

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

The City Council of the City of Dunn held a Regular Meeting on Tuesday, July 14, 2009, at 7:00 p.m. in the Dunn Municipal Building. Present was Mayor Oscar N. Harris, Mayor Pro Tem N. Carnell Robinson, Council Members Buddy Maness, Bryan Galbreath, Billy Tart, Chuck Turnage and Joey Tart. Also present was City Manager Ronnie Autry, Public Works Director Billy Addison, Public Utilities Director Dean Gaster, Planning Director Steven Neuschafer, Chief Building Inspector Mike Blackmon, Librarian Mike Williams, Police Chief B.P. Jones, City Attorney P. Tilghman Pope, City Clerk Debra West, and Daily Record Reporter Reece Murphy.

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 Mayor Pro Tem Robinson and seconded by Council Member Joey Tart to adopt the July 14, 2009 meeting agenda with changes, if any, as listed below.

Items Added to the Agenda:

- none

Agenda Items Removed:

- none

Motion unanimously approved.

PRESENTATIONS

**Shelia L. Simmons
Chief Executive Officer
First Choice Community Health Centers (FCCHC)**

Ms. Shelia L. Simmons, CEO of First Choice Community Health Centers, gave a power point presentation summarizing the community services offered by this corporation, some of which include:

- FCCHC is a private, non-profit 501(c)(3) corporation headquartered in Manners, North Carolina celebrating thirty (30) years of community care as a federally qualified community health center. FCCHC is a recipient of federal funding.
- Their mission is to provide comprehensive health care services with excellence and compassion.
- Provide premier services to residents in the service area and remains the primary source of support for the indigent medically underserved.
- FCCHC provides services in five (5) counties (Harnett, Lee, Moore, Cumberland & Wake).
- In 2008, they served 9580 patients.
- FCCHC medical health care sites are located in the rural communities of Manners/Boone Trail, Benhaven, Anderson Creek and Angier, NC.
- FCCHC dental clinics are located in Anderson Creek, Angier, Benhaven and Boone Trail.
- FCCHC targets Medicaid and Medicare recipients, the working poor, the uninsured/underinsured, children, elderly and special populations. FCCHC is not a free clinic; however, they provide payment arrangements.
- FCCHC serves those patients whom other providers and facilities can not or do not wish to see.
- FCCHC will begin a new outreach program by launching two mobile units, a dental and a medical unit, to serve the area.

Mayor Harris and the Council thanked Ms. Simmons for the services FCCHC offers the community.

Tyler D. Bray
NCDOT Transportation Engineer
Harnett County Comprehensive
Transportation Plan

Mr. Tyler D. Bray, NCDOT Transportation Engineer presented a summary update on the progress of the Harnett County Comprehensive Transportation Plan (CTP) Team in developing growth rates and traffic deficiencies for the Harnett County CTP.

He stated that back in 2001-2002, a thoroughfare plan was worked on for the Dunn-Erwin area and was adopted by both town councils and NCDOT. They are now in the process of merging all existing plans and recommendations and make additional recommendations for those areas not covered in Harnett County to include Coats, Buies Creek, Lillington, Angier, Dunn, Erwin, the area surrounded by the Fayetteville Metropolitan Planning Organization, and area surrounded by Capital Area Metropolitan Planning Organization. Part of the process is to look at the highway element of Harnett County. He will be appearing before each of the five municipalities and will present the data to the Harnett County Board of Commissioners for endorsement by all municipalities. This endorsement of the information housed in the maps is not by formal action, but will allow them to use this information as a tool to develop recommendations for the future roads through-out the entire County.

He anticipates proposing draft recommendations by late 2009. A draft plan will be presented to the Planning Board, to each municipality in the County, and to the local governing boards as well as the Harnett County Board of Commissioners for comment. After hearing those comments, they will hold public information sessions across the County to hear comments from the public and this will be followed by presenting the final plan to the local governing boards for adoption. Once adopted by the local municipalities and the County, it will be endorsed by Mid-Carolina Rural Planning Organization, Capital Area Metropolitan and Fayetteville Metropolitan Planning Organizations and then it will go before the Board of Transportation for adoption by NCDOT.

He presented five (5) maps to the Council and provided a brief summary of each:

- Analyzed Roads for Harnett County CTP (Major roads – Highways 421, 55, 301, Chicken Farm Road, Elm St., Jonesboro Rd.)
- AADT Location Map (Annual Average Daily Traffic Locations) – sixteen locations through-out Harnett County that did not have current AADT were chosen for traffic counts
- Preliminary Growth Rate Map – (data from 1990-2007 and 1999-2007 to obtain growth rates)
- 2007 Volume/Capacity Map
- 2035 Volume/Capacity Map

Mr. Bray explained that they will be using these growth rates, applying them into a general equation of where the traffic is today in order to obtain future traffic volume. They will use the capacity that is on the existing roads and see where deficiencies lie.

