

**HIGH POINT CITY COUNCIL  
SPECIAL MEETING  
JANUARY 16, 2018 – 4:00 P.M.  
3<sup>RD</sup> FLOOR LOBBY CONFERENCE ROOM**

**MINUTES**

**Present:**

Mayor Jay Wagner, Mayor Pro Tem Chris Williams (Ward 2) [arrived at 4:06 p.m.]; and Council Members Britt Moore, At Large; Don Scarborough, At Large; Jeffrey Golden (Ward 1); Monica Peters (Ward 3) [arrived at 4:09 p.m.]; Wesley Hudson (Ward 4); Victor Jones (Ward 5); and Jason Ewing (Ward 6) [arrived at 4:03 p.m.]

**Staff Present:**

Greg Demko, City Manager; Randy McCaslin, Deputy City Manager; Randy Hemann, Assistant City Manager; JoAnne Carlye, City Attorney; Kenneth Shultz, Police Chief; Loren Hill, President, High Point Economic Development Corporation; Eric Olmedo, Budget and Administrative Director; Lee Burnette, Director of Planning & Development; Heidi Galanti, Planning Administrator; Jeff Moore, Financial Services Director; and Lisa Vierling, City Clerk.

**Others Present:**

Jim Morgan, Attorney, Morgan Herring Morgan Green & Rosenblutt, L.L.P.  
Paul Coates, Attorney, Pinto Coates Kyre & Bowers, PLLC  
Don Vaughn, Attorney, Donald R. Vaughan & Associates

**News Media:**

Pat Kimbrough, High Point Enterprise

Mayor Wagner called the Special Meeting to order at 4:00 p.m. and announced that the Special Meeting was called for the purpose of receiving an update from staff on the Catalyst Project, and for holding a Closed Session pursuant to N.C. General Statute 143-318.11(a)(3) Attorney-Client Privilege.

**Upon motion by Council Member Golden and second by Council Member Moore, Council entered into closed session pursuant to N.C. General Statute 143-318.11(a)(3) to preserve the Attorney-Client Privilege. The motion carried by a 6-0 vote. [Council Members Ewing, Peters, and Williams had not yet arrived at this point].**

Upon reconvening into open session at 4:12 p.m., Mayor Wagner announced that there would be no action taken as a result of the closed session, with the exception of the Request to Ratify the Mayor's Signature on the Seaboard Settlement Agreement.

*Note: The action on this matter will be taken during the Regular Meeting of the High Point City Council, which will be held at 5:30 p.m. immediately after the adjournment of this Special Meeting.*

*The following handouts were distributed during the meeting and will be attached in Exhibit Book XII accordingly as a permanent part of these proceedings.*

- ✓ Yadkin County Lawsuit, front page and outline of all the claims (opioids)
- ✓ PowerPoint Presentation- High Point Catalyst Project
- ✓ Frequently Asked questions About the “Stadium Bonds”
- ✓ Meeting Schedule for Departmental Presentations

## **OPIOID LAWSUITS**

Three local attorneys, Don Vaughan, Paul Coates, and Jim Morgan, have approached the City of High Point regarding the opioids lawsuit and have submitted a contract for consideration by the City Council. The contract is currently being reviewed by City Attorney JoAnne Carlyle.

These attorneys were allowed an opportunity to make a short presentation regarding their proposal.

They are part of a national consortium on opioids and have five national firms that are involved in this particular matter. Their group has filed about seven lawsuits through the national consortium. In North Carolina, they are in discussions with another eight counties and some cities that have either signed contracts or are getting ready to do so. They have also been in discussions with another 30-35 municipalities/counties regarding the widespread opioid crisis.

Attorney Paul Coates reported some statistics obtained through the CDC website, that indicate a widespread problem with opioids in Guilford County (about 74 opioid prescriptions per 100 people). He pointed out this is a vast number of pills and this is what the lawsuit is all about. They are suing the manufacturers for deceptive advertising because they failed to do the proper research and have told the doctors that the pills are not addictive because they are continuous release. He further explained that the pills are getting diverted to an illegal use and getting sold and shared that statistics show that 80% of all heroin users started on pills.

Attorney Don Vaughan informed Council that there would be no cost to the City of High Point to file a lawsuit because they would absorb all the legal fees, clerk of court fees, etc.....

Attorney Coates provided a partial copy of a 160-page lawsuit they filed recently in the Middle District of North Carolina, Greensboro Division, on behalf of Yadkin County, which contains the front page of the lawsuit, as well as an outline on all of the claims.

City Attorney JoAnne Carlyle relayed that she has read all 160 pages of the lawsuit and noted that High Point is really interested in where some of the resources are to obtain specific information on High Point. She pointed out the lawsuit filed on behalf of the City of Jacksonville had very specific details and numbers and they actually had a special study that was conducted.

Mr. Coates shared that Jacksonville happens to be in the Top 25 in the country for opioid abuse and opioid death. Other cities in North Carolina that are in the Top 25 are Wilmington, Hickory, and Fayetteville, with Wilmington being number one in the country.

