

City of High Point

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



Meeting Minutes

Thursday, June 18, 2009

9:00:00 AM

Council Chambers, City Hall

*Rebecca R. Smothers, Mayor
William S. Bencini, Mayor Pro Tem
Latimer B. Alexander, IV, Mary Lou Blakeney,
Foster Douglas, John Faircloth, Michael D. Pugh,
Bernita Sims, M. Christopher Whitley*

ROLL CALL, PRAYER, AND PLEDGE OF ALLEGIANCE

Present: Mayor Smothers, Council Member Bencini, Council Member Alexander, Council Member Blakeney, Council Member Douglas, Council Member Faircloth, Council Member Pugh, Council Member Sims and Council Member Whitley

APPROVAL OF THE JOURNAL OF THE PREVIOUS MEETING

The minutes of previous meetings were unanimously approved as submitted upon motion by Council Member Whitley and second by Mayor Pro Tem Bencini.

Budget Work Session; Wednesday, May 20th @ 3:00 p.m.

Budget Work Session; Thursday, May 21st @ 9:00 a.m.

Budget Work Session; Tuesday, May 26th @ 4:00 p.m.

Committee of the Whole; Monday, June 1st @ 4:45/5:30 p.m.

Regular Meeting; Thursday, June 4th @ 9:00 a.m.

CONSENT AGENDA

Upon motion by Council Member Whitley, second by Council Member Sims, all matters on the Consent Agenda were unanimously approved and/or adopted as recommended. The motion carried unanimously. [9-0 vote]

Action will be reflected throughout these minutes as being made and seconded by the same persons.

FINANCE COMMITTEE**Contract - Bid No. 48 - Chemicals for Water & Wastewater Treatment Plant****090142**

Council is requested to rescind the May 4, 2009 bid award to General Chemical Company for Aluminum Sulfate and award the bid to the next low bidder, Alchem, Inc. Purchasing and the Public Services Department recommend that the contract for Aluminum Sulfate be awarded to Alchem, Inc. in the amount of \$238,815.00 which is the lowest responsible and responsive bidder meeting specifications.

Rescinded the bid award to General Chemical Company for Aluminum Sulfate and awarded the contract to Alchem, Inc. in the amount of \$238,815.00 which is the lowest responsible and responsive bidder meeting specifications.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

Purchase of Used Refuse Trucks**090143**

Council is requested to approve the purchase of three used refuse trucks in the amount of \$210,000, to be used in the automated refuse collection program that will begin FY 2009-2010.

Approved the purchase of three used refuse trucks in the amount of \$210,000 to be used in the automated refuse collection program to begin FY 2009-2010.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

Sole Source Authorization - Radio Equipment from Motorola

090144

Council is requested to approve an exception to the bid laws under the "sole source qualification" for the purchase of equipment by the Information Technology Services Department; and approve the acquisition of the radio equipment from Motorola, Inc. in the amount of \$489,822.05.

Approved an exception to the bid laws under the "sole source qualification" for the purchase of equipment by the Information Technology Services Department and approved the acquisition of the radio equipment from Motorola, Inc. in the amount of \$489,822.05.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

Resolution - Establish Pension Trust Fund for Law Enforcement Officers Special Separation Allowance

090145

Council is requested to adopt a resolution establishing a Pension Trust Fund for Law Enforcement Officers Special Separation Allowance.

Adopted resolution establishing a Pension Trust Fund for Law Enforcement Officers' Special Separation Allowance.

Resolution No. 1525/09-53

Introduced 06/15/09

Adopted 06/18/09

Resolution Book Volume XVI, Page 167

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

Resolution - Section 5309 Capital Grant Agreement with NCDOT - Mendenhall Station

090149

Council is requested to authorize the City Manager to enter into agreement with the North Carolina Department of Transportation (NCDOT) and execute contract for the Section 5309 Capital Grant Agreement to receive funds in the amount of \$201,770 for the Mendenhall Station.

Adopted resolution authorizing the city manager to enter into an agreement with the North Carolina Department of Transportation (NCDOT) and to execute the contract for the Section 5309 Capital Grant Agreement to receive funds in the amount of \$201,770 for the Mendenhall Station.

Resolution No. 1526/09-54

Introduced 06/15/09

Adopted 06/18/09

Resolution Book Volume XVI, Page 168

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

Public Hearing - Filing of FY 2010 FTA Section 5307 Operating, Capital and Planning Grant Application**090146**

Monday, June 15, 2009 at 5:30 p.m. is the date and time established to receive public comments on the filing of the FY2010 FTA Section 5307 Operating, Capital, and Planning Grant Application for Hi tran, Dial-A-Lift, the Thomasville portion of Davidson County Transportation System, and the area within High Point served by Guilford County Transportation System.

The public hearing for this matter was duly advertised and held on Monday, June 15, 2009.

Angela Wynes, Assistant Transit Manager, explained that each year the city is required to submit an application to the Federal Transit Administration for grant funding and in order to comply with federal and state guidelines a public hearing must be held for the grant application and the filing of the grant application with FTA and NCDOT authorized by City Council.

Chairman Whitley asked if we would be increasing any of the rates and staff replied that all rates would remain the same. He pointed out that the City of Greensboro is proposing a .10 rate increase for adults and a .05 rate increase for students effective July 1st.

Council Member Douglas asked if any plans were underway to do any studies for service extensions, expanding bus service. Ms. Wynes explained that they have delayed the short-range transit plan until next year and at that time a consulting firm will be hired to do the study that will show the pros and cons.

Chairman Whitley opened the public hearing and asked if there was anyone present who would like to comment.

Larry Diggs, 1127 Biltmore Drive, expressed concerns about what he has been reading in the newspapers regarding using mass transit money for sidewalks when there was supposed to already be money in the budget for sidewalks. He pointed out that growth continues in the North High Point area, but there are no plans of extending service out this way and he would like to see funding in the budget to extend new routes. He also asked the Mayor to consider a citizens advisory council and felt Council needs more input on how public transportation operates in High Point or a Mayor's committee for handicapped and disabled. The Mayor explained there has been similar committees in the past, and Ms. Wynes explained the committees are now defunct due to lack of participation from the citizens. Mr. Diggs pointed out there might be an increased interest in public transportation right now and he really thought it would prove to be beneficial.

Council Member Alexander asked Mr. Diggs if there was a particular neighborhood or a destination that he had in mind that's currently not being served or needs to be served. Mr. Diggs reiterated that the north end of High

Point was an area that lacks service where service is needed around Piedmont Parkway, the Paladium area, off Guyer below Beaucrest, Highway 68, etc.... He pointed out that one of the reasons why there's such sporadic patronage on the buses was due to the routes and hours not being as convenient as they should be. Council Member Alexander felt there were some issues that warrant a study and agreed that it might be a good idea to create an ad hoc group to provide ideas and suggestions regarding public transportation. Council Member Faircloth also liked the idea of a group, but felt the most important thing that could be done would be to help the city encourage the use of public transportation and change the mindset of those citizens who don't use the service.

Chairman Whitley asked if there were any additional comments. There being none, the public hearing was closed.

Following the conclusion of the public hearing, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation.

Approved the filing of the FY2010 FTA Section 5307 Operating, Capital, and Planning Grant Application for Hi tran, Dial-A-Lift, the Thomasville portion of Davidson County Transportation System and the area within High Point served by Guilford County Transportation System.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

2009 Justice Assistant Grant - JAG - Public Hearing

090158

Monday, June 15, 2009 at 5:30 p.m. is the date and time established to receive public comments on the proposed spending of the 2009 Justice Assistance Grant (JAG) in the amount of \$415,193.00. this JAG grant award is awarded to three jurisdictions - Guilford County Sheriff's Department (\$105,884.20), Greensboro Police Department (\$230,830.40) and the High Point Police Department (\$78,478.40).

