

MEBANE CITY COUNCIL
REGULAR MEETING
MAY 4, 2009

Members Present: Tim Bradley
Patty Philipps
Ed Hooks
Everette Greene

One vacancy exists.

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 Bradley gave the invocation.

Mayor Stephenson spoke concerning the resignation of Bob Hupman. He spoke of the many beneficial achievements of the City Council during Councilmember Hupman's tenure. He declared the Council's decision to leave Hupman's unexpired seat vacant until the November 2009 elections to avoid any unfair advantage during the elections. Councilmember Greene made a motion, seconded by Councilmember Phillipps, to leave the seat vacant and allow the seat to be filled during the elections. The motion carried unanimously.

City Manager Robert Wilson presented the proposed 2009/2010 Budget that totaled \$14,652,838.76. He stated that the City has not received all tax valuations from the Counties; therefore he is unable to present a revenue neutral budget at this time. However, those details would be figured out before the passage of the budget. No tax increase was proposed. No merit or cost of living salary increases were proposed. In the 2009/2010 budget a 4% to 5% increase in water and sewer rates may be needed. Continued lift station upgrades have been included in the budget. Mr. Wilson requested that Council set a Public Hearing date of June 1, 2009 at 6:00 p.m. on the 2009/2010 City of Mebane Budget Ordinance.

By motion of Councilmember Phillipps, seconded by Councilmember Bradley, a Public Hearing date of June 1, 2009 was set on the 2009/2010 City of Mebane Budget Ordinance. The motion carried unanimously.

Councilmember Hooks made a motion, seconded by Councilmember Greene, to accept the City Clerk's Certificate of Sufficiency on the voluntary annexation of the property of DPC Mebane, LLC (Southern States) property being +/- 4.405 acres located on S. N.C. Hwy 119. The motion carried unanimously.

Councilmember Bradley made a motion, seconded by Councilmember Phillipps, to adopt a Resolution Fixing a Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for the property of DPC Mebane, LLC (Southern States). The motion carried unanimously.

Darrell Russell of Alley, Williams, Carmen & King reported to the Council the results of the Bid Opening for the Clay Street Storm Drainage Improvements. He stated that five (5) bids were received. The bids ranged from \$134,896.24 to \$197,739.55. After review of the bids it was determined that Triangle Grading and Paving, Inc. of Burlington, NC submitted the lowest bid in the amount of \$134,896.24. With additional project cost added in, the estimated total cost is \$162,000.00. A recommendation was made to award the work to the lowest bidder, Triangle Grading and Paving, Inc. Councilmember Hooks made a motion, seconded by Councilmember Phillipps, to award the work to the lowest bidder as recommended. The motion carried unanimously.

City Manager Robert Wilson requested a budget amendment to transfer funds in the Street Department- Capital Outlay- Sidewalks to Street Department- Capital Outlay-New Storm Sewer in the amount of \$162,000.00. Councilmember Bradley made a motion, seconded by Councilmember Phillipps, to approve the budget amendment. The motion carried unanimously.

The Council received a request from Police Chief Terry Caldwell to approve the C.A.L.E.A Standards for the Mebane Police Department. Councilmember Bradley made a motion, seconded by Councilmember Hooks, to approve the request. The motion carried unanimously.

During the Public Comment period, Elma Doerman, 222 Cypress Pointe, Mebane stated her disappointment with Council not filling the vacant council seat.

Also during the Public Comment period, Tom Vinson, 604 W. Lee Street, Mebane spoke in regards to the lack of connectivity of streets in the West End Community. He requested that the Council require future developers of property in the West End community to open dead end streets to allow interconnection.

Mary McFarland, 307 Wilba Rd., spoke concerning the crosswalk at the corner of Washington and Third Streets. She stated she would like to see Council establish a policy on how vacant council seats are filled. She also stated she would like to see a reduction of light pollution within the city.

A Public Hearing was held on a request for approval of a Certificate of Appropriateness for the White Furniture Factory Building located at 201 E. Center Street. Jason Martin, Alamance County Planning Director, stated that the Certificate solely deals with the exterior of the building and exterior renovations. He stated the Council has an Alamance County Historic Properties Commission-Findings of Fact-Staff Recommendation within their packets for their review.

Based on the Findings of Fact, the Certificate of Appropriateness for the White Furniture Factory Building was approved by motion of Councilmember Philipps, seconded by Councilmember Hooks. The motion carried unanimously.

A Public Hearing was held on a request for approval of the Closeout of the Community Development Block Grant-2005 West End CDBG Phase II, Sanitary Sewer Infrastructure Project (05-C-1488). Michael Walser of Hobbs & Upchurch Associates stated approval of this closeout would allow him to proceed with submitting final closeout papers with the State.

Donald Tate, 262 Curry Street, Mebane stated that property owners are still experiencing problems with drainage and water backing up in yards on Holt and Curry Streets.

City Engineer Darrell Russell stated he is aware of the intersection that Mr. Tate spoke of and it was an existing pipe before the project was ever started and that pipe lies within the area for which NCDOT is responsible. NCDOT has control of that pipe and they have indicated they will be taking care of this problem. Mr. Russell stated he would follow up with NCDOT.

Mack Graves, 442 Fitch Drive, stated when the right of way for the sewage pipe was cut across his land, they left his property incomplete. He said he still has tree stumps in his yard, water continues to wash across his property and his back yard is not completed.

Mr. Russell stated he was not aware of this and he would contact the contractor to come out to fix these issues.

Council requested to receive a report from staff next month stating that these problems have been completed.

Councilmember Philipps made a motion, seconded by Councilmember Hooks, to close the Public Hearing and vote on the issue. The motion carried unanimously.

Councilmember Bradley made a motion, seconded by Councilmember Philipps, to approve the request to Closeout the Community Development Block Grant-2005 West End CDBG Phase II, Sanitary Sewer Infrastructure Project (05-C-1488). The motion carried unanimously.

his property and at some point the discussion of the amount of monies to be spent for purchasing of Mr. Wilson's property did not go through. The developers then came back to the City to discuss the landscape buffer again. At that point Ms. Hadley told them they have less than 5 acres so they could still meet the ordinance because they have the intent to meet the ordinance even though they do not have to put a 50 ft. buffer in. When Mr. Bill Wilson and Ms. Hadley talked about that issue, he disagreed with her at which time he hired an attorney and submitted a Notice of Appeal against the issuance of a building permit which he stated should fall under the new UDO and not the existing ordinance. But since they had spent so much time with the rezoning and had spent substantial monies, it was her interpretation that it would fall under existing ordinance and not the UDO.

