

**MINUTES OF THE BOARD OF ALDERMEN
TOWN OF KERNERSVILLE, N.C.
REGULAR MEETING 7:00 P.M. MAY 4, 2010**

The Board of Aldermen of the Town of Kernersville met in regular session at 7:00 p.m. on the above date in the Municipal Council Chambers at the Municipal Building at 134 East Mountain Street.

Present: Mayor Dawn H. Morgan, Mayor Pro Tem Kevin Bugg, Aldermen Dana Caudill Jones, Keith Mason and Tracey Shifflette.

Absent: Alderman Bob Prescott.

Staff Present: Curtis L. Swisher, Town Manager; John G. Wolfe, Town Attorney; Dale F. Martin, Town Clerk; Jeff Hatling, Community Development Director; Kenny Gamble, Chief of Police; Doran Maltba, Acting Public Works Director; Franz Ader, Finance Director; Ernie Pages, Parks and Recreation Director; Sharon Williams, Programming Supervisor; Heather Wood, Marketing and Community Relations Specialist; Walt Summerville, Fire Chief; Gray Cassell, Information Systems Director; and Ray Smith, Human Resources Director.

- **CALL TO ORDER**
- **INVOCATION BY REVEREND DONALD WINTERS, KERNERSVILLE MORAVIAN CHURCH**
- **PLEDGE OF ALLEGIANCE**

Mayor Dawn Morgan called the meeting to order and Reverend Donald Winters from Kernersville Moravian Church delivered the invocation.

- **PRESENTATION OF PROCLAMATION DESIGNATING NATIONAL LAW ENFORCEMENT WEEK**

Mayor Morgan presented Chief Ken Gamble with a Proclamation designating the week of May 9-15 as National Law Enforcement Week.

- **PRESENTATION OF PROCLAMATION DESIGNATING NATIONAL PUBLIC WORKS WEEK**

Mayor Morgan presented Doran Maltba, Acting Public Works Director with a Proclamation designating the week of May 16-22 as National Public Works Week.

- **PRESENTATION OF A RESOLUTION DECLARING MAY AS HISTORIC PRESERVATION MONTH**

Mayor Morgan presented Jim Davis with a Proclamation designating May as Historic Preservation Month.

PUBLIC HEARINGS

- 1 a. **PUBLIC HEARING: P. M. Development, LLC**, for a proposed text amendment to the UDO by amending Chapter A, Article II- *Definitions*; Chapter B-Table 2.6-*Permitted Uses*; Section 2-5-*Use Conditions*; and Section 2-6-*Accessory Uses* to create a new use and conditions by adding a “*Solid Waste Transfer Station*” as an approved Permitted Use to the GI (General Industrial) zoning district. **Zoning Docket KT-194 (A request by the petitioner has been received to withdraw this text amendment)**
- 1 b. Consideration of an ordinance for a text amendment.

Mr. Jeff Hatling stated that a letter was received by the petitioner requesting to withdraw this text amendment.

Alderman Tracey Shifflette made a **Motion** to approve a request to withdraw this text amendment. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

Alderman Dana Caudill Jones asked if there is a time frame for this to come back before the Board. Mr. Stuart Parks, petitioner in this request stated that they would like to move forward as soon as possible and will be resubmitting this request with changes hopefully by the May deadline allowing the petition to come before the Planning Board in June and Board of Alderman in July.

PUBLIC SESSION

2. SPEAKERS FROM THE FLOOR.

Harvey Pulliam, 415 Holt St., Kernersville, NC stated his opposition to the Board attending the National League of Cities Conference but did commend the Board for driving and attempting to hold down expenses.

Mr. Pulliam then addressed the current lease entered into by the Town for a new recreation building on Bodenhamer St. He is bothered by this especially during these hard economic times. He requested details regarding the lease.

