

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, May 16, 2000 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor	Michael Nelson
Aldermen	Joal Hall Broun
	Mark Dorosin
	Jacquelyn Gist
	Diana McDuffee
	Allen Spalt
	Alex Zaffron
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 ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN TO APPROVE THE MAY 9, 2000 MINUTES. VOTE: AFFIRMATIVE ALL

REQUEST TO SET A PUBLIC HEARING/STREET CLOSING REQUEST/FETE DE LA MUSIQUE CELEBRATION

The Carrboro Art Committee has submitted a street closing application for the temporary closing of the 1000 block E. Weaver Street from the Main Street intersection to the Greensboro Street intersection, West Weaver Street from the Greensboro Street intersection to the West Main Street intersection, and Roberson Street from the north side of the municipal parking lot to the E. Main Street intersection. A public hearing must be held to receive public input prior to issuing a street-closing request. The administration requested that a public hearing be scheduled for June 6, 2000.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Joal Hall Broun.

A RESOLUTION SETTING A PUBLIC HEARING TO RECEIVE PUBLIC INPUT
ON A REQUEST TO CLOSE STREETS FOR FETE DE LA MUSIQUE
Resolution No. 155/1999-2000

BE IT RESOLVED by the Board of Aldermen of the Town of Carrboro that June 6, 2000 at 7:30 p.m. is hereby set as the date for a public hearing on the request that East and West Weaver and Roberson Streets from the north side of the municipal parking lot to the East Main Street intersection be closed from 2:00 p.m. to 10:00 p.m. to accommodate the Fete de la Musique celebrations.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 16th day of May, 2000:

Ayes: Joal Hall Broun, Mark Dorosin, Diana McDuffee, Jacquelyn Gist, Michael Nelson, Allen Spalt, Alex Zaffron

Noes: None

Absent or Excused: None

MIDWAY PUBLIC SAFETY STATUS REPORT

At its regular meeting on March 21, 2000, the Carrboro Board of Aldermen reviewed the project descriptions and deadlines for the 2000 – 2001 Action Agenda. The Police Department was responsible for preparing a status report on both public safety programs in the Midway area and cooperative efforts with other jurisdictions. That status report was distributed to the Board.

FINAL DECISION ON JOINT PLANNING LAND USE PLAN AMENDMENT TO ALLOW EXPANSION OF EXTRACTIVE USE

On April 12, 2000, the three parties to the Joint Orange County Planning Agreement and Land Use Plan held a public hearing on a plan amendment that would allow expansion of an extractive use (stone quarrying) in the Rural Buffer. Following receipt of public comment, this matter was referred to the planning boards of Carrboro and Chapel Hill to make recommendations to their respective elected bodies. A recommendation from the May 4, 2000 review of this issue by the Carrboro Planning Board is submitted. The administration recommended that the Board of Aldermen adopt a resolution that supports the JPALUP amendment and submits this affirmative vote for consideration by the Orange County Planning Board on June 7th and the Board of County Commissioners on June 26, 2000.

Trish McGuire, the town's Planning Administrator, made the staff presentation.

Paxton Badham, American Stone's attorney, answered the Board's questions.

James Bateson, representing the Planning Board, stated that the Planning Board at its May 4, 2000 meeting voted to recommend to the governing boards (Orange County Commissioners, Chapel Hill Town Council, and Carrboro Board of Aldermen) that fair property taxes be paid for property used for "profit-making" purposes and that an impartial "Review Board" be created to address citizen complaints regarding the operation of the quarry.

Elliott Kramer spoke against the proposal, but asked if it is approved, that all homes within 6,000 feet of the quarry be provided OWASA water at a reasonable price.

Dan Okun, a retired UNC professor, stated that the alternative to the quarry expansion is to use Jordan Lake water. This community has a very limited supply of good quality water that is why it is so important to use the stone quarry. Dr. Okun requested that OWASA provide water to those citizens from the affected area that do not have good quality water.

A concerned resident of the affected area stated that the Board should consider who is being inconvenienced to provide water to the remainder of the community.

Anne Parrish, a resident of the area, stated the residents of the area want a good quality of life. Ms. Parrish stated that she feels this proposal is environmental racism. Ms. Parrish stated that there is nothing in the mediation agreement that will help her.

