

MINUTES
King City Council
Regular Session
April 6, 2015

The King City Council met in regular session at King City Hall on Monday, April 6, 2015, at 7:00 p.m. Present were: Councilman Charles Allen, Mayor Pro Tempore Dillard Burnette, Councilman Brian Carico, Councilman Wesley Carter, Mayor Jack Warren, City Manager Homer Dearmin, City Clerk Tammy Hatley, Director of Finance and Personnel Susan O'Brien, Director of Planning and Inspections Todd Cox, City Engineer Scott Barrow, Public Utilities Superintendent Robert Pettitt, Public Works Superintendent Ricky Lewis, Water Plant Superintendent Kenneth Gentry, Water Plant *** Ben Marion, Fire Chief Steven Roberson, Chief of Police Paula May, Fire Marshal Brad Cheek, Senior Center Director Suzan Garner, and Administrative Assistant Gina Calloway.

Mayor Warren called the meeting to order and led the *Pledge of Allegiance*.

Councilman Allen offered the invocation.

Mayor Warren noted the following announcements were listed on the agenda:

- King Senior Services Advisory Board, Regular Meeting: Tuesday, April 7, 2015, 4:30 p.m., King Senior Center
- Parks & Recreation Advisory Board, Regular Meeting: Thursday, April 9, 2015, 7:00 p.m., King Recreation Acres Community Building
- White Goods Collection Week: Monday – Friday, April 6-10, 2015
- King Little League Opening Ceremonies: Saturday, April 11, 2015, 9:00 a.m., King Recreation Acres
- Stokes County League of Local Governments, Quarterly Meeting: Thursday, April 16, 2015, 6:30 p.m., Hosted by the Town of Danbury
- King Planning Board, Regular Meeting: Monday, April 27, 2015, 7:00 p.m., King City Hall
- UNC School of the Arts Jazz Ensemble, Free Concert: Sunday, May 3, 2015, 3 p.m., Central Park Amphitheater

Manager Dearmin informed the Mayor and Council that the Parks and Recreation Advisory Board meeting scheduled for Thursday, April 9, 2015, had been cancelled due to a lack of agenda items.

Mayor Warren announced the recent passing of Meter Reader, Mark Lineberry, stated that Mark had been an exemplary employee, and requested that Mark's family be kept in prayer.

ADJUSTMENTS TO AGENDA

There were no adjustments to the agenda.

PUBLIC COMMENT

Mayor Warren opened the floor to receive public comment. Being no one present wishing to speak, Mayor Warren closed the public comment portion of the meeting.

CONSENT AGENDA

Councilman Carico questioned whether the rental amount for item C, *Consideration of renewing agreement with Stokes County Senior Services for King Recreation Acres meal site*, was the same as the last fiscal year. Manager Dearmin confirmed that it was.

Action

Mayor Pro Tempore Burnette moved to approve items A, B, C, D, E, and F of the consent agenda as presented. Councilman Carter seconded the motion which carried by a unanimous vote of 4-0. Items approved were: A) Approval of March 2, 2015, regular meeting minutes; B) Set Budget Workshop Meetings at King City Hall on April 21, 2015, 5:00 p.m.; April 30, 2015, 11:00 a.m.; and May 15, 2015, 11:00 a.m.; C) Consideration of renewing agreement with Stokes County Senior Services for King Recreation Acres Meal Site; D) Set public hearing for FY 2015-16 budget on June 1, 2015, 7:00 p.m. at King City Hall; E) Set public hearing for consideration of railroad crossing closing at School Street on June 1, 2015, 7:00 p.m. at King City Hall; and F) Wellness services agreement with Wake Forest Baptist Health.

PRESENTATION OF PROCLAMATIONS

Americorp – Cindy Tuttle and Katie Snow

Mayor Warren presented a proclamation to Cindy Tuttle and Katie Snow proclaiming April 7, 2015, as National Service Recognition Day.

Power Cheer and Tumble – Dynamite Squad

Mayor Warren presented proclamations to members and coaches of the Power Cheer and Tumble Dynamite Squad in recognition of winning the titles of National Champions Empower/Level 1, 5th place All Star/Level 1, and National Champions Overall Empower/Level 1.

Power Cheer and Tumble – Explosion Squad

Mayor Warren presented proclamations to members and coaches of the Power Cheer and Tumble Explosion Squad in recognition of winning the titles of National Champions Empower/Level 3, National Champions All Star/Level 4.2, and Grand National Champions over all Empower Division.

UPDATE ON 6th ANNUAL FEED STOKES 5-K & HALF MARATHON BY MR. ZOLLIE SMITH

Mr. Zollie Smith informed the Mayor and Council that the 2015 Feed Stokes 5-K & Half Marathon had 174 participants and raised a total of \$4,936 and canned goods. A check for \$1,500 was issued to each of the three food banks in Stokes County. The canned goods were also split between the three Stokes County food banks. Mr. Smith thanked the Mayor and Council for co-sponsoring the event and presented Mayor Warren with an event t-shirt.

