

**MINUTES
CITY OF DUNN
DUNN, NORTH CAROLINA**

The City Council of the City of Dunn held a Regular Meeting on Tuesday, December 8, 2009, at 7:00 p.m. in the Dunn Municipal Building. Present was Mayor Oscar N. Harris, Council Members Buddy Maness, Bryan Galbreath, Billy Tart, Chuck Turnage and Joey Tart. Also present was City Manager Ronnie Autry, Finance Director Mark Stephens, Public Works Director Billy Addison, Public Utilities Director Dean Gaster, Planning Director Steven Neuschafer, Chief Building Inspector Mike Blackmon, Recreation Director Perry Hudson, Librarian Mike Williams, City Engineer Ed Powell, City Attorney P. Tilghman Pope, City Clerk Debra West, and Daily Record Reporter Reece Murphy.

Absent: Mayor Pro Tem N. Carnell Robinson

INVOCATION

Mayor Harris opened the meeting at 7:00 p.m. and asked Police Chaplain Reverend Roy Johnson to give the invocation. Afterwards, the Pledge of Allegiance was repeated.

AGENDA ADJUSTMENT AND APPROVAL

Motion by Council Member Maness and seconded by Council Member Joey Tart to adopt the December 8, 2009 meeting agenda with changes, if any, as listed below.

Items Added to the Agenda:

- none

Agenda Items Removed:

- none

Motion unanimously approved.

PRESENTATIONS

**Retirement Resolution
Mr. Frankie Colville**

Mayor Harris and City Manager Autry presented a retirement resolution to Frankie Colville, in recognition and appreciation of his 25 years of service to the City of Dunn Public Works Department. *A copy of Resolution (R2009-36) recognizing Frankie Colville is incorporated into these minutes as Attachment #1.*

**Harnett County Cooperative Extension
Agricultural Division
Mr. Gary Pierce**

Mr. Gary Pierce, Harnett County Cooperative Extension Agricultural Agent, gave a brief presentation about Harnett County's Voluntary Agricultural District (VAD) Ordinance with highlights as follows:

- Harnett County implemented the VAD Ordinance in April, 2009 – 10,000 acres enlisted
- VAD addresses the urban/rural interface area where agriculture is abutting with homeowners
- VAD exists in approximately 85 counties in North Carolina
- Once land qualifies as a VAD, it is registered with the Register of Deeds office and is identified on a map
- Buffer zone is within one mile of a VAD so potential homeowners are informed if they are within a mile of a VAD
- VAD Board implements and maintains this ordinance and serves as a voice for the VAD districts and owners of land within the VAD. The VAD Board answers to the Harnett County Board of Commissioners

- If a City steps outside the ETJ area into the County and crosses a VAD to install water and sewer lines, the VAD Board would have to be contacted to hold any condemnation processes or hearings to cut across the VAD District
- The land in the City limits or ETJ are not protected by the VAD, so farmers and landowners that have property in the City's jurisdiction are not covered in the VAD and do not have a voice as they have in the County
- Landowners exist in the City of Dunn ETJ area that would like to enroll their property in this program but they can't because Dunn does not have a VAD
- The City of Dunn could do nothing, create their own VAD ordinance or adopt the County's VAD
- The VAD gives landowners and farmers a voice

PUBLIC COMMENT PERIOD

Mayor Harris opened the floor for a (30) minute public comment period.

Mr. Clarence Wolfe, 103 E. Moon Circle, Dunn, NC – He stated that he has lived in the Grove Park Subdivision for 34 years. His subdivision is being run over by drug activity. Last year, his neighborhood organized a neighborhood improvement committee, which he chaired, to address this issue and during that time, the police were called to his neighborhood every other day trying to eradicate the undesirables. There is constant traffic coming in and out of his subdivision dealing drugs. He has done everything he can; he asked the Council for help. At one time, this was a proud community, but now it is being run over by drug activity.

Hearing no further comments, the public comment period was closed.

Mayor Harris opened public hearings at 7:23 p.m.

