

MINUTES FOR BOARD OF ALDERMEN MEETING

November 13th, 2012

6:00 PM

The following elected officials were present: Mayor Coleman, Alderman Beaty, Alderman Huggins, Alderman Martin, Alderwoman Morrow, and Alderman Withers.

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

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

Mayor Coleman opened with the Invocation and the Pledge of Allegiance to the Flag. The Mayor asked if there were any additions or deletions to the agenda. Mayor Coleman stated that an Item 10F needed to be added to discuss a Hazard Mitigation Agreement and that an Item 10G needed to be added to discuss Gaston County Police Protection supplementation. Mr. Withers made a motion to set the agenda, including the two additional items, seconded by Mr. Martin, and carried unanimously.

Mr. Martin made a motion to approve the minutes from the October 9, 2012 regular meeting, seconded by Mr. Huggins, and carried unanimously.

Consent Agenda:

Item 5A was approval of the annual Gaston County Toy Run for Kids that will be coming through Dallas on Saturday, December 1, 2012 at approximately 12.30 pm. The motorcycles will be coming into Town on E. Main Street and stopping at Ingles. After an approximate 30 minute stop, they will exit Town on W. Trade Street and turn onto Dallas Bessemer City Highway. There may be as many as 2000 bikes for this event. Also, Toys for Tots will be coming through Dallas on Sunday, November 25, 2012 at approximately 2:30 pm. This event does not stop in Dallas, but will enter Town on S. Gaston Street and turn left onto W. Trade Street to exit Town on Dallas Cherryville Highway. Usually, the Police Department monitors the Toys for Tots event through Town; but for the Gaston County Toy Run for Kids, the Fire Department and the Rescue Squad assists the Police Department.

Mr. Withers made a motion to approve the consent agenda as presented, seconded by Ms. Morrow, and carried unanimously.

Recognition of Citizens:

Ms. Jamie Shuford, 142 W. Trade St., is the owner of Heart & Rhythm Dance Studio. She is planning a Port-A-Pit Chicken sale on November 16th for her business and is requesting that the Town allow the Port-A-Pit caterer to set up on Town property behind her studio. She will be selling the meals inside her business, but would like for the smoker to be set up behind the building, which is Town owned property behind Town Hall. Mr. Withers made a motion to allow the Port-A-Pit caterer to set up the smoker on Town property behind 142 W. Trade St., seconded by Mr. Morrow, and carried unanimously.

Ms. Jan Coffey, Red Yam Farm Road, would like to see uptown Dallas upgraded. She asked if the Board could speak with property owners and request that they spruce up or paint their buildings.

Mr. Bob Kendrick, 408 S. Groves St., is still upset over the water/sewer rate structure. He is seeing an approximate \$4.00 difference in his bill for about 50 gallons of usage. This month he states that he saw a \$4.32 difference for 50 gallons less of usage. He does not understand why this is happening. He would also like to see No Thru Traffic on S. Groves St. and S. Holland St. and stated that he has virtually been promised this, but would not state by whom.

Recognition of Employees:

Jeffery Reynolds, Police Corporal, was recognized for 5 years of service with Dallas. Mr. Reynolds was hired on October 31, 2007 as a Patrolman and was promoted to Corporal on June 16, 2011. (Exhibit A)

Public Hearing:

Item 8A, Mr. Withers made a motion to enter into a public hearing concerning an ordinance to regulate attachments to Town electric power poles, seconded by Mr. Huggins, and carried unanimously. For years, Utility providers like Time-Warner Cable, Charter Cable, AT&T, and others have attached their cables, lines, apparatus, and fiber-optics to the Town's electric power poles, we have not established an ordinance regulating and governing such attachments, as well as establishing our right to set and assess appropriate fees for such use of our valuable assets. It is appropriate that Dallas do this and it is necessary if the Town hopes to legally enforce pole attachment fees, which have been avoided by these entities for too long. The proposed ordinance is patterned after a similar ordinance that has been in place for a number of years in the City of Statesville, and has been reviewed by our consultant, Bob Thomas. (Exhibit B) Mr. Leon Lay, N. Davis St., is in favor of the Board approving the ordinance and believes the Town should be getting money from these attachments. Based on the proposed fee schedule, the Town could generate between \$10,000 and \$20,000 annually. Mr. Martin made a motion to exit the public hearing, seconded by Mr. Withers, and carried unanimously. Mr. Beaty made a motion to approve the ordinance as proposed, seconded by Mr. Martin, and carried unanimously.

Item 8B, Mr. Withers made a motion to enter into a public hearing concerning an ordinance to prohibit on-street parking on N. Davis St. between E. Main St. and E. Trade St. (Exhibit C) A single resident on N. Davis St. has requested this ordinance. Currently, all truck traffic has been prohibited on this same section of street because of a request from this same resident. It is the opinion of Mr. Palenick that this ordinance will be too restricting and will set a precedent that will be very difficult not to extend to many other streets throughout the Town that are equally as narrow and without shoulders or adequate off-street parking. It may be possible to work with the one or two residents in the area that may be creating parking issues, instead of permanently prohibiting all on-street parking by ordinance. Mr. Bob Kendrick stated that there are more streets in Town that need to be considered for this prohibition. Mr. Leon Lay, the requesting resident, stated that there are 5-6 cars at a time parked at 526 E. Main St. causing the issues. Chief Buckner has been keeping a watch on the area and has not observed the parked cars at that address. Mr. Beaty made a motion to exit the public hearing, seconded by Mr. Martin, and carried unanimously. Mr. Huggins made a motion to approve the ordinance prohibiting on-street parking on N. Davis St. between E. Main St. and E. Trade St. as presented, seconded by Ms. Morrow, and carried unanimously.

