

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, May 18, 2004 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor	Michael Nelson
Aldermen	Joal Hall Broun
	Mark Chilton
	Jacquelyn Gist
	John Herrera
	Diana McDuffee
	Alex Zaffron
Town Manager	Steven E. Stewart
Town Attorney	Michael B. Brough
Deputy Town Clerk	Sharmin Mirman

### **REQUEST FROM CAROLINA BIODIESEL**

Bo Lozoff, with The Human Kindness Foundation, addressed the Board on behalf of Carolina Biodiesel. The Mayor and Board of Aldermen are agreeable to building a relationship with them and it was suggested that Mr. Lozoff meet with staff (Town Manager, Public Works, Purchasing Officer) and make a presentation to the Environmental Advisory Board.

\*\*\*\*\*

### **APPROVAL OF MINUTES OF PREVIOUS MEETING**

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY DIANA MCDUFFEE TO APPROVE THE MAY 4, 2004 MINUTES. VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

### **REQUEST TO SET: PUBLIC HEARING ON REZONING OF BRIGHT, WHEELER, FOWLER PROPERTY**

Don Fraley of M/I Homes, contract purchaser, has submitted a petition to rezone 17 acres of a 49-acre tract owned by the Bright, Wheeler, and Fowler families from Rural Residential to Residential, 20,000 square feet per unit. The Administration recommended that the Board of Aldermen set a public hearing for review of this matter on June 22, 2004 and refer the petition to Planning Board for recommendations.

The following resolution was introduced by Alderman Mark Chilton and duly seconded by Alderman Jacquelyn Gist.

A RESOLUTION CALLING A PUBLIC HEARING ON BRIGHT, WHEELER, FOWLER  
PROPERTY REZONING FROM R-R TO R-20  
Resolution No.158 2003/04

WHEREAS, the Carrboro Board of Aldermen must receive public comment on requests for rezoning; and

WHEREAS, Don Fraley of M/I Homes, contract purchaser, has submitted a petition for rezoning approximately 17 acres of the 49-acre Bright, Wheeler, Fowler property.

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on June 22, 2004 to receive public comment on this request.

BE IT FURTHER RESOLVED that the rezoning petition be referred to the Planning Board for a recommendation.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18<sup>th</sup> day of May, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson

Noes: Alex Zaffron

Absent or Excused: None

\*\*\*\*\*

**AWARD OF CONTRACT FOR ENGINEERING SERVICES: SIDEWALK BOND PROJECT**

The purpose of this item was to receive a proposal by Sungate Design Group PA, and award contract to Sungate Design Group for the Engineering Services Sidewalk Bond Project.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Diana McDuffee.

A RESOLUTION REQUESTING THE BOARD OF ALDERMEN TO ENTER INTO AN AGREEMENT WITH SUNGATE DESIGN GROUP, PA TO PERFORM SIDEWALK AND DRAINAGE IMPROVEMENTS FOR STREETS UNDER THE SIDEWALK BOND PROJECT.

Resolution No. 155/2003-04

WHEREAS, the Town of Carrboro proposes to enter into an agreement with Sungate Design Group, PA to perform sidewalk and drainage improvements for streets under the Sidewalk Bond project; and

WHEREAS, under the proposed agreement Sungate Design Group PA will perform necessary work pertaining to preparation of plans and specifications for the installation of curb and gutter, sidewalk and associated storm drainage along the following streets in Carrboro:

- Group 1 – Ashe, Elm, Lindsay, Shelton
- Group 2 – Bim, Davie
- Group 3 – N. Greensboro, Hanna
- Group 4 – Estes, Pleasant
- Group 5 – Oak, Pine, Cheek
- Group 6 - Fowler, Lloyd
- Group 7 - James, Quail Roost
- Group 8 – S. Greensboro, Jones Ferry, Williams, Bolin Forest Drive

