

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, September 21, 1993 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor	Eleanor Kinnaird
Aldermen	Randy Marshall
	Tom Gurganus
	Hilliard Caldwell
	Frances Shetley
	Jacquelyn Gist
	Jay Bryan
Asst. Town Manager	Larry Gibson
Town Clerk	Sarah C. Williamson
Town Attorney	Michael B. Brough

APPROVAL OF MINUTES OF PREVIOUS MEETING

MOTION WAS MADE BY HILLIARD CALDWELL AND SECONDED BY TOM GURGANUS THAT THE MINUTES OF SEPTEMBER 7, 1993 BE APPROVED AND THAT THE AMENDED VERSION OF THE AUGUST 24, 1993 MINUTES BE APPROVED. VOTE: AFFIRMATIVE ALL

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PROCLAMATION ISSUED

Mayor Kinnaird issued a proclamation proclaiming the week of September 17 - 23 as Constitution Week in the Town of Carrboro.

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CERTIFICATE OF APPRECIATION

Mayor Kinnaird presented a certificate of appreciation to Maribel Carrion for her service to the town while serving on the Human Services Commission.

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REQUEST FROM CITIZEN TO REVIEW LAND USE ORDINANCE PROVISIONS DEALING WITH IMPERVIOUS SURFACE REQUIREMENTS

Phil Szostak, a resident of 415 Strowd Lane, stated that the Winsome Lane homeowners were having problems meeting the 4% impervious surface requirements contained in the Land Use Ordinance. Mr. Szostak requested that the Board review the impervious surface requirement and consider the possibility of allowing french drains. Mr. Szostak also asked for a clarification of existing impervious surfaces.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JAY BRYAN THAT THIS MATTER BE REFERRED TO THE TOWN STAFF AND THE TOWN'S OWASA REPRESENTATIVES. VOTE: AFFIRMATIVE ALL

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RELEASE OF RONA FRIED-OVERHOLT FROM GUARANTY OF INDEBTEDNESS OF EARTHWARES REVOLVING LOAN

James Harris, the town's Community and Economic Development Officer, stated that the owners of Earthwares, Inc. have decided to dissolve their partnership. The partner leaving the partnership would like to pay off her share of the indebtedness for their Carrboro Revolving Loan. The total amount due to date is \$26,904. The partner will pay \$14,000 to cover her part of the debt. The purpose of this agenda item is to inform the Board of the request and request permission to release the indebtedness of the co-applicant.

[Alderman Bryan removed himself from consideration of this matter due to his association with the parties involved.]

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JACQUELYN GIST THAT THE TOWN ACCEPT THE \$14,000 PAYOFF FROM RONA FRIED-OVERHOLT THEREBY REDUCING THE OBLIGATION BY 50% AND RELEASING RONA FRIED-OVERHOLT FROM HER OBLIGATION, AND THAT THE TOWN MANAGER BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS RELEASING RONA FRIED-OVERHOLT AND OBLIGATING TRIP OVERHOLT FOR THE REMAINING BALANCE OF \$14,000. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (BRYAN)

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PUBLIC HEARING/ANNEXATION BOUNDARY AGREEMENT AND ASSOCIATED ZONING

Julia Trevarthen stated that this was a public hearing to receive public comment and consider the proposed 20-year Annexation Boundary Agreement between the Town of Carrboro and the Town of Chapel Hill; a resolution for establishing principles of protection for entranceways along Smith Level Road; and the zoning of properties added to Carrboro's jurisdiction resulting from a shift in the ETJ boundary to R-10. These properties include Tax Map 122; Lots 18, 19, 19A, 21 and 22.

Ms. Trevarthen stated that the administration recommended approval of the annexation agreement and associated resolution, but that the Board not take action concerning the associated rezonings until November 23, 1993.

Julie Coleman, a resident of Smith Level Road, requested that her property remain in Carrboro's jurisdiction since Carrboro was concerned that Smith Level Road remain two-lane.

John Florence, a resident of Smith Level Road, stated that he had no objections to the annexation plan, but requested that the resolution be strengthened to request that Smith Level Road remain two-lane.

Livy Ludington, a resident of Ray Road, reminded the Board to retain Smith Level Road as two-lane to protect the watershed. Ms. Ludington requested that the town let NCDOT know why the town does not want to widen Smith Level Road which is to protect the watershed.

It was the consensus of the Board to delay action on this matter until November 23, 1993 and the Board requested that the Annexation Work Group reconvene to consider strengthening the language of the resolution to enforce the town's desire to retain Smith Level Road as a two-lane road, and to negotiate with Chapel Hill to possibly have Lots 15A, 14C, 15F, 16 and Map 121 (Woodcrest Subdivision) included within Carrboro's jurisdiction.

Alderman Shetley requested that the Town Attorney revise the annexation agreement to include reference to the resolution as an attachment to the agreement.

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PUBLIC HEARING/REZONING REQUEST/2.23 ACRES LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ROCK HAVEN ROAD AND SMITH LEVEL ROAD

Julia Trevarthen stated that James and Nancy Hodgin had requested the rezoning of 2.23 acres located at the northwest corner of the intersection of Rock Haven Road and Smith Level Road from B-3 (Neighborhood Business) to O (Office). This property is owned by Clifton Pendergrass.

