



**MINUTES OF THE CITY OF BURLINGTON
CITY COUNCIL MEETING
APRIL 17, 2018**

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, NC, 27215, on April 17, 2018, at 7:00 p.m.

Mayor Ian Baltutis presided

Councilmembers Present: Mayor Ian Baltutis, Mayor Pro Tem Kathy Hykes
Councilmembers Robert Ward, James Butler and Harold Owen

Councilmembers Absent: None

City Manager: Hardin Watkins, Present

City Attorney: David Huffman, Present

City Clerk: Renee M. Ward, Present

CALL TO ORDER: Mayor Ian Baltutis

INVOCATION: Mayor Pro Tem Kathy Hykes

RECOGNITION: Council recognized the Burlington Woman's Club for their 80 years of service to the community.

PRESENTATION TO COUNCIL: Cone Health presented a check for \$10,000 for the construction of a Link Transit Bus Shelter

CODE OF ETHICS–DISCLOSING CONFLICTS OF INTEREST: City Clerk, Renee Ward

There were no conflicts of interest reported.

APPROVAL OF MINUTES:

- March 19, 2018 – Special Work Session
- April 4, 2018 – City Council Meeting

Upon motion by Councilman Ward, seconded by Mayor Pro Tem Hykes, it was resolved unanimously to approve the above listed minutes.

ADOPTION OF AGENDA

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

PUBLIC HEARINGS:

ITEM 1: PERMANENT CLOSING – PORTION OF RIGHT-OF-WAY – ISELY PLACE CUL-DE-SAC

Mayor Baltutis announced that a public hearing had been set to consider adopting a Resolution to permanently close an irregular-shaped portion of the City's right-of-way adjoining the Isley Place cul-de-sac.

City Engineer Todd Lambert stated that at the March 6, 2018, City Council Meeting, Council adopted a Resolution of Intent to consider closing an irregular-shaped portion of the City's right-of-way adjoining the Isley Place cul-de-sac and set the date for a public hearing for April 17, 2018.

He stated that City staff had reviewed this request and supports the street closing in the form of right-of-way abandonment.

The public hearing was opened and there were no comments.

Upon motion by Councilman Owen, seconded by Mayor Pro Tem Hykes, it was resolved unanimously to close the public hearing.

Councilman Butler moved for the adoption of the following resolution:

Resolution #: 18-07

RESOLUTION AND ORDER BY THE CITY COUNCIL OF THE CITY OF BURLINGTON PURSUANT TO N.C.G.S. SECTION §160A-299 TO PERMANENTLY CLOSE AN IRREGULAR SHAPED PORTION OF THE CITY'S RIGHT-OF-WAY ADJOINING THE ISLEY PLACE CUL-DE-SAC.

WHEREAS, pursuant to North Carolina General Statutes, Section 160A-299, the City Council of the City of Burlington held a public hearing on April 17, 2018, to consider permanently closing an irregular-shaped portion of the City's right-of-way adjoining the Isley Place cul-de-sac.

WHEREAS, after full consideration of this matter, the City Council does hereby deem it to be in the best interest of the City of Burlington to permanently close an irregular shaped portion of the City's right-of-way adjoining the Isley Place cul-de-sac according to N.C.G.S. 160A-299.

WHEREAS, in 1968, the property bordering the rear lot lines of properties fronting on Central Avenue, West Davis Street, Fountain Place and Kime Street was initially developed as the Inglewood Apartments complex by Stephen Moore, Jr., and Randolph Ingle Isley, Sr. whereby two roads into the development were dedicated for public use, those being (1) Isley Place, running from Kime Street northward the length of the development, ending in a cul-de-sac and (2) Moore Lane, running easterly from Central Avenue into the development, dead-ending into Isley Place. The plat to said development is found in the Alamance County Register of Deeds, Plat Book 17, Page 58. Said Inglewood Apartments were subsequently converted to condominium ownership.

WHEREAS, in 1990, Randolph Ingle Isley, Jr. and wife Clara W. Isley sought to develop the .792 acre tract of real property situated north of and adjoining the existing Inglewood Apartments/Condominiums tract.

WHEREAS, as a part of said proposed 1990 development, the Burlington City Council voted to extend the then existing cul-de-sac at the north end of the public road Isley Place, which required the City's acquisition of additional real property by way of condemnation pursuant to North Carolina General Statutes, Chapter 40A, Eminent Domain.