Chairman Whitley announced this is the date and time for an advertised public hearing on the proposed spending of the 2009 Justice Assistance Grant (JAG) in the amount of \$415,193.00. He opened the floor for comments.

Chief James Fealy was asked to come forward and provide a summary of the grant. Chief Fealy explained this was a supplemental grant of the initial JAG grant that is distributed annually and is based on crime statistics and population. He explained that the grant is shared between the City of High Point, the City of Greensboro and Guilford County Sheriff's Office with the formula being pre-set and agreed upon between the three agencies. The grants are utilized for a multitude of purposes and High Point has earmarked its portion of the grant monies for violent crimes reduction (domestic violence strategy) which would require the assistance of some experts that they haven't had in the past.

Chief Fealy pointed out that Assistant Police Chief Anita Holder from Greensboro

was present and could answer any questions pertaining to Greensboro's intent. The Mayor pointed out that the information in the packet indicated that Greensboro would be replacing vests for the officers and that Guilford County has proposed to earmark their funds for their emergency response system.

Charity Belton, 1207 Crawford Avenue, had some questions about how the grant monies would be spent and the Mayor provided the information sheet to her that identifies the allocation amounts and proposed spending of the 2009 Justice Assistance Funds. Chief Fealy further explained that this was not a competitive grant, but one that is provided to law enforcement in Guilford County and it is specifically designated how it will be divided up.

Chairman Whitley asked if there were any additional comments. There being none, the public hearing was closed.

Following the conclusion of the public hearing, the Committee recommended that this matter be placed on Thursday's Agenda with a favorable recommendation.

Acknowledgement that the public hearing was held on the proposed spending of the 2009 Justice Assistance Grant (JAG) in the amount of \$415,193.00.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be acknowledge public hearing held. The motion carried unanimously.

PUBLIC SAFETY COMMITTEE

No Truck Restriction - Garner Place Between S. Main Street & Archdale Road

090147

Council is requested to amend Article P, Section XV "Restrictions Upon Use of Streets by Certain Vehicles" of the City Ordinance - No Trucks on Garner Place from S. Main Street to Archdale Road.

Approved amendment to Article P, Section XV "Restrictions Upon Use of Streets by Certain Vehicles" of the City Ordinance - No Trucks on Garner Place from S. Main Street to Archdale Road.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

No Truck Restriction - Giles Street and Weaver Avenue to the High Point City Limits

090148

Council is requested to amend Article P, Schedule XV - "Restrictions Upon use of Streets by Certain Vehicles" of the City Ordinance - No Trucks on Weaver Avenue, east of the intersection of Giles Street and Weaver Avenue to the High Point City Limits.

Approved amendment to Article P, Schedule XV- "Restrictions Upon use of Streets by Certain Vehicles" of the City Ordinance- No Trucks on Weaver Avenue, east of the intersection of Giles Street and Weaver Avenue to the High Point City Limits.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

PLANNING & DEVELOPMENT COMMITTEE**Resolution of Intent - Street Abandonment 09-14 - CHP****090150**

Approval of a resolution of intent that establishes a public hearing date of Monday, July 20, 2009 at 5:30 p.m. to consider a request to abandon an unnamed alley, lying approximately 425 feet east of Hurdoover Street between Edgedale Drive and Hillcrest Drive, with a small portion of the alley located north of Hillcrest Drive.

Adopted resolution of intent establishing the date of Monday, July 20, 2009 at 5:30 p.m. to consider public comment regarding a request to abandon an unnamed alley, lying approximately 425 feet east of Hurdoover Street between Edgedale Drive and Hillcrest Drive, with a small portion of the alley located north of Hillcrest Drive.

Resolution No. 1527/09-55

Introduced 06/15/09

Adopted 06/18/09

Resolution Book Volume XVI, Page 169

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

Resolution of Intent - Street Abandonment 09-15 - CHP**090151**

Approval of a resolution of intent that establishes a public hearing date of Monday, July 20, 2009 at 5:30 p.m. to consider a request to abandon an unimproved portion of Chiquola Avenue, lying east of Hurdoover Street between Edgedale Drive and W. Farriss Avenue.

Adopted resolution of intent establishing Monday, July 20, 2009 at 5:30 p.m. as the date and time to solicit public comment regarding a request to abandon an unimproved portion of Chiquola Avenue, lying east of Hurdoover Street between Edgedale Drive and W. Farriss Avenue.

Resolution No. 1528/09-56

Introduced 06/15/09

Adopted 06/18/09

Resolution Book Volume XVI, Page 170

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

Ordinance - Rezoning Case 09-04 - Wagner Properties**090152**

A request by Wagner Properties to rezone a 0.2 acre parcel (approximately 8,700 sq. ft.) from the General Office Moderate-Intensity (GO-M) District to a General Business (GB) District. The site is lying along the west side of Pine Street, approximately 200 feet north of Church Avenue.

The public hearing regarding this matter was duly advertised and held on Monday, June 15, 2009 at 5:30 p.m.

Herb Shannon of Planning and Development gave an overview of the staff report. [staff report will be attached in Legistar as a permanent part of these proceedings]

In the absence of Chairman Bencini, Mayor Smothers presided over the public hearing. The public hearing was opened for comments.

Libby Cheek and Sharon Wilson, representing Wagner Properties, spoke in favor of the request. Ms. Cheek stated they would like the property to be under one zoning district (General Business).

Mayor Smothers asked if there were any additional comments in favor of or in opposition to the request. There being none, the public hearing was closed.

Following the conclusion of the public hearing, action was taken to place this matter on today's Agenda with a favorable recommendation for adoption.

Adopted ordinance providing for the rezoning of this property with a statement of consistency that the request is consistent with the City's Land Use Plan based upon the findings of fact as outlined in the staff report and that the approval of the applicant's request is reasonable and in the public interest because:

- 1. The requested GB District is generally consistent with the Land Use Plan for this area, as this is where commercial land uses transition to office land uses;*
- 2. The request is not introducing a new use into this area, the current commercial use has been located upon the specific zoning site for over 25 years; and*
- 3. the request allows the zoning on the site to reflect the existing use of the property and allows this long-standing commercial development to fall under the regulations of only one zoning district.*

Ordinance No. 6625/09-25

Introduced 06/15/09

Adopted 06/18/09

Ordinance Book Volume XVI, Page 110

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

Ordinance - Rezoning Case 09-05 - City of High Point

090153

A request by the City of High Point to rezone approximately 21.9 acres from the Residential Multifamily-8 (RM-8) District and Residential Multifamily-12 (RM-12) District to a Public & Institutional (PI) District. The site is lying at the four corners of S. College Drive & Leonard Avenue.

The public hearing regarding this matter was duly advertised and held on Monday, June 15, 2009 at 5:30 p.m.

In the absence of Chairman Bencini, Mayor Smothers presided over the public hearing.

Herb Shannon of Planning and Development gave an overview of the staff report. [staff report will be attached in Legistar as a permanent part of these proceedings]

Council Member Sims asked staff why consideration wasn't given to all the churches in the area to expand the zoning. Mr. Shannon explained that staff's intent was to focus solely on the churches within the intersection and that the churches on down Leonard are permitted in the multi-family zoning. Council Member Alexander asked about the setbacks for Public-Institutional as it relates to its adjacent nature of residential. Mr. Shannon explained the main advantage was they would have would be no limitation on building coverage and pointed out there would be no negative impact to the church.

