from Abatemasters tonight- is going to have to take off basically the entire site because it's contaminated. Their concern as they get in to deal with that site, that something could happen to the church and we have the same

situation with the church. So they want to address the asbestos in the church first, before they deal with the Kilby. Otherwise, we may have a very similar situation and a more expensive situation to clean up.

Council Member Mendenhall: I think we understood that from Finance, but I agree with what the mayor is saying. We delayed the demolition for a lot of reasons for a long time and we spent a lot of time in Finance talking about the windows and whether or not the church would remove the windows and try to save them. I thought that we were just talking about an ordinance that would allow us to go in and remove the asbestos so that it would be done before anything is done with the Kilby. And we still don't know what will happen when we go in and do the asbestos removal. We talked about that. But this just simply says that without coming back or anything else, somebody can determine that they're going to demolish it and it won't come back to us as I see it. Is that right?

Planning Director Lee Burnette: Well it depends on what the Council's directive is. You've got….we haven't done any bids for demolition. It's only been the quote for asbestos removal.

Council Member Wagner: We would still have to approve the demolition.

Planning Director Burnette: It depends on the cost.

Council Member Wagner: There's how we control it.

Council Member Mendenhall: Right. As long as the cost is prohibitive and it comes back to us.

Council Member Wagner: We're going to have to approve any agreement to demolish it, so if they go in and take out the asbestos and then somebody wants to tear it down as y'all are worried about; we're going to have to approve the contract to demolish it. I'm talking about us doing it.

Council Member Mendenhall: Only if it reaches a certain dollar amount.

Council Member Wagner: I mean somebody with the city. We would still have to approve the contract.

Interim City Manager McCaslin: I can assure you that prior to any action on the demolition, we will bring something back.

City Attorney Carlyle: I was going to say….surely I would suggest that you trust your staff that they would follow whatever directive you gave them.

Council Member Smothers: I think the $120,000 would control how much gets done.

Council Member Mendenhall: That's probably true.

Interim City Manager McCaslin: Mayor, the church's representative, Pastor Robinson, is here.

Mayor Sims: Well, is there anything else, Lee, that you want to share with us? Thank you.

Pastor Michael Robinson: Good evening. I'm pastor at First Baptist Church Cathedral. I'm hearing what you desire to do. One of the things that I also heard about the windows and having to go through that whole process in which we still are. One of the things I wanted to say is why would we need to do demolition if you want to check for asbestos?

Council Member Golden: That's the same question we were asking.

Pastor Robinson: If you wanted to do an asbestos check, there's no need for a demolition.

City Attorney Carlyle: I think there already has been a check for asbestos.

Pastor Robinson: Well we did one a while ago.

City Attorney Carlyle: Right, and I think that's what staff was relying on.

Pastor Robinson: Well why would you rely on something that's back then and not do something current?

Council Member Smothers: Well there won't be anything removed if

there's nothing there.

Pastor Robinson: Well, I can tell you that there is something there, but, again, why don't you verify just how much is there prior to saying well we've got this, so let's do that. What I'm saying here is this, we're trying to do what we need to do to work it so that it's successful, not only for us, but also for the community and the city. And we're willing to work along with the city. What I'm saying to you in reference to giving an ordinance to demolish something, we need to really look at that carefully and not just come together and say what needs to be done.

Council Member Smothers: Pastor Robinson, that was the question that was raised in Committee meeting-a concern about the word, demolition. The attorney explained to us then and she can go back to it now. We don't have the legal authority as a city to go in and just remove asbestos. There's nothing the state allows for that. Now, you tell him.

City Attorney Carlyle: Right, and you have had an order sitting there in place and this is normally the next step legally speaking.

Pastor Robinson: Say that again.

City Attorney Carlyle: There's already been an order in place for almost a year now for it to be demolished.

Pastor Robinson: Oh, there has? [talking to church member]…Did we get anything in the mail reference to that? If you do have something, I'd like to see that.

[staff produced the documentation and allowed Pastor Robinson to inspect it].

Council Member Smothers: The point is they're not planning on demolishing the church. They just want to go in and get the asbestos out.

Council Member Wagner: They have to use the term "demolish" because that's the legal term, even though what we plan to do it to remove the asbestos.

City Attorney Carlyle: That's all wrapped together. Normally you go in and your bid is for both.

