

MINUTES FOR BOARD OF ALDERMEN MEETING

DECEMBER 8, 2015

6:00 PM

The following elected officials were present: Mayor Coleman, Alderman Cearley, Alderman Huggins, Alderwoman Morrow, Alderwoman Malcher-Thomas, and Alderman Withers.

The following staff members were present: Jim Palenick, Interim Town Manager; Maria Stroupe, Administrative Services Director; Town Attorney, Tom Hunn; Gary Buckner, Police Chief; Doug Huffman, Electric Director; Bill Trudnak, Public Works Director; Steve Lambert, Fire Chief; and Jack Kiser, Development Services Director. Anne Martin, Recreation Director, was absent.

Mayor Coleman called the meeting to order at 6:00 pm.

Mayor Coleman opened with the Invocation and the Pledge of Allegiance to the Flag.

Mayor Coleman asked if there were any additions or deletions to the agenda. There were no additions or deletions to the agenda. Mr. Cearley made a motion to approve the agenda, seconded by Ms. Malcher-Thomas, and carried unanimously.

Mr. Withers made a motion to approve the minutes from the November 10th Regular Meeting and the November 24th Work Session, seconded by Ms. Morrow, and carried unanimously.

Swearing In of Newly Elected Board Members:

Da'Sha Leach, Notary Public and Deputy Clerk, administered the Oath of Office for Mayor Rick Coleman. (Exhibit A)

Mayor Coleman administered the Oath of Office for Alderman E. Hoyle Withers, Jr. (Exhibit B)

Mayor Coleman administered the Oath of Office for Alderwoman V. Darlene Morrow. (Exhibit C)

Recognition of Citizens:

Ms. Charlotte Jenkins, President of Dallas Historic Courthouse Foundation, was to give an update on the Gazebo Project, but was unable to attend. Mayor Coleman gave the update. The existing Gazebo is ready to be moved as soon as the weather is appropriate. That may be accomplished this week. The structure will be moved to the Dallas Park as part of the historic exhibits on display at the park. Construction will then begin on the new Gazebo structure.

Mr. Curtis Wilson, 438 S. Gaston St., stated that Town leaders and the Town are not responsible for his comments. He is exercising his right of freedom of speech. He prayed for our country, Town Leaders, Town Staff, the agenda, and the meeting.

Employee Recognition:

Item 7A was recognition of Fire Chief Steve Lambert for 10 years of service to the Town. Mayor Coleman and the Board thanked Chief Lambert for his service to the Town and its citizens. (Exhibit D)

Special Events & Requests for In-Kind Services:

Item 8A was a request by Jamie Shuford, operator of Heart & Rhythm Dance Studio at 142 W. Trade St., to allow Port-A-Pit Chicken and associated employees to set up on Town property behind Town Hall to cook chicken for sale to the public on Friday, January 15, 2016 from 7:00 am to 3:00 pm. (Exhibit E) Ms. Shuford states that the proceeds raised will be used to provide her dancers funds toward the payment of dance competition fees and the purchase of dance costumes. She has done this several times in the past and the Board has approved those requests. Staff has maintained, and still recommends

that public property shouldn't be authorized for use by the private sector, without charge, for the sole benefit of a select group of business customers. Ms. Walker Thomas made a motion to approve the request as presented, seconded by Mr. Cearley, and carried unanimously.

Public Hearings:

Item 9A was a Public Hearing concerning a text amendment to the Town Zoning Code to define the term/use "Microbrewery" and to permit such uses in the I-2, General Industrial Zone. Mr. Withers made a motion to enter into a public hearing, seconded by Mr. Cearley, and carried unanimously. The text amendment defines microbreweries and permits them in the I-2, General Industrial Zone. (Exhibit F) The impetus for this amendment is the recent annexation of the site of the Ole Dallas Brewery. Mr. Withers made a motion to exit the public hearing, seconded by Ms. Morrow, and carried unanimously. Ms. Walker Thomas made a motion to approve the text amendment as presented, seconded by Mr. Cearley, and carried unanimously.

