



**Trinity NC City Council Meeting
September 17, 2013
7:00 pm
City Hall Annex**

Members Present: Mayor, Carlton Boyles; Council members; Chester Ayers, Karen Bridges, Debbie Frazier, Barry Lambeth, Ed Lohr, Tommy Johnson and Kristen Varner.

Members Absent: Council members: Linda Gantt

Others Present: City Manager, Debbie Hinson; Public Works and Utilities Director, Rich Baker; Attorney Bob Wilhoit; Assistant Finance Officer, Lisa Beam; Assistant City Clerk, Annette de Ruyter; Planning and Zoning Director, Julie Maybee; members of the media, and other interested parties.

Call to Order (*Mayor Carlton Boyles*)

Mayor Boyles called the meeting to order at 7:00 pm and welcomed all those present.

▪ **Pledge of Allegiance**

Mayor Boyles led the Pledge of Allegiance

▪ **Invocation**

Council member Lambeth led the invocation.

▪ **Welcome Guests and Visitors**

Mayor Boyles welcomed everyone to the meeting and thanked those that came out tonight.

A. Review, Amend, and Approve Agenda

Mayor Boyles asked that Council consider the following amendments to the Agenda per the request of the City Manager.

Additions

Item 9A: Consider Text Amendment for Lights of Christ Ministries, Incorporated as an addition to the proposed Agenda .

Deletions

Item C: Closed Session pursuant to NCGS 143-318.11(a) (3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

Motion by Council member Johnson to amend the Agenda as proposed, seconded by Council member Lambeth, and approved 5 to 2, with Council members Frazier and Varner voting Nay and Council member Gantt absent.

B. Amended Rules of Procedure for Public Comment Period

Mayor Boyles opened this item and turned discussion of this item over to Manager Hinson for briefing.

Manager Hinson stated this item had been discussed by Council briefly at the September 10, 2013 Pre-Agenda meeting and that she and Attorney Wilhoit had looked at the current policy used by the City. She advised members of the audience that the Policy to be reviewed had been placed on the monitor in order to allow public view. This proposed Policy is for Council discussion, and may be changed at their discretion.

This discussion will be a review of the current policy and updated versions. Manager Hinson read the proposed updated version (Attachment A) and stated that these changes were being proposed in an effort to eliminate personal comments whether it be someone in the audience, council, or staff. These changes are not being made to eliminate your freedom of speech and your right to stand before the Council and express your likes or dislikes concerning the action taken by the majority of Council. There is nothing wrong with this and we all can withstand criticism. When you address the Council we ask that you address them as a whole. We do not have 5 Council members or 3 Council members. This is a Council of 8 members. When a speaker uses the term "majority of Council" the Council members are aware of how they voted and whether or not they were a part of that majority. This rule applies to our Council members as well. They will be courteous, and respect the public, just as you are asked to respect them. We want to get away from being disrespectful to each other. This proposed policy is an effort to alleviate the problems that we have had in the past and to promote the spirit of working together.

The deputy has provided us with some additional North Carolina General Statutes if needed to have someone removed from the meeting. We have spoken with our Deputy and he is aware of the intent of the proposed changes. Anyone can be removed from a meeting for improper conduct of oneself during the meeting.

Manager Hinson expressed her desire to work with all residents and asked that they call her if they had anything that they felt should be discussed, and it was her intent to work with all residents in an effort to foster the spirit of working together with respect for each other.

Manager Hinson turned the discussion over to Mayor Boyles and Attorney Wilhoit for further briefing and questions and to the Council for discussion and action.

Mayor Boyles stated that he had had a lot of contact with individuals since our last City Council Meeting. He felt this change would make us more businesslike, a little more respectful of each other, and to do Council business. Mayor Boyles asked Council for their consideration for approval of these suggestions for the Adopted Rules of Procedure and for their discussion prior to continuing the meeting and the Public Comment Period.

Council member Johnson discussed his feelings on what could be termed criticism and personal attacks and cited an example given in the literature provided to Council. He discussed the case where an official had stated that he did not support tax increase but then did in fact vote for a tax increase. He was questioned by a resident at a meeting from the podium concerning his statement and vote. Would that be considered criticism or a personal attack?

Attorney Wilhoit discussed the fine line between criticism and personal attacks. If someone makes a general comment that uses a derogatory term or says the entire board is corrupt, that could be termed a personal attack as opposed to just addressing a criticism of a specific issue which would not be a personal attack.

Criticism is often expected when there is controversial issues. Personal attacks can be deemed to be "fighting words." There are some limits to freedom of speech. You can make your point understood and

do not have to be happy at the podium, but you do need to show some decorum. You do not call people bad names, or corrupt, but you can express dissatisfaction. When you get personal it is not conducive to a good Public Hearing process. It was his opinion that the board had been lenient in allowing persons to say what they felt but that what they were trying to do with this document was get a little more control over “fighting words.”

Council member Varner stated that one thing she did not like that was in the policy was that citizens could not address individual members. She understood the point to this but felt that if someone was upset with a specific decision of a Council member they should be allowed to say so. She also referred to some of the literature information included in Council’s packet and read the section that referred to protection to public criticism and the fact that it was clearly not available to the elected board members themselves. As a practical matter if someone wishes to complain to the board about its actions or those of one of its members the only place the concern can be raised publically is in front of the entire body during the Public Comment Period or Public Hearing. She felt that if someone did this someone would stop it, and it was her opinion that technically it should not be stopped. She quoted the examples relating to the Edenton and Boston Tea Parties and the hanging of King George III of England.

It was her opinion that elected officials had to have pretty thick skin and take it. Political figures cannot go around and do that to a public member, however that is one of the lines between being a citizen and a public figure. As long as fighting words, eminent harm, or obscene issues are not used, it is allowed.

Attorney Wilhoit stated the last paragraph in the policy was in the original policy that was previously adopted by Council and could be amended by Council if they so desired. Council member Varner stated that she disagreed with this language at the time of the adoption of the original policy and was just pointing that out.

Council member Varner cited another example: Even if the local governing board feels that a person is spreading untruths or arousing hostilities from his or her comments during a meeting and even if the board did not like what the speaker has to say, the board probably may not restrict the person’s speech because of the content. The Supreme Court has frequently recognized that the destructive or disturbing effects of expression are bound up with a very political value of free speech and that the first amendment is designed to safeguard and nurture. A local government may not silence a speaker in such a designated forum merely because it disagrees with a person’s message.

