

**MINUTES OF THE BOARD OF ALDERMEN  
TOWN OF KERNERSVILLE, N.C.  
BRIEFING SESSION    OCTOBER 1, 2014**

The Board of Aldermen of the Town of Kernersville met in a briefing session at 6:30 P.M. on the above date in the Town Hall Executive Conference Room at the Municipal Building at 134 East Mountain Street.

**Present:** Mayor Dawn Morgan, Mayor Pro Tem Joe Pinnix, Aldermen Kenny Crews, Keith Hooker, Irving Neal and Tracey Shifflette.

**Absent:** None.

**Staff Present:** Curtis L. Swisher, Town Manager; Jayne Danner, Deputy Town Clerk; John Wolfe, Town Attorney; Sharon Richmond, Senior Planner; Scott Cunningham, Police Chief; Terry Crouse, Fire Rescue Chief; Mike Horney, Public Services Operations Manager; Ernie Pages, Parks and Recreation Director; Gray Cassell, Chief Information Officer; Franz Ader, Finance Director and Ray Smith, Human Resources Director.

**Call to order and invocation.**

Mayor Dawn Morgan called the meeting to order and Alderman Tracey Shifflette delivered the invocation.

**1. Briefing on the October 7, Regular Meeting Agenda.**

Mayor Morgan noted the ceremonial items on the Agenda; Presentation of a Proclamation to the Kernersville Sister City in recognition of their 10 Year Anniversary. Mr. Ernie Pages advised that a reception will also be held at 6:30 p.m. to celebrate the 10<sup>th</sup> Anniversary and is open to the public. He added that a sign will be posted at 4<sup>th</sup> July Park in honor of the anniversary. A presentation of a Proclamation to Young Marines for Red Ribbon Week, and a Presentation of a Proclamation recognizing October as Dyslexia Awareness Month are the other ceremonial items.

**Item # 1. PUBLIC HEARING: Michael Interlandi, Owner, for property located at 410 Nelson Street and 425 Piney Grove Road, being all of PIN #(s) 6886-36-7608 and 6886-36-7689 containing .82 acres more or less. Petitioner requests a General Use rezoning from RS-7 (Residential Single-Family) to PB (Pedestrian Business). Zoning Docket K-728**

Sharon Richmond, Senior Planner briefed the Board on this rezoning request. She stated that the area is primarily medium density residential and due to the fact that this request is not consistent with that and does not include specific conditions Staff and the Planning Board recommend denial of the request as they do not believe it would be in the best interest of the public.

**Item # 3. Considerations of Modifications to the Town’s STP-DA Transportation Funds.**

Curtis Swisher, Town Manager briefed the Board on the proposed Town projects Staff recommends for submittal to the Winston Salem Urban Area Metropolitan Planning Organization for consideration of STP-DA Transportation Funds. He added that the South Main Street/Old Winston Road intersection project is at the top of the list with a total project cost of \$7 million. He further added that initially the Town was responsible for 20% of the construction costs, right of way costs and utility relocation costs for a total of about \$2.6 million. He stated that with the current proposal NCDOT will contribute \$2.5 million in NCDOT funds and \$4 million in STD-PA funds if approved, and the Town will be responsible for \$1.1 million, \$400K of this will come from the old Transportation Fund and the remainder from the General Fund. He further stated that NCDOT has recommended that the Town submit a request to NC Senate and NC House representatives for discretionary funding of \$250K each.

**Item # 4. Consideration of a Resolution to Declare Certain Hazardous Materials Response Equipment Surplus and Authorize its Donation to the City of Winston-Salem.**

Mr. Swisher briefed the Board on this proposed surplus equipment donation. He stated that the Kernersville Fire Rescue Department no longer has a need for this equipment now that the Winston Salem Fire Department provides decontamination service in Kernersville.

**Item # 5. Consideration of a Resolution Authorizing Auction Sale of Real Property located at 409 Church Street.**

Mr. Swisher briefed the Board on the resolution to auction this property. He stated that the Board approved acquisition of this property as part of the Piney Grove Road widening project right of way acquisitions. He added that the Town has no use for the property and Staff has been advised that the most feasible way to sell the property is by auction. He further added that the highest bid will be presented to the Board at the December 2, 2014 meeting, at which time the Board can decide whether to accept the bid or not.

**Item # 6. 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 August 5, 2014 Regular Session**
- Approval of Minutes for August 5, 2014 Closed Session**
- Approval of Minutes for August 27, 2014 Briefing Session**
- Approval of Minutes for September 2, 2014 Regular Session**

Mayor Morgan noted the Minutes on Consent Agenda.

