

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, August 9, 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 Clerk	Sarah C. Williamson
Town Attorney	Michael B. Brough

APPROVAL OF MINUTES OF PREVIOUS MEETING

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HANK ANDERSON THAT THE MINUTES OF JUNE 28, 1994 BE APPROVED. VOTE: AFFIRMATIVE ALL

REQUEST TO SET PUBLIC HEARING/VOLUNTARY ANNEXATION/ARCADIA SUBDIVISION

The Arcadia Corporation has submitted a petition requesting annexation of the Arcadia Subdivision, which is located at the end of Barrington Hills Road. The total acreage is 16.51 acres and contains 33 dwelling units. The administration recommended adoption of a resolution setting a public hearing for August 23, 1994 to consider the request.

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

A RESOLUTION SETTING A PUBLIC HEARING TO
CONSIDER THE ANNEXATION OF
THE ARCADIA SUBDIVISION
UPON THE REQUEST OF THE PROPERTY OWNERS
Resolution No. 1/94-95

WHEREAS, the Town of Carrboro has received a petition from the owner(s) of the Arcadia Subdivision requesting that their property be annexed to the Town of Carrboro; and

WHEREAS, the Town Clerk has certified that the petition requesting the annexation of this property is sufficient in all respects under G.S. 160A-31.

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

Section 1. The Board of Aldermen shall hold a public hearing on August 23, 1994 to consider the voluntary annexation of the Arcadia Subdivision.

Section 2. The Town Clerk shall cause a notice of this public hearing to be published once in the Chapel Hill News at least ten (10) days prior to the date of the public hearing.

Section 3. 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 9th day of August, 1994:

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

Noes: None

Absent or Excused: None

LAND USE ORDINANCE TEXT AMENDMENT CHANGING THE STREET RIGHT-OF-WAY AND CUL-DE-SAC STANDARDS

The administration requested that the Board consider whether to set a public hearing for September 27, 1994 to consider an amendment to the street right-of-way standards contained in Section 15-216(b) and the cul-de-sac requirements in Section 217 of the Land Use Ordinance, or refer this matter to the right-of-way and street standards charette to be scheduled this fall.

Marianne Fiorentino urged the Board to proceed with the public hearing.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY RANDY MARSHALL THAT THE PUBLIC HEARING BE SET FOR SEPTEMBER 27, 1994, WITH THE UNDERSTANDING THAT THE BOARD WOULD NOT MAKE A FINAL DECISION ON THE PROPOSED AMENDMENTS UNTIL AFTER THE RIGHT-OF-WAY AND STREET STANDARDS CHARETTE TO BE SCHEDULED THIS FALL. VOTE: AFFIRMATIVE ALL

PUBLIC HEARING/NEW INFORMATION/JOINT PLANNING AREA LAND USE PLAN AMENDMENT REQUEST BY AMERICAN STONE COMPANY

Lisa Bloom-Pruitt, the town's Senior Planner, stated that the purpose of this agenda item was to receive "new" information pertaining to a proposed amendment to the Joint Planning Area (JPA) Land Use Plan submitted by American Stone Company. Amendments to the JPA Land Use Plan require the unanimous approval by Carrboro, Chapel Hill and Orange County as specified by the Joint Planning Amendment.

Rem Malloy stated that the blasting by the Stone Quarry is negatively affecting the quality of life in the neighborhoods surrounding the quarry, the Stone Quarry is exceeding federal and state ground and air vibration standards, is concerned about the amount of radon gas being created by the quarry, requested a thorough impact study be conducted, and questioned the wisdom of creating an industrial node in the watershed. Mr. Malloy also stated that he feels the surrounding property values will be devalued because of the quarry.

Ginney Foushee, a resident of Parrish Road, presented a sample of water from her well and a sample of a clear filter and a filter that had been taken from her water filtering system. Ms. Foushee stated that her well water is undrinkable because of the blasting taking place at the stone quarry. Ms. Foushee presented a copy of a letter from Martin Marietta Aggregates in response to her complaint about the affects of the blasting on her well.