WHEREAS, following the City's acquisition of the necessary property in 1991 and extension of the Isley Place cul-de-sac, the .792 acre tract owned by Randolph I. Isley, Jr. was subdivided and were developed into eight (8) condominium units as the Windsor Townhome Condominiums at Isley Place with its entrance onto the newly extended Isley Place cul-de-sac.

WHEREAS, following the City's acquisition of the necessary property in 1991 and extension of the Isley Place cul-de-sac, the portion of the tract owned by Jean Hunnicutt was subdivided and developed into four (4) condominium units as the Match Point Condominiums with its entrance onto the newly extended Isley Place cul-de-sac.

WHEREAS, following the City's acquisition of the necessary property in 1991 and extension of the Isley Place cul-de-sac, the 1.79 tract of real property adjoining the newly extended Isley Place roadway located immediately to the south of and adjacent to the Jean Hunnicutt/Match Point Condominium tract, has remained undeveloped until this time, said property being having been acquired by the current owner Cook-Moore Properties, LLC, as shown in Deed Book 3614 at page 952 of the Alamance County Register of Deeds.

WHEREAS, Cook-Moore Properties, LLC has indicated that it now desires to develop said 1.79 acre tract or sell the property for development.

WHEREAS, said 1.79 acre tract is zoned MFA, for Multi-Family use.

WHEREAS, Cook-Moore Properties, LLC., has requested that the City abandon that portion of the pre-1991 cul-de-sac right-of-way (hereinafter referred to as "irregular shaped portion of the Isley Place cul-de-sac") that has not been utilized by the City following the extension of the Isley Place cul-de-sac in 1991, that being 1,099 square feet or .025 acres as shown on the February 16, 2018, plat by Borum, Wade and Associates, P.A., captioned "Right-of-way Closure Isley Place" attached hereto and incorporated herein.

WHEREAS, the abandonment of said irregular shaped portion of the Isley Place cul-de-sac right-of-way by the City will allow for an increased buildable area of the 1.79 acre tract.

WHEREAS, the City Council will hold a public hearing on said proposed abandonment and closing on April 17, 2018 at 7:00 p.m. in the Council Chamber, Municipal Building.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Burlington pursuant to N.C.G.S. §160A-299;

Sec. 1. That the City Council, after full discussion of this matter at the public hearing held on April 17, 2018, and upon the terms and conditions hereinafter set forth, does hereby order to permanently closing an irregular shaped portion of the City’s right-of-way adjoining the Isley Place cul-de-sac and being more particularly described as follows:

Being a certain tract or parcel of land located in Burlington Township, Alamance County, North Carolina, adjoining the property of Cook-Moore Properties, LLC and being more particularly described as follows:

BEGINNING at a computed point at the intersection of the new northern margin of Isley Place with the old northern margin of said Isley Place to be closed having NAD 83/NSRS 2011 Grid Coordinates of North 853615.0339 and East 1867596.5409, said beginning point being located along a curve to the right having a radius of 45.00 feet and an arc length of 24.16 feet, a chord bearing and distance of South 21°48’11” West 24.16 feet from a computed point marking the southwestern corner of Match Point Condominiums as shown on a map recorded in Plat Book 64 Page 294 in the office of the Register of Deeds, Alamance County, North Carolina; thence running along said old northern margin of Isley Place to be closed along a curve to the right having a radius 45.0 feet and an arc length of 75.48 feet, a chord bearing and distance of South 23°22’09” West 66.94 feet to a computed point in the existing northern margin of said Isley Place; thence along said new northern margin of said Isley Place the following two (2) courses and distances: 1) North 07°01’38” East 46.66 feet to a computed point; thence 2) along a curve to the left having a radius of 45.0 feet and an arc length of 26.13 feet, a chord bearing and distance of North 54°00’30” East 25.76 feet to the point and place of BEGINNING.

Containing 1,099 square feet or 0.025 Acres+/-, according to a survey by Borum, Wade and Associates, P.A. entitled “Right-of-Way Closure Isley Place” dated February 16, 2018, and based on NC Grid North meridian.

Sec. 2. That notice of said public hearing was published on March 22, 29, April 5 and April 12, 2018.

Sec. 3. That a copy of this resolution and order shall be mailed to all owners of the property abutting said street as more particularly described above.

Sec. 4. That a notice of this closing was prominently displayed and posted in at least two places along said streets.

Sec. 5. That the North Carolina State Highway Commission has not accepted any portion of said street for maintenance.

