

**HIGH POINT CITY COUNCIL
SPECIAL MEETING
JANUARY 8, 2016 – 4:30 P.M.
3RD FLOOR LOBBY CONFERENCE ROOM**

MINUTES

Present:

William S. Bencini, Jr., Mayor; Mayor Pro Tem Jeff Golden (Ward 1); and Council Members and Council Members Cynthia Davis (At-Large), Latimer Alexander (At-Large), Chris Williams (Ward 2), Alyce Hill (Ward 3), Jay Wagner (Ward 4), Jim Davis (Ward 5); and Jason Ewing (Ward 6)

Staff Present:

Greg Demko, City Manager; Randy McCaslin, Deputy City Manager; JoAnne Carlyle, City Attorney; Brent Cole, Assistant City Attorney; Dawn Sparks, Legal Assistant; Jeron Hollis, Communications & Public Engagement Director; Loren Hill, President-High Point Economic Development Corporation; Kim Thore, Right-of-way; Lisa Vierling, City Clerk; Maria Smith, Deputy City Clerk

Others Present:

Jay B. Michael, M.D.; Rick Moore; Jason Harris; Bill Nagy; Linda Simmons Mansfield
Henry Isaacson, Jennifer Fountain, Attorneys representing Skeet Club Road/Johnson Street residents
Daniel Paul, Attorney

News Media:

Pat Kimbrough, *High Point Enterprise*

Transcript

Mayor Bencini: I would like to call to order the January 8th Special Meeting of High Point City Council. The topic for this meeting is Skeet Club Transmission Project. Many of us on Council have already heard arguments by neighbors in opposition to the location of the poles supporting these transmission lines on the north side of Skeet Club Road. Staff made recommendations to this Council recently. First, High Point City Council approved the purchase contract for steel poles during our meeting on March 15, 2015. The vote on that staff request was unanimous. These poles are matched to the specific topography and location on the north side of Skeet Club Road. Further, our Finance Committee chaired by Jim Davis discussed this purchase contract during their March 12th meeting. The Finance Committee sent the staff recommendation to the full Council for consideration with a unanimous vote. The Finance Committee is comprised of Mr. Davis, Mayor Pro Tem at that time; Councilwoman Cynthia Davis; Councilwoman Alyce Hill and Councilman Chris Williams. The second recommendation made by staff was for

approval of the concrete foundations supporting the poles. On October 15, 2015, High Point City Council gave unanimous approval for the installation of the foundations in the NCDOT right-of-way north of Skeet Club Road. As in the purchase of these poles, the contract for installing the foundations was first considered by our Finance Committee. The staff recommendation was considered and voted upon by the Finance Committee on September 30, 2015. The recommendation was sent to the full Council for consideration with a unanimous vote. All members of the Finance Committee were present at both the March 12th and the September 30th meetings. The City is ready at present to begin installation and erection processes for the poles, supporting the 100 KV lines on the north side of Skeet Club Road.

There has been no direction by staff as to the agenda this afternoon. That is to be expected since staff was not involved in the calling of this meeting. The two Council Members who called this meeting have also not expressed a proposed agenda. In the absence of a proposed agenda for today's proceedings, I will exercise the privilege as chair to set the ground rules for what follows. The Guilford County residents or representatives living on the north side of Skeet Club Road adjacent to NCDOT right-of-way where the poles will be erected, will lead off with whatever information they would like to present. They will have up to 25 minutes to speak on their behalf. No questions will be asked by staff, City Council or other visitors during the presentation. Next, the City of High Point staff will have the opportunity to present whatever information they would like. As with the Guilford County residents or representatives thereof, City staff will be allowed up to 25 minutes to speak. No questions will be asked by Skeet Club Road residents or their representatives, City Council Members or other visitors during the presentation. If time remains before the 5:30 adjournment, Council can ask questions of City staff, Guilford County residents, or their representatives. Are we all clear on that?

It is now 4:35 and Jason, if you would like to have your group begin the presentation.

Jason Harris: We're going to have Henry start.

Henry Isaacson: May I stay here Mr. Mayor?

Mayor Bencini: Anywhere you feel comfortable Henry.

Henry Isaacson: I'm comfortable here if you are.

Mayor Bencini: That's good. I'm very comfortable with that.

Henry Isaacson: Good afternoon Mr. Mayor and Councilmen and ladies. I represent...I'm Henry Isaacson. I'm a practicing attorney. My office is at 804 Green Valley Road in Greensboro. I represent a group of neighbors who own homes on the north side of Skeet Club Road. When these neighbors came to see my partner, Jennifer Fountain, who is here to my right, and me, it was apparent that they were very upset and concerned about the fate of their properties. They had been advised that despite the existing utility easement and poles on the south side of Skeet Club Road, the City was going to install high tension wires on the line-up of very tall electrical poles, which are in excess of 100 feet high along Skeet Club Road on their side of that road—the north side. They felt that not only would those poles be an eyesore and

disruptive to the aesthetics of their properties, but they would substantially reduce the value of their homes and property as well. If you have seen those poles, I do not think it is difficult to understand the apprehension on the part of these neighbors. I can only compare them in size to the average cellular tower found in remote places in our County.