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

Section 1. That the agreement for the above-referenced sidewalk and drainage improvements for streets under the Sidewalk Bond Project is formally approved by the Town of Carrboro,

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18<sup>th</sup> day of May, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY DIANA MCDUFFEE TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING FY'2003-04 BUDGET ORDINANCE." VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

**AWARD OF CONTRACT FOR EMPLOYEE HEALTH INSURANCE**

The purpose of this item was to present the staff's recommendation for health insurance coverage for the 2004-2005 fiscal year. The administration requested that the Board continue to offer WellPath Community Health Plans as the town's health insurance provider. In addition, the administration recommended that the town continue to contribute 50% toward the cost of dependent health care.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Diana McDuffee.

A RESOLUTION ACCEPTING STAFF'S RECOMMENDATION  
FOR HEALTH INSURANCE COVERAGE  
Resolution No. 153/2003-04

BE IT RESOLVED that the Town of Carrboro Board of Aldermen accepts staff's recommendation for health insurance for fiscal year 2004-05.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18<sup>th</sup> day of May, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

\*\*\*\*\*

**TOWN CODE AMENDMENT: SPEED LIMIT CHANGE**

Town staff has prepared an amendment to the Town Code for the speed limit on a portion of Homestead Road. The Administration recommended that the Board of Aldermen adopt the ordinance amending the Town Code.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY DIANA MCDUFFEE TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING CHAPTER 6 OF THE CARRBORO TOWN CODE RELATED TO SPEED LIMITS." VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

**CONTINUATION OF PUBLIC HEARING: LAND USE ORDINANCE TEXT AMENDMENTS THAT MODIFY DOWNTOWN PARKING REQUIREMENTS**

A public hearing on text amendments related to parking was held on April 27. The Board of Aldermen decided to continue discussion of this matter to a future meeting.

Trish McGuire, the Town's Planning Administrator, addressed the Board.

Ricky White, Chair of the Environmental Advisory Board, addressed the Board.

Ruffin Slater, a member of the Downtown Development Commission, addressed the Board.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOHN HERRERA TO CLOSE THE PUBLIC HEARING. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOHN HERRERA TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING ARTICLE XVIII OF THE CARRBORO LAND USE ORDINANCE (PARKING)" WITH THE FOLLOWING CHANGES:

1. For uses 1.100, 1.200, and 1.300 under part two – change to one per bedroom and no more than two.
2. That the Town Attorney draft language which would require covenants that the number of vehicles per dwelling unit be limited to no more than two.
3. For uses 3.00 the # would be 400 sq. ft. ---- 2.00 remains 300 ft.

VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JACQUELYN GIST TO REQUEST ANNUAL REPORTS ON THIS ORDINANCE. VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

**REQUEST FOR A MINOR MODIFICATION TO THE LAKE HOGAN FARMS CONDITIONAL USE PERMIT FOR THE REMOVAL OF SPECIFIC RECREATION FACILITIES**

Mr. Michael Dean Chadwick of 1<sup>st</sup> American Builders, LLC, along with residents of Lake Hogan Farms Subdivision have submitted an application requesting a minor modification of the Conditional Use Permit (CUP) issued on September 27, 1994 for the Lake Hogan Farms subdivision. Specifically, the application requests that two (2) recreation facilities shown on the approved plans be removed as a requirement. These facilities include a 'private trail' and a 'garden plot' area. The Administration requested that the Board of Aldermen review, deliberate, and make a decision regarding the requested changes.

Marty Roupe, the Town's Development Review Administrator, addressed the Board.

Marshall Burkes, a resident of 305 Long Meadows Road, came to represent the residents of Lake Hogan Farms. He stated that most residents oppose the community garden and see it as a liability.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Jacquelyn Gist.

