

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, April 12, 1994 at 7:30 p.m. in the Town Hall Board Room.

**Present and presiding:**

Mayor	Eleanor Kinnaird
Aldermen	Michael Nelson
	Randy Marshall
	Hank Anderson
	Frances Shetley
	Jacquelyn Gist
	Jay Bryan
Town Manager	Robert W. Morgan
Town Attorney	Michael B. Brough
Deputy Town Clerk	James E. Spivey

**APPROVAL OF MINUTES OF PREVIOUS MEETING**

MOTION WAS MADE BY JAY BRYAN AND SECONDED BY RANDY MARSHALL THAT THE MINUTES OF MARCH 22, 1994 BE APPROVED. VOTE: AFFIRMATIVE ALL.

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**"POLITICAL LETTER" OF SUPPORT FOR SECTION 202 HUD FUNDS**

Hilliard Caldwell, representing the New Covenant United Church of Christ, requested that the Town send a "political letter" of support to HUD in support of an application being submitted by the Church for Section 202 grant funds. The application is being submitted seeking grant funds to assist in the development of forty (40) housing units for the elderly. Mr. Caldwell explained that the "letter" would not obligate the Town whatsoever in this endeavor.

By consensus, the Board voiced support of the Church's endeavor and directed staff to draft a letter for the Mayor's signature.

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**COMMUNITY ACTION GROUP**

Marti Mandell distributed information to the Board regarding the creation of a community action group that will address the impact of growth development in Orange County.

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**HOGAN FARM SUBDIVISION**

Jef, resident of Calvander, stated that the proposed Hogan Farm Subdivision was not in compliance with the Joint Planning Land Use Plan which was adopted in 1986. Jef cited sections and pages of the document that the proposed subdivision was in noncompliance.

The Board requested a report from staff and copies of the cited pages of the document.

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**PANHANDLING ORDINANCE**

Thomas Stern, on behalf of the North Carolina Civil Liberties Union, addressed the Board regarding the Town's panhandling ordinance. Mr. Stern stated that the Carrboro ordinance is an unconstitutional, content-based infringement on free speech and should be repealed. Additionally, he stated that the need for enforcing the ordinance has not arisen in Carrboro according to the Police Chief.

The Board requested that the town attorney review Mr. Stern's case history and submit a report for Board review.

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**REQUEST TO SET PUBLIC HEARING/ 1994 COMMUNITY REVITALIZATION GRANT**

James Harris, Community & Economic Development Officer, stated that each year funds are made available through the N.C. Community Assistance Program to

address community needs for low-income families and individuals. These funds are available through a competitive grant process which requires citizen input. The Citizen participation process requires at least two public hearings. Mr. Harris stated that was requesting that the Board set public hearings for April 26, 1994 to receive public input from the public before an application is compiled and a second hearing on May 24, 1994 to present the completed application for final approval and that a Community Development Committee consisting of a board member, the C&EDO, and two citizens from the neighborhood be established.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HANK ANDERSON THAT PUBLIC HEARINGS BE SET FOR APRIL 26, 1994 AND MAY 24, 1994 TO RECEIVE CITIZEN INPUT AND THAT A COMMUNITY DEVELOPMENT COMMITTEE BE ESTABLISHED CONSISTING OF ONE BOARD MEMBER, THE C&EDO, AND TWO CITIZENS FROM THE NEIGHBORHOOD. VOTE: AFFIRMATIVE ALL.

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PUBLIC HEARING/ 1994 EARTH DAY STREET CLOSING REQUEST

Chris Peterson, Public Works Director, stated that Weaver Street Market has requested the closing of Weaver Street from the Main Street intersection to the North Greensboro Street intersection from 10:00 a.m. to 6:00 p.m. on Saturday, April 23, 1994 (rain date: April 30th) to accommodate Earth Day 1994 activities. Mr. Peterson requested that the Board adopt a resolution regarding the street closing permit application.

The following resolution was introduced by Alderman Randy Marshall and duly seconded by Alderman Hank Anderson.