PUBLIC HEARING – FINANCING OF RESURFACING PARKING LOTS AND CONSIDERATION OF RESOLUTION 2015-08

Mayor Warren opened the public hearing for Financing of Resurfacing Parking Lots and Consideration of Resolution 2015-08.

Finance Director O'Brien informed the Mayor and Council that this is a request to approve a financing agreement for the General Fund FY 2014-15 parking lot resurfacing projects that were approved with the budget ordinance. Staff recommends that Council award the financing bid to BB&T and approve Resolution 2015-08.

Being no one else present wishing to speak, Mayor Warren closed the Public Hearing for Financing of Resurfacing Parking Lots and Consideration of Resolution 2015-08.

Action

Mayor Pro Tempore Burnette moved to award financing for resurfacing parking lots to BB&T at a rate of 2.29% and approval of resolution 2015-08 which is incorporated within the body of the minutes below. Councilman Carico seconded the motion which carried by a unanimous vote of 4-0.

Bidder	Interest rate	Annual Payment	Total Cost (principal and interest)
BB&T	2.29%	\$22,400.78	\$112,003.90
NewBridge Bank	2.49%	\$22,486.54	\$112,432.70
Wells Fargo	No quote received		
First Citizens Bank	No quote received		
Bank of America	Minimum financing requirement of \$500,000		
SunTrust Bank	No quote received		

**CITY OF KING
RESOLUTION 2015-08**

A Resolution Approving Financing Terms for Resurfacing Two City Parking Lots

WHEREAS, the City of King “City” has previously determined to undertake a project for Resurfacing Two City Parking Lots “the Project” and the Finance officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED AS FOLLOWS:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company “BB&T”, in accordance with the proposal dated March 27, 2015. The amount financed shall not exceed \$117,100.00, the annual interest rate (in absence of default of change in tax status) shall not exceed 2.29%, and the financing term shall not exceed five years (5) years from closing.
2. All financing contracts and all related documents for the closing of the financing “the Financing Documents” shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer’s satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer’s final approval of the Document’s final form.
4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265 (b) (3).

5. The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's general fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

IN WITNESS WHEREOF, this resolution was adopted this the 6th day of April 2015.

Mayor Warren requested that staff coordinate the paving of the King Recreation Acres parking lot to minimize disruption during King Little League's game and practice times.

PUBLIC HEARING – REZONING REQUEST CU-R-MF-A-035 BY BTR COMMUNITIES GROUP, LLC OF LEWISVILLE, NC

Mayor Warren opened the public hearing on CU-R-MF-A-035.

Director of Planning Inspections Cox was sworn and offered the following testimony:

"Mayor and Council, you have before you a rezoning request as the Mayor mentioned, a conditional use rezoning for multi-family apartments. It's from BTR Communities Group out of Lewisville and this would be to rezone approximately 5.5 acres from R-15 which is Residential – Medium Density to the Residential-Multi-family-Apartments and in your agenda packet of course we've included your zoning application, proposed conditions, paper notification, abutting property owner notices, and of course at the end you have your maps and supporting documentation. Under *Introduction and Background* the tract is located in the 400 block of South Main Street and is accessed there on a lot that is adjacent to the Auto Zone and then the bulk of the tract that we are looking at rezoning is behind the Auto Zone and just to the left of the Conrad Mobile Home Park. As I stated before it is 5.5 acres approximately and this will be for a proposed sixty unit apartment complex named Conrad Corner. The tract will be accessed from the lot there on the South Main Street and we also have water and sewer that they will access from that point as well. The tract is bordered by business along South Main Street. Residential use is to the east, west, and north of the tract as denoted on the zoning map you have there at the bottom of the page. You have your statement of intent for the districts, what R-15 is and what Multi-family-Apartments are and of course this falls within that. Since this is a conditional use district, you have your statement of 32-164 on the third page there and the requirements for doing so and you have I guess eleven items there that could be placed on the maps. It may or may not exist on this particular project and let's see, of course we have our staff comments there and looking at this project you can see there, I'll let the applicant explain it, but the government provides funding for these to get the price down so that the rent can be affordable and it would be that type of monies that would construct the project. There is an understanding that these are competitive so you know there's probably others going on in the area and just because it's rezoned doesn't mean it's necessarily going to be built. It has to go through an approval process and I think the developer there can speak to that but I think it's a process to try to go through to get it, the apartments approved. And of course under your, when you get to the point where you want to make a decision of course it will be quasi-judicial so you'll need to make your findings of fact and keep in mind we're looking at two different things to approve. If you approve the rezoning we also need to approve the second thing there which is the 10/70 provision of our watershed.

