



Minutes of the Burlington City Council Meeting Virtual Meeting 7:00pm – Tuesday, March 16, 2021

The City Council of the City of Burlington held a regularly scheduled meeting remotely beginning at 7:00pm on March 16, 2021. Due to the Coronavirus Pandemic, this meeting was convened remotely via Zoom Webinar platform.

Mayor Ian Baltutis presided.

Council Members Present:

Mayor Ian Baltutis
Mayor Pro Tem Kathy Hykes
Council Member Robert Ward
Council Member James Butler
Council Member Harold Owen

Staff Present:

City Manager Hardin Watkins
City Attorney David Huffman
Interim City Clerk Beverly Smith

Council Members Absent: None

CALL TO ORDER Mayor Ian Baltutis
The meeting was called to order at 7:00pm.

INVOCATION Council Member Bob Ward
The invocation was offered by Council Member Ward.

RECOGNITION Animal Services Volunteer, Patti Ragan
United Way of Alamance County's 2020 Outstanding Volunteer of the Year

Animal Services Program Coordinator, Laura Michel highlighted Burlington Animal Services Volunteer, Patti Ragan, who recently received the United Way of Alamance County's 2020 Outstanding Volunteer of the Year Award on March 2, 2021.

Patti Ragan expressed appreciation for the recognition.

CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST Interim City Clerk, Beverly Smith
There were no conflicts reported.

APPROVAL OF MINUTES

- February 1, 2021 Work Session
- February 2, 2021 City Council Meeting
- February 16, 2021 City Council Meeting

Upon a motion by Council Member Ward, seconded by Mayor Pro Tem Hykes, it was resolved unanimously to approve the foregoing minutes.

ADOPTION OF AGENDA

Upon a motion by Council Member Butler, seconded by Council Member Owen, it was resolved unanimously to adopt the agenda.

CONSENT AGENDA

- A. To approve a Memorandum of Understanding between the City of Burlington and New Leaf Society outlining partnership intent regarding the Burlington Arboretum at Willowbrook Park.
- B. To adopt a Resolution to establish a Burlington Arboretum at Willowbrook Park Technical Advisory Board.

Resolution#21-09

RESOLUTION OF THE BURLINGTON CITY COUNCIL TO ESTABLISH A BURLINGTON ARBORETUM AT WILLOWBROOK PARK TECHNICAL ADVISORY BOARD

WHEREAS, the City owns and maintains the historic Willowbrook Park property having acquired the park land through numerous deeds and conveyances from 1928 through 1948; and,

WHEREAS, at its regular meeting on May 5, 2015, the City Council approved the City partnering with New Leaf Society (hereinafter, "NLS") in the planning and design and development of an arboretum and green common space at Willowbrook Park (hereinafter, "Project"); and,

WHEREAS, at its regular meeting on August 18, 2015, the City Council accepted the gift from NLS of a 0.42 acre parcel of vacant land located adjacent to the Willowbrook Park at South Church Street and Fountain Place, a portion of 315 West Willowbrook Drive, as an addition to Willowbrook Park; and,

WHEREAS, NLS's revised, final Project design (hereinafter, "Design") was presented to and accepted by City Council at its January 17, 2017 meeting, authorizing City staff to work alongside NLS to implement the Design for redevelopment of Willowbrook Park into the Burlington Arboretum at Willowbrook Park (hereinafter, "Arboretum"); and,

WHEREAS, the Design includes programming standards and rules for the arboretum, common green space and the associated amenity building; and,

WHEREAS, at its June 6, 2017 meeting, the City Council adopted a policy for City Public Art, Memorial & Honorary Donations (hereinafter, "PAMH") which is applicable to this Project; and,

WHEREAS, at its regular meeting on November 7, 2017, the City Council approved the purchase of real property located at 315 West Willowbrook Drive (previously the site of the American Legion) and adjacent to the park for the purpose of including said land in the Burlington Arboretum at Willowbrook Park, said acquisition having been finalized on November 8, 2017; and,

