

City of High Point

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



Meeting Minutes

Monday, July 20, 2009

4:45:00 PM

Council Chambers

*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, PLEDGE OF ALLEGIANCE

Mayor Smothers called the meeting to order and recognized Boy Scouts from Troop #149 (Shady Grove United Methodist) who led the Pledge of Allegiance.

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

APPROVAL OF THE MINUTES FROM PREVIOUS MEETING

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

Public Safety Committee; Wednesday, July 8th @ 9:00 a.m.

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

FINAL ACTION TAKEN AT THIS MEETING

At the conclusion of the Committee of the Whole Session, and after all matters were heard by Council, **motion was made by Council Member Faircloth and seconded by Council Member Sims to suspend the rules in order to take final action on these matters at tonight's meeting. The motion carried unanimously. [9-0 vote]**

Motion was then made by Mayor Pro Tem Bencini, seconded by Council Member Sims that all Committee recommendations stand as final action regarding these matters. The motion carried unanimously. [9-0 vote]

Note: As a result of this action, there is no need for the Thursday morning meeting.

PRESENTATION OF ITEMS**FINANCE COMMITTEE - Council Member Whitley, Chair**

Committee Members: Bencini, Douglas and Alexander

(all were present)

Contract - Bid No. 60 - Recycling Carts**090177**

Approval of contract awarding Bid No. 60 for the purchase of 36,000 95-gallon Recycling Carts for the 2009-10 fiscal year. Purchasing and Public Services recommend that contract be awarded to Rehrig Pacific company in the amount of \$1,377,000.00 which is the lowest responsible and responsive bidder meeting specifications.

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

The Committee recommended this matter be placed on Thursday's Agenda with a

favorable recommendation for approval.

Approved contract with Rehrig Pacific Company for the purchase of 36,000 95-gallon Recycling Carts for the 2009-10 Fiscal Year in the amount of \$1,377,000.00 which is the lowest responsive and responsible bidder meeting specifications.

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

Contract - Bid No. 59 - Northwest Water System Improvements

090178

Approval of contract awarding Bid No. 59 for the Northwest Water System Improvements. Purchasing and Public Services recommends that contract be awarded to Davis Grading, Inc. in the amount of \$1,669,309.75 which is the lowest responsible and responsive bidder meeting specifications.

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

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved contract award to Davis Grading, Inc. for the Northwest Water System Improvements in the amount of \$1,669,309.75 which is the lowest responsive and responsible bidder meeting specifications.

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

Contract - "Piggyback" City of Greensboro - Side Loading Refuse Trucks

090179

Approval of contract awarding Piggyback bid with the City of Greensboro for the purchase of four (4) side loading Refuse Trucks. Purchasing, Public Services and Fleet Services recommends that contract be awarded to Amick Equipment Company, Inc. in the amount of \$907,364.00 which is the lowest responsive and responsible bidder meeting specifications.

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

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved contract awarding piggyback bid with the City of Greensboro for the purchase of four side loading refuse trucks to Amick Equipment Company, Inc. in the amount of \$907,364.00 which is the lowest responsive and responsible bidder meeting specifications.

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

Contract - Used Equipment Purchase - Side Loading Refuse Trucks

090180

Approval of contract awarding used equipment purchase for the purchase of 2 side loading refuse trucks. Purchasing, Public Services and Fleet Services recommends that contract be awarded to Amick Equipment Company, Inc. in the amount of \$367,916.00 which is the lowest responsive and responsible bidder meeting specifications.

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

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved award of contract to Amick Equipment Company, Inc. for the purchase of two used side loading refuse trucks in the amount of \$367,916.00 which is the lowest responsive and responsible bidder meeting specifications.

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

Resolution - City Reimbursement - New Refuse Collection Equipment

090181

Council is requested to adopt a resolution authorizing that the City may reimburse itself for expenditures associated with the new refuse collection equipment purchase from lease-purchase proceeds issued by the City in the near future.

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

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted resolution authorizing the city to reimburse itself for expenditures associated with the new refuse collection equipment purchase from lease purchase proceeds issued by the city in the near future.

