

MEBANE CITY COUNCIL
MEBANE MUNICIPAL BUILDING
SEPTEMBER 11, 2006

Members Present: Tim Bradley
Ed Hooks
Everette Greene

Bob Hupman
Patty Philipps

In the absence of Mayor Glendel Stephenson, Mayor Pro-Tem Patty Philipps called the meeting to order. Tim Bradley gave the invocation.

City Manager Robert Wilson explained to the Council that during the budget work sessions, when the restoration of the 1922 Brockway American LaFrance Torpedo and 1936 Ford American LaFrance fire trucks were discussed, the Council failed to approve the business terms of Firefly Restoration Company which included a provision that \$5,000 per vehicle, a total of \$10,000, be paid for shipping and start up costs for the restoration work. Bob Hupman made a motion, seconded by Tim Bradley, to adopt a Resolution Affirming and Ratifying Contract Terms. The motion carried unanimously.

Mayor Pro-Tem Philipps acknowledged a thank-you note complimenting beautification staff for their work. She also noted that James Knox, 2006 North Carolina Teacher of the Year, was being honored by associates of the Mebane Wal-Mart at Eastern High School at 9:00 a.m. on September 12, 2006. The Council received a letter from Chatarsha Garner, West End Childcare & Learning Center, thanking the Council for allowing them to host the first annual Community Awareness Street Festival.

The Council received a request from Buddy Blackburn, Project Manager for the proposed Unified Development Ordinance, for a response to the preliminary draft of the following articles: 1) General Provisions; 2) Administration, Development Review, and Permitting Procedures; 8) Appeals, Variances, and Interpretations; 9) Amendments; 10) Nonconformities; 11) Enforcement and Judicial Review. The general consensus of the Council was that these were administrative matters and were boilerplate material.

Ed Hooks made a motion, seconded by Tim Bradley, to approve the tax releases and refunds. The motion carried unanimously.

The Council heard an additional item request from Councilman Hupman to look into the removal of stoplights at the intersections of Clay Street and North Fourth Street and Clay Street and North Third Street. The general consensus of the Council was to have the City's traffic engineer look at this.

City Manager Robert Wilson was requested to look at the intersection of Mebane Oaks Road and I-85/40 on the southeast quadrant to see if yield signs are needed. Also discussed were the turn lanes to be constructed at Holmes Lane and S. Third Street. The State will be doing this work when Hwy. 119 South is paved. The State is also studying the intersection for a traffic signal.

The Council heard an additional item request from Councilman Hooks to have the traffic engineer look at having "No Parking" along Emerson Drive. There have been accidents due to vehicles being parked along the street in the curve. City Manager Robert Wilson was requested to add this item to the list for the traffic engineer to study.

City Manager Robert Wilson reported on the progress of past additional items. He explained that the staff had provided a cost analysis of a typical 100-lot subdivision, showing the revenue generated and some of the costs associated with it. He explained that staff will be doing additional work on the costs.

City Manager Wilson reported that the Police Department has been instructed to look at the problem of vehicles parking on sidewalks around town. He reported that the staff has implemented the additional item request to include aerial photographs with applications for rezoning and subdivision approval. Mr. Wilson explained that staff is working to determine the interest of manufacturing and retail entities in attending an annual dinner sponsored by the City. Some Council members expressed concerns about the cost of a dinner.

The Council discussed the mowing of utility rights-of-way and easements. The Public Works Department has started working on this. City Attorney Charles Bateman was requested to report back to the Council on how other cities, such as Cary and Chapel Hill, get theirs mowed.

The permitting of dumpsters was discussed. Mr. Wilson reported this will be addressed when an applicant applies for a Conditional Use Permit and at the time the TRC reviews the request. Enforcement of the Litter and Dumpster Ordinances are to be more aggressively enforced.

City Manager Robert Wilson reported that staff had checked with other cities and had not found any cities that celebrate the 125th anniversary. The consensus of the Council was to wait.

No one from the audience spoke during the public comment period.