PUBLIC HEARINGS

Rezoning Request PZ-05-09
Mack DeVaughn Pope
PIN #1516-09-1551.000
831 Erwin Road

Mayor Harris stated that the public has been notified that oral and written comments will be heard and received concerning the request by Mack DeVaughn Pope to rezone a parcel of land, totaling .27 acres +/-, located at 831 Erwin Road.

This property is currently zoned CO; Office & Institutional District and is requested to be rezoned to C-3; Highway Commercial District.

The public hearing was duly advertised on November 12th, 24th, & December 1st, 2009.

Mayor Harris asked if there was anyone present to speak for or against this rezoning request.

Attorney Doug Turner, representing Mr. Pope, stepped forward and asked the Council to concur with the favorable recommendation given by the Planning Board to approve this rezoning request. This property is located along a designated business corridor. The only residential zoned property is south of this property and would not be harmed by this use; there is an existing buffer. This request is consistent with the 2030 Land Use Plan.

Hearing no further comments, Mayor Harris closed the public hearing.

Ordinance Amendment OA-05-09
Chapter 22, Article III, Division 10

Mayor Harris stated that this is a request to hereby amend Chapter 22, Article III; Division 10 and as appropriate in the zoning ordinance of the City of Dunn Code of Ordinances.

This amendment will rename the Office & Institutional District from CO to O & I to remove the misrepresentation that this district is commercial/retail in nature.

The public hearing was duly advertised on November 12th, 24th, & December 1st, 2009.

Mayor Harris asked City Planner Neuschafer to explain all the proposed ordinance amendments before the Council tonight. Mr. Neuschafer explained that OA-05-09 re-labels the CO District to remove any confusion on the part of applicants. This will avoid any future confusion about this district being commercial.

Mayor Harris asked if there was anyone present to speak for or against this ordinance amendment.

Hearing no comments, Mayor Harris closed the public hearing.

Ordinance Amendment OA-06-09
Chapter 22, Article III, Division 13

Mayor Harris stated that this is a request to hereby amend Chapter 22, Article III; Division 13 and as appropriate in the zoning ordinance of the City of Dunn Code of Ordinances.

City Planner Neuschafer stated that this amendment will remove the TR-CW; Transitional Commercial Warehouse District in its entirety from the ordinance for the lack of application. There is only one property zoned TR-CW and it will be rezoned in the future. In the TR-CW description and purpose, it was suppose to be used in the central business district; however, the only property zoned TR-CW is not located in the central business district. The Planning Board feels that the use of this district is not necessary because there are enough commercial districts.

The public hearing was duly advertised on November 12th, 24th, & December 1st, 2009.

Mayor Harris asked if there was anyone present to speak for or against this ordinance amendment.

Hearing no comments, Mayor Harris closed the public hearing.

Ordinance Amendment OA-07-09
Chapter 22, Article III, Section 22-54

Mayor Harris stated that this is a request to hereby amend Chapter 22, Article III; Division 1, Section 22-54.

City Planner Neuschafer explained that this amendment will remove the text from section 22-54 (*Applications for commercial zoning; failure of applicant to act*) and list it as reserved. Section 22-54 requires an applicant, if they rezone property to commercial and they do nothing with it or they do not apply what they asked for, to come back to the Planning Board and describe why they haven't done anything with the property. To his knowledge, this ordinance has not been applied in the past and is not needed. This section is not utilized and therefore should be removed.

The public hearing was duly advertised on November 12th, 24th, & December 1st, 2009.

Mayor Harris asked if there was anyone present to speak for or against this ordinance amendment.

Hearing no comments, Mayor Harris closed the public hearing.

Ordinance Amendment OA-08-09
Chapter 22, Article IX, Section 22-515

Mayor Harris stated that this is a request to hereby amend Chapter 22, Article IX; Division 3, Section 22-515 and as appropriate in the zoning ordinance.