Item 9B was a Public Hearing to establish zoning for the newly annexed property at 136 Durkee Lane. Mr. Cearley made a motion to enter into a public hearing, seconded by Mr. Withers, and carried unanimously. This property, County Parcel ID #170802, was annexed in August. It is necessary to establish Town zoning for the property. Both Town Staff and the Planning Board recommend that it be zoned I-2, General Industrial Zone, under the Town Zoning Code. (Exhibit G) The property had been zoned I-2 under the Gaston County Unified Development Ordinance. Based on the newly adopted text amendment for "Microbreweries", the I-2 designation now allows for the establishment and maintenance of a microbrewery as a use by right. Mr. Withers made a motion to exit the public hearing, seconded by Ms. Morrow, and carried unanimously. Mr. Withers made a motion to assign the I-2, General Industrial Zone, to the property located at 136 Durkee Lane, seconded by Ms. Morrow, and carried unanimously.

Item 9C was a Public Hearing to hear a request for a Special Use Permit to erect a Cellular Communications Tower on property near East Webb and South College Streets (Parcel ID #132549). Mr. Cearley made a motion to enter into a public hearing, seconded by Ms. Walker Thomas, and carried unanimously. (6:19) Application has been made for a 195' monopole + 4' lightning rod for a tower to handle up to 4 wireless carriers to be located at 205 E. Robinson St. Mayor Coleman conducted the swearing in of all potential speakers; Frank Longest, Keil Tiernan, Jonathan Yates, Michael Barkowitz, Jonathan Edwards, Susana Rabold, and Jack Kiser. (Exhibit H) The following questions were asked of the Board Members : 1) Has anyone visited the site? Alderman Cearley and Alderwoman Walker Thomas live near the proposed site. The other three Board members answered no. 2) Has anyone had any ex parte communication concerning this proposal? All answered no. 3) Does anyone have any specialized knowledge of the case? All answered no. 4) Does anyone have a personal opinion about the proposal? All answered no. 5) Is anyone a family member or have close business relationships with any of the applicants? All answered no. 6) Does anyone have a financial interest in the outcome of the case? All answered no. 7) Does anyone have any type of conflict of interest? All answered no.

Mr. Kiser gave an opening statement and outlined the application from SCI Towers. SCI Towers builds towers and leases out spaces to carriers. SCI has indicated that Verizon Wireless would be their first tenant.

Mr. Frank Longest, Attorney representing SCI Towers, gave an opening statement. He distributed notebooks containing information about the project to the Board and asked that the information be included in the record. (Exhibit I) Mr. Longest also asked that it be noted that SCI believes that they have met all of the conditions necessary to receive a special use permit, based on meeting six points of the special use permit. He asked that the Board and Town Attorney consent to grant the special use permit to his client, SCI Towers based on that criteria only. Town Attorney, Tom Hunn, stated that although six criteria has been met, there are seven points that must be met in granting a special use permit. The first question, of co-location, is what will be considered tonight. Mr. Hunn stated that the Board could agree that the six points have been met and focus on the question of co-location for this hearing.

Mr. Kiser gave the staff presentation. (Exhibit J) The proposed tower would be a 199 ft., including the lightning rod, monopole with co-location capabilities. A previous application for a site to the north was denied by the State Historic Preservation Office. Mr. Kiser then gave SCI Towers some possible locations, which included the site under question tonight. At this time Mr. Kiser included this location, there was not certainty on available space on the Water Tank. Since that time, Cricket Communications has vacated the Town Water Tank, creating available space for certain for another cell antenna