A Public Hearing was scheduled on a request from Landquest Raleigh, LLC & Barton Development Group to rezone property, known as the Synthon property, located on Old Hillsborough Road/Bowman Road and Ben Wilson Road from M-2 (Light Manufacturing) to CU-R-15 (Conditional Use-Single Family Residential). The property is shown on Alamance County Tax Map 10-23-5, 10-23-6C and

Orange County Tax Map 3.42..2. The addresses for the applicants are Landquest Raleigh, LLC, 1130 Situs Court, Suite 250, Raleigh, NC 27606 and Barton Development Group, 7000 Six Forks Road, Suite 115, Raleigh, NC 27615.

The developer has revised the site plan since it was denied by the City Council at the July 10, 2006 meeting and has filed a new zoning application. The Planning Board recommended approval of the revised plan. Attorney Lawson Brown, who represents the developers, has submitted the following list of changes in the plan that they consider to be material and substantial changes:

- 1) The minimum lot frontage is now 75 feet. Previously, the plan provided for lots having widths of 50 feet, 65 feet and 80 feet. This is an increase of fifty percent on the smallest lots.
- 2) The minimum lot size has increased from 6000 square feet to 9000 square feet. This again is an increase of fifty percent (50%).
- 3) The lot number has decreased from 288 lots to a maximum of 225 lots. This is a decrease of over twenty-one percent (21%).
- 4) The minimum square footage for the houses has been increased from 1,300 square feet to 1,900 square feet for a single-story house and with a minimum of 2,100 square feet for a two story-house. This is an increase of forty-six percent (46%).
- 5) All exterior vinyl siding has been eliminated in favor of hardiplank or masonry.
- 6) The approximate four (4) acres of Conditional Use Neighborhood Business at the corner of Old Hillsborough Road and Ben Wilson Road, has been completely eliminated. The proposal includes multi-purpose fields on which the land elevation will be lowered to three feet (3') below the road level. This area, along with the other amenities, will be owned by and managed by the neighborhood association.
- 7) The plan now calls for a community pool with a bathhouse (which was committed during the last hearing), but plans have been fully finalized and a location has been positively identified.
- 8) The three (3) "pocket parks" within the development have been expanded and upgraded.
- 9) The overall density for the proposed re-zoning is 1.7units per acre, a decrease from 2.2. Mathematically, there is a decrease of twenty-two percent (22%).

The proposed development Conditions were set out as follows:

- 1) 132.5 Total Acres to be rezoned to CU-R-15
- 2) Applicant will build approximately 225 total homes
- 3) All lots will have 75 foot wide fronts
- 4) One-story homes - min. 1,900 heated SF
- 5) Two-story homes - min. 2,100 heated SF

- 6) All homes will be constructed on a foundation with a crawl space
- 7) All homes will feature masonry accents on façade
- 8) Home exteriors will be limited to hardiplank and masonry; NO vinyl
- 9) All homes will have a two-car garage
- 10) All homes will feature architectural dimensional shingles
- 11) The proposed stormwater ponds shown on the Plan are approximate. Construction of detention ponds to comply with all applicable Federal, State, and City requirements
- 12) 48" maximum height split-rail fence to be installed along a portion of the western property line after sewer outfall is installed and prior to recordation of any lots
- 13) Landscape berm (5-ft. minimum height) and plantings (5-gallon minimum) to be installed along portion of southern property line prior to recordation of lots
- 14) Screen plantings to be installed along a portion of frontage of Windsor Tract prior to recordation of any lots
- 15) Applicant to provide additional turning lanes:
 - Off of Mebane-Oaks Road onto Bowman Road
 - Off of Bowman Road into development
 - Off of Ben Wilson Road into development
- 16) All development shall comply with the State-mandated 2005 Watershed Rules
- 17) \$800,000.00 payable by applicant to City of Mebane for sewer pump station

Mayor Pro-Tem Philipps stated that before the Council held a Public Hearing on the request, the Council needed to address a threshold issue of whether this application is barred because it has been less than a year since it was brought before the Council.