Each of these neighbors has a substantial investment in their property and a line-up of new electrical wires and tall poles would constitute a threat to anyone anywhere. These are good citizens who share their pride in the High Point community and their businesses contribute to the economic health and welfare of the greater community as well. Their concerns are deserving of your consideration, just as you would listen to and empathize with any other citizen. We very much appreciate your willingness to meet with us this evening and would like to ask that you direct your staff to take a time-out in order to meet with a representative group of these neighbors to determine what other options are available to them and the City.

We do know that the State Department of Transportation is willing to work around the property that is eligible for historic designation on the south side of Skeet Club Road, so that matter is no longer an issue. I therefore urge you to try and place yourselves in their shoes. Understand their plight and grant them what they are requesting of the City. What we need now is the time for a meaningful discussion between these neighbors and the City to see if we can reach a mutually agreeable compromise. In the interest of good community relations, won't you please allow that to happen? Thank you.

Now I'd like to introduce one of those neighbors, Mr. Jason Harris, who is to my right, for a few remarks.

Jason Harris: Good afternoon. My name is Jason Harris. My wife, Jenny, is here as well and here with our neighbors. I just want to start by thanking you guys. I know this is the first week back after the holidays. Everybody is stressed to the max and we have lots of things going on. So this is probably the last place that you guys want to be on a Friday afternoon at 4:30 to 5:30. And me, for one, am planning on being at the YMCA to watch my 10-year-old play basketball tonight, which I can't wait for.

But I want to take an opportunity to try to put this into context for you folks. Now I have found that the best way to do that is through looking at the maps via Google Earth. We're a group of neighbors in the Deep River area of North High Point and we're part of a remarkable 250-year history characterized by small family farms. And as you zoom in here, you can see really the difference in this area as opposed to all the neighborhoods that surround it. I lived within a quarter-mile radius my entire life except for the four years that I spend in Chapel Hill. I love High Point and this is my home. We're raising a family with five young children and preserving our home is my top priority as a father, a husband, and as a resident of High Point. As this area has grown and has become populated with residential neighborhoods, we have been here for over 20 years in this home. The need arose to improve the two-lane road that we live on and we support that widening of Skeet Club Road.

As we zoom in here, it's really interesting to take a look. And this will help you guys get a little bit of context for the area that we're talking about here. As you scroll over, you can see my

neighbor, Rick's home. This is one of the most beautiful homes and areas in High Point. Rick takes great pride in personally mowing that yard. I see him out there every day and putting those stripes in there and as you drive up the road here, just to the left is my home. We take great pride in our home in maintaining it as do our 1,500 geese that hang out there by the pond every day.

When we first learned about the road widening, you know, we were a little apprehensive about it—obviously. But the first plan that came out around the year of 2000 called for an equitable widening of this road and we thought that will be fine. You know, improvements are needed. But.....and we actually did some major renovations to our home. We moved out for about a year and a half and when we moved back in, we learned that everything changed. A Historic Architecture report was filed by the North Carolina Department of Transportation and this was drafted by a supervisor for the Historic Resources section. This report, ladies and gentlemen, has been given incredible credence. This report has literally made this road and the plan for this road shift all the way into our yards. The entire new highway, with four lanes, a concrete median, and guardrails and in my case, rip rap that will be placed in my pond. The reason for this is because this home directly across the street from me is the Mendenhall home that they've said is eligible to be on the Historic Registry. And they also recognize this Historic Spring House. That is the Historic Spring House that they are recognizing.

So, we got a new plan and we were very upset about the plan that we received for this massive highway coming into our yards to avoid that Spring House. When we got wind of the new plan, we reached out to the North Carolina Department of Transportation and we received the sympathetic ear of Mike Mills in the Engineer Office. He worked with us over a period of years to lessen the section somewhat. We've been working on this for nearly 15 years. This is a big deal to us. He worked with us. He lessened the impact somewhat removing the concrete median so that we could at least turn left and right out of our driveways. We retreated and we tried to find peace with this new plan. The road was still coming all the way to our side, but it wasn't quite as much of an impact.

One year ago, this same month a year ago, my neighbor, Rick, sitting right here, was working with the DOT and he was getting ready to.....actually the right-of-way agents came, they made appraisals, they negotiated with us and either made agreements or they condemned our land for the new highway. Then, Rick, just a year ago, when he was about to sign his agreement, he looked over and saw this pole. As I roll back down the street here— isn't this a cool program? You can see the pole, but then the pole disappears because of the timing of some of this photography. When we get to the intersection and turn right onto Johnson Street here, you can look up and see this single pole. This pole appeared out of nowhere, folks. So Rick was literally about to sign an agreement to sell his land and then he asked, "what are they going to do with these transmission poles?" "One just showed up here not too long ago." Rick, do you want to step in and tell that story quickly?