Roy Ballond stated that his house has been split in his garage and that he can feel the blasts. Mr. Ballond stated they would prefer to remain in their homes.

Annette Broadwell, a resident of the affected community, stated that she and her husband bought their property after 1978. Ms. Broadwell stated that there is a reverse precedent in this situation. The current quarry will provide 2.5 billion gallons of water in 10 to 15 years. If the Board votes in favor of the proposal, the destruction to the community surrounding the quarry cannot be undone.

Carl Smith, a resident of affected area, stated that the quarry blasting has damaged his well. Mr. Smith expressed concern that trucks leaving the quarry are speeding in a neighborhood with children.

Janet Foushee a resident of Parrish Road, stated that she cannot use her water, pictures fall off the walls and she has been forced to drill a second well. Ms. Foushee asked that this request not be approved.

Cora Beal stated that she has been forced to drill a second well and her ceramic tile has cracked.

Louse Parrish asked that the Board put themselves in the place of the residents around the quarry. Ms. Parrish stated that the residents of that neighborhood are humans too.

Erwin Danziger asked that the Board read the handout he had presented to them at tonight's meeting. Mr. Danziger stated that he feels this proposal will set a precedent in changing the Joint Planning Land Use Plan because it is the first change to that plan. Relocation of the road will create a dangerous situation. Mr. Danziger pointed out that Mr. Badham had stated that the quarry would only last another 10-15 years. The manager of the Stone Quarry stated during the mediation 10-20 years. Mr. Danziger pointed out that Mr. Badham had stated tonight that if American Stone slows down, the quarry could last for 30 years.

Marty Mandell stated that the best course is to set a time limit of 15 years on the stone quarry

Melvin Parrish, a resident of Parrish Road, asked that the request not be approved. Mr. Parrish asked that University Lake and/or Cane Creek be expanded to provide additional water.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY ALEX ZAFFRON TO APPROVE A RESOLUTION ADOPTING A JOINT PLANNING LAND USE PLAN AMENDMENT TO ALLOW THE EXPANSION OF AN EXTRACTIVE USE IN THE RURAL BUFFER, WITH THE REQUEST THAT THE COUNTY INCORPORATE THE MITIGATION MEASURES INTO THE SPECIAL USE PERMIT AND THAT OWASA BE ASKED TO TAKE WHATEVER ACTION NECESSARY TO ENSURE THE PROVISION OF CLEAN DRINKING WATER TO RESIDENTS WITHIN 3,000 FEET OF THE QUARRY (DELETE THE PRE-1978 PROVISION). (SECOND WITHDRAWN, THEREFORE THIS MOTION DIED FOR THE LACK OF A SECOND.)

Alderman Spalt expressed concern about the location of the road which will be inherently less safe than where it is currently located. The zoning causes problems—it is an unfortunate precedent to zone anything that is called a rural industrial activity zone in the watershed. The Joint Planning Land Use Plan should be changed so that there is a different category. The original environmental assessment on this project is very poor. The wetland was never adequately characterized and the investigation of threatened, rare, endangered species was basically a literature search, not from walking the property. There is probably more impact from the dust that floats around this area than has been characterized. When the current pit is mined out without the expansion the projections come reasonably close to the volume and the useful supply of the pit expanded. Why not wait for 10 years before granting any expansion.

Alderman Broun stated that there should be specificity in who should be able to receive water from OWASA. The residents surrounding the quarry should benefit from the same quality of water that the remainder of the community receives.

Alderman Dorosin asked if water lines could be run out to the quarry neighborhood.

Alderman McDuffee stated that she was concerned that the neighborhood will continue to feel the affects of the current quarry for somewhere between 10 and 25 years, with the mediation agreement it is capped at 30 years.

Alderman Broun asked why the quarry neighbors should have to jump through so many loops to get what the remainder of the community has. There has to be many sort of written assurance that water will be provided to those people.

Mike Brough stated that there is nothing in the joint planning agreement or the land use ordinance that prevents the extension of water into the rural buffer.

Roy Williford, the town's Planning Director, stated that there was a 90-day limitation in an appendix to the Joint Planning Agreement (13-point agreement) that prevented extension of water and sewer into the watershed.

Bob Epting, OWASA's attorney, stated that OWASA is not legally able to give free services to the community.