We had our review of the project and recommendation by the Planning Board and you have their comments and recommendations there, those four items. They wanted the developer to explore the

possibility of adding a second means of egress to Conrad Drive for EMS, Fire, Police. Stormwater plan to be reviewed and approved by the city engineer prior to permitting. We usually do that always anyway so it also goes to the State for permitting through DENR. There was a little concern about the slope of some of the banks in there and the developer of course is a very preliminary plan and we'll work out all those kinks when they got the specific site plan done that they would file with the State. So some of that gets worked out anyway. Number three, the developer to install a second dumpster on the lower side of the project. They had one on the upper end and the Planning Board felt they ought to have a second one on the lower end of the project and they requested that the developer obviously review their entrance with NCDOT and of course that's gonna happen anyway cause they'll have to get their curb cut permit from the State and at that time they may make them put in a right turn lane and then again they may not so it just depends on what the State wants to do there. But if you have any questions I'll be glad to try to answer those. You have a layout, a proposed layout of the project as far as floor plans and elevations and the developer can probably go over that with you."

Mayor Warren: "Thank you Mr. Cox. Before we ask any questions I should have read this to start with just to remind everyone that this is a quasi-judicial hearing which means that the Council must take sworn testimony. If anyone wishes to offer such factual information that pertains to the case. Testimony is subject to cross-examination. Personal opinions and hearsay are not acceptable forms of testimony during a quasi-judicial procedure. Council then must take the evidence, as submitted by the developer, staff, and citizens, compare it to the ordinance requirements and make a determination as to whether the project is so designed to meet or exceed the requirements. Council may approve, approve with conditions, or deny the request based on the findings of facts during the hearing. Council are there any questions for Mr. Cox? "

Mayor Pro Tempore Burnette: "Yes Mr. Mayor. Mr. Cox, on the Planning Board recommendation, Number 1: Developer to explore. Please explain."

Mr. Cox: "There's no requirement in the ordinance that would force them to put a connection point in there but when Brad and I reviewed it, it seemed like a good thing to do because of the proximity of their rear parking lot to Conrad Drive. It's just a little space there that they could connect either by gravel or even paving it, whatever, but for fire protection and EMS that would be worth a lot if something happened at the main entrance to close it down so, obviously we can recommend that but there's nothing in the ordinance that says it's a requirement unless Council wants to make it a requirement."

Mayor Warren: "We can make it a condition if we like."

Mr. Cox: "Right"

Councilman Allen: "And then the property owner connects to Conrad Drive?"

Mr. Cox: "The developer?"

Councilman Allen: "Yeah"

Mr. Cox: "Well, it's just contingent right now on being rezoned."

Councilman Allen: "Okay, well it does join the street anyway."

Mr. Cox: "Correct"

Councilman Allen: "Okay"

Mr. Bill Scantland of BTR Communities Group was sworn and offered the following testimony:

"Mr. Mayor, Councilmen, thank you for the opportunity to be here this evening. I'm Bill Scantland with BTR Communities Group. We're located at 1220 Arboretum Drive, Lewisville, North Carolina. As Mr. Cox has explained, this is a request for rezoning in order to build a multi-family development of two and three bedroom apartments of sixty units total. I'll give you a few details behind those units so you have an understanding of what we're talking about here. Two bedrooms in the 927-930 square foot range. Three bedrooms in 1136 square foot range. Both two and three bedrooms would have two baths, full baths, associated with them. It's a complex that has multiple residential two-story and one one/two-story split building in it along with a community building. The community building would house a leasing office. It would have a computer area for residents. It would have a common meeting group area and an exercise facility along with common laundry facilities as well. Each unit, saying that, each unit is designed for washer/dryer hookups although washer/dryer equipment would not be provided. It was mentioned just a moment ago the whole process here is a competitive for financing funds. It is through the North Carolina Housing Finance Agency in Raleigh. Currently, we're in a preliminary stage where we are having site reviews and market studies performed and I've received the market study back on this particular location and it is favorable indicating that there is quite a need for what we refer to as income restricted housing in this area so it's an ideal spot for that. The rent structure, so you have an understanding of how this works, with respect to two and two bedroom units, rents are income restricted, I'm sorry, tenants are income restricted, the selection of tenants are income restricted and as such what we are trying to do is provide safe, affordable housing for residents that fall in the 40-60% of your area median income range, which for this particular area is in the \$17,000-\$35,000 family size adjusted range to give you an idea of the target tenant population. Rents for two bedrooms would run between \$395 and \$706 approximately. For the three bedrooms \$507 to \$840 so you can see that the rent structure is designed such as to be affordable to the individuals and families that I just mentioned a moment ago and that is the whole purpose of the development. We are able to do that because we compete for tax credits through the state, throughout the state so we're competing with other developers. Right now in North Carolina in the preliminary round there were 170 I believe applications that went in. Ultimately across the state of North Carolina there will probably be this year 30-35 awards across the hundred counties so it is a very competitive process that we're going for but the tax credits that are awarded, should we be successful, are then used to then help pay financing or help with the financing for the project through a syndication process. Due to limited time we won't go through the details on that. But the details that are the requirements that Mr. Cox mentioned a moment ago he read off four or five items that were discussed at the Planning Board meeting, all of which as a developer we agreed that we would certainly honor. Those including the entrance, the secondary entrance that was brought up again just a moment ago, the review of the stormwater, which of course is required by City and DENR, grading with the final design. This is a preliminary design at this point in time so you know as we get into the final design should we move forward we will work out the grading concern that Mr. Cox mentioned a moment ago as well. The second dumpster is not an issue and of course wherever we tie into the main road we do have to have a D.O.T. review so those sort of automatically come with the territory I should say. I want to let you know that in February I sent out ten letters to surrounding property owners, not just immediately adjacent but also in the nearby visual range if you will of the property. Getting them preliminary information about what we were doing. Mentioning that there was going to be a public hearing and gave them my e-mail address, my phone

number, and my mailing address should they have any questions. I did not receive any feedback from anybody in the surrounding area concerning this project. I'll be glad to answer any questions. I appreciate your consideration this evening."