Rick Moore: Mayor Bencini and ladies and gentlemen on Council, I want to thank you guys for taking the opportunity to listen to us and the passion that we have for our properties. And I think Jason has really capitalized on that 100 percent, but I'll try to be brief. Ms. Oteka Cherry was the NCDOT Right-of-Way Agent that we worked with for years on our property—a super girl. She went above and beyond with me. My wife and I actually had signed the acquisition

agreement and she was at my wife's business and while she was looking around the business, I asked her if I could read the contract, which I very seldom ever do. When I came to the paragraph of Utility Easements, there was a paragraph that I just didn't understand. So I asked her if she would explain it to me. Out of all the negotiations that Ms. Cherry and I had, she ducked her head and she looked back up at me and she said, "Rick, I'm ashamed to tell you what that means." She said, "basically that means that they can do whatever they want to do." Well, in the meantime, I knew that this pole had already been erected on Martin Schlaeppi's property. I watched it. I've got pictures of it. I watched them erect this pole from equipment in the creek, which is not supposed to be there, but that's a whole other story. So, I told Oteka....I said, "Listen, I'm out for now, until you can get me some answers on what this paragraph means." And she said, "let me do this, let me contact High Point City and find out what the deal is and I'll get back with you." So she called me that day and said with the holidays, this was December 17th of last year....or year before last. She said all the staff is in and out and they want to meet two weeks after they come back from the holidays. She called and she was as upset as I was. She said, "Rick, I am so made....I can't tell you." She said, "these folks are going to put three of these poles in your front yard, along with five more creosote poles in your yard." And I'm going, "Oteka, you've got to be joking, all the PUE and utilities are on the north side." She said, "I understand that." "They are going to move them all to your side."

That's where this began. So at that time, I called Jason and made him aware and we called and set up our first meeting, which was in February with Mayor Bencini, City Manager Greg and there were some electrical engineering people there. And that was the first time that we learned of these poles being in our yard. From February to now, every meeting that we attended was....our concerns and their side and we'll get back with you in a couple of weeks and let you know if we can help you out. And those two weeks never came. We always had to call and reschedule another meeting to find out what was going on. The third and final meeting, we did get that call back within the time period that staff gave us and that was when we learned that they were moving forward regardless of what our position was, which was very upsetting for me. I felt like we had been drug down the creek to get to the 11th hour when we had no say whatsoever. So at that point....and I'll turn this back over to Jason.

Jason Harris: If there's nothing else that you guys hear tonight, this is what I want you to hear. This is the shocking point, right now, that I want you guys to hear. I came by here Monday night or earlier this week and I picked up a CD recording of your discussion about this topic on Monday night. I don't believe that Council is aware of this fact. This was clearly not expressed in Monday's briefing to you. These poles and the utilities were never disclosed by the DOT to the right-of-way agents and appraisers who determined our compensation for the taking of our land. On all of these plans, they came out. There was no information about these transmission lines. And as Rick mentioned, when the DOT right-of-way agent learned about this, she was appalled and embarrassed. It cannot be said that these transmission lines and utilities are not part of this road widening project. This plan was concrete and in writing with the NCDOT and to the City's credit; however, it was not disclosed to us or factored into the appraisals and the offers for our land. The City does have the right to use the DOT right-of-way, but this agreement was made before the DOT had the right-of-way. Clearly making it part of this project. And the City laid in wait for the DOT taking, perhaps thinking that they were covered and that the DOT would bear this additional burden. The City never presented the plans to us and they never offered any

compensation to us. The City has not paid for this land. And this is different than in any other section of this transmission project. Jennifer....

Jennifer Fountain: I just want to speak briefly about the issue of the condemnation because it was mentioned at the briefing about the compensation. Yes, when there is a condemnation, there is compensation by the DOT; however, in this situation, we are aware the utility easement is covered in the condemnation. They are aware of the poles being currently planned for this location and so what will be argued in the condemnation is that these poles place an additional burden that is compensable, in addition to the taking of the land for the right-of-way. So what these neighbors will be seeking for NCDOT condemnation [41:06] are additional damages, which we found a study that showed the devaluation of approximately 34 percent of the property due to these poles. So that will be sought in the condemnation. And then the question is, what is DOT going to do about that because I would find it difficult to see that DOT is just going to cover that cost and set a precedent of doing that for the other numerous cities in the State of North Carolina and could see a situation where the DOT would then come back and ask for the City of High Point to pay for those additional compensation damages that the DOT has to pay for.

And while I have a chance to speak, I just want to say, you know, we....the City of High Point had told our clients from the beginning the reason that the poles were going on the north side as opposed to the south where PUE utility poles already are is because of this property that was eligible for historic designation and because the DOT right-of-way was shifting. But once we got involved and we used other resources to be able to persuade the DOT to relook at that, so DOT said, yes, we will look at that and we will look at expanding and taking right-of-way and working around that property that is eligible for historic designation. So all that we were asking the City to do was to work with us since DOT had said that they could work around it. The City has said the only reason those poles are on the north side is because of that property. So we said, okay, let's talk about a new plan. So we were told that we were going to have a meeting to talk about that new plan and talk about numbers. If there was going to be any cost to the City for having to move the poles and figure out what those real numbers were. And then we were told two days later there would be absolutely no meeting. So, again, as Jason has stated, the goal of this is just to press the pause button and let us have that meeting that we were told we were going to be able to have so that we can sit down and figure out what the costs are and if there's a possibility of moving those poles.

