

MEBANE CITY COUNCIL
REGULAR MEETING
APRIL 6, 2009

Members Present: Patty Philipps
Ed Hooks

Tim Bradley
Everette Greene

One vacancy exists due to Bob Hupman's resignation on March 27, 2009.

Mayor Glendel Stephenson called the regular monthly meeting to order at 6:00 p.m. in the Civic Room of the Mebane Arts & Community Center. Councilmember Hooks gave the invocation.

City Attorney Charles Bateman spoke concerning the Retirement Plan for City Employees. He stated several months ago it had been discussed with Council the possibility of moving the City's employee retirement plan from the Hartford Insurance Company, an independent agency, to the State Employees Retirement Plan which is a plan for local government cities and counties which is administered by the State Treasurers Office.

Mr. Bateman stated, as instructed by Council, he researched the feasibility of converting to the State Employees Retirement Plan. He stated several advantages to being in the state retirement system such as slightly better benefits, a lower cost to the city, after acquired service years are funded and the plan would be portable. For some time Council and staff have expressed their concerns over the long term viability of the City's non-contributory defined benefit retirement plan which is administered by and invested with the Hartford Insurance Company. The new plan with the State would be a contributory plan, requiring employees to put in 6% of their salary. The typical City contribution (after amortization of prior service) is generally around 6%.

Mr. Bateman stated it was staff's initial plan to roll over the existing assets of the Hartford Plan into the State Plan to fund prior service contribution, however the Attorney General's office determined there are sufficient differences between the two plans which would prohibit this, therefore requiring that the City pick up and fund prior service. Each employee would then enter into the State Plan with credit for all time with the City. If the conversion takes place the Hartford Plan would be terminated and benefits accrued under this plan would be paid out to the employees pursuant to the Plan provisions. The existing Hartford Plan would be frozen and no further contributions would be made into it.

Mr. Bateman recommended that the City move forward with the conversion, subject to the securing of 60% of the city employees approval.

Councilmember Hooks questioned if the City Employees vote in favor of the change, would representatives be available to assist/guide employees on how to invest monies received from the terminated Hartford Plan. Mr. Bateman answered yes; a seminar would take place.

Following discussion, Councilmember Phillips made a motion, seconded by Councilmember Hooks, to approve the Resolution Enrolling in North Carolina Local Governmental Employees' Retirement System. It was stated again that 60% of the City Employees must vote in favor of enrolling before staff moves forward. The motion carried unanimously.

Councilmember Hooks made a motion, seconded by Councilmember Greene, to accept the City Clerk's Certificate of Sufficiency on the petition of voluntary annexation of the property of Utleigh Investments, LLC. The motion carried unanimously.

Councilmember Bradley made a motion, seconded by Councilmember Philipps, to adopt a Resolution Fixing a Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31. The motion carried unanimously.

Mayor Stephenson announced DPC Mebane, LLC annexation items were removed from the agenda due to insufficient information.

The Council received a request to approve an overall budget amendment for any over expenditures in the City's Departments. City Manager Wilson stated that staff will report to Council any amendments that are made. Councilmember Bradley made a motion, seconded by Councilmember Phillips, to approve an overall budget amendment. The motion carried unanimously.

The Council received a request from Police Chief Terry Caldwell for a budget amendment in the amount of \$800.00 of Federal Equitable Sharing Funds to purchase exercise equipment for the

police department. Councilmember Hooks made a motion, seconded by Councilmember Greene to approve the request. The motion carried unanimously.

The Council received a request for an amendment to the Police Renovation Capital Project Ordinance in the amount of \$23,000.00. Councilmember Philipps made a motion, seconded by Councilmember Greene, to approve the amendment. The motion carried unanimously.

The Council received a request for an amendment to the Water Improvements Capital Project Ordinance in the amount of \$1,815.00. Councilmember Greene made a motion, seconded by Councilmember Bradley, to approve the amendment. The motion carried unanimously.

During the Public Comment Period, Jill Auditori spoke to the Council concerning the council seat currently vacant due to Bob Hupman's resignation. She requested that Council appoint her to the vacant seat. She also requested that Council publicly discuss their plans for filling of the seat.