Item 8C, Mr. Withers made a motion to enter into a public hearing concerning an ordinance to regulate the ownership and control of canines within the Town of Dallas, seconded by Ms. Morrow, and carried unanimously. At the October Board Meeting, Staff introduced a revision to the existing ordinance, at which time, the Board voted to hold a public hearing on the matter. This proposed amendment will limit the number of dogs to 4 per owner on any premises or lot within the Town of Dallas. It will not apply to Veterinary or Animal Hospitals, professional kennels, groomers, or lawful humane breeders. Those who own more than four Gaston County licensed dogs pre-dating this ordinance enactment may continue to own such dogs until their demise or permanent transfer out of the premises. However, following ordinance enactment, no one can then acquire, license, and maintain more than four dogs per premises. (Exhibit D) Ms. Mary Boyce, Peachtree St.,

thinks the limit should be two dogs, because when people don't care for their animals it is a nuisance. Mr. Beaty made a motion to exit the public hearing, seconded by Mr. Withers, and carried unanimously. Mr. Beaty made a motion to approve the ordinance change, seconded by Mr. Huggins, with the following vote: Yays – Mr. Beaty, Mr. Huggins, and Mr. Martin. Nays – Ms. Morrow and Mr. Withers. As per N.C.G.S. § 160A-75, “no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council”. Therefore the ordinance will be brought back for a second reading at the December Board Meeting.

Item 8D, Mr. Beaty made a motion to enter into a public hearing concerning an ordinance to establish construction and maintenance standards for fences within the Town of Dallas, seconded by Ms. Morrow, and carried unanimously. At the October Board Meeting, Staff introduced a revision to the existing ordinance, at which time, the Board voted to hold a public hearing on the matter. The proposed amendment will require that all fences within the Town of Dallas be maintained, and be constructed of customary or normal fencing materials that is manufactured and marketed for construction of permanent fencing. It will also prohibit concertina, barbed and razor wire, and also prohibit electrically charged fencing. (Exhibit E) Mr. Kahler stated that he would like to amend the proposed ordinance change to exempt industrial and commercial entities so they can use concertina and barbed or razor wire. Mr. Beaty asked about electric fencing, as he currently has electric fencing for horses. Mr. Kahler stated that the ordinance could be amended to allow electric fencing for animals. Mr. Martin recommended tabling the ordinance until next month's meeting in order to incorporate the suggested amendments. Mr. Beaty made a motion to exit the public hearing, seconded by Mr. Withers, and carried unanimously. Mr. Martin made a motion to table this item until the December Board Meeting in order to incorporate the suggested amendments, seconded by Mr. Withers, and carried unanimously.

Item 8E, Mr. Beaty made a motion to enter into a public hearing concerning an ordinance to prohibit the intentional blowing or raking of grass clippings into or on Town streets or Stormwater facilities, seconded by Mr. Withers, and carried unanimously. At the October Board Meeting, Staff introduced a revision to the existing ordinance, at which time, the Board voted to hold a public hearing on the matter. The new ordinance prohibits throwing, sweeping, blowing, disposing of or otherwise depositing garbage, dirt, refuse, leaves, or grass clippings into any storm drain, manhole, gutter, ditch, culvert, street, or sidewalk within the Town of Dallas. (Exhibit F) Mr. Curtis Wilson, S. Gaston St., suggested that the ordinance should allow for citations to be given to businesses or residents that hired the offending contractor, if the contractor has left the site or area. Mr. Withers made a motion to exit the public hearing, seconded by Ms. Morrow, and carried unanimously. Mr. Huggins made a motion to approve the ordinance revision as presented, seconded by Mr. Martin, and carried unanimously.

Old Business:

There was no old business.

New Business:

Item 10A was a resolution amending the conditional offer and employment agreement with the Interim Town Manager. The existing agreement is set to expire on December 31, 2012. The new agreement extends until June 30, 2013, if necessary. (Exhibit G) Mr. Beaty made a motion to approve the resolution as presented, seconded by Ms. Morrow, and carried by the following vote: Yays – Mr. Beaty, Mr. Huggins, and Ms. Morrow. Nays – Mr. Martin and Mr. Withers.

Item 10B was approval of a resolution to establish and set pole attachment fees, as provided for with the approval of Item 8A. (Exhibit H) Mr. Beaty made a motion to approve as presented, seconded by Ms. Morrow, and carried unanimously.