Mr. Curtis Swisher, Town Manager explained that the lease is for 3 years beginning April 2010 at \$3,400 per month. He noted the increases in rent for the additional years and explained that the lease has two additional terms if the Town so desires to exercise that right and the rent would increase by 2.5%.

Mr. Pulliam expressed his opposition to this lease citing the Town's recent economic situation and questioned the need to obligate tax payers. He asked if there is a conflict of interest due to the owner's connection to a member of the Board of Aldermen.

Mr. Pulliam then suggested that a citizen review board be created with subpoena powers and nine members to review the operations of the Town and make recommendations.

Mayor Morgan advised Mr. Pulliam that his time was up.

3. Presentation by the Arts Council of Winston-Salem and Forsyth County

Ms. Christine Gorelick, of the Arts Council of Winston-Salem and Forsyth County thanked the Board for the opportunity to speak tonight. She introduced her colleague Mr. Carroll Leggett also in attendance. She explained that they have been visiting towns and villages throughout Forsyth County informing each about the arts in Forsyth County. She presented a power point presentation on current events and activities supported by the Arts Council. She thanked the Board again for this opportunity and asked for their continued support of the arts.

4. Update on Earth Day Celebration.

Doran Maltba, Acting Public Works Director updated the Board on the recent Earth Day Celebration. He stated the second year's attendance was greatly increased although the number of vendors decreased. This year's event included a litter sweep campaign focusing on side ditches and street side clean up. He commended the Public Works Staff for a very successful event.

5. Update on Operation Medicine Drop.

Chief Gamble stated that this is the first year we participated in this event. He reported that on April 24 approximately 12,300 pills were collected at Walgreens on N. Main Street through this program. He stated that prescription and over the counter drugs were collected with our focus being on getting prescription medications out of our homes. He stated that this event was successful and that we are considering tagging this event with our National Night Out held in August.

6. Discussion on Policy for Maintenance of Drainage Pipes.

Mr. Swisher stated that the Town has received several calls regarding drainage pipe issues. He reminded the Board that the Town's policy is that we do not go on private property to address these issues. Our Stormwater Fund is used to treat quality issues and not quantity issues.

Doran Maltba explained that we have had 14 drainage complaints, five of which he and the Town Manager have visited. Someone on staff has visited each complaint. He presented a power point presentation showing each of these sites.

Mr. Maltba stated that each complainant asks the same two questions. Who should fix the problem and why do we pay the stormwater fee?

Mr. Maltba explained that the Town's policy is to address issues only in the public right-of-way.

Mr. Maltba stated the other question regarding the stormwater fee; it was implemented to cover these 6 elements: education, post construction runoff control, erosion control, illicit discharge detection and elimination, good housekeeping, and public involvement.

Mr. Maltba noted that we did set aside a reserve fund to do infrastructure work that is in the public right-of-way and explained a few projects done recently by the Town.

Mr. Maltba stated that Mr. Swisher asked him to see what other municipalities are doing. He presented the following information on surrounding municipalities:

Clemmons - work in the ROW only.

Lewisville - work in the ROW only.

King- work in the ROW only.

Winston-Salem - limited work outside of ROW with very stringent criteria, and under a cost sharing program.

High Point - limited work outside of ROW with very stringent criteria, and under a cost sharing program.

Greensboro - limited work outside of ROW with very stringent criteria.

Mr. Maltba asked where do we go from here and what do we do next is why I am here tonight. Mr. Maltba stated that if this goes forward, we can have a much more in-depth discussion to develop a new policy for the town.

Mr. John Wolfe, Town Attorney stated that the Town has conducted work in the right-of-way but not on private property. His advice to the Board would be to continue working in the right-of-way and refrain from doing work on private property. He advised of the Town's liability on private property. He reported on a court case involving the City of Hickory in which the court ruled that there was no municipal responsibility. He stated that if the Board so desires, he would put together a draft policy incorporating criteria for working on private property for the Board to consider.