Attorney Wilhoit addressed Council member Varner’s comments stating that you may tell someone that you are unhappy with what they did it’s just the name calling that probably needs to go by the wayside during Public Comments. You can still get your message across without the name calling. I understand what you are saying about not being allowed to address individual members but to be candid with you I do not believe that has been enforced.

Council member Varner stated she understood and that she knew you should not call someone names. She agreed that enforcement on addressing individual members had not been done but it was her fear that because it was actually in the document now it can be enforced. Council member Varner was afraid that it would be enforced when it was convenient for a member of Council.

Council member Lohr felt this went back to the last election. It was his opinion that it was cut and clear. Everyone knew that I campaigned to fire the City Manager. When the election was over the Council at that time did something that has never been done before by giving the city manager a contract after the election. They said that was to protect the citizens. They also said that we didn’t have experience. The four (4) that were elected has had family here for close to 200 years. There were three (3) on this Council that have not been here for fifteen (15) years. It was his opinion that this started at the last election when people tried to change the result of election. He was thankful an election was coming.

At this time Manager Hinson referred to an example included in the literature that addressed what Council member Varner had discussed. This example illustrated how to single one person out with public

criticism without personal attacks. She again stressed to those present that criticism was permitted and sometimes needed, but personal attacks were not. We are asking that you think about how you present your comments.

Mayor Boyles expressed his views concerning these changes and his understanding for the City to conduct business in a businesslike manner and becoming friendly in our meetings and respecting each other. You can disagree without being disagreeable. He did not see an exception to the proposed policy. One of the reasons that we have allowed people to be singled out is because our policy did not say you had to speak to all members of our Council. It was his opinion that there was always a way to speak to one individual but felt that if you are discussing City business you should be speaking to all members and not identifying the 5 you want to support or the 3 that is not doing what you want. They make decisions as a Council.

Council member Varner made a motion to incorporate changes that were presented with the deletion of the first sentence of the last paragraph (please direct comments to all members of Council and not to individual members.) There was no second and the motion died.

Mayor Boyles asked that members of Council share their ideas on this matter.

Motion by Council member Bridges to approve the policy as written, seconded by Council member Frazier, and approved 6 to 1, with Council member Varner voting nay, and Council member Gantt absent.

Public Comments

Mayor Boyles opened the Public Comment period for those persons who wished to address Council.

Deborah Smith 7340 NC Hwy 62- Ms. Smith thanked Council members Varner and Frazier for their assistance with some zoning issues. As a small business owner and working with other small business owners we are planning a Christmas event and there was some confusion about the Zoning Ordinances. Council member Varner and Frazier are the Council representatives for her Ward. Ms. Smith contacted them both and thanked them for their hard work in explaining the Ordinances. Ms. Smith thanked Manager Hinson for her help and speaking with her today. She thanked all Council members as well as all staff members for working diligently to come up with a resolution for the community event that was taking place this weekend.

Beverly Nelson; President of Archdale/ Trinity Chamber, 213 Balfour Dr, Archdale- Ms. Nelson invited the citizens of Trinity to the Candidates Forum on October 3, 2013 at 7:00 pm. The forum will be held here at the Trinity City Annex with the candidates seeking re-election or election for Council seats and Office of the Mayor. The current Council members are encouraged to come also. The forum will be moderated by Bob Buckley.

Kevin Varner 7123 NC Hwy 62- Mr. Varner stated he would like to address Council but he is confused on how he can do that now. He felt unsure on how to address people because he felt that they get into positions where they can't be addressed anymore but they can come to my house when things benefit them to try to work it in their favor. He stated that he could decline out of respect because he wanted everybody in this city to get what they wanted but nobody ever gets it just the way they want it. Going forward, he wanted to see this Council have respect, act with dignity, not like coming to my front gate and doing what you did, but from now on honesty and respect. You cannot sit up here and try to run Council and have an angry heart. If you are up here because you are angry or you are mad about the way everything is going and you feel it has never gone in your favor, it was his opinion that you cannot do good for anyone else. He discussed the rules concerning trucks and it was his opinion that no one was enforcing the truck rule.

He also said he would like to see everyone calm down and be respectful. He asked Mayor Boyles as a citizen to do his job when necessary and knew that he would. He asked Council to do their job when necessary, and knew they would. That was all he asked of them.

Robert Mc Gee 4752 Maple Oak Drive- Mr. McGee is in favor of having a church in the Village Center. The Old Town Overlay came into effect in 2007 and it was his opinion that this is a smoke screen to stop private businesses or any other kind of businesses from moving into downtown Trinity.

I have lived in High Point since 1981. I have visited Trinity many times and used to shop at Leach and Wagner. At the present time I have a post office box at the Trinity post office and every time I go in I keep looking around for Andy Griffin.

It was his opinion that someone wanted Trinity to stay small and if they did that was great, but why did you become a City. If you wanted to be a small town stay a small town. Your sign says “The City of Vision.” Is that vision Mayberry?

He referred to the City of Archdale and their growth. It was his opinion that they were growing in leaps and bounds and he cannot shop in this town for groceries or clothing.

He discussed the Old Town Overlay and that it had been six (6) years since its inception. He asked how many public contractors had approached the City to build in this area. It was his opinion that there were too many rules and regulations.

He stated that he came here to address Council about the church, but he was a citizen and wanted to address the Council respectfully.

C. Closed Session pursuant to Closed Session pursuant to NCGS 143-318.11. (a) 3 to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

(Closed Session will be held in Administration Building)

This item was removed from the Agenda.

D. Action Item Report (City Manager)

Manager Hinson shared the action that was taken on the following items:

Council voted unanimously to allow staff to demolish the Hot Dog Barn located on City property and place a dumpster at City Hall to dispose of the waste. Any money received from the sale of any scrap will be allocated toward the cost of the dumpster rental.

Ms. Maybee presented and reviewed the Code Enforcement Report at the Pre-Agenda Meeting. No Code Enforcement Report is included on the September 17, 2013 Agenda.

Action was taken by Council to reverse the motion concerning a construction road and construction traffic ingress and egress for English Pride only located in Steeplegate North. The reversal does not restrict construction to a previously noted construction road.

It was the consensus of Council members that staff begin a street study cost projection on Orphaned and Private Roads located within the City limits. The results of this study will be presented to Council when completed for further direction.