Item 10C was action to designate the Centralina Council of Governments (CCOG) as the CDBG Administrator and to approve an agreement for the provision of professional services associated with Federal compliance, monitoring, and reporting. Dallas was awarded \$750,000 in Community Development Block Grant (CDBG) Infrastructure funds for use in the reconstruction of underground water mains within income-eligible portions of the community. With such a large grant comes many requirements for the proper and lawful use and disbursement of such funds, as well as the detailed reporting of how compliance with Federal Law is maintained. Much of this work is highly specialized and it is typical for all but the largest cities to contract for professional assistance in administering CDBG funds. The grant itself allows for, and the projected budget included the use of up to 10% of funds (\$75,000) to be used for "Administration". A contract with CCOG is being presented at an estimated total cost of \$68,000 (plus half of the next three fiscal year's allocation of Town-allocated service hours from CCOG) to provide all necessary assistance required to manage and document the CDBG project. Mr. James Luster, the CCOG's primary staffer assigned to Community and Economic Development and Planning, will be the person performing most of the work and has a long history of successful grant administration with CDBG funds. Mr. Luster is well-respected by the Commerce Department and comes highly-recommended. The Town budgeted \$75,000 in Administrative costs for the grant. Along with the \$68,000 projected payment to CCOG, there will be \$7000 paid to Benchmark Associates for grant writing services. The combination of these two services falls within the budgeted amount. It is the Town's intent, however, to pay Benchmark out of local funds and allot any unused administrative monies to actual construction costs. Mr. Beaty made a motion to approve the contract as presented, seconded by Mr. Martin, and carried unanimously.

Item 10D was action to establish a sanitary sewer tap fee for the residential connection at 412 E. Main St. and to declare similar future requests to be subject to the same fee. The residence at 412 E. Main St has been lawfully connected to the Town sewer system for over forty years, and the various occupants have been billed for that service over those service years. The physical connection of the home to the Town's system, however, was improper in that it did not have a separate tap-connection to the Town sewer main, but rather was jointly connected to the two residences immediately proximate and then all three connected to the main by a single, tap-connection. The current owner wishes to create a proper, single tap to the Town main. This can be accomplished by Town crews. The current established sewer tap fee is \$800, which is not entirely appropriate for this situation. It would be more appropriate for this location and any similar situations in the future to be charged a tap fee approximately equal to the true cost of labor for this circumstance, which is \$400.00. Mr. Withers made a motion to set the tap fee for 412 E. Main St. and any future multiple co-mingled residential services at \$400.00, seconded by Mr. Huggins, and carried unanimously.

Item 10E was action to declare an Electric Bucket Truck as surplus property to be disposed of via public sale to the highest bidder on "GovDeals". The Town recently purchased a 2013 International Bucket Truck for use by the Electric Department. As a result, the 1992 GMC Bucket Truck (Unit #333 with 62,163 miles and 9997 hours) it replaced is now surplus and can be disposed of by sale at auction on the online Government auction site – "GovDeals". The unit is no longer reliable enough or of adequate capacity and functionality to serve the Town's needs, but can be of continuing use to a small-scale, private tree contractor or similar user. Every effort will be made to maximize its sale value and the realized proceeds will be returned to the Electric Enterprise Fund. A "minimum reserve" will be placed on the unit to avoid any potential sale that would not deliver appropriate value to the Town. Mr. Withers made a motion to declare the 1992 GMC Bucket Truck (Unit #333) as surplus for sale on "GovDeals", seconded by Mr. Beaty, and carried unanimously.

Item 10F was the added item authorizing the development of a regional Hazard Mitigation Plan. A regional Hazard Mitigation Plan will be developed with Cleveland and Lincoln counties. Currently, there is a Hazard Mitigation Plan within the entities in Gaston County only. FEMA encourages regional plans to the point of withholding federal monies from those entities not part of a regional plan. At this point, Mr. Kahler is seeking authorization to participate in the development of a regional Hazard Mitigation Plan with the other regional

entities. Mr. Withers made a motion to authorize Mr. Kahler to proceed with the process of including Dallas in a regional Hazard Mitigation Plan, seconded by Mr. Martin, and carried unanimously.

Item 10G was the added discussion concerning County subsidized Police protection. Recently there was a newspaper article headlined, "Cost of Cops", in the Gaston Gazette. The article noted that Gaston County is currently charging Bessemer City only \$345,000 annually for \$1,100,000 worth of police protection. Mr. Bill Toole, Belmont City Councilman, spoke out in the article against the subsidy, which is unfair to the other municipalities within the County. Based on population data, Dallas should be receiving approximately \$400,000 in subsidized police protection. Mr. Toole is going to set up a meeting of concerned municipalities on this this matter. Mayor Coleman feels that Dallas citizens deserve their share of this type of subsidy. The Board supported Mayor Coleman's position and supports involvement in the discussions with other municipalities.

Mr. Withers made a motion to enter into a closed session as provided for in N.C. G. S. § 143-318.11 for personnel discussions, seconded by Mr. Huggins, and carried unanimously. (7:19) Mr. Withes made a motion to exit the closed session, seconded by Mr. Beaty, and carried unanimously. (7:36) No action was taken.

Mr. Martin made a motion to recess the meeting until Tuesday, November 27, 2012 at 5:00 pm, seconded by Mr. Huggins, and carried unanimously. (7:43)

The meeting reconvened at 5:14 pm on November 27, 2012.

The following elected officials were present: Mayor Coleman, Alderman Beaty, Alderman Huggins, Alderwoman Morrow, and Alderman Withers. Alderman Martin was absent.

The following staff members were present: Maria Stroupe, Administrative Services Director and Pennie Thrower, Town Attorney.

Mr. Huggins made a motion to excuse Mr. Martin from the meeting, seconded by Mr. Withers, and carried unanimously.