The Mayor asked if there were any additional questions for staff. There being none, the public hearing was opened for comments. There was no one present to speak in favor of or in opposition to this request. The public hearing was closed.

Following the conclusion of the public hearing, action was taken to place this matter on today's Agenda with a favorable recommendation for adoption.

Adopted ordinance providing for the rezoning of this property based upon a statement of consistency with the City's Land Use Plan and the findings as outlined in the staff report and that the approval of the applicant's request is reasonable and in the public interest because:

- 1. These existing institutional uses are long standing facilities and the PI District more accurately reflects the manner in which the area has developed;*
- 2. Rezoning to PI district would not affect the continued use of*

existing churches and would allow Baldwin's Chapel to conduct temporary outdoor religious events without being in violation of the Development Ordinance;

- 3. The proposed PI District would eliminate the current non-conforming status of the police station property and allow its expansion, this is in keeping with Goal #4 of the Land Use Plan which speaks to ensuring required public services and facilities are sequenced to meet demands of development; and*
- 4. The zoning site is located upon the outer edge of adjacent residential subdivision and have developed and been used as institutional uses for several decades, current and other allowable PI District uses are not expected to negatively impact adjacent residential property owners.*

Ordinance No. 6626/09-26

Introduced 06/15/09

Adopted 06/18/09

Ordinance Book Volume XVI, Page 111

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

Resolution - Street Abandonment 09-12 - City of High Point

090156

A request by the Technical Review Committee to abandon an unimproved portion of right-of-way known as Hicks Place, lying north of W. State Avenue and Hicks Place.

The public hearing for this matter was duly advertised and held on Monday, June 15, 2009 at 5:30 p.m.

[a copy of the staff report will be attached to Legistar as a permanent part of these proceedings]

In the absence of Chairman Bencini, Mayor Smothers presided over the public hearing.

The Mayor opened the floor for public comment and asked if there was anyone present who would like to speak in favor of or in opposition to this street abandonment request. There being no one present to comment, the public hearing was declared closed.

Following the conclusion of the public hearing, action was taken to place this matter on today's Agenda with a favorable recommendation for adoption.

Adopted resolution authorizing the abandonment of an unimproved portion of

right-of-way known as Hicks Place, lying north of W. State Avenue and Hicks Place.

Resolution No. 1529/09-57 Introduced 06/15/09
Adopted 06/18/09
Resolution Book Volume XVI, Page 171

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

Resolution - Street Abandonment 09-13 - City of High Point

090157

A request by the Technical Review Committee to abandon an unimproved portion of right-of-way known as W. Dayton Avenue, lying west of the intersection of Long Street and W. Dayton Avenue.

The public hearing for this matter was duly advertised and held on Monday, June 15, 2009 at 5:30 p.m.

[a copy of the staff report will be attached to Legistar as a permanent part of these proceedings]

In the absence of Chairman Bencini, Mayor Smothers presided over the public hearing.

The Mayor opened the floor for public comment and asked if there was anyone present who would like to speak in favor of or in opposition to this street abandonment request. There being no one present to comment, the public hearing was declared closed.

Following the conclusion of the public hearing, action was taken to place this matter on today's Agenda with a favorable recommendation for adoption.

Adopted resolution authorizing the abandonment of an unimproved portion of a right-of-way known as W. Dayton Avenue, lying west of the intersection of Long Street and W. Dayton Avenue.

Resolution No. 1530/09-58 Introduced 06/15/09
Adopted 06/18/09
Resolution Book Volume XVI, Page 172

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

REGULAR AGENDA ITEMS

FINANCE COMMITTEE -Council Member Whitley, Chair

Adoption of City of High Point Annual Budget and Related Ordinances and Resolutions for FY 2009-2010 and Adoption of Revised Fee Schedules

090160

Council is requested to adopt the 2009-2010 Budget Ordinance for the City of High Point and related ordinances and resolutions and adopt the revised fee schedules for Water & Sewer Rates and establish the automated recycling collection fee.

The two public hearings for the proposed budget were held as follows:

Monday, June 1, 2009 at 5:30 p.m.

Thursday, June 4, 2009 at 9:00 a.m.

Chairman Whitley moved adoption of the City of High Point annual budget and related ordinances, including the \$1 fee for the toter pick up to include the sunset language that it not exceed 60 months without Council approval. Mayor Pro Tem Bencini made a second to the motion.

Council Member Alexander then offered the following substitute motion:

Substitute motion to approve the Managers budget outlining a tax rate of \$.63.3 cents per \$100 of property value as presented with modifications

1. To award to NCSF \$50,000 in HP Theater Rental credit and for that \$50,000 to be reduced from HP Arts Council - Special appropriations Account #529409. This leaves HP Arts \$123,224 to be paid in check.
2. To hold for future award \$50,000 for High Point Workforce Alliance with the following conditions: The funds to be released by HP Council following a formal report to HP Council detailing (a) The progress made, in cooperation with educational and workforce preparedness organizations active in the High Point area, on each of the Seven Strategies set forth in the Workforce Development Strategic Plan, and (b) The commitment by area private sector businesses, industries and supporting organizations for funding of ongoing operations of the Alliance, and (c) The work plan of the Alliance for going forward in furtherance of the project.

The source of funds to be reducing City Council's Election Account by \$50,000 - account number #529415.

Council Member Faircloth made a second to Council Member Alexander's substitute motion.

Council Member Bencini asked if it would be possible to deal with each of amendments separately. The Mayor asked for a ruling from the city attorney. JoAnne Carlyle, Assistant City Attorney, explained Council Member Alexander would have to agree to severing it since he made the substitute motion. Council Member Alexander replied that he made the substitute motion the way he wanted it to be considered.

At this time, Council Member Pugh made a motion to sever the two substitute motions so they could be acted on individually. Ms. Carlyle reiterated that Council Member Pugh's motion to sever would be out of order until the substitute motion is actually voted on, or Council Member Alexander could agree to its severance.

Mayor Smothers expressed discomfort and felt this puts the Council Members who have disagreement with the additions that Council Member Alexander proposed in the position of not supporting the budget or supporting those additions and she felt this would be sending the wrong message to the staff and it would appear that Council does not support the work they've done. Council Member Pugh agreed with the Mayor. Council Member Bencini pointed out that he would vote against the substitute motion because he didn't want to deal with two changes as one item.

At this time, Chairman Whitley withdrew his original motion. Mayor Smothers noted that the substitute motion now becomes the main motion.

Following the withdrawal of Chairman Whitley's original motion, Council Member Pugh made a substitute motion to separate the two items and vote on them separately (with the concurrence of Council Member Alexander). Mayor Pro Tem Bencini made a second to Council Member Pugh's substitute motion.