City Planner Neuschafer explained that this amendment would create a new conditional zoning district for each of the existing districts in the zoning ordinance and the process in which an application will be

processed. It would allow an applicant to agree to conditions upon their rezoning request. In the past, they have had difficulties with rezoning property when it allows 23 or 24 different uses; when they can't specify if it will be used for a bank, office, etc. If the applicant agrees, this is a conditional zoning permit that will allow the owner to specify exactly what they plan to use the property for to help neighbors understand what the property will be used for instead of speculating which use it will be. This request does put limitations on the applicant. He gave an example that if a property is rezoned to be used as a bank, then another rezoning would be required if the property changed to a use different than a bank.

The public hearing was duly advertised on November 12th, 24th, & December 1st, 2009.

Mayor Harris asked if there was anyone present to speak for or against this ordinance amendment.

Hearing no comments, Mayor Harris closed the public hearing.

Ordinance Amendment OA-09-09
Chapter 22 – Adding Residential District RA-40
Single Family Dwelling and Agricultural District
{Tabled at Planning Board Meeting on November 19, 2009}

Mayor Harris stated that this amendment will create a new Residential Zoning District RA-40, Single Family Dwelling and Agricultural District and its particular uses and regulations. This request also includes changes in other residential districts and conditional uses to support this proposed district.

The public hearing was duly advertised on November 12th, 24th, & December 1st, 2009.

(The Planning Board met November 19th, 2009 and voted unanimously to recommend tabling this ordinance amendment).

City Planner Neuschafer stated that this amendment was tabled at the Planning Board for further information.

Motion by Council Member Billy Tart and seconded by Council Member Turnage to table the public hearing for OA-09-09. **Motion unanimously approved.**

Hearing no further comments, Mayor Harris closed the public hearings.

CONSENT ITEMS

Minutes - Council considered approval of minutes of the November 10, 2009 Council meeting.

Tax Releases/Refunds – Council considered approval of Tax Releases/Refunds #125 - #159. *Copies of Tax Releases/Refunds are filed in the office of the Tax Collector.*

Motion by Council Member Joey Tart and seconded by Council Member Galbreath to approve all consent items. **Motion unanimously approved.**

ITEMS FOR DECISION

Audit Report
F/Y 2008-2009

Auditor Phyllis Pearson of Petway, Mills & Pearson, PA gave a short summary of the FY 2008-2009 audit for the City of Dunn:

Reports

- Audit was completed in October and the report was submitted to the LGC by October 31, 2009
- Unqualified audit opinion – best audit report auditors give

- Unqualified audit opinion on an audit conducted under government auditing standards
- Unqualified report on compliance with state program compliance

Governmental Activities

- Total assets - \$8.3M
- Total Liabilities - \$2.1M
- Total net assets - \$6.2M
- Total revenues - \$8.3M
- Total expenses - \$8.6M

Business-Type Activities (Water and Sewer Fund)

- Total assets - \$19.3M
- Total liabilities - \$3.5M
- Total net assets - \$15.7M
- Total revenues - \$3.7M
- Total expenses - \$3.6M

General Fund

- Total assets - \$3.7M
- Total liabilities - \$475,279
- Total fund balances - \$3.2M
- Total revenues - \$8.4M
- Total expenses - \$8.3M

Unreserved Fund Balance

- As of June 30, 2009 - \$1.9M
- Statutory requirement – 8% of prior year expenditures
- City meets and exceeds requirements

Findings

- No noncompliance with NC General Statutes
- No expenditures in excess of appropriations in any fund
- The Street Improvement Capital Project Fund had a deficit fund balance of \$34,125 due to delays in receipt of project funding from outside sources
- No changes in significant accounting policies
- No changes in the use of estimates
- Most sensitive disclosures in the financial statements dealt with capital assets and debt
- Our adjustments limited to adjustments to convert books to accrual basis accounting for GASB 34 presentation. The monthly financial statements were correct
- No disagreements with management during the audit process
- Management's representation letter was signed timely and promptly
- Report was submitted timely to LGC
- Two uncorrected misstatements due to immaterial errors in special assessments receivable and accounts payable

Financial Report

Finance Director Mark Stephens provided the following financial update to the Council:

- The City as of October 31, 2009 had \$2.9M cash in the General Fund and \$1.9M cash in the Water/Sewer Fund.
- Investment earnings are in the 1.00% - 0.20% range.
- Building Permit Fees were \$25,693 or 39.53% of budget. The City should be at 33.33% of budget.
- The Sales Tax Revenue for October was \$99,228.
- Water and sewer revenues were \$1.4M or 35.74% of budget. The City should be at 33.33% of revenue.
- Fuel cost per gallon was \$1.88 in October.
- Property taxes collected as of October 31, 2009 were 51.31% of budget. Same period last year, the City had collected 50.67% of budget.