Mayor Stephenson stated, per the applicant, the Public Hearing scheduled on a request from Salvatore & Guiseppina Esposito to rezone property from R-20 (Single Family) to CU-B-2 (Conditional Use-General Business) has been requested to be continued until next month.

The Public Hearing scheduled on a request from Atlantic Multifamily, LLC to rezone property from B-2 (General Business) to CU-R-6 (Conditional Use-Multi-Family) has been requested, per the applicant, to be continued until next month. By motion of Councilmember Greene, seconded by Councilmember Phillips, both Public Hearings were continued until next month. The motion carried unanimously.

A Public Hearing was held on a request from Mebane Warehouse, LLC to rezone property from M-1 (Heavy Manufacturing) to CU-R-6 (Conditional Use-Multi-Family). The property is located at 300 W. Washington Street.

Omega Wilson resident at 609 W. Lee Street, Mebane and President/ Project Director of West End Revitalization Association (WERA) & Member of U.S. Environmental Protection Agency's National Environmental Justice Advisory Council presented a letter of opposition and concern to the Council. It read as follows:

The West End Revitalization Association- WERA is opposed to the approval of the Landmark Group and affiliates request to rezone the R.L. Stowe Mill for a low-low income housing project "Mebane Mill Lofts". This "Second Street West Community Revitalization Plan" that the Mebane City Council adopted on January 5, 2009 raises a number of concerns for transparency, accountability, and policy compliance based upon Title VI of the Civil Rights Act of 1964 and the Environmental Justice Executive Order 12898 of February 1994.

Seeking federal HUD funds from the North Carolina Housing Finance Agency should come after the City of Mebane had established an "office for revitalization" in full collaboration and inclusion of low-income minority residents from West End, White Level, Buckhorn, and Perry Hill, and representative community-based organization like the West End Revitalization Association and their legal representatives. The R.I.....Stowe location at 300 West Washington Street is "not located in a Qualified Census Tract" necessary to generate Low-Income Housing Tax Credit under HUD guidelines (Qualified Census Tracts are those in which. 50% or more of the households are income eligible and the population of all census tracts that satisfy this criterion does not exceed 20% of the total population of the respective area).

These concerns for non-compliance to laws, statutes, and guidelines under President Barack Obama Administration are considered amendments to WERA's current administrative complaints fled with the United States Department of Justice on February 10, 1999 regarding "Historic patterns of discrimination" that allowed the denial of basic amenities to low-income and minority residents in West End, White Level, and Buckhorn/Perry Hill. A short list of concerns are outlined:

- 1.) Meeting on March 19, 2009 I attended a meeting where Rex Todd, of Todd Development, Inc. (affiliate of The Landmark Group) others Landmark Group affiliates, and City of Mebane officials presented a positive case for approval of the zoning request without compliance with the U.S. Environmental Protection Agency's Clean Water Act, Toxic Substances Control Act, Solid Waste Disposal Act, Underground Storage Tank Cleanup, asbestos removal, and the National Environmental Policy Act.*
- 2. Presence of E. coli and Fecal Coliforms: With the assistance of two grants (2002 and 2005) from the Office of Environmental Justice of US. Environmental Justice Agency, the West End Revitalization Association facilitated on-site testing of perennial surface water flowing through the R.L. Stowe Mill property that tested several hundred times above the Clean Water Act standard for the presence of E. coli and fecal coliforms, evidence of waterborne contamination from human waste. Lab results were provided by the School of Public Health, University of North Carolina at Chapel Hill.*
- 3. Underground Storage Tank Removal: No records have been produced of removal of*

underground storage tanks containing petroleum for heating and rolling stock. The petroleum contains cancer causing benzene and xylenes contaminate ground water. In the history of adjoining hazardous sites, underground storage tanks have either been removed or still exist underground at contiguous sites including the old oil company site on West Holt, Old Service Station on West Holt/Madison Streets, Mebane Library (former R.L. Stowe Mill property), CITGO Service Station, and site of the Mebane's Veteran's Memorial Garden (former service station), and an old furniture mill at the landfill at West Holt and Madison Streets.