Mayor Harris stated that Mr. Bray is asking for endorsement of this information and he asked if any Council member had any question or objection to the information before them. None was received.

PUBLIC COMMENT PERIOD

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

Mr. Paul Chadwick, 404 N. Magnolia Avenue, Dunn – He stated that he has maintained the area along the alley near his home since 1972. Mr. Roger May recently bought the adjoining property and he along with Mr. May would request that the alley be closed to prevent people from walking across his property and in order to erect a fence. Mayor Harris advised Mr. Chadwick that Manager Autry would contact him about the process necessary to close this alley.

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

Mayor Harris opened the public hearing at 7:42 p.m.

PUBLIC HEARINGS

Ordinance Amendment OA-03-09 Section 4-39. Rental Housing Code

Mayor Harris stated that the public has been notified that oral and written comments will be heard and received concerning the request by the City of Dunn to amend Section 4-39 Rental Housing Code.

He added that the public hearing was duly advertised on July 2, 2009 and July 9, 2009.

Mayor Harris asked City Attorney Pope to give a summary of the rental housing code amendment.

Mr. Pope stated that during a budget work session in May, 2009, the Council directed him to draft proposed amendments to the current Rental Housing Code which did go into effect July 1, 2009. He summarized the substantive changes:

- Deleted the requirement for mandatory inspections at least once every five (5) years, removed all mandatory inspections, and removed any reference to all inspection fees as all inspection fees would be eliminated under the proposed amendment.
- Deleted the requirement for an inspection anytime that a tenant vacates a rental property.
- Deleted any reference to an initial or mandatory inspection.
- Added as a penalty for violation of the ordinance, that the license to be granted, could be revoked if the owner of rental property violated the ordinance.

Mr. Pope stated that in summary, the current rental housing code went into effect July 1, 2009. It contained a registration fee, inspection fees and mandatory inspections. The proposed amendments would eliminate all inspection fees, eliminate mandatory inspections and it would continue to require for the registration of rental properties. The Council adopted a \$20.00 per unit registration fee in the fiscal year 2009-2010 fee schedule.

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

Mr. Lee James Best, Jr., 506 W. Cumberland St., Dunn – He stated that he is in agreement with removing the mandatory inspection from the proposed ordinance. He would like to know what the \$20.00 registration fee is for, does the City have a legitimate reason for imposing this fee and what will this money be used for.

Mr. Doug Godwin, 725 Westbrook Ave., Dunn – He asked the Council to rescind this ordinance. He is opposed to the Rental Housing Code. The Minimum Housing Code is sufficient.

Mr. Ken McElynn, MD, 121 Brightwood Circle, Dunn – He stated that many are relieved that the Council appears to be coming to their constitutional senses. Mandatory inspection of a persons' private home is a violation of the fourth amendment of the United States Constitution. All of the Council members took an oath to uphold and defend the constitution. He is still concerned because the price of freedom is eternal vigilance. The public rejected the first dose of poison the Council offered so now they're offering a little dose. Now they're getting an ordinance on the books that can be changed later; twenty dollars now, fifty dollars next year and a hundred dollars after that. When you get something on the books, it can be changed later. There's an old definition of government which says that government looks for problems, finds them everywhere, diagnoses them incorrectly and applies the wrong remedies. The solution is good citizens and good neighbors; not big government. If they think there's a housing problem in Dunn, let's pull together and solve it. He asked the Council to vote down this ordinance and pull this community together and solve this problem.

Hearing no further comments, Mayor Harris closed public hearings at 7:53 p.m.

CONSENT ITEMS

Minutes-Council considered approval of minutes of the May 27, 2009 continued Council meeting.

Minutes - Council considered approval of minutes of the June 9, 2009 Council meeting.

Minutes-Council considered approval of minutes of the June 23, 2009 continued Council meeting.

Tax Releases/Refunds – Council considered approval of Tax Release/Refund #167 - #171. *Copies of Tax Releases/Refunds are filed in the office of the Tax Collector.*

Budget Amendments – Council considered approval of Budget Amendment #1. *A copy of Budget Amendment #1 for FY 2009-2010 is incorporated into these minutes as Attachment #1.*

Municipal Records Retention Resolution – Council considered a resolution approving the NC Municipal Records Retention and Disposition Schedule issued May 19, 2009 by the NC Department of Cultural Resources Archives and Records Section. *A copy of Resolution (R2009-23) approving the NC Municipal Records Retention and Disposition Schedule is incorporated into these minutes as Attachment #2.*

Destruction of Records – Council considered approving the destruction of Police records which have exceeded the required retention time pursuant to the Municipal Disposition Schedule. *A list of those records that have exceeded the required retention schedule and approved for destruction is incorporated into these minutes as Attachment #3.*

Surplus Resolution – Council considered approval of a Resolution Authorizing the Disposition of Personal Property by electronic means through www.GovDeals.com. *A copy of Surplus Resolution (R2009-24) is incorporated into these minutes as Attachment #4.*

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

ITEMS FOR DECISION

Ordinance Amendment OA-03-09 Section 4-39. Rental Housing Code

Mayor Harris entertained discussion by the Council.