After the manager's presentation, Council member Ayers asked if there would be a charge by the contractor for the work done on the street study.

Manager Hinson advised those present that there would be a charge and the costs and that she would work on getting an estimated cost for this service.

Council member Johnson stated that allowing the Manager to expend the funds needed to complete the study was a part of the consensus given to the manager when this item was discussed at Pre-Agenda.

I. Standing Report

1. Infrastructure Projects Update *(Rich Baker, Utilities & Public Works, Director/Randy McNeill, Davis-Martin-Powell & Assoc.)*

- A. (Braxton Craven)** *(Baker & McNeill)*
- B. Phase 5 Sewer Extensions** *(Baker & McNeill)*
- C. Ennis Flint Sewer Extension** *(Baker & McNeill)*

Mayor Boyles opened this item and turned discussion and briefing over to Mr. Baker and Mr. McNeill.

Mr. Baker gave a brief update on the following projects:

Braxton Craven: Construction has begun on this project. The clearing process is currently going on and we hope to start digging for the bore pit by the end of this week or early next week.

Phase 5: The bid opening for this project is scheduled for October 01, 2013. We held a pre-bid conference last week. There were 10 to 12 contractors that attended this meeting and who have already picked up packets and plan to bid on this project. We are expecting a number of bids which will hopefully work in our favor.

Ennis Flint Sewer Extensions: Mr. Baker asked Mr. McNeill if he had an update on the Ennis Flint Sewer Extensions.

Mr. McNeill stated that this project is still on hold as we wait for action from the changes that have occurred within the State. The City cannot enter into a contract with the engineer or planner until after the grant is accepted. Once this is done we can move forward.

Since the Rural Center has been phased out there has not been a person appointed to take charge of the new Department of Commerce Rural Community Program.

Mayor Boyles stated that he learned this morning that a close friend of Ms. Renfro's, President of the EDC, Randolph County was appointed to this position.

II. Consent Agenda

Mayor Boyles opened the Consent Agenda and reviewed items 2-4. During review of Item # 4 relating to the Resolution of Ellis Hankins, Mayor Boyles stated that Mr. Hankins had been a shining star for all of the cities located in North Carolina with his work through the legislature and felt he had done a superb job.

Mayor Boyles called for a motion to approve the Consent Agenda.

2. **Approve minutes of the August 13, 2013 City Council Pre-Agenda Meeting**
(Annette de Ruyter, Assistant City Clerk).

3. Approve minutes of the August 20, 2013 City Council Regular Meeting
(Annette de Ruyter, Assistant City Clerk) **Removed from the Consent Agenda upon**
the following motion: Council member Varner made a motion to remove the August 20, 2013 Regular City Council Meeting Minutes from the Consent Agenda. The motion was seconded by Council member Frazier and approved unanimously by all Council members present with Council member Gantt absent.

4. **Resolution Honoring S. Ellis Hankins, Executive Director of the North Carolina League of Municipalities, for his faithful service and contributions to municipal government.**

Motion by Council member Varner to approve items 2 and 4 as presented under the Consent Agenda, seconded by Council member Johnson, and approved unanimously by all Council members present, with Council member Gantt absent.

After action on the items listed under the Consent Agenda, Council member Varner stated her reason for removing the August 20, 2013 Minutes was because she felt more information was needed in the minutes concerning the outburst that happened during this meeting.

Council member Varner stated the following for the record:

I believe Council member Lohr's comments directed towards me that included calling my family a circus should be included in the August 20th minutes, and correction to grammatical errors that Debbie Frazier has pointed out.

III. New Business

Public Hearing

Protocol for Public Hearing for Items 5 and, 6 as follows:

- a) **Staff Presentation**
- b) **Applicant Presentation**
- c) **Public Comment**
 - i. **For the request**
 - ii. **Against the request**
 - iii. **Other public comments**
- d) **Applicant Rebuttal**
- e) **Staff Recommendation**
- f) **Board Discussion**
- g) **Board Decision**

5. **To consider Zoning Ordinance Text Amendment Request# TA-07.2.13, to address the placement of signs, political signs due to recently revised NC General Statute 136-32**
(Julie Maybee, Planning Director)

Mayor Boyles reviewed the procedures as listed under Public Hearings and opened this item for staff presentation.

Staff Presentation

Ms. Maybee discussed with Council action that took place in August 2011 regarding changes in state laws pertaining to the placement of political signs. The changes in state law allows political signs in the road rights of ways. It allows them to be placed in the designated areas thirty (30) days before the early voting that begins October 17, 2013. The changes does not allow them to be placed in a fully controlled access such as Interstate 85. They must be at least three feet (3') from the edge of the pavement of the road; they should not impair a motorist visibility at intersections, not taller than 42 inches in height and not larger than 864 square inches. The signs must be removed within (10) days after the election.

The proposed amendment is to incorporate the minimum standard into our Zoning Ordinance. These amendments are proposed to Article IV, Article XI in sections 11-2, and 11-4 are being proposed to address the placement of signs due to the recently revised NCGS 136-32. Currently you cannot place a sign in the public right of way without approval of the City.

The North Carolina Department of Transportation regulates and maintains the state roads in our area and with this text amendment political signs will be allowed.

Again this is looking at the existing provisions in our Ordinance and complying with the General Statutes.

Ms. Maybee wanted to make clear the two (2) ways that signs are handled by the City of Trinity.

First: This amendment will allow political signs in the state rights of ways.

Second: The signs that are placed on private property, commercial property, and industrial property are all regulated by the Zoning Ordinance that addresses the height, the size, and the type. Our Ordinance is message neutral. This means if the sign complies with the Ordinance and any Overlay District that they may be located in they are allowed. We are not looking at the content of the sign.

The Planning Board looked at this on a number of occasions. This was discussed in June 2013 and the Planning Board recommended that the City adopt the minimum provision. We held a Public Hearing and no comments were received relating to this proposed amendment. Based on that the Planning Board had their second Public Hearing on August 27, 2013, and again no public comments were received. After deliberation they recommended that the Ordinance be compliant with North Carolina General Statute NCGS 136-32. The Board recommended approving the amendments by a 4-0 vote.

At this time Ms. Maybee called for questions.

Council member Johnson discussed the term "message neutral" and asked if this would allow all types of messages on signs that could include offensive language, sexually explicit language, or be any type of message on a sign.

