



**City Council
Pre Agenda/Regular Meeting Minutes
Monday
June 13, 2016 @ 6:00 pm
Trinity City Hall Annex**

Members Present: Council members: Gene Byerly, Jack Carico, Tommy Johnson, Steve Lawing and Don Payne.

Members Absent: Mayor, Jesse Hill

Others Present: City Manager, Debbie Hinson; City Attorney, Nick Herman; Public Works Director/Stormwater Administrator, Rich Baker; Planning Director, Marc Allred; Assistant City Clerk, Annette de Ruyter; Randolph County Deputy, Eric Wilson; and other interested parties.

- **Call to Order; Welcome Guests and Visitors**

Manager Hinson informed the Council that Mayor Jesse Hill would be absent due to surgery and asked if Council would like to appoint a permanent or temporary Mayor Pro-Tempore. After a brief discussion between Council and consensus between Council members, *Council member Payne made a motion to allow the City Manager to lead the Council Meeting in the Mayor's absence. The motion was seconded by Council member Johnson and approved unanimously with a vote of 5 ayes and 0 nays.*

The meeting was called to order at 6:03 pm.

- **Pledge of Allegiance and Invocation**

Manager Hinson led the Pledge of Allegiance. Council member Payne gave the Invocation.

- **Review, amend if needed, and approve Proposed Regular Meeting Agenda**

Manager Hinson opened this Item and called for any changes to the Agenda. Hearing none *a motion was made by Council member Carico to approve the Agenda as written. The motion was seconded by Council member Johnson and approved with a vote of 5 ayes and 0 nays.*

Regular Meeting Begins Here:

I. Standing Report

A. Ennis Flint Sewer Extension

Mr. Baker informed Council the Ennis Flint project was complete. There are a few odds and ends items left to complete such as grass, however the flow meter has been calibrated and is working.

B. Powell Bill Updates

Mr. Baker informed Council of the progress on Circle Drive has been completed today.

Kimberly Lane has had AST (a mixture of asphalt, stone, and tar) applied today and paving will begin on Tuesday, June 14, 2016.

C. Update on Turnpike Industrial

Mr. Baker shared with Council that Manager Hinson, Mayor Jesse Hill and himself attended the Randolph County Commissioners Meeting. We made a presentation to the Commissioners in reference to the Turnpike Industrial Park and the possibility of assistance from the County in the amount of \$125000.00 to the project. At this time, we were declined, however, it was left open for future discussion concerning assistance.

This project is designed and staff is awaiting direction from Council.

Mr. Baker has had some verbal commitments concerning cost sharing from businesses located in the Turnpike Industrial Park.

Council may make a decision tonight or table this request until July. However, the project would need to get started as soon as possible and before cold weather.

II. Public Comment Period

Manager Hinson opened the Public Comment Period.

John Cable- 5938 Lacey Court, I am speaking tonight about my property at 4007 Crescent Ave., this is an ongoing problem I have. Council and acting Mayor I have been in the office several times about a tap for the property. Sewer had not been available at the time. Basically I would be notified when sewer was available. I was never notified and we ended up getting a late notice and appealed it. Attorney Wilhoit acknowledged the appeal within thirty days. Nothing has happened. We have been paying triple rates for water and sewer for some time. We still do not have a tap. Thanks to the kind City of Trinity my tax refunds have been seized while in an appeal process. This has been three years now and I would like Council to consider reducing my tap fee.

Lakisha Dow – 5014 Warren Lane, Currently on our road we are waiting on the city to pave our road. The process is moving along nicely. Sewer taps are also being installed. However, in this process; we have discovered there are no water lines on Warren Road. The water line, exist from Grove to the first

house on Warren Lane. The nearest fire hydrant is on Lake Darr Road. If a fire would happen it would not reach our home.