Mayor Smothers called for a vote on the substitute motion dealing with a separate vote for the two items that would be amendments to the motion regarding the budget. The substitute motion failed by a 4-5 vote as follows:

Votes: Aye: Smothers, Pugh, Bencini and Whitley
 Nay: Alexander, Sims, Blakeney, Douglas, Faircloth

At this time, Chairman Whitley offered comments regarding the main motion. He pointed out that of the \$125,000 not the \$125,000 plus the \$58,000 (that \$125,000 was the amount actually going to the affiliates from the Arts Council). Of the \$125,000 the Shakespeare Festival received \$24,180 last year and the year prior they received \$24,569. He pointed out of the \$75,000 the Shakespeare Festival received this past year, only \$24,180 came from the High Point pot of money with the rest coming from fund drives, wine tastings, arts ball, county funding and other agencies. He felt it was totally unfair to turn around and take \$50,000 out of the Arts Council's \$125,000 operating budget because this would slash programming of all the other affiliates (i.e. Community Theatre, Ballet, Community Concert, Carousel Theatre, Piedmont Artists, etc...). Chairman Whitley voiced strong objections to take \$50,000 out of one organization to give it to another organization that happens to owe the city that amount of money--especially when the Council has had to cut road improvements, freeze city employee salaries as well as many other reductions in the proposed budget.

Regarding the work force development, Chairman Whitley asked how much money the city has already put into it. City Manager Strib Boynton replied that the city has spent \$300,000 plus on work force issues. He felt this was essentially an attempt to turn around and create a position for one individual who would duplicate services already being duplicated in the county and the employees, taxpayers and citizens were allowed to suffer just for the simple interest of a few people. Mayor Smothers stated she felt work force development was a very important responsibility of the elected leadership and that part of that responsibility was in the birthing of it and after that it had gathered sufficient strength and support in the business community to keep it ongoing. She found it difficult to reconcile that the Chamber of Commerce was

putting such a high priority on it when the Chamber cut the work force position on their staff. She expressed concerns that the plan that was developed by the organizations that spent over a year working on a strategic plan has not been fulfilled to the degree that she felt it should be.

Council Member Pugh commented that this put him in an awkward position regarding the entire budget because he does support the Arts Council as well as the work force preparedness, but there were also things he would not support. Mayor Smothers felt Chairman Whitley expressed very well some of the conflicts that Council has particularly in regard to freezing salaries, elimination of positions, and potentially diminishing of services due to the uncertainty of what the final funding streams will be as well as the uncertainty of the economy. She also pointed out that although Council appears to be very divided about the issue related to the arts, it should be in no way constructed that Council does not support the United Arts Council as well as the Shakespeare Festival, but it comes down to the issue of affordability and service to the greatest number of people. She explained the Shakespeare Festival has reduced the number of plays they plan to perform at the Theatre the year and it appears that the city is actually subsidizing the Theatre rental at a higher amount and this wasn't fair to the other affiliates who have worked hard to try to generate sufficient funds to keep their programs ongoing.

The Mayor asked if there were further comments. There being none, she called for a vote on Council Member Alexander's motion as follows:

motion to approve the Managers budget outlining a tax rate of \$.63.3 cents per \$100 of property value as presented with modifications

1. To award to NCSF \$50,000 in HP Theater Rental credit and for that \$50,000 to be reduced from HP Arts Council - Special appropriations Account #529409. This leaves HP Arts \$123,224 to be paid in check.
2. To hold for future award \$50,000 for High Point Workforce Alliance with the following conditions: The funds to be released by HP Council following a formal report to HP Council detailing (a) The progress made, in cooperation with educational and workforce preparedness organizations active in the High Point area, on each of the Seven Strategies set forth in the Workforce Development Strategic Plan, and (b) The commitment by area private sector businesses, industries and supporting organizations for funding of ongoing operations of the Alliance, and (c) The work plan of the Alliance for going forward in furtherance of the project.

The source of funds to be reducing City Council's Election Account by \$50,000 - account number #529415.

The motion carried by a 5-4 vote as follows:

Votes: Aye: Council Members Alexander, Faircloth, Blakeney, Sims and Douglas
Nay: Mayor Smothers, Mayor Pro Tem Bencini, and Council Members Pugh and Whitley

Adopted Budget Ordinance for FY 2009-2010; Schedule of Water and Sewer fees and charges, effective for bills dated January 1, 2010; and Resolution authorizing a \$1

Automated Recycling Fee for addresses receiving utility services effective July 1, 2009 for a term not to exceed 60 months.

Ordinance No. 6627/09-27 **Introduced 06/15/09**
Adopted 06/15/09
Ordinance Book Volume XVI, Page 112

Resolution No. 1531/09-59 **Introduced 06/15/09**
Adopted 06/18/09
Resolution Book Volume XVI, Page 173

A motion was made by Council Member Alexander, seconded by Council Member Faircloth, that this matter be adopted. The motion carried by the following vote:

Votes: Aye: Council Member Alexander, Council Member Blakeney, Council Member Douglas, Council Member Faircloth and Council Member Sims
Nay: Mayor Smothers, Council Member Bencini, Council Member Pugh and Council Member Whitley

Resolution - Amending Electric Utility Rate Schedule

090134 Adoption of a resolution amending the Electric Utility Rate Schedule increasing rates and charges for the electric utility for availability demand and consumption by 4.0% effective for bills dated on or after July 1, 2009.

Adopted resolution amending the Electric Utility Rate Schedule increasing rates and charges for the electric utility for availability demand and consumption by 4.0% effective for bills dates on or after July 1, 2009.

Resolution No. 1532/09-60 **Introduced 06/15/09**
Adopted 06/18/09
Resolution Book Volume XVI, page 174

A motion was made by Council Member Whitley, seconded by Mayor Pro Tem Bencini, that this matter be adopted. The motion carried by the following vote:

Votes: Aye: Mayor Smothers, Council Member Bencini, Council Member Alexander, Council Member Blakeney, Council Member Douglas, Council Member Faircloth, Council Member Sims and Council Member Whitley
Nay: Council Member Pugh

Electric Rate Rider REPS - Renewable Energy Portfolio Standards (REPS) Charge

090131 Council is requested to approve the Electric Rate Rider (REPS) for the Renewable Energy Portfolio Standards (REPS) Charge.

Approved the Electric Rate Rider (REPS) for the Renewable Energy Portfolio Standards (REPS) Charge.

A motion was made by Council Member Whitley, seconded by Mayor Pro Tem Bencini, that this matter be approved. The motion carried by the following vote:

Votes: Aye: Mayor Smothers, Council Member Bencini, Council Member Alexander, Council Member Blakeney, Council Member Douglas, Council Member Faircloth, Council Member Sims and Council Member Whitley
Nay: Council Member Pugh

2009-2010 Annual Budget - High Point Convention & Visitors Bureau

090162 Council is requested to approve the annual budget for the High Point Convention & Visitors Bureau (CVB) for FY 2009-2010 and authorize the City Manager to execute the contract agreement as presented by the CVB Board of Directors.

Approved the annual budget for the High Point Convention & Visitors Bureau (CVB) for FY 2009-2010 and authorized the city manager to execute the agreement as presented by the CVB Board of Directors.

A motion was made by Council Member Whitley, seconded by Council Member Faircloth, that this matter be approved. The motion carried unanimously.

2009-2010 Annual Budget - International Home Furnishings Market Authority

090163 Council is requested to approve the FY 2009-2010 Budget for the International Home Furnishings Market Authority (Market Authority).

Approved the annual budget for the FY 2009-2010 Budget for the International Home Furnishings Market Authority (Market Authority).

A motion was made by Council Member Whitley, seconded by Council Member Faircloth, that this matter be approved. The motion carried unanimously.

Purchase of Property - 1220 Kersey Valley Road

090165 Council is requested to authorize the City Attorney's office to proceed with the purchase of property located at 1220 Kersey Valley Road, belonging to Nancy Priddy. Purchase amount is \$138,000.00. This property is being purchased for landfill expansion.