A RESOLUTION REGARDING A MINOR MODIFICATION TO THE CUP  
FOR LAKE HOGAN FARMS SUBDIVISION TO REMOVE  
A PRIVATE TRAIL AND GARDEN PLOTS FROM THE CONDITIONAL USE PERMIT PLANS FOR  
THE PROJECT  
Resolution No.1572003/04

WHEREAS, the Carrboro Board of Aldermen approved a Conditional Use Permit for Lake Hogan Farms subdivision on September 27, 1994; and

WHEREAS, the Town of Carrboro Land Use Ordinance requires that any substantial change to the approved plans for a project shall constitute a minor modification to the original Conditional Use Permit; and

WHEREAS, the Board of Aldermen finds that the applicant has satisfied the requirements related to minor modifications contained in the Land Use Ordinance.

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that:

- The developer not be required to install a 4-foot wide private gravel trail.
- The developer not be required to provide the garden plot area.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18<sup>th</sup> day of May, 2004:

Ayes: Joal Hall Broun, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: Mark Chilton

Absent or Excused: None

\*\*\*\*\*

**PRESENTATION AND APPROVAL OF THE ORANGE COUNTY HAZARD MITIGATION PLAN**

This item provided the Board of Aldermen an opportunity, through a public meeting, to review and adopt the Orange County Hazard Mitigation Plan. Approval of the resolution adopts the Orange County Hazard Mitigation Plan and recognizes the Town's desire to work cooperatively with Orange County to develop a plan for protecting people and property from the potential devastating effects of natural hazards. The Town is required to adopt an approved Hazard Mitigation Plan by Senate Bill 300 and by the Federal Disaster Mitigation Act of 2000 (DMA2K) in order to receive Hazard Mitigation Grant Program Funds for disasters occurring after November 1, 2004.

Roy Williford, the Town's Planning Director, addressed the Board.

The following resolution was introduced by Alderman Joal Hall Broun and duly seconded by Alderman Jacquelyn Gist.

A RESOLUTION ADOPTING THE ORANGE COUNTY  
HAZARD MITIGATION PLAN

WHEREAS, the North Carolina General Assembly passed Senate Bill 300 “*An Act to Amend the Laws Regarding Emergency Management as Recommended by the Legislative Disaster Response Commission*” in June of 2001 that among other provisions requires local governments to have a hazard mitigation plan approved prior to August 1, 2002 in order to receive state public assistance funds;

WHEREAS, in October of 2000 the President of the United States signed into law the “*Disaster Mitigation Act of 2000*” (PL 106-390) to amend the “*Robert T. Stafford Disaster Relief and Emergency Act of 1988*” which among other provisions requires local governments to adopt a mitigation plan in order to be eligible for hazard mitigation funding;

WHEREAS, the North Carolina Division of Emergency Management is assisting local governments in the formulation of hazard mitigation plans;

WHEREAS, the North Carolina Division of Emergency Management has established rules and criteria that allow municipalities to adopt their county’s approved hazard mitigation plan through resolution;

WHEREAS, the Town of Carrboro has worked closely with the Orange County Hazard Mitigation Planning Team to develop a county-wide hazard mitigation plan that will serve the needs of Carrboro Citizens;

WHEREAS, the Town of Carrboro supports Hazard Mitigation Planning as a logical means toward protecting people and property from the potential devastating effects of natural hazards;

NOW, THEREFORE, BE IT RESOLVED that the Carrboro Board of Aldermen:

1. Desire to participate with Orange County in planning for the mitigation of effects caused by natural hazards;
2. Assign staff representation as determined by the Town Manager to work as a members of the Orange County Hazard Mitigation Planning Team to implement and update hazard mitigation planning activities;
3. Adopt, by way of this resolution, the “*Orange County Hazard Mitigation Plan*” as approved by the North Carolina Division of Emergency Management.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18<sup>th</sup> day of May, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

\*\*\*\*\*

**DISCUSSION: ISSUES RELATED TO BUSINESS OPERATIONS AT HANGERS CLEANERS**

Residents of the Village Square Townhomes on Fidelity Street made two requests to the Board of Aldermen related to Hanger’s Cleaners. The Board specified follow-up actions, materials pertaining to which were presented to the Board.