4. Gentrification of Historically African American Community: The Landmark Group and City of Mebane officials want to move the boundaries of West End Community, as mapped and drawn by the West End Revitalization Association as a part of its federal complaint, in order to justify qualifying for federal block grant funds as "low-income minority" to benefit the Mebane Mill Lofts project without any clear benefits to citizens in Mebane's 85% African American Community.

5. Use Private Financing rather than Government Funds: Current R. L. Stowe Mill property owner Kevin Sasser and The Landmark Group should use their own private fund to finance a project from which they expect to make millions of dollar.

6. Adoption of Resolutions by City of Mebane: Unresolved legal and compliance issues are found, including:

a) The original City of Mebane 2010 Land Development Plan (adopted March 2001 and June 4, 2001) blatantly excluded and red-lined out historical African American communities (West End, White Level, Buckhorn, and Perry Hill). This land-use plan also supported use of taxpayers money to finance the destruction of West End and White Level Communities with the I19-Bypass/Overpass/Interstate without impacted stakeholders input;

b) The resolution does not address environmental hazards assessment, prioritization, and corrective actions as a result the planned I19-bypass, widening of US. 70-West, and expansion of the railroad corridor as necessary part of revitalization planning;

c) Its language seems to imply that the West End Revitalization Association approved and endorsed The Landmark Group's plan, without being included in any official planning, design, and finance meeting with the City of Mebane and Landmark Group;

d) There is no documentation of who composed the "West End Community Advisory Committee" or "West End Citizens Advisory Committee" and records of open meetings referenced in the "resolution". Did they vote to approve this "resolution"?

7. City of Mebane Accomplishments - August 25, 2006: This list of accomplishments appears to be part of a report by Mebane City Planner Montrena Headley at WERA facilitated "Collaborative Problem-Solving" meeting with U. S. Environmental Protection Agency's Office of Environmental Justice Compliance and Enforcement federal officers and technical assistants in attendance, August 27, 2006. WERA is still awaiting an invitation to attend and provide input in meetings of the "The Alamance County Infrastructure Committee" that is suppose to address "need of water and sewer services", Where are the open, transparency, and on-going collaboration of impacted communities and representative community-based organizations, including WERA?

8. Prioritization of Planned Development/Revitalization and Land-Use Planning:

a. Where are the block grant applications for water and sewer service for the West End Community that includes St. Luke Christian Church, White Level, and Buckhorn/Perry Hill?

b. Where is the City of Mebane's Office of Housing and Revitalization with staff, policies, and funding that operation under federal statutes and guidelines?

c. Where are the comprehensive and formal City of Mebane collaborative problem-solving outreach plans for safe drinking water, clean surface water, environmental hazards removal, and affordable housing development?

Again, the board and staff of the West End Revitalization Association (WERA) request that the Mebane City Council vote "No" on The Landmark Group and City of Mebane's request to rezone the R.L. Stowe Mill for "Mebane Mill Lofts" at 300 West Washington Street.

Lisa Arnette, 309 W. Holt Street, stated that she has great concerns about the density of the project. She has concerns with traffic, trash and overcrowded schools. She feels this project is not right for this space and a project with lower density or a senior housing project would be a better fit. She stated her opposition to the project.

Andy Wade, 204 S. Third Street, spoke in opposition to the project.

Shirley Conyard, 4444 Landi Lane, questioned if the needs analysis showed that Mebane needs more low income housing.

Brooks Gardner, 714 N. Carr Street, spoke in favor of the project.

Caleb Baker, 314 W. Holt Street, stated with all the money spent on the restoration of the beautiful library, that the proposed project's computer room could possibly overrun the library. He requested, should the project go through that Council considers having all parking for the project to be behind the building instead of at the corner of Holt and First Streets.

Amos Stokes, Vance Street, spoke of limited fire hydrants in the West End area and the limited accessible streets in the West End area for emergency vehicles.

Barrie Oblinger, 207 W. Holt Street, stated that when he first heard of the project he was dead set against it because of his conception of what low income housing is but after attending several meetings with the Landmark Group he feels that they will do a good job with the project.