Mayor Warren: "Thank you Mr. Scantland"

Mr. Scantland: "Sure"

Mayor Warren: "Questions Council for Mr. Scantland?"

Mayor Pro Tempore Burnette: "None at this time"

Mayor Warren: "If everything goes well, I was just wondering are you going to plan on having an on-site manager?"

Mr. Scantland: "We would, yes. Regular business hours, not living there but regular business hours and the leasing office is part of the community building."

Mayor Warren: "Any questions? Thank you sir."

Mr. Scantland: "Thank you very much."

Mayor Warren: "Mr. Holland, if you will come forward and be sworn please."

Commander Don Holland of the Carl Calloway American Legion Post #290-King was sworn and offered the following testimony:

"I'm Don Holland, Commander of the American Legion Post 290 and I live at 110 Timmy's Lane in King. A concern we have at the Legion is the stormwater runoff. As you know, we've had quite a bit of problems with erosion on the property already. Within the last three or four years we've spent \$64,000 putting in drain pipes running under the fairgrounds and under the barn and what not. About five or six hundred feet of our property borders the little stream that the stormwater is going to drain into and we're having a pretty good erosion problem there now and one spot on our property we're going to have to address it pretty soon. The water has completely undercut our fence on our property and our fence is kind of just hanging there so that's gonna have to be repaired and we're just concerned that with paving an additional five acres plus of land and all the stormwater running down into that little creek that we will probably have a major problem with erosion that I'm not sure that you know we're going to be able to handle financially. Also, that little stream runs under Timmy's Lane about 200 feet up from Meadowbrook Drive and I've lived there for about seven years and two or three times I've seen that little stream with no more runoff than we have now come up within a foot of the bridge and I personally am concerned that with the additional storm runoff and what not that it could wash that bridge out because it's getting close to it now. But, I guess that what I would like to know is if there is any language that can be put in there or anything that would hold the developers responsible for any additional erosion or problems that we might have at the Legion. As I said, we're going to have to fix the one part of it and I don't even know how we're gonna do that yet because it's pretty bad and the, now we, we're down in the hollow and it is kind of a pretty serious problem for stormwater runoff. That's it. Thank you."

Mayor Warren: "Any questions for Mr. Holland? Thank you sir. Mr. Cox, is there anyway we can address something like that?"

Mr. Cox: "It would be difficult because and Scott could probably tell you a lot better than I can but this, that little creek serves twenty, thirty properties so you know, one big thing that jumps out in my mind that's three times the size of this apartment complex is Calvary Baptist Church's parking lot. That's far more drain concentrated you know on that little creek than this project would ever be but there's so many properties in there that drain into that creek I don't know how you could hold one person responsible I guess is what it boils down to and the state, Scott like I say could answer that better but you can't release water from your property more so than it was before. So, you know I'm gonna address that so whatever is there now maybe leave it at to hit five-percent above on top of that so you're not talking about a substantial amount of water that's gonna leave the property more so than it is now by law."

Councilman Allen: "So we'll handle that by catch basins and that type situation?"

Mr. Cox: "Yeah"

Councilman Allen: "Normally would they?"

Mr. Cox: "Yeah, or a detention pond or you know whatever that needs to come up with in their design."

Mayor Warren: "So if it does go forward that's something we need to put some language in to address the problem. I mean, we don't want to spend fifty to sixty thousand, the Legion to spend fifty or sixty more thousand."

Councilman Carico: "Mr. Cox, of the specs that we've heard tonight reference this complex, what other complexes within the area would be, I guess in some way, form, or fashion, comparable to what we're talking about tonight? That we already have existing in the area?"

Mr. Cox: "I know the one that's being built now by Christian Village. Those are the same tax credit monies that are geared for seniors but it's the same money so that's a very similar project. Let see, the ones I believe on Meadowbrook Drive as you're turning on Meadowbrook from South Main there on the right, were built that way."

Councilman Carico: "Is that Meadowbrook Apartments?"

Mr. Cox "Um hum, at one time they were and have since been bought out. But Pilotview Apartments are like that."

Mayor Warren: "Is the one on Dalton like that?"

Mr. Cox: "Yeah, Villa Trace on Dalton is that way. Yeah, about half of the apartment complexes we have are tax credit monies used to build them."

Mayor Pro Tempore Burnette: "How many type developments have we already passed that in the future nobody has built on similar to this?"

Mr. Cox: "None that I can think of."

Mayor Pro Tempore Burnette: "None of the projects we've passed in the past?"