- Expenditures were 31.98% of budget in the general fund and 28.98% in water/sewer fund. The benchmark for this period is 33.33%.

Rezoning Request PZ-05-09

Mack DeVaughn Pope

PIN #1516-09-1551.000

831 Erwin Road

This is a request to rezone a parcel of land totaling .27± acres, located at 831 Erwin Road. This property is currently zoned CO; Office & Institutional District and is requested to be rezoned to C-3; Highway Commercial District.

The Planning Board met on November 19, 2009, reviewed the request and asked for comments from the public. After hearing comments from the public and the request from the applicant, the Planning Board recommended unanimously to approve this request.

Motion by Council Member Turnage and seconded by Council Member Billy Tart to approve the request from Mack DeVaughn Pope to rezone a parcel of land (PIN #1516-09-1551.000) totaling .27± acres and located at 831 Erwin Road from CO; Office & Institutional District to C-3; Highway Commercial District based on the following justification:

- 1) The City of Dunn Land Use Plan identifies this area as office and institutional on the future land use map. This property is located in area four of the Land Use Plan.
- 2) The amendment is not inconsistent with the surrounding land uses which are both (mixed commercial and office space) in this area.
- 3) The permitted uses in the C-3 District are not considered detrimental to the area and would be beneficial to the entire community.

Motion unanimously approved.

Ordinance Amendment OA-05-09

Chapter 22, Article III, Division 10

This amendment will rename the Office & Institutional District from CO to O & I to remove the misrepresentation that this district is commercial/retail in nature.

Motion by Council Member Galbreath and seconded by Council Member Joey Tart to approve OA-05-09. **Motion unanimously approved.** *A copy of Ordinance (02009-18) is incorporated into these minutes as Attachment #2.*

Ordinance Amendment OA-06-09

Chapter 22, Article III, Division 13

This amendment will remove the TR-CW; Transitional Commercial Warehouse District in its entirety from the ordinance for the lack of application.

Motion by Council Member Joey Tart and seconded by Council Member Maness to approve OA-06-09. **Motion unanimously approved.** *A copy of Ordinance (02009-19) is incorporated into these minutes as Attachment #3.*

Ordinance Amendment OA-07-09

Chapter 22, Article III, Section 22-54

This amendment will remove the text from section 22-54 (*Applications for commercial zoning; failure of applicant to act*) of the zoning ordinance and list it as reserved. This section is not utilized.

Motion by Council Member Galbreath and seconded by Council Member Joey Tart to approve OA-07-09.

Mayor Harris asked if there was further discussion.

Council Member Maness suggested keeping the present ordinance which states that following a change in districts to commercial use, the applicant shall proceed to perform within one (1) year and if no action is taken by the applicant to use his land as requested within one (1) year after approval, the land will revert to its old district designation; however, Mr. Maness suggested giving an applicant more than the one (1) year period. Further discussion was held about the pros and cons of requiring an applicant to update their rezoning.

Mayor Harris called for the vote.

Motion carried 4-1 with Council Member Maness voting against. *A copy of Ordinance (02009-20) is incorporated into these minutes as Attachment #4.*

With consensus of the Council, Mayor Harris excused Council Member Joey Tart from the meeting at 7:52 p.m.

**Ordinance Amendment OA-08-09
Chapter 22, Article IX, Section 22-515**

This amendment will create the conditional zoning district and the process in which an application will be processed.