Mayor Stephenson questioned if it says "you should make a good effort to meet the intent of the ordinance", how would that be defined. If the new ordinance required 50 ft. and the old one did not and you're saying in your opinion it comes under the old ordinance, then what is a "good intent" to meet the ordinance.

Ms. Hadley replied the existing ordinance at the time specified if the development was less than 5 acres.

Mayor Stephenson asked if it provided for any barriers at all or any landscaping between the two properties.

Ms. Hadley replied it asked for a 50 ft. buffer; however it was less than 5 acres and did not apply, only to meet the spirit or intent of the ordinance. When City Council worked on the UDO the Council and staff took that part out. The new UDO no longer looked at 5 acres or less, but the old existing ordinance which was in place at the time of submittal if you had less than 5 acres you just keep the intent of the ordinance as close as you could to the 50 ft. if you couldn't meet it. Also if you look at the plan, not only was it way adjacent to his property but also some of the streetscape and different things with the landscaping because the ordinance gave the authority to say if it's less than 5 acres you didn't actually have to do that, but keep the intent of the ordinance, so if you couldn't do 50 ft. you could do 40 ft. or 45 ft. as long as you're keeping the spirit of the ordinance.

Councilmember Philipps questioned what was the distance, 45 ft. or 40 ft.

Ms. Hadley replied if I'm not mistaken it was 20 ft. but she would have to look again to be sure but it wasn't 50 ft.

Councilmember Hooks stated then it was substantially less than 50 ft.

Ms. Hadley replied yes.

Mr. Bateman stated for clarification purposes, it is his understanding that this appeal that they have appealed on the basis that not whether or not you met the intent of the old ordinance but on the basis that you could not apply the old ordinance at all, that you had to strictly comply with the new UDO. There is no issue, based on the Notice of Appeal received by the City, as to whether or not staff approved a good faith effort on their part; their appeal is merely based on the fact that you could not utilize anything of the existing ordinance in applying standards.

Councilmember Philipps asked Mr. Bateman to give an opinion about what the law says about which standard you're supposed to use. Is it the standard of when they filed there site plan originally or is it when the permit was issued.

Mr. Bateman stated he would give an opinion based on the policy that has been in effect in the City of Mebane. We have a policy of recognizing what we call common law vested rights. For many years the courts of North Carolina protected developers from arbitrary changes in zoning by establishing what were known as common law vested rights and that doctrine essentially said if you had spent considerable effort and money in good faith proceeding on a project then you had certain rights to proceed with it under that basis. Later the legislature changed the law and added specific legislative authority

for vested rights which protected you if you had a building permit but that legislation also contained a proviso that nothing contained in it would abrogate or repeal the common law doctrine of vested rights. So for almost 40 years the City of Mebane has respected the common law doctrine of vested rights and the staff has been charged with making a determination as to whether or not substantial factors exist which would protect the developer.

City Manager Robert Wilson stated staff met with Walgreen representatives in December 2007. In 2007 the staff, city engineer and Daniel Barnes, Crown Properties-Developer for Walgreens, met and discussed the purchase of two properties to build a Walgreens, those properties being Tommy's Mini Mart and Troutman/Blankenship Dentistry. At that time Mr. Barnes submitted a plan to the City and stated that he has concerns with some of the setbacks at which time staff suggested they speak with Mr. Bill Wilson's family and talk to them because their property was for sell. After no deal was made with the Wilson family, Mr. Barnes came back to staff and requested that something be worked out. Mrs. Hadley met with the engineer to discuss options. Mr. Wilson stated under the zoning ordinance in 2007, staff referred to a regular zoning book. The UDO was not drafted at that time so anything they constituted to begin work on, in good faith effort, gave vested rights under the common law based on the zoning ordinance book which staff has been working from for many years. At that time it was the only tool staff had to use when working with that investor or any other investors interested in developing property in Mebane. They led them through the process based on the zoning ordinance the city had in place.

Councilmember Hooks asked for clarification on the date when Ms. Hadley and City Manager Robert Wilson first conversed with the Walgreen representatives, was it in 2006 or 2007.

Mr. Wilson apologized and stated it was December of 2006.

Councilmember Philipps questioned the date on which Council approved the UDO.

Mr. Wilson replied 2008.

City Attorney Charles Bateman stated the burden is on the applicant for the appeal. He has the burden of going forward and getting evidence as to why Ms. Hadley was incorrect. He also has the burden of persuasion, which means he has to establish, to the Council's benefit by the greater weight of the evidence, that his side is the better side.

Andrew Petesch, Attorney with Poyner Spruill, LLP, Raleigh, North Carolina, stated he is representing Mr. Bill Wilson. He explained that Mr. Wilson owns residential property located at 815 S. Fifth Street, Mebane. His property is located adjacent to, just north of the proposed Walgreens project. He said, as Ms. Hadley has already testified, Mr. Wilson has appealed the issuance of the building permit on February 24, 2009. He stated that permit effectively approved the site plan and landscape plan which are apart of the entire approval process.

Mr. Bateman stated that the City will stipulate that is the final act of establishing the approval of those plans.

Mr. Petesch stated the site plan and landscape plan are really what Mr. Wilson has an issue with. He said our pretension is that under North Carolina law and Mebane Zoning Ordinances, the site plan and landscape plan do not comply with the expressed requirements of the applicable ordinance and are therefore invalid. The standards at issue here are those that set out the requirements for buffers between commercial and residential uses. To reach a decision here tonight the BOA will have to answer 2 questions. One, what ordinances apply. Second, whether the site plan and landscape plan comply with the requirements of that ordinance.

Mr. Petesch handed out notebooks to the BOA and other interested parties to be used for reference of evidence to be presented. He requested them to turn to exhibit tab E-1, which was the Notice of Appeal sent to Ms. Hadley. He stated that in the grounds for

appeal not only are they appealing the decision of the landscape ordinance but even assuming that the landscape standards do apply, then they are appealing the decision that the landscape plan preserves the spirit of the landscape ordinance.

Mr. Bateman stated he did not notice that when reading the Notice of Appeal, but he recognizes that Mr. Petsch did raise that issue as well.

Mr. Petsch gave a brief overview of what his presentation would be.

Mr. Petsch addressed the vested rights issue. He stated that he agrees with Mr. Bateman in that common law vested rights are still valid in the state of North Carolina although they have become harder to attain. The elements for obtaining common law vested rights in North Carolina are substantial expenditures made in good faith made on valid government approval. On valid government approval is a very key point. Mr. Petsch said whether they were made on good faith is not entirely clear. He asked the BOA to make reference to exhibit tab E-8, which was a copy of Mebane City Council Regular Meeting minutes for February 2, 2008, the meeting in which the UDO was adopted and became effective. He read aloud a portion of the minutes which explained that the UDO was an ongoing process for 2 years. He stated that while in December of 2006 the UDO may not have been in effect, still revisions were being made during the time when substantial expenditures were spent. He stated more importantly is the other element that they must be made on valid government approval. He said there were no approvals made for this project up until February 24, 2009, over a year after the UDO was in effect.