Mayor Warren: "Not this type."

Mr. Cox: "Not this type, yeah. I mean Christian Village is the only ones recently and they've built all theirs with the exception of the handicap apartments but it's getting ready to start."

Mayor Warren: "They're full."

Mr. Cox: "Yeah, they've already been leased out."

Mayor Warren: "Any other questions for Mr. Cox or Mr. Scantland?"

Mayor Pro Tempore Burnette: "Mr. Barrow"

Mayor Warren: "Mr. Barrow have you been sworn?"

City Engineer Barrow was sworn at this time to present testimony.

Mayor Pro Tempore Burnette: "You answered a while ago that the stormwater plan to be reviewed and approved by you prior to permitting. You mentioned five percent of runoff that's increased. How will you go about judging five percent comparing land, raw land to asphalt?"

Mr. Barrow: "That's exactly how you do it. You have to do...their engineer will actually do it. They'll figure predevelopment flow using the existing conditions and then they'll figure postdevelopment flow using development conditions."

Mayor Pro Tempore Burnette: "But is there any way like the Mayor was saying that we can predict downstream before this project goes because upstream is not going to be the problem. Downstream's the problem and we know they may be twenty or thirty different landowners involved. We've got to look at that. We've thrown a project in here and say what if it dumps ten percent? We've done got the project built. It's over the five percent limit. What we gonna do then? Have to fix all twenty properties that it tore up?"

Mr. Barrow: "We're not a stormwater utility. We're not phase two. Remember, we're on a waiver for that so in fact it will be governed by the State."

Mayor Pro Tempore Burnette: "What will be done by the State?"

Mr. Barrow: "Whatever stormwater efforts they..."

Mayor Pro Tempore Burnette: "Well, you've already told me two different answers now. This says you will approve..."

Mr. Barrow: "No, no that..."

Mayor Pro Tempore Burnette: "This says that the engineer and their engineer and now you're saying the State's gonna do it, now who's gonna do it?"

Mr. Barrow: "What I stated earlier was what the State will do. Not what we will do."

Mayor Pro Tempore Burnette: "The State will do the stormwater runoff. Not their engineer or you."

Mr. Barrow: "No, he'll figure it. He'll design it and figure it, but the State will be the one that reviews it. You know we're gonna review it also, but the State will be the one that reviews it."

Mayor Pro Tempore Burnette: "That's what I just asked you. All three of you will be reviewing."

Mr. Barrow: "Yes"

Mayor Pro Tempore Burnette: "But nobody's answered my question if you do come up with the term five percent and it jumps ten percent, what are we gonna do then?"

Councilman Carico: "I think in a nutshell what Mayor Pro Tempore is trying to say is if everybody will remember back, I think it was a couple of years ago when we had some homes over off of I believe it was East King Street over in Laural, is that correct Laurel Ridge? Over behind Clydies Automotive?"

Mr. Barrow: "Oh yes, Laurel Glen."

Councilman Carico: "Laurel Glen, excuse me, and one of the biggest complaints was the City allowed this, the City allowed that and now it's put all this runoff in our yards and now it's the City's fault so I think where Mayor Pro Tempore is coming from is that you know if we make a decision based on yes, this one property is okay and the it affects whether it be minimal or larger it affects ten or fifteen properties after that are we gonna be put in a position like we were two years ago of having ten or fifteen property owners come to say well if we hadn't approved this then it wouldn't have happened. So, you know I think the issue of that being if I'm not mistaken, that plot is at one of the higher points at least land wise within our City limit range and everything from that point is downhill correct?"

Mr. Cox: "You're right"

Councilman Carico: "Thank you, so we're not necessarily talking about it evening out here. We're talking about a downhill slope so whether it be small or large. So, we you know we just have to look at all the situations because this will be something we have to deal with far after BTR is done with the project and moved on."

Mr. Barrow: "Yeah, they proposed a stormwater management plan or a sedimentation and erosion control plan."

Mr. Cox: "No, not yet."

Mr. Scantland: "If I could interject one piece of information to your last comment. BTR doesn't do the project and move on. BTR is a permanent owner for at least thirty, thirty-five years."

Councilman Carter: "Just a comment, I mean I understand the concern and I think it's a valid one but are we saying we're never going to let this property be developed because I mean you know what I'm saying, because some people are worried about paving, I think they would be, we would be not honest with ourselves if that was the case. I mean whether it's this one or something else I think eventually this property is going to become a commercial property. That is more than likely going to be paved and so I don't think there is any tangible, factual reason to deny it just based off of the potential erosion problems or what not. I think that's something that needs to be addressed and hopefully the State will do their proper and do their procedure to do that but I don't think there's any factual reason we can deny it. That's just my opinion."

Mayor Warren: "Just to make one observation here and I've already said it one time. Opinions and hearsay are not acceptable forms of testimony during this quasi-judicial hearing. Council must take the evidence submitted by the developer and staff and compare it to the ordinance requirements, ordinance requirements, and make a determination as to whether the project is so designed to meet or exceed these requirements. It's not what might happen or what might not."