RESOLUTION AUTHORIZING THE TEMPORARY CLOSING OF A SECTION OF WEAVER STREET TO ACCOMMODATE THE EARTH DAY 1994 CELEBRATION  
Resolution No. 47/93-94

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. The following streets shall be temporarily closed on Saturday, April 23, 1994 (Rain Date: April 30) during the specified time period to accommodate the Earth Day 1994 Celebration. This event is to be held in accordance with the permit issued by the Board of Aldermen pursuant to Article III of Chapter 7 of the Town Code:

- a. Weaver Street from the Main Street intersection to the Greensboro Street intersection from 10:00 a.m. to 6:00 p.m.

Section 2. The town administration shall provide the appropriate traffic control devices to give notice of the temporary traffic controls.

Section 3. The applicant, Weaver Street Market, shall provide two (2) representatives to assist the town administration with the installation of the traffic control devices referred to in Section 2. of the resolution.

Section 4. No person may operate any vehicle contrary to the traffic control devices referred to in Section 2. of this resolution.

Section 5. The applicant, Weaver Street Market, shall be responsible for providing adequate trash receptacles for this event and for clean-up following this event.

Section 6. The applicant, Weaver Street Market, shall be responsible for the notifying of Central Communications when the street is closed and when re-opened to vehicular traffic.

Section 7. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this the 12th day of April 1994.

Ayes: Michael Nelson, Randy Marshall, Hank Anderson, Eleanor Kinnaird, Frances Shetley, Jacquelyn Gist, Jay Bryan

Noes: None

Absent or Excused: None

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NORTH CAROLINA COALITION FOR PUBLIC TRANSPORTATION - PRESENTATION

Bill Holman, lobbyist for the North Carolina Coalition for Public Transportation addressed the Board. On January 25, 1994, the Board requested that Mr. Holman be invited to its April 12, 1994 meeting to make a presentation. Mr. Holman outlined the Coalition's present accomplishments and future goals. Mr. Holman explained that the Coalition was requesting an appropriation of \$.10 per capita for the next budget year.

The Board requested a copy of the Coalition's present budget.

MOTION WAS MADE BY FRANCES SHETLEY AND SECONDED BY MICHAEL NELSON THAT THE BOARD APPROVE A \$313 PAYMENT FROM THE CONTINGENCY FUND TO THE COALITION FOR THE MONTHS OF APRIL, MAY, & JUNE 1994; AND APPROVE PLACING THE MEMBERSHIP FEE IN THE BUDGET FOR THE NEXT FISCAL YEAR. VOTE: AFFIRMATIVE 6; NOES 1 (BRYAN).

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COMPREHENSIVE ARCHITECTURAL SERVICES FOR A SPACE NEEDS STUDY

James Harris, Community & Economic Development Officer, stated that staff had solicited proposals from architects to provide comprehensive architectural services to develop a space needs study for the town police department with an alternate proposal to develop a space needs study involving all departments at Town Hall. Sixty requests for proposals were mailed and staff received five responses. From the finalists, staff recommends that Cherry Huffman be the selected firm to complete the space needs study and that the review committee negotiate a satisfactory fee to be brought back to the Board for consideration.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY FRANCES SHETLEY TO DIRECT THE ARCHITECTURAL REVIEW COMMITTEE TO NEGOTIATE A SATISFACTORY FEE FOR ADDRESSING THE POLICE DEPARTMENT SPACE NEEDS ONLY, IN ADDITION TO ADDRESSING THE COMBINED TOWN HALL AND POLICE DEPARTMENT SPACE NEEDS. VOTE: AFFIRMATIVE ALL.

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ADOPT-A-TOWN-STREET/BIKEPATH PROGRAM

Chris Peterson, Public Works Director, stated that the formation of an "Adopt-A-Town Street/Bikepath" Program would support the Town's litter abatement efforts and that Townsend and Bertram has indicated an interest in adopting the Libba Cotten Bikepath. Mr. Peterson explained the program.

The Board voiced concern regarding the disposal of dirty needles and asked that a list of areas for possible adoption be developed.