As Ms. Thrower recently was elected as a District Court Judge, the Town must hire a new Town Attorney. Three letters of interest have been received from the following attorneys: Mr. Jim Windham (Stott, Hollowell, Palmer, & Windham, L.L.P.); Mr. Thomas Hunn (in private practice), and Mr. John Russell (Mullen, Holland & Cooper P.A.) with additional support from Ms. Nancy Paschall. The Board reviewed and discussed each letter, which included cost and description of services offered. Mr. Huggins made a motion to offer the position to Mr. Thomas Hunn under the provisions outlined in his proposal, which includes the ability of enroll the Town's healthcare plan; seconded by Mr. Withers, with the following vote: Yays – Mr. Huggins and Mr. Withers. Nays – Mr. Beaty and Ms. Morrow. As the vote ended in a tie, Mayor Coleman was required to cast the deciding vote. Mayor Coleman cast an affirmative vote, based largely upon the fact that Mr. Hunn is local, with his office being located in Dallas. A contract will be developed and presented to Mr. Hunn for his signature.

Mr. Withers made a motion to adjourn, seconded by Mr. Huggins, and carried unanimously. (5:54)

Rick Coleman, Mayor

Maria Stroupe, Town Clerk

CERTIFICATE OF APPRECIATION

This certificate is awarded to

JEFFERY LEE REYNOLDS

in recognition of his 5th anniversary with the Town of Dallas on **October 31, 2012**
and in gratitude for his years of dedication and service

TOWN OF DALLAS



Signature

Date

Signature

Date

An Ordinance to Amend Chapter 52, ELECTRICAL DISTRIBUTION SYSTEM, of the Compiled Code of Town Ordinances, by the Addition Thereto of Section 52.18, "Pole Attachments".

Whereas, Following a properly-noticed public hearing before the Board of Aldermen, held on November 13, 2012, and in consideration of the information and research materials received and reviewed,

NOW, THEREFORE BE IT ORDAINED, By the Board of Aldermen of the Town of Dallas, North Carolina, that the Compiled Code of Town Ordinances is Hereby Amended as Follows:

That, Chapter 52, ELECTRICAL DISTRIBUTION SYSTEM, be amended by the addition of a new Section 52.18, Pole Attachments, to read:

" Section 52.18 Pole Attachments

(A) Purpose and Scope.

The Town of Dallas finds that it would be in its best interest to regulate the use of its electric power poles by entities providing cable television, telephone, broadband internet or similar services within the Town. The purpose of this Ordinance is to provide for the safe and orderly attachment of cables, wires, fiber-optics and associated apparatus to the power poles owned by the Town of Dallas.

(B) Short Title.

This Ordinance shall be known and may be cited as, "The Pole Attachment Ordinance of The Town of Dallas, North Carolina".

(C) Definitions.

Grantee means any entity, including without limitation, the natural person(s), partnership(s), domestic and foreign corporation(s), association(s), joint venture(s), or organization(s) of any kind which lawfully provides cable TV, telephone, internet, or similar services in the Town or its immediate vicinity, and including all successors, transferees and assignees of such entities.

Grantor means the Town of Dallas as represented by the Board of Aldermen acting within the scope of its jurisdiction and authority.

Town means the Town of Dallas, North Carolina, a political subdivision of the State of North Carolina.

(D) Permit Required.

- (1) The Town recognizes that certain cables, wires, fiber-optics, and apparatus have been attached to its poles without the issuance of a permit prior to the enactment and effective date of this Ordinance, either pursuant to a CATV franchise agreement, a "Joint-Use Agreement", or pursuant to the provision of CATV, telephone, or internet service in the area. No application shall be required of lawful providers of such existing attachments, but said attachments shall nevertheless be required to adhere to the standards of this Ordinance. All entities thereafter who intend or propose to attach to the Town's power poles shall apply in writing to the Electric Utility Director for a permit. The Town shall charge \$250.00 for such permit.
- (2) From and after the effective date of this Ordinance, the Town of Dallas, as Grantor owning certain poles within its service area, shall permit the attachment of cables, wires, fiber-optics and apparatus to such poles upon the submission and approval of a permit application by Grantee. The Town shall not unreasonably withhold such approval. In general, however, approval will not be granted for the attachment to any pole of more than (1) strand in any one direction, exclusive of service drop cables originating on the pole or nearest main line pole of the Town.

All permittees shall pay the same rate per pole, per annum, as set forth in the Town's adopted annual fee schedule.

- (3) It shall be unlawful to attach or connect any cable, wire, fiber-optic, support cable, power supply, communication or signal device, camera, antenna, etc. to Grantor's poles without a permit issued by the Director of the Electric Utility. Failure to obtain such a permit shall cause the Town to immediately remove such attachment(s) and/or device(s) from un-permitted poles at the violator's exclusive expense.

(E) Maintenance of Attachments in Safe Condition.

Grantee shall, at its own expense, make and maintain all its attachments and facilities in safe condition and in thorough repair, and in a manner acceptable to the Town and so that said attachments and facilities will not conflict with or alter existing equipment or use of said poles by the Town, or by other Utility providers using or having the right to use said poles, or interfere with the working use of facilities thereon, or which may from time to time be placed thereon. Grantee shall, at any time, at its own expense, upon notice from the Town, relocate, replace, or renew its facilities placed on said poles and transfer them to substitute poles, or perform any other work in connection with said facilities that may be required by the Town, provided, however that in cases of emergency, the Town may arrange to relocate, replace, or renew the facilities placed on said poles by Grantee, transfer them to substituted poles or perform any other work in connection with said facilities that may be required in the maintenance, replacement, removal, or relocation of said poles, the facilities thereon, or which may be placed thereon, or for the service needs of the Town, and Grantee shall, on demand, reimburse the Town the complete expenses thereby incurred.