I have been in contact with Davidson Water about this issue. They have informed me that for me to have a water line to my house which is approximately 570' away, would cost me around \$2000.00. Davidson Water wants us to pay for the water line. I am asking for assistance from Council or direction from the Council. We were never notified about the water line. Who do we, the residents, on Warren Lane turn to about these issues?

Phillip Chadwell – 4915 Spivey Lane: Thank you for allowing me to address Council. I understand tonight we will be addressing the petition with potential Charter changes.

In the last six month's business has been conducted better than previously. I feel this is solely because of the smaller number of Council members. I do agree on a four- year election cycle. I feel that Representative Hurley's intent was for a two-year cycle was to allow the citizens to make it known if they were pleased with how the City was being led by Council.

I would like for Council to consider that those who are appointed to Council should seek that seat by being elected by the citizens at the next election cycle.

III. Consideration of Consent Agenda: These items are considered routine, non-controversial and are considered and approved by motion, second, and vote.

1. Approval of the Minutes for the May 9, 2016 Meeting Minutes

Manager Hinson opened this Item and called for approval, changes, or denial.

Motion was made by Council member Payne to approve the May 09, 2016 Meeting minutes as written. The motion was seconded by Council member Johnson and approved unanimously with a vote of 5 ayes and 0 nays with Mayor Hill absent.

Public Hearings

Manager Hinson opened the Public Hearing section at 6:36 pm

2. Review and Adopt Proposed Annual 2016-2017 Budget

Manager Hinson opened this Item for review.

Manager Hinson reviewed the Manager's Budget Message giving a summary review of the Budget (**See Attachment 1**).

After the manager's review, she opened the item for public comments. Hearing no comments, manager Hinson acting as the facilitator closed the Public Hearing and turned the item over to Council for discussion, changes, and approval of the Annual 2016-2017 Budget for the City of Trinity.

After brief comments and thanks to the city manager and staff, *a motion was made by Council member Carico to adopt the budget as presented. The motion was seconded by Council member Payne and approved unanimously with a vote of 5 ayes and 0 nays.*

3. Rezoning of PIN # 7707382587, Tract 1, from RA to R-10 with an approval of the Trinity Town Center Subdivision.

Manager Hinson opened the following item and called on Marc Allred, Planning Director for presentation of this item.

Mr. Allred briefed Council highlighting the following:

- This property has been zoned RA since the City was Incorporated. The total size of parcel is 27.3 acres and is located within the Regional Center.

Surrounding Land Use is as follows:

- North - Vacant
 - South – Industrial and Manufactured Homes
 - East – Vacant
 - West – Industrial
- The Uwharrie River is the southern boundary for this property, and a tributary to the Uwharrie from the East. The southern portion of this property is in the flood plain.
 - The proposed zoning is R-10. The R-10 Residential District is established for high density residential uses with a minimum of 10, 000 square feet for lot sizes.

Surrounding Land Use is as follows:

- North - Vacant
 - South – Industrial and Manufactured Homes
 - East – Vacant
 - West – Industrial
- This subdivision will help spur growth in the I-85/ Hopewell Church Road Regional Center.
 - The Land Use for this parcel is Regional Center. The rezoning would be in compliance with the City of Trinity Land Use Plan.

Staff Recommendation: staff recommends approval of the rezoning based on the consistency with the Land Use Plan and helping to bring commercial growth in the Regional Center.

Manager Hinson opened the Public Hearing at 6:46 pm.

Fred Ridge- 341 Haw Road Brown Summit: Mr., Ridge addressed Council advising those present this request was his project and called for questions.

Council members asked if there will be a Home Owners Association in this development, if the larger trees would be left on the property, what were the size of homes and price of the homes planned for this development.

Mr. Ridge answered that there should be a Homeowners Association, larger trees would be left but not small underbrush and saplings, home size would be between 1,500 and 1,700 square feet and range in price from \$159,000 to \$179,000.