Ms. Maybee stated that was correct and that was classified as freedom of speech unless it was deemed to be "hate speech."

Council member Ayers asked Ms. Maybee if the non-specific message on the sign applied to signs located just on private property or if it included others.

Ms. Maybee stated this included all areas. There was further discussion between Ms. Maybee and Council member Ayers concerning other temporary signs such as are currently displayed on the rights of ways, i.e. mattresses for sale. Ms. Maybee advised those present that the statute was specific and commercial advertisement signs such as the example used were not allowed on the rights of ways.

With these revisions, compliant political signs are allowed in the road right-of- way of the state highway system. Signs placed on private, commercial and industrial property must comply with Zoning Ordinance

provisions based on the zoning district. If the sign complies with the ordinance district and overlay provisions they will be allowed.

Council member Johnson discussed the current Ordinance and the fact that it prevented signs from being displayed either on private property or road right of way thirty (30) days before an election. If we do this we will be eliminating that qualification which will allow signs all over the city years before an election.

There was discussion among Council members concerning how this would affect the appearance of the City, and the fact that these signs could only be placed on private property and not on the road rights of ways. Ms. Maybee again stated that when the sign was placed on private property it would go back to the zoning district and must comply with what is allowed in that district and overlay if the property is located in one.

After a discussion between Council members, Council member Lambeth asked, “will the Ordinance in a particular zoning district be able to handle this amendment so this will not need to be addressed again.”

Ms. Maybee stated that this text amendment is to address the change in NCGS and be consistent with the change in regards to political signs. It was her opinion based on comments shared with her, the City should look at the Ordinance in regards to temporary signs.

a) **Applicant Presentation:** None

b) **Public Comment**

Mayor Boyles opened the Public Comment period for anyone who wished to speak for or against this request.

i) **For the request:** None

ii) **Against the request:** None

iii) **Other public comments:** None

c) **Applicant Rebuttal :** N/A

Mayor Boyles closed the Public Hearing at this time and asked for staff recommendation.

d) **Staff Recommendation**

Staff recommended approval of the text amendments and find that they are consistent with our Comprehensive Plan and consistent to the order of development.

e) **Board Discussion:** None

f) **Board Decision**

Motion by Council member Frazier to approve the text amendment request # TA-07.2.13, to address the placement of signs, political signs due to recently revised NCGS 136-32, seconded by Council member Bridges, and approved unanimously by all Council members present with Council member Gantt absent.

6. **To consider Zoning Ordinance Text Amendments # TA-8.1.13 to clarify /address ordinance definitions, section references, and public event provisions.**
(Julie Maybee, Planning Director)

Mayor Boyles opened this item and called on Ms. Maybee for staff presentation.

Staff Presentation

Ms. Maybee stated that Exhibit # 1 included in the staff report referenced the first item in the text amendment. This is an amendment to correct a section reference in Article VII, Section 7-14, 3 of the Ordinance. This correction is listed under the Conditional Zoning District that references 7-14 and it should read 7-15.

The second item in this amendment pertains to Public Events. In researching the Planning Board minutes of August 16, 2011 (exhibit # 2) that were approved by Council, I found that action was taken according to these minutes that allowed Public Events in all zoning districts. This amendment was not incorporated into the Zoning Ordinance. The current Ordinance that Council and staff has does not show this change and does not reflect that Public Events are permitted in all zoning districts. Ms. Maybee discussed a specific note referenced in Article 7 section 7-15 referencing public events. That note was amended at that time to say Public Events were allowed in all of the zoning districts but was never made.

This is not included in the Table of Uses and will need to be referenced in the Table of Uses in order for it to be allowed. We will create a category listed as Public Events that will be allowed in all zoning districts.

a) **Applicant Presentation:** None

b) **Public Comment**

Mayor Boyles opened the Public comments for those wishing to speak in favor or against this text amendment.

i) **For the request**

Dawn Macaluso 4865 Surret Drive, I have been a lifelong resident of Trinity. I understand Ordinances but we have had several issues the past couple weeks. As long as permission is granted from the property owner and everyone is in agreement with what has been planned, especially fund raisers for charity or scholarships it should be permitted. This process has been very strenuous on the family. My concern with the Special Use permit is the fee charged is very high. We want to continue to support Trinity in any way we can.

Danielle Jacobs 5791 NC Hwy 62, our family understands the Ordinances to keep things running smoothly for the City. We were planning a fun day to raise money for scholarships to help children in the Trinity area and encourage everyone including young adults not to drink and drive. My husband coached and helped many children in this community so I was trying to raise money to give back to the children in memory of my husband.

ii) **Against the request:** None

Mayor Boyles closed the Public Hearing.

iii) **Other public comments:** None

c) **Applicant Rebuttal :** None

d) Staff Recommendation

Staff recommends that Article VII section 7-15 be amended to include Public Events in the Table of Permitted uses and that it also reference note 10 and the text that was approved in 2011 for Public Events be included in our Ordinance as it is written. This will be consistent with the City's Future Land Use Plan. (Staff Report Included.)

e) Board Discussion

Council member Varner discussed her earlier conversations with Ms. Maybee concerning her memory regarding this item and the fact that this was done and not included in the Ordinance. Ms. Maybee advised Council that she planned to research other text amendments to verify they had been incorporated into the Ordinance.

f) Board Decision

Motion by Council member Varner to amend Article VII, section 7-15 and the Table of Uses be amended to include Public Events as a Permitted Use in all zoning districts and reference note 10 as amended on August 16, 2011 for exhibit 2 and 3, that amendment for 7-14 be included in this motion as well and that staff report be incorporated into the minutes as part of the permanent record. The motion was seconded by Council member Frazier, and approved unanimously by all Council members present with Council member Gantt absent

Council member Bridges addressed Ms. Jacobs and shared her regrets with the loss of her husband. Council Member Bridges felt that Ms. Jacobs did not realize how hard the staff has worked on this and researched this to find out it was already in the Ordinance.

She advised Ms. Jacobs that she wished she had not gone to the papers first.

Council member Lohr expressed how sorry he was for Mrs. Jacobs's loss. He shared his concern on the current Ordinances are written in the City and it was his opinion this is another reason no one wants to come to Trinity.