Regarding the resources that Ms. Carlyle inquired about, Mr. Coates stated they would be able to derive the information for High Point from the Guilford County statistics and would use those as a basis for a lot of the allegations for the City of High Point and the same for the City of Greensboro if they choose to also jump on board and file a lawsuit.

A short discussion followed regarding how taxing the costs of the widespread opioid use is on the police department, fire department, sheriff's department, EMS, etc... Police Chief Kenneth Shultz shared that the High Point Police and Fire Departments and EMS carry Narcan and noted just on the Police Department side, it was used 55 times in two years where they were the first responders at the scene. In addition to this, he noted it takes multiple dosages from the Fire Department and EMS.

In closing, Attorney Coates advised that the damages model of the lawsuit includes education, treatment facilities, and abating the nuisance. He explained the basic claim is the City Council would declare a nuisance, abate the nuisance, stop the nuisance, halt the nuisance, and use the funds to take care of the problem.

High Point Attorney Jim Morgan advised that he studied this and met with the mayor and manager to discuss it. He feels it would be a win-win for High Point to be a part of it. He noted that it also allows an opportunity for some funds that could be used to help the police and fire departments do other things and spend money to further stop it. He expressed hope that the City Council would join in.

City Attorney Carlyle agreed that the terms of the contract could certainly be discussed when the City Council is ready to move forward.

### **CATALYST PROJECT UPDATE**

Randy Hemann, Assistant City Manager, provided an update on the Catalyst Project and shared the following:

#### **Downtown Area Mixed Use Plan:**

The Plan was adopted by the City Council on September 18, 2017 to carve out a district for the creation of a downtown. It consists of a 131-acre area. The Central Business District area was also expanded for showrooms. Much of the property in this area (41%) was underutilized with only 15% of the area being used for market showrooms; 12% being used for medical; and 10.5% used for office.

#### **Demolitions:**

Buildings are currently being demolished for the project.

#### **Brownfields Agreement:**

The State has now signed off and approved the Environmental Management Plan and the proposed uses for this property have been approved. This means that as buildings are demolished, the slabs can now be removed.

Design-Build and Bids:

There is quite a bit of bidding taking place on the project and a lot of operating details are still being discussed such as things related to food service, locations, entertainment, how ticketing will be handled. There will likely be the team offices, the stadium store, and the ticketing area that will come in from the Church Street area in a building that will be built by the master developer. As a result, they are working on contingencies for any temporary facilities that might be needed.

The seat count/size is close to being finalized and will probably have less berm seating than what was originally planned.

Decisions are being made related to the stadium and whether it would be an artificial surface (artificial turf). More than likely, it will be bid out for both artificial turf and real grass. For it to be a true multiple use stadium, it will need to have the ability to change over quickly which leans toward the artificial turf, but with a clay mound. It is hopeful that there may be some greater interest in soccer in the future.

Mr. Hemann reported that the stadium itself sits on approximately 6.8 acres and the boundaries for the stadium have been set. The City Council selected a master developer, who is currently working on the plans, which are close to being rolled out with some possible tweaking in certain locations.

Mr. Hemann reminded Council that the land that will be sold to the master developer for the peripheral development at fair market value. Staff is anticipating that the master developer will be providing a list identifying how the land cost will be divided amongst the remaining land and what the cost and take down schedule will be. The city has purchased the land that is under the stadium footprint and will be keeping this property.

Approximately 10.26 acres are currently under contract at about 29% over tax value. This includes not only the sale of the property, but buying out some leases and money for moving expenses.

Utility Work: Deputy City Manager Randy McCaslin advised that a vast majority of the water and sewer lines that serve the 11 +/- acres were installed in the early 1900s and pointed out not only are these lines obsolete in age, but they will not handle the projected growth in this area. The storm water lines are also undersized to serve the needs in this area.

Staff has already contacted the on-call engineers and they are now doing the engineering work for the lines. The engineering and construction of the lines has to be complete by the end of the 2018 calendar year.

Mr. Hemann noted the master developer is in High Point on a weekly basis. The city is using N.C. General Statute 158-7.1 for the design-build process, that allows the city to hire a master developer for the project and not put it out for competitive bid. This is a tool that allows the master developer to control what will be built. Mr. Hemann shared that the master developer for the project, Tim Elliot (Sidewalk Development), has had extensive experience in projects such as this and encouraged Council to visit his website that showcases his work.

The whole development theme for High Point's Catalyst Project is based on making Elm Street a walkable corridor, while taking advantage of a 700-car parking deck already there, and infrastructure that is currently being underutilized. Mr. Hemann commented this parking deck was part of what drove the decision for the location of the Catalyst Project. The development around the stadium will be mixed use (children's museum, offices, hotel, events center, residential, 3-5 story buildings with restaurants and retail on the first floor). This development has conservatively been estimated at \$115-\$120,000,000; however, the developer feels that it would be closer to \$200,000,000. Mr. Hemann advised that it is his understanding that Dr. Nido Qubein continues to work on this development and it is expected that another announcement will be made in the near future related to this development.