Council Member Smothers: And that's why I made the comment a while ago. The $120,000, which includes the clean-up of the Kilby and the removal of the asbestos for the Cathedral is in one contract. It would not cover the demolition of the church to start with.

Mayor Pro Tem Davis: We've got an estimate of $6,300 for the abatement of First Baptist Church, so I would assume that Abatemasters has already been there to come up with that estimate. So they know what's involved.

Interim City Manager McCaslin: And this is the removal based on that.

Council Member Smothers: Maybe if he could speak, it would help Pastor Robinson.

Doug Riggs: Good evening. My name is Doug Riggs. I'm Operations Manager for Abatemaster, Inc. I'm also an accredited North Carolina Asbestos Inspector and Supervisor contractor. We looked at this project over several times. The first introduction, I was actually the person that did the inspection on the church-the asbestos inspection-myself and the owner, John Tesh. What our concern with the church is not with the intent of the church coming down. Our problem is when we bring in a 70,000 pound machine to start cleaning up the debris pile from the Kilby, there is the possibility that resonance could bring in stable portions of the church down. Just the resonance alone-between that and the dump trucks coming back and forth. It is in such close proximity. There's no way that anyone can guarantee that an unstable structure like that will stay in place. Our primary concern is that if the asbestos is gone and a portion of the church collapses, then you have a debris pile to clean up that's non-asbestos. Jason Guild, Grant Turinsky with the NC Health Hazard Control Unit, they have determined that the entire pile of the Kilby Hotel is to be treated as asbestos. Now, there's a difference between friable and non-friable. Right now, all of our samples come back that say it's all non-friable material. Mrs. McElrath has also informed me in our discussions as I tried to find out more history about the hotel, but to her knowledge there has never been a boiler system in the hotel, which is a positive outlook that means that it is a very slim possibility in us running into friable

material-other than what we've already found with less than one percent composite in some of the plasters and with that we can still treat and abate it. If it's less than 1%, EPA does not consider that regulated material. But, here again, our primary focus is to look out for the safety of the community so that if something does happen with the resonance of the equipment coming through, that we don't end up with another asbestos pile. That is our primary concern because there's no way to control it without going in and spending money and shoring the structure up.

Chairman Douglas: So what you guys would like to go is to go into the church, remove the asbestos before you start working on the Kilby and cleaning up the Kilby?

Doug Riggs: Primarily the biggest concern we have is in the sanctuary portion where the walls are already leaning out and the structure is already unstable. The rear portion, from our perspective, you don't see the instability in the rear portion where the offices and such are, but our concern is the front portion of the sanctuary where there is pipe insulation up under it.

Council Member Mendenhall: Did you find any asbestos in the back part in the newer addition?

Doug Riggs: Of the church?

Council Member Mendenhall: Yes.

Doug Riggs: Yes, in the floor tile and the mastic. There's pipe insulation in floor tile and mastic.

Council Member Mendenhall: Will you be removing that as well?

Doug Riggs: The proposal is to go in and take it all out at one time.

Council Member Ewing: Is the dwelling safe to access to remove the asbestos?

Doug Riggs: At this point, yes. When you add the resonance and you bring a 70,000-80,000 pound excavator in and dump trucks, the resonance

alone will change that from a considered stable structure to a potentially unstable structure.

Council Member Smothers: Maybe since Pastor Robinson has heard that, he might have questions.

Pastor Robinson: So, in actuality you're saying that's the type of machinery that you can bring in? That's the only type that you can bring in and use what needs to be done?

Council Member Smothers: But he's not putting that on the church property.

Pastor Robinson: I understand that. He was basically saying that coming along the street and on that part of Hobson where the fence is, to get to where he needs to get to; he can possibly cause a situation with the front of the church. I understand that clearly. I just want to affirm some things about the type of machinery that will be used. So I am hearing that based on what his company needs to use, it's a possibility that something could happen. Based upon that, what type of responsibility does that fall on….does it fall on us, or himself? I'm quite sure he's insured for that, right? Is there any personal insurance to take care of that?

Doug Riggs: Our company will not take responsibility of the structure. If you require that, we would not accept the project if responsible for the liability.

Mayor Sims: So basically a structure that is not in, let's say the type of condition that the church is in, a normal structure that's in good condition, whatever machinery or equipment you're using it should not cause any type of problem with any other structure.

City Attorney Carlyle: I would presume that Abatemasters would have some sort of liability insurance. You don't have any?