Andy Aikens- 6752 Fairview Church Road: Mr. Aikens informed Council that he and his brother will be the contractor for Mr. Ridge for the proposed development. We plan on leaving the trees and not strip the land. It will be landscaped professionally. We are pleased to see growth and more roof tops.

Hearing no more for or against the rezoning manager Hinson closed the Public Hearing at 6:53 pm.

Motion was made by Council member Payne to rezone this property from RA to R-10 and that this was in consistency with the Land Use Plan. The motion was seconded by Council member Carico and approved unanimously with a vote of 5 ayes and 0 nays.

4. Rezoning of PIN # 7707382587, Tract 2, from RA to HC

Manager Hinson opened the following item and called on Marc Allred, Planning Director to address Council concerning this item.

Mr. Allred briefed Council highlighting the following:

- This property has been zoned RA since the City was Incorporated. The total size of parcel is 21.06 acres and is located within the Regional Center.
- The proposed Zoning would be HC (Highway Commercial).
- The rezoning would be compliant with the City of Trinity Land Use Plan.

Surrounding Land Use is as follows:

- North - There is a church and Single Family Residential
- South – Industrial and Manufactured Homes
- East – Single Family Residential
- West – vacant

The Highway Commercial District is established to provide for a compact neighborhood shopping district which provides convenience goods such as groceries and pharmacies and some types of personal services to the surrounding residential area.

This property is well positioned for commercial development. However, without any type of site plan, any use that is permitted for commercial can be located within this district.

Planning Board and Staff Recommendation: The Planning and Zoning Board and staff do not recommend rezoning without a site plan. Staff would like to make sure that the two boards are comfortable with allowing all potential uses for HC on this property.

After discussion between Council, *a motion was made by Council member Payne to table this until the July meeting. The motion was seconded Lawing and approved unanimously with a vote 5 ayes and 0 nays.*

No Public Hearing Comment was taken on this item since it was tabled until the July Meeting.

5. Rezoning of PIN # 6797655162 from R-40 to R-20

Manager Hinson opened the following item and called on Marc Allred, Planning Director to address Council concerning this item.

Mr. Allred informed Council the property owner would like to divide his lot and allow for a new owner to have the option to build a new house on the divided lot.

- This property was zoned R-40 when the City was incorporated to deal with new septic tank regulations. The R-40 Residential District is established for low density residential and agriculture purposes with limited public, and recreational uses permitted when they are compatible to low density residential developments. The total size of parcel is 1.68 acres. The property does gradually slope towards the creek and there is a 20-foot sewer easement on this parcel.
- The proposed zoning would be R-20. The R-20 Residential District is for medium density residential uses. Public water and sewer are a pre-requisite to development in this district.

Surrounding Land Use for the property is as follows:

- North- Single Family Residential
- South – Single Family Residential
- East- Single Family Residential
- West- Single Family Residential
- The Land Use for this parcel is residential. The rezoning would be in compliance with the City of Trinity Land Use Plan because sewer is available.

The staff does not give recommendation for this property. It is compliant with the Land Use Plan, and it would fit with the surrounding properties that are mostly one half acre in size.

Manager Hinson opened the Public Hearing at 7:12 pm.

Speaking for the request:

Miles Talbert- 6512 Cedarberry Road: I am asking to just separate my property into 2 lots. Once divided the lot with the barn would be over an acre in size. The present home would be on a one half acre lot.

Speaking against the request:

None

Manager Hinson closed the Public Hearing at 7:16 pm.

After discussion between Council, *a motion was made by Council member Payne to approve the rezoning request from R-40 to R-20, and this request is compatible with the Land Use Plan. The motion was seconded by Council member Byerly with a vote of 5 ayes and 0 nays.*

Manager Hinson opened this Item and briefed Council and public on membership terms.

- 6. Amend the Charter of the City of Trinity pursuant to GS 160A-102 concerning membership terms as follows:**
 - a. Change the terms for members of the Council from two- year terms to four –year staggered terms; and**

b. Change the term for the Mayor from a two-year term to a four-year term.