Tony Luca, who has a masters degree in geophysics and applied math and a doctrine in seismology, stated that he had examined the blasting records supplied by American Stone Quarry. The Stone Quarry has stated that they have never exceeded federal blasting guidelines, but the records supplied by the Stone Quarry clearly show that they have exceeded the federal guidelines. Mr. Luca referenced reports from the U.S. Bureau of Mines Reports and Ground Vibrations.

Rob Davis, President of the Greenfield Homeowners Association, stated that the size of the charges used by the stone quarry have increased.

Kathy Newell stated that she lives 5 miles from the stone quarry and when blasting occurs, it shakes her house and windows.

Dan Valero, a resident of 1505 Chickery Lane, stated that the state only investigates complaints about blasting.

Erwin Danziger stated that tonight's public hearing is the third public hearing that all the neighbors affected by the quarry expansion have not been notified, and that tonight's meeting was Carrboro's last chance to stop the quarry expansion. Mr. Danziger stated that there is no proven need to expand the quarry beyond its present boundaries and its demise in 15 years will be welcome. By sticking to watershed regulations and not providing the exemption, the Board would be acting responsibly and consistently with its past actions.

MOTION WAS MADE BY FRANCES SHETLY AND SECONDED BY JACQUELYN GIST TO REQUEST THAT ORANGE COUNTY MEDIATE BETWEEN THE SURROUNDING PROPERTY OWNERS AND THE APPLICANT TO: (A) IDENTIFY JUST WHO IS AFFECTED; (B) DISTINGUISH THE LEVELS AND TYPES OF IMPACTS INCLUDING EFFECTS OF BLASTING, NOISE FROM ROUTINE OPERATIONS SUCH AS CRUSHING AND LOADING, ETC.; (C) EXPLORE POSSIBLE ACCOMMODATION OF THOSE AFFECTED SUCH AS COMPENSATION, ADJUSTMENT OF QUARRY OPERATIONS,

LIMITING THE NUMBER OF YEARS OF OPERATION, OR OTHER MEANS; AND (D) WHETHER THE ADDITIONAL WATER PRODUCED BY QUARRY IS NEEDED IN THE NEXT 75 YEARS. VOTE: AFFIRMATIVE ALL

PUBLIC HEARING/VOLUNTARY ANNEXATION/400 SMITH LEVEL ROAD

The N.C. Federal of Business and Professional Women's Club, Inc. has submitted a petition for annexation of their property located at 400 Smith Level Road. The total acreage is 1.02 acres without any dwelling units. The administration recommends annexation of this property effective August 31, 1994.

It was noted that the town staff had received a letter from the agent of the Business and Professional Women's Association today requesting a postponement of this request for annexation.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HANK ANDERSON THAT THIS PUBLIC HEARING BE POSTPONED UNTIL SEPTEMBER 20, 1994. VOTE: AFFIRMATIVE ALL

ARCADIA CUP COMPLIANCE/CONSTRUCTION PLAN UPDATE AND REQUEST FOR PARTIAL RELIEF FROM BONDING REQUIREMENTS

Keith Lankford, the town's Zoning Administrator, stated that the Arcadia Co-Housing Corp. was granted a conditional use permit on May 25, 1993 to construct 33 houses on a 16.51 acre tract of land. The town staff became aware that the developer had made several deviations from the approved plans during the construction of the project. Mr. Lankford presented a report summarizing the changes to the approved plans and update the Board on the status of the construction of this project. Mr. Lankford stated that the developer was requesting that the Board of Aldermen grant them partial relief from the 10-month bonding requirements for incomplete site work (sidewalks and pave the fire lanes). approve the deviations from the approved plans as shown on the revised plans.