Councilman Carico: "Mr. Cox."

Mr. Scantland: "Mr. Mayor, to that point let me just reemphasize that as would be expected in any commercial development, we will go through the necessary design processes required by certain ordinances and laws and rules and regulations of the State and area here which will be of course reviewed through your own local staff and of course ultimately we have to pass the approval of DENR so the issues you're discussing here would be fully engineered and would stand up to any other type of development that you are considering. We are no exception with respect of what we have to go through in terms of receiving necessary permission in order to operate."

Mayor Warren: "Thank you Mr. Scantland"

Mr. Scantland: "Sure"

Councilman Carico: "Todd, within, and I know it's hard to do it without a map but sort of a half mile radius from this site that we're discussing, how many residential purpose or multi-family purposes versus commercial business use has been developed or requested within that area? Do you happen to know that offhand?"

Mr. Cox: "In what, a certain time frame?"

Councilman Carico: "Let's say in the last ten years."

Mr. Cox: "And for apartments?"

Councilman Carico: "Um hum"

Mr. Cox: "One on Spruce Street across from the Legion, Meadowbrook Drive."

Councilman Carico: "Would that one be at the top of the hill where West intersects?"

Mr. Cox: "Yeah, there was what about twelve units there and that's probably it. If the half mile reaches over the Christian Village you can count some of those."

Councilman Carico: "Right"

Mr. Cox: "That's probably it in a half mile radius."

Councilman Carico: "So would it be fair to say that anything that's taken place as far as either rezoning or business use has been commercial versus, commercial business versus residential?"

Mr. Cox: "Yes, in that area definitely. I've had numerous rezoning for business and office use."

Councilman Carico: "Right"

Mr. Cox: "Yep"

Mayor Warren closed the public hearing on Consideration of Conditional Use Rezoning Request CU-R-MR-A-035 by BTR Communities Group, LLC of Lewisville, NC.

Being no concerns or further discussion by Council, Mayor Warren had Mr. Cox poll the board after the reading of each of the following six items. It was the consensus of the Council that the answers to the six items under City Ordinance Article 13, Section 32-578 (d) *Action by the responsible body* are as follows:

- (1) The use request is listed among the conditional or special exception uses in the district for which the application is made. **Answer YES**
- (2) The requested use is essential or desirable to the public convenience or welfare. **Answer YES** by a split vote of 3-1 (Allen-yea, Burnette-yea, Carico-nay, Carter-yea)
- (3) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare. **Answer YES**
- (4) Due consideration has been given to the suitability of the property for the use applied for with respect to trends of growth or change; the effect of the proposed use upon the community; requirements for transportation, schools, parks, playgrounds, recreational areas, conservation of natural resources, preservation of floodplains, and encouraging the most appropriate use of the land. **Answer YES** by a split vote of 3-1 (Allen-yea, Burnette-yea, Carico-nay, Carter-yea)
- (5) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided. **Answer YES**
- (6) Adequate measures have been or will be taken to provide ingress and egress, so designed as to minimize traffic congestion in the public streets. **Answer YES** by a split vote of 3-1 (Allen-yea, Burnette-yea, Carico-nay, Carter-yea)

Mayor Warren called for a vote on the rezoning request.

Action

Councilman Allen moved to approve rezoning request CU-R-MF-A-035 by BTR Communities Group, LLC of Lewisville, NC as presented with the addition of the four recommendations by the Planning Board 1) Developer to explore the possibility of adding a second means of egress to Conrad Drive; 2) Stormwater plan to be reviewed and approved by City Engineer prior to permitting; 3) Developer to install a second dumpster on lower side of project; and 4) Developer to have NCDOT to review whether or not the

project requires a turn lane. Councilmen Carter seconded the motion which carried by a split vote of 3-1. (Allen-yea, Burnette-yea, Carico-nay, Carter-yea)

Mayor Pro Tempore Burnette moved to approve the 10/70 provision for 50% coverage on CU-R-MF-A-035. Councilman Carter seconded the motion which carried by a unanimous vote of 4-0.

Exhibit A
CU-R-MF-A-035

Conditions for Conrad Corners Apartment Complex on S. Main Street

1. Adequate storm water facilities shall be designed per NC DEHR standards and approved by the city engineer prior to construction.
2. Adequate on-site and off-site public water and wastewater improvements shall be constructed as recommended by the city engineer and in compliance with all current city policies and procedures, including applicable tap fees and developer financing of necessary improvements, to ensure adequate utility service to all housing units and sufficient fire protection capability to the development.
3. The project shall be developed in compliance with all applicable city code of ordinances requirements and development site plan and written text requirements as submitted by the developer and as entered into the permit hearing record.
4. All landscaping and buffer areas shall be continuously maintained by the developer /owner.
5. Preliminary plans for some portion of the development with sufficient detailed information to determine that all conditions are provided for shall be submitted to the city on or before **April 6, 2016**, or an extension granted by the city council prior to this date. Submission of the final plans for development in compliance with this condition shall satisfy the requirement of Article XII Section 5.3 of the code of ordinances that the permit be “exercised” within a specified time.
6. All required permits must be obtained from the city inspections department prior to placing structures on the property.
7. Street name and necessary safety and directional signs shall be installed at the developer’s expense, subject to the names and sign hardware meeting city specifications. Each dwelling unit and building shall also have a visible house/building number in a numbering scheme approved by the city to facilitate rapid emergency response (E- 911). Numbers on buildings shall be a minimum 8” in height and numbers on doors shall be a minimum 4” in height.
8. Temporary sediment ponds shall be removed at the completion of the project and upon state release and re-sown with grass.
9. A manager or contact person shall be responsible for the maintenance, upkeep, and general needs of the project and shall be available during normal office hours during the duration of the project.
10. If conflict arises between any conditions or the developer’s proposed site plan or written text, the most stringent conditions or requirements shall be considered the governing requirement.