ITEM 2: REZONING – WEST OLD GLENCOE ROAD

Mayor Baltutis announced that a public hearing had been set to consider an application to rezone from I-1A, Planned Industrial Residential District, to CI, Conditional Industrial District, for the use of an Inert Debris Recycling/Landfill and all uses allowed in the I-1A, Planned Industrial Residential District. The properties are located on the south side of West Old Glencoe Road referenced as Alamance County tax map 12-50, lots 43 and 56.

Planning and Community Development Director Amy Nelson stated that this zoning request was recommended by staff and that the Planning and Zoning Commission unanimously recommended approval.

Ms. Nelson stated that this request was to allow the continuance of the property's current use, which was as an LCID, Land Clearing and Inert Debris landfill, with allowance for future expansion. She stated that the Comprehensive Plan called for Rural Residential/Agriculture in this area however, staff recommended the current use, which was ongoing while the Comprehensive Plan was being written. This use was consistent with the industrial uses in the area.

Ms. Nelson stated that a permit through N.C. Division of Waste Management, Solid Waste Section – Permitting Branch was required in order to operate. She stated that the permit would ensure the site and the construction and operation of solid waste management facilities met all applicable federal and state regulatory requirements.

Mr. Carl Buckland, property owner, asked Council to approve the rezoning so that his property would be in compliance in order to obtain proper permits from NCDENR.

The public hearing was opened and there were no comments.

Upon motion by Mayor Pro Tem Hykes, seconded by Councilman Owen, it was resolved unanimously to close the public hearing.

Councilman Ward moved to adopt the following ordinance approving this request as an amendment to the Comprehensive Plan. Although inconsistent with the Plan, this request represents a needed change in the area, thus making this request reasonable and in the public interest.

Ordinance #18-09

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone properties located on the south side of West Old Glencoe Road.)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from I-1A, Planned Industrial Residential District to CI, Conditional Industrial District, for the use of an Inert Debris Recycling/Landfill and all uses allowed in the I-1A, Planned Industrial Residential District, subject to the conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance. The area is described as follows:

Properties are located on the south side of West Old Glencoe Road; referenced as Alamance County tax map 12-50, lots 43 and 56.

Section 2. That the rezoning from I-1A, Planned Industrial Residential District, to CI, Conditional Industrial District, for the use of an Inert Debris Recycling/Landfill and all uses allowed in the I-1A, Planned Industrial Residential District, is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

1. Recycling and Landfill for Inert Debris
2. All uses allowed in I-1A Zoning District

Development Conditions

1. Existing vegetation will remain with no additional landscaping required for the recycling and landfill use
2. All future development, with the exception of the recycling and landfill, will adhere to the requirements of the I-1A District and be approved by the Technical Review Committee

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilman Owen, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Baltutis, Hykes, Ward, Butler and Owen.

CITY MANAGER REPORT: MUNICIPAL OCCUPANCY TAX:

Discussion was had to gauge interest in pursuing local legislation that would allow a City of Burlington municipal occupancy tax of 3% in the city limits.

City Manager Hardin Watkins stated the following:

Chapter [160A-215](#) of the North Carolina General Statutes outlines the provision of room occupancy tax to be levied by municipalities as authorized by the General Assembly. The current maximum room occupancy tax levy allowed by municipalities is 3%.

North Carolina General Statutes permit Cities and Counties to levy a combined 6% room occupancy tax. Alamance County currently levies a 3% room occupancy tax, allowing the City to request a maximum levy of 3%.

The revenue generated from such levy cannot be used for construction of lodging facilities. Typically, revenues generated by room occupancy taxes are used by municipalities to bolster tourism and promote economic and industrial growth.

To be permitted to levy a room occupancy tax, a municipality must request local legislation authorizing such by the North Carolina General Assembly.

If Council has interest in pursuing a local bill this year, staff is prepared to work with Burlington's local delegation in the NC General Assembly to ask for a local bill permitting the City of Burlington to levy a room occupancy tax to be introduced during the legislature's short session, beginning on May 16, 2018. Final approval to enact room occupancy tax must then be approved by City Council at a future date.

Councilman Ward asked would this be subject to a public hearing, if so he would be interested.

City Manager Watkins stated that a public hearing was not required but would be beneficial and that staff could begin reaching out to our legislators. He stated that there was no need to rush that this could wait until the long session in 2019.

City Manager Watkins stated that it was determined that there were 15 hotels in Burlington City limits and learned that 72% of the occupancy tax that was collected in Alamance County was generated within the City limits of Burlington.

Councilman Butler stated that would be 72% of the \$876,000.

Councilman Owen stated that this was a concern of the Tourist Development Authority, (TDA) and where does that money support. He stated that Mark Cryan was present and asked him to speak on the subject.