Manager Hinson opened this Item and briefed Council and public on membership terms.

Manager Hinson briefed Council about this amendment and what would need to be done. This amendment to the Charter would change the length of terms as well as establishing staggered terms.

This would change the terms for Council from a two - year term for all seats to a four year staggered term and also change the term for Mayor from a two year (2) term to a four year (4) term.

At the May Council meeting, Council preceded this action with a Resolution to change the term lengths as well as establishing staggered terms every four years.

Beginning in 2017 there will be two (2) Council seats and the Mayor's seat (1) on the ballot. The terms will expire in November 2021 for these seats.

In 2019 there would be three (3) Council seats open for four (4) year staggered terms. These terms will expire in November 2023.

After 2019, elections would be every two (2) years as described above.

This action may be done pursuant to GS 160A-102 giving Council permission to do this if they so choose.

Manager Hinson opened the Public Hearing at 7:20 pm.

Speaking for the request:

None

Speaking against the request:

None

Hearing none Manager Hinson closed the Public Hearing at 7:21 pm and turned this item over to Council for action.

After the Public Hearing was closed, Marcia Riddick from the audience asked if she could ask a question.

Manager Hinson and Council allowed Ms. Riddick to ask her question even though the Public Hearing had been closed.

Ms. Riddick asked "would it make more sense to discuss a decision on this once Attorney Herman has our citizens' petition."

Manager Hinson advised Ms. Reddick that this item would need to be addressed first because Attorney Herman's section is not a Public Hearing.

This Public Hearing was to give anyone in the audience a chance to speak or ask questions. I have already closed the Public Hearing. If you have questions or would like to speak it is up to the Council to make the decision to reopen this item.

This item is exactly what it says it is. It is an Ordinance to Amend the Charter on staggered terms.

With no further comments, *a motion was made by Council member Johnson to adopt the Ordinance amending the Charter of the City of Trinity pursuant to GS 160A-102 as follows: Change the terms for members of Council from a two-year term to a four-year staggered term, change the term for the Mayor from a two- year term to a four- year term.*

Prior to a second and vote, Attorney Herman, Manager Hinson, and Council members discussed the specifics of the change and what it should reflect. During this discussion, Council member Payne, Ward 4 representative and Council member Lawing, Ward 2 representative, volunteered their wards be elected in 2017 along with the Mayoral seat. After consensus of Council the motion was continued to include the action decided upon concerning the order of the election cycle determined by Wards.

The motion also reflects that Ward 2, Ward 4 and the Mayor seat would be on the ballot for the 2017 election. The remaining seats (Ward 1, Ward 3, and the At-Large Seat will be on the ballot for 2019.) The motion was seconded by Council member Payne and approved with a vote of 5 ayes and 0 nays with Mayor Hill absent.

IV. New Business

7. Capital Project Budget Amendment Ennis Flint # 3 to Close Ennis Flint Infrastructure Project.

Manager Hinson opened this item and discussed the reason for this Budget Amendment with Council. This is required to close the project budget for the fiscal year end to reflect all changes previously approved by Council to date.

A motion was made by Council member Payne to approve the Capital Project Amendment for the Ennis Flint Project. The motion was seconded by Council member Carico and approved unanimously with a vote of 5 ayes and 0 nays with Mayor Hill absent.

8. Negotiate Release of 20 feet of Right of Way for Pin 7707885876 at Fair Market Value.

Manager Hinson opened this item and asked Mr. Baker to brief Council on this item.

Mr. Baker discussed why Council was being asked to consider this item. The owner of the property has requested the City release for a fee approximately 4610 sq. feet (20 ft. width and 184-foot length) of City owned Right-of-Way and a triangulated section of approx. 990 sq. ft. The owners would like to subdivide this property and build two new homes on property and need this additional footage to do so.