Alderman John Herrera expressed his concern about the safety of people operating the machines. He requested the OSHA decibel levels from staff.

Mr. Stewart said that the town does not have the authority to enforce OSHA (federal) standards.

Trish McGuire gave an overview of the proposed ordinance change to the Board

Laura Rogers, a resident of Village Square, thanked the Board for their efforts and asked if the Board would reschedule the date to change the resolution to August 24<sup>th</sup>.

Doug Mitchell, the owner of the property, addressed the Board. He stated that it would be unfair and costly to drag this out for three more months and asked that the Board please proceed in a timely manner.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Jacquelyn Gist.

A RESOLUTION CALLING A PUBLIC HEARING ON A LAND USE ORDINANCE TEXT  
AMENDMENT RELATED TO ESTABLISHING HOURS OF OPERATION FOR  
DRY CLEANING MACHINERY IN B-3 ZONING DISTRICTS  
Resolution No.159 2003/2004

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to consider modifications to existing policies and regulations; and

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on June 22, 2004 to consider adopting "An Ordinance Amending the Carrboro Land Use Ordinance Provisions Dealing With Noise."

BE IT FURTHER RESOLVED that the draft amendment is referred to Orange County for review per the Joint Planning Agreement and to the Town of Carrboro Planning Board for its recommendations.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18th day of May, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

\*\*\*\*\*

**LETTER FROM COUNTY COMMISSIONERS REF. RE-ESTABLISHMENT OF INTERGOVERNMENTAL PARKS WORK GROUP**

Alderman Joal Broun raised some issues about the May 3rd letter from the Chair of the County Commissioners concerning the request to re-establish the Intergovernmental Parks Work Group. She questioned whether this would predispose them from having a public charette with the people in Carrboro and people who live around the Southern Community Park.

Mayor Nelson asked that the County's request to re-establish the Intergovernmental Parks Work Group be placed on a future Board agenda for consideration.

\*\*\*\*\*

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY ALEX ZAFFRON TO GO INTO CLOSED SESSION AT 9:48 PM. VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

### **PURCHASE OF THE ADAMS TRACT**

Mayor Nelson stated that there are restrictions with the grant that we received (Clean Water Management Trust Fund Grant) requiring a conservation easement on the Adams Tract. He stated that he supports the conservation easement, but would like to have a small portion of the 28 acres of land (5-7 acres) near Wilson Park that is not restricted.

Mr. Stewart said that with the LWC application in place, a no active recreation restriction would apply to the entire tract. There is a potential of not being able to get the grant if the language were changed.

Richard White stated that low impact is fine.

Mr. Stewart said that playing fields would be an issue. The grant application is for \$250,000.

Alderman Zaffron stated that if we submit a grant application and it's unsuccessful, we could reevaluate.

Bob Jessup, the town's Bond Attorney, said that we're just going to have to tell the granting agency what our plans are for the financing. We need to be able to move forward whether or not the second grant comes in. Financing is going to be available no matter what. He doesn't suggest doing something with this property that we're not happy with.

Alderman Gist said that she would like to see the easement over the whole thing.

Mayor Nelson said the easement could be written over the whole thing but that recreational facilities be allowed to be built by Wilson Park.

Alderman Broun stated that she is tired of building parks in Orange County that you can't get to. It's an access issue.

Michael Brough said the County would insist on an easement before putting up funds and that we need details before we sign.

Bob Jessup said that an easement over the entire property would limit it to passive recreation.

Alderman Herrera asked if we could approach the owners about the possibility of owner financing. How much money could we save? Is there flexibility to deal with grant money?

Mr. Stewart asked the Board to think about authorizing staff to meet with Barry Jacobs and John Link to propose the definition/terms. We need to have a discussion on that soon.

Mayor Nelson suggested that the Board take a week to think about how to proceed.