Jim Hodgin, the applicant stated that he was requesting this rezoning to office because he felt this was the best use of the property.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JACQUELYN GIST THAT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE ONE LOT (APPROXIMATELY 2.23 ACRES) LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF ROCK HAVEN ROAD AND SMITH LEVEL ROAD FROM B-3 (NEIGHBORHOOD BUSINESS) TO O (OFFICE)," BE ADOPTED. VOTE: AFFIRMATIVE ALL

Clifton Pendergrass expressed his appreciation to the Board for the rezoning and stated that he feels office is the best use of the property.

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ORDINANCE REGULATING CONSTRUCTION NOISE

This was a public hearing to consider adoption of an ordinance prohibiting the operation of certain power equipment generally associated with construction activity during evening hours (sunset to 7:00 a.m.) and Sunday morning (before 1:00 p.m.). The ordinance also regulates amplified sound from automobiles.

Russ Davis, Executive Director of the Durham-Chapel Hill Home Builders Association, asked that a specific time be used rather than sunset because sunset occurs so early during the winter months. Mr. Davis stated that the construction industry is not the only ones creating noise within the community and suggested that noise be limited to decibels. Mr. Davis suggested a performance-based ordinance. Mr. Davis also stated that he did not feel the Sunday restrictions would be a problem for the construction

industry. Mr. Davis requested an opportunity to meet with town staff and concerned residents to try and resolve the construction noise problems before the Board considers adoption of an ordinance.

Dick Stein, a resident of 304 Bolin Creek Drive, cited an example of an incident with a contractor where he was told that it was the subcontractor that was causing the disturbance and he did not have any control over the subcontractor. Mr. Stein presented an excerpt from the Sanibel, Florida noise ordinance dealing with construction noise, which prohibits construction except between 7:00 a.m. and 5:00 p.m. Monday through Saturday. Mr. Stein suggested that if the Board adopts the proposed noise ordinance, that the penalty be stiffened.

Frances Stein, a resident of 304 Bolin Creek Drive, stated that there has been construction noise every day in her neighborhood for 2 1/2 years with the exception of Christmas day. Mrs. Stein cited many incidents where she and her husband had approached contractors about noise. In some incidents the contractors or subcontractors had lowered the noise and in other cases they had not. Mrs. Stein spoke specifically against construction noise on Sunday afternoons. Mrs. Stein stated that Carrboro citizens should be given consideration in dealing with construction noise.

Kathryn Kalb, General manager of Operations for OWASA, stated that OWASA has to use construction equipment such as backhoe, jackhammers, air compressors and pumps in order to gain access to the water and sewer mains buried beneath the streets and across commercial and residential lots in Carrboro. Ms. Kalb stated that most the OWASA'S work activities take place during the day, but there are times when work must occur after hours such as when a water main breaks, when work has to be coordinated with traffic patterns and customer demands. Ms. Kalb stated that OWASA requested that the Board consider a provision in the ordinance to allow the Town Manager to permit construction activity during the restricted hours.

Chief Callahan requested that the Board not consider an ordinance based on decibels because of the enforcement problems associated with that type of ordinance.

Alderman Marshall stated that he would support an ordinance which would measure noise from the receiving property, that would use after sunset or 9:00 p.m. whichever is later, and that would set a noise level that is performance based.

Alderman Bryan stated that he would support the proposed ordinance, but would like to look at the Rocky Mount, Cary and Sanibel, Florida ordinances.

Alderman Gist stated that she would support the proposed ordinance with the language "outside a fully completed structure" inserted.

Alderman Gurganus stated that he would support the proposed ordinance, but would like to look at the Sanibel, Florida and Rocky Mount ordinances and would lean toward a decibel-based ordinance.

Alderman Shetley stated that she would support the proposed ordinance with a change in the time to 6:00 a.m. to 8:00 p.m.

Mayor Kinnaird stated that she would support the proposed ordinance with a change in the time to something before sunset, maybe 7:00 a.m. to 7:00 p.m. year round.

Alderman Caldwell stated that he would like to see airplanes and helicopters included in the ordinance.

It was a consensus of the Board to request the town staff to provide the Board with copies of the Sanibel, Florida; Rocky Mount and Cary noise ordinances, along with the ordinance considered at tonight's meeting, and a proposed version of the ordinance based on performance for the Board consideration at a later date.

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#### REPORT ON PROBLEMS WITH VAGRANTS IN ELM/POPLAR STREET NEIGHBORHOOD

Mayor Kinnaird gave a report on meetings the residents of the Elm/Poplar Streets had been having concerning problems with vagrants.

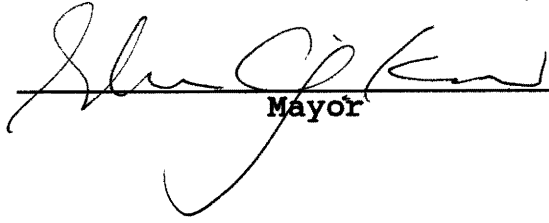
David Poythress, Public Works Supervisor, stated that town crews had joined forces with OWASA employees last Friday to clear the OWASA right-of-way at Carrboro School. In addition, the town had installed a drive-way pipe in the ditch to enable police officers to drive down the right of way.

It was a consensus of the Board to ask the Agenda Planning Committee to schedule a public hearing to hear the concerns of the Elm/Poplar Street residents.

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MOTION WAS MADE BY JAY BRYAN AND SECONDED BY RANDY MARSHALL THAT THE MEETING BE ADJOURNED AT 10:37 P.M. VOTE: AFFIRMATIVE ALL

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Mayor

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Town Clerk