Resolution No. 1534/09-62

Introduced 07/20/09

Adopted 07/20/09

Resolution Book Volume XVI, Page 176

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

Contract Amendment - Regional Site Solutions - Kivett Drive Gateway Project

090182

Council is requested to approve a contract amendment with Regional Site Solutions in the amount of \$295,105.00 to complete the Kivett Drive Gateway Project.

prior to this meeting.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved contract amendment with Regional Site Solutions in the amount of \$295,105.00 to complete the Kivett Drive Gateway Project.

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

Pending Items

Revised Economic Incentive Policy

090050 Council is requested to adopt a revised economic incentive policy redirecting incentive dollars to the Core City and south High Point.

**PUBLIC SAFETY COMMITTEE - Council Member Faircloth, Chair
Committee Members: Douglas, Pugh and Alexander**

(all were present)

Resolution in Support of Intermodal Transport Fund Bill

090184 Council is requested to join PART in support of Pending Legislation Supporting the Proposed Congestion Relief/Intermodal Transport Fund Bill (House Bill 148) by adopting a resolution for same.

Since this matter did not originally appear on tonight's Agenda, **motion was made by Council Member Faircloth, seconded by Council Member Sims to suspend the rules relative to placing it on the Agenda for consideration. The motion carried unanimously. [9-0 vote]**

Mayor Smothers noted that at the last PART meeting, the County Commissioners Association expressed support for the pending legislation as well as members of PART who represent the ten counties. Council Member Sims asked about the proposed 1/4% and 1/2% tax levy and what it could be used for. The Mayor explained it would have to be used for congestion relief and intermodal transport and that roads could not be built with the funds. She explained that should the respective counties decide to do it, it would require a vote by the people.

There being no further discussion regarding this matter, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted the Resolution In Support of Pending Legislation Supporting the Proposed Congestion Relief/Intermodal Transport Fund Bill.

Resolution No. 1536/09-64

Introduced 07/20/09

Adopted 07/20/09

Resolution Book Volume XVI, Page 178

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

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

Pending Items

Ordinance - Demolition of Structure - 618 Cable Street

090110

Council is requested to adopt an ordinance ordering the housing inspector to effectuate the demolition of structure located at 618 Cable Street belonging to Teresa A. Thomas.

Katherine Bossi, Local Codes Enforcement Supervisor, reported that Ms. Thomas first appeared before Council at the May 18th meeting and was granted a 30-day extension which expired June 15th. Ms. Thomas came back to Council at that time and staff reported that some progress was made with the repairs, but the major issues (electrical, mechanical (heating system)) had not been addressed. Staff recently visited the property last Thursday (July 16th) and again this afternoon, but did not observe any substantial progress since the last inspection. Ms. Bossi informed Council that due to the fact that the tax value for the structure is \$8,600 and the estimated cost of the repairs still exceed 50% of the tax value staff is requesting Council adopt an ordinance to demolish at this time.

Chairman Faircloth asked the property owner to come to the podium and address Council. Teresa Thomas, the owner of the property at 618 Cable Street, appeared before Council and asked for an additional 30-45 day extension to get the rest of the repairs done which will include the electrical. She explained that she fell ill this past month and has been out of work for the past two and a half weeks and this has stalled her progress. She informed Council that she has already done a lot of work to the house, and was aware that the major cost would be the electrical.

Several Council Members expressed concerns about the amount of money it would take to finish the repairs and bring the structure into compliance with the NC Building Code. Ms. Thomas estimated the remaining repairs to cost around \$7,000-\$8,000 and assured Council that she would be able to make the repairs (with the help of family members doing the construction and getting her materials at a discount salvage store).

Council Member Sims asked Ms. Thomas how much money she has already invested on repairs. Ms. Thomas replied that she has already spent about \$7,000 and estimates to spend \$6,000 to \$8,000 more to complete the repairs. Council Member Alexander asked staff what they figured the estimated repairs to cost and Ms. Bossi replied \$17,475 was a conservative estimate, but acknowledged that it could be less since Ms. Thomas was getting the materials through a salvage type place.