WHEREAS, certain elements of the Design have been funded and/or implemented by NLS and will be gifted to the City as authorized by NCGS 160A-20.1; and, WHEREAS, the City received a matching grant from the North Carolina Park and Recreation Trust Fund (hereinafter, "PARTF") in the amount of \$296,692 to be applied toward the expense of specific elements of the Design; and

WHEREAS, the Burlington Arboretum at Willowbrook Park is part of the Burlington Recreation & Parks system and the City of Burlington is responsible for the daily operation and maintenance of the facility, including perpetual maintenance of any gift accepted by the City of Burlington per the guidelines outlined in the PAHM Policy (*Appendix A*); and,

WHEREAS, the Burlington Arboretum at Willowbrook Park is a specialized facility designed to display and highlight best practices for the care and curation of plant material; and,

WHEREAS, NLS and the City have entered into a Memorandum of Understanding outlining their continued partnership in the stewardship and development of the Arboretum; and,

WHEREAS, the City seeks the advisement of experts in the specialized professional fields of horticulture, arboriculture, floriculture, etc. regarding the development maintenance and of the Burlington Arboretum at Willowbrook Park, including specialized garden maintenance and enhancements, tree plantings, litter cleanups, , and any future enhancements to the Arboretum; and,

WHEREAS, to assist the City in the continued stewardship of the Burlington Arboretum at Willowbrook Park, the Burlington Arboretum Technical Advisory Board (hereinafter, “Advisory Board”) is hereby being created by the Burlington City Council; and,

WHEREAS, it is the City’s desire for the Arboretum and its features to benefit from the specialized expertise of the Advisory Board; and,

WHEREAS, it is contemplated that this Advisory Board be composed of individuals with specialized education and training in the fields of horticulture, arboriculture, floriculture, landscape horticulture and/or experience and expertise in the operation of arboretums, botanical gardens, and conservatories. Accordingly, it is neither required nor contemplated that this Advisory Board be representative of the Burlington/Alamance County community; and, NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON that:

1. The Burlington Arboretum Technical Advisory Board, created herein by the City Council, shall operate as an advisory board to the City Council and shall consist of the following membership:
 - A. NLS President
 - B. 1 NLS At-Large Member
 - C. City of Burlington Senior Staff Member designated by the City Manager
 - D. Burlington Recreation Horticulture Specialist
 - E. Burlington Water Resources Department Stormwater Staff Member
 - F. Alamance County Cooperative Extension Horticulture Agent / Representative
 - G. Up to 5 additional members with special training in horticulture, arboriculture, floriculture, or landscape horticulture, and/ or experience in the operation of Arboretums, Botanical Gardens, Conservatories, or similar specialized facilities.
2. The terms of the Advisory Board members set out in paragraph 1, A., B., C., D., E., and F. above shall coincide with their service in the designated position. The terms of Board members listed under “G” in paragraph 1 above, shall be limited to three (3) consecutive, three (3) year terms as set out in Burlington City Code Chapter 2, Division 5.