City Attorney Bateman explained the City's Zoning Ordinance, Article 18 – Amendments, Section 18-5 – Denial of Petition, which reads, "When a petition for amendment is denied by the City Council, a period of 12 months must elapse before another petition for the same changes can be submitted." He explained this provision was written long before the City adopted Conditional Use Zoning, which is a "different animal". He said that under Conditional Use Zoning, the uses are so varied that it's almost impossible to apply a standard that says "Is this the same change?". He said that the standard that he recommended to the Council is that there must be a substantial or material change in the Conditions that are proposed for the use of the property before it could be considered within twelve months. As to what could be considered a substantial or material change, that would need to be an issue of fact to be decided by the members of the Council. He did express an opinion that it was probably more than just a cosmetic change. It would have to be something that is a significant or substantial change to justify rehearing it within twelve months.

The Council held a lengthy discussion concerning whether they considered the changes to be substantial. Ed Hooks made a motion, seconded by Tim Bradley, to hear the request for rezoning. The motion carried with the vote as follows: Aye- Tim Bradley, Ed Hooks, Patty Philipps, Nay- Bob Hupman and Everette Greene.

The Council proceeded with the Public Hearing. Attorney Lawson Brown introduced Bob Anderson, Lee Bunn, Tony Tate, and Attorney Zachary Morgan. Councilman Hupman questioned if the offer to pay the City the \$75,000 that it had spent on the lawsuit over the rezoning of the property for Synthon was still a part of the proposal. Both Attorney Brown and Bob Anderson answered that it was not.

Bob Anderson gave an overview of the proposed project, which has 225 lots. He reviewed the site plan, highlighting the following items that were not included in the above changes and conditions:

- a. The impervious area will be approximately 16%
- b. Open space will be approximately 42 acres equaling 32% of the site
- c. Bike racks will be available at the central community pool and bathhouse, that will have limited parking available
- d. The lot lines have been pulled back about thirty feet from the existing farm pond to provide access to the neighbors that can turn it into a fishing pond. They will put a gazebo there and turn that into an amenity.
- e. Approximately two acres will be fenced in for a multi-purpose field that will be graded down below the road level. It will also be connected to the greenway trail going along the stream.

Anita Wilson, wife of Danny Wilson and daughter-in-law of Nadine Wilson, spoke on behalf of the Wilson family saying that they were in favor of the rezoning request.

Mindy Jeffreys, resident of Mebane, questioned why the Council would consider approving another project when there are already so many lots approved and not yet built upon.

Sherry Buckner, 221 Beauregard Lane, Mebane, NC spoke in opposition to the project, questioning the approval of more lots when there are so many approved and not yet built upon.

Anita Wilson spoke again saying the proximity to I-85 makes this development attractive.

Jane Wilson Williams, an adjoining property owner, spoke in favor of the project.

Don Windsor, an adjoining property owner, spoke in favor of the project.

Mark Schweibinz, President of Barton Development Group, spoke concerning questions regarding a proposal to sell the property that was dated June 21, 2006. He said that it was not currently for sale. Earlier they tried to have an active adult community, but weren't successful with that. He explained that they were no longer building the houses. They plan to either develop the lots and then let a builder build on it or sell the lots to builders.

Jill Auditori questioned a comment concerning whether residential development pays for itself. She was told that it does. She questioned why the developer wasn't paying the \$75,000 now for the Synthon lawsuit. She also asked why not rezone the property to R-20 tonight. City Attorney Charles Bateman explained that an application for rezoning would need to be filed; it would have to go to the Planning Board for a recommendation, and a Public Hearing would have to be held. Attorney Lawson Brown explained that the \$75,000 was in response to a request from a Councilman during a previous public hearing on a different application. With the new application, the developer has lost 66 lots, and this is a substantial economic impact to these developers.

Mindy Jeffreys spoke again and said that she had not heard anyone say they were against growth.

Mayor Pro-Tem Patty Philipps called for a brief recess.