Motion was made by Council Member Whitley, seconded by Mayor Pro Tem Bencini to suspend the rules relative to placing this matter on today's Agenda for consideration since it did not originally appear on the Agenda. The motion carried unanimously. [9-0 vote]

Chairman Whitley explained that this is property that the city has been attempting to acquire for quite some time and is needed for the landfill expansion.

Authorized the City Attorney's office to proceed with the purchase of property located at 1220 Kersey Valley Road, belonging to Nancy Priddy. Purchase amount is \$138,000.00. This property is being purchased for landfill expansion.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

PLANNING & DEVELOPMENT COMMITTEE - Council Member Bencini, Chair

Resolution of Consideration - Identifying Area Under Consideration for Annexation

090159 Council is requested to adopt a resolution identifying the area under consideration for annexation and providing notification pursuant to GS 160A-49(i).

At the Monday, June 15, 2009 Committee of the Whole Meeting, this matter was recommended for approval as recommended by staff, however due to a tie vote, it appears on today's regular agenda.

_____ Transcript of Discussion: June 18, 2009 _____

Bencini: I understand that we had a tie vote.

Mayor: We did and there are a couple of people here who had asked that they might speak. I know Ms. Small had e-mailed me and I did tell her-I tried to summarize what I thought was a fair representation of what we had done and also to explain to her that this in no way does initiate any annexation. It's just a continuation of the authority to possibly annex at some future date in the next two years. Nothing would happen for at least a year in terms of action. But at any rate I had told them that they could have three minutes to express their opinion if the Council is agreeable.

Bencini: If you would like to speak come forward and identify yourself, name and address and as the Mayor said, you have three minutes to express your opinion.

Karen Small: Good morning. My name is Karen Small. I live at 1103 Bales Chapel Road, Jamestown, North Carolina. I'm here this morning to talk about forced annexation. High Point citizens do not use forced annexation, yet if you vote to continue the resolution of consideration, it sends a message that you are leaving a place for legal ground for forced annexation. Our area has been hard hit because of the city's old sewer line. With years of reoccurring horrible sewer smells, massive spills and cave ins along the line and then three more years of disruptive activities associated with the construction of the new sewer line (excessive blasts have damaged houses, wildlife, killed massive numbers of trees and made life very stressful for folks in our area. It has also opened up a major through farethrough

the woods; trespassing has become a big problem. Our cries for help have been largely ignored. Now after all this you have the nerve to use a buried sewer line as the basis for justification for annexing us into High Point simply for tax generation purposes. Hasn't our area been burdened enough? Our families major concern is not the tax burden although for some in our area that burden would be catastrophic. We are concerned that our whole way of life will change unnecessarily. We do not need services from High Point, nor do we want services from High Point. There are no guarantees that we will receive those services within the time frame that the law requires if we are annexed. There are people who have waited years while paying taxes to receive services that have not received them yet. So is our situation any different? We need your help in protecting open green spaces and to allow certain areas in Guilford County to remain rural in order to protect the watershed. The Mayor and city manager both have said in the news and in the paper the city does not use forced annexation and that we are not targeted, but your actions say differently. The trust issue involved here is huge and the city needs to reestablish that trust. Your words and your actions must line up. The resolution council passed April 6th supporting the North Carolina statutes that do not allow citizens a voice in the annexation process speak volumes about how you are going to conduct yourself at the expense of citizens property rights. The Wooten Study commissioned by High Point has been a land use study or a property inventory survey. This is not true. You have commissioned a potential involuntary annexation study. If you want to plan, go ahead and plan. If you want to annex call it what it is. It has been said that you're merely filling in donut holes, but look at the map where certain properties are included yet large tracts of land on the fringe are excluded. It looks like you wanted to _____ density by reducing acreage. It is as if you're holding a loaded gun to our heads and swearing you won't shoot. Today you are voting whether to continue the resolution of consideration already in place. The continuance will allow you to impose the resolution of intent and then in given time thereby annexing us. I'm asking that each of you vote no to the resolution of consideration and keep the promises you have made to the people Section 13 under midterm involuntary annexation maps.

Mayor: thank you Ms. Small. Now you have seen the new map correct?

Bencini: Thank you, is there anybody else that would like to speak?

Marianne Royle, 1609 Squire Davis Road. Good morning and thank you for letting me speak. I am Marianne Royle and I live at 1609 Squire Davis Road, Kernersville. As a resident of Guilford County, I have no vote in High Point, so I'm glad to have the opportunity to tell you of my concerns and that of my neighbors beyond your city limits. The Resolution of Consideration which Mr. Lee Burnette has sent to Council is "to identify the area that the city would like to continue to have under consideration for annexation", and is to enhance the city's timeline affecting

annexation. This resolution is important if the city is in a hurry, as annexation can take place as soon as 70 days after you vote to annex.

The High Point Economic Development Corporation website states that "High Point currently totals 55+ square miles, and "High Point is well positioned for expansion north, east and west growing eventually to a total of 92 square miles." We have no objections to the city annexing the so-called "donut holes" shown on city maps-if residents are already receiving the city services of water, sewer, police and fire, and wish to be part of the city. WE DO object to involuntary annexation of the pristine farms, the forested areas, the small homesteads, the many streams and watersheds within your proposed annexation area (see map page 4 of the resolution). With suspect food being imported from foreign countries and distant states, enlarging our carbon footprint and putting us at risk of food-borne illnesses, we need to keep and encourage all local farms as safe food supply sources-not raze forests and pave over acres for yet more sprawl.

We, along with many others across the state, have been working hard to get House and Senate bills passed that would give residents a referendum on being annexed. This is being fought by lobbyists of the NC League of Municipalities. We HAVE no lobbyists and no financing-only our citizens' voices.

Finally, I earnestly ask that you vote against the resolution of consideration. Thank you.

Bencini: Thank you Marianne. Anyone else care to speak? I guess then we can proceed. Before I make a motion Madam Mayor I just want to point out that the resolution and the map that it reflects...this annexation resolution has nothing to do with our growth areas beyond our traditional corporate bounds. It doesn't have anything to do with the Heart of the Triad. It doesn't have anything to do with the Northeast Davidson County Area Plan. It doesn't have anything to do with the area down between us and Trinity. It has nothing to do with our neighbors to the east and largely it has nothing to do with the legislative dialogue that's going on in Raleigh about the future of forced annexation. This is about the City of High Point cleaning up those edge areas, donut holes, and that's all it's about. So I understand the concerns about annexation. I know that this is one of the most controversial things that folks that don't live in the city have to deal with and that it causes great concern, but I think the action of adopting this resolution does little to impact the reality of the future of annexation one way or the other. But I think that it is in the city's best interest as a good planning tool to go forward and I would like to go ahead then and make a motion that we approve the continuation of this annexation resolution.

Alexander: Second.

Mayor: I have a motion and a second for the adoption of the resolution that is currently an amended version from the original resolution which was adopted two years ago.

Bencini: And that is smaller and not a larger area.

Mayor: Yes, it is smaller.

Faircloth: Comments Mayor?

Mayor: Yes sir.

Faircloth: May I ask a question of the attorney? The procedure for annexation with respect to this resolution, what does the resolution in terms of time period, what does the resolution require us to do as the next step if we were going to annex.

Carlyle: I'm sorry I can't speak to the timetable on that.

Mayor: I think it's a year.

Faircloth: I'm trying to see what the advantage is of having it or not.

Heidi: I think I understand the question as what is the advantage of continuing the resolution of consideration. Once you adopt the ordinance you don't have to wait a year for the process for it to be effective. That is the advantage.