3. Due to the specialized professional qualifications for membership, the rest and remainder of ordinance provisions set out in Chapter 2 of the Burlington City Code, Division 5, Provision Applicable to All Boards and Commissions, shall not be applicable to this Advisory Board.
4. Initial membership of the Advisory Board shall be jointly proposed by the NLS President and City Manager and appointed by the Burlington City Council.
5. Appointments to vacancies on the Advisory Board shall be jointly proposed by the NLS President and City Manager and appointed by the Burlington City Council.
6. The Advisory Board will advise the Recreation & Parks Department regarding the following in regard to the Arboretum:
 - The standards to be set for selection and replacement of plant material and design features in the Arboretum
 - The Garden and Plant Collections Policy
 - Recommended educational programming
 - Recommendation for acceptance or denial of public art and memorial/honorary gifts to the Arboretum in accordance with the City's PAMH policy
 - Facilitating specialized volunteers to assist with maintenance of gardens and plant collections
7. Meetings of the Advisory Board are subject to and shall comply with the North Carolina Opening Meeting Law as set out in North Carolina General Statutes, Article 33C, Meetings of Public Bodies, Section 143-318.9 through 143-318.18. The Advisory Board shall comply with the North Carolina Public Record Law as set out in North Carolina General Statutes Chapter 132.
8. Minutes of the Advisory Board shall be accurately kept and maintained in accordance with applicable North Carolina Public Record Retention and Disposition schedules.
9. Recommendations of the Advisory Board are subject to available funding appropriations and acceptance by the City.
10. Arboretum maintenance is subject to funding appropriations made on an annual basis by the Burlington City Council.
11. Volunteer work at the Arboretum will be in coordination with the City of Burlington Recreation & Parks Department. All volunteers working on public property will have a Volunteer Application on file with the City of Burlington.
12. Public funds used at the Arboretum will be expended in compliance with applicable purchasing and contracting ordinances and policies set forth by the City of Burlington and the North Carolina General Statutes.
13. All signs and plaques installed in the Arboretum should be approved by the City of Burlington Recreation & Parks Department prior to installation in compliance with the PAMH policy, Arboretum Signage Plan, and City Ordinances.

14. Any events or programs proposed by NLS or the Advisory Board will be in compliance with the Arboretum Programming standards set forth by the Burlington City Council and will be approved by the City of Burlington Recreation & Parks Department.
15. Any amendments to this Resolution shall be considered and approved by the Burlington City Council.
16. This Resolution shall take effect upon passage.

Adopted this 16th day of March 2021.

Upon a motion by Mayor Pro Tem Hykes, seconded by Council Member Butler, it was resolved unanimously to approve the foregoing consent agenda.

PUBLIC HEARINGS

Item 1 – Rezoning - Hanford Road public hearing has been scheduled to consider an application to rezone from MDR Medium Density Residential District to CI Conditional Industrial District for the use of a Cemetery. The property is located on the north side of Hanford Road and north of Old Coach Road and being a portion of Alamance County tax identification number 131303. *(Continued from the February 16, 2021, City Council Meeting)*

City Attorney David Huffman advised Council of a notification from the attorney of the petitioner, Mr. Lawson Brown requesting a continuance of the public hearing to the April 20, 2021, City Council Meeting. He reported the neighboring property owners agreed with the request to continue.

Upon a motion by Council Member Ward, seconded by Council Member Owen, it was resolved unanimously to continue the public hearing to the April 20, 2021, City Council Meeting.

Item 2 – Rezoning – 1722 Shamrock Drive

A public hearing has been scheduled to consider an application to amend a Conditional Rezoning that was approved by the Burlington City Council on September 18, 2018. The request is to increase the number of single family lots from 219 to 241. The property is located at 1722 Shamrock Drive, (formally Shamrock Golf Course), referenced as Alamance County tax identification number 130754. *(Continued from the February 16, 2021, City Council Meeting) (ON APPEAL)*

Director of Planning and Transportation Mike Nunn provided an overview of the request and briefed Council on the proposed amendment of the development. He reported City staff support the amendment due to the previous rezoning and compatible adjacent uses in the area. He stated the Planning and Zoning Commission voted 4 to 2 recommending denial of the request and the applicant is making this request to City Council on appeal.

Ryan Moffitt of Vernon Law Firm was in attendance representing the applicant Henson Realty was in attendance. He addressed history of the property, provided details of the amendment request to the current rezoning, and explained the changes since the initial zoning was approved. He noted the adoption of the Unified Development Ordinance as the most important reason seeking an amendment to the current zoning. He reported on market demands, materials costs, and housing market needs in the area.

Lee Bryant, Evans Engineering was in attendance to respond to technical questions.