(F) Construction and Technical Standards.

- (1) Grantee's cables, wires, fiber-optics or apparatus, in each and every location, shall be erected and maintained in accordance with the requirements and specifications of the National Electrical Safety Code, and any revisions or amendments of said Code and safety requirements of the Town, and in compliance with any rules or orders now in effect or that may hereafter be issued by the State Regulatory Authority, or other authority having jurisdiction. The Grantee shall not install any facilities on the Town's poles which will make said poles unsafe, overburdened, or unsightly in appearance. The Town has the right to refuse attachment by the Grantee of its facilities if, in the opinion of the Town, the attachment will render said poles unsafe, overburdened or unsightly in appearance. The Town shall designate the location of Grantee's attachments to the poles of Town in accordance with the requirements and specifications of the National Electrical Safety Code and the Town's outstanding obligation to others as to the use of said poles.
- (2) In the event that any pole or poles of the Town to which Grantee desires to make attachments are inadequate to support the additional facilities in accordance with the aforesaid specifications, the Grantee will notify the Town of any deficiency. If the Grantee still desires to make the attachments, it shall authorize the Town to make the necessary changes and shall reimburse the Town, on demand, for all costs incurred by the Town in making such changes, including cost of preliminary engineering and other expenses involved. If the Grantee does not elect to have changes made, the Grantee will then reimburse the Town the cost of any and all preliminary engineering and other expenses incurred by the Town. Where the Grantee's desired attachments can be accommodated on present poles by rearranging the Town's facilities thereon, the Grantee shall compensate the Town for the complete expenses incurred in completing such rearrangements. The Grantee will also, on demand, reimburse the owner or owners of other facilities attached to said poles for any expenses incurred by it, or them, in transferring or rearranging said facilities. Any guying of poles required to accommodate the attachments of Grantee shall be provided by and at the expense of Grantee and to the satisfaction of the Town. If existing attachments of other owners are in violation of the National Electric Safety Code or the safety requirements of the Town, the Grantee shall not be billed for any costs except those costs in excess of the costs to correct the existing violations.

(G) Town Not Liable For Service Interruptions.

The Town reserves to itself, its successors and assigns, and to the owner or owners of other facilities attached to its poles, the right to maintain, replace, and enlarge its facilities and to operate the same from time to time in such a manner as will best enable it, in its sole judgment, to meet the needs of its customers and fulfill its own service requirements. The Town shall not be liable to Grantee or to Grantee's customers for any interruption to service of Grantee or for interference with the operation of the cables, wires, fiber-optics, and/or apparatus of Grantee arising in any manner out of the use of Town's poles

hereunder, or arising in any manner out of the condition or character of the Town's facilities or the manner of the operation thereof.

(H) Right to Inspect.

The Town, because of the importance of its electric service, reserves the right to inspect each new installation of Grantee on its poles and in the vicinity of its lines or apparatus, and to make periodic inspections, annually, or as conditions may warrant, of the entirety of Grantee's system within Town jurisdiction. Such inspections made or not, shall not operate to relieve Grantee of any responsibility, obligation, or liability imposed by law or any other Ordinance or agreement.

(I) Pole Attachment Fees.

Grantee shall immediately notify the Town of any new attachments made to Town poles. Grantee shall pay to the Town, for attachments made to poles, a pole attachment fee as set forth in the Town of Dallas Fee Schedule. Said rental fee shall be payable annually in advance on the first day of January of each year, and shall be based upon the number of poles on which attachments are being maintained on the first day of December. The Town may periodically inventory the Town's poles for compliance with the above and shall assess a per-pole penalty of \$50.00 for each of Grantee's attachments found unaccounted for and out of compliance with this section.

(J) Grantee Responsible for Damage.

Grantee shall exercise special precautions to avoid damage to facilities of the Town and of others supported on said poles, and hereby assumes all responsibility for any and all loss for such damage. Grantee shall make an immediate report to the Town of the occurrence of any damage and hereby agrees to reimburse the Town for the expense incurred in making appropriate repairs.

(K) Hold Harmless Provision.

Grantee shall indemnify, defend and hold harmless the Town from and against any and all claims, actions, demands, judgments, loss, or expense resulting from or arising out of: Damages to property; Injury or death to persons; Interference with the service rendered by Grantee over its facilities and system; Interference with radio, television, or broadband reception or quality and speed of service; Payments made under any Workers Compensation Law or under any plan for employee disability and death benefits; The proximity of Grantee's facilities to the wires and other facilities of the Town; Any act of Grantee, its agents or employees on or in the vicinity of the Town's poles; or, Any claims made upon the Town for additional compensation for use of its distribution rights of way for an additional use.

(L) Necessary Precautions.

Grantee agrees to take any necessary precautions prescribed by the Town, including but not limited to the installation of protective equipment, to protect all persons and property against injury or damage that may result from Grantee's attachments to the Town's poles. If in the Town's opinion, Grantee has not taken such necessary precautions, the Town shall have the right to terminate the permission herein granted upon thirty (30) days written notice to Grantee. However, the Town shall not be considered in any way responsible for the adequacy or inadequacy of such precautions of Grantee. The Town shall have the right to remove immediately and without notice any attachment which could place the Town's facilities or system, or the public at large, in danger.

(M) Removal of Attachments.