Jason Harris: When high power transmission lines bisect a residential property, as Jennifer said, it results in up to a 34 percent devaluation of that property. Folks, this has not been accounted for in this taking—in our property being taken. And this literally will mean up to 2 million dollars that has not been accounted for. We have existing open condemnation cases and this will be the biggest point made by Bob Brenson, who is in Jay's office, who represents some of us in this room as well as Mr. Isaacson and Jennifer, who represents others of us. Plus in the case of Mr. Nagy and Dr. Michael, my neighbors, they made agreements with the State that were final and did not include this information. What a convenient and mysterious thing to leave out of an agreement. One hundred and fifteen foot metal poles were completely left out of the agreement. I would think....I can't speak for them....but there will likely be lawsuits for misrepresentation to obtain the money that is due to them. And that could result in multiples of

damages. Folks, we have exhausted our opportunities to work with the City staff to discuss all of the facts, the costs and all the options that are available.

In fact, the City Attorney sent us a letter on December 4th, last month, stating that there would be no meeting under any circumstances to discuss the options. It was in this very letter that for the first time that they mentioned a few impediments that they expressed that the DOT would need to overcome to locate these poles in the existing easement across the street. We immediately addressed some of these with the DOT and all of them as Mr. Isaacson have been mitigated with the exception of you guys having to expand your easements slightly, which squarely falls on the shoulders of the City of High Point. One of the points made in this letter was whether or not the new transmission lines could cross this property that is eligible for the Historic Registry that we referenced earlier—the White house. And as Henry mentioned, that's been taken care of by two very reliable sources, right?

Henry Isaacson: Correct.

Jason Harris: Folks, my neighbors and I are united and we have spent tens of thousands of dollars on representation in this matter and literally spent years of our time working on this. Over the past 90 days, we have sought advice and direction from our elected officials, including Mark Walker, Alma Adams and John Faircloth. They have been extremely supportive and helpful, making a number of phone calls to many of you. But here's what we've learned. All these roads lead to one place, you, our City Council. I've learned through this process personally that our government was actually built in an incredibly fair fashion. It's why we're the best country in the world, for this opportunity right here, for fair-minded people like yourselves to listen to this. This is your responsibility. I've already found this group, from some personal relationships that I've created here, to be a noble, upstanding group. You listen to us and even in the first week of this New Year at the very end of the week when you all could be doing other things, you're here with us. We're burdened by this. These are our homes. What we're asking for here ladies and gentlemen is not a verdict today. We're not asking you to overcome, overturn this decision today. We're only asking that you press the pause button to allow all facts, all costs, all responses from the DOT, so that the right decisions and the fair decision can be made. Most of us in this room are businessmen and if this is an issue about money, let's put it all on the table. In fact, between me and my neighbors, we employ nearly 1,000 families in High Point and the surrounding area. Let's approach this from a business perspective. If this were an issue—just about the cost—the City cannot conclude that there will be no additional costs associated with placing these poles in our yards. This is clearly part of the widening project as it stands and it has not been accounted for. Yes, Cities have the right to use DOT right-of-ways, but they do not have the right to make an agreement with the State for usage of this land prior to it being owned by the State and the homeowners not being compensated. That makes it part of the project.

Was this a blunder by the North Carolina Department of Transportation? Absolutely, they screwed up. But that does not mean that it just goes away and that they bear the burden for it. It will be accounted for if it happens and the DOT will not set a precedent for this, just as Jennifer said. We thought about this and we thought about and we thought about it. The best solution, folks, is to bury these transmission lines. We predict that this will ironically at the end of the day

be the most cost effective solution and will also acknowledge this historical report for the neighborhood that has been given so much credence in this whole process. If you're evaluating all options:

- A, your current plan of placing these poles on our properties;
- B, placing the poles in your existing utility easement across the street; or
- C, burying these lines

You would look at these factors. You would look at how much does it really cost to bury these lines. I'd get three quotes. How much money is saved by no poles and no massive digging concrete footings? Yes, I know agreements have been made Mr. Bencini, but no work has been done. How much would you save from not relocating the current utilities? All those utilities that you see on the other side of the street, they're all getting taken down and moved. There's a big expense to somebody for that. How much will you eventually pay for the damages that have not yet been accounted for? Has this collaboration been fraudulent? What will the legal cost be to fight these actions and what will the legal cost be to fight these misrepresentation cases? Okay? This isn't just about money, though, we purchased the land and built our lives here. We bought land that was clear of utility easements. Those exist on properties that our neighbors across the street purchased, knowing they were buying property with utility easements. This changes what these properties are for us and will likely result in some of us moving, tax values decreasing for the City and our City blatantly disregarding its history. We're grateful for your time, your service to our City and your openness to listen. Thank you.

Mayor Bencini: Thank you, Jason. Now, city staff—Greg, Randy?

City Manager Greg Demko: Randy.

Mayor Bencini: JoAnne?

Deputy City Manager Randy McCaslin: Let's start out by just saying the same thing that Council has heard numerous times. The City has followed every procedure and all regulations we were supposed to follow for projects with DOT. And we've done these projects for a number of years here in High Point, working with DOT. Again, for years prior to this point. This project here that we're talking about today is the middle step or the middle part of a much larger project of connecting the OakView Substation on Johnson Street behind the fire station up to the Barrow Road substation on Barrow Road with 100 KV lines in order to make sure that the City has reliability and is able to shift loads between substations, which is a standard practice. If you look at all of our substations and you look at all of Duke Power substations across the country, in other cities, they are connected with these 100 KV lines.