Marilyn Snipes, 416 Tate Ave., questioned if plans for a sound barrier have been made due to the railroad located near the property.

Kevin Sasser, Property owner of proposed project, feels that this project will be a great benefit to the City of Mebane.

Courtney Baker, 314 W. Holt Street, said that she would like the proposed project to incorporate low income as well as other uses such as mixed income housing. She stated that other opportunities could come along and doesn't want the City to jump at the first proposal for this property.

Yvonne Connelly, resident of the White Level community, stated that request have been made for basic needs and those items should be addressed first before consideration is given to this project.

Rex Todd, the Landmark Group, introduced Tanya Haddock as a resident of Mebane and affiliate of Landmark Group. He also introduced Scott Alexander, Property Manager for the Landmark Group. Mr. Todd stated that this project, if approved, would be an investment of 11.6 million dollars. Mr. Todd addressed previous questions from the public. He said that market analysis had been done and it showed that low income housing would be well suited for this property. He stated that several older properties renovated by the Landmark Group are well kept and well maintained.

Mr. Alexander spoke about the property he manages, Rhode Island Mill Apartments. He stated that Landmark took over those apartments by request. They were recruited to come in and turn that property around. In less than 19 months they have instituted management changes, addressed physical concerns and have raised the occupancy rate from 82% to 100% sustained occupancy. They have done this by not compromising the tenants, not compromising quality and always fully enforcing the lease, lease provisions while insuring Landmark's company policies.

Mr. Todd addressed more concerns mentioned earlier in the meeting. He stated that the application for rezoning is entirely in keeping with the Section 42 of the Internal Revenue Code and it's entirely consistent with the application process outlined with the North Carolina Housing Finance Agency (NCHFA). He stated they are not required to be located within a qualified census tract.

Mr. Todd stated there is adequate fire protection for this property. In terms of environmental clean up, they are required to meet every EPA standard in order to receive tax credits. The block grant application addresses the question of gentrification, 51% of the residents living in the apartments would need to be of low to moderate income. There are no requirements for living there, but they must pass crime, conduct and character screenings.

Mr. Todd said adequate sound protection would be a requirement of the NCHFA and on the north side of the building there would be far fewer windows.

Caleb Baker stated when he visited Landmarks other properties he saw 1 dog and 1 cat. He questioned why animals were allowed on the property if no pets are allowed. He also asked how Landmark found the property located at 300 W. Washington Street.

Mr. Todd stated their properties are found using various sources such as the internet and word of mouth, etc.

Mr. Alexander addressed Mr. Baker's question concerning animals on the property. He stated they are required by law to allow service animals if a doctor issues a medical note. He said if an animal is allowed on the property, strict rules are enforced and tenants must comply with a lease provision that specifically addresses pets.

Kevin West, 414 W. Lee Street, questioned if the City has done a study on the impact this project would have on the already overcrowded schools.

Brooks Gardner stated from the audience that the school board and the County Commissioners handle those matters.

Councilmember Hooks also spoke concerning the overcrowding of the schools. He stated that the Council has worked very closely with the school board and County Commissioners concerning growth of the City and the need for more schools. He stated growth also impacts services provided by fire, police, etc.

Councilmember Bradley questioned what would happen to this project if the grant from the State does not go through.

Mr. Todd stated the property would return to Kevin Sasser.

Councilmember Bradley stated in his opinion Landmark Group does a great job with their developments and with management of their properties, however if they approve the rezoning and the grant does not go through, then the City is left with a building zoned for apartments that anyone could develop.

Councilmember Greene stated considering all the permitted uses for this property, the proposed project seems to be a great use. Mr. Greene stated he made an unannounced visit to the property in Landmark's property in Eden and was very impressed by the property.

Councilmember Philipps stated she also visited the Mt. Airy property and she was impressed by the manager/tenant relationship. Ms. Philipps stated she is considering the economic benefit to the City that would be made by this \$11 million dollar investment.