- (1) Grantee may at any time remove its attachments from any pole or poles of the Town, but shall immediately give written notice of such removal to the Town. No refund of any rental fee(s) will be owed or due Grantee as a result of such removal.
- (2) Upon sixty (60) days advance written notice from the Town to Grantee that a specific pole or poles is to be taken out of service for both Town and Grantee use, the further use of such pole or poles shall immediately terminate, and cables, wires, fiber-optics, and apparatus of the Grantee shall be removed at once from the so-designated pole or poles.

(N) Remedies and Penalties.

- (1) If Grantee shall fail to comply with any of the provisions of this Ordinance, including the specifications hereinbefore referred to, or default in any of its obligations, and shall fail within sixty (60) days after written notice from the Town to correct such default or noncompliance, the Town may, at its own option, forthwith revoke the permit covering the poles as to which such default or noncompliance shall have occurred. In case of such revocation, no refund shall be owed or due the Grantee.
- (2) Invoices for expenses and other charges due under this Ordinance, except those advance payments specifically provided for herein, shall be payable by the Grantee to the Town within thirty (30) days following receipt.
- (3) Failure to enforce or insist upon compliance with any of the terms or conditions of this Ordinance shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

(O) Rights of Grantees.

- (1) Nothing herein contained shall be construed as affecting the rights or privileges granted by the Town, by contract or otherwise, to others, to use any poles covered by this Ordinance and the Town shall have the right to continue and extend such rights and privileges. The attachment privileges herein granted shall at all times be subject to such contracts and arrangements.
- (2) Grantee shall not assign, transfer or sublet the privileges hereby granted without the prior written consent of the Town.
- (3) No use, however extended, of the Town's poles shall create or vest in Grantee any ownership or property rights in said poles, but Grantee's rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel the Town to maintain any of said poles for a period longer than demanded by its own service requirements.

(P) Rights of Town to Abandon Poles.

The Town reserves to itself and its successors and assigns the right to abandon a pole or poles to which the Grantee's facilities are attached. The Grantee shall be given sixty (60) days notice of each proposed abandonment, and if the Grantee does not remove its facilities, the Town may institute a fine of one hundred dollars (\$100) per day for each day such facility remains attached following expiration of the sixty (60) days. The Grantee may choose to declare its facilities worthless, and they may then be caused by the Town to be removed from the pole or poles, and be disposed of at any suitable place at the exclusive cost of the Grantee. The Town shall be free from liability to the Grantee or its customers for actions in compliance with this section.

(Q) Notice.

Wherever in this Ordinance notice is provided to be given by either party to the other, unless otherwise specified, such notice shall be in writing and given by letter deposited in the U.S. mail, or by personal delivery to the Town at its offices at 210 N. Holland St., Dallas, North Carolina.

(R) Effective Date.

This Ordinance shall take full force and effect from and after its formal adoption by action of the Board of Aldermen of the Town of Dallas."

Adopted This _____ Day of November, 2012

YEAS:

NAYS:

AN ORDINANCE TO AMEND Title VII: TRAFFIC CODE; Chapter 76, "Parking Schedules", OF THE COMPILED CODE OF ORDINANCES OF THE TOWN OF DALLAS, NORTH CAROLINA

WHEREAS, Following a properly-Noticed Public Hearing before the Board of Aldermen, held On November 13, 2012, and in consideration of the information and research Materials received and reviewed,

NOW, THEREFORE BE IT ORDAINED, by the Board of Aldermen of the Town of Dallas, North Carolina, that the Compiled Code of Town Ordinances is hereby Amended as follows:

That Title VII: TRAFFIC CODE; Chapter 76, "Parking Schedules"; SCHEDULE I: PARKING PROHIBITED, be Amended by Adding:

| | | | |
|--------------|------|-------------|--------------|
| ON STREET | SIDE | FROM | TO |
| N. Davis St. | Both | E. Main St. | E. Trade St. |

Adopted This ____ Day of November, 2012

YEAS:

NAYS:

ATTEST:

TOWN OF DALLAS

Maria Stroupe, Town Clerk

By: _____
Rick Coleman, Mayor

**AN ORDINANCE TO AMEND CHAPTER 90 SECTION 90.04 "Responsibilities of Owners" OF
THE COMPILED CODE OF ORDINANCES OF THE TOWN OF DALLAS, NORTH
CAROLINA**

WHEREAS, Following a properly noticed Public Hearing before the Board of Aldermen, held on November 13, 2012 and in consideration of the information and research materials received and reviewed,

NOW THEREFORE BE IT ORDAINED, by the Board of Aldermen of the Town of Dallas, North Carolina, that the Compiled Code of Town Ordinances is hereby Amended as follows:

That Chapter 90 Section 90.04 is hereby amended as follows:

Section 90.04 Responsibilities of Owners

A. It shall be unlawful for any person to allow any canine (dog) to run at large in the Town of Dallas. All canines shall be kept under direct control by use of a leash or contained within a fence or within an operable invisible fence. All canines must wear a current Rabies Vaccination tag. This ordinance shall be enforceable by the Development Services Director, Chief of Police or their designee(s). This section shall not apply to canines associated with sworn law enforcement activities or service animals.