Mr. Mark Cryan, President, Tourist Development Authority, shared the following points:

- TDA already does a lot to promote tourism in our County and to bring in events.
- Burlington Recreation and Parks works with the TDA to bring in events.
- Concerned of tourism efforts becoming fragmented (Burlington TDA, Mebane TDA, etc.)
- TDA is currently promoting tourism county-wide
- Many events that come to the City of Burlington, TDA supports and generates hotel rooms and restaurant visits all over the County.
- This is a function that is best as a county-wide effort.
- TDA was not in the process of advocating for an increase, however if it's going to be advocated it needed to be done County-wide with everyone working together.
- Suggested slowing the process down and come together and talk about this issue to show transparency.

Mr. Cryan was asked to list activities and events that the TDA supports in the community.

Mr. Cryan stated the following:

- Supports sport events:
 - ✓ USA South Conference – generates a ton of hotel and restaurant business, financially supports and facilitates the national softball tournament
 - ✓ Website that markets all tourism destinations county-wide
 - ✓ Advertises in Southern Living Magazine and others
 - ✓ Working on a new brand and working on communicating better with all cities and towns who have a stake in this and what TDA does for them.

Councilman Butler asked for a formal presentation of all the services and support TDA offers to all cities and towns. He stated that if there was \$876,000 being generated and 72% comes from the City of Burlington, he wanted to know what that money was being used for. He

stated that it was worth a discussion if the City was to move forward with the increase in occupancy tax and if it would still be funneled through the TDA specifically for the City of Burlington. He stated that if we have the opportunity to expand what we already have available to the City it may help Burlington with initiatives that we are already working on that we would have to seek funding for.

Mr. Cryan stated that the TDA was planning to move towards a large grant program available to municipalities or others who present a great event and needed financial support. He stressed that an additional occupancy tax increase would be beneficial County-wide.

Councilman Owen asked what the County's role was.

City Attorney David Huffman stated that for the purpose of collecting the tax, the County receives 3% off the top from the first \$500,000, and then an additional 1% beyond that. In addition, the County receives 1/3 of the net proceeds. He stated that Ms. Susan Roberts, Finance Director for Alamance County shared a document that stated the \$251,230 for fiscal year 2016-17, represented the County Commissioners portion that they received from this tax; Alamance County Historic Museum received \$84,000, Sword of Peace received \$12,500, Alamance County Arts Council received \$80,000, and Alamance County Parks received \$25,123. An unallocated amount was a 20% retainage of \$49,607. He stated that the County used their 1/3 for things outside the corporate limits of Burlington.

Councilman Owen stated that from Burlington and Elon's standpoint, that most of the business was generated by the University and Burlington's Parks and Recreation. He asked that if the City pursued this matter and received the Legislature's approval, would the additional 3% come directly to the City.

City Attorney Huffman stated that, that was correct with the exception of the 3% collection fee. He stated that at that point Burlington could set up its own TDA or have the current TDA appropriate the funds for Burlington purposes.

City Manager Watkins stated that the City could retain 1/3 of the proceeds that could be used for projects such as Alamance County had administered to the Historic Museum, Sword of Peace, Arts Council and Alamance County Parks and that 2/3 would go to bolstering tourism.

City Attorney Huffman stated he had calculated the City's portion of additional 3%; 97% of the amount generated in Burlington equaled to \$613,238.16 and 33% of that would come to the City and not the TDA, in the amount of \$204,208.31 per year.

Councilman Owen stated that the hotels could benefit because monies would go into different facilities that could then draw more people. He stated that it made perfect sense to do this but that it should be done in the open and he was not sure this could all be done by the May 16, 2018, short session.

Mr. Cryan stated that the TDA was trying to make a public statement asking municipalities to slow down and come together and have discussions. He stated that all the municipalities are influenced but that tourism was really a County-wide phenomenon and was linked together. He stated that the TDA was inviting everyone to get together and have transparent discussions and not to rush this through. He stated that he understood that this Council needed to think about the City of Burlington and that additional revenue was very tempting, but he felt they could be stronger together.

Councilman Butler stated that the City could get approval from the legislature but not act on it. He suggested moving forward to at least have the opportunity to make a decision based on future input meetings.

Mayor Baltutis stated that Mr. Cryan had suggested holding a working group meeting with hoteliers, TDA, and Municipalities.