When the Council reconvened, Mayor Pro-Tem Patty Philipps announced that the request for rezoning from D. R. Horton for the Farm at Creekside has been withdrawn.

A Public Hearing was scheduled to be held on a request from Clinton Bradley, Stephen Scott and Tom Wilson to rezone property located at 1447 Trollingwood-Hawfields Road from M-2 and R-20 to CU-B-2. The applicant requested that it be tabled to the October meeting. Ed Hooks made a motion, seconded by Everette Greene, to table the Public Hearing to the October 2, 2006 meeting. The motion carried unanimously.

Mayor Pro-Tem Philipps brought back to the floor the request for rezoning from Landquest Raleigh, LLC & Barton Development Group. Tim Bradley made a motion, seconded by Patty Philipps, to approve the rezoning based on the conditions shown on the slide. The conditions shown on the slide were changed to read "Applicant will develop 225 single-family lots" from "Applicant will build approximately 225 total homes", as listed on the proposed conditions. The motion carried with the vote as follows: Aye - Patty Philipps, Tim Bradley, and Ed Hooks; Nay - Bob Hupman and Everette Greene.

A Public Hearing was continued on a request from EYC Companies, Forum 1, 8601 Six Forks Road, Raleigh, NC 27615 to rezone property located on NC Hwy 119 South and Mebane Airport Road from MHP (Mobile Home Park), R-20 (Single Family Residential) to CU-R-10 (Conditional Use – Single Family Residential) and CU-R-6 (Conditional Use – Multi-Family/Two Family Residential) as a Planned Unit Development (PUD). This was previously heard and tabled by the Council.

Ellis Coleman spoke on behalf of the request from EYC Companies. He stated that they have made an agreement with the owner next door and have a contract to move their entrance onto Hwy. 119 and line it up with Foust Road. He said that this creates a small commercial property that is on Hwy. 119 that is probably a better use. It is not a part of the zoning request being considered. He gave an overview of the proposed project. They plan to use 30-year architectural shingles. He showed slides of the proposed homes and stated that he considered them to be a condition. Homes shown were small-cottage style with detached garages (single family), two story row-style houses, and two and three story townhouses. The developer will extend Mebane Airport Road to the end of their property, even though their entranceway into their project is at the beginning of the property. They have also included a stub out road to the south toward the undeveloped acreage and a stub out to the west boundary. They will construct a turn lane on NC Hwy. 119 at their main entranceway.

Chuck Edwards, with the NCDOT, spoke about the requirements for turn lanes. The State is requiring a turn lane on NC Hwy. 119 at the main entranceway, but not at Mebane Airport Road. The State is requiring, as a condition of the driveway permit that left turn lanes be constructed on NC Hwy 119 at Foust Road with approximately 100 feet of storage. There will be a continuous three-lane section on NC Hwy 119 between Holly Ridge and Foust Road. This would provide a southbound left turn lane into the proposed development and a northbound left turn lane into the Holly Ridge Development. They are also requiring a northbound left turn lane from Hwy. 119 onto Foust Road.

Ken Berry, owner of Premier Staffing, spoke concerning the request. He expressed concerns about how it would be buffered. Mr. Coleman explained that there will be a 20 foot planted buffer and that he will be looking at a fence along Mrs. McGee's property. Mr. Berry requested to be included in the review for fencing.

The Council discussed the zoning on the portion of the land that adjoins NC Hwy. 119 that is currently zoned MHP, stating that it will no longer be large enough to qualify for a mobile home park and that no mobile homes may be placed or remain on that lot. Mr. Coleman said that he anticipated returning to the Council in the near future to request O & I zoning for that lot and was happy with the stipulation that no home could be on it.

Everette Greene made a motion, seconded by Bob Hupman, to approve the rezoning request. The motion carried unanimously.