Mayor Stephenson called for a decision concerning the request. Councilmember Greene made a motion, seconded by Councilmember Philipps, to approve the request to rezone property from M-1 (Heavy Manufacturing) to CU-R-6 (Conditional Use-Multi-Family). After a vote on the motion, Councilmembers Greene and Philipps voted Aye, Councilmembers Bradley and Hooks voted Nay. To break the tie, Mayor Stephenson voted in favor of the request, resulting in a 3-2 vote in favor of approval to rezone property from M-1 (Heavy Manufacturing) to CU-R-6 (Conditional Use-Multi-Family).

Mayor Stephenson called for a brief break.

Mayor Stephenson called the meeting back to order.

A Public Hearing was held on a proposed amendment to the Unified Development Ordinance (UDO), Article 4, Section 4-1-Permitted Uses, Churches in Downtown Business Districts (B-1). City Attorney Charles Bateman spoke concerning this matter. Mr. Bateman stated the draftsman of the UDO, our consultant Buddy Blackburn, provided additional information about the impact of allowing or disallowing churches and he also brought to staffs attention certain federal laws, along with information from ACLU in regards to putting limits on churches and not on other similar organizations. Mr. Bateman said, with Councils instruction, he would like to look further into the UDO to make sure there are no such discriminations.

Council questioned the boundaries of the business district. Following discussion, Planning Director Montrena Hadley replied that the B-1 district starts at N. First St. carrying over to N. Seventh St., then from Ruffin St. to Center St.

Gill Lunsford, owner of Brick Alley Antiques located downtown at 118 W. Clay Street stated that the ordinance should stay as is to allow more businesses downtown.

Councilmember Philipps stated that she owns a building downtown located at 122 W. Clay Street. She questioned City Attorney Charles Bateman if she had a conflict of interest in voting on this matter. Mr. Bateman answered no this is a general ordinance change.

Robin Stout stated she is a resident of Orange County but attends a storefront church located at the corner of Hwy 119 and Clay St. which is grandfathered in. She asked that Council consider allowing churches downtown.

Elma Doerman, owner of Finishing Touch, stated she would like the Council to maintain the current zoning downtown, disallowing churches in the B-1 district. She said that parking would

be a problematic issue and the potential loss of tax paying businesses would not only impact property values but would have no economic benefit to downtown Mebane.

Joy Albright, downtown business owner and President of the Mebane Business Association, stated that after a vote of the MBA members they voted in unanimous support to leave the ordinance as is, not allowing churches in B-1. She stated the restrictions placed on businesses surrounding churches would be stifling to continuing revitalization of the downtown district.

Jill Auditori, 412 N. 3rd Street, spoke in opposition to the proposed amendment. Ms. Auditori shared examples of other cities that do not allow churches downtown, or if allowed they must be freestanding. She requested Council to leave the ordinance as it currently stands.

Councilmember Philipps stated that all organizations, not only churches, should be considered.

Councilmember Bradley stated he feels this amendment would not have a huge impact on the success of churches or businesses but the intentions of our founding fathers of our country said that government shall pass no ordinances restricting the development of churches.

Councilmember Hooks stated his concerns with the limited parking downtown. He stated that he would be in favor of a church downtown if it was a free standing building with sufficient parking.

City Attorney Charles Bateman recommended he bring back several suggestions for ways to permit churches under certain conditions and apply those same conditions to other similar functioning organizations.

Following additional discussion, Councilmember Bradley made a motion, seconded by Councilmember Philipps to continue Public Hearing until next meeting and to have City Attorney Charles Bateman bring back suggestions for consideration next month. The motion carried unanimously.

A Public Hearing was held on a proposed amendment to the UDO, Article 6, Section 6-6.4-General Sign Standards (Electronically Controlled (Digital) Message Signs). City Attorney Charles Bateman said staff has received comments and suggestions from the public and council members about the signs possibly being too garish and distracting to traffic. He stated that extensive research has been done by himself and Planning Director Montrena Hadley and a proposed amendment is being presented tonight based on that research. Mr. Bateman also told Council that the proposed amendment addresses General Sign Standards which would apply to all classifications of signs.