Mr. Hemann gave a reminder that the Atlantic League plays 70 home games and stressed the importance to keep in mind that the attendance draw is based on the 230,000 people south of Skeet Club Road with Archdale and Trinity putting it right in the middle of the Atlantic League as far as the size of the market. The average attendance in the Atlantic League was over 4,000 with the lowest 2,916; however, the assumptions are based on a conservative 2,500 per game average.

He noted the other funds that help fund this come from redevelopment and pointed out the projections for the new development is far above the estimated \$99 million of new development. Additionally, there is a lot of showroom space under development that would help raise the tax value as well.

Bond Process: Jeff Moore, Director of Financial Services, distributed a handout containing "Frequently Asked Questions About the Stadium Bonds." He advised due to the expressed interest on buying bonds locally, they worked with an underwriting group and developed a local marketing plan. Nationally, there has been quite a bit of interest as well. The pricing of the bonds and confirmation of the orders will be made tomorrow. It is hopeful that as much as 10% of the bond offering will go locally. The formal award of the bonds will happen on Thursday morning with the bond closings taking place on Thursday, February 1<sup>st</sup>, at which time the money will actually change hands and deposited in the city's accounts.

Team Update/Term Sheet: City Manager Greg Demko pointed out a binding term sheet was in place as a result of action by the past Council. He also reported they are currently working on a definitive operating agreement that spells out the details and responsibilities, which will soon be reviewed with the attorneys. He anticipates a need for a special meeting in the very near future to review the agreement.

### **Board of Adjustment Appointments**

Lee Burnette, Director of Planning & Development, shared that the Board of Adjustment is recommending swapping out two positions on the board. They are recommending that the current Regular ETJ Member on the Board of Adjustment (Sandra Dunn) be appointed as an ETJ Alternate, and that Tyler Walsh, who is currently serving as an Alternate Member be appointed as the ETJ Regular Member.

The Board of Adjustment is comprised of the following members:

- 5 Members (4 Regular Members, 1 ETJ Member)
- 3 Alternate Members, although the actual number of alternates is not limited

The Board of Adjustment handles appeals and zoning variances. The members are appointed by the City Council, with the Guilford County Commissioners appointing the ETJ Member. Mr. Burnette explained that in certain situations, a super majority vote may be required to approve variances and this is why the Alternate Members are so important because they actually sit in the place of a Regular Member whenever there is a need for that fifth member on the Board of adjustment, or in the case they have more than one person absent.

Mr. Burnette further explained that Ms. Dunn, the current Regular ETJ Member, was appointed by the County Commissioners in October 2016, but she has attended only one out of the three meetings that were held in 2017. Because of this, they felt that she did not have the same level of experience as other Alternate Members who have been serving for a couple of years.

Mr. Burnette reiterated that this action would require approval by the Guilford County Board of Commissioners.

Mayor Pro Tem Williams asked how the members that will be swapping places on the board felt. Mr. Burnette explained that they both have been notified, but he has not personally spoken to Ms. Dunn, but pointed out the rest of the Board of Adjustment membership was present at the December meeting when the recommendation was made and all were in favor of it. Council Member Golden did not have any problems with the changes, but hoped the decision was not a political one.

City Attorney JoAnne Carlyle pointed out that the statutes do require the appointment of an ETJ Member on the Board of Adjustment, but the statutes are unclear as to what happens if no one in the ETJ wants to serve. Mr. Burnette clarified that the law does allow the County Commissioners to appoint anyone from Guilford County to sit as an ETJ Member on the High Point Board of Adjustment, and that they could reside anywhere in Guilford County.

#### **Meeting Schedule for Departmental Presentations**

Staff has developed a schedule of meetings for departmental briefings to help acclimate the newly elected Council with the departments and what they do in preparation for the upcoming budget reviews that will begin in April after the proposed budget is presented to the City Council.

In addition to these departmental briefings, staff will also schedule a couple of half-day tours of city facilities.

City Manager Demko advised that the budget is one of the largest decisions that Council will make and felt it is critical that Council has a good basis and understanding of what it takes regarding the allocation of resources to provide services and advance the programs of this community.

**Advertisement Costs**

In response to a recent article in the High Point Enterprise, Deputy Manager McCaslin noted that prior discussions regarding the recently enacted legislation that allows Guilford County and municipalities in Guilford County to place electronic advertisings on their website, rather than run the advertisements in the newspapers.

Mr. McCaslin advised that the City of High Point spends roughly \$30,000 a year in legal advertisements, although some departments such as the Planning Department, go above the minimum legal requirements.

He offered for staff to revisit this with the currently seated Council, but in the absence of any direction, staff would place advertisements on the city's website, and would also continue some advertising in the newspaper.

There being no further business to come before Council, the meeting adjourned at 5:30 p.m. upon motion duly made and seconded.

Respectfully Submitted,

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Jay W. Wagner, Mayor

Attest:

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Lisa B. Vierling, MMC  
City Clerk