Mr. Cryan stated that the taxes are collected by the County and that TDA was connected to the County for administrative purposes only but that it was an independent group with a governing board designated by legislation. He stated that the board represents different segments of the industry and operates independently. He stated that the TDA was not a County agency but an independent group that operates within the confines of the County to promote tourism and to help municipalities develop their inventory. He stated that the City of Burlington had received grants from the TDA in the past to improve facilities along with financial support for events and that there was a strong existing relationship.

Mr. Cryan asked to take up the offer of presenting at a work session or a meeting to provide more information about what was currently happening. He stated that they were in the process of rolling out a new strategic plan and new branding and it would be a good opportunity to cover all three items at one time.

Mayor Pro Tem Hykes asked Mr. Cryan if he was speaking against raising the tax to 6%.

Mr. Cryan stated that it had not been on the Board's radar but that the alternative was if the Municipalities started to do things piece-mill that the TDA would be better off doing it as a County and preferably as a unified community and go ahead and implement the 6% cap. He stated that Alamance County had the lowest occupancy tax. He stated that if the County goes to 6%, the City of Burlington would get significant benefits from that. It would be a chance to take those additional monies and give them as grants to improve recreation facilities, event facilities and maybe help host events that draw people to towns.

Mayor Baltutis asked if Council would like to see a presentation regarding the TDA.

Councilman Ward stated that he would like to hear the history of the occupancy tax included in the presentation.

Council agreed to have staff begin working with our legislative delegation to understand what needs to be brought forward and the timing to lobby for the additional occupancy tax.

Councilman Butler asked to retrieve data from our neighboring cities and counties relating to the occupancy tax and their occupancy tax percentage. He also asked to see how the TDA funds were distributed over the past fiscal year.

City Attorney Huffman asked if the TDA budgets allocations at the beginning of the year and did they know where the funds were going.

Mr. Cryan stated that there was an operating budget and there was money to be allocated for grants and support of events. He stated that they did not always know what was going to come along, such as someone proposing a great event and needing support, or it could be the City or some other municipality such as the support to the City of Graham in the past for equipment and temporary fencing to help them host different types of softball tournaments. He stated that the TDA was in the process of setting up a way to take proposals for larger grants and hoping to give more to make larger impacts.

City Attorney Huffman noted that in his copy of the financials the City was budgeted \$1,000 and asked if there was another line item he should be looking for and was that the entire amount the City received.

Mr. Cryan stated that it may have been or it may have been all that was requested. He stated that something like the Carousel Festival, unless it's inventory development, typically the money has to be spent by something that promotes tourism to out of town visitors. He stated that there would be an opportunity to begin giving larger grants.

Recreation and Parks Director Tony Laws stated that TDA funded CVB, Convention and Visitors Bureau, and all the money from the CVB comes through the TDA and the Sports Development Council was another off-shoot of the CVB and the TDA, which they fund each year, goes to events such as the National Softball Tournament and Carolina Conference Tournament.

Mayor Baltutis stated that the Council looked forward to receiving more information at the April 30, 2018, work session.

PUBLIC COMMENTS:

Ms. Pamela Burney, 227 Emerson Drive, Mebane, NC, spoke in reference to 1618 Cadiz Street who were dumping human waste in a vacant lot and terrorizing her elderly parents.

Councilman Butler asked for a summation of action taken against the residents at 1618 Cadiz Street and what were the options that could be pursued to help or alleviate this issue.

COUNCIL COMMENTS:

Mayor Baltutis:

- Spring cleaning continues – Free bulk waste pick-up until April 27th.
- NCDMV – REAL ID Program is single form of identification to:
 - ✓ Travel on commercial airlines
 - ✓ Enter military bases
 - ✓ Enter federal facilities
 - ✓ Enter nuclear power plantsAn ID with “Not for Federal Identification” will require additional documentation for flying and entering military bases, nuclear power plants and other federal facilities. (Get the complete list of requirements at – NCREALID.gov)
- North Park Farmer’s Market has kicked off – Tuesday’s from 3:00 – 6:00pm at North Park
- April 28 – Allied Churches of Alamance County - 1st Annual The Ride Home fundraiser – 8:00 a.m.
- Annual Maker Faire – Holly Hill Mall – 10:00am – April 28
- World Tai Chi Day – Village at Brookwood – 9:30am
- Active City Streets – May 5 – Downtown Burlington – 10:00am – 3:00 p.m.

ADJOURN:

Upon motion by Mayor Pro Tem Hykes, seconded by Councilman Butler, it was resolved unanimously to adjourn.

Renee M. Ward

Renee M. Ward
City Clerk

April 17, 2018
City Council Meeting