Mr. Peterson stated that either a safety training session or a video for viewing by the participants will be provided to address safe ways of disposing of debris found during clean-up.

MOTION WAS MADE BY JAY BRYAN AND SECONDED BY HANK ANDERSON TO APPROVE THE ESTABLISHMENT OF AN ADOPT-A-TOWN-STREET/BIKEPATH PROGRAM TO BE ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT AND THAT A LIST OF POTENTIAL AREAS FOR ADOPTION BE DEVELOPED. VOTE: AFFIRMATIVE ALL.

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REPORT ON THE COMPLIANCE OF THE WEXFORD AND THE CATES FARM SUBDIVISIONS WITH THEIR RESPECTIVE CONDITIONAL USE PERMITS

Keith Lankford, Zoning Administrator, gave a report regarding the compliance of the Wexford and Cates Farm Subdivisions with their respective conditional use permit conditions.

The Board received the report. By consensus the Board requested that conditional use permit (CUP) compliance be scheduled by the Agenda Planning Committee for Board discussion; and requested that monthly reports regarding conditional use permit compliance be submitted to the Board.

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**SHAPING ORANGE COUNTY'S GROWTH STEERING COMMITTEE**

Alderman Bryan explained that the "Shaping Orange County's Growth Steering Committee" has developed a process and budget for formulating a "Comprehensive Quality Growth Strategy and a Community Building Plan". The Steering Committee is requesting each of the four jurisdictions in Orange County to adopt a resolution accepting the proposed process for developing a "Comprehensive Quality Growth Strategy and a Community Building Plan".

The following resolution was introduced by Alderman Jacquelyn Gist and duly seconded by Alderman Randy Marshall.

**A RESOLUTION AUTHORIZING A COOPERATIVE COMPREHENSIVE QUALITY GROWTH STRATEGY AND COMMUNITY BUILDING PLAN FOR ORANGE COUNTY  
Resolution No. 48/93-94**

WHEREAS, Orange County is at a crucial period in its history, in that while it is recognized nationally as a desirable place to live, it is facing development pressures which could erode or enhance the quality of life; and

WHEREAS, the 4 governing bodies of Orange County have charged a Steering Committee comprised of representatives from the Towns of Carrboro, Chapel Hill, Hillsborough, and Orange County with developing g cooperatively a proposed process for undertaking a comprehensive quality growth strategy and community building plan for Orange County; and

WHEREAS, the 4 governing bodies of Orange County desire to work together with citizens to develop a model growth strategy and a community building plan which also develops a sense of community;

NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. The Board of Aldermen received the report of the Steering Committee titled "The Development of a Comprehensive Quality Growth Strategy and Community Building Plan for Orange County".

Section 2. The Board of Aldermen accepts the proposed process outlined in the report and pledges its best efforts to help carry out the process.

Section 3. The Board of Aldermen thanks the Steering Committee for its work to date on developing the proposed comprehensive quality growth strategy.

Section 4. This resolution shall become effective upon adoption.

The foregoing resolution, having been submitted to a vote, received the following vote and was duly adopted this 12th day of April, 1994.

AYES: Michael Nelson, Randy Marshall, Eleanor Kinniard, Jacquelyn Gist, Jay Bryan

NOES: Hank Anderson, Frances Shetley

ABSENT/EXCUSED: None

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**SELECTION OF CONSULTANT TO REVIEW CVI'S CABLE TV RATES FOR BASIC SERVICE**

Robert Morgan, Town Manager, explained that the 1992 Cable Consumer Protection Act and related regulations issued by the Federal Communication Commission allow the Town to enforce federal rules for basic service and related equipment of its cable franchises. CVI is Carrboro's primary cable franchise with thirty-five hundred subscribers and Cablevision of Chapel Hill serves approximately two hundred and fifty subscribers in Carrboro. The Town must review CVI'S basic service rates by July 3, 1994 and Cablevision's basic rates by April 12, 1994. The Administration recommends that a consultant be hired to review CVI's rates and that the Town accept Chapel Hill's review of Cablevision's rates.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JAY BRYAN TO AUTHORIZE THE TOWN MANAGER TO CONTRACT WITH BOB SEPE TO REVIEW THE RATES FOR BASIC SERVICES AND EQUIPMENT AND THAT \$750 BE ALLOCATED FROM THE GENERAL FUND CONTINGENCY.  
VOTE: AFFIRMATIVE ALL.