Faircloth: So if we're not considering annexation now which I have heard most people say for at least a year, a year from now if we decided to consider annexation we could adopt this resolution at that time and move forward? Is that right, or do we have to wait another year?

Heidi: You'd have to wait another year. By having it lapse, you will have to wait a year at the end of the process.

Faircloth: Thank you. That answers that question and one other comment Mayor. If you'll notice how the agenda addresses this item, it says Council is requested to adopt a resolution identifying the area under consideration for annexation and providing notification pursuant to G.S. etc.... We all know sitting up here what we're talking about here and this has been clarified as far as time period, but it is, I think it is a misuse of the system if we are not considering annexation at this time to plug in this resolution just so that we have it there in case. It almost looks like we're trying to beat the public out of a year of notification if we decide to do something and I think that sends the wrong signal. I don't think our intent is to do

anything as far as forced annexation anytime in the foreseeable future. We've grown by 30%....tape changed to Side B...having voluntary annexation and I think that will continue, but I'm just concerned that in the current environment around the discussion of annexation, this looks like a shortcut and I have to vote against it.

Pugh: If we have no intent of annexing in the next year, I don't see the purpose of adopting this resolution. I agree with Mr. Faircloth. It sends out a signal that even though we sit up here and say we're not going to annex you, but it gives us the right in the next year to do so. Why do we want that right if we don't have a plan to do it?

Bencini: Again, it goes back to the original intent of what this Council has been talking about for some time and that is to have the opportunity to fill in some of those donut holes that we have out there and you know, that's the reason for it and if we want to do it and we let it lapse, the city is penalized a year for doing that and I don't see what purpose that serves as well.

Pugh: Well the line is drawn outside the donut holes. It extends out beyond the donut holes.

Sims: Not very much.

Pugh: Not very much, but it still extends out beyond the donut holes.

Bencini: Well I think we all agree that it pretty much encapsulates what has been considered our traditional boundaries of our corporate city limits. It doesn't.....if you'll look at the map, look at all the green area that we could go out if we were aggressively trying to do forced annexations, look at that area. I mean it dwarfs what we're talking about here folks. Let's don't get off target. This is to address those fringe and donut hole areas and that's it. It gives us the planning tool in case we want to do it without being penalized a year if we let this lapse.

Mayor: I don't think all that green area would qualify for involuntary annexation. That's just part of the study area.

Bencini: It's in the High Point Planning area and I think to a large extent, it is annexable by the City of High Point. Can staff speak to that?

Heidi: The report that we'll be presenting to you soon will show you in the Planning area what areas will qualify, but not all areas do qualify. In the area of consideration, you don't have to do all of it.

Bencini: Right, you can pick pieces and I know staff, traditionally....what we define the North main and Lexington corridor portion of the Core City Plan, I think it was

never the intent of the Council to really extend it to the point that they did as staff has always told us it's better to start larger and then shrink it back than to tie your hands and not be able to go to the limit line that's been drawn here. That limit line has already shrunk once during the discussions at Mr. Alexander's suggestion so I don't think that there's any way that we can interpret this as a Council as being an over aggressive action here and I do agree with John. We are in an environment where people are fearful about the whole word "annexation" but I think, Madam Mayor, you were around when we did the last forced annexation and it was what.....1983.

Mayor: It was actually around 1980, it took a couple of years to get it resolved.

Bencini: To paint the City of High Point as an aggressive entity that's trying to force animals and people off rural land is not a valid characterization and I think this is a planning tool and something that we can use in the future to clean up those areas that we all know we've been contemplating for years of cleaning up. So it's no more than that and I think it's unfortunate that it's been thrown into the discuss as part of the overall larger discussion that's going on in Raleigh about forced annexation.

Mayor: I think, you know, the timing also is part of a problem, but it seems to me that we have mixed some things out of just government's way of working. The staff, I believe, was correct in advising us to look at our planning area. I mean if you're going to engage a consultant, you don't just do two blocks, you go ahead and look at all that would be within your jurisdiction in terms of service and it also should line up with annexation agreements and other agreements that are in place, so that was correct. But what happened....you know we started out talking about donut holes and then we went to the planning study and it got enlarged and then suddenly it was all about annexation when in truth I think our primary concern is land use and the ability to make sure that there is appropriate application of development. You know, certainly Marianne and Karen, this Council.....I don't know of any Council that wants to annex a working farm. I mean that makes no sense at all and there are watershed issues that are very important to High Point which is why we were so concerned about gaining control of the development in the northwest. Because we have seen what has happened with unrestricted land use with septic tanks and wells and stuff that doesn't really help anybody except a quick buck for the property owner that wants to flip it. But at any rate, I'm very sorry because I think Bill's right. This has gotten distorted and it was, I guess it's one of those unintended purposes that it happened. I'm not going to support it because here again I think it is a trust issue and the only way to get back is to wipe it all clean and say okay donut holes, yeah, okay we can start next week on those if we want to do that.

Whitley: Madam Mayor, I'd like to make a couple of remarks. I will say one thing,

the 1983 annexation did close down active farms. A good friend of mines dad had to end up closing business. It does do that on occasion, but that's not what this Council's intent is. I want to talk a little bit about my original reason for not proceeding a few months ago when it was in the paper. You know this economy is very bad. To turn around and even consider....what essentially we'll be doing is proposing to annex over the next two years. That's what the goal of this resolution is. At some time in the next two years, the city's intent is to annex these donut holes or the fringes or whatever else is on the map. You know, I watched Glenn Beck's program a couple of days ago and based on a visitor he had on there who showed a graph, this country's not over the mortgage bubble. We got over all those clowns who had no business having mortgages which has caused a problem now, but now it's going to start hitting the adjustable rate mortgages as well as those....the normal people who qualified the right way for mortgages. Between now and 2012, we're fixing to go through the exact thing we went through last year and to turn around and consider annexation on any area for folks who are already struggling not only out there, but in the city. We've held our tax rate and we're hoping to hold it next year which is probably very unlikely. To turn around and tell these folks out here that there's a possible tax increase, not by way of increasing the rate, but just by the fact that we took you into the city to add services. I'm not sure that's the right message that this country needs at this time to proceed in this area. I think we can live without it. We've already heard statements from members of Council, well the intent's not really to annex, this is just to proceed on. Fine. We've got Raleigh messing with legislation. They've been messing with it for years. Let's let them work that through. We shouldn't be in any hurry to annex right now. Let's just let it hold. There's no rush. I don't know what the intent of this Council is just to keep slamming it down the citizen's throats. That's my remarks. I will not support this resolution.

Mayor: Thank you Mr. Whitley. Any further comment?

Pugh: Yeah, there's very few rights left to the American people and one is the property rights and I think that's one of the most important rights nowadays that a person has is property rights. I can't support this.

Mayor: Further comment? [none] Ready for the vote? All in favor of the adoption of the resolution of consideration, please raise your hands. One, two, three, four. [Alexander, Bencini, Blakeney, Sims] Those opposed? One, two, three, four, five....the motion fails. [4-5 vote] [dissenting: Pugh, Douglas, Whitley, Smothers, Faircloth]

[end of transcript]

Motion to adopt resolution failed by a 4-5 vote.

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Alexander, that this matter be failed. The motion failed by the following vote:

Votes: Aye: Council Member Bencini, Council Member Alexander, Council Member Blakeney and Council Member Sims
Nay: Mayor Smothers, Council Member Douglas, Council Member Faircloth, Council Member Pugh and Council Member Whitley

Ordinance - Text Amendment 09-04 - City of High Point

090154

Revised and remanded by City Council for reconsideration

A request by the Planning & Development Committee to amend Table 4-5-1 "Permitted Use Schedule" and Section 9-5-2 "Development Standards for Individual Uses" of the Development Ordinance pertaining to Family Care Homes.