Mr. Petsch made reference to exhibit tab E-9, an email communication between Mr. Petsch and Ms. Hadley verifying that there had not been any other approvals or permits issued as of January 30, 2009. The email stated that the site plan and building plans were in review status. Mr. Petsch said in that case they could not sustain that element of being able to base those expenditures on a valid permit approval.

Mr. Petsch said the approval of the issuance of that building permit based on the site plan and landscape plan that entailed with it two implicit decisions made by the staff. That first, it was the old landscape standards ordinance that applied not the UDO and that secondly, the buffer in the landscape plan amenity meet the intent or preserves the spirit of the landscape standard ordinance. He stated he will submit that both of those were incorrect decisions and unlawful.

Mr. Petsch said how do we know that the UDO is the governing ordinance? Well the UDO was adopted and made effective on February 4, 2008 and the landscape standards ordinance was adopted and made effective in 2002 and amended in 2003. What does the North Carolina law say about submittal time versus the approval time? Because the site plans were submitted under the landscape standards ordinance and the site plans were approved under the UDO. There's no state statute on point here but case law does provide some significant guidance in the case of *Overton v. Camden County*, exhibit tab D-5, the court of appeals noted that the applicable ordinance depends on the time of ultimate decision except in cases of vested rights, bad faith or other special facts. Special facts would be any particular language in any given local ordinance and courts typically show defeasance to that language. In cases where there is a submittal and the applicant is allowed to go forward under submittal of the old ordinance after a new ordinance is adopted, in those cases, the expressed language in that new ordinance authorizes pending applications at the time because the ordinances are made effective to continue under the old ordinance. That would be the expressed language in the new ordinance, so in this case no vested right, no bad faith on part of the city. Are there special factors that would allow the Walgreens application to go forward under the landscape standard even though the new UDO was enacted?

Mr. Petsch questioned what does the UDO say specifically? Mr. Petsch directed the Board to several pages in their notebooks in regards to the City of Mebane's UDO specific language. He quoted specific language found under Article 1-7, Compliance. He stated based on that language if you're approved prior to the effective date of the UDO, you're in and if you're not, you're not in. This is consistent with the analysis discussed with *Overton* and the way the court discussed the time of ultimate decision

ruling. So given that the UDO applies, and not the landscape standard ordinance, the question is does the site plan and landscape plan comply with the requirements of the UDO, and that answer is clearly no.

Mr. Petesch continued quoting specific language within the City's UDO dealing with the permitting process and buffer requirements. He directed Council to exhibit tabs F-1, 2, 3 which showed the approved site plan, landscape plan and a copy of the site plan, where he based on the scale, provided on the plan a rough but fairly accurate super imposed yellow portion of what the 50 ft. buffer would look like if it were enforced. He stated based on that rendering the plan is clearly not compliant with the UDO. He said also, as part of their appeal, they have contended assuming that the landscape standard ordinance, not the UDO applies, then the proposed site plan and landscape plan still are invalid because they don't preserve the spirit of the ordinance.

Mr. Petesch overviewed language within the landscape standard ordinance. He stated the specific language within that document would allow for determination of the meaning of preserving the spirit and meeting the intent of the landscape ordinance. He stated, in exhibit tab C, excerpts of Mebane's Land Development Plan expresses intentions and purposes of buffers for new development in Mebane.

Mr. Petesch called for Mr. William "Bill" Wilson, Jr. to come forward to speak. Mr. Wilson stated he is a native of Alamance County and property owner of 815 S. Fifth Street, Mebane, the property being adjacent to the proposed Walgreens. He stated his purpose is to respectfully request that the Board grant an appeal to deny the Planning Department's approval of the proposed Walgreen site plan and landscape plan. Mr. Wilson stated he primarily purchased the property in 2005 as an investment. He stated that his residential property is surrounded by commercial property and he thought it would be logical for the Council to grant him a rezoning of that residential property to a business zoning but when that request came before the Planning Board and the Council, the request was denied. The Planning Board and Council cited their main concerns were traffic congestion and commercial creeping as their reasons for unanimous denial. He stated that no single individual residing in the area objected at either hearing to the rezoning request. He stated that Councilmember Greene cited that it was an unwritten understanding among Council to protect the North side of Fifth from commercial growth, however it seems the city has now waived these concerns. He stated in 2007, Daniel Barnes a Representative for Crown Companies, a developer for Walgreens, approached Mr. Wilson about purchasing a strip of his land for use as a buffer. While negotiating with them they decided it would be better to put all of Mr. Wilson's property under an option to purchase. But just prior to the option expiration they requested an extension. Then in December 2007 when the extension expired and they were to buy the property, Mr. Wilson called to determine when they would close and that is when he was notified they would no longer need the property. Apparently they had discovered they would not need the buffer.

Mr. Petesch handed Council papers and asked Mr. Wilson to explain to Council what they were.

Mr. Wilson explained one of the documents was the extension for Crown to extend their feasibility study on the property and it was dated April 4, 2007.

Mr. Wilson explained the second document was a contract between himself and Crown Companies, LLC which was signed by himself on April 11, 2007 and signed by Daniel Barnes on April 12, 2007.

Mr. Petesch questioned what the contract was for.

Mr. Wilson replied it was a purchase and sale of his property and it was entered into on April the 11th. He stated that Crown had the contract drawn up.

Mr. Wilson stated that shortly after he was told they would no longer need the property, he approached the City of Mebane to inquire about the project. He stated that was in 2008. He reviewed the site plan and it was the first time he realized that the City had

waived the 50 ft. buffer requirement between the commercial and residential property. Not only had the Council rezoned some of the land, they also extended the exposure on the South side of his property along the property line to a CU-R-8 to a B-3 zoning. He stated after Crown had backed out another interested party approached him in 2008 and had a contract on the property. He stated at that point he made an informal request. He stated Sam Moore and he had met with Councilmember Greene and the City Manager Robert Wilson to discuss an informal request for an office complex on his property, at which time they were told the request would not likely go through.

Councilmember Greene asked that it be noted that he was speaking for himself at that time and not speaking for the Council.