Motion by Council Member Maness and seconded by Council Member Turnage to approve OA-08-09.
Motion unanimously approved. *A copy of Ordinance (02009-21) is incorporated into these minutes as Attachment #5.*

**Appeal Order of Building Inspector
822 E. Cumberland Street
PIN #1516-85-7018.000**

This is a request from the property owner of 822 E. Cumberland Street, Lorenzo King to appeal the Building Inspector's order allowing 60 days to make the proper repairs to this structure. Mr. King has filed an appeal to request a hearing before the City Council asking for more time to complete the repairs for this structure. The Council shall render a decision on this appeal within a reasonable time.

Mr. King, who resides in Raleigh, stated that he is the executor of this property and his other relatives live outside the state. He added that since receiving a notice from the City, the relatives are ready to commit to take care of this property.

Building Inspector Mike Blackmon stepped forward and gave a brief history about 822 E. Cumberland Street. This house has been vacant for some time. When he and Mr. King went through the house, they found doors were left open to the elements and some of the windows were busted out. They have had trouble with folks being in this property. There are structural issues with the roof sagging, and weeds have grown up around the property which leads to undesirable activity.

Mr. Blackmon stated that a hearing has been held with Mr. King and an order was issued to repair or demolish the structure within 60 days, which will expire December 25, 2009. He added that Mr. King gave the City a written appeal within the ten day period that the General Statutes allows him to appeal the Building Inspector's order. Mr. Blackmon explained that he is only authorized to give a (60) day extension statutorily.

Council Member Galbreath asked Mr. King how much time he is asking for. Mr. King responded that he met with three builders at the property today and he is requesting 90 days from the first of the year to get the repairs done. The Council questioned Mr. King's plan of action and progress with repairing, preserving or boarding up the windows to this structure. Mr. King attributed it to his other family members living out of state. Mr. King also stated that he thought he had a buyer for the house.

Mr. Galbreath asked Mr. King when someone last resided in this house. Mr. King responded the last tenant has been out of the house for approximately six to seven months.

For clarification, Attorney Pope explained to the Council that Mr. King has appealed the Building Inspector's order that gave him 60 days to bring the property into compliance with the code or be demolished. It is before the Council tonight to affirm, revoke or modify the Building Inspector's order. Even if the Council affirms the inspector's order, that is not the end of the process. Mr. King's 60 days will expire December 25th so it would be the February Council meeting before it would be before the Council to consider the ordinance to demolish this property. This would be approximately six to seven weeks that the property owner might show some diligence in trying to comply with the order when it comes back to the Council for an order of demolition. The demolition ordinance is not before the Council tonight, but merely Mr. King's appeal from the Building Inspector's order that gave him the statutorily required 60 days to bring the structure into compliance.

Motion by Council Member Maness and seconded by Council Member Billy Tart to affirm the Building Inspector's Order. **Motion unanimously approved.**

**Consideration of Resolution
Adopting the 2010 Regular Meeting
Schedule for the City of Dunn
City Council**

A resolution establishing the City Council meeting dates for 2010 was considered by the Council.

Motion by Council Member Maness and seconded by Council Member Billy Tart to adopt a Resolution Establishing the 2010 Regular Meeting Schedule for the Dunn City Council. **Motion unanimously approved.** *A copy of Resolution (R2009-37) Establishing the 2010 regular meeting schedule is incorporated into these minutes as Attachment #6.*

**Award Bid for Bank Financing
Roof Replacement for
Municipal Building and Public Library**

Manager Autry stated that proposals were sent to local banks to finance this project. The proposal was for \$109,000 financing with a five (5) year pay-back period. The debt service payments will begin in December of 2010 in the amount of \$24,819.00. The following four banks submitted proposals:

Financial Institution	Interest Rate	Interest Paid	Principal	Origination Cost	Total Cost
New Century	2.77%	9,057.90	109,000.00	-	118,057.90
BB & T	3.31%	10,823.70	109,000.00	-	119,823.70
First Citizens	3.47%	11,604.81	109,000.00	250.00	120,854.81
RBC Bank	3.83%	12,524.10	109,000.00	2,900.00	124,424.10

Motion by Council Member Billy Tart and seconded by Council Member Turnage to award bid for financing to New Century Bank at a rate of 2.77%. **Motion unanimously approved.**

**Elgin Crosswind
Street Sweeper Purchase**

Manager Autry explained that the Public Works Department is requesting to replace its existing Elgin Street Sweeper. The current system is nine (9) years old, requires constant maintenance, and is presently out of service due to an estimated repair cost of \$20,000.00.