We specifically started working on this section of the project with DOT in early 2000, March of 2000 starting with a series of public hearings on the project. In June, 2006, all our complete plans showing the realignment, the distribution poles, which is the small poles, and the addition of the transmission poles, were given...those plans were given to DOT in June of 2006. June of 2006. In June of 2007, in conjunction with the Barrow Street widening, which is part of our 2004 bond package. We completed the construction of the Barrow Road transmission line, 100 KV lines

that run from the Barrow Street substation down Barrow Road to Skeet Club. In June of 2013, we completed the Johnson Street leg of that transmission line running from the Oakview substation behind the fire station on Johnson Street up to and ending at Skeet Club. The missing link is the part that runs along Skeet Club from Johnson Street to Barrow Road.

Numerous times between when we turned over our plans in 2006, up until present day, we have met with DOT and/or their consultants, engineering consultants, for many meetings dealing with utilities, relocation and construction on this road. It includes not only these 100 KV lines, it includes our distribution lines, it includes Duke Power's distribution lines, Time Warner Cable's lines, North State's lines, our water and sewer lines, etc... all those gas lines. All those have been discussed at numerous meetings at that timeframe. On August 5, 2013, the City adopted, the City Council approved a Utility Relocation Agreement, what we call a Municipal Agreement, with NCDOT that called for them to acquire all the right-of-way associated with this, which has been their stance from Day one, since early 2000. That they...just like they do on all of their projects, not in High Point, but all of them across North Carolina, when they do a project of this nature, they acquire the right-of-way and the utilities are located accordingly. So we have signed that agreement. Again, we've followed all the procedures and policies that we were supposed to.

Then, of course, coming to this year. On the 15th as the Mayor said earlier, Council approved the pole purchase. These poles are individually designed for specific locations along the line and then on September 23rd of this year, they approved the foundation bids. We have been holding it up since September on that in order to meet with the residents. We started meeting with the residents early in 2015 and have met numerous times with them, including....Mr. Moore stated that he didn't know until February that some of these poles would be on his property when he met with the Mayor and Greg and others, but in January 2015, our representatives, including our consulting engineer, Jerry Ford, met with Mr. Moore on-site. We agreed to move a couple of pole locations to a location that Mr. Moore more readily agreed to. And then on January 19th, we sent a letter to DOT informing them of this re-design in order to appease Mr. Moore and asked if DOT was willing to assume the additional cost associated with that, which I believe was in the \$59,000 range. They responded that that would be included in the relocation cost. We agreed to move our distribution lines to the south side on the same pole line as Duke Power. When DOT first started this project, they were going to put all the utilities on one pole line, which is what we would prefer. But somehow in all the discussion over the years, Duke Power was able to get DOT to agree and there will now be utilities on both sides of the road all the way from Johnson Street to Eastchester. And as you can see on Eastchester at Skeet Club, there's already two pole lines coming up on the north side is the City's pole line and on the south side is generally Duke Power's pole line.

We at no time have proceeded with any part of this project without DOT's approval. The one pole that was the end of the Johnson Street project that is the current terminus of that part of the project, which is located in the northwest quadrant of the Johnson Street/Skeet Club intersection, that pole was actually put in before NCDOT had acquired the right-of-way from the property owners. We didn't know that. Not only did we have written approval from NCDOT to put that pole there, they actually state the location for it and moved it three or four times because it interfered with their storm drainage associated with their project. So the only thing that I would

stress is what I continue to stress is that everything that the City has done has been in accordance with DOT's direction and knowledge throughout this whole project.

There has been some discussion of possibly...I think it was stated several times by Mr. Harris, why don't you move the poles to the south side of the roadway. To do that, you would be affecting properties whereas on the north side, Mr. Moore's property is roughly 6.6 acres. Mr. Harris' is 6.8 acres; Nagy's is 4.76 acres; Mansfield's is 7.2 acres. The fifth property, Cha, I believe, is 6.83 acres. So you're looking at large tracts of land there. On the south side, you could be affecting, you would be affecting, tracts of land that range from 1.1 acres down to a small of .38 acres with homes on them. So the impact on those homes would be much greater in moving these 100 KV poles to the south side of Skeet Club.

The subject of compensation has been brought up and has been handed out to you by the attorney, each property owner, these one, two, three, four, five property owners have been paid pretty substantial funds for the right-of-way that NCDOT has purchased for this project, ranging from a low for Mansfield of \$57,000 up to a high on Harris' property of \$173,000. So it's a great deal of money that's been paid for this right-of-way thus far. And, again, DOT has known about our plans from the very beginning for over ten years and had actual plans to that effect. What they told their right-of-way agents and what the right-of-way agents told the property owners....we were not a party to that, so I don't know.

Mayor Bencini: JoAnne.