Mr. Swisher reminded the Board that the stormwater program is designed to address the quality of water runoff and not the quantity.

Mayor Pro Tem Bugg referred to the slide listing the uses of our stormwater fees. He read Post Construction Stormwater Management and noted locations in town that have other contributing

factors other than stormwater runoff. Mr. Maltba stated that any device would have had to be permitted after our stormwater program was implemented. He noted that last year was the first year we did a full inspection of all devices and notified those that needed to make repairs.

Mayor Pro Tem Bugg stated that this is a tough situation. As he understands it if we go on private property and fix one we have to fix them all. The liability this could put on the town could possibly bankrupt the town.

Mr. Swisher stated that we could look at situations that affects a region or a whole street and that starts on public property. He added that Mayor Pro Tem Bugg is correct, if we fix one we have to fix them all.

Ken Poole, 116 Croyden Ct., Kernersville, NC – stated that he bought his home 10 years ago and now he has an issue he doesn't know what to do about it. He had a sinkhole in the yard and he fixed it by having dirt hauled in. Approximately three years later, he added more dirt. He has fixed this sink hole three times in 10 years and was preparing to do it again.

Mr. Poole explained that his son-in-law, who builds golf courses, came out and looked at it and found that two pipes have come apart and the water is washing the dirt down into a ditch and off into a creek. He talked to the Town about the issue and now he is here before the Board.

Mr. Poole stated that everybody from the Town has been nice about it but was told that based on current town policy there is nothing the Town can do to fix it. He continued to explain that this is not a drain on his property, but a drain that runs off a city street and then across his property. He explained what happens when it rains.

Mr. Poole stated that he doesn't know anything about the construction of this drainage and questioned why it was ever approved. He stated that he is requesting the Town's help with this situation. He stated that this is not a personal issue with water draining off my house but from the street. Whoever paved the street and put in the curb and gutter didn't secure the pipes properly and that's what is causing his problem. It was sunk in when he bought the house and he has fixed it three times.

Mayor Morgan stated that this appears to be the property owner's responsibility and knows that this is not what he wants to hear.

Mr. Poole stated that his problem is totally different from the other situations that were shown tonight. He shouldn't be responsible for correcting this problem and all the water that runs down this street.

Mr. Wolfe stated that he has not been out there but can tell from the picture that this is not a municipal system for handling water. This was done by the original developer of the subdivision. Mr. Poole asked if it was turned over to the city. Mr. Wolfe stated that you don't turn something like this over to the city. He added that when it runs through someone's yard it is private property and the owner's responsibility. He stated that the town does not maintain those kinds of systems.

Mr. Poole stated that morally this is not right, legally it may be. He added that the city inspected it and approved. Mr. Swisher explained that the developer installed this pipe that was in his yard and it's been 10 years. Anything can happen to it in 10 years.

Mr. Poole again thanked the Board for listening to him; everyone that has been out there knows that this is not right and that he should not be responsible for the street dumping water into his front yard. He did not know all of this when he bought his house. He fixed the problem and will have to keep fixing it until it gets fixed correctly. He again stated that everybody from the city has been nice to him but this is not right.

Mayor Morgan stated that Doran Maltba could give him contact information of the original developer. Mr. Poole stated that Clarence Lambe was the developer but doubted that he would do anything about the problem. He stated that he has already taken care of another issue by putting a berm at the back of his property to take care of that problem.

Mayor Morgan stated that unfortunately this is not what you want to hear and again suggested he contact Mr. Maltba to obtain copies of the Town's maintenance policies regarding this matter.

Mr. Poole again thanked the Board for listening to him and stated again that this is not right and that he is back where he started before he made the first phone call.