Mayor Pro Tem Davis: I don't see how we could hold him liable if they're cleaning up the Kilby because there's already been an order for demolition or repair sitting out there since October and they've taken no measures to do it. So now you're asking us to proceed to the next level, to enforce it.

So I just can't see how we can put liability on somebody knowing that the structure is so unstable because if you run a piece of heavy equipment in there and it falls and you say well now you've got to rebuild my building. It just doesn't work like that in the real world.

Pastor Robinson: You said in the real world. Let me put it to you like this. We're not trying to hold anybody responsible. That's now why we're here. Basically we want to get to the point where the asbestos search is going to be done, then let's do the asbestos search. We do understand the condition of our building. We do understand that. We also understand that we're looking at ways to see what is going to be the best fit for us to be able to do something to kind of stabilize and get us to a point. We're at a point right now and I'm quite sure that you're a sick of it as we are. But we're trying to get to a happy medium that's going to be best suited for everyone. So if he's going to do his search, then we'll let him do his search/

Mayor Pro Tem Davis: I wouldn't say it's a search. He's actually going to remove the asbestos.

Pastor Robinson: If we're going to move forward, then we need to look at the timeframe that this is going to be done.

Mayor Sims: Well I think that there are two different issues going on here, Pastor Robinson. One is the abatement of whatever asbestos that may be in First Baptist. That's one part of this. The other part of it is the clean-up of the Kilby Hotel and unfortunately, we find ourselves in a situation where with the clean-up of the Kilby Hotel, it could potentially impact First Baptist Church because of what has to happen. So, you know, we're sort of I think faced with a conundrum ourselves regarding how that process moves forward because we cannot leave the brick in the street. That will not work.

Pastor Robinson: I understand that.

Mayor Sims: And the other piece of it is, I don't know if heavy equipment is really necessary. I'm sure you can go in there and pick out the bricks one piece at a time, but I don't know what that does to the cost of removing the items that are in the road. That becomes the other piece of

it. In order to ensure or make sure that there's no damage caused by the use of that machinery for First Baptist's purposes. We're all very concerned about what will happen to First Baptist when this process moves forward. We spent a lot of time this afternoon talking about that. We're concerned about the windows in the church. We know that you've gone through a process of trying to attempt to figure out a way to take those windows out. So we've gone that whole route in terms of discussion this afternoon. I raised the point that I raised not so much about what happens with the equipment as I am concerned about an open-ended something that allows us at any point in time to go in and effectuate the demolition. That's my problem. To go in and do the abatement, I know that it has to be done. And in the event that your building does fall, we don't want asbestos in the road and being faced with the same situation that we have right now with the Kilby. So that was the only reason for raising the question. But the bricks have to be removed out of that road. That building formerly known as the Kilby, that has to be completed. And right now it's unfortunate that one building sits on the opposite side of the street from where that situation is. So what we're trying to do at this point is say if we abate the asbestos, there may be a very good chance that nothing will happen to your building at all when he does the removal. But we don't want it to happen and we knew the asbestos was there and we did nothing to sort of mitigate that situation and we knew on the front end that it existed. So that's kind of where we are. But I want you to know that we are concerned about the windows in that building and we're concerned about how the building comes down. Whether you decide 60 days from now you want to take that whole building down….what we want you to be able to do is to be able to salvage the windows out of that building before it comes down and, again, we don't know when that's going to happen. We thought the Kilby would stay a little while longer, but that wasn't what happened. So we don't know when the hour is going to be when First Baptist does come down, if at all. And it may not.

Pastor Robinson: Right, we're in the same situation. We understand that. One of the things in reference to ….and I don't like to beat an old horse, but we understood that the Kilby didn't have a roof at all. I understand that it collapsed. So based on that alone, and the question that it would bring it all inside or blow it out. I'm not saying that that won't happen with us. I'm not saying that the roof will not collapse. Yes, we are concerned about getting the windows out. We've been pushing that thing

for the last year and a half or so. So we understand all that. I just want some clear understanding as to what is going to take place and the measures it's going to take place and the timing of which it's going to take place. Then my concern, again, was what type of equipment would be used and if, in fact, they need to use that heavy equipment to do what needs to be done. Now, I don't have the engineering savvy on that, but, again, you know I appreciate all that has been done, but we just want to know exactly where we stand and where we're going.