When we acquired the property on Kimberly Lane it had an extremely large ROW of 100' done during construction of the Interstate. My suggestion is to approve the sale of the above said portion of the ROW since the existing ROW is 100'. The City of Trinity has a permanent sanitary easement on this portion of ROW that will remain with this sale and will have an adequate amount of ROW remaining.

The current value of this parcel is 6080.00 divided by 35642sq. ft. equals 17 cents per sq. ft. This equates to \$793.90 but I rounded the amount up to \$1000.00. The re-platting and closing costs associated with this transaction would be the owner's responsibility as well.

A motion was made by Council member Payne to sell a 20 foot by 184-foot section of Kimberly Lane Right of Way and a triangular section for \$1000.00 and the owner will pay all re-platting and closing costs. The motion was seconded by Council member Johnson and approved unanimously with a vote of 5 ayes and 0 nays with Mayor Hill absent.

Members from the audience asked to speak at this time regarding this request.

Manager Hinson responded this was not a Public Hearing however if Council so chooses he could speak. Council consensus was to allow them to speak on this subject.

Stan Byrd- Stan Byrd Realty, Mr. Byrd who is representing the owner of this parcel discussed with Council that a surveyor found this an excessive amount to charge for a ROW. This ROW was given to the City along with this street by the North Carolina Department of Transportation.

John Drinkard- I am one of the property owners and I would like to ask for a consideration in a reduction in the price from the City.

With no further comments, Ms. Hinson resumed the meeting.

9. Briefing by Attorney Herman to Council concerning Voter Petition for Trinity Charter Amendment.

Attorney Herman opened by making sure the Council could hear him. My comments that I am about to discuss is primarily directed to you. Last week I sent a memorandum to you regarding your responsibilities of the City Council regarding the Citizen Petition to amend the City Charter. The opinions expressed herein are solely intended to provide objective legal advice about the Council's legal duties in light of the Petition.

Attorney Herman informed those present that the Clerk had copies of the memo if anyone was interested in obtaining one.

The purpose of the memo was unfortunately at this time the Council cannot act upon the citizens petition to actively call for a special election in light of the statutes. I'm not taking sides with either side. I have provided legal advice to the Council. I have shared my memo with the SOG and they did agree with the analysis of my judgement. Here's the bottom line and the problem that has developed.

As many of you may know there are 2 ways to amend this Charter about how this Council operates in terms of how many people there are and the length of their terms. There are two (2) methods to do this and they are separate methods. One method is the one that you heard about in May where the Council initiated by Resolution and then today adopted by Ordinance a particular amendment to the Charter that dealt with staggered terms. This is one method that the Statutes provide for. The other method is the method that has been invoked by a citizen petition that has been received. The citizen petition deals with two (2) matters.

1. Increase the number of Council members from 5 to 8.
2. Staggered Terms.

Two methods were going on simultaneously. The Statutes don't allow both methods to proceed if any part of the proposals are on the same subject matter. This makes sense because if you have proposals coming on the same subject matter, on 1 hand a petition on a particular subject matter and on the other hand an Ordinance amendment on the very same subject matter, one has to trump the other. There has to be some method that allows one to go forward and one that is held back because they cannot happen

simultaneously. The way that the Statutes answer that is by basically saying if a petition is filed first on that subject matter then an Ordinance consideration holds back until there is a result from the petition. If an Ordinance amendment is first and there is a petition on the same subject matter, then the petition holds back and waits until the outcome of the Ordinance.

The wrinkle that happened at no one's fault in this case is that the citizen petition is in part based on the same subject matter as the Ordinance that you heard passed today and initiated in May. It's in part on the same subject matter because it deals with staggered terms. On the other hand, the petition is very different from the Ordinance amendment that occurs here because the petition dealt with the number of Council members along with staggered terms which the Ordinance did not.

The legal question that I and the School of Government examined was whether this Council can parse out the petition and order a Special Election only on that part of the petition that deals with the number of Council members. Clearly you can't do it on the staggered terms issue because those are the exact same subject matters.