array. Town ordinance states co-location on an existing location must be accomplished if possible, before additional towers are constructed. CityScape has determined that there is a valid need by Verizon for better service in this area. CityScape has determined that co-location is possible and would be better than construction of a new tower and would provide as good as, or better coverage than the proposed site. There are 7 general findings on a special use permit. Six of these general findings have been met with this petition, but the finding of co-location has not been met. Mr. Kiser stated that staff was recommending denial of the application. Mr. Hunn asked Mr. Kiser to explain the relationship between CityScape and the Town of Dallas. CityScape was employed by the Town to perform an evaluation of cell tower applications in the Fall of 2014. In June of 2015, the Town of Dallas entered into an agreement with CityScape to manage the current cell tower site at the Water Tank and to market cell sites within the Town. CityScape would receive a commission for any carriers locating on the Town's Water Tank. SCI Towers builds towers and leases space to carriers, therefore, they would not have interest in a decision to co-locate on the Town's water tank. They would gain monetarily only from a decision to build a new tower at the proposed site.

Mr. Longest gave the presentation for SCI Towers. Information found in the notebook outlines the coverage areas and coverage needed. He referenced the letter from Keil Tiernan, Engineer III – RE/Regulatory for Verizon Real Estate, stating her opinion of the proposed site. This letter is found behind Tab 2 in the notebook presented at the meeting by Mr. Longest. Ms. Tiernan was present and stated that based on her review of the proposed site, an existing site on the Town's Water Tank, and an existing site located southeast of Town that is managed by American Towers; the new tower would be 30 ft. higher and would achieve all of Verizon's goals. There is a coverage gap in Town and east of Town. Maps are located in the notebook showing the coverages.

Alderman Huggins asked which site was tallest including ground elevation. Ms. Tiernan said the Water Tank ground elevation is 47 feet higher than the proposed site. Mr. Hunn asked if factoring in the ground elevations, the heights would be comparable. Mr. Hunn asked about Ms. Tiernan's employment with Verizon. She has been employed for 2 ½ years with Verizon. She has been employed by various tower companies as a consultant and in the industry since 1994. Mr. Hunn asked Ms. Tiernan to expound on her educational background. She stated that she held a Bachelor's Degree in Mechanical Engineering from Lehigh University and a Juris Doctor Degree from John Marshall Law School. Mr. Hunn asked if Verizon had committed to this site with SCI Towers. Ms. Tiernan stated Verizon had a build to suit agreement with SCI. Mr. Hunn asked how many antennas were proposed for the site. Ms. Tiernan stated 12 antennas. The previous site that was denied would have had less than 12 antennas. Mr. Hunn asked if the Water Tank would not hold 12 antennas. Ms. Tiernan could not speak to that without further analysis of the Water Tank. Mr. Huggins asked for a clear answer to his question. Ms. Tiernan acknowledged that the heights would be comparable with antenna.

Mr. Kiser asked if analysis had been done on all locations in question. Ms. Tiernan said that analysis had been done. Mr. Kiser asked if Town's consultants could get that information. Ms. Tiernan said she did not want to dual co-locate on the Water Tank and the existing American Towers site, but did not want to get too technical with overlapping network information.

Ms. Kay Cash, 205 Dallas Stanley Hwy., said she was told by her cell phone carrier that Dallas was a dead zone. She asked if Verizon could guarantee there would be no dead zone with the new tower. Ms. Tiernan replied that no one could guarantee that there would not be a dead zone.

Alderman Cearley asked how many antennas Verizon would place on the tower. The answer was 12 antennas, three sections of four antennas each. Mr. Longest asked for clarity that the Water Tank was not a good location for Verizon. Ms. Tiernan stated that in her opinion, the new tower would provide the best coverage.

Alderwoman Walker Thomas asked if the Water Tank were the only option would Verizon take that option. Ms. Tiernan said she could not say at this time, without further analysis of the Water Tank. At this time, she does not know enough to make that determination.

CityScape representatives asked for an opportunity to review the information presented in the notebook to the Board of Aldermen at the meeting by Mr. Longest. Mayor Coleman stated there would be a 15 minute recess. (7:08) The hearing reconvened at 7:25.

Mr. Jonathan Yates, Attorney working with SCI Towers, spoke in favor of the proposed site. In his opinion, this site would be the best site for Verizon and for the citizens of Dallas. Mr. Hunn asked Mr. Yates about the definition of a base station in reference to the Water Tank, in light of the Spectrum Act. It was agreed that the Water Tank would qualify under that definition.