Mayor Pro Tem Davis: How far along are you on the fundraising to get the windows out?

Pastor Robinson: Well we've been pushing that for a while, and, again, it's a slow process. We've even put it out in the paper as to make it another public type of situation where if any company or anyone is interested to let us know and we will move that way. We will extract them and make sure they can get what they need and move forward. I mean I've had people call and want us to give the windows to them and, of course, that's not going to happen.

Council Member Smothers: One of the questions that Pastor Robinson has raised is the timetable. If the contracts are all approved, when would the asbestos removal begin at First Baptist?

Doug Riggs: I could schedule the work in the next seven days to have the asbestos removed. The asbestos removal should take 1-2 days.

Council Member Mendenhall: So within about a week and a half to two weeks, we should have the asbestos gone from the church?

Council Member Smothers: Does that timetable pose a problem?

Pastor Robinson: My next question was, once the asbestos is removed, then it just basically indicates there's no asbestos within the building. Am I right? You said 7- 10 days? We've had a contractor back and forth with us as well on the building, which I'm going to look at what he sent us. You're basically just taking out what is infected, right?

Doug Riggs: Yes.

Pastor Robinson: The question is after that is removed, do we have the time to shore up the wall?

Mayor Sims: I'm assuming….there's the ordinance to demolish. It's just an order and there's no intent that I believe on the part of this Council to move forward with that. It's only to do the abatement.

City Attorney Carlyle: It's a legal means for us to get onto the property and it's also a legal protection for us in case when they are on that property doing the asbestos removal, if something goes wrong, then we have to follow-up with the demolition then or after they withdraw from the asbestos removal and they're working on the Kilby and something happens next door, then we've got the legal right to go ahead and do what we need to do.

Council Member Golden: Mr. Robinson, you were asking would there be enough time to shore up. Are you talking about shore up prior to the removal of the debris next door?

Pastor Robinson: Actually…..

Council Member Mendenhall: I don't believe that we can delay that because we have a dangerous situation with the debris that's there from the Kilby. We have to get that cleaned up. We can't delay that process.

Pastor Robinson: I'm quite sure of that. It's been sitting there for some time now and you do have to clean that up. That's understandable. We can see what can happen within that length of time of the 10-day period.

Council Member Golden: Do you have the means to shore it up right now?

Pastor Robinson: Actually we don't, but we can see what we can do.

Council Member Smothers: Well at least if you have a timetable, there suddenly becomes a sense of urgency. We certainly want you to save it.

Pastor Robinson: Thank you so much. We've been trying to do that.

We're not giving up yet.

Mayor Sims: Pastor Robinson, what is it going to cost to remove the windows?

Pastor Robinson: To take the windows out, we have to come up with $35,000.

Mayor Sims: And that's all of them? How many are there?

Pastor Robinson: We have 24 stained glass windows.

Council Member Wagner: How far are you from raising that?

Council Member Golden: Pastor Robinson, have you got an estimate on the value of the windows?

Pastor Robinson: Once the windows are taken out and completed, the value goes to $747,000. The windows are handmade, handcrafted, with very little damage.

Council Member Ewing: That's the value for all 24?

Council Member Smothers: Do you have an estimate as to how much it would take to shore up the walls? I'm not sure….you know we talked earlier about Preservation Greensboro and historical properties people. We had a whole lot of people here for a while. Well they're not here anymore. Did they help you build any kind of reasonable estimate on what it would take to stabilize the walls?

Pastor Robinson: Actually we did all that research ourselves. As a matter of fact, we presented the city with the entire package on that, which was a year or two ago. So that information they do have as well as my friend here, Mr. McCaslin, he has a package of that as well. So we have that information readily available. I'm quite sure they have copies. If not, I can get you a copy.

Mayor Sims: Is there anything else or is there anybody else who wants to speak regarding this issue?

Council Member Mendenhall: may I ask one more question? Because Jeff and I were just talking. Pastor, have you made any attempt to sell any of the windows which would give you some money to get them out of the building?

Pastor Robinson: Yes we have. Quite a few attempts.

Council Member Mendenhall: And you haven't been successful?

Pastor Robinson: No ma'am. Like I said, people more or less want you to give or donate to them, but they don't want to purchase them. They know the value of the windows because they've researched the history. But as far as wanting to purchase, no.