A Public Hearing was held on a proposed amendment to the Code of Ordinances, Article III, Section 6-72, Swimming Pool Enclosures as drafted by City Attorney Bateman. Attorney Bateman explained that this was drafted in response to a request from the Council after a complaint was received concerning water hazards. Attorney Bateman said that he had changed the title to "Enclosure of water hazard facilities". He has repropoed the current requirement for swimming pools and added a new section, which provides that all constructed drainage control and water control impoundments, which have the potential for water depth in excess of two feet, shall also be fenced. He also added a provision whereby fencing on water control measures may be waived if the development shows that it would not be a risk to the public to leave it unfenced. He added a provision for decorative landscaping impoundments or fountains, as requested by the City Council. He included a provision that if a neighboring property owner or the City Inspector petitions the Council for some control measures, the City Council will hold a hearing to determine whether or not a decorative or landscape pond, which has a depth of greater than two feet, must contain some type of control provisions.

Pat Gleeson, 219 Beauregard Lane, Mebane, NC spoke about her Koi pond. She said that she believed that her pond is the pond that the complaint was made about. She is a design consultant and has been doing that for twelve years. She designs Koi ponds. She invited the Council to visit her pond. She said that as a design consultant, her garden is her showroom. She brought extra copies of the recent articles in the Mebane Enterprise that discussed her Koi pond. She shared pictures of her Koi pond and a copy of the 1999 issue of Koi USA magazine, which is the prominent trade publication in the United States. She said her ponds in Charlotte have just been featured in Southern Living's magazine Southeast Regional Pond Tour.

Mrs. Gleeson questioned who and how many people complained and what their comments were. She explained that Koi ponds are designed by proportion to allow fish to grow out to championship quality. One large show Koi requires 500 gallons of water and proper depth to achieve full potential. She has several champions in her pond. Her pond is six feet deep. She said that in showing Koi, the judges' first consideration is what they call confirmation, which is the body shape, the muscular distribution. Fish cannot build muscular distribution swimming back and forth. They can only build it with the water resistance of swimming up and down and the minimum depth required is six feet. She said that it really should be deeper. She said that people pay in excess of \$100,000 for a fish to show and to win the several trophies that she has, the grand champion trophies.

Mrs. Gleeson said that she and her neighbors had contacted the City before and during the pond construction to inquire about City regulations concerning the pond. They were informed there were no codes, ordinances, or restrictions that existed for ornamental water gardens. She noted that these same neighbors now visit frequently with their children to feed the fish and learn about nature and its eco systems. She said that she did not see her complainer in the audience. She questioned if the City had received complaints about any ponds other than hers. City Manager Robert Wilson said that he had received only one complaint. Councilman Hupman said that he had been contacted by several people. She requested that existing ponds be grandfathered in. She explained that a fence would cost her between \$10,000 and \$15,000. She said this was an expense that she was told by the City that she would not incur and that she has not included in her budget. She said that the fence would destroy the integrity of her garden, which is her showroom, and would therefore harm her design business.

Mrs. Gleeson said that her pond is not inviting to swim in. She has 22 large Koi that range from 24” to 36” long. She finds that children are visually attracted to the fish but physically afraid of the fish. She requested that the Council do further study before adopting an ordinance.

Following discussion, Bob Hupman made a motion, seconded by Tim Bradley, to table the proposed ordinance for further study. The motion carried unanimously.

The Council received a request from James F. and Pauline Curry, of City of Refuge Ministries, 719 Hermitage Road, Burlington, NC to close Fitch Street. Pauline Curry spoke on behalf of the request. The purpose of this is to provide an outreach and awareness to the community based around drug addiction, homelessness and Christianity. They provide a free lunch and clothing giveaway. She noted that they would have preaching, teaching, fellowship, counseling, testimonials, singing and other things going on. Following discussion, the Council informed her that Fitch Street was outside the City limits and not a City street. She questioned where in the City she could do this. The Council encouraged her to find another venue and explained that the City tried to limit street closings for community events, avoiding religious activities. They explained that the Police and Fire Departments had to look at specific requests for safety reasons.