Mr. Wilson stated on February 5, 2009 the city of Mebane issued permits for the Walgreens project. He stated it would appear since Council had denied his previous requests for rezoning, he feels the needs to protect the residential nature of his property. He stated he finds it hard to justify a waiver of the buffer requirement because the buffer is intended for privacy, to reduce noise and light. He stated that the lack of sufficient buffer will have a detrimental effect on the property and its value and will make it more difficult to sale. He stated as long as the Council remains committed to keeping the property residential, he request that he City adheres to the buffer requirements put in place per the ordinance and grant me the appeal

Councilmember Greene questioned if anyone is living on Mr. Wilson property currently.

Mr. Wilson replied no.

Councilmember Bradley questioned what was sitting on the Walgreens property when he purchased his property.

Mr. Wilson replied Tommy's Mini Mart.

Councilmember Bradley questioned how far it is from his driveway.

Mr. Wilson replied probably 3 feet, but at the time it was in operation and now it hasn't been in operation for over a year.

Bob Wishart, Attorney representing Crown Companies, questioned how the property Mr. Wilson is trying to protect is titled.

Mr. Wilson stated it is in his own name.

Mr. Wishart asked if it is in anyone else's name.

Mr. Wilson stated no.

Councilmember Greene questioned City Attorney Charles Bateman, if the 50 ft. buffer was attached to this property would it have to be zoned B-2 or could it remain residential.

City Attorney Charles Bateman replied if it's undisturbed area and properly coveted or restricted and owned by the person who has the business we probably could not have an objection to it being zoned residential. It would not violate the ordinance to have it zoned residential.

Councilmember Greene questioned if this had been purchased by Crown would they have had to come before Council to request for a change in zoning.

Mr. Bateman replied not as long as they didn't put any drives or parking on it.

After further discussion, Mr. Petesch called Mr. Doug Winner to give testimony.

Mr. Petesch asked him to state his full name. He stated his name is Doug Winner.

Mr. Petesch asked him if he is a State Certified General Real Estate Appraiser.

Mr. Winner said yes that is correct.

Mr. Winner gave a brief report on his education and experience in his field. Mr. Petesch verified that Mr. Winner has experience in appraising commercial and residential properties.

Mr. Petesch asked if Mr. Winner had conducted an appraisal of property located at 815 S. Fifth Street, Mebane, North Carolina owned by Mr. William H. Wilson, Jr.

Mr. Winner stated he did.

Mr. Petesch questioned what the specific issue Mr. Winner looked at when conducting his appraisal.

Mr. Winner stated his assignment was to determine if there was any damage to the subject property, Mr. Wilson's residential property, referring to the City not enforcing the 50 ft. zoning buffer. If the buffer was there v. if the buffer was not there would there be any difference in the value of the property.

Mr. Petesch questioned if Mr. Winner reached a conclusion as to the impact of a full buffer under the City's ordinance landscaping standard as compared to the buffer approved in the proposed Walgreen site plan.

Mr. Winner said he did and the conclusion was that the difference in damage or the difference in value by the subject property being affected v. not being effected by the buffer was \$46,250.00 which is a percentage of the value of the property.

Mr. Winner gave a detailed explanation of how he came to the conclusion.

Mr. Petesch questioned if Mr. Winner had reviewed the site plan and landscape plan approved by the City for the proposed Walgreens and had he personally visited all the properties that he examined to determine his conclusion.

Mr. Winner stated yes he had. He went on to give a detailed explanation of methods and examples of comparisons used to acquire pertinent data to enable him to obtain value conclusions. Mr. Winner gave Council detailed reports for their review.

After further discussion, Mr. Winner stated his assignment was only to determine the difference in the value of the property if the ordinance is enforced v. not enforced. The damage to the property of not enforcing the 50 ft. buffer is a 25% decrease in value.

Mr. Wishart stated as he understands Mr. Winner's analysis what you have done is take the assumption that there is a ordinance that requires a 50 ft. buffer for the proposed Walgreens project that has been approved.

Mr. Winner stated yes it is a hypothetical analysis.

Mr. Petesch questioned Mr. Winner, based on his opinion, if the approved site and landscape plans protect, preserve and/or improve the property values of the adjacent property.

Mr. Winner replied minimally.

Mr. Petesch questioned would a 50 ft. buffer preserve and improve property values of the adjacent residential property.

Mr. Winner replied yes.

Mr. Petesch said to the extent that buffers are part of a communities open space, do the approved site and landscape plans protect public and private investment through the preservation of open space.

Mr. Winner replied the approved site plan does not protect those things.

Mr. Petesch questioned if a 50 ft. buffer would protect public and private investment through preservation of open space.

Mr. Winner replied yes.

Mr. Petesch questioned if the approved site and landscape plans protect or preserve the existing tree canopy.

Mr. Winner replied not completely.

Mr. Petesch questioned if a 50 ft. buffer would protect or preserve the existing tree canopy.

Mr. Winner replied there is not much of a tree line there now, but it would protect what is there now.

Mr. Petesch questioned if the site and landscape plans shield property from the adverse external effects of the proposed Walgreens development so as to mitigate incompatibilities between the two.

Mr. Winner answered no.

Mr. Petesch questioned would a 50 ft. buffer shield property from the adverse external effects of the proposed Walgreens development so as to mitigate incompatibilities between the two.

Mr. Winner answered yes.

Mr. Petesch questioned if the approved site and landscape plans adequately protect abutting residential properties in terms of privacy.

Mr. Winner answered no.

Mr. Petesch questioned would a 50 ft. buffer adequately protect abutting residential properties in terms of privacy.

Mr. Winner answered yes.

Mr. Petesch questioned if the approved site and landscape plans effectively mitigate potential excessive noise, odor, and light or air pollution.

Mr. Winner answered no.

Mr. Petesch questioned would a 50 ft. buffer effectively mitigate potential excessive noise, odor, and light or air pollution.

Mr. Winner answered yes.

Mr. Petesch acknowledged that all questions were based on Mr. Winner's experience and training as well as his personal knowledge.

Mr. Petesch requested Ms. Hadley to come forward.

Mr. Petesch questioned if Ms. Hadley recognized said document which he established as exhibit tab E-5. Ms. Hadley answered yes; it was an email between Mr. Barnes and her. He asked if she recognized the handwriting at the top. She answered yes, it is mine.

Mr. Petesch questioned if Ms. Hadley recognized said document which he established as exhibit tab E-7. Ms. Hadley answered yes; it is a City of Mebane Building Permit/Site Plan Review Check List. He asked if she recognized the handwriting on the document. She answered yes, it is mine.

Mayor Stephenson called for a brief break. Mayor Stephenson called the meeting back to order.

Mr. Petesch stated he was done submitting evidence but he would like to make a closing argument.

Attorney Bob Wishart of Wishart, Norris, Henninger & Pittman, representing Crown Companies, called Ms. Hadley forward.