Council Member Ewing: The $747,000, is that an insurance value or is that an actual retail value?

Pastor Robinson: That is an actual estimate and retail value, which was done by Salem Stained Glass, who is also certified for stained glass windows association.

Council Member Mendenhall: But if you can't find any buyers, it's difficult. I mean it's a catch 22. I understand that.

Pastor Robinson: Basically too, what we've done is we've looked at other communities outside of here. You get more of a sell and a value and purchase for them when you go north and mid-west. So we've reached that far and we've also had companies that have also put information out in regards to that as well. They're trying to support us in those ways and to make sure it's out there on the websites and also on FaceBook. So we use social media to push it as well.

Mayor Sims: So your attempt, or your desire to want to remove those stained glass windows is more of an effort to preserve them for future use by the church, either a building project or something of that nature than it is to literally sell them?

Pastor Robinson: Yeah, that's true. The value based on the windows

would also give us a means to be able to kind of market it to do what we need to do.

Council Member Smothers: So he could sell some of them and retain some of them.

Council Member Ewing: Are they insured?

Pastor Robinson: Actually, based on our building, no insurance company would insure it.

Chairman Douglas: Pastor Robinson, you see what we are dealing with. We've got the Kilby that needs to be cleaned up according to the State and we've got asbestos that's in your building, in the church, that needs to be removed. And the contractor wants to get the asbestos out of your building, out of the church, before he starts cleaning up the Kilby. In the event that the church don't make it, then that elevates the cost of the cleaning of the church, then we've got two Kilbys over there. But I think the most important part of it is what we're going to do….is we're going to do the motion for the demolition, but it's not actually for the demolition, it's to secure….you know to make sure the city is not….to protect the city. Actually while they go in and do their job. And I guess as you have heard, they're not going to be responsible for if a building comes down. They can't operate like that. So are there any more questions?

Pastor Robinson: No, I just basically wanted some clarity. We just wanted to basically hear what was the whole plan and how it's going to be done. I mean we know it's something the city will have to do. You have to clean that up.

Chairman Douglas: So you have all the clarity you need on that?

Pastor Robinson: A lot of clarity.

Council Member Smothers: I'd like to thank you all for coming.

Past

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

BOARDS AND COMMISSIONS APPOINTMENTS AND VACANCY REPORT

140231 **Appointment - Library Board of Trustees**

Council is requested to confirm the appointment of Mr. Philip Flynt to the Library Board of Trustees as an at-large representative (Moore). Mr. Flynt will be filling the expired term of Mr. Bruce Laney who is not eligible for reappointment. Appointment to be effective immediately and will expire October 31, 2017.

Attachments: FLYNT Philip 2014

Approved the appointment of Philip Flynt to the Library Board of Trustees.

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

140216 **Boards and Commissions - Vacancy Report**

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

Attachments: Vacancy Report

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

APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS

140232 **Minutes to be approved**

Comprehensive Planning Committee meeting; Thursday, July 17th @ 9:00 a.m.
Special Called Meeting; Monday, July 21st @ 3:00 p.m.
Finance Committee; Monday; July 21st @ 4:30 p.m.
High Point City Council Regular Meeting; Monday, July 21st @ 5:30 p.m.

Attachments: July 17 2014 Comprehensive Planning Committee
July 21 2014 Special Meeting
July 21 2014 Finance Committee
July 21 2014 High Point City Council

A motion was made by Council Member Smothers, seconded by Council Member Mendenhall, that the preceding minutes be approved with a correction to the July 17, 2014 Comprehensive Planning Committee Meeting minutes to change Brian Saunders to Ryan Saunders. The motion PASSED by an 8-0 unanimous vote. [Council Member Moore was absent]

MISCELLANEOUS

140233 **Consideration of Proposal From Aaron Clinard Regarding City Funding For Formation of a New 501(c)(4) Entity, Ignite High Point, Inc. (formerly City Project, Inc.)**

Consideration of request from Aaron Clinard regarding approval of City funding in the

amount of $105,593 for the formation of a new 501(c)(4) entity, Ignite High Point, Inc. (formerly known as The City Project, Inc.).