City Attorney JoAnne Carlyle: If I could just make a few additional comments. My department has reviewed everything that we can put our hands on and we can't find anything that the City has done wrong in this matter. We followed the same format and the same agreements that every city in North Carolina uses with NCDOT in this kind of project. I was first really involved, I guess, in June or July. I sat down with the property owners and at that time, they had legal counsel at the table. I think his name was Daniel Paul. I think that's Mr. Paul back there. It was then in June or July that I became aware of the issue of whether or not we could move them across the street with regards to the historic property. I took it upon myself and my staff at that time to try to look into that and see if that was an option because at the time we were looking at everything that we possibly could. We were researching every point of the case. We were spending quite a bit of time trying to find out whether or not that was something we could do. As you know, contacting the folks in Raleigh and really getting to the bottom of something and getting a final answer is not always an easy thing to do. The managers involved John Faircloth at that point in time and I just had another conversation with John, I think it was last week or the week before, it might have been right before the holidays. Anyway, where it was left, because I've been trying to get a final answer, something concrete that we could rely on if that was something, indeed, that the City could take into consideration, but I have been unable to do that. And in September or October of 2015, my Assistant City Attorney reached out to Jennifer Fountain asking for their assistance and really kind of pushing it to them because we were spending a lot of time on that in our office when really it was in their best interest if somebody could find an answer to that question. If you guys have received something in writing, I would love to see it because the last thing I heard from John was, JoAnne, the assistant secretary says that they'll look into it, but that's the assistant secretary, which means that that's not something

final. I don't know if there's really a whole lot more that I can offer other than we've looked at it up and down and from every side and cannot find anything that the City has done indirectly.

Mayor Bencini: Anybody else on staff? We have a few minutes before the 5:30 witching hour, so if Council Members have any questions that they would like to ask of the Guilford County residents on the north side of Skeet Club or their representatives or staff, please go right ahead and ask a question.

Council Member Jim Davis: I'd like to ask a question. Jason, you said that you were reading from an audio that you received from.....picked up....did you pick that up from here at City Hall?

Jason Harris: Yes.

Council Member Jim Davis: What meeting was that audio from?

Jason Harris: That was the Manager's Briefing meeting on Monday evening.

Council Member Jim Davis: This past Monday? I wasn't in attendance at that meeting.

Jason Harris: About the last fifteen minutes of the meeting.

Council Member Jim Davis: Alright, so did Council discuss the poles in thatwas that correct in what was said?

Mayor Bencini: I asked for a status update from our manager.

Council Member Jim Davis: Could you read what was said one more time?

Jason Harris: Read it? I have an audio recording of it. I'd be happy to forward it to you.

Mayor Pro Tem Jeff Golden: It was in line with what was being said today. I didn't hear anything different from what we were told on Monday.

Council Member Jim Davis: From staff or from the residents?

Mayor Pro Tem Jeff Golden: From staff. They wasn't here on Monday, but what staff said today was consistent with what they said on Monday.

Council Member Jim Davis: Well would that be consistent with what he said the audio said because the audio said something different unless I just heard it wrong.

Mayor Pro Tem Jeff Golden: You may have heard it wrong, unless you've got a specific item in there you want a question about.

Council Member Jim Davis: I guess what interested me was the fact that someone said that the poles were being placed there and just compensation wasn't considered....that part.

Jason Harris: Absolutely. And that's the case. That is the case. These numbers that have been passed out here...these are the offers that the NCDOT have made us for our properties. Some have accepted. Some of us did not. But these numbers do not reflect these transmission lines as part of these numbers because it wasn't disclosed for the right-of-way agents or the appraisers.

Council Member Jim Davis: Alright. Do you mind just reading that part of the audio?

Jason Harris: I don't have a transcript of it.

Mayor Bencini: That was not discussed at the Monday meeting.

Council Member Jim Davis: That's what I'm trying to get to.

Jason Harris: What was mentioned at the meeting and I believe it was Randy, but I'm not sure from the audio, was that the DOT has taken care of this. The DOT has taken care of it. The net of all this, folks, is it has not been taken care of. We haven't been compensated from apocalyptic 100-foot metal poles in high power dangerous transmission lines that bisect our properties. It's not been accounted for.

City Attorney JoAnne Carlyle: May I? And that's the crux of the argument here, whether or not there's an additional burden. As you heard Ms. Fountain....

Mayor Bencini: Can I ask....since you're our attorney, in all the other 1,000 or so 115-foot high steel poles for 100 KV transmission lines that we have already placed in the City of High Point, have there been any other lawsuits around this argument?

City Attorney JoAnne Carlyle: No, and we would handle it the same way. And, no, not to my knowledge. And if we go on DOT, we go on DOT just like what you've heard tonight. Otherwise, if we cross the street the other way, we will have to go back and we will have to condemn property on that side.

Mayor Bencini: Ms. Fountain, do you have a question?

Jennifer Fountain: I would just like to follow-up on that comment about why this section of property is different than all the poles that were installed on Johnson Street. May I address that?

Mayor Bencini: Well you might as well address it for the entire city because they are all over—not just Johnson Street, which is directly adjacent so I understand the relative importance about talking about that. But, Ms. Fountain, these poles cover our City. We have 1,000 of them already installed and I was simply trying to make the determination from our Attorney, what sort of legal issues have come about as a result of, you know, possible additional damages to properties by placing those poles in right-of-way or public utility easements either one.