The estimated cost to replace this equipment is \$169,980.00.

The Public Works Department is seeking approval to utilize G.S. 143-129(g), Waiver of Bidding for Previously Bid Contracts, to obtain this equipment. G.S. 143-129(g), referred to as "piggybacking", allows cities, counties, or other subdivisions of the State, to forego the formal bidding process when another city,

county, etc. has completed a formal bid process within the past 12 months, and the successful bidder is willing to furnish the items/equipment at the same or more favorable prices. The Public Works Department wishes to “piggyback” the contract between the City of Raleigh and Public Works Equipment and Supply, Inc. entered into on June 26, 2009.

Funds are available in the Powell Bill Fund balance and budget amendment BA-8 is attached to transfer these funds to capital outlay.

Motion by Council Member Turnage and seconded by Council Member Galbreath to approve BA-8 and authorize the Public Works Department to purchase an Elgin Crosswind J-Plus Regenerative Air Street Sweeper from Public Works Equipment and Supply, Inc., Monroe, NC and to utilize G.S. 143-129(g) waiver of bidding process. **Motion unanimously approved.** *A copy of Budget Amendment (BA-8) is incorporated into these minutes as Attachment #7.*

Authorization to Specify Sole Source Provider - Wastewater Treatment Plant Upgrade

City Engineer Ed Powell stated that in accordance with N.C.G.S. 133-3, the City Council is being asked to give authorization to specify sole source provider for the following Wastewater Treatment Plant Upgrade prior to bidding this project:

- **{Wastewater Pumps}** List Gorman-Rupp as the preferred equipment provider for the upgrade project at the WWTP, Eastside Pump Station, and Machine Welding Pump Station
- **{Grit Collection}** List Eutek HeadCell™ as the preferred equipment provider for the upgrade project at the WWTP
- **{SCADA Software/Integration}** Approve utilization VTScada as the sole source provider for the wastewater upgrade project. An existing SCADA system is in place that monitors the elevated water storage tanks and pump stations. The same system needs to be expanded since this system is already in place.

Mr. Powell explained that the statutory process would allow them to have an open bid to receive competitiveness based upon performance specifications and take an alternate bid for these named items so they would know exactly what the differential is.

Motion by Council Member Billy Tart and seconded by Council Member Turnage to approve authorization to specify Sole Source Provider for the Wastewater Treatment Plant Upgrade in accordance with N.C.G.S. 133-3. **Motion unanimously approved.**

ITEM FOR DISCUSSION AND/OR DECISION

Financial Report

Finance Director Mark Stephens provided the financial update earlier in the meeting after the Audit Report.

ADMINISTRATIVE REPORTS

Motion by Council Member Turnage and seconded by Council Member Billy Tart to accept the Administrative Reports. **Motion unanimously approved.**

ANNOUNCEMENTS

Mayor Harris made the following announcements:

- Holiday Gathering on December 28, 2009 – not at the expense of the City of Dunn
- Plans for the Budget Retreat in February – tentatively at Campbell University

Council Member Turnage applauded the efforts of the Planning Board for the work they are doing.

Mayor Harris commended Manager Autry, Finance Director Stephens, department heads and staff for their professional management of the budget. While other municipalities are being faced with deficits, the City of Dunn has had a surplus in their budget.

Council Member Galbreath asked that special call meetings of the City Council be televised for those citizens that watch the government channel. He requested that they place on the Council retreat agenda, the consideration of additional police officers to curtail drug activity through-out the City.

With no further business to discuss, a motion was made by Council Member Billy Tart and seconded by Council Member Chuck Turnage to adjourn the meeting at 8:31 p.m. **Motion unanimously approved.**

Oscar N. Harris
Mayor

Attest:

Debra G. West
City Clerk