IV. New Business

7. Review and Approve Bid for 1st Phase of Powell Bill Street Repair and Resurfacing Program received on September 11, 2013. (Rich Baker, Public Works Director)

Mr. Baker advised Council that four (4) bids were received for the proposed work in this Phase of our Powell Bill Street Repair. All bids were very close, however, we recommend Hanes Paving for this project with a bid of \$ 263,822,000.

The work should begin within the week of September 24, 2013 and will take approximately 6 days to complete.

Motion to award bid to Hanes Paving for 1st Phase of Powell Bill street repair and resurfacing by Council member Johnson, seconded by Council member Lambeth, and approved unanimously by all members present, with Council member Gantt being absent.

8. Consider approval of Resolution for NCDOT declaring no contesting the abandonment of Evelyn View Avenue (Rich Baker, Public Works Director)

Mr. Baker began the discussion by stating he was contacted by NCDOT advising them that Jowat Corporation would like to abandon Evelyn View Street. This is not a city street but the State needs a Resolution from Council that we will not contest abandonment as long as there is maintained access. The

City of Archdale has a pump station at the end of this street so access will need to be left available to them for maintenance to the pump station.

This will be a recorded document with the county. This will be the same as a platted road with ingress and egress at all times, and maintained indefinitely by the property owners.

Motion by Council member Frazier to approve abandonment of Evelyn View with the contingency that the City of Trinity receive the recorded plat, seconded by Council member Johnson, and approved unanimously by all Council members present, with Council member Gantt absent.

V. Old Business

9. Update on New Building to serve as Storage and Public Works Building.

Mayor Boyles opened this item and turned the discussion over to Manager Hinson.

Manager Hinson advised Council that information was included in their packet concerning this building for their review. This has been discussed several times beginning at the Annual Retreat.

Manager Hinson stated that she was asked to make contact with a resident that had some experience in this field and had done so. She advised Council that she had included the quotes that were given to them at the Annual Retreat to place a building here on City property. There has been some discussion concerning what would need to be included in the building. I have been working on what the City will need to do to place a building on this property.

Included in your packet is a memorandum provided by the Planning and Zoning Director that describes how our current Ordinance reads and what we will need to do to proceed if we choose to place a building on this property. There would have to be some amendments to our Ordinance. There are choices listed with details about a building being built on the property of the current City Hall and Annex property. (see attached). If the City chooses to drop back 600 feet which would take us out of the Overlay we will still be required to make some changes.

Quotes are provided in your packet from Dean Builders, Ricky Bevan, and 2 quotes from Myrick.

Council member Frazier asked the size of the building that was quoted. Manager Hinson stated the current quotes included were for an 80' x100' building; however I have also asked for new quotes for a 50' x 60' building or 3,000 square feet and will provide those estimates at a later date.

She discussed the quote included in Council's packet from Myrick in the amount of \$180,000.00. Due to the requirements that are required by OSHA there is an additional \$40,000.00 added to that quote and it does not include grading for the site. There is also a quote from Landmark on the 80 X 100 building which is the size of the warehouse portion of the building that we currently rent and does not include the front portion of that building. In reviewing these quotes the second quote from Myrick and the quote from Landmark has exclusions. The Landmark quote does not include lockers, eye wash station, fire protection, fire extinguishers, electrical, tap fees, impact fees, charges for utility companies for connection for any kind of utilities including but not limited to electrical, gas, telephone, cable, or anything else that is not specifically shown in his quote. When I met with the representative from Landmark he advised me that he had looked at the site and if he added the other things to his quote that was included or required it would be somewhere around the \$350,000 to \$400,000 quotes that we already have for the 80 X 100 building.

Manager Hinson also discussed with Council what her research concerning OSHA requirements for buildings of this type for the safety of our employees. Our employees deal with hazardous materials and they need the proper equipment for their safety. Manager Hinson advised Council that she will provide

them with the list that she printed from the OSHA website standards that defines bathroom facilities, lockers, and showers if applicable.

Manager Hinson asked for direction from Council in regards to the building. She asked if it was their desire to price a smaller building and also advised them that there were a couple of buildings inside the City that she had made some inquiries on that Council may be interested in.

Council member Lohr discussed outsourcing mowing services before going that far and get quotes for a smaller building maybe a 30 X 40 .

Council member Frazier asked if this needed to be tabled to allow Council to study the material and to allow the Manager to get some more estimates.

There was a brief discussion between Council members and the Manager concerning the direction that Council would like to have the Manager pursue. Manager Hinson advised Council that if it was their desire to place a building on this property that she needed to get some definite quotes on the size of the building, and the grading. The grading is included on the quotes for the 80 X 100 building that range from \$350,000 and up. The price for the grading of the road will basically remain the same

Council member Varner stated that she would like to get the price on some of the other buildings and the square footage of those buildings that might be possible to purchase to consider and use as a comparison to building here.

Council member Lohr asked why the Ordinance could not be changed to allow the building to be moved to the front of the property so that no road was needed. He felt that Council should consider changing the Ordinance and bring the building to the front of the property.

Manager Hinson advised Council that she would get the quotes together and would try to work out a month to month rental agreement for the current building until a decision was finalized since the deadline for our current rental agreement is at the end of October.

Council member Ayers asked if the cost to grade for a larger building should be considered at this time even if the City chose to build a smaller building. Council member Lambeth stated that all of the grading and the concrete slab could be done and a smaller building placed on the site at this time.

Manager Hinson asked if it was the direction of Council to continue with her research for a building of smaller size. Council member Lambeth felt that the Manager should find out the cost of the other buildings and that would give us a starting point. Council member Varner asked that the Manager find out what the other buildings that she had looked at might cost to purchase.

Council member Lohr stated that he would like to see if the City could outsource a few things and then we wouldn't have to do the building. He wanted to discuss this before the City built a building.

Council member Ayers asked if Council could have an explanation about whether this was feasible or not. It was his understanding that NCDOT was outsourcing mowing.

Council member Lohr stated that the City outsourced the trash service and felt it was a great deal.

Manager Hinson advised Council that she would ask Mr. Baker to discuss the requirements for the sewer easements but that she would discuss with them the basics of outsourcing the smaller services. She advised Council that she would be happy to get quotes on the actual lawn care for the City Hall property if Council would like to pursue this. Prior to filling the position that was added by the City, the price of cutting the lawn here was considered and included in the justification for the position. Prior to the addition of this position the lawn care only included the lawn at the City Hall building. It did not include the annex property nor any bush hog services or easements.