11. All costs and expenses associated with complying with these conditions shall be borne by the landowner/developer, with no expense being borne by the city.
12. Upon written request by the city, evidence of compliance with any of these conditions shall be provided to the city within ten (10) business days after each request or as soon thereafter as reasonably possible provided that Developer begins the process of obtaining such evidence within ten (10) business days after receipt of the written request.
13. The Rules and Regulations of the Developer (Home owners associations, deed restrictions or covenants), as modified by the developer at the prior hearing (s) on this request, shall not be inconsistent with these conditions. Any conflict between said Rules and Regulations shall be resolved in favor of these conditions.
14. If any of the conditions shall be found to be unreasonable, invalid or otherwise impermissible by a court of competent jurisdiction then the city council may impose such alternative reasonable conditions as it finds to be necessary and appropriate. If any one condition shall be found to be unreasonable, invalid or otherwise impermissible by a court of competent jurisdiction then the remaining conditions shall still be in affect.
15. If any of these conditions are not met or compiled with or the permit has not been exercised in accordance with condition number 5 above on or before April 7, 2016, unless extended by the City Council prior to that date, the permit shall become void and of no effect.
16. If any of these conditions once met are not continuously maintained, the permit may be revoked by the city council upon the failure of the owner/developer to cure the deficiency in any specific condition within thirty (30) days after receipt of written notice to the owner/developer of the specific failed condition, or if it is not possible to cure the deficiency within thirty (30) days after receipt of written notice, upon failure of the owner/developer to commence to cure the condition within thirty (30) days after receipt of written notice.
17. Any part of this project not developed by BTR Communities Group, LLC shall have these conditions agreed upon prior to the sell and/or development of that particular part of the project. A copy shall be signed by the new developer/owner and filed with the city clerk.
18. Dumpster sites shall be enclosed and screened by decorative fencing. The minimum height of the fence shall be eight (8') feet and be placed on a minimum 10' X 15' X 6" concrete reinforced pad. The containment area shall have a minimum 10' X 8' gate for access by service vehicles and in addition a 3'X 8' access door shall be provided. There shall be two dumpster sites remotely located for the project.
19. Driveway access to S. Main Street shall be approved by NCDOT and any additional improvements that DOT shall recommend.

The developer, BTR Communities Group, LLC, agrees upon the above mentioned conditions as stated or amended at the public hearing by the King City Council.

FINDINGS OF FACT CONDITIONAL USE REZONING REQUEST CU-R-MF-A-035 BY BTR COMMUNITIES GROUP, LLC OF LEWISVILLE, NC

1. BTR Communities Group, LLC is the owner of a property located at the 400 block of South Main Street, King NC identified as SCTM# 5992-20-90-1638.
2. The lot at South Main Street has the following dimensions starting at the southeast corner going west: 62.50', 116.12', 107.54', 349.17', 389.24', 694.06', 34.78', 200.00', 100.00', 194.15', 255.75' and contains a total of approximately 5.50 acres.
3. On February 19, 2015, BTR Communities Group, LLC submitted a complete petition for a Conditional Use Rezoning.

4. The applicant has submitted a site plan.
5. The tract at South Main Street has access to water and sewer and is within the corporate limits of the City of King.
6. The tract is abutted to the south by B-2 zoning; on the east, west, and north by R-15 zoning.
7. The tract at Ingram Drive is currently zoned R-15, which is Residential-Medium Density with required front setbacks of 30 feet, rear setbacks of 30 feet, and side setbacks of 10 feet.
8. There is sufficient space on the tract to construct the proposed apartments while meeting the current setbacks.
9. On March 23, 2015, the City of King Planning Board conducted a duly advertised and noticed hearing on the BTR Communities Group, LLC conditional use rezoning request.
10. On March 23, 2015, The City of King Planning Board made a unanimous recommendation for approval of the BTR Communities Group, LLC conditional use rezoning request with the following additional recommendations – 1) Developer to explore the possibility of adding a second means of egress to Conrad Drive; 2) Stormwater plan to be reviewed and approved by City Engineer prior to permitting; 3) Developer to install a second dumpster on lower side of project; and 4) Developer to have NCDOT to review whether or not the project requires a turn lane.
11. On April 6, 2015, the King City Council conducted a duly advertised and noticed hearing on the BTR Communities Group, LLC conditional use rezoning request.
12. Construction of the proposed apartments will not impair emergency vehicle access and is not contrary to public health and safety.