Attachments: Aaron Clinard Proposal Three dated June 25 2014

_____Transcript_____

Council Member Smothers: Madam Mayor, we had a Memorandum dated June 25th from Aaron Clinard to you, which was shared with us both hard copy and electronically. **I'd like to make a motion to suspend the rules to give a reply on that request.**

Mayor Pro Tem Davis: **Second.**

Mayor Sims: I have a motion and a second to suspend the rules to discuss an item that was brought before Council a few weeks ago. All those in favor, please signify by saying Aye. Aye. Any opposed? [none] Motion passes.

Council Member Smothers: **And I would move the Council go on record as acknowledging receipt of the request and to inform Mr. Clinard, who was writing on behalf of the potential new organization, that the City cannot participate to the tune of $105,593 for a commitment of three years.**

Mayor Pro Tem Davis: **Second.**

Mayor Sims: I have a motion and a second. Is there any discussion regarding this item?

I do have one comment. Again, as Ms. Smothers indicated, this was sent to me and it was asked that Council consider moving ahead with some sort of assistance to the City Project or the new City Project Board to assist them moving forward with doing what they feel they were charged to do as it relates to core city development and the Ignited High Point plan. It has not been very clear. It was not very clear in the document that was forwarded exactly which entity was asking to be funded, whether it was Ignite High Point or whether it was the Core City. But we have been carrying on with this, I believe, over a period of weeks-if not months regarding the discussion on this particular issue and whether or not it deserved or required that we do something other than what has been

decided I guess in numerous meetings as we have sat and talked about core city redevelopment and even the new Core City Plan.

So having said all that, I do believe that it is the desire of this Council that the City Project in whatever form it is currently in and whatever it takes to move forward with whatever they have to do that's going to help be a part of revitalization in this community. We don't want to stop any entity from doing what it feels that it has to do and that it's been charged to do. And I do believe that this is where they are and what they believe and feel is the best course of action for them. So, I believe that, you know, it is not the intent of this Council to do anything that is punitive to an organization. We just want to make sure that the charge that's listed in our adoption of the Core City Plan continues to move forward in a viable form and in a way that those neighborhoods that have been identified-those entities that have been identified-as being part of the Core City Plan and revitalization efforts. And that they receive those things that there is an expectation that they will have and there were several communities identified, several neighborhoods identified in the original Core City Plan that at this moment are still desiring to have some type of revitalization done in their communities. So it is the hope of this Council and anybody can correct me if I'm wrong, that we do move forward in a way that's going to be impactful to those communities and give them what they've been expecting over the past few years and that is some type of revitalization efforts and attention in their communities. So having said that, is there any other comments or questions?

Council Member Jay Wagner: Yes. I'd just like to say that I don't think that we've given this a proper hearing within the committee. There's been no real discussion amongst the entire group of Council as to the pros and cons of what was proposed. I think, though, the Council is missing an opportunity to create a true public-private partnership with its citizens to effectuate a revitalization of the city. We have a huge amount of people who are very passionate about this and they look to the organization that is The City Project to help lead the revitalization of the city. As it's been stated many, many times, the City Project would not exist without the intent of this Council to create that organization to help spur the revitalization of this city. It's really the only reason it exists-is to help us. And I think that this Council has taken an opportunity that could have resulted in a legitimate and good faith compromise with its citizens. It

troubles me greatly that we are not taking advantage of that opportunity.

Mayor Sims: Any other comments? [none] Seeing none, all of those in favor of the motion, please signify by saying Aye.

Mayor Pro Tem Davis; and Council Members Smothers, Golden, Douglas, Mendenhall, and Ewing: Aye.

Mayor Sims and Council Member Wagner: Nay.

[6-2 vote] [Mayor Sims and Council Member Wagner dissenting]
[Council Member Moore was absent]

_____end of transcript_____

Council Member Smothers moved to acknowledge receipt of Mr. Clinard's request and to inform him that the City cannot participate to the tune of $105,593 for a three-year commitment. Mayor Pro Tem Davis made a second. The motion carried by a 6-2 vote as follows:

Aye:	6 -	Council Member Douglas, Council Member Ewing, Council Member Golden, Council Member Mendenhall, Council Member Smothers, and Mayor Pro Tem Davis
Nay:	2 -	Mayor Sims, and Council Member Wagner
Absent:	1 -	Council Member Moore

ADJOURNMENT

There being no further business to come before Council, the meeting adjourned at 7:05 p.m. upon motion duly made and seconded.

Respectully Submitted,

_____
Bernita Sims, Mayor

Attest:

_____
Lisa B. Vierling, MMC
City Clerk