MOTION WAS MADE BY JAY BRYAN AND SECONDED BY RANDY MARSHALL THAT THE DEVELOPER BE ALLOWED TO POST A 20-MONTH BOND FOR THE COMPLETION OF THE SIDEWALK AND THE PAVING OF THE FIRE LANES. VOTE: AFFIRMATIVE ALL

CARRBORO MIDDLE SCHOOL LIGHTING FIXTURES AND BONDING OF INCOMPLETE SITE WORK ITEMS

Keith Lankford, the town's Zoning Administrator, stated that on September 15, 1992, the Board of Aldermen granted a conditional use permit to construct a middle school with associated parking lot lighting on poles with a maximum height of 15 feet. The representatives of the school consulted during with Duke Power to develop a lighting plan, but did so without regard to the CUP. The Board of Education is requesting that the Board of Aldermen grant a minor modification to the approved CUP to allow the use of the proposed lighting plan with the existing underground electrical work, above-ground pole stub-outs and the installation of the warehoused lighting fixtures on 25-foot tall poles. Mr. Lankford stated that the Board of Education was requesting that they be granted a minor modification to the CUP to allow the gymnasium to be completed in a separate phase, and that the Board of Aldermen allow them to bond for incomplete site work so that they may receive their certificate of occupancy prior to the first day of classes.

Mr. Puryear, representing the Board of Education, answered questions concerning the lighting fixtures and offered to change any lights if there are complaints from neighbors.

Giles Blunden, Chair of the Appearance Commission, stated that the Appearance Commission always deals with lighting issues when reviewing conditional use permit requests. If time is a factor in this situation, the higher lights could be installed at this time and replaced with shorter lights at a future date.

Tim Gunning and Climer Cease answered questions concerning the lights and stated that the lighting was not in the architects contract. The lighting was contracted to Duke Power Company who prepared the lighting plan. If the 15-foot poles are used, the number of lights will have to be increased. They suggested that 25-foot poles be installed at this time and if there are individual problems with neighbors, those particular lights could be replaced with 15-foot lights.

Mark Anderson, a resident of 104 Lisa Drive, stated that there is currently a construction light that is aimed right at his house and stated that he hoped that the permanent lights did not shine in this yard the way this one does.

MOTION WAS MADE BY FRANCES Shetley AND SECONDED BY RANDY MARSHALL TO GRANT THE MINOR MODIFICATION TO ALLOW USE OF 25-FOOT HIGH LIGHTING POLES BY DELETING THE FIRST SENTENCE OF CONDITION #11 OF THE CUP (THAT 15-FOOT POLES MAXIMUM BE USED FOR LIGHTING FIXTURES.) WITH THE CONDITION THAT IF SURROUNDING NEIGHBORS COMPLAIN ABOUT INDIVIDUAL LIGHTS, THAT THE SCHOOL SYSTEM BE REQUIRED TO PROVE THAT THE 25-FOOT LIGHTS ARE NOT HAVING A NEGATIVE IMPACT AND IF THE SCHOOL SYSTEM IS NOT ABLE TO PROVE THAT INDIVIDUAL 25-FOOT HIGH LIGHTS ARE NOT HAVING A NEGATIVE IMPACT ON THE SURROUNDING NEIGHBORS, THE SCHOOL SYSTEM WILL BE REQUIRED TO REDUCE THE LIGHTS IN QUESTION TO 15-FOOT HIGH LIGHT POLES. VOTE: AFFIRMATIVE FIVE, NEGATIVE TWO (NELSON, BRYAN)

MOTION WAS MADE BY FRANCES SHETLEY AND SECONDED BY RANDY MARSHALL TO ALLOW MODIFICATION OF THE CONDITIONAL USE PERMIT TO ALLOW THE GYMNASIUM TO BE COMPLETED AS A SEPARATE PHASE, AND THAT THE SCHOOL SYSTEM BE ALLOWED TO POST A BOND FOR THE INCOMPLETE SITE WORK UNTIL DECEMBER 1, 1994. VOTE: AFFIRMATIVE ALL

HOGAN FARMS SUBDIVISION/GREENWAY DEDICATION

Roy Williford, the town's Planning Director, presented four proposal for greenways to be dedicated to the town as a part of the Hogan Farm Subdivision proposal generated through the facilitation process.

Chris Peterson, the town's Public Works Director, presented slides of the proposed greenway area, discussed maintenance costs and presented a letter from the town's consulting engineer, the LPA Group addressing stormwater runoff.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HANK ANDERSON THAT THE TOWN ACCEPT THE DEDICATION OF GREENWAYS FROM DEVELOPERS IF SO OFFERED. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY FRANCES SHETLEY THAT THE TOWN NOT ACCEPT THE DEDICATION OF THE BIKEWAY IN THE HOGAN FARM DEVELOPMENT. [MOTION DIED FOR THE LACK OF A SECOND.]