Mr. Longest asked that an objection be recorded to the testimony from CityScape, as he believes it is biased. There is a letter addressing this in the notebook. He believes it is speculation and not particular to Verizon's proprietary network.

Mr. Hunn stated for the record that the Planning Board did determine that six findings from Section 1-IV-4 (b) of the Code were met in the affirmative by the applicant: 1) that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted; 2) That the use will create traffic hazards, excessive congestion or hazards to pedestrians within the development and upon the public streets at the points of ingress and egress to such development; 3) That public facility systems are sufficient to serve the development; 4) That surrounding properties will be adequately protected from potential adverse effects of the development; 5) That the development complies with the standards and specifications for the corresponding general zoning districts; and 6) That the use is consistent with the general plan of development for the area. The Planning Board determined that the applicant failed to prove that co-location of the carrier on the Water Tank was unfeasible due to technical constraints.

Mr. Jonathan Edwards, Engineer for CityScape, stated that the main point is co-location and whether the application meets the ordinance. Referenced letter from 2013 concerning the American Tower site, where SCI stated this site would not meet the downtown area of Dallas' coverage needs. Now it is being stated that there is a lack of coverage to the east. Based on the maps provided, there does not seem to be much difference in the coverage between the proposed site and the Water Tank. Also, if placed on the Water Tank in the spot vacated by Cricket, the coverage area will change. At this time, a complete comparison cannot be made without new maps run at the correct antenna height on the Water Tank. Also, there is the option for dual co-location with the American Tower site and the Water Tank, which would give even better coverage in the areas needed. If there is a concern about overlapping coverage, there are methods to angle the antennas to address this. The point CityScape wants to make is that the two existing sites will work, without constructing a new site. Mr. Longest asked if Mr. Edwards was familiar with Verizon proprietary network information on coverage areas. Mr. Edwards said he had the coverage maps provided. Mr. Longest asked if the new proposed site would allow future growth. Mr. Edwards said it would allow future growth, but that was speculative and not the question at hand concerning current needs. Mr. Longest asked if Mr. Edwards was familiar with the contract between CityScape and Dallas. Mr. Edwards stated that he became aware of the contract at 3:00 pm today. Ms. Tiernan asked how he had obtained proprietary information. Mr. Edwards said he did not have proprietary information, but had the information that had been provided to the Town for this proposal. Ms. Tiernan said all of the sites Verizon possess are not shown on the maps, as that would be confusing and is proprietary.

Mr. Hunn asked Mr. Edwards his educational background. He has a Bachelor's of Science Degree in Electrical Engineering from Georgia Tech, has been in the wireless industry for 17 years, and is a Licensed Professional Engineer in 3 states. Mr. Hunn asked that CityScape report from October 16, 2015 be introduced into the record. (Exhibit K) Mr. Hunn asked for clarification as to where Mr. Edwards obtained the information used for his recommendation. Mr. Edwards stated that he used information provided by the applicant and by his own expertise. Regarding the alleged bias, he is aware of contracts with entities, but he does not get involved with the leases, he only provides technical analysis. He and his analysis is not compromised by his company's business interests with Dallas. His personal reputation is of more importance than the contract. Usually, there are many more approvals than disapprovals. They are in business to help the wireless networks obtain the best coverage, regardless of the financial interests or contracts held by his company.