Chairman Faircloth explained this puts the Council in an unwanted predicament

because there have been other folks in similar situations and Council needed to be extremely careful about the precedent it could set. He informed Ms. Thomas that Council was at a point in the process where they had to move forward and adopt an ordinance to demolish. Ms. Thomas noted that although she understands Council's position, she could get the rest of the repairs done if given an additional 30-45 days. Chairman Faircloth asked for a confirmation that no one has been living in the house. Ms. Thomas reported no one has lived there since the city ordered it to be closed up and this was confirmed by staff who also pointed out that the property owners has continued to keep the yard maintained.

At this time, Chairman Faircloth made a motion for Council to adopt a 60-day ordinance to demolish (which would effectively give the property owner 75 additional days). He informed Ms. Thomas that she would need to stay in close contact with the Inspections Department and would need to have all the repairs done within this time frame. Council Member Blakeney made a second to the motion.

Council Member Whitley offered a substitute motion that Council adopt a 30-day ordinance to demolish (effectively giving the property owner an additional 60 days). Mayor Pro Tem Bencini made a second to the substitute motion.

Mayor Smothers asked if there were any further questions from Council. There being none, she called for a vote on the substitute motion to adopt a 30-day ordinance to demolish. The substitute motion carried by a 7-2 vote as follows:

**Ordinance No. 6631/09-31 Introduced 5/18/2009
Adopted 07/20/09
Ordinance Book Volume XVI, Page 116**

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

**PUBLIC SERVICES COMMITTEE - Council Member Sims, Chair
Committee Members: Blakeney, Faircloth, Whitley and Alexander**

(all were present)

There were no matters appearing on tonight's Agenda for consideration by the Public Services Committee.

PLANNING & DEVELOPMENT COMMITTEE - Council Member Bencini, Chair
Committee Members: Blakeney, Pugh, Sims and Faircloth

(all were present)

Minor Amendment to Conditional Use Permit 00-40 - High Point Deliverance Center

090172 A request by High Point Deliverance Center for a minor amendment to Condition II. pertaining to number of access points and installation of sidewalks. The site lying on the east side of James Road, approximately 250 feet south of the intersection of Oakview Road.

Note: The staff report will be attached in Legistar as a permanent part of these proceedings.

Herb Shannon of Planning and Development gave an overview of the staff report.

Chairman Bencini asked about staff's statement regarding how not building the sidewalk supports the city's current policy. Staff explained that the current policy requires any development of a subdivision would trigger the installation of a sidewalk and would have to go through the Technical Review Committee, but using the existing building or the existing layout of the building would not trigger that criteria. Chairman Bencini inquired about the inventory of sidewalks in the area along James Road. Staff noted there were no sidewalks on this side of James Road (the whole length), but there was a sidewalk across the street in front of the school as well as one on the west side of James Road from Oakview all the way to Hartley. It was noted that there was not an accessible sidewalk that serves the entire block.

There being no further comments/questions regarding this request, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved the Minor Amendment to Conditional Use Permit 00-40 as requested by High Point Deliverance Center and as recommended by staff.

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

MISCELLANEOUS

Appointments to Boards and Commissions- Parks & Recreation Commission

090183 Consideration of appointment of Donna Jeffers Brown (Ward 6) to the Parks & Recreation Commission. Ms. Brown will fill the expired term of Tim Ingram (Ward 6) who is not eligible for reappointment. Term to be effective immediately and will expire 7/1/2012.

Approved the appointment of Donna Jeffers Brown to the Parks & Recreation Commission. Appointment effective immediately and will expire 7/1/2012.

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

PUBLIC COMMENT

Ms. Anne E. Folkins who resides in Winston Salem addressed Council regarding some property that she is interested in obtaining from the city in the vicinity of the Oak Hollow Lake. Ms. Folkins provided a map of the property to be distributed to the Council and informed Council that she would have some additional information when she returns to speak at the August 3rd meeting.