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**REGULATION OF RATES CHARGED FOR BASIC CABLE SERVICE AND RELATED EQUIPMENT BY  
CABLEVISION OF CHAPEL HILL FOR CARRBORO SUBSCRIBERS**

Robert Morgan, Town Manager, explained that the Town of Carrboro must review the basic rates and charges for Cablevision of Chapel Hill to comply with federal regulations. Cablevision of Chapel Hill serves approximately two-hundred and fifty subscribers in Carrboro. Mr. Morgan reviewed a resolution which could order a small refund to cable subscribers of Cablevision of Chapel Hill on rates for basic service since last September.

The following resolution was introduced by Alderman Randy Marshall and duly seconded by Alderman Michael Nelson.

**A RESOLUTION REGARDING REGULATION OF RATES  
CHARGED FOR BASIC CABLE SERVICE AND RELATED EQUIPMENT  
Resolution No. 45/93-94**

WHEREAS, the Mayor and Board of Aldermen of the Town of Carrboro, North Carolina ("Board") is a Grantor of a Cable Television Franchise Ordinance ("Ordinance") adopted by the Board on March 12, 1985 for the cable television system now owned by Time Warner Entertainment Company, L.P. ("Grantee"); and

WHEREAS, in accordance with applicable provisions of the Cable Consumer Protection and Competition Act of 1992 (hereinafter the "Cable Act") and rules adopted by the Federal Communications Commission ("FCC"), the Town has undertaken all appropriate procedural steps to regulate the basic cable service tier and related equipment; and

WHEREAS, in accordance with applicable FCC regulations, on or about November 9, 1993, the Town passed and adopted a Rate Regulation Ordinance; and

WHEREAS, on or about December 7, 1993, the Town sent to Grantee a notification letter regarding FCC certification via Form 328 and the adoption of the rate regulation ordinance and requested that Grantee complete FCC Form 393 - Determination of Maximum Initial Permitted Rates for Regulated Cable Programming Services and Equipment - with thirty (30) days; and

WHEREAS, on or about December 10, 1993, the Town received Grantee's completed FCC Form 393 which is attached and made a part of this resolution as Exhibit A; and

WHEREAS, pursuant to FCC regulations, on or about January 12, 1993, the Town sent a letter notifying Grantee that the time period for the Town's review of FCC Form 393 would be extended for an additional ninety (90) day period; and

WHEREAS, the Town, in order to accomplish its review in a timely manner, scheduled for its regular meeting date of April 12, 1994 sufficient time for the purpose of reviewing Grantee's FCC Form 393 and related rate regulation information; and

WHEREAS, the Town conducted a meeting open to the public on April 12, 1994 to ensure that all interested parties had ample opportunity to present information to the Town; and

WHEREAS, based upon the Town's April 12, 1994 meeting and all reports obtained from the Town of Chapel Hill, the Town of Carrboro determined to make the below listed Conclusions and Orders for Action.

NOW, THEREFORE, in a regular meeting of the Board of Aldermen of the Town of Carrboro dated April 12, 1994, the Board resolved the following:

**Conclusions**

1. Grantee utilized an incorrect inflation factor when completing FCC Form 393 for lines 401 and 402, thereby causing an artificially high maximum initial permitted rate per channel.
2. Grantee's request for cable rate approval for the current rate for the basic service tier (exclusion of any franchise fee) of \$7.51 is denied.
3. The Town concludes the maximum permitted rate for the basic service tier (exclusive of any franchise fee) shall be \$7.45.