## 2. Matters to be presented by the Town Manager and Town Attorney.

Mr. Swisher advised that Staff will prepare a Resolution requesting \$250,000 in Discretionary Funds from the NC House of Representatives and \$250,000 in Discretionary Funds from the NC Senate to be used for necessary improvements to South Main Street for the Boards consideration on Tuesday.

Alderman Tracey Shifflette asked if Spring 2016 is still the scheduled opening date for the VA Clinic.

Mr. Swisher responded as far as he is aware Spring 2016 is the projected opening date.

Alderman Shifflette asked for an explanation and definition on what is a valid protest petition.

Mr. Swisher stated that generally a valid protest petition is based on the percentage of property the rezoning petitioner owns. He read the definition in the Town's UDO that stated ***"in the case of a protest against any zoning map amendment signed by the owners either a.) 20% or more of the area included in the proposed change or b.) 5% of a 100ft wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned"; and "A street right of way shall not be considered in computing the 100ft wide buffer area, as long as that street right of way is 100ft wide or less"***.

Ms. Sharon Richmond stated that Community Development Staff can create a map of the specific area to assist with clarifying the validity of a petition.

Alderman Kenny Crews asked for Mr. Wolfe's advice on how the Board should respond when developers of proposed projects present Board Members with certain information and the property owners report that developers presented them with different information.

Mr. Wolfe advised that legally a Board member is charged to make a decision on whether a zoning petition and future development plan should be approved or denied based on whether the zoning petition is consistent with the Town's zoning requirements and UDO. A Board members decision to approve or deny a zoning petition request should not be impacted by the personal matter between the property owner and the developer. Mr. Wolfe added that Board members may be approached by all parties involved, however the information shared that is not relevant to the petition cannot be allowed to influence the Board members decision to deny or approve a petition. Mr. Wolfe further stated that the Planning Board will present a report to the Board of Aldermen outlining the petition and they will recommend to the Board of Aldermen approval or denial of the petition. When the petition comes before the Board of Aldermen they can decide to add or remove conditions and restrict the potential uses of the building.

Alderman Irving Neal asked if there was a specific parcel of land within a proposed development that the Board believed there was not a good faith effort on the part of the developer to acquire the property would that make the petition invalid.

Mr. Wolfe advised it would not invalidate the petition. He stated that whether or not an individual sells their property to a developer is entirely up to the property owner. He added the developer could have all the property rezoned except that individual parcel or parcels.

Mr. Swisher stated that an example of that is the former K Mart Shopping Center development. He added that a house remained in the middle of that shopping center for almost 20 years until the shopping center was renovated for the Target store and there is a similar situation on East Mountain Street where a house used to sit within the South East Freightlines trucking terminal.

Mayor Morgan stated that in the Town's UDO there are specific requirements for setbacks and bufferyards based on approved uses of property, and she can't recall a case where a private residence is surrounded on all sides by commercial property.

Mr. Swisher stated that the subdivision next to the new Walmart Market has commercial property on multiple sides and they were aware of that when they moved in.

Mr. Wolfe reiterated that until the petition comes before the Board at the Public Hearing they are likely to be lobbied by both sides, and at the time of the Public Hearing the Board is required to cast irrelevant information aside and to consider only the relevant facts of whether or not it is a valid petition.

Alderman Tracey Shifflette made a **Motion** to go into Closed Session at 7:29 p.m. to discuss certain matters which fall within the Attorney Client privilege as permitted by NCGS 143-318.11(a)(3). Alderman Irving Neal seconded the motion and the vote was all for and motion carried.

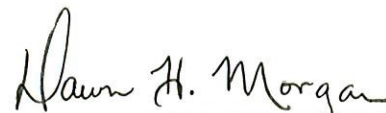
Alderman Keith Hooker made a **Motion** to continue the Closed Session meeting to Tuesday October 7<sup>th</sup> at 8:45 p.m. Alderman Kenny Crews seconded the motion and the vote was all for and motion carried.

The Board returned to Open Session at 8:45 p.m.

### **3. Adjournment**

Alderman Tracey Shifflette made a **Motion** to adjourn the meeting at 8:45 p.m. Alderman Irving Neal seconded the motion and the vote was all for and motion carried.

Being no further business to come before the Board the meeting adjourned immediately following the closed session.



Dawn H. Morgan, Mayor

Attest:

Jayne Danner

Jayne Danner, MMC, NCCMC Deputy Clerk

I, Jayne Danner, Deputy 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 October 1, 2014.

This the 7<sup>th</sup> day of November, 2014.

Jayne Danner

Jayne Danner, MMC, NCCMC Deputy Clerk