Mr. Wishart questioned Ms. Hadley if throughout the process of the Walgreens approval, was she the City Official primarily in contact with Crown Developers.

Ms. Hadley answered yes.

Mr. Wishart questioned if she was the one to review preliminary plans, site plans, landscaping plans, etc. telling them what they needed to do and didn't need do to through out the whole process.

Ms. Hadley answered yes.

Mr. Wishart questioned if she reviewed 4 (four) separate plans.

She answered yes that is correct.

Mr. Wishart stated in each instance did Crown Developers fulfill whatever the City's requirements were for that particular stage as shown on their site and landscape plans.

Ms. Hadley said yes.

Mr. Wishart questioned if she approved those plans at each stage.

Ms. Hadley said yes.

Mr. Wishart questioned in what manner was your approvals communicated.

Ms. Hadley answered through emails and verbally.

Mr. Wishart questioned if his period preceded February 4, 2008.

Ms. Hadley said yes it did.

Mr. Wishart questioned were plans submitted prior to this time.

Ms. Hadley stated yes.

Mr. Wishart questioned were did those plans comply with the landscaping ordinance as it was in effect at the time that the initial plans were submitted to you.

Ms. Hadley answered yes.

Mr. Wishart questioned if she started the review process in late 2006.

Ms. Hadley stated yes, the first email was in December of 2006.

Mr. Wishart questioned if Ms. Hadley has a brief diary setting forth the events as she recalls them from the time they first submitted plans for approval to the present.

Ms. Hadley answered yes.

Mr. Wishart asked her to recite that timeline.

Ms. Hadley stated the first email was December 7, 2006, rezoning approval by City Council on July 9, 2007 with the actual application for rezoning submitted on May 15, 2007, went before Planning Board on June 11, 2007, then before City Council on July 9, 2007, site plan was drawn on November 30, 2007, site plan sealed on December 17, 2007, 1st submittal January 1, 2008, 2nd submittal May 19, 2008, 3rd submittal June 23, 2008, 4th submittal November 17, 2008, Site Plan approved/Building Permit Application approved/ Fee Paid February 23, 2009.

Mr. Wishart clarified with Ms. Hadley that when she communicated with the attorney for Mr. Wilson that final approval hadn't been achieved for the plans, she was referring to final formal approval as reflected in the building permit.

Ms. Hadley said that's right.

Mr. Wishart questioned that does not mean she didn't approve the earlier plans that had been submitted way back in 2007 and continuing forward at least 4 (four) times.

Ms. Hadley answered that is correct.

Mr. Wishart questioned what landscaping ordinance she applied to the site plan and landscaping plan for the Walgreens after February 4, 2008.

Ms. Hadley answered the landscaping ordinance that was adopted by City Council on December 9, 2002.

Mr. Wishart questioned if she continued to apply that earlier adopted ordinance throughout the approval process up to and including the issuance of the building permit on February 23, 2009.

Ms. Hadley answered yes.

Mr. Wishart questioned if she communicated to Crown Developers that was the standard they would need to adhere to and that was the standard she was going to apply.

Ms. Hadley answered yes.

Mr. Wishart questioned why she applied that standard as opposed to the February 4, 2008 standard.

Ms. Hadley stated it was the existing ordinance at that particular time and the property was less than 5 acres.

Mr. Wishart questioned if she is the City Planner for the City of Mebane.

She answered yes.

Mr. Wishart questioned if she has a working knowledge of the kinds of efforts that go into site plans and landscaping plans.

She answered yes.

Mr. Wishart questioned does it require a considerable amount of time and expense.

She answered yes.

Mr. Wishart questioned in terms of efforts required from the start to the issuance of a building permit on February 23, 2009, does she have an opinion of what percentage of the process that Crown Developers needed to follow was completed by that time.

Ms. Hadley answered 90%.

Mr. Wishart questioned if when she decided it would be appropriate to apply the earlier landscaping ordinance and therefore the project did not require buffers zones to the same extent that larger developments would require, what she required in the way of landscaping and buffer zones, etc.

Ms. Hadley stated because the project was less than 5 acres, she required that they keep the spirit or the intent of the overall ordinance.

Mr. Wishart questioned what she did to keep the spirit or the intent of the overall ordinance.

Ms. Hadley answered we required them to put in a 6 ft. vinyl fence, requiring them to do things that would be aesthetically pleasing and they agreed to do that. They also agreed to put in heavy landscaping, trees and cedars.

Mr. Wishart questioned if she had the Technical Review Committee (TRC) involved in the process of approving the various 4 (four) sets of plans that were submitted over a 2 (two) year period.

Ms. Hadley answered yes.

Mr. Wishart asked if TRC had comments and make requirements that related to the landscaping plan and anything else.

Ms. Hadley answered they did.

Mr. Wishart questioned what the type of response of Crown Developers gave when asked to comply with requirements set forth by Planning, TRC, etc.

Ms. Hadley answered they complied.

Mr. Petesch came forward again to question Ms. Hadley about a document. He questioned Ms. Hadley if she recognized it.

Ms. Hadley said she did; it is an email from **Hart Weatherford**, Project Engineer with PM Engineering, Inc., Engineer for Crown Developers, to Montrena Hadley.

Mr. Petesch questioned if below that email, was there a chain of emails at the bottom of the document. He requested Ms. Hadley to tell the Board what was in the second email of that chain.

Ms. Hadley read aloud the email concerning revisions made to the site plan. Mr. Petesch asked Ms. Hadley to state when the Site Plan/ Building Permit Application was approved. She stated February 23, 2009.

Mr. Wishart stated he would like to get his arms around what is really to be decided tonight. He stated we are not here to decide if Mr. Wilson's property will gain or lose value based on the existence or nonexistence of a Walgreens. We are not here to decide if he would be better off or worse off with a 50 ft. buffer. We are here to decide what law applies and to apply these facts to Walgreens, Crown Properties. What is the controlling law and did they comply. Mr. Wishart stated there are 2 (two) points that bear repeating. There is a doctrine called vested rights and secondly that doctrine of vested rights overrides a general principal of law. If Crown Properties has met the 4 criteria for what is called common law vested rights then you must allow them to proceed with building Walgreens. If they haven't then you may decide whether they otherwise comply with the ordinances. He stated exhibit tab C (Wishart/Crown notebook) is the law that applies, First Amendment to Landscape Ordinance, Section 2, sub-section (d), adopted February 3, 2003.

Mr. Wishart read aloud language from the above mentioned document. He stated we are not challenging Ms. Hadley decision tonight unless the Board is prepared to say her decision was so irrational that there was no rational basis for it whatsoever.