Mr. Brough suggested that OWASA pay American Stone or the Durham family a dollar figure (the cost to extend water lines) to acquire the quarry property and then American Stone could extend the water lines. This provision could be put into an agreement.

Peter Gordon, Chair of OWASA, stated that OWASA and American Stone had pursued the mediation effort sincerely. If there are changes at this point in time that are economically viable and fit into the goals and desires of the different elected boards, they are willing to make them. The frustration is with whom do they negotiate.

Alderman Spalt stated that all three governing boards held a joint public hearing on this matter, but have not discussed this matter.

Mayor Nelson stated that the majority of the community is getting a benefit from this quarry with a source of water, the minority is bearing a hardship. The question is where does the community as a whole get enough benefit that we need to stop inflicting damage on our neighbors. If American Stone continues to quarry at the current site another ten years, there is going to be quite a big hole to store a lot of water.

Alderman Zaffron suggested a thorough evaluation of the placement of the road be done before an alignment is selected. There may be deed restrictions that might be placed on the property to deal with the issues of limiting its usage to extractive uses. Maybe another EIS needs to be performed. The issue of providing water to the residents to deal with the equity issue needs to be worked out. Maybe we need to ask the County to reconsider their ordinance provisions to deal with this problem similar to the Rogers Road/Landfill issue. Maybe there needs to be another joint public hearing or worksession be held to find out where the other governing boards are on the outstanding issues. The long-term issue of providing clean drinking water is something that has to be dealt with.

Alderman Gist suggested that the resolution going to the County include a recommendation that road safety be ensured; that speed limits be enforced now regardless of what happens; before the permit is granted, that a comprehensive EIS be performed; and that discussions occur with the three owners of OWASA as to how to get clean drinking water to those people within 3,000 feet of the quarry who request it.

Alderman Gist proposed that the proposed resolution be tabled and that Carrboro, Chapel Hill, Orange County and OWASA meet to discuss how to get OWASA-quality water to the residents.

Mayor Nelson stated that he did not feel there is community support for extending water lines into the Rural Buffer.

Peter Gordon stated that there are questions of fact, law, politics and differing values. Unless the Board puts fairly specific issues on the table and a process for deciding them, the Board members should probably vote no on the expansion. The reality of the choice is either approval of the expansion and use \$600,000 set aside for recreation in the mediation agreement and move it into a fund for repairs administered by someone other than OWASA or American Stone. OWASA will probably have to start to look at developing Jordan Lake as a water supply. OWASA has a 10 million-gallon per day long-term allocation from the State and it is not obvious that the State will let OWASA retain that allocation. OWASA has taken responsibility for planning for water and OWASA feels the quarry expansion is the best option.

Alderman Broun asked if Carrboro has to vote on this matter before the County does.

Mike Brough stated that he was not aware of any order in order anyone has to vote. All parties to the joint planning agreement have to vote. The County has to place conditions at the zoning map amendment stage and special use permit stage.

The following resolution was introduced by Alderman Jacquelyn Gist.

A RESOLUTION ADOPTING A JOINT PLANNING LAND USE PLAN AMENDMENT
TO ALLOW THE EXPANSION OF AN EXTRACTIVE USE IN THE RURAL BUFFER
Resolution No. 153/1999-2000

WHEREAS, Orange County, the Town of Chapel Hill, and the Town of Carrboro entered into a Joint Planning Agreement, dated September 22, 1987, as amended April 2, 1990; and

WHEREAS, pursuant to the Joint Planning Agreement, a Joint Planning Area Land Use Plan (JPALUP) was adopted on October 13, 1986 by all parties to the Joint Planning Agreement, and has since been amended on several occasions; and

WHEREAS, the American Stone Company, Orange Water and Sewer Authority and Philip and Alice Durham have requested an amendment to the Joint Planning Area Land Use Plan to allow expansion of an extractive use (mining and stone quarrying) located on property in the Bingham Township that is designated Rural Buffer in the JPALUP; and

WHEREAS, this issue was considered during a joint public hearing on April 12, 2000;

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

Section 1. That the Joint Planning Area Land Use Plan be amended by extending the extractive use plan category to a 15.200-acre parcel (PIN 9759-63-9813) and a 60-acre parcel (PIN 9759-62-1992) located adjacent to the existing American Stone quarry in the Bingham Township.