Motion by Council Member Billy Tart, and seconded by Council Member Joey Tart to approve OA-03-09 Section 4-39 - Rental Housing Code.

Mayor Harris entertained questions and comments.

Mayor Pro Tem Robinson stated that this ordinance was started during a Council retreat in February, 2008. Based on the recommendation of Chief Building Inspector Mike Blackmon, the Council formed a consensus of the need to do something to strengthen the Minimum Housing Code enforcement in the City. Some of the members of the Council have assumed that his passion for this issue was purely arrogance; and that is not the case. He spoke of living in rental housing while growing up. Quality housing makes a difference in families. When his family moved out of rental housing in 1961, it was too late for him, because he was legally blind in his right eye, so this issue is not a matter of arrogance for him.

Mr. Robinson stated that when the Council initially began to address this issue, they wanted to do something good for this community; not just simply for those people who rent houses but for the people who own adjoining property, for the children who are forced to live in our community. Somewhere along the way they lost heart, courage and the spirit of the All America City. When you look at the properties around town, it's a fact that there are slumlords, and dilapidated property and that the method instituted in the 60's is not working. In a simple walk around town today, he filled out fifteen complaint forms based on junk cars, weedy lots, and dilapidated external appearances of property all over town. If they remove the mandatory inspections, they also remove the motivation for landlords to comply with this ordinance. It will

be the same as in the 60's when a landlord will wait on discovery. In actuality, they are subsidizing slum lords. When one undesirable locates in a neighborhood, the people who own their houses can't escape and their children have to associate with the children who live next door. Dunn has one of the highest concentration of free and reduced lunch in this County. These substandard houses are not attracting the people that you want in these communities. From a political stand-point, the word ordinance means to put into order. When you rebuke what has been presented at the request of the Council from the City attorney, then they're not putting rental housing in order.

Council Member Turnage asked that the Manager work with the Inspections Department and Police Chief to measure the success or failure of this ordinance so that they can come back at a later time to chart crime and inspections.

Council Member Maness stated that he recently read about an ordinance in the City of Raleigh named PROP (probationary rental occupancy permit). He read directly from the Raleigh website, "in an effort to enhance existing remedial code enforcement measures, address repeat offenders of the City Codes and to obtain expedient compliance with City Codes, the Raleigh City Council adopted this ordinance effective February, 2005..this ordinance set out the requirements of the probationary rental occupancy permit program...this permitting program was found to be necessary to promote public health, welfare and quality of life issues of the City and its residents". On this same website, the most frequently asked question was "what is the intent of all this?". Continuing to read directly from the website, "the PROP ordinance is intended to address problem rental properties in established neighborhoods and is targeted toward rental properties where violations occur...not all rental properties..the goal is that no PROP will ever be issued because if that is the case, it means that rental property owners through-out the City are ensuring that their properties are well kept, up to City Code and are well monitored and their tenants are respectful of their neighbors." To show an example of the efficiency of this ordinance, he read a quote from a newspaper article which stated that Raleigh Senior Housing Inspector stated that the ordinance has been beneficial and noted about a 25% decrease of code enforcement violations written out of the department.

Mr. Maness suggested that the City Manager and City Attorney investigate the Raleigh PROP ordinance and report back to the Council at a later date so that the Council can determine if this is something they wish to pursue. He added that Raleigh also has a rental dwelling registration ordinance, which is actually more restrictive than Dunn and does require a registration program. To all those who believe that the City of Dunn is breaking new ground by implementing a rental housing code, he pointed out that there are other municipalities that have seen the need and have already adopted rental housing ordinances.

Mayor Pro Tem Robinson stated that it seems the basis for objections to the current rental housing ordinance are based on some misguided belief that it is unconstitutional to have mandatory inspections; however, we all know that the City of Dunn has a housing authority that was built using federal funds and a mandate from that funding source, is regular inspections. He added that the United States government endorses the idea of mandatory inspections.