Jennifer Fountain: Well, the reason that our clients are asking for special consideration is because it was a very different case, at least on Johnson Street. And I can research the other 1,000 poles and see if it's the same. But on Johnson Street, the City of High Point already had a PUE. So on Johnson Street, it had to create a larger PUE in order to put these large poles in. So the City went and negotiated and compensated those individuals for the additional PUE that it was taking on Johnson Street. This section of Skeet Club Road, it is my understanding it is the only section where the City is using the DOT right-of-way and therefore not having to have the City itself compensate those neighbors. Then, further down Skeet Club Road, the City will have to purchase additional PUE and compensate those neighbors. So we're talking about a very small section of Skeet Club Road, these people are being treated differently than the other citizens of High Point and that's why they're asking for us to be able to sit down and talk about it.

Mayor Bencini: I would like to ask our Attorney, is your interpretation that they were treated differently because one is using a PUE and one is using NCDOT right-of-way.

City Attorney JoAnne Carlyle: Absolutely not. Of course, I can't answer the question...I'd have to rely on our engineers as to why they needed to go where they went, but as from a legal standpoint, no, there's no difference.

Deputy City Manager Randy McCaslin: As far as I know, Mr. Mayor, we're not acquiring anymore....the City is not acquiring any more right-of-way or PUEs on Skeet Club.

Council Member Latimer Alexander: Mr. Bencini, I believe these citizens have been treated differently than the other citizens. I believe that our engineering of these poles was done so that there would be no guyed wires on these poles. The other 1,000 poles that are around, there are guyed wires. So we have specially engineered these poles to be as low of a possible impact as possible. So, yes, they have been treated differently than everyone else. If you look around High Point, these poles run down Eastchester Drive. Everyone in this room is familiar with Vann York Honda on Eastchester Drive. There are several poles there. There are other large estates that these poles appear on. Joe Floyd's property on Westchester Drive, there's half a dozen poles along his acreage there and all of those have guyed wires. These don't have any guyed wires, so, yes, these neighbors have been treated differently, but they have been treated better.

City Attorney JoAnne Carlyle: And I'm presuming that is at a cost savings to the City because, again, we're trying to stay within that area.

Council Member Latimer Alexander: And Westchester was up and it used DOT.

City Attorney JoAnne Carlyle: Which would make sense why we wouldn't have tried to acquire more and pay for it.

Mayor Bencini: Ms. Hill?

Council Member Alyce Hill: So the crux of the issue then is the compensation that they believe that they should have gotten from DOT because the compensation doesn't come from us, should have been higher because DOT did not disclose the poles. So they are presuming that there would be recourse from DOT to us, but as Randy stated DOT had everything, so we didn't fail in any obligation to disclose it to DOT. Do I understand that correctly?

City Attorney JoAnne Carlyle: Exactly.

Rick Moore: Mr. Mayor, just briefly. I want to clear up one point on Randy's comment on the timeline for me. I learned of these poles before anyone else did on December 17, 2014. I met with his engineers in January after that, so let's get that clear. And as far as Councilman Alexander's comment as to these other poles, when you start comparing Vann York Pontiac and Vann York Toyota to where we live, I take that as an insult because that is a high traveled commercial area. You know, we don't need to get into meat and potatoes here, but the fact is that we've been misled from the beginning. We've been misled from December 17th to we sit here tonight and that is a fact.

Mayor Bencini: Is there anybody on staff that believes that we have misled, purposely, the neighbors on Skeet Club?

City Attorney Carlyle: Absolutely not. And just as Mr. Harris has said. I mean he said a while ago that DOT blundered. I tend to agree. If there was a blunder, it was not the City, it was DOT.

Jason Harris: I would agree with that, but it still exists and they are going to remedy that.

City Attorney Carlyle: And we'll have to defend that at that time.

Jason Harris: And our request for you guys is can we pause the project until we can get all these facts on the table. Until we can work with all parties. We're not saying change it. We're saying can we just stop right now and give us a period of time to get DOT and all of us together and look at the costs associated with this, look at the alternatives—the real costs, not hearsay or it's about this per foot to bury them. Let's lay it all out on the table so we can make the best decision.

City Attorney Carlyle: And maybe for my own personal satisfaction because we've spent so much time researching it, do you guys have something in writing from the historic folks in Raleigh? Because I would love to see it.

Jennifer Fountain: We have the word from John Faircloth that issue could be resolved.

City Attorney Carlyle: Well I talked to John and you heard what John told me.

Jason Harris: And we've talked to Mike Mills.

City Attorney Carlyle: And Mike Mills is not the secretary either. I want something concrete that we can legally rely on.

Jason Harris: To your point, that's why we want the time.

Mayor Bencini: Well I've also heard from Mike Mills that this is very difficult to get the historic folks to compromise in any fashion.

City Attorney Carlyle: Does it seem....I mean, not to oversimplify it, but from an attorney's standpoint and not an engineers, that was one of the first things that I wanted to go digging around to see if we could get resolved.

Jason Harris: How do you get a PUE? Is that something that you have to purchase? Do you have to buy that?

City Attorney Carlyle: Yeah.

Jason Harris: So that's happened everywhere else except for in our section? And you know what, nobody ever notified us that this was coming.