Mr. Kiser asked Mr. Edwards if co-location was listed as a feasible option on the first application submitted by SCI Towers that was denied by SHPO in April 2015. Mr. Edwards stated that it was. Mr. Kiser pointed out that then in June 2015, CityScape was contracted by the Town of Dallas for management of sites. So, Mr. Kiser asked Mr. Edwards if there is consistency with recommendations before and after contracting with the Town of Dallas. Mr. Edwards affirmed and stated that CityScape has been involved with this line of business since 1996, nineteen years. Primary function is to help provide cities and towns with ordinance maintenance and make sure wireless structures deployed properly and that ordinances comply with federal law. He had been employed full time with CityScape for one year, as a contractor for six years prior to that. Worked for broadcast firm in television and radio in propagation and applications. His recommendation to deny the application on basis that use of the Water Tank, in conjunction with the American Tower existing site, will serve the goals of

the area and provide better wireless coverage, including emergency communications. Mapping he has looked at has better coverage (with co-locating) on the existing sites, than with the one new site. It all goes back to the first line of the ordinance, which states co-location if available. He would need to have better maps with correct heights of antennas to fully discuss possible areas of coverage if only located on the Water Tank. The existing maps are not accurate enough for that discussion.

Mr. Hunn asked Ms. Tiernan to explain what she disagreed with in Mr. Edwards' testimony. She said she could only build one site, not two sites. She also could not fully discuss coverage areas with the maps. Alderwoman Morrow asked how much more coverage was expected from what exists now. Alderman Huggins asked is Water Tank not closer to Dallas Stanley Highway "as the crow flies" than the proposed site. Ms. Tiernan stated the proposed site would allow more easterly coverage and distance is not the only factor. Alderwoman Morrow asked if there was not enough room for the equipment on the Water Tank. Ms. Tiernan said she could not say that without an analysis of the Water Tank structure. Mr. Palenick asked if cost or physical construction constraints were the issue. She said there were budgetary factors. She does not know how much equipment it would take for two sites or how much it would cost. There has been no structural analysis of the Water Tank. She stated that the two sites would not work for her network.

Mr. Edwards stated there would be existing ground space at the Water Tank for necessary equipment, if that is a concern. He also stated that based on the maps provided, there would still be a gap to the east and another Verizon site would be necessary to complete the coverage. Ms. Tiernan stated that all of the Verizon existing sites are not shown on the map, as it would be confusing to show all of their existing sites and she cannot show those.

Mr. Longest thanked the Mayor and Board for their time.

Mr. Hunn asked that the application submitted by Mr. Yates on behalf of SCI Towers be entered into the record. (Exhibit L)
Mr. Hunn asked that the Board evaluate all of the testimony and consider any perceived bias by any of the parties.

Alderman Cearley asked again about cost of building a new site versus the two existing sites. Ms. Tiernan stated she could not speak to that as she has only looked at the one site, which is her preferred site.

Mr. Edwards said that for comparison purposes, if there is a financial issue with two sites versus one site, then more information is needed to make a complete comparison. Ms. Tiernan stated that she could not use two sites, just one site.

Ms. Malaker Thomas made a motion to exit the public hearing, seconded by Ms. Morrow and carried unanimously. Mayor Coleman asked for a recess. (8:24) The meeting reconvened at 8:44. The Board had concerns over the notebook of information received at this meeting from SCI Towers. Mr. Cearley made a motion to table this item until January 12th, seconded by Mr. Withers. The motion was withdrawn. Mr. Cearley made a motion to re-enter the public hearing, seconded by Ms. Malaker Thomas, and carried unanimously. Ms. Malaker Thomas made a motion to continue the public hearing until January 12, 2016, seconded by Mr. Cearley, and carried unanimously.

Old Business:

Item 10A was a request to authorize and create a Community Garden space at 402 East Johnson St. This item was first brought to the October 13th Board Meeting for action, but was tabled pending receipt of the deed for the property. This vacant house and attached property was recently accepted by the Town by donation from the private owner in Ohio. Mr. Hunn has been expecting to receive the document authorizing the transfer of the title. At this time, Mr. Hunn has still not received the title document. He has also learned that the owner in Ohio has given up his rights to the property to his brother. At this point, it does not seem likely that the property will be transferred to the Town as a donation. Mr. Withers made a motion to remove this item from the table, seconded by Mr. Cearley, and carried unanimously.