Mr. Wishart called Daniel F. Barnes forward. Mr. Wishart asked Mr. Barnes to state his full name. He stated Daniel Franklin Barnes.

Mr. Wishart questioned if Mr. Barnes has a degree.

He answered yes; he has a Degree in Civil Engineering from UNC-Charlotte. He stated after graduating in May 1996 he worked as Project Manager with John S. Clark Company until September 2005. He stated in September 2005 he began work with Crown Properties as a Principal. He stated his responsibilities include leasing, acquisitions, development and property management. He stated his primary responsibilities involve him in every project from the beginning to the ending, including managing and coordinating all designs, permitting and construction activities.

Mr. Barnes stated he was deemed the Lead Developer for the Mebane Walgreens project so he has been involved in every aspect of the project.

Mr. Wishart questioned if he had prepared an affidavit for this case.

Mr. Barnes answered yes; he has reviewed the affidavit and affirmed every word to be true, Tab 2.

Mr. Wishart requested Mr. Barnes to tell when he began his active work with the Walgreens project and when he began his interaction with the City of Mebane asserting their intent.

Mr. Barnes stated being in the development business he spends a lot of time in the car and on his way home from Raleigh he drove into Mebane and knowing that one of Walgreens key factors in looking for a new Walgreens site is if there is a CVS near by. He noticed a CVS in a prime location. He began investigating with property owners and Walgreens concerning building in Mebane. In late 2006 he met with Planning Director Montrena Hadley and City Manager Robert Wilson where he presented to them a preliminary site plan for Walgreens, a rough lay out which shows their typical footprint. He requested them to do a personal review of the plan which they did and they discussed some potential issues but basically they thought the site plan looked good. He said he explained to them the site was a little tight and they didn't have enough parks for a Walgreens request so he asked them at that time would they give some variances on some of the set back and buffer requirements. He stated at time he first learned about a site less than 5 (five) acres has the right to waive certain aspects.

Mr. Wishart asked Mr. Barnes to explain the process he followed when interacting with the City.

Mr. Barnes stated numerous site plans are drawn in order to please tenants and to meet town's requirements. He stated it takes multiple variations to get to the point where the town and tenants accepts the plan. He stated he tries throughout the whole process when any comments are made by either party he addresses those concerns in a site plan which in this case he communicated with Ms. Hadley.

Mr. Wishart questioned at all times was he under the impression that the site plans had to comply with the landscape ordinance as it was in effect at the time of your first submittal and right up to the present.

Mr. Barnes stated that was correct.

Mr. Wishart questioned how many plans were ultimately submitted.

Mr. Barnes answered 4 (four) and the reason they were reviewed 4 (four) times was because Walgreens was making updates to their stores and wanted those updates to be included in the Mebane plans.

Mr. Wishart called Mr. Barnes and Boards attention to exhibit tab-B. He requested Mr. Barnes to explain exhibit tab-B which is an additional to his affidavit.

Mr. Barnes stated exhibit tab-B is a rendering of a landscape plan for the proposed Walgreens. He stated Ms. Hadley agreed to meet with him on May 9, 2007 to discuss some concerns on the landscape plan which he gave her at the meeting. He stated he had some questions in regards to some possible issues that he wanted to get clear in his mind. One being they were parking spaces shy of meeting code and they had some encroachments into set backs and buffers. Based on the plans he gave her at the time he asked for her advice. She met with staff and got back to him on May 10, 2007 via email. Mr. Barnes read aloud exhibit tab-D.

Mr. Wishart questioned if Mr. Barnes relied on the information given in that email from then until the present.

Mr. Barnes answered yes we've relied upon it heavily from then until present.

Mr. Wishart questioned if his reliance was exhibited in another email in exhibit tab-D dated October 15, 2007.

Mr. Barnes answered yes there was an actual issue with Dr. Troutman and Dr. Blankenship's property because they were an existing operating dental practice and could not have that shut down. They wanted them purchase their property then rent it back to them while they were building new dental offices. That was one reason they wanted to verify this whole heartedly so there would be no issue and they could feel comfortable with purchasing their property.

Mr. Wishart said beginning with the first time you met with any city staff, can you give an estimate of time that has been expended by you and others on this Walgreens project.

Mr. Barnes stated he estimates 600+ hours just to this point.

Mr. Wishart questioned by of February 4, 2008 what would Mr. Barnes estimate the percentage of time that he and others in furtherance of the Walgreens project been expended.

Mr. Barnes answered 90-95%.

Mr. Wishart questioned if monies have been expended in furtherance of the Walgreens project.

Mr. Barnes answered yes.

Mr. Wishart stated those numbers are reflected in paragraph #10 of Mr. Barnes affidavit. He questioned Mr. Barnes if those numbers were determined by Crown Companies financial records.

Mr. Barnes answered yes.

Mr. Barnes briefly overviewed monies expended this far in a timeline.

Mr. Wishart requested Mr. Barnes and the Board to refer to exhibit tab-E. He asked Mr. Barnes to explain the document.

Mr. Barnes stated it was an email from Ms. Hadley to him, his engineering and several city employees. He stated the email dated June 6, 2008 was comments that came from the second TRC meeting. He said by that meeting they had submitted full design copies. At that meeting people in attendance were city staff, NCDOT, TRC and Engineers. The email was what Ms. Hadley had sent which included all comments and notes taken at that meeting. Paragraph #1 reinforced the previous email concerning the Landscape Plan. He stated Ms. Hadley was careful of the intent to meet the ordinance by making them install a fence and heavy landscaping.

Mr. Wishart referred to exhibit tab-F, a Project Timeline prepared by Mr. Barnes.

Mr. Wishart questioned Mr. Barnes opinion, if it was determined that the UDO did apply to the Walgreens project and they had to comply with the UDO, what would be the impact upon the efforts and the cost to the future of the project.

Mr. Barnes stated it would be detrimental. He stated it would probably end the project. For instance, Crown has a signed lease with Walgreens they must deliver the store by December 2009 and will incur damages if that date is not met. So if he would be required now to go back in and purchase additional property, documents would have to be redesigned and he would be looking at a huge delay. He stated the way his company makes money is by developing a project and then selling it. He said in this economy no one is buying anything. A year ago he could sell a Walgreens at a 6.5 cap. He stated they would be lucky as is to break even on this project.

Mr. Barnes explained how his company comes up with the figures to sell a Walgreens and the money expected to be made from the sell of the Mebane Walgreens at the request of Mr. Petesch.

After further discussion, Mr. Bateman stated that the sale price of this property has no relevance to the issue before the Board.

Mr. Petesch asked Mr. Barnes if this Walgreens has any interest in operating on a 24 hour schedule.