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HANK ANDERSON TO ACCEPT THE DEDICATION OF THE 5,450 LINEAR FOOT BIKEWAY TO BE CONSTRUCTED ALONG THE GREENWAY IN THE HOGAN FARM DEVELOPMENT. VOTE: AFFIRMATIVE SIX, NEGATIVE ONE (SHETLEY)

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JAY BRYAN TO accept Map #4, as AMENDED, TO ALSO INCLUDE AS A DEDICATED GREENWAY THE AREA WEST OF LAKE HOGAN FARM ROAD AND EAST OF THE DAM AND SOUTH OF THE NORTHERN BOUNDARY OF THE 50-FOOT ACCESS EASEMENT TO THE SOUTHERN FLOODPLAIN LINE AS GREENWAY. IN ADDITION, THE BOARD VOTED TO INCLUDE THE 50-FOOT GREENWAY AS SHOWN ON THE SITE PLAN FROM THE DAM WEST TO THE FIRST AREA NOTED AS WETLANDS AND FROM THAT POINT WEST TO INCLUDE AN AREA AS GREENWAYS FROM THE NORTHERN BOUNDARY OF THE 50-FOOT GREENWAY AREA TO WITHIN 25 FEET OF THE NORTHERN SHORE OF THE LAKE. VOTE: AFFIRMATIVE ALL

REVIEW AND ACCEPTANCE OF REVISED HOGAN FARMS SITE PLAN

The Board of Aldermen received the revised Lake Hogan Farms Subdivision Plan produced through the facilitation process from the Town's Hogan Farm Facilitation Subcommittee.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JAY BRYAN TO APPROVE THE SITE PLAN SUBMITTED BY THE HOGANS AS AMENDED BY CHANGES SHOWN ON THE EXHIBIT BEFORE THE BOARD OF ALDERMEN IN CONNECTION WITH THE GREENWAY DISCUSSION UNDER THE PREVIOUS AGENDA ITEM, TOGETHER WITH THE FOLLOWING CONDITIONS AND THAT THE TOWN ATTORNEY USE THESE AS THE BASIS FOR THE SETTLEMENT OF THE LITIGATION:

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.
3. That the land owner (applicant) petition for voluntary annexation on a phase by phase basis prior to final plat approval of each phase.
4. That the location of the trail and the corresponding 50 foot easement to the Town of Carrboro be adjusted in the field to avoid overlapping lots if possible, and to avoid conflicts with OWASA manholes. That OWASA approve the location of the trail during the construction plan approval process.
5. That additional information be submitted to, and approved by, the Town's consulting engineer for lots 19 and 20, to ensure that the proposed drainage system will render these lots as buildable lots. This shall be done during the construction plan approval process.
6. That joint maintenance agreements between all lots served by the private driveways be established prior to construction plan approval, and that the details for the private driveways be approved by the Public Works Director and the Fire Chief during the construction plan approval process. The driveway design must include mountable curbs around the landscape islands and the vegetation within the islands must be limited to grass.
7. That Duke Power and North Carolina Natural Gas approve the crossings of their easements by roads, pedestrian/bike trails, and storm water and/or sewer pipes prior to construction plan approval, and that any necessary modifications be made to the plans as required by these utility companies.
8. That any office/retail use in, or around, the recreation complex, shall require annexation of the phase that the site is in (ie.--phase 1), then a rezoning and a CUP amendment must be obtained from the Board of Aldermen.
9. That the recreation point requirements of the Land Use Ordinance be verified, and adjusted if necessary, during the construction plan approval process, and that children's playground equipment must account for at least 10 percent of the total recreation points which are required for this project (via the recreation points table in the Land Use Ordinance or the dollar value equivalent of those points as provided for in Appendix G of the Land Use Ordinance).
10. That the detailed design of the creek crossings must be provided during the construction plan approval process, and that all road crossings must meet the federal standards established for "bridges" under ASHTO HS-20 and that the low impact bridge design be used, i.e., an arch span crossing.
11. That an application for a permit for the repair and reconstruction of the dam be made to the appropriate state agency upon issuance of the Conditional Use Permit, and that the lake not be refilled until such time as deemed safe and appropriate by the responsible state agency.
12. That the Transportation Advisory Board's recommendation dated April 7, 1994 be approved with an additional stub-out to be located on the south of the property to be dedicated to the town and that signage for the stub-outs and bike facilities be installed when the road is constructed.
13. That construction plans for phase 1 of the development may not be granted unless and until the developer has determined whether and to what extent improvements of the dam will be required and, if a state permit for such improvements is mandated, such permit is obtained from the state.
14. That public access will be provided along the Duke Power easement south of Lots 28 and 31 from the Bolin Creek Trail to the eastern property line of the tract with curb cuts.
15. That a note be placed on the plans that the six-foot paved trail will be constructed by the developer as shown with the pavement material to be approved by the Board of Aldermen prior to construction plan approval for Phase I.
16. That the following road stub-outs be continued to the property line: (a) the stub-out south of the Old 86 entrance; and (b) the stub-out shown between Lots 352 and 353.
17. That the developer work with OWASA to minimize the removal of trees within the sewer easement along the south side of Lake Hogan by maintaining a clearance no greater than 20 feet in width.