The public hearing for this matter was duly held and advertised on Monday, June 15, 2009.

[the staff report will be attached in Legistar as a permanent part of these proceedings]

Note: This matter was initially brought before City Council on May 18, 2009 (Matter No. 090116). At that time, a motion was made to adopt the ordinance providing for Text Amendment 09-04 incorporating the one-quarter mile distance requirement; however, this motion failed by a 3-5 vote. After this vote was taken, a motion was made to direct staff to look at the one-half mile. This motion carried by a 7-1 vote and this is the matter appearing before City Council today for consideration.

___ Public Hearing comments: June 18, 2009 ___

In the absence of Chairman Bencini, Mayor Smothers presided over the public hearing.

Council Member Alexander mentioned an active case in Durham and asked if there was anything that addresses the number of people that could be limited or used in one of these group homes. Lee Burnette, Director of Planning and Development, explained that the state statute spells out six and the statutes are silent as far as zoning so the city picks up at this point and refers to them as group homes. The group homes are allowed in office and multi-family zones with a special use permit. He pointed out that group homes with more than six individuals are currently not allowed in residential single-family districts. Council Member Alexander felt this case could probably affect the city on a state-wide basis.

City Attorney Fred Baggett explained the case is actually in Garner and he has seen the court filings in the case and studied it as well

and has discussed it with the city attorney. He further explained that it makes for a very high standard for a local government to meet because there would have to be some sort of mechanism regardless of regulations to assess whether the regulations need to be in a particular case as a reasonable accommodation. He informed Council that he continues to watch the case and noted that the Fourth (Federal) Circuit has not yet adopted the Justice Department's view of the Fair Housing Act, while other jurisdictions have.

Council Member Pugh pointed out that since this is a state regulated facility and licensed by the state, the state should set the regulations for the facilities such as the square footage requirements, etc....

Mayor Smothers opened the floor for public comment regarding this text amendment. There being no one present to comment, the public hearing was declared closed.

Prior to a vote on the matter, Bob Robbins of Planning and development explained staff inadvertently left the one-fourth mile in the Text Amendment contained in the packets and distributed the amended Text Amendment 09-04 identifying the use separation as follows: "No family care home shall be established within a one-half mile radius of an existing family care home." He explained that should Council adopt the one-half mile version, they would need to make a change in that to reflect this decision by noting the change from a one-quarter mile to a one-half mile and that Council should agree with the overall findings in the staff report.

At this time, Council Member Alexander moved to place this matter on Thursday's Agenda with a favorable recommendation for adoption of Text Amendment 09-04 citing the one-fourth mile. Council Member Sims made a second to the motion.

Council Member Whitley offered a substitute motion to place this matter on Thursday's Agenda with a favorable recommendation for adoption of the Text Amendment with the one-half mile as handed out by staff. Council Member Faircloth made a second to the substitute motion.

Mayor Smothers called for a vote on the substitute motion to recommend adoption of the Text Amendment with the one-half mile.
The motion carried by a 5-3 vote.

Due to three dissenting votes, this matter will be placed on Thursday's Regular Agenda.

[end of public hearing comments on June 15, 2009]

June 18, 2009

Adopted Text Amendment 09-04 amending Table 4-5-1 "Permitted Use Schedule" and Section 9-5-2 "Development Standards for Individual Uses" of the Development Ordinance pertaining to Family Care Homes that "No family care home shall be established within a one-half mile radius of an existing family care home."

*Ordinance No. 6628/09-28 Introduced 06/15/09
Adopted 06/18/09
Ordinance Book Volume XVI, Page 113*

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Sims, that this matter be adopted. The motion carried by the following vote:

Votes: Aye: Mayor Smothers, Council Member Bencini, Council Member Blakeney, Council Member Douglas, Council Member Faircloth, Council Member Pugh, Council Member Sims and Council Member Whitley
Nay: Council Member Alexander

Ordinance -Text Amendment 09-05 - City of High Point

090155

A request by the City of High Point to amend Section 9-4-17(b) of the Development Ordinance, entitled "Nonconforming Use of Land", to limit the period of cessation for nonconforming uses in the Main Street (MS) District.

The public hearing for this matter was duly held and advertised on Monday, June 15, 2009.

Public Hearing Comments: June 15, 2009

[a copy of the staff report for this matter will be attached to Legistar as a permanent part of these proceedings]

Mayor Smothers noted this matter has been discussed in the Planning and Development committee and asked if there were any additional questions.

Council Member Alexander voiced concerns regarding the 30-day cessation period for non-conforming uses within the Main Street District and felt it was rather rapid. He also expressed concerns regarding the lack of a report mechanism being in place to verify

when the nonconforming use ceases. Doug Loveland of Planning and Development explained that the utility records could be used, but staff's decision would be based on several factors not just on utility records, inventory, etc.... Lee Burnette, Director of Planning and Development further explained that staff would gather and weigh evidence based on each individual case and a determination would be made as to whether or not they cease the use and when which would require some research and affirmed that the decision would be based on many factors involving each individual non-conforming use situation. Staff's intent is to do a nonconforming use inventory to identify all properties within this area that would be nonconforming.

Council Member Alexander felt the amendment was ambiguous without documentation (a report or without a date certain as to when the business or use ceases) and stated that he would like to see some type of report mechanism in place. Mr. Burnette pointed out that any determination by staff is appealable to the Board of Adjustment so a record would have to be produced whether it be a report, a letter, etc.....and that the documentation could take on a variety of different forms. Council Member Alexander asked if the 30 days would cease from the time of the writing and Mr. Burnette explained it would actually be 30 days from when the use actually ceases.

Mr. Loveland pointed out that the 30-day cessation period mirrors other regulations currently in force in the ordinance (i.e. sexually oriented businesses, etc...)

Council Member Sims pointed out whether it be a 30-day or 180-day period, that it shouldn't matter because staff would do their due diligence to determine when the 30-day window starts and would use the same methodology as has been used in the past.

Mayor Smothers asked if there were any additional points to be made and opened the public hearing for public comment. There being no one present to speak in favor of or in opposition to this request, the public hearing was declared closed.

Following the conclusion of the public hearing, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption of Text Amendment 09-05 amending Section 9-4-17(b) of the Development Ordinance, entitled "Nonconforming Use of Land" to limit the period of cessation for nonconforming uses in the Main Street (MS) District to 30 days.

Note: Due to the one dissenting vote from Council Member Alexander, this matter was placed on today's regular agenda.

[end of public hearing comments: June 15, 2009]

_____ June 18, 2009 _____

Mayor Smothers asked if there were any questions regarding this matter. For the record, Council Member Alexander explained he would be voting against it because he felt there should be some dated report acknowledging when time starts and felt like it would be interpretation without proof. For clarification, Council Member Faircloth asked if it would be possible for Council to address Council Member Alexander's point in an attempt to correct it if action was taken today to adopt the text amendment. It was noted there shouldn't be a problem making corrections at a later date.

There being no further comments, the Mayor called for a vote on the motion.

Adopted Text Amendment 09-05 amending Section 9-4-17(b) of the Development Ordinance entitled "Nonconforming Use of Land", to limit the period of cessation for nonconforming uses in the Main Street (MS) District to 30 days.