PUBLIC HEARINGS ON ITEMS

Planning & Development Committee - Council Member Bencini, Chair

Ordinance - Text Amendment 09-06 - City of High Point

090173

A request by the City Council Planning & Development Committee to amend Sections 9-3-12(b); 9-3-15(b) and 9-9-6(i) of the Development Ordinance pertaining to prohibiting the filing of Map Amendment, Special Use Permit, or Text Amendment applications if an Appeal has been filed with the Board of Adjustment for that given property or applicant.

The public hearing regarding this matter was held as duly advertised on Monday, July 20, 2009 at 5:30 p.m.

Bob Robbins of Planning and Development gave an overview of the staff report regarding this case.

Chairman Bencini asked for an explanation from staff regarding the June 23, 2009 action by the Planning and Zoning Commission who recommended denial by a vote of 6-1. Mr. Robbins explained that their concern was with the statement and they were concerned with the length of time that it may take a case if it were appealed from the Board of Adjustment to the court. Chairman Bencini pointed out since the appeal would be at the discretion of the applicant, he didn't think this argument would hold much weight.

Mayor Smothers asked if there was a specific period of time an applicant has to file an appeal. Lee Burnette, Director of Planning and Development, noted for enforcement action it was 15 days and 30 days for an administrative decision.

The Mayor reminded Council that because the text amendment request is being forwarded to Council with an unfavorable recommendation from the Planning and Zoning Commission, the Development Ordinance requires a 2/3 favorable vote by the City Council (6 members) for the Text Amendment request to be approved.

At this time, Chairman Bencini opened the public hearing and asked if there was anyone present who would like to speak regarding this text amendment. There being no one present to comment, 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.

Adopted ordinance providing for Text Amendment 09-06 based on consistency with the City's Land Use Plan and staff's conclusions as outlined in the staff report. Additionally, staff suggests that the approval of the text amendment preventing the application for a rezoning, special use permit, or text amendment while an appeal is pending for that same property or property owner is reasonable and in the public interest because: 1) it allows for a more orderly resolution of an issue that has been applied for an appeal, and 2) this amendment would not infringe upon due process as it would not prevent an applicant from subsequently pursuing a rezoning, special use permit or text amendment regardless of its relevance to a prior appeal.

Ordinance No. 6632/09-032

Introduced 07/20/09

Adopted 07/20/09

Ordinance Book Volume XVI, Page 117

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

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

Ordinance - Text Amendment 09-07 - City of High Point

090174

A request by the City Council Planning & Development Committee to amend Sections 9-2-1; 9-2-2(a); 9-4-13(b) and 9-5-1 of the Development Ordinance pertaining to the regulation of membrane structures.

The public hearing for this matter was held as duly advertised on Monday, July 20, 2009 at 5:30 p.m.

Bob Robbins of Planning and Development gave an overview of the staff report which will be attached to Legistar as a permanent part of these proceedings.

Mayor Smothers inquired about a canopy that has been up for an extended period of time on Westwood Avenue that was being used to preserve an own carving from a tree and if a situation like this would be prohibited under the proposed amendment to the ordinance. Mr. Robbins felt it would fall under the 14-day period where they'd be allowed to have it up for this amount of time. Chairman Bencini asked staff about the possibility of a variance request for unusual situations such as this and felt it could constitute a hardship because the tarp would be protecting a sculpture in the works.

Lee Burnette, Director of Planning and Development explained this would not be a true membrane structure; it would be a tarp. Several Council Members expressed concerns that tarps/tents the possibility of these types of tarps/tents not aesthetically pleasing could stay up indefinitely.

Council Member Whitley asked how staff proposes to come up with some conclusion or solution for these types of tents. Mr. Robbins explained that staff felt the best way to handle it would be to apply the same regulations for accessory structures to the membrane structures.

At this time, Chairman Bencini opened the public hearing and asked if anyone was present to speak regarding the proposed text amendment.