7. Discussion on Potential use of Property Adjoining the Farmer's Market.

Mayor Pro Tem Bugg pointed out the grassy area below the Farmer's Market structure. He presented a proposal by the Rotary Club to take on a long term project by adopting that area. He stated that they would add landscaping and other things to make this area usable. He noted that it would make a nice stage area and could be used for Music @ Twilight and other events and activities. He stated that the Rotary Club's Board of Directors would like to adopt that area and turn it into a park. They will work with the Town to come up with a plan for use of the property and the Rotary Club will accept all financial responsibilities with no cost to the town. He noted that the Rotary Club has already invested approximately \$30,000 towards the Farmer's Market. He made himself available for questions.

Mr. Swisher suggested that if the Board so desires, a motion is needed to allow this area to be used as a park at the expense of the Rotary Club or something similar to that.

The Town Attorney stated that the Board need not have a formal resolution that a motion to that affect would suffice.

Alderman Caudill Jones thanked everyone involved in establishing this farmer's market. This is a great partnership between the Town and the Rotary Club.

Alderman Dana Caudill Jones made a **Motion** to enter into an agreement with the Kernersville Rotary Club to maintain said property adjacent to the Farmer's Market and to work with the Parks and Recreation Department and Advisory Board to put together a plan for a park in that

area and that it be named the Kernersville Rotary Park or something similar. Mayor Pro Tem Bugg seconded the motion and the vote was all for and motion carried.

8. CONSENT AGENDA: All of the following matters are considered to be routine by the Board of Aldermen and will be enacted by one motion. There will be no separate discussion unless a Board member or citizen so requests, in which event the matter will be removed from the Consent Agenda and considered under the following item.

- C-1 Approval of Minutes for February 11, 2010 Joint Session with Forsyth County Commissioners
- Approval of Minutes for March 25, 2010 Budget Work Session
- Approval of Minutes for March 31, 2010 Briefing Session
- Approval of Minutes for April 6, 2010 Regular Session

Alderman Dana Caudill Jones made a **Motion** for the approval of the Consent Agenda as submitted. Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

9. ITEMS REMOVED FROM CONSENT AGENDA.

NONE

10. SPEAKERS FROM THE FLOOR.

Harvey Pulliam stated that he had signed up to speak on Item #7.

Mayor Morgan apologized stating that she missed that on his speaker card.

Mr. Pulliam expressed his opposition to the Board's decision on item #7. He stated that the Board gave away taxpayers money and objected to spending money for this project. He stated that we paid \$440,000 for this property from Wachovia Bank plus interest. He stated that this property was to be used for a jail. Tonight you gave the property to the Rotary Club. He stated that we paid serious money for this property and now you turn around and use it for recreation. This is ridiculous and you are throwing away tax payers money.

Mayor Morgan stated that this property will be used as a public park for all our citizens to enjoy.

Mayor Pro Tem Bugg explained that the Town will not pay a penny on this project, the Rotary Club will be taking care of this project.

Mr. Pulliam stated that the Rotary Club is taking control if it.

Mr. Swisher clarified that the Town paid \$349,000 for the property that Allegacy Credit Union is on and the Farmer's Market sits on. This property discussed tonight is not a part of that purchase back in 1997.

11. TOWN MANAGER'S REPORT AND MISCELLANEOUS.

Mr. Swisher presented a resolution in support of the current Triad ABC Board regulations. He explained that there are efforts to privatize this operation. He reminded the Board that when the voters approved liquor by the drink, it was done so under the control of municipalities and we would receive revenues from the sale of alcohol. He explained the impact this would have on the Town.