- 18 That the 50-foot bike/pedestrian trail easement be shown on the plans to clearly differentiate the public access trails from other private trails. [*Shading has not been labeled.*]
19. That the open space (acreage and percentage) and the number of lots be recalculated.
20. That the applicant shown on the Phase I construction drawings the area that will be needed during Phase I near the proposed clubhouse recreation area for the temporary collection of stormwater.

VOTE: AFFIRMATIVE ALL

RESOLUTION AUTHORIZING THE LEASE/PURCHASE OF VEHICLES AND EQUIPMENT

The town staff requested that the Board of Aldermen adopt a resolution designating the installment purchase contracts for the purchase of vehicles and equipment approved in the 1994-95 Budget as tax-exempt obligations of the town.

The following resolution was introduced by Alderman Jacquelyn Gist and duly seconded by Alderman Hank Anderson.

**A RESOLUTION DESIGNATING INSTALLMENT PURCHASE
CONTRACTS AS TAX-EXEMPT OBLIGATIONS OF THE TOWN
Resolution No. 2/94-95**

WHEREAS, the Town of Carrboro, through its duly elected Mayor, with the consent and approval of the Board of Aldermen, will be entering into contracts with Southern National Leasing Corporation for the purchase of:

- One (1) Refuse Dumpster Truck
- Three (3) Police Patrol Cars
- One (1) Pickup Truck for Inspections
- One (1) One-Half Ton Pickup Truck for Fleet Maintenance
- One (1) One-Half Ton Pickup Truck for Landscaping
- One (1) Dump Truck for Streets
- One (1) Van with Wheelchair Lift for Recreation
- One (1) Riding Mower for Landscaping

WHEREAS, the said contracts qualify as tax-exempt obligations of the town, pursuant to the Internal Revenue Code of 1986.

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

Section 1. The aforesaid contracts by and between the Town of Carrboro and Southern National Leasing Corporation, together with the amounts to be paid thereunder, be and the same are hereby designated as a qualified tax-exempt obligations of the town for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986.

Section 2. 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 9th day of August, 1994:

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

NOES: None

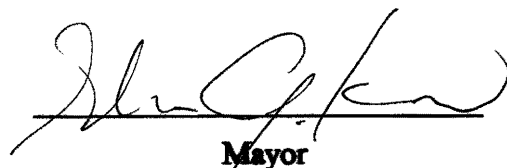
ABSENT/EXCUSED: None

STATE TRANSPORTATION IMPROVEMENT PROGRAM

Alderman Shetley requested that the Board of Aldermen place on next week's agenda a discussion of the State Transportation Improvement Program.

It was the consensus of the Board to place this item on next week's agenda.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY MICHAEL NELSON THAT THE MEETING BE ADJOURNED AT 12:47 A.M. VOTE: AFFIRMATIVE ALL



Mayor

Town Clerk