Manager Hinson stated that she did not mind contracting but shared with Council that one of the problems that she had experienced in trying to contract was finding someone who could come when they were needed. Contractors have more than one customer therefore there is no assurance that they can come when they are needed because they do not work on your schedule.

I will be glad to get someone to come and give a quote for the lawn care for City Hall and if Council decides to pursue this and contract that service the zero turn radius mower can be sold. I will be glad to get the costs for cutting the easements as well if that is Council's desire, but when that is done we will need to get someone who realizes where the manholes are located. This service will not elevate having an employee to check the manholes. Manager Hinson advised Council that she would pursue the direction that she was given.

Manager Hinson asked Mr. Baker to address the requirements for the pump stations.

Mr. Baker stated that the pump stations had to be maintained at a more stringent level than the outfalls. North Carolina State law requires maintenance a minimum of three (3) times per year on the outfalls. The outfalls need to be maintained so they are accessible with emergency vehicles. The mowing of the grass is a small portion of that job. We have millions of dollars in infrastructure in the ground that we must protect. We cannot have someone that cuts grass and who is not qualified to take of the top of the manhole to see what is going on. We will have problems.

Council member Lohr stated that there were citizens in Trinity that contract and do the gas pipeline. There is no need for them to come until you tell them how many times you want it done, until you put an ad in the paper.

Mr. Baker asked if they were qualified for sewer.

Council member Lohr stated they were qualified and have the insurance. This is not a greenway it is a sewer line, You have to tell the contractors that you want it done three (3) times a year and to give us a bid. The mowing business is very competitive.

Mr. Baker referred to the information provided at the Retreat concerning outsourcing the inspections for the sewer. The base price for that was \$120,000.00 annually and that is without any calls or repairs. Last year we paid the City of Thomasville a little over \$29,000.00. The difference is about \$100,000.00. The City of Thomasville is pushing us very slowly because of the amount of sewer we have in the ground to maintain our own system. We have two (2) choices. We can contract the service out.

Council member Lohr stated that he would at least like to have people have a chance to bid. I have seen all of your projections with all this growth. It has not grown.

Mr. Baker stated that we only received one (1) bid for the sewer inspections.

Council member Lohr stated he was not talking about the inspections.

There was further conversation between Council member Lohr and Mr. Baker concerning how the inspections would be made, the amount quoted at the retreat to provide this service if outsourced, and the need to make sure that the regulations were followed when doing this for safety reasons.

Council member Johnson stated that if these services were subcontracted out the City would have multiple subcontractors and multiple requirements to meet. There are federal and state requirements and someone has to manage the paperwork for them. It was his opinion that it was much easier in house when you have someone that you can call and get done what you need done.

It was Council member Varner's opinion that Mr. Baker and Mr. Saxon did a fantastic job and for a great price.

Mr. Baker advised Council that he would be happy to get some more prices if it was Council's desire to do so.

Council member Lohr stated that he would like to see it put in the paper and see what we came up with.

Council member Varner stated that she thought the Council needed to vote and direct staff for that to happen and not one (1) individual council member. She felt this needed to be put on the Agenda as a Point of Order to be voted on if that is what we would like them to do. Individual council members need to stop directing staff.

Council member Lohr stated he was not directing, only saying we would like to do that before going on with the building.

Council member Varner stated that we need to make a motion as a Council to work as a body to ask them to do that.

Council member Lambeth stated he felt that they had looked at this long and hard whether we contracted or do what we are doing now. We know what he saved last year from Thomasville.

Manager Hinson asked if we were leaving this as we have it. It was the consensus to leave the direction as stated earlier. Manager Hinson advised Council members that she would forward to them the copy of Dean Builders as well as the OSHA rules.

9A. Zoning Amendment Text Request for Lights for Christ Ministries.

Ms. Maybee addressed Council and members of the Audience to follow up on a Public Hearing held earlier on an amendment to the Table of Permitted Uses to allow churches, religious congregations and their customary accessory uses as a Special Use in the Village Center. The Planning and Zoning Board heard this at their May 28, 2013 meeting and recommended to deny the request. This was placed on the June 2013 Regular Council Meeting. This request was tabled after the Public Hearing at that meeting.

Manager Hinson advised Council that this item would need to be removed from the table in order to be discussed and considered.

Motion by Council member Lambeth to remove from the table, seconded by Council member Johnson and approved with a 5-2 vote with Council members Frazier and Varner opposed. Council member Gantt was absent.

Manager Hinson stated this item has been removed from the table and a public hearing was held on this item at the June 18, 2013 Regular Council Meeting. Prior to coming to this board this item was presented to the Planning Board and was declined. Since the Public Hearing was held at the June 2013 meeting this item is now open for further discussion by Council.

Council member Lohr discussed his presence at the meeting during the establishment of the Old Town District. He stated that two (2) citizens spoke at that meeting. One was in favor and one was against the plan. It was his opinion that most people did not show up because they did not care and felt that the City was stuck with pictures for \$98,000.00. It was his opinion that the Old Town plan would not happen due to the economy and the costs involved. He felt that the businesses were not coming and the Council should do something to help existing businesses. He discussed what the current owner of Trinity Grill had spoken with him about in reference to signage. He was for helping business locate in this area regardless of the signage and what the owner may want to do to entice businesses to come and to help them stay once they were here.

Council member Ayers asked for a clarification on the text amendment. Are we amending the Ordinance to say that all non profits are going to be allowed or are we amending the Ordinance to say that no non profits are going to be allowed.

Manager Hinson stated that it was her belief that this amendment was to allow churches in the Village Center which are not currently allowed in this district at this time.

Council member Ayers asked if the City currently allowed non profits and not churches.

Manager Hinson referred the discussion to the Planning Director, Ms. Maybee.

Ms. Maybee stated that the text amendment that was requested was for the City to amend our Table of Permitted Uses to allow churches, religious congregations, and their customary accessory uses as a Special Use in the Village Center Area. That is all that they have requested.

If the text amendment was approved they would have to apply to have the property rezoned and also apply for a Special Use Permit. This would need to be presented to the Planning and Zoning Board and to Council for approval.

This text amendment is just to have it listed in the Table of Permitted Uses in the Village Center.