A canine shall leave the owners property only under the following conditions:

- (1) The canine is under restraint by virtue of being in custody of a competent person and held by a leash or other device of sufficient strength to maintain control by the person.
- (2) The canine is under direct control by virtue of being in custody of a competent person and sufficiently near the person to hear the person's voice commands and is sufficiently trained and is obedient to those commands.
- (3) The canine is under direct control by virtue of being held within a secure enclosure as defined in the Ordinance Regulating Dogs and Other Animals in Gaston County.
- (4) The canine is engaged in organized hunting or recreational activities on private property with the consent of the owner of that property; providing that said canine is obedient to the commands of the owner.

B. It shall be unlawful for any owner to keep, maintain or harbor more than four (4) dogs twelve (12) weeks or more old upon the premises of any property or lot within the Town of Dallas. Claimed or divided ownership of any dogs by two or more owners contained within the same lot or premises shall still be prohibited by this ordinance. It is the intent of this provision to prohibit the keeping, maintaining or harboring of more than four dogs on any premises or lot within the Town of Dallas.

This Section shall not apply to Veterinary or Animal Hospitals, professional kennels, groomers or breeders when same are lawfully zoned and permitted.

Any violation of this Section shall subject the offender to such penalties and remedies as those set forth in Chapter Q of this Code of Ordinances. Continued violation or continuing violations shall subject the violator to separate, distinct and successive civil penalties.

Amortization: In the event a person owns more than the permitted number of dogs allowed under this section upon the effective date of adoption of this section, those dogs over the permitted number shall be allowed to be kept by the owner until such time as the dog shall die or be given away by its owner. However, upon the dog's death, or upon giving the dog away, that dog shall not be replaced with another dog.

Adopted this 13th day of November 2012

YEAS:

NAYS:

ATTEST:

TOWN OF DALLAS

Maria Stroupe, Town Clerk

Rick Coleman, Mayor

AN ORDINANCE TO AMEND CHAPTER 92 SECTION 92.01 “Property Maintenance, Removal of Trash, Weeds; Lien” OF THE COMPILED CODE OF ORDINANCES OF THE TOWN OF DALLAS, NORTH CAROLINA

WHEREAS, Following a properly noticed Public Hearing before the Board of Aldermen, held on November 13, 2012 and in consideration of the information and research materials received and reviewed,

NOW THEREFORE BE IT ORDAINED, by the Board of Aldermen of the Town of Dallas, North Carolina, that the Compiled Code of Town Ordinances is hereby Amended as follows:

That Chapter 92 Section 92.01 is hereby amended as follows:

Section 92.01 Property Maintenance, Removal of Trash, Weeds; Liens

The existence of any of the following conditions on any lot or other parcel of land, whether vacant or occupied, within the corporate limits of the Town of Dallas is hereby declared to be dangerous and prejudicial to the public health or safety, and constitutes a public nuisance:

- a. Noxious weeds and other rank vegetation; any growth of weeds or grass or other vegetation to a height greater than Twelve (12) inches; or any accumulation of dead weeds, grass or brush.
- b. Uncontrolled growth of vegetation- Undeveloped Property: Any uncut, uncontrolled growth of noxious weeds, vegetation, grasses, brush or bushes to a height of twelve (12) inches on an undeveloped property shall constitute a nuisance. Notwithstanding the other sections of this chapter, (b) applies only to the outer perimeter of such property to a depth of fifty (50) feet and bordering a public right-of-way and/or developed properties.
- c. Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause accumulation of stagnant water or the inhabitation thereof by rats, mice, snakes or noxious insects.
- d. Any accessory building or structure that has become so dilapidated or deteriorated so as to constitute a public nuisance.
- e. All fences, retaining walls or similar structures that are not firmly anchored to the ground, maintained in good structural condition and free of deterioration. Deteriorated features shall be repaired, replaced or completely removed. Grass, weeds and other vegetation around such fences shall be maintained in compliance with section (a) above. All fencing must be constructed of customary or normal fencing material used consistently throughout; the material used in the construction of the fence must be manufactured and marketed for construction of permanent fencing. Materials typically used for temporary fencing may not be used for permanent fences. No razor, barbed or concertina wire may be used in the construction of any fence except by special use permit. Electrically charged fencing is also prohibited.
- f. Chronic Violators: The Town of Dallas shall notify any chronic violator of this section to whom a current violation notice has been provided that, pursuant to NC GS 160A-200, the Town shall take action to remedy the violation without further notice and the expense of the action shall become a lien on the property and shall be collected as unpaid taxes. For the purposes of this subsection, a “chronic violator” is a person who owns property whereupon, in the course of the then current year, the Town has provided said property owner notice of violation of any provision of this section at least two (2) previous times.

Where such conditions as described above exist so as to constitute a nuisance or danger to public health or safety the code enforcement administrator shall notify the property owner by first class mail postage prepaid of such conditions and shall order abatement thereof within ten (10) days following verified receipt of such notice. When a the property owner has failed to comply with a notice of violation as described above, the code enforcement administrator shall not be required to provide further notice of violation to that person with regard to the same property before taking any enforcement action. In addition, a Town of Dallas agent or employee may enter upon the premises and perform any work that may be necessary to bring the property into compliance with this section and the Town shall charge the cost thereof against the premises upon which the work was performed.

In addition to the civil penalties provided for in Chapter Q of this Code of Ordinances, The costs of any work performed under this section shall constitute a lien against the premises upon which the work performed and may be collected in the same manner as taxes upon real property. The term 'cost' as used in this section shall include interest at the rate of eight percent (8%) per annum until the lien is paid. Interest does not accrue until a bill for the cost becomes overdue (Senate Bill 181, 1999)."