Ordinance No. 6629/09-29

Introduced 06/15/09

Adopted 06/18/09

Ordinance Book Volume XVI, Page 114

MISCELLANEOUS

Appointments- Boards & Commissions

090164

Council is requested to confirm the following appointments/reappointments:

Board of Adjustment

Reappointment of Greg Adzima. Appointment effective immediately and will expire 7/1/2012.

Appointment of Larry Barr as an ETJ regular member. Appointment effective immediately and will expire 7/1/2012.

Guilford County/City Insurance Advisory Committee

Reappointment of Rudy Hinnant effective immediately; term to expire 12/21/2011.

Historic Preservation Commission

Appointment of Peter Freeman (application attached) to fill David Oden's unexpired term. Appointment effective immediately and will expire July 1, 2012.

Reappointment of Holly Barker and Patricia Garton. Appointment effective immediately and will expire 7/1/2012.

Guilford County Historic Preservation Commission

Council to recommend to the Guilford County Board of Commissioners the appointment of Christian Thoma (application attached). Appointment effective immediately and will expire 4/1/2013.

Human Relations Commission

Reappointment of Amaro Milagros as an At-Large Member. Appointment effective immediately and will expire 5/1/2012.

Reappointment of Cam Criddlebaugh, III as the Board of Realtors representative. Appointment effective immediately and will expire 5/1/2012.

Reappointment of Rick Johnson as the Affordable Housing representative. Appointment effective immediately and will expire 5/1/2012.

Reappointment of Michael Prioleau as the Work Force Development representative. Appointment effective immediately and will expire 5/1/2012.

Library Board

Appointment of David Slack to the Library Board of Trustees. Appointment effective immediately and will expire 10/31/2011.

Parks & Recreation Commission

Appointment of James Davis to the Parks & Recreation Commission. Appointment to be effective immediately and will expire 7/1/2012.

Planning & Zoning Commission

Reappointment of Martha Shepherd as the ETJ representative. Appointment effective immediately and will expire 7/1/2012.

Reappointment of Mark Walsh (At-Large). Appointment effective immediately and will expire 7/1/2012.

Motion was made by Council Member Whitley, seconded by Mayor Pro Tem Bencini to suspend the rules relative to placing this matter on today's Agenda for consideration since it did not originally appear on the Agenda. The motion carried unanimously. [9-0 vote]

Council Member Sims questioned David Slack's appointment to the Library Board as the Ward 4 representative and felt the position should actually be filled by a Ward 1 representative since it would be filling the expired term of Fred Jones (Ward 1). A discussion followed regarding whether or not the positions on the Library Board were deemed to be "ward specific." Mayor Pro Tem Bencini stated he didn't recall that the positions on the Library Board ever being ward specific. Council Member Sims pointed out Bruce Laney was appointed to the Library Board and he resides in Ward 4. Mayor Pro Tem Bencini pointed out in his ten years of serving on the City Council, he has never made an appointment to the Library Board. Council Member Sims expressed concerns that Ward 1 would have no representation on the Library Board.

Mayor Smothers commented that the whole ward appointment issue has become so complicated and convoluted that the whole issue of balance on these boards and commissions have been subjugated to that and that the at-large representation would be slighted and overlooked. The Mayor asked if anyone currently serving on the Historical Society who was also on the Library Board. Council Member Blakeney replied that Jim Armstrong (Ward 3) was currently serving on the Historical Society as well as the Library Board, but no one from Ward 1.

Council Member Faircloth expressed an interest in Council taking a careful look at the appointment situation to try to resolve the question of whether to proceed with ward allocations for these positions or come up with written guidelines as to how the appointments would be made to try to avoid these kinds of reoccurring conflicts. Council Member Whitley agreed. Mayor Smothers also agreed that it does become a very contentious issue and pointed out that the at-large folks get the left over appointments, if there are any because not every board has nine members.

Council Member Sims felt with the recent merger between the city and the Museum Board, there might be a need to investigate the possibility of enlarging the Library board for adequate representation from the Historical Society. Mayor Pro Tem Bencini disagreed and felt there needs to be two separate boards because the Museum and the Library are two distinct entities. The Mayor agreed with Mayor Pro Tem Bencini and felt it would be prudent for devotion to specific issues. Council Member Pugh felt the makeup should be ward specific as well as consideration given to gender, race and geographical makeup of the city so that the boards reflect fair representation. Mayor Smothers felt that this was generally true, but felt attention should be given to the quality of the representation. She felt it was important to understand that these appointments carry memberships that vary in terms of their lengths and pointed out that it would be

possible that some Council members may not even get the opportunity to appoint someone because of term limits.

The Mayor asked Council Member Faircloth if he would mind placing this in the Public Safety Committee for further discussion since he recommended it earlier. Council Member Faircloth concurred.

Approved the appointments/reappointments of the preceding citizens to the boards and commissions as outlined accordingly.

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Blakeney, that this matter be approved. The motion carried by the following vote:

Votes: Aye: Mayor Smothers, Council Member Bencini, Council Member Alexander, Council Member Blakeney, Council Member Faircloth and Council Member Whitley
Nay: Council Member Douglas, Council Member Pugh and Council Member Sims

For Information Only:

Special Recognition- Tina Gaines (Retirement)

City Manager Strib Boynton paid tribute to Tina Gaines who soon will be retiring from the city after 38 years of service and presented her with a gift that she selected. Mrs. Gaines reciprocated the accolades and commented that it has been an honor and privilege to be part of the city team all these years and thanked God for the opportunity to have served the citizens of High Point in the financial and budget area of the city.

Closing Remarks

Council Member Whitley thanked staff for their hard work in presenting a balanced budget as Council directed and although he voted against the budget based on the two amendments as recommended by Council Member Alexander, he did appreciate and support staff's task and it was a job well done. He also announced that with staff's assistance, the Finance Committee would come up with a policy to go after individuals and organizations that are delinquent in paying debts due to the city. Mr. Boynton noted that staff is already in the process of compiling this information.

Mayor Smothers echoed Council Member Whitley's comments and explained that she was leaving the meeting with some real misgivings and she could not ever remember voting against a budget that had gone through the process, discussions, compromises, etc.... but these were difficult times and sometimes messages are interpreted by votes due to a lack of positive messages. She, too, applauded staff for their work in presenting the budget during a very difficult time.

Trip to Raleigh

Mayor Smothers reported on her trip to Raleigh yesterday. Also attending were Council Member Alexander, JoAnne Carlyle (Asst. City Attorney), David Hyder

(Transportation). They met with several of the legislators while there (Rep. Laura Wiley, who has recently been appointed to the conference committee on the budget; Speaker of the House Joe Hackney; Rep. Harold Brubaker; Sen. Katie Dorsett; Sen. Jerry Tillman, and Sen. Stan Bingham). She stated there were many long faces as they were embroiled in the budget process. The Mayor expressed appreciation to them for leaving the local revenues along, but noted anything was still possible. She asked Council to express appreciation to all the representatives in Raleigh for their tremendous help with both the Furniture Market funding as well as the SBI lab.

Cancellation of July 8th City Council Meeting

Due to the Independence Day Holiday, it was the consensus of the Council to have a combined meeting on Thursday, July 9th at 9:00 a.m. and to cancel the Monday, July 6th Committee of the Whole meeting.

ADJOURNMENT

There being no further business to come before Council, the meeting adjourned at 10:15 a.m. upon motion duly made and seconded.

Respectfully Submitted,

Rebecca R. Smothers, Mayor

Attest:

Lisa B. Vierling, MMC
City Clerk