Attorney Wilhoit stated this was a response to a religious land use referred to as RLUIPA (Religion, Land Use and Institution Person Act) . This act states that you are not allowed to discriminate against religious organizations in a particular zoning area. This amendment will allow religious organizations. Our Ordinance does not say non-profit but does identify clubs and other community organizations that are not necessarily non-profit. Lights for Christ is requesting that churches be allowed in this zoning district. Attorney Wilhoit stated that he believed Council was aware of this act that says you can't discriminate against religious organizations. By allowing one group and not them they are alleging that the City is violating the act.

There is a text amendment before Council that will correct this.

The text amendment before you tonight is to allow religious organizations. This is a federal law not a state law. This is an act that has been brought to the attention of Council. This is not the first time it has been brought to the attention of a municipal or county government. What they are saying is if you are going to allow these other organizations then you should allow them as well or otherwise you are discriminating against them. Under this law they are correct.

Council member Varner stated that our choices as Council are to allow this, amend the Ordinance to take out the things that made it discriminatory, or leave it and we knew we would be sued if we did this.

We could correct it by taking out the other things listed, but we as a Council feel that we will just be sued and we have been handed the suit.

Council member Bridges agreed with Council member Varner. The City had been handed the suit. It was her opinion that the church did not go about what they were doing in the right way. There is plenty of information on the internet to tell you about the RLUIPA three (3) steps, whereby plenty of other organizations under the guise of being a church has used this Law and apparently are willingly to sue cities and get their property value increased.

Council member Varner and Council member Bridges agreed that the lawsuit contained statements that were not true.

Council member Frazier disagreed and felt the church did go about this in the right way to do exactly what they have indicated they wanted to do from the start, and that was to sue the City of Trinity.

Council member Bridges stated that Council member Frazier was probably right but she just wanted to make her feelings public.

Council member Lohr felt that if the residents knew the layout of the Old Town Plan they would find it a joke. He wasn't sure who came up with this plan but it was his opinion that they wanted Public Government Housing, public government money and had this fantastic dream. It was his opinion that most of the citizens don't care and most of them think that if this town grows it will be off the interstate. It was his opinion the town was not growing and this was the reason why.

Council member Varner stated this request was denied by the Planning Board and citizens spoke against it. So many citizens are disgusted by the disrespect the church showed the community. They have actually lied on more than one occasion. She did not feel it was consistent with the City Land Development Plan nor is it consistent with our intent and felt that if Council chooses to allow this and change our Ordinance to what we originally meant the intent to be then we are just bowing to anyone who wants to sue the City and get what they want.

Council member Frazier added to Council member Varner's statement by saying this was not in the best interest of the citizens.

Council member Varner discussed the two (2) options. The City either allows this request or change our Land Use Plan to exclude the items that made this discriminatory. We left those organizations in because they were tax based. Council member Varner stated she could not get over how the church has gone about getting what they want.

There was a discussion between Council member Ayers and Attorney Wilhoit concerning the possibility of disallowing the uses that made this discriminatory in reference to the use requested by the church.

Attorney Wilhoit advised Council member Ayers that those issues were not what was before Council to discuss at this meeting. The text amendment is to allow the inclusion. The current Ordinance allows lodges, community groups, and some civic organizations.

There was further discussion by Council member Varner and Attorney Wilhoit concerning a time line to remove the discriminatory uses and the procedures and time lines needed to do this.

Attorney Wilhoit advised Council that if this item was tabled again that the City would have a suit brought against them on Friday.

Council member Johnson stated he was not opposed to the Village Center and loved the idea. However, when our Ordinance is compared to the law it appears we are not in compliance. They have applied and have asked for the changes. He felt that was what Council needed to do. To make the change as requested to the Table of Permitted Uses.

At this time, Manager Hinson advised Council member Varner that Attorney Wilhoit had suggested that she recuse herself when the vote for this issue was done and since she had spoken against this request at the Planning Board Meeting.

Council member Varner stated that she had no financial interest in this request and did not understand why she should need to be recused since she did not have a personal dog in this fight.

Attorney Wilhoit advised Council member Varner that he felt her vote could be challenged. When city officials appear at other board hearings and speak they put in jeopardy their bias or other questions as to how their open mindedness may be perceived.

Attorney Wilhoit stated that the Planning Board was only a recommending body. This board makes the actual decision so there is really no reason for a Council member to even speak at a public forum for the Planning Board because they do not make the decision in the matter and is only a recommending body. This Council makes the final decision for any matter that comes before them. It is probably not the best practice for City officials to stand up and speak at another forum. He felt that this issue should be addressed since not everyone was at the meeting where she spoke.

Council member Varner stated that she thought the only way she could recuse herself was if she had any financial interest in the situation.

Attorney Wilhoit advised Council member Varner that what she was referring to was statutorily required, a criminal statute. What we are discussing gets into the ethical situation. Attorney Wilhoit stated that he did not want this to be brought up at a later date and challenged without advising the Council that Council member Varner spoke at the Planning Board hearing because not all board members were present.

Mr. Wilhoit advised Council they could act as they felt necessary. He was advising them that it appeared our current Ordinance as it is written appears to be in violation because we allow some groups and do not allow others. This Council needs to amend the Ordinance either one of two ways. This text amendment before you tonight is to allow religious organizations. The other solution was to remove all groups. We cannot do that at this meeting because it has not been advertised. However, it is Council's decision on how they would like to proceed.

Council member Ayers asked what the applicant's recourse was if this request was turned down. Attorney Wilhoit advised Council member Ayers that a Federal Lawsuit will be filed against the City of Trinity in Federal Court on Friday.

There was discussion among Council members concerning the outcome of the suit should the Council turn this request down. Council member Bridges stated that apparently they win a lot because they hire expensive lawyers and ask that their attorney fees be paid.

Attorney Wilhoit advised Council that it was not a matter of who had the best lawyers. This is a Federal Law not a State Law. The City's Ordinance is either in compliance or not. After reviewing our Ordinance it does not appear to be in compliance. The Lights for Christ is asking the City to amend their Ordinance to allow it to be corrected whereby religious organizations can be included. Then the Ordinance would not be in violation of the Federal Law. If you amend the Ordinance, then the organization must file a Rezoning Request and a Special Use Permit Request. This will then go back to the Planning Board where Public Hearings will be held. The Planning Board will make a recommendation to this board and further Public Hearings will be held with Council on the Rezoning and the Special Use Permit request. Council may set certain guidelines, conditions, during the Special Use Hearing.