Councilmember Hooks questioned if existing signs would be grandfathered in. Mr. Bateman stated they would be grandfathered in.

Councilmember Philipps stated that the Planning Board recommended unanimously that all digital signs be prohibited; however that is not what the Council is trying to accomplish.

City Manager requested clarification if Council intended the proposed amendment to include billboards.

Council stated they are specifically discussing on-premise signs; they do not want to include billboards.

Rick Smith, President of 1st Savings and Loan located at 206 W. Center Street, stated he is respectfully opposed to the proposed amendment. He stated as technology changes businesses must keep up with that technology. He feels this is an aesthetic issue and not a safety issue. He said he has received numerous positive comments about his sign. He requested to see data proving that his and other signs in the city are causing traffic accidents. Mr. Smith requested Council to strongly consider not approving the proposed amendment.

Joe Rickman, Atlantic Sign Media, stated he wanted to make Council and staff aware of a new publication that will be released on April 25, 2009 at the National American Planning Association Conference, titled A Framework for On-Premise Signs Guidelines. He stated it would address many of tonight's questions and concerns. He said he would be happy to make this publication available to staff.

Randy Cox, Co-Owner of Blue Ribbon Diner located at 1004 Mebane Oaks Road, stated the reason for their digital sign is to garnish some attention. He told Council they want to be good citizens in the community and he would love to see a compromise reached so that everyone could reap the benefits.

Wayne Bunting, Co-Owner of Blue Ribbon Diner located at 1004 Mebane Oaks Road, stated he would like to make available to Council the information provided by the company they purchased their sign from which included a traffic study, safety study and information on timing/transition, etc.

Tom Boney, Editor of Alamance News, said billboards along the interstate are governed by federal statutes and state limitation regulations. Those requirements are minimum 8 seconds instantaneous change, no motion, no animation and ambient lighting sensors that change for the daytime.

Following discussion, Councilmember Philipps made a motion to deny the proposed amendment, seconded by Councilmember Bradley. The motion carried unanimously.

The Council received a request for approval of a Final Subdivision Plat from Lea Allen to subdivide property +/- 20.00 acres located at 428 Hoover Road (Orange County-ETJ) into two (2) lots. Councilmember Hooks made a motion, seconded by Councilmember Bradley, to approve the request. The motion carried unanimously.

Councilmember Philipps made a motion, seconded by Councilmember Hooks, to approve the Tax Releases. The motion carried unanimously.

Police Chief Terry Caldwell requested Council's approval of the C.A.L.E.A standards. No formal action was taken.

Police Chief Caldwell informed Council that the City of Mebane Police Department is applying for the Edward Byrne Memorial Justice Grant. He stated this is a guaranteed grant and there is no match requirement. The City of Mebane is to be awarded approximately \$26,885.00 and this figure was calculated based on the index crimes reported to the Department of Justice annually. He stated these grant monies would be used for computers, radios and tactical vest.

Fire Chief Bob Louis stated the fire department is pursuing grants available through the stimulus bill. The Council encouraged Chief Louis to continue in his efforts.

As a past additional item, City Manager Robert Wilson told Council City Attorney Charles Bateman would bring a report to Council at the May meeting on the proposed amendment to the zoning ordinance concerning alcohol sales in the B-1 district.

Also as a past additional item, City Manager Robert Wilson reported on the property to be condemned in the West End area. He stated that the process is ongoing and more information would be given at the May meeting. Mr. Wilson also said other code enforcement issues are being addressed throughout the city.

As an additional item, City Manager Robert Wilson told Council that staff has received a request to study the traffic pattern at E.M. Yoder Elementary School. Mr. Wilson stated different options are being studied in order to improve the congestion and flow of traffic. Council suggested that a traffic engineer take a look at this problem.

City Manager Robert Wilson stated a list of sidewalks to be completed during this year's budget was given to Council in their packets.

The minutes of the March 2, 2009 regular monthly meeting were approved as presented.

There being no further business, the meeting was adjourned.

Glendel Stephenson, Mayor

ATTEST:

Stephanie W. Shaw, City Clerk