Mr. Barnes stated they would reserve that right, but he could not recall at this time.

Mr. Petesch handed Mr. Barnes a document. He asked if he recognized it and asked him to state what it is.

Mr. Barnes stated he did and stated it is an email from him to Ms. Hadley.

Mr. Petesch referred to exhibit tab E-10. He asked Mr. Barnes what was the first question he asked Ms. Hadley in the email.

Mr. Barnes stated the question said does the current zoning allow for a 24 hour store. Ms. Hadley replied yes.

Mr. Petesch and Mr. Wishart made closing remarks.

City Attorney Charles Bateman stated the presentation of evidence is concluded.

Mr. Bateman stated that he could read aloud a proposed finding of fact to the Board and they could advise him to rewrite it.

Mr. Bateman read aloud a suggested Resolution that would be put to the vote of the Board. It read as follows: "From the evidence presented, this Board finds as a fact that as described in the affidavit and testimony of Daniel Barnes, Crown Development made substantial expenditures in good faith in reliance upon valid governmental approvals and action and has a common law vested right to proceed with its development pursuant to the Ordinance requirements in effect prior to the adoption of the Unified Development Ordinance on Feb. 4, 2008 and that the City staff acted in accordance with applicable law and appropriately issued a building permit to Crown Development and in so doing appropriately approved Crown's compliance with the pre-2008 landscaping ordinance including the actions taken by Crown to meet the spirit of the ordinance."

After further discussion among the Council, Councilmember Greene made a motion, seconded by Councilmember Bradley, to approve the Resolution as presented by Mr. Bateman. The motion carried unanimously. Mayor Stephenson stated the petition is denied.

A Public Hearing was held on a request from Atlantic MultiFamily, LLC to rezone property from B-2 (General Business) to CU-R-6 (Conditional Use-Multi-Family) for the development of an apartment complex. The property is +/- 9.61 acres located on Village

Drive off South Third Street adjacent to the United States Post Office and McClure Funeral Home. The plan proposes a total of 120 apartments. Attorney Lawson Brown spoke on behalf of the request. Mr. Brown stated this project is a down zoning for the intended use of the land, B-2. He stated that the overriding concern at the planning board level was the issue of non-compliance of the open-space and recreational area. He said that another particular complication with this rezoning request was the Fifth Street relocation of the 119 Bypass. Since the applicant's original submittal of the site plan, the applicant modified the plans to allow a minimum of 120,000 square feet of Private Common Open Space, a minimum of 90,000 square feet of Private Recreation Space and a 30' Dedicated Common Open Space Easement (19,553 square ft).

Following considerable discussion, Councilmember Philipps made a motion, seconded by Councilmember Greene, to close the Public Hearing and to vote on the request. The motion carried unanimously.

Councilmember Philipps made a motion, seconded by Councilmember Greene, to approve the request to rezone property from B-2 (General Business) to CU-R-6 (Conditional Use-Multi-Family) for the development of an apartment complex. The motion carried unanimously.

The Council received a request for a Final Subdivision Plat approval for North Carolina Industrial Center (NCIC), Phase One, Section Two, Lot 8, +/- 7.258 acres located on Corporate Park Drive. Councilmember Bradley made a motion, seconded by Councilmember Hooks, to approve the request. The motion carried unanimously.

A Public Hearing was held on a request from Salvatore & Guiseppina Esposito to rezone property located in Orange County at 7311 US HWY 70 (Corner of McBane Store Road & Randall Circle) from R-20 (Single Family Residential) to CU-B-2 (Conditional Use-General Business). Fatima Dos Santos, Property Manager, spoke on behalf of the request. She stated that the applicants have met with surrounding property owners and have compiled a list of agreeable conditional uses for the property and would like Council's approval for rezoning. The proposed list presented as follows: *Antique Store, Consignment Store, Furniture Store, Apparel & Accessory Store, Auto Supply Store, Auto Supply Sales, Catering, Coffee & Pastry Shop, Convenience Store, Electronics Store, Garden Center or Retail Nursery, General Merchandise Store, Hardware & Housewares Store, Office Spaces Rental, Office Supplies & Equipment, Pet Supplies Store.*

Don Holzapfel, adjoining property owner, questioned the buffer requirements for the property if rezoned.

City Manager Robert Wilson stated they would have to meet the requirements between a B-2 and a residential neighborhood, which is a 50 ft. buffer requirement. It must be a maintained 50 ft. buffer that can not be built upon.

Felton Brown, 120 Randall Circle, Mebane stated that he was pleased with the meeting and the uses agreed upon.

Councilmember Bradley made a motion, seconded by Councilmember Hooks, to close the Public Hearing and to vote on the request. The motion carried unanimously.

By motion of Councilmember Bradley, seconded by Councilmember Greene, the Council voted unanimously to approve the request for rezoning of property +/-0.572 acres located at 7311 US Hwy 70 with the following Special Condition that the property may only be used for the following purposes: *Antique Store, Consignment Store, Furniture Store, Apparel & Accessory Store, Auto Supply Store, Auto Supply Sales, Catering, Coffee & Pastry Shop, Convenience Store, Electronics Store, Garden Center or Retail Nursery, General Merchandise Store, Hardware & Housewares Store, Office Spaces Rental, Office Supplies & Equipment, Pet Supplies Store.*

A Public Hearing was held on a request form Danny Horner to rezone property located on Corregidor Street from B-3 (Neighborhood Business) to R-20 (Single Family Residential); property also being known as Alamance County Tax Map 10-20-6A. The

applicant is requesting a rezoning to lower taxes and states that he has no reason to put a business adjacent to the Mebane Arts & Community Center.

Councilmember Hooks made a motion, seconded by Councilmember Greene, to close the public hearing and to vote on the request. The motion carried unanimously.

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

A Public Hearing was held on a request for 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 the request. Mr. Bateman stated when the UDO was codified in 2008 churches were placed back in the permitted uses table, so currently the zoning in the City of Mebane permits churches in the central business district. He stated there are numerous issues that are raised when trying to change that, among them are some equal protection problems along with federal regulatory problems under federal legislation that prohibits communities from treating religion different from any other comparable use in the zoning codes. Mr. Bateman stated he surveyed numerous municipal zoning codes across the state of which all allow churches as a permitted use in the downtown central business area. He stated that staff recommends that no changes be made to the UDO which would have the effect of leaving churches as a permitted use downtown.