Orders for Action

Based on the foregoing conclusions, the Town hereby enters the following orders:

1. Pursuant to FCC regulations, from the date of this order and until further order of the Town, Grantee shall be permitted to charge an initial rate for the basic service tier of \$7.45.
2. Grantee shall immediately undertake all necessary steps, in accordance with applicable FCC regulations, to refund to all subscribers \$.06 per month, and any franchise fee assessed thereon, plus interest, computed at the applicable published rates for tax refund and additional tax payments, which has been overcharged since September 1, 1993 as a result of the difference between Grantee's requested basic service rate of \$7.51 and the approved basic service rate of \$7.45.

This requirement is stayed for 60 days upon mutual agreement with Cablevision/Time Warner Cable to permit evaluation of new Federal Communications Commission rules anticipated to be issued by the Commission on or about March 24th.

3. The Town reserves the right to reconsider this resolution within one hundred twenty (120) days of this adoption for the sole purpose of further reducing rates should future modifications to FCC rules and regulations so provide and permit.
4. This resolution shall not be reconsidered should any further analysis pursuant to future FCC rules and requirements result in higher rates to subscribers unless such future FCC rules and regulations mandate that this Town order such an upward adjustment.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 12th day of April, 1994:

Ayes: Michael Nelson, Randy Marshall, Hank Anderson, Eleanor Kinnaird, Frances Shetley, Jacquelyn Gist, Jay Bryan

Noes: None

Absent or Excused: None

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APPOINTMENTS TO HUMAN SERVICES COMMISSION AND CABLE T.V. COMMITTEE

The chairman of the Human Services Commission recommends that Jeannie Garten be appointed to the Human Services Commission and the chairman of the Cable T.V. Committee recommends that Brian Linder and Mitchell Virchick be appointed to the Cable T.V. Committee.

MOTION WAS MADE BY JAY BRYAN AND SECONDED BY JACQUELYN GIST THAT JEANNIE GARTEN BE APPOINTED TO THE HUMAN SERVICES COMMISSION AND THAT BRIAN LINDER AND MITCHELL VIRCHICK BE APPOINTED TO THE CABLE T.V. COMMITTEE. VOTE: AFFIRMATIVE ALL.

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ASSEMBLY OF GOVERNMENTS MEETING

An Assembly of Governments meeting will be held on September 29, 1994 from 5:30 P.M. - 8:30 P.M.

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MEETING CANCELLATION

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HANK ANDERSON TO CANCEL THE BOARD OF ALDERMEN'S MAY 03, 1994 MEETING. VOTE: AFFIRMATIVE ALL.

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NOISE IN ROCKY BROOK TRAILER PARK

There was a complaint lodged regarding loud noise in the Rocky Brook Trailer Park. The Board requested that the Police Department investigate.

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**POST OFFICE UPDATE**

Mr. Morgan stated the Tom Russell of the U.S. Postal Services had been contacted and Mr. Russell stated that bids had been taken and the Postal Service is presently trying to get within the budget. Additionally, Mr. Russell stated that once construction has begun, it will take approximately one year for completion.

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**UPDATE: TOWN COMMONS CONSTRUCTION**

The Board requested a report regarding the schedule for construction of the Town Commons as soon as possible.

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**ORDINANCE REGARDING PUBLIC NUISANCES**

The Board requested that the town attorney present a report on an ordinance for addressing\nullifying public nuisances within the month.

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**BYPASS CONSTRUCTION**

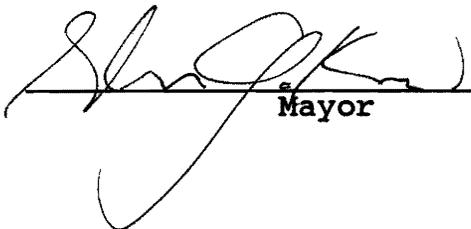
The Board requested that a report be given regarding the completion date for the highway construction along the Bypass.

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MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HANK ANDERSON THAT THE MEETING BE ADJOURNED AT 11:00 P.M. VOTE: AFFIRMATIVE ALL.

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Deputy Town Clerk



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Mayor