APPOINTMENT TO COMMUNITY APPEARANCE COMMISSION

Mayor Pro Tempore Burnette moved to appoint Janet Calloway to complete the remainder of the vacant Community Appearance Commission term which will expire December 2015. Councilman Allen seconded the motion which carried by a unanimous vote of 4-0.

CONSIDERATION OF ACCOUNTING SOFTWARE CONTRACTS

Councilman Allen moved to authorize staff to execute a termination agreement with Tyler Technologies and to execute an agreement with Southern Software. Councilman Carter seconded the motion which carried by a unanimous vote of 4-0.

REQUEST TO CO-SPONSOR *MEET ME ON MAIN* DOWNTOWN SHOPPING EVENT BY CATHY LOVEDAY, EXECUTIVE DIRECTOR, KING CHAMBER OF COMMERCE

Mayor Pro Tempore Burnette moved to co-sponsor an annual *Meet Me On Main* downtown shopping event on the last Saturday of May (the Saturday prior if Memorial Day falls on the last Saturday of May) by allowing the closure of sections of Main Street and Dalton Road, waiving permit requirements for itinerant merchants during the event, and waiving the costs incurred for Police and/or Fire Department personnel for traffic control as requested by Mrs. Cathy Loveday, Executive Director, King Chamber of Commerce. Councilman Carico seconded the motion which carried by a unanimous vote of 4-0.

CONSIDERATION OF RESOLUTION 2015-07 – A RESOLUTION IN OPPOSITION OF HOUSE BILL 51 JUSTICE FOR RURAL CITIZENS ACT

Mayor Pro Tempore Burnette moved to approve Resolution 2015-07 as presented and incorporated within the body of the minutes below. Councilman Allen seconded the motion which carried by a unanimous vote of 4-0.

**CITY OF KING
RESOLUTION 2015-07
A RESOLUTION IN OPPOSITION OF HOUSE BILL 51
JUSTICE FOR RURAL CITIZENS ACT**

WHEREAS, states have recognized municipalities' need to regulate their extraterritorial areas to protect public health and safety since the 1800s and a form of extraterritorial jurisdiction authority has existed in North Carolina since 1949; and

WHEREAS, the U.S. Supreme Court has upheld the right of municipalities to exercise extraterritorial jurisdiction authority; and

WHEREAS, extraterritorial jurisdiction rights are necessary to ensure that development at the edge of cities is compatible with development within cities is orderly, and promotes health and safety; and

WHEREAS; extraterritorial jurisdiction eases the way for development on property that crosses municipal borders; and

WHEREAS, extraterritorial jurisdiction helps us as local elected officials to make sure our residents' property values and enjoyment of their property is maintained. Even though we're small, it is our responsibility as local elected officials to keep the peace when people live close together; and

WHEREAS, extraterritorial jurisdiction protects the quality of life for the municipality.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of King adopts this resolution in opposition of House Bill 51, Justice for Rural Citizens Act;

BE IT FURTHER RESOLVED that copies of this resolution is transmitted to the members of the General Assembly representing the City of King to let them know of our opposition to this issue.

Adopted this the 6th day of April, 2015.

APPOINTMENT TO PLANNING BOARD

Mayor Pro Tempore Burnette moved to appoint Mr. Rick McCraw to fill the remainder of the vacant term of alternate City member of the King Planning Board which will expire in December 2015. Councilman Allen seconded the motion which carried by a unanimous vote of 4-0.

CONSIDERATION OF BUDGET AMENDMENT 2014-02.08

Finance Director O'Brien informed the Mayor and Council that this is a request to amend the FY 2014-15 budget.

Action

Councilman Carter moved to approve Budget Amendment 2014-02.08 as presented. Mayor Pro Tempore Burnette seconded the motion which carried by a unanimous vote of 4-0.

DEPARTMENTAL REPORTS

There were no questions concerning the Departmental Reports.

PRESENTATION OF PROPOSED BUDGET

Manager Dearmin stated that he had placed copies of the proposed FY 2015-16 budget at each Councilman’s seat and that public copies will also available at the City’s website, King City Hall, King Senior Center, and King Public Library.

ITEMS OF GENERAL CONCERN

Councilman Allen: Nothing at this time.

Mayor Pro Tempore Burnette: Nothing at this time.

Councilman Carico: Nothing at this time.

Councilman Carter:

- Requested that some signage be installed downtown indicating that the City Hall parking lot was available as overflow parking for downtown shopping.

Mayor Warren: Nothing at this time.

ADJOURNMENT

Mayor Pro Tempore Burnette moved to adjourn the meeting. Councilman Allen seconded the motion which carried by a unanimous vote of 4-0. The meeting stood adjourned at 8:33 p.m.

Approved by:

Attest:

Jack Warren
Mayor

Tamara H. Hatley, MMC, NCCMC
City Clerk