This is the difficulty that I was having. However, what the statutory language says is that you can't parse out a petition. A petition stands and falls as a whole. No one has a right to have a vote on one aspect of a petition and not the other aspect of the petition. If you have a vote on the petition you have a vote on the whole.

Because of this through no one's fault the problem that has occurred here is that the petition as currently written contains a component on the very same subject matter (staggering) that was already going through the Ordinance process. Therefore, the Council doesn't have the power to order an election on that petition because part of it deals with the same subject matter. This doesn't mean that there can't be another petition. If there were another petition that dealt with the number of Council members only it could proceed forward through a Special Election because it is on a different subject matter than the staggered term issue that was dealt with by Ordinance.

I wanted to explain the advice that I provided to Council in my memorandum. The Council will make the final decision whether they will follow my judgement on this issue and hold back or order a Special Election anyway.

Manager Hinson advised Council that this item was now open for their decision concerning how they would like to proceed concerning this issue. The petition has been received and was forwarded to the attorney. Council will need to make a decision concerning whether or not they wish to follow the attorney's advice.

At this time, Council member Byerly called for a ten-minute recess. Manager Hinson recessed the meeting for a ten-minute break at 8:00 pm.

The meeting was called back to order at 8:10 by Manager Hinson.

She called for a consensus or vote of Council concerning the petition issue that Attorney Herman briefed them on prior to the recess.

Council member Lawing stated for the record, "Mr. Herman has done a very good job researching this issue. He is lead counsel for the City of Trinity. I for one consider his advice good advice and especially his advice related to anyone who would like to air their views should get good competent advice for themselves. I am confident that Mr. Herman's advice is good and in my opinion is consistent with what he just stated."

Manager Hinson asked if the consensus of the remaining Council was the same as Council member Lawing and Attorney Herman. **There were no disagreements with Attorney Herman's legal advice, therefore it was the consensus to follow Attorney Herman's advice on this issue.**

10. Addition of Cedardale Street to the Current Powell Bill Projects Contract.

Manager Hinson opened this Item and called on Mr. Baker for explanation.

Mr. Baker addressed council concerning the addition of Cedardale Street to the current Powell Bill projects. The council has been asked several times to take ownership of this street in an effort to creating a NCDOT level street. This project will allow City services to be provided to the residents on this street.

Mr. Austin and I have run the calculations for the current spending and believe we will have enough money in the current contracts to complete this street. The City is currently under budget for the approved projects by approximately \$125,000.00 which would cover the repairs and paving for this project.

After discussion, it was consensus of Council to move forward with this project.

V. Code Enforcement Report and Permits Report

Manager Hinson opened this Item and asked for Marc Allred, Code Enforcement/ Planning & Zoning Director to address Council.

Mr. Allred stated there are currently nine cases open and twelve cases closed. Mr. Allred was pleased to inform Council the property on Merle Drive is closed and has been repaired.

Council member Byerly discussed the property on Uwharrie. Planning Director Allred advised Council member Byerly he would make contact and find out the status on said property.

Mr. Allred also informed members that he issued seventeen new permits for the month. Of the permits ten are new homes and the Colonial Village Community have no vacant properties available.

VI. Business from City Manager and Staff

Manager Hinson introduced Darien Comer to the Council. Ms. Comer is the Office Administrative Assistant. She has been with us for approximately one month. Please make her feel welcome.

VII. Business from Mayor and Council

Council member Johnson inquired about the possibility of the City beginning yard debris pick-up on a call in basis.

IX. Adjournment

Manager Hinson called for a motion to adjourn the June 13, 2016 meeting. ***A motion was made by Council member Payne to adjourn the June 13, 2016 meeting at 8:19 pm. The motion was seconded by Council member Johnson and approved with a vote of 5 ayes and 0 nays with Mayor Hill absent.***