Alderman Dana Caudill Jones made a **Motion** to approve the following resolution. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

RESOLUTION NO. R-2010-13

RESOLUTION IN SUPPORT OF NORTH CAROLINA'S CURRENT PUBLIC ALCOHOLIC BEVERAGE CONTROL SYSTEM

WHEREAS, Chapter 18B of the North Carolina General Statutes addresses the regulation of alcoholic beverages in our state; and

WHEREAS, current North Carolina law establishes a uniform system of control over the sale, purchase, transportation, manufacture, consumption and possession of alcoholic beverages in North Carolina; and

WHEREAS, local government control is central to the current alcoholic beverage control system; it is a local decision to establish and operate ABC stores, and local government, acting through an appointed local ABC Board, balances the control, profits and availability of spirits in its jurisdiction; and

WHEREAS, when local voters approved liquor sales for off-premises consumption, the voters did not vote to allow liquor to be sold in private retail establishments, but only through publicly controlled local ABC stores; and

WHEREAS, a current law provides that profits from ABC store sales are returned to local government, and this revenue stream is a critical source of local government funding; and

WHEREAS, it is priority to maintain current sources of revenue, especially in the current challenging economic times; and

NOW, THEREFORE BE IT HEREBY RESOLVED that the Board of Aldermen of the Town of Kernersville does hereby support the continuance of the Alcoholic Beverage Control System, and opposes any efforts to privatize the ABC system, diminish local control or to diminish the local government revenue stream afforded from local ABC store profits.

Adopted this 4th day of May, 2010.

Mr. Swisher also presented a grant request by Public Works for decorative recycling containers for the downtown business district. The grant is for \$30,000 with the Town contributing \$5,000. The Staff is requesting approval to submit the grant application.

Mayor Pro Tem Bugg made a **Motion** to authorize the Town to submit said grant application for decorative recycling containers and the \$5,000 in matching funds. Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

Mr. Swisher stated that he does have one more issue regarding the mast arm light poles for downtown. Bids were received with the low bid of \$16,000.

Mayor Pro Tem Bugg asked when they would be installed. Mr. Maltba stated that work would begin as soon as the Spring Folly is over and completed as soon as possible, however it will depend on what the contractor finds when they start this project giving the difficult conditions at the square.

Mayor Morgan stated that as a part of this project, the Board approved brick crosswalks in this area and asked for the status of that project. Mr. Maltba stated that we are seeking contractors now and hope to get finished by June 30th since the funds are in this year's budget.

12. MATTERS TO BE PRESENTED BY THE MAYOR, BOARD OF ALDERMEN AND TOWN ATTORNEY.

Town Attorney John Wolfe presented a copy of the rules and regulations for the new Farmer's Market. He briefly highlighted those rules and regulations.

Jimmy Morgan, 8625 Bull Rd., Colfax, NC – stated that the farmer's market can be a good thing for the town. He also stated that Kernersville has been a farmer friendly town for many years. He added that there is a conflict between perception and reality. He added that Alderman Jones spoke about the perception that has been discussed often, that the farmer's had to travel from place to place, the reality is that this is not so. He noted that he has been doing this for 5 to 7 years now. Wherever we have been we have been welcomed and have not had conflicts with property owners. We have not been unhappy but the perception is that we have.

Mr. Morgan stated that he hopes that the town will use the Farmers Market to benefit the town and the farmers.

Mr. Morgan gave a comparison to illustrate his point that the perception is that the entrance to the Triad Business Park should be lined up with Triad Park; the reality is that it probably should not be. Transfer trucks and buses do not mix. He stated that he plans to be a vendor at the farmer's market and he hoped that it will be run as it should be and that the perception can become reality.

Mayor Morgan shared her concerns with the entrance to the business park as well.

Alderman Caudill Jones stated that she wanted to clarify her earlier comments that she did not mean to imply that the farmer's were unhappy and through the years they have had to find other locations. She is happy that we can provide a place where they can have permanent signage and permanent hours.

Mr. Morgan stated that he did not take it that way however he can see where someone reading the newspaper could take it that way if they did not know the situation.

Alderman Tracey Shifflette made a **Motion** for the adoption of the proposed Rules and Regulations for the Farmer's Market. Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

Mayor Morgan stated the Board has conducted a review of the Town Manager and ask the Town Attorney to present the proposed ordinance setting the Manager's Salary.

The Town Attorney read the proposed ordinance.