City Manager Robert Wilson explained in 2003 the Council voted to remove churches from the B-1 district, then several years later while working on the UDO, Buddy Blackburn, UDO consultant, recommended that churches be allowed in the B-1 district to keep the City from facing any litigation issues. Mr. Wilson stated that during UDO work sessions, it was the intent of staff and Council to have churches removed from the permitted use table in the B-1 district, however Mr. Blackburn did not remove them in order to protect the City from any possible legal conflicts. He said when Council approved the UDO in 2008 churches were listed as a permitted use in the B-1 downtown district and are still currently allowed.

Elma Doerman, Treasurer of Destination Downtown, spoke in opposition of allowing churches downtown. She stated they are not anti-church but are concerned about the effect of allowing churches downtown could have on the business district.

Barbara Guttman, Downtown property owner, spoke in opposition of allowing churches downtown.

Lacy Bennett, Owner of Elegant Relic, questioned how churches will be interpreted.

Mr. Bateman replied they would be interpreted as a religious organization.

Joy Albright, Downtown business and property owner, spoke in opposition of allowing churches downtown.

Ms. Guttman stated typically thriving downtown areas do not have storefront churches usually they are in declining business environments.

Jill Auditori, Downtown business owner, suggested a revision of the ordinance that could possibly limit storefront churches but allow free standing churches with sufficient parking in the downtown area.

After further discussion, no formal action was taken. The UDO will remain as is to allow churches in the B-1 district.

A Public Hearing was held on a petition for voluntary annexation from Utley Investments, LLC. The property located at 601 E. Center Street in Orange County. No one from the public spoke concerning the request. Councilmember Philipps made a motion, seconded by Councilmember Greene, to adopt an Ordinance to Extend the

Corporate Limits of the City of Mebane, North Carolina. The motion carried unanimously.

The Council received a request for a Preliminary Subdivision Plat Approval from Barrie Oblinger for approval to subdivide property as “Smallville Subdivision”, a subdivision of +/- 10.00 acres located on W. Roosevelt Street, W. McKinley St. and W. Vance Street. Mr. Oblinger stated that the proposed subdivision would include 10 “high-performance” homes of his own design, ranging in size from 1,000 to 1,500 sq. ft. and will be constructed on 20,000 sq. ft. R-20 lots. He stated his theme and focus of the design and construction is energy conservation, a “green development”. He said he plans to surgically remove trees causing as little impact to the land as possible. Mr. Oblinger stated he would have a few covenants, such as no unshielded outdoor lighting, no chain link fences and no mismatched outbuildings. Construction would begin with a model home and once it is sold, construction on the next home would begin: one house at a time.

Mayor Stephenson questioned the price range.

Mr. Oblinger stated because they will be better insulated they would cost a little more, ranging from \$175,000-\$250,000.

Council questioned the street layout for Mr. Oblinger’s proposed development. The Council stated he should allow for connectivity of the streets for public safety reasons and to eliminate isolation of the neighborhood.

City Manager Robert Wilson commented if he requested zoning for a smaller lot size he could allow street interconnection without losing any lots.

Mr. Oblinger questioned why the City hasn’t connected the streets.

Councilmember Bradley replied that the City does not develop streets; developers develop the streets following city guidelines.

Following considerable discussion, Council and staff suggested that Mr. Oblinger come back with a modified plan. No formal action was taken.

The Council received a request to adopt an Ordinance Directing the Code Enforcement Officer to Demolish Property located at Giles Street/#9815732864/TM#10-10-109A, Mebane, North Carolina. Councilmember Hooks made a motion, seconded by Councilmember Greene to adopt an Ordinance Directing the Code Enforcement Officer to Demolish Property as requested. The motion carried unanimously.

The Council received a request to adopt an Ordinance Directing the Code Enforcement Officer to Demolish Property located at Holt Street/#9815748366/TM#10-10-214, Mebane, North Carolina. Councilmember Hooks made a motion, seconded by Councilmember Philipps, to adopt an Ordinance Directing the Code Enforcement Officer to Demolish Property as requested. The motion carried unanimously.

The Council received three (3) bids for demolition of the above said properties. The bids ranged from \$1,800.00-\$2,200.00. Staff recommended awarding the work to the lowest bidder, Triangle Tree & Landscaping of Haw River, North Carolina who submitted a bid of \$1,800.00. Councilmember Philipps made a motion, seconded by Councilmember Greene, to award the work to the lowest bidder, Triangle Tree & Landscaping. The motion carried unanimously.

The Council received a request for a budget amendment in the amount of \$1,800.00 to cover the cost of demolition of the above said properties. Councilmember Greene made a motion, seconded by Councilmember Philipps, to approve the budget amendment as requested. The motion carried unanimously.

The Council received a request for approval of a Resolution Supporting Reconsolidation of Greensboro, Winston-Salem, and Burlington Metropolitan Statistical Area (MSA) in to

a Single MSA. City Manager Robert Wilson spoke concerning this request. Council questioned how the City of Mebane would benefit from this action. After some discussion, Council requested that more information be given at the June meeting at which time they would vote. No formal action was taken.

City Attorney Charles Bateman presented a proposed amendment to the City of Mebane Personnel Ordinance Sick Leave Provisions, Article V, Section A. Following discussion, Councilmember Philipps made a motion, seconded by Councilmember Greene, to adopt the proposed amendment to the City of Mebane Personnel Ordinance Sick Leave Provisions, Article V, Section A, Ordinance No. 09-02. The motion carried unanimously.

The Council received a request to adopt a Resolution to Enact a Tax Shelter of Employees' Contribution payable as members of the North Carolina Local Government Employees' Retirement System. Councilmember Bradley made a motion, seconded by Councilmember Philipps, to adopt the Resolution to Enact a Tax Shelter of Employees' Contribution payable as members of the North Carolina Local Government Employees' Retirement System. The motion carried unanimously.

The Council received a request for approval of an actuarial and pension plan transition services agreement as proposed by USI Consulting Group. By motion of Councilmember Hooks, seconded by Councilmember Philipps, Council voted unanimously to approve the service agreement between the City of Mebane and USI Consulting Group.

The Council received a request for approval of the Charge-Off of Accounts in Water and Sewer. The Water Account totaling \$5,065.23, the Sewer Account totaling \$3,124.85, the Users Fee totaling \$646.20 and late fees totaling \$868.90 for a total of \$9,705.18. Councilmember Hooks made a motion, seconded by Councilmember Philipps, to approve the request. The motion carried unanimously.

City Engineer Darrell Russell reported the City has been awarded \$230,000.00 in Federal Stimulus Funds for the Ninth Street Sewer Outfall Replacement project.

The minutes of the April 6, 2009 Regular Meeting were approved as presented.

There being no further business, the meeting was adjourned.

Glendel Stephenson, Mayor

ATTEST:

Stephanie W. Shaw, City Clerk