The following resolution was introduced by Alderman Joal Hall Broun and duly seconded by Alderman John Herrera.

A RESOLUTION SUPPORTING AN APPLICATION TO  
THE LOCAL GOVERNMENT COMMISSION FOR ITS APPROVAL  
OF A FINANCING AGREEMENT – 2004 LAND ACQUISITION PROJECT  
RESOLUTION NO. 168/2003-2004

WHEREAS –

The Town of Carrboro has previously approved in principle a project to finance the acquisition of the property containing approximately 27 acres known as the “Adams Tract.” Recently, negotiations for the possible purchase of this property by local government entities have accelerated, and the various parties may be close to an agreement for that sale. The Town expects that any sale arrangements will require the Town to contribute to the purchase price in an amount of up to \$600,000.

This contribution could be in one of various forms, but one possibility will be for the Town to finance its contribution over time under a bank installment financing arrangement, as provided under Section 160A-20 of the General Statutes. Such a financing arrangement by the Town would require the approval of the North Carolina Local Government Commission (the “LGC”).

Under LGC guidelines, this governing body must make certain findings of fact to support a Town application for the LGC’s approval of the Town’s financing up to \$600,000 for this project. Although the Town has reached no definitive agreements for the purchase, or made any decisions concerning financing, the Board believes it is in the Town’s interest to adopt a resolution making those findings in order to facilitate such a financing if the Town makes a decision to proceed with such financing.

NOW, THEREFORE, BE IT RESOLVED that the Board of Aldermen of the Town of Carrboro, North Carolina, makes the following findings of fact:

1. The proposed project is necessary and appropriate for the Town under all the circumstances. The Town has long considered the purchase of the Adams Tract for public use or preservation an important project for the Town, as evidenced by the continued presence of this project in the Town’s capital project planning.
2. The proposed installment financing is preferable to a bond issue for the same purpose. The size and nature of the project make it particularly suitable for installment financing. The timing of the transaction makes it necessary for the Town to secure financing more quickly that would be possible if the Town were required to seek voter-approved bonds for this purpose, and in any event under current market conditions the Town believes there would be no overall savings from using bond financing. The Town has no meaningful ability to issue non-voted general obligation bonds for this project, and this project will produce no revenues that could be used to support a self-liquidating financing.
3. The estimated sums to fall due under the proposed financing contract are adequate and not excessive for the proposed purpose. The Town will obtain competitive lending proposals, and will closely review proposed lending rates against market rates with guidance from the LGC.
4. As confirmed to the Board at this meeting by the Town’s Finance Officer, (a) the Town’s debt management procedures and policies are sound and in compliance with law, and (b) the Town is not in default under any of its debt service obligations.

5. The Town expects that any tax increase attributable to the current proposed financing will be minimal and in any event appropriate under the circumstances. The Town expects that interest rates to be payable by the Carrboro Board of Aldermen

Town on the proposed financing, and the expected term of the financing, will allow the Town to repay the financing within current resources.

6. The Town Attorney is of the opinion that the proposed project is authorized by law and is a purpose for which public funds of the Town may be expended pursuant to the Constitution and laws of North Carolina.

BE IT FURTHER RESOLVED that the actions of the Town's Finance Officer in filing an application with the LGC for its approval of the project and the proposed financing arrangements are authorized, ratified and approved, that all Town officers are authorized and directed to take all such further action as they may determine to be in the Town's interest to secure the financing contemplated by this resolution (and that all such prior actions are ratified and approved), including the scheduling and advertising for the required public hearing; but in any event further action of this Board will be required to approve the general terms and conditions of any actual financing arrangement proposed for this project.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18<sup>th</sup> day of May, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

\*\*\*\*\*

MOTION WAS MADE BY JOAL HALL BROUND AND SECONDED BY JACQUELYN GIST TO ADJOURN THE MEETING AT 10:23 PM. VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

\_\_\_\_\_  
Deputy Town Clerk

\_\_\_\_\_  
Mayor