New Business:

Item 11A was a request to approve a contract with Tarpon Construction for the Trade Street Intersection, Cross-Walk, and Pavement Improvement Project. Mr. Palenick gave an overview of the item. The FY 2015-16 Town Budget includes a total of \$527,150.00 for the intersection signalization, cross-walk, pedestrian, and streetscape improvements associated with the

upgrades at the intersections of Trade and Holland Streets, as well as Trade and Gaston Streets. In addition, this project now also includes the milling and pavement resurfacing of the section of West Trade Street linking the two intersections. This project, for which all design engineering is complete and for which all necessary easements have been acquired, has been authorized and approved by NCDOT and will be constructed in close cooperation with their engineering staff. Previously, on October 13th, the Board approved the first of the two component portions of the project—being the actual traffic signalization installations to the lowest bidder, Bryant Electric of Gastonia at a total contract cost of \$205,500.00. This action would authorize the second of the two component portions of the contracted work—being the actual reconstruction of the concrete sidewalks, ornamental cross-walks, and paving associated with the intersections and street. The low-identified bidder for this contract was Tarpon Construction of Gastonia, at a total bid of \$342,883.00, which includes \$307,622.80 for the town intersections and \$35,260.20 for the milling and resurfacing of the section of West Trade Street. (Exhibit M) When combined with the earlier contract award of \$205,500 to Bryant Electric, the total project cost will be \$548,383.00. This is \$21,233.00 over budget, but which includes the additional \$35,260.20 in street paving, so that in essence the budget was met for the work first contemplated. If approved, a budget amendment will be prepared to cover the overage with Fund Balance, which was last established by the Audit at \$1.8 Million in the General Fund and exceeding \$3.5 Million in the Electric Fund. Mr. Huggins made a motion to approve the contract with Tarpon Construction as presented, seconded by Ms. Malaker Thomas, and carried by the following vote: Yays – Aldermen Huggins, Malaker Thomas, and Morrow. Nays – Aldermen Cearley and Withers.

Item 11B was a request to approve a budget amendment to account for the replacement of the ice maker at the Fire Department. Due to an unforeseen breakdown, the ice maker at the Fire Department must be totally replaced. This was not anticipated or budgeted in the current year. As such, a budget amendment in the amount of \$3,653 is necessary for this expense in the Equipment line item of the Fire Department budget. These funds will be taken from the General Fund Fund Balance. (Exhibit N) Mr. Withers made a motion to approve the budget amendment as presented, seconded by Ms. Malaker Thomas, and carried unanimously.

Item 11C was a discussion to establish the date for the FY2016-17 Budget Retreat and set the Budget Calendar. Each year the Town establishes a calendar for the preparation of the upcoming fiscal year's budget. (Exhibit O) This year, Staff is recommending Saturday, January 30, 2016 as the Budget Retreat, to be held in the Mayor's Room at the Courthouse from 9:00 am until 12:00 pm. Ms. Malaker Thomas made a motion to approve the Budget Calendar and Budget Retreat as presented, seconded by Mr. Cearley, and carried by the following vote: Yays – Aldermen Cearley, Malaker Thomas, Morrow, and Withers. Nays – Alderman Huggins.

Closed Session:

Mr. Withers made a motion to enter into a public hearing, as provided for by G.S. §143-318.11 for the purpose of establishing a position on negotiating the price and material terms of a proposed contract for the acquisition of real property; seconded by Ms. Malaker Thomas, and carried unanimously. (9:10) Ms. Morrow made a motion to exit the public hearing, seconded by Mr. Withers, and carried unanimously. (9:19) A resolution was presented by Mr. Palenick establishing the Town's position on negotiating the price and material terms for acquiring real property on West Wilkins Street (Parcel ID's #132163 and #132164). (Exhibit P) Mr. Withers made a motion to approve the resolution as presented, seconded by Ms. Malaker Thomas, and carried unanimously.

Mr. Cearley made a motion to adjourn, seconded by Ms. Malaker Thomas, and carried unanimously. (9:25)

Rick Coleman, Mayor

Maria Stroupe, Town Clerk