Section 2. That the mitigation measures be included and Orange County be requested to include a stipulation in the special use permit that the OWASA ensure that the quality of water for people within 5,000 feet of the quarry have the same quality of drinking water as OWASA customers.

Section 3. This amendment shall become effective upon adoption by the governing bodies of Orange County, Chapel Hill, and Carrboro.

[There was no second to this motion.]

Alderman Zaffron suggested that staff be directed to forward tonight's minutes to the County for consideration and that the Board of Aldermen take this matter up again as soon as possible.

DECISION: LAND USE ORDINANCE AMENDMENT TO REMOVE A PROVISION THAT PROHIBITS JUNKED CARS

The Board of Aldermen held a public hearing on December 1, 1998 to receive comments on an ordinance that had been drafted to repeal a provision that prohibits the outside storage of any motor vehicle that is neither licensed nor operational. The Board of Aldermen closed the public hearing but delayed taking any action on the proposed amendment until comment was received from the Orange County Board of Commissioners. Over a year has elapsed since the hearing and the County has not yet scheduled this item for review. The administration recommended that the Board adopt the ordinance that has been prepared to address this issue.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO REMOVE THE PROHIBITION AGAINST THE STORAGE OUTSIDE OF A SUBSTANTIALLY ENCLOSED STRUCTURE OF ANY MOTOR VEHICLE THAT IS NEITHER LICENSED NOR OPERATIONAL." VOTE: AFFIRMATIVE ALL

WORKSESSION: REVIEW OF THE ENVIRONMENTAL ADVISORY BOARD'S RECOMMENDED LAND USE ORDINANCE CHANGES

On October 26, 1999 the Board reviewed a staff analysis of Environmental Advisory Board (EAB) recommendations to make changes to the land use ordinance provisions. The Board adopted a resolution that evening to hold a work session, or work sessions to further consider five issues noted by staff as falling outside current ordinance provisions or requirements. A resolution has been prepared that may be modified, subsequent to the worksession, to specify whether further action on any of the five issues should be pursued.

This agenda item was delayed until May 23, 2000.

REPORT AND REQUEST TO SET A PUBLIC HEARING: REVISIONS TO THE PRIVILEGE LICENSE ORDINANCE

Town staff, on March 14th, presented a report to the Board of Aldermen on revenue options to fund the Town's long-range Capital Improvements Plan. The Board requested that staff begin working on revenue options that do not require special legislation, one of which is the privilege license tax. The purpose of this agenda item was

to provide a brief report on the options for revising the Town's existing privilege license ordinance to change the billing structure from a flat rate to a fee schedule based on gross receipts earned by businesses. This billing structure is used by numerous jurisdictions and will help diversify the Town's revenue base and lessen the financial burden of residential taxpayers in the community.

To ensure adequate community input, the administration recommended that a public hearing be held on June 6, 2000. In addition to advertising the public hearing, notification of the public hearing will be sent to affected businesses and an informational meeting will be held by staff to educate businesses on the proposal prior to the public hearing.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JOAL HALL BROUN TO SET A PUBLIC HEARING FOR JUNE 6, 2000. VOTE: AFFIRMATIVE ALL

REPORT ON CHANGES TO THE PAY PLAN

Mr. Morgan asked that the town staff be given an opportunity to prepare an extensive report on revisions to the pay plan as requested by the Board during the budget worksession. The Board requested that this report be presented to the Board prior to the Board Retreat.

RESOLUTION ACCEPTING THE DONATION OF A WORK OF ART

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Joal Hall Broun.

A RESOLUTION ACCEPTING THE DONATION OF A WORK OF ART Resolution No. 156/1999-2000

WHEREAS, the Mayor and Board of Aldermen recognize the need to place art at the Carrboro Century Center; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

Section 1. The Mayor and Board of Aldermen gladly accept the donation of a work of art to be placed at the Carrboro Century Center.

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 16th day of May, 2000:

Ayes: Joal Hall Broun, Mark Dorosin, Diana McDuffee, Jacquelyn Gist, Michael Nelson, Allen Spalt, Alex Zaffron

Noes: None

Absent or Excused: None

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JOAL HALL BROWN TO
ADJOURN THE MEETING AT 11:10 P.M. VOTE: AFFIRMATIVE ALL

Mayor

Town Clerk