The Council heard a request for Preliminary Subdivision Plat approval from Landquest Raleigh, LLC and Barton Development Group for approval of “Fontaine”, a subdivision to be located on the property known as the Synthon Property located on Old Hillsborough Road/Bowman Road and Ben Wilson Road. The Planning Board recommended approval of the request. Ed Hooks made a motion, seconded by Tim Bradley, to approve the Preliminary Subdivision Plat. The motion carried, with the vote as follows: Aye – Ed Hooks, Tim Bradley, Patty Philipps; Nay – Bob Hupman and Everette Greene.

The Council heard a request for Preliminary Subdivision Plat approval from EYC Companies for approval of “Mebane Airport Road” Subdivision. The project is to be located on NC Hwy. 119 South and Mebane Airport Road. The Planning Board recommended approval of the request. Ed Hooks made a motion, seconded by Bob Hupman, to approve the Preliminary Subdivision Plat. The motion carried unanimously.

Approval of the Preliminary Subdivision Plat for D.R. Horton, Inc., “The Farm at Creekside” has been withdrawn.

A budget amendment was requested in the amount of \$42,181 to replace Mebane’s #2 water pump and surge valves at the Water Treatment Plant. The valves, which are 30 years old, are not repairable and are obsolete. Ed Hooks made a motion, seconded by Bob Hupman, to approve the amendment. The motion carried unanimously.

A budget amendment was requested in the amount of \$225,000 to replace the sewer outfall line between Crawford Street and the Fifth Street Pump Station. Ed Hooks made a motion, seconded by Tim Bradley, to approve the amendment. The motion carried unanimously.

A budget amendment was requested in the amount of \$15,200 to replace 300’ of 8” sewer main on E. Webb Street. Ed Hooks made a motion, seconded by Tim Bradley, to approve the amendment. The motion carried unanimously.

A budget amendment was requested in the amount of \$50,000 to replace the storm sewer in the 100 block of W. Crawford Street. Tim Bradley made a motion, seconded by Bob Hupman, to approve the amendment. The motion carried unanimously.

A budget amendment was requested in the amount of \$140,000 in the Sewer Fund for the City’s match on the CDBG project recently approved for the West End Area of Mebane. Bob Hupman made a motion, seconded by Tim Bradley, to approve the amendment. The motion carried unanimously.

City Manager Robert Wilson explained that the City has the opportunity to buy four pieces of paper currency (five dollar pieces), which are historical, for the sum of \$2,000. These pieces have Mebane’s name on them and were issued many years ago. He recommended that the City purchase them from a seller in Mebane. Tim Bradley made a motion to purchase the artifacts. Ed Hooks seconded the motion. Bob Hupman stated that he was abstaining. Mayor Pro-Tem Philipps asked if the conflict needed to be disclosed. Councilman Hupman said there was no conflict, he was just abstaining. City Manager Wilson stated that Councilman Hupman was not the seller. The motion carried unanimously.

Bob Hupman made a motion, seconded by Ed Hooks, to approve the list of surplus property and the advertisement for sale by sealed bids. The motion carried unanimously.

The Council received a petition for voluntary annexation of the property of Eastside Baptist Church, being the Church, located at 333 Supperclub Road, Mebane and also being the Parsonage, located at 900 North 9th Street, Mebane. Ed Hooks made a motion to accept the petition and adopt Resolutions Directing the City Clerk to Investigate Their Sufficiency. Tim Bradley seconded the motion, which carried unanimously.

City Attorney Charles Bateman reported on the Actuarial Valuation of the City of Mebane Retirement Plan. He stated that the actuarial valuation of the plan was excellent. The cost on an annual basis continues to be about 10.5%. The rate of return on the plan was a little over 5%. The plan is in excellent condition in all respects. It is being funded at approximately 125% of the projected liability.

The Council verbally agreed to delay consideration of a proposal from Site Solutions for the design services for a greenway master plan to a future work session.

Minutes of the August 7, 2006 meeting were approved as presented.

There being no further business, the meeting was adjourned.

Glendel Stephenson, Mayor

ATTEST:

Elaine J. Hicks, City Clerk