City Attorney Carlyle: And remember, I told you and this might have been at our June or July meeting, if we can go on someone else's easement that's already there....

Jason Harris: They weren't there when you made the deal.

City Attorney Carlyle: We're going to be saving the City some money. We have an obligation to do that.

Jason Harris: When you made the deal with them, they didn't own the land. It was our land.

City Attorney Carlyle: But I bet you that our agreement with DOT covered all of that, which again puts the responsibility back on them and not the City.

Jason Harris: This afternoon I talked to Mike Mills and he said, no, High Point is going to have to compensate for that. So that's what we're dealing with is a ping pong of back and forth. So we're left holding the bag.

Council Member Wagner: I have a question for Mr. McCaslin. In your opinion, what is the estimated cost of burying these lines?

Deputy City Manager McCaslin: The estimated cost, and I say estimated, is \$1,000 per running foot. So basically we're looking at running, as I understand it, across these five properties up to Gelding Court, which is somewhere in the neighborhood of \$3.5 million to \$4 million because you have to put 100 kV lines underground and encase it in concrete. We would not know an exact price until it is engineered and we do soil borings to determine the rock and soil conditions. So we have not wasted the city's money and done any engineering on that yet and we would have to do that before we could come up with an exact price. But a good ballpark figure is anywhere from \$3.5 to \$4 million.

Mayor Bencini: Ms. Davis:

Council Member C. Davis: How much would it cost the City if we put them where the existing poles are across the street?

Deputy City Manager McCaslin: In the neighborhood of, again, the same caveat I gave Jay, it would have to be engineered. You'd have to go through that process, but it would be in the neighborhood of \$700,000.

Mayor Bencini: In addition to the money we've already spent.

Council Member Wagner: Did that include the possible purchased right-of-way?

Deputy City Manager McCaslin: That would include DOT acquiring more right-of-way or PUE for that and us getting the approval to put it on historic property. A lot of unknowns.

Mayor Pro Tem Golden: And the impact is much greater over on that side.

Deputy City Manager McCaslin: Then you'd have impact on those property owners too.

Mayor Bencini: Ms. Davis.

Council Member C. Davis: The only other question I really had was why did we decide....and I drove down Skeet Club today two or three times to make sure that I had a good bird's eye view, why did we.....I don't understand, if we've got the utility poles that are already existing, they're already there, wouldn't it have been just as smart or just as prudent of us to leave them where they are and see what our cost is to put them back in the ground where they are and compensate just for the extra space that we need?

Deputy City Manager McCaslin: Okay, go back to when I said our plans were done in 2006. In 2006, the design of the roadway included two lanes in either direction, plus turning lanes, plus a median. The right-of-way required was much wider. The road would have overtaken the utility easement on the south side, so those poles would have to be moved anyway.

Jason Harris: I can argue that. That's not true.

Deputy City Manager McCaslin: In 2006?

Jason Harris: It's not true. Across the street from us, Sir, they're gaining land with this road widening.

Deputy City Manager McCaslin: They are now, but DOT moved the design, over our objections, I don't remember when, but sometime because Becky went to the Department of Transportation to argue on your behalf to slide it back over. So at the time we designed our

plans in 2006, that was a much wider roadway. The right-of-way was going to be wider and the pole line on the south side would have had to have been moved anyway.

Jason Harris: Two wrongs don't make a right.

Mayor Bencini: We have reached the end of our meeting. It's 5:30. Is there a motion to adjourn?

Council Member Alexander: Motion to adjourn.

Mayor Bencini: Is there a second?

Jason Harris: Mr. Isaacson had his hand up well before you called the end to the meeting. If he could finish.

Mayor Bencini: Mr. Isaacson.

Henry Isaacson: Just a simple question, Mayor. I would ask Council what harm is there in allowing these neighbors what they have asked for this evening and that is a reasonable amount of time to sit down with staff and anyone else, Council Members, in order to try to resolve some of these questions that have arisen at this table this evening?

Mayor Bencini: I think, Mr. Isaacson, pretty much to a large degree, these questions have been resolved in the minds of staff and of City Council. We have taken, I believe, a great amount of time in discussing this and I don't know of a resolution that's reasonable that's not just going to drag out and drag out and drag out. If there is some sort of an injunctive approach that the folks in Guilford County on the north side of Skeet Club Road would like to make, I'm perfectly okay with that. I don't have a problem with that.

Council Member J. Davis: Mr. Mayor, can I ask staff if a 30 or 60 day delay hurt this project? We could get some final answers and come to a resolution.

Deputy City Manager McCaslin: We have....our company is mobilized to start drilling the foundations. We would probably incur additional mobilization costs associated with that and I don't know, depending on the delay, whether they would continue to honor the contract.

Mayor Bencini: There was a motion to adjourn. Is there a second?

Council Member Ewing: Second.

Mayor Bencini: We have a motion and a second. All those in favor, say Aye. Aye. [all] Opposed? [none] Meeting is adjourned.

[end of transcript]

The meeting adjourned at 5:32 p.m.

Respectfully Submitted,

William S. Bencini, Jr., Mayor

Attest:

Lisa B. Vierling, MMC
City Clerk