Mayor Baltutis called for public comments and the following persons spoke:

Dana Stewart, 1443 Monroe Holt Road, Burlington spoke on developer's plans for a fence behind her property for privacy in the previous plans and inquired on the developers plans to change what was previously approved.

Tara Hart, 1325 Birkshire Road, Burlington, stated she was a registered environmental health specialist for Alamance County and inquired about the water and sewer lines going in for the residents already on the property.

Lee Bryant responded and addressed the requirements for fencing and landscaping for the development and water and sewer line requirement.

City Engineer, Todd Lambert addressed the application process to connect to City of Burlington water and sewer lines. He explained there is a substantial amount of water lines being installed by the developer for this development.

Attorney Bryan Brice, 1227 West Hargett Street, Raleigh, NC was in attendance and spoke on behalf of Mr. and Mrs. Marvin Beeker and Lori Mills who are residents in the Shamrock neighborhood. He commented on statements made by Mr. Moffitt, alerted City Council of a lawsuit for alleged implied easement rights of his clients they are engaged in with Henson Realty, and explained they are in the process of refiling their complaint regarding a procedural matter.

Mr. Moffitt addressed Mr. Brice's comments and responded to the litigation standpoint and reiterated the Land Use is what is before City Council for consideration. He reminded City Council of Henson Realty's role and spoke on the purchase of the property from the Walker family and commented on the lawsuit filed.

Written Comments Submitted 2/12/21 for the February 16, 2021, City Council Meeting via email are included in the record as follows:

*Frances & Marvin Beeker
1849 Shamrock Dr.
Burlington, NC 27215*

Why would you (the City Council) allow Paul Milam to go back on his negotiated agreement to us (Shamrock Estates) to reduce from 241 to 219 houses that the City Council APPROVED. We have not seen a site plan for the one approved. The first negotiated agreement is still in litigation. Isn't this putting the cart before the horse. Why didn't he leave it as a golf course until this was settled. We had just invested \$250,000.00 of our money to get it in good shape. We were paying the bills and keeping the course in shape when he closed us down and put up no trespassing signs. We oppose to amend. Thanks

Written Comments Submitted 2/16/21 via email:

*Dana Stewart (The Stewarts)
1443 Monroe Holt Road
Burlington, NC*

We wish to object the request to increase number of family lots to 241

- 1. This is going back to the first request , Planning declined 7-1 first time.*
- 2. **You rezoned due to him decreasing to 219 lots as well as other agreements.***
- 3. This is not right, he wants to put the increased number of houses on one side due to unable to build in certain areas due to rock*
- 4. The majority of the increase or all of the increase will be behind the Monroe Holt Houses*
- 5. Did not hear the fence behind Monroe Holt Houses mentioned that was agreed to -in the zoning meeting the other night*
- 6. This is not right to let them come back and change what you have already zoned, which in my opinion was wrong to begin with*

We worked hard for our home, and now will have a mess behind us. When I look out my bedroom or bathroom window will see approximately three houses in my back yard. Then a row behind that. Then if I turn my head houses and more houses.

I feel this whole thing is wrong and was approved the first time for financial gain to City of Burlington without regard to residents of our neighborhood. If you let them increase numbers, it is just another slap in the face to us.

City Attorney David Huffman briefed Council on the Public Hearing procedure pursuant to NCGS § 166A-19.24(e) passed on May 4, 2020. He advised Council to continue the meeting over to a certain date and time to allow Council to receive written comments as required for 24 hours beyond the close of that meeting while still under the state of emergency. He advised Council to continue the remaining public hearings in the same manner.

Public Hearing Continued

Upon a motion by Council Member Ward, pursuant to N.C.G.S. 166A-19.24(e), seconded by Council Member Owen, it was resolved unanimously to continue the public hearing to Thursday, March 18, 2021, at 9:15am via Zoom for the sole purpose of allowing additional written comments to be submitted for a 24-hour period beyond the close of this meeting.