Doug Connor, who resides at 511 W. Parkway, addressed Council. He informed Council that he started a canopy project about a year and a half ago, but was not able to finish it because he ran low on funds. He wanted to know if this ordinance amendment would prohibit him from finishing what he started. Mr. Robbins replied there shouldn't be a problem as long as the canopy meets the accessory structure setbacks in the rear yard or side yard of the zoning district he's in.

Chairman Bencini asked if there were any additional comments. There being none, he declared the public hearing 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.

Adopted Ordinance amending Sections 9-2-1; 9-2-2(a); 9-4-13(b) and 9-5-1 of the Development Ordinance pertaining to the regulation of membrane structures based on staff's conclusions as outlined in the staff report and consistency with the city's Land Use Plan and any other officially adopted plan that may be application. Additionally, staff feels the regulation of the use of membrane structures is reasonable and in the public interest because: 1) it would allow the use and placement of such structures following existing residential accessory structures requirements; and 2) it would prevent the use of such structures for nonresidential uses except as previously allowed as a temporary structure for market showrooms.

Ordinance No. 6633/09-33

Introduced 07/20/09

Adopted 07/20/09

Ordinance Book Volume XVI, Page 118

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

Resolution - Street Abandonment 09-14 - City of High Point

090175

A request by the Technical Review Committee 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.

The public hearing for this matter was held as duly advertised on Monday, July 20, 2009 at 5:30.

Herb Shannon of Planning and Development gave an overview of the staff report which is hereby attached to Legistar as a permanent part of these proceedings.

Mr. Shannon noted that the right-of-way abandonment would in no way affect the property owners from continuing to use the shared pave driveway that currently exists. Council Member Sims asked about the responsibility for maintenance of the alleyway and Mr. Shannon replied that the property owners have been maintaining it for several decades and they have prescriptive easement rights (which run with the sale of the property) that have been established which would allow them or any future property owners the right to use it.

Following the presentation of the staff report, Chairman Bencini opened the public hearing and asked if there were any comments. There being no one present to comment, 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.

Adopted Resolution authorizing the abandonment of the unimproved portion of Chiquola Avenue, lying east of Hurdoover Street between Edgedale Drive and W. Farriss Avenue.

Resolution No. 1535/09-63 Introduced 07/20/09
Adopted 07/20/09
Resolution Book Volume XVI, Page 177

A motion was made by Mayor Pro Tem Bencini, seconded by Member Blakeney, that this matter be adopted. The motion carried unanimously.

Resolution - Street Abandonment 09-15 - City of High Point

090176

A request by the Technical Review Committee to abandon an unimproved portion of Chiquola Avenue, lying east of Hurdoover Street between Edgedale Drive and W. Farriss Avenue.

regarding this request that were not raised when it was initially reviewed by the Technical Review Committee (TRC) and recommended this matter be withdrawn and remanded back to the TRC for that issue to be discussed in more detail. Chairman Bencini asked staff if they could provide a projected timeframe as far as when it would be heard again. Mr. Shannon explained that there is a possibility that it may not even come back, but if it does staff would be required to start the process over and it would have to be readvertised and notices would have to be resent to the affected property owners.

The Mayor mentioned that there was a question regarding a proposed stormwater improvement issue. The city manager agreed that staff should take a fresh look at the whole thing. Council Member Faircloth felt with respect to the inquiry received on this particular piece of land, it did raise a question as to whose responsibility it is to maintain right-of-ways. Lee Burnette, Director of Planning and Development explained that the city does not assume any responsibility for maintaining right-of-ways until it starts officially maintaining it. Chairman Bencini agreed that the inquiries have brought up other issues that need to be addressed as well.

Following the recommendation from staff regarding this matter, the Committee recommended this matter be withdrawn from the Agenda for consideration at this time.

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Sims, that this matter be withdrawn. The motion carried unanimously.

ADJOURNMENT

There being no further business to come before Council, the meeting adjourned at 6:00 p.m. upon motion duly made and seconded.

Respectfully Submitted,

Rebecca R. Smothers, Mayor

Attest:

Lisa B. Vierling, MMC
City Clerk