Adopted this 13th day of November 2012

YEAS:

NAYS:

ATTEST:

TOWN OF DALLAS

Maria Stroupe, Town Clerk

Rick Coleman, Mayor

AN ORDINANCE TO AMEND CHAPTER 94 SECTION 94.035 "Throwing or Burning Trash on Street Prohibited" OF THE COMPILED CODE OF ORDINANCES OF THE TOWN OF DALLAS, NORTH CAROLINA

WHEREAS, Following a properly noticed Public Hearing before the Board of Aldermen, held on November 13, 2012 and in consideration of the information and research materials received and reviewed,

NOW THEREFORE BE IT ORDAINED, by the Board of Aldermen of the Town of Dallas, North Carolina, that the Compiled Code of Town Ordinances is hereby Amended as follows:

That Chapter 94 Section 94.035 is hereby amended as follows:

Section 94.035 Throwing or Burning Trash in the Street

Sec. D-III-1 Throwing, or Burning Trash on Street Prohibited

It shall be unlawful for any person to throw, sweep, blow, dispose of or otherwise deposit including burning any household, yard, or other garbage, rubbish, dirt, refuse, leaves, grass clippings or similar matter into any storm drain, manhole, gutter, ditch, culvert, street or sidewalk within the Town of Dallas.

This shall not prohibit the proper placement at street edge of leaves, brush or yard clippings for Town pickup when compliant with then in-effect Town policy; nor the incidental and unintentional placement, by wind action or lawn care activity, of insignificant quantities of grass clippings into the street or onto a sidewalk. It shall, however, render unlawful the intentional blowing or raking of grass clippings into or onto any of the public areas listed.

Adopted this 13th day of November 2012

YEAS:

NAYS:

ATTEST:

TOWN OF DALLAS

Maria Stroupe, Town Clerk

Rick Coleman, Mayor

Resolution Amending Conditional Offer and Employment Agreement with Interim Town Manager

Whereas, The Town of Dallas, by action of its Board of Aldermen first adopted a “Conditional Offer and Employment Agreement” with James M. Palenick, in January, 2012 employing Mr. Palenick as Interim Town Manager; and

Whereas, On June 12, 2012 the Board then amended said Agreement in order to further define and detail certain aspects of the terms and conditions associated with Palenick’s employment going forward; and

Whereas, It is now in the best interest of the Town to again amend the Agreement employing Mr. Palenick as Interim Town Manager in order to assure continuity of Town management and operations.

Now, Therefore Be It Resolved, That the “Conditional Offer and Employment Agreement” approved by action of the Town of Dallas Board of Aldermen on June 12, 2012, and prescribing the terms and conditions of employment for James M. Palenick as “Interim Town Manager”, is hereby amended by the repeal of Section 2, “EMPLOYMENT AND DUTIES”; and Section 3, “TERM”; and the replacement thereof with new Sections “2 and 3”, to read as follows:

2. EMPLOYMENT AND DUTIES: Town hereby employs Manager as Town Manager of the TOWN OF DALLAS effective on January 30, 2012, to serve in such capacity on an ongoing, interim basis until Town shall recruit and hire a permanent Town Manager. During this interim period, Manager agrees to perform his duties in accordance with such laws and ordinances as may apply to such position and responsibility.

3. TERM: It is understood between the parties that this Agreement is for a limited term of no specific duration and may be terminated by The Town as to Manager with a minimum forty-five (45) days advance written notice; and by the Manager as to Town with a minimum thirty (30) days advance written notice, with or without cause. However, it is anticipated by the parties that such employment is likely to conclude, by notice of Manager as to Town, prior to July 1, 2013 (the commencement of the Fiscal-Year 2013/2014), consistent with the notice requirements herein.

Adopted This 13th Day of November, 2012

ATTEST:

TOWN OF DALLAS:

Town Clerk

By: _____
Richard C. Coleman, Mayor

Resolution To Establish and Set Pole Attachment Fees.

Whereas, The Town of Dallas Owns and operates an Electric power distribution system and, in the process maintains a large number of electric utility poles upon which the overhead power lines are attached; and,

Whereas, multiple non-Town providers of Utility services also occupy and rent space on the Town's electric utility poles, yet the Town has not established, nor does it regularly charge, a standardized fee for the occupation of such valuable space which reflects the significant cost associated with the ownership, installation, and maintenance of such a pole system; and,

Whereas, The Town now finds it both necessary and appropriate to establish and set standardized "Pole Attachment Fees" as provided for under Section 52.18, "Pole Attachments"; Chapter 52, ELECTRICAL DISTRIBUTION SYSTEM, of the Compiled Town Code of Ordinances.

Now Therefore Be It Resolved, By the affirmative vote of the Board of Aldermen of the Town of Dallas, That: Annual Fees for the attachment of overhead wires, cables and apparatus to the electric utility poles of the Town of Dallas shall be established, assessed and collected as follows:

- \$15.00 per wire or cable attachment to Town pole, per-year
- \$3.00 per CATV Power supply attachment to Town pole, per-year
- Fees for Pole attachments of Utility service providers who maintain "Joint-Use" agreements with the Town shall be established as a pre-negotiated rate established within the said, "Joint-Use" agreement.

Adopted This ____ Day of November, 2012.

ATTEST:

TOWN OF DALLAS

Maria Stroupe, Town Clerk

By: _____
Rick Coleman, Mayor