Council member Varner discussed the current guidelines and conditions in the current Ordinance and asked if Council puts guidelines and conditions on the applicant is there a chance that they may sue the City because they do not want to follow those.

Attorney Wilhoit stated that Council would not be treating the applicant any different than any other organization that was seeking a Rezoning Request or Special Use Permit. You would be following the same guidelines as outlined in the Ordinance. Council would not be asking this applicant to do anything different than is asked of any other applicant that has come before Council and filed a Rezoning Request and a Special Use Permit request.

The request tonight does not approve the applicant to build their church. It is a process that includes them in the Ordinance. Then Council will consider the Rezoning Request and Special Use Permit.

There was discussion concerning the time lines listed in the documents furnished and whether or not they would be able to be met. Attorney Wilhoit explained that the time line would follow due process. The applicant would have to get the information to the City by the end of this month in order for the advertising deadlines to be met for the Public Hearing that will have to be scheduled for the October Planning Board.

Council member Ayers stated that he personally felt very uncomfortable with the way the Lights for Christ handled this. He was also not very happy that the City has waited this long to take action on this and has left the City painted in the corner. If we had done this sooner we may have been able to work out both amendments before they placed this law suit in our laps.

For the sake of the City I think we must pass this.

Council member Frazier asked. “ for the sake of the City we are going to allow the damage to be done?”

Council member Ayers answered yes.

Council member Lohr felt this was the same old stuff and the City drags things out just like with the Truck Ordinance.

Council member Varner asked that she be recused prior to a vote on this item.

Motion by Council member Lambeth to recuse Council member Varner from the vote, seconded by Council member Frazier, and approved unanimously by all Council members present with Council member Gantt absent.

Motion by Council member Ayers to add the word churches, religious congregation and their customary accessory to the Special Use in the Village Center, seconded by Council member Bridges and approved with a vote of 5-1 with Council member Frazier voting Nay , Council member Varner recused, and Council member Gantt absent.

VI. Business from City Manager and Staff

Manager Hinson updated Council concerning the sewer jet truck “Flo” was picked up by Council member Lohr and his son. It was sold for \$1574.00 to D. H. Griffin. Council member Lohr returned and removed the radiator. He did the work to remove this radiator and received \$150.00. He brought that check to the City as well. As discussed earlier he would like to see that money donated to the Wounded Warriors if Council is in agreement with this request.

Manager Hinson advised Council that she needed their permission to donate this money.

Motion by Council member Frazier to donate the monies received from the sale of the radiator to Wounded Warriors, seconded by Council member Lambeth, and approved unanimously by all Council members present with Council member Gantt absent.

Manager Hinson discussed the free housing workshop that is scheduled for September 26, 2013. It will be here at the City Hall Annex building beginning at 6 pm. It will be informative and we have Mr. Phillip Jordon from the NC Human Relations Commission coming to discuss housing laws that prohibit discrimination, discriminatory housing practices, how to make your complaints, tenant issues, and legal practices. They will also be discussing the laws pertaining to CDBG Grants and other various topics.

VII. Business from Mayor and Council

Council member Ayers asked about the status of the hot dog building. Manager Hinson shared with Council that it will be disposed of at City Haul. Mr. Baker asked for any volunteers available to come during this time.

Council member Varner asked to be recognized as having the floor. She asked that the following be a part of the record.

I would like to address our Code of Ethics, Rules of Procedure and Council Meeting Decorum in light of the outburst at the August City Council Meeting by Councilman Ed Lohr with a direct personal attack on myself and my family and the lack of control by the Mayor as our presiding officer. We as elected public officials and have an obligation as defined by our code of ethics to uphold the trust of the citizens of this city. Council needs to be reminded of our obligation to conform our behavior to standards of ethical conduct that warrant the trust of our constituents, to behave consistently and with respect toward everyone with whom they interact, to treat other council members and the public with respect and honoring the opinions of others even when the council members disagree with those opinions. To show respect of their offices and not behaving in ways that reflect badly on those offices. The Mayor as the presiding officer has an obligation to assist in the expediting of the city's business and to restrain members within the rules of order and to enforce on ALL occasions the observance of order and decorum among the members including himself. If the Mayor is unable to implement the rules of order and decorum, Council should take it upon itself to Motion a Call to Order or to object to disorderly words.

Thank You

Council member Lohr felt that Council member Varner needed to think about her father a couple of months ago when he called his name.

Council member Lohr was called out of order.

Mayor Boyles stated that Council member Varner brought up some good points. Publically tonight when we approved our changes in public speaking it impacts us just as much as it does the audience. I am looking forward to the time that we can disagree without being disagreeable.

Mayor Boyles felt that Council member Varner brought up a good point about the manager. The manager does not need to be directed by one person. It needs to be direction from the Council. That benefits her and us as well.

Mayor Boyles discussed the size of the current staff in Trinity in comparison to other governmental units. He advised Council that he had done research and Randolph County that does not have sewer has over five (5) employees per one thousand (1,000) people. The City of Trinity has one (1) employee per one thousand (1000).

Mayor Boyles personally thanked the staff and stated that they worked hard. It was his opinion that the Planning Director, Ms. Maybee, had made a tremendous impact as our Planning Director. You never see Mr. Baker and the staff that we have, when they aren't busy.

He discussed his efforts to encourage Council to make changes to the Public Speaking Policy so that someone could be challenged when they singled a person out. The changes have made the policy fair to everyone. It is not to limit anybody.

Mayor Boyles stated he was looking for something better and he thought it would happen. When we learn as members of Council to have dialog whether we agree or disagree and come up with a consensus and find the best solution for our city and individuals then we will be able to move forward much quicker.

VIII. Adjournment

Prior to adjournment, Council member Varner wished Council member Frazier “ Happy Birthday.”

With no other business, *motion by Council member Varner to adjourn the September 17, 2013 Regular Council Meeting at 9:50 pm, seconded by Council member Johnson, and approved unanimously by all Council members present with Council member Gantt absent.*

These minutes were approved by the Trinity City Council on October 15, 2013 at their Regular Meeting upon motion by Council member Bridges to approve the minutes as listed on the Consent Agenda. The motion was seconded by Council member Lambeth and approved unanimously by all Council members present. There were no Council members absent at the October 15, 2013 meeting.

Carlton Boyles, Mayor

Date

Annette deRuyter, Assistant City Clerk

Date