Item 3 – Rezoning – Hatchery Road

A public hearing has been scheduled to consider an application to rezone from MI Medium Industrial District to LDR Low Density Residential District. The properties are located on the south side of Hatchery Road approximately 2,200 feet east of Alamance Road, referenced as Alamance County tax identification numbers 121184 and being a portion of 121183.

Director of Planning and Transportation Mike Nunn provided an overview of the rezoning request and briefed Council on the development plans by the applicant. He reported City staff recommends denial of the rezoning. He stated the Planning and Zoning Commission voted 4 to 3 recommending approval of the request.

Ryan Moffitt of Vernon Law Firm spoke on behalf the Harmon family. He provided an overview of the families ownership of the properties since the 1940's and presented the development plans of the property owner and addressed existing uses of the properties in the area.

Mayor Baltutis called for public comments and the following person spoke during the public hearing.

Interim City Clerk Beverly Smith confirmed there were no written comments received.

Dan Danieleley, 3441 N. Aviation Drive, Burlington spoke on flight operations at the Burlington-Alamance Airport and the likeliness of noise issues from flights over this property. He spoke about awareness of vegetation, safe approaches to the airport over this property, and potential challenges with future development requests.

Public Hearing Continued

Upon a motion by Council Member Owen, pursuant to N.C.G.S. 166A-19.24(e), seconded by Mayor Pro Tem Hykes, it was resolved unanimously to continue the public hearing to March 18, 2021, at 9:15am via Zoom for the sole purpose of allowing additional written comments to be submitted for a 24-hour period beyond the close of this meeting.

Item 4 – Rezoning – Huffman Mill Road

A public hearing has been scheduled to consider an application to rezone from MDR Medium Density Residential to OI Office Institutional District. The property is located at the southeast corner of Grand Oaks Blvd. and Huffman Mill Road, referenced as Alamance County tax identification number 112469.

Director of Planning and Transportation Mike Nunn provided an overview of the request and briefed Council on the rezoning development plans. He reported the property is currently outside the City’s corporate limit but within the City’s extraterritorial jurisdiction. He explained the proposed development plans and reported City staff recommends approval of the request. He stated the Planning and Zoning Commission voted unanimously to approve the request at the February 22, 2021 meeting.

Mr. Brian Hall, Samet, Greensboro, was in attendance to respond to any questions.

Mayor Baltutis called for public comments and none were received.

Interim City Clerk Beverly Smith confirmed there were no written comments received.

Public Hearing Continued

Upon a motion by Council Member Butler, pursuant to N.C.G.S. 166A-19.24(e), seconded by Council Member Owen, it was resolved unanimously to continue the public hearing to March 18, 2021, at 9:15am via Zoom for the sole purpose of allowing additional written comments to be submitted for a 24-hour period beyond the close of this meeting.

Item 5 – Rezoning – St. Marks Church Road

A public hearing has been scheduled to consider an application to rezone from MDR Medium Density Residential to PD Planned Development. The property is located on the east side of St. Marks Church Road, just south of the terminus of Rural Retreat Road and approximately 500 feet north of Boone Station Drive, addressed at 1408 St. Marks Church Road and referenced as Alamance County tax identification number 106976.

Director of Planning and Transportation Mike Nunn provided an overview of the request and briefed Council on the rezoning development plans. He reported City staff recommends approval of the rezoning and the Planning and Zoning Commission unanimously recommended approval at the February 22, 2021 meeting.

Trey Riddle presented the application and provided development plans consistent with the surrounding area. He shared architectural plans and pedestrian circulation and connectivity plans for the site to the Joe C. Davidson Park and Alamance Crossing. He reported a 15x15 easement would be dedicated to the City to construct a future bus shelter for a bust stop to be added to the City transit route.

Mayor Baltutis called for public comments and the following persons spoke during the public hearing.

Seth Hart, 1325 Birkshire Road, Burlington, inquired about fencing along the property line.