Alderman Dana Caudill Jones made a **Motion** for the approval of the following ordinance setting the Town Managers compensation. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

ORDINANCE NO. O-2010-14
AN ORDINANCE SETTING ANNUAL COMPENSATION FOR THE
KERNERSVILLE TOWN MANAGER

WHEREAS, Curtis L. Swisher, has been employed with the Town of Kernersville for a period in excess of two (2) years with his anniversary date being February 18th; and

WHEREAS, the Board of Aldermen has, as it does from time to time, reviewed compensation paid Town Managers of other communities, as well as reviewed the Town Manager's performance during the past year; and

WHEREAS, the Board of Aldermen has found that the Town Manager continues to perform satisfactorily and commendably in his position;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF ALDERMEN that the Town Manager's (Curtis L. Swisher) compensation be set in the following manner effective March 1, 2010:

1. An annual salary of Ninety-two Thousand and no/100 Dollars (\$92,000.00) with an additional, annual, lump sum amount of Two Thousand and no/100 Dollars (\$2,000.00), to be paid, annually, into the Town Manager's Deferred Compensation Plan Account (established pursuant to IRS Code Section 457[b]).

2. An annual allowance of up to Six Hundred and no/100 Dollars (\$600.00) for local civic organization dues and memberships;

3. A monthly automobile allowance of Five Hundred and no/100 Dollars (\$500.00);

4. One week of paid vacation annually in addition to that which the Town Manager is entitled, and accrues, as an employee of the Town.

5. All other usual benefits afforded other Town employees as defined by the Personnel Policy of the Town such as relate to health and life insurance, sick leave, and so forth; and

6. By contract, that he is guaranteed severance compensation of three (3) months' salary (representing one month granted at the time of his Appointment and one month for each year of service to date) should the said Town Manager's employment be terminated during the current year of employment other than by himself voluntarily terminating his employment, or for misconduct on his part in his employment.

This Ordinance is effective retroactively to March 1, 2010.

This 4th day of May, 2010.

Alderman Mason commended Mr. Swisher on a good job as Manager. He also reported that Alderman Bob Prescott is in the hospital and wished him a speedy recovery.

Mayor Pro Tem Bugg presented an update on the Farmer's Market. He added that Mr. Morgan has been very helpful and the attitude among the farmers is positive. He stated that a Ribbon Cutting ceremony has been planned for May 14 at 9:00 AM. He thanked the Town's Public Works crews for all their work getting the market ready to open.

Alderman Shifflette stated that she is looking forward to the opening of the farmer's market.

Mayor Morgan reminisced about the old Farmer's Markets in front of the old Town Hall building and that it is fitting that we have come full circle.

Mayor Morgan acknowledged the efforts of the Rotary Club which made this all happen. She also commented on the dedication of the Depot last weekend.

Mayor Morgan stated that she is looking forward to the Spring Folly this weekend and encouraged others to attend.

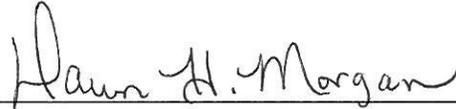
Mayor Morgan requested that everyone keep Alderman Prescott in our thoughts and prayers.

Alderman Dana Caudill Jones made a **Motion** for the Board to enter into Closed Session for the purpose of discussing personnel matters. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

13. ADJOURNMENT.

Alderman Dana Caudill Jones made a **Motion** to adjourn the meeting immediately following the Closed Session at 9:45 PM.

Being no further business to come before the Board, the meeting was adjourned.



Dawn H. Morgan, Mayor

Attest:



Dale F. Martin, Town Clerk

I, Dale F. Martin, Town Clerk of the Town of Kernersville, North Carolina, do hereby certify that this is a true and correct copy of the minutes of the meeting duly held on May 4, 2010.

This the 4 day of June, 2010.



Dale F. Martin, CMC, Town Clerk