Council Member Galbreath stated that he has visited numerous homes since they talked about this rental housing ordinance and he has witnessed electrical and plumbing problems, broken windows, leaky roofs, neighborhoods that experience drug problems and some of the landlords that spoke out at a previous meeting, are slumlords. Some of the properties he visited are owned by landlords that spoke out and stated they were outstanding landlords. Some of the landlords have brainwashed their tenants to believe that the City of Dunn is putting an undue burden on them and trying to force their way into their homes; this is not true. The Council is trying to afford every citizen in this community good, safe, decent, acceptable and affordable housing. He can count four houses within distance of City Hall that are substandard with families living in them. There are folks who are unhappy with their living conditions, but afraid to say anything to their landlords for fear of retaliation of eviction. The current ordinance on the books has not worked for the past sixty years. If they are looking at moving this City forward, improving neighborhoods and living conditions for everybody, they must do something other than what they have now and taking out the mandatory inspections is not the answer. The City of Durham has a similar ordinance as Raleigh and he agreed with Mr. Maness that this needs to be researched before the Council makes any final decision in putting an ordinance in place. He cannot vote for the proposed ordinance. They need an ordinance with more teeth behind it to show the landlords that they mean business.

Mayor Harris called for the vote.

Ayes	Nays
Joey Tart	Galbreath
Billy Tart	Robinson
Chuck Turnage	Maness
Mayor Harris	

Motion carried 4-3. *A copy of Ordinance (O2009-12) Section 4-39 Rental Housing Code is incorporated into these minutes as attachment #5.*

Recommendation to Revise the City Safety Policy

The current safety policy was adopted by the City Council on September 7, 1995 and amended November 6, 1997, September 7, 2000 and August 1, 2002.

Public Utilities Director and City Safety Coordinator Dean Gaster, stated that the Safety Committee is requesting that the City Council rescind Rule #45 under Section V. General Rules & Procedures for All Municipal Employees in the City Safety Policy based on the following:

- 1- The Committee feels that this rule as written singles out City employees that drive City vehicles and does not address other areas of negligence by City employees that could cost the City revenues (i.e. an employee who would start up a pump without checking the oil resulting in damage or an employee who would fail to meet a report deadline resulting in a fine to the City).
- 2- The Committee feels that the City's Personnel Policy – Article IX. Unsatisfactory Job Performance and Detrimental Personal Conduct, along with the City's Employee Infraction Notice form are more than adequate to address employee negligence for any type of incident including accidents involving City vehicles.

~~Rule 45. Any city employee deemed to be negligent in an accident involving a city vehicle shall pay one half of the insurance deductible or the cost of proper repair, whichever is less, regardless of whether repairs are made or not. The Department head shall be authorized to determine whether the damage to the vehicle is to be repaired or not based on age and condition of the vehicle.~~

Mayor Harris asked Mr. Gaster if the committee considered a comprehensive plan whereby all city equipment would be included if it was damaged by an employee's negligence. Mr. Gaster responded that was discussed. The insurance policy deductible applies to City vehicles and not to other individual's personal property. The safety committee felt these issues could be addressed by the City personnel policy and not necessarily addressed by taking money out of the employee's pocket.

Discussion was held about holding all employees responsible for deductibles, regardless if it involves a vehicle or equipment and the possibility of forgiveness for an employee's first occurrence but charging them for a second occurrence.

Council Member Maness stated that he does not think Rule 45 singles out any city employee because not all city employees drive city-owned vehicles. He asked Mr. Gaster if the safety committee had considered a comprehensive policy where the deductible would apply to all city equipment damaged. Mr. Gaster responded no, it would be hard for the safety committee to prove negligence in each case. The safety committee did not think this responsibility should be in their hands when there is a personnel policy that department heads and supervisors are suppose to carry out. Mr. Gaster stated that if there is an employee who is negligent in their duty, whether it be driving skills, etc., they should be reprimanded in the proper order to the point of dismissal if necessary.

Mayor Harris entertained a motion to accept the recommendation of the safety committee.

A motion was made by Council Member Turnage to accept the recommendation of the safety committee to rescind Rule 45.

Motion died for lack of second.

Mayor Harris stated that the policy will be enforced as written and suggested the safety committee bring forth another recommendation acceptable to the Council.

ADMINISTRATIVE REPORTS

Mayor Harris asked that the Finance Director provide the Council with a list of outstanding property taxes owed from 2006 due to a 96% collection rate. All other years reflect a 99.5% collection rate.

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

EXECUTIVE REPORTS

Manager Autry announced that the second \$500,000 supplemental grant has been awarded to the City of Dunn for the wastewater treatment project. When combined with what has been received thus far, grant awards total \$4 million. The City is still awaiting a decision about stimulus monies that the City applied for.

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 8:26 p.m. **Motion unanimously approved.**

Oscar N. Harris
Mayor

Attest:

Debra G. West
City Clerk