Mr. Riddle addressed the public comment related to fencing and the City’s involvement determining what is allowable.

Interim City Clerk Beverly Smith confirmed there were no written comments received.

Public Hearing Continued

Upon a motion by Mayor Pro Tem Hykes, pursuant to N.C.G.S. 166A-19.24(e), seconded by Council Member Butler, it was resolved unanimously to continue the public hearing to March 18, 2021, at 9:15am via Zoom for the sole purpose of allowing additional written comments to be submitted for a 24-hour period beyond the close of this meeting.

Mayor Baltutis called for a brief break at 9:04pm. Mayor Baltutis called the meeting back to order at 9:10pm.

NEW BUSINESS:

Item 6 – CPAT Appointments – Fill Remaining Seats:

City Council will discuss appointments to the Community Police Advisory Team (CPAT) to fill remaining seats.

Community Engagement Manager Morgan Lasater presented on the proposed slate of candidates for appointments of additional spots available to educators and judicial practitioners. She reported City Council has received information on the eligible applicants for consideration.

Upon a motion by Council Member Butler, seconded by Mayor Pro Tem Hykes, it was resolved unanimously to approve the following appointments to the remaining seats on the CPAT.

2021 Proposed CPAT Slate of Applicants- Round 2

SEAT #	APPLICANT	CATEGORIES APPLICANT MET CRITERIA FOR ID BY CC	TERM RECOM
17	Rob Johnson	Judge	1yr
18	Joshua Lopez	Educator	1yr
19	TBD	Youth under 18yrs old	1yr
20	TBD	ALT for Youth under 18yrs old	1yr

STAFF REPORTS:

Item I: Police Headquarters Building

Police Chief, Jeff Smythe reported on several identified infrastructure improvements, provided an overview of the building improvement needs, explained the phases to correcting security concerns and reconfiguring work areas for enhanced functionality for some immediate and future needs that will be coming forward during budget discussions. He highlighted local events that have heightened security concerns at the Burlington Police Department Headquarters building which led to Phase I improvements for critical security modifications. He reported on systems, water intrusion, emergency power needs, and similar items that would involve a building overhaul to remedy issues in Phase II.

City Council discussed the phased project plans, funding considerations, identified police department building needs and proposed solutions with a secondary plan. Following discussion, Council consensus was to receive a report at a future Work Session and address the immediate needs sooner rather than later for the security concerns related to the entrance and lobby area.

Item II: Architectural Survey Grant

City Manager, Hardin Watkins provided an update on the historic properties survey effort that was recommended by the Historic Preservation Commission and approved by City Council in March 2020. Reported in late August, the City received approval for a State grant to update the historical properties data for parcels in the area between S. Church, Tarleton Avenue and Webb Avenue and explained in coordination with the State Historic Preservation Office the City has contracted with a consultant, hmwPreservation out of Durham, who will begin their work in April. He stated City staff is working with the consultant on kickoff communications to affected properties including direct mailings, a digital meeting to get more info, webpage, etc. He reminded Council this is a data collecting exercise to update the survey of historic properties in this area which serves as a tool for future historic planning purposes. He explained during the spring and summer residents will experience consultant staff collecting field data from the right-of-way in these areas and the final effort is scheduled to be completed in August.

PUBLIC COMMENT PERIOD

There were no public comments received.

Interim City Clerk Beverly Smith confirmed there were no written public comments received.

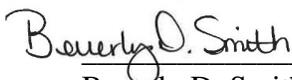
CITY COUNCIL COMMENTS

Council Member Butler commented on the importance of the Unified Development Ordinance.

Mayor Baltutis commented on the success at the vaccination clinic in Alamance County.

ADJOURN

Upon a motion by Council Member Owen, the meeting was unanimously resolved to adjourn at 9:53pm.



Beverly D. Smith, NCCMC
Interim City Clerk

March 16, 2021
City Council Meeting