

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, November 22, 2011 in the Board Room of the Carrboro Town Hall.

Present and presiding:

Mayor	Mark Chilton
Aldermen	Joal Hall Broun
	Dan Coleman
	Jacquelyn Gist
	Randee Haven-O'Donnell
	Lydia Lavelle
	Sammy Slade
Interim Town Manager	C. Matthew Efirid
Town Clerk	Catherine C. Wilson
Town Attorney	Michael B. Brough

### **FRIENDS OF THE LIBRARY**

Alderman Haven-O'Donnell recognized the Friends of the Carrboro Library for their state-wide award for library advocacy.

Nerys Levy, representing the Friends of the Carrboro Library, stated they were awarded the first place award for their advocacy for a southwest Orange Regional Library from the Friends of North Carolina Public Libraries. She thanked the Board for their support and requested that they receive a resolution of recognition.

### **901 WEST MAIN STREET (JOHNNY'S)**

Tina Saldana, a resident of 200 Westview Drive, requested clarification on what is permitted under the current zoning at 901 West Main Street and the process the Town uses to monitor and approve a change in zoning that will increase the business aspect of this property. She also asked if off-premise ABC wine sales are allowed. She stated that the owner has requested a change in zoning from R-10 grandfathered nonconforming use to retail. She presented a letter from Dennis Bradshaw, executive director of Residential Services Inc., and a letter signed by 75 neighbors and nearby property owners expressing concern about the granting of on-site ABC permits for the property and requesting that the zoning change not be approved.

**MOTION WAS MADE BY ALDERMAN GIST AND SECONDED BY ALDERMAN BROUN TO REFER THIS ITEM TO STAFF FOR FOLLOW-UP. STAFF ARE ALSO DIRECTED TO NOTIFY MS. SALDANA AND THE PEOPLE THAT SIGNED THE LETTERS WHENEVER THERE ARE ANY MEETINGS CONCERNING THIS ITEM. VOTE: AFFIRMATIVE ALL**

**NORTH SIDE COMMUNITY GARDEN**

Gretta Lee, a representative of the North Side Community Garden, stated that they are in the process of relocating the community garden due to the construction of a school. She stated that they are looking into joining the Baldwin Park Community Garden and asked that a cistern and shed be allowed at the Baldwin Park site. Construction of the school is scheduled to begin in January.

MOTION WAS MADE BY ALDERMAN HAVEN-O'DONNELL AND SECONDED BY ALDERMAN COLEMAN TO REFER THIS ITEM TO STAFF AND FOR STAFF TO REPORT BACK DURING THE DECEMBER 6<sup>TH</sup>, 2011 MEETING. VOTE: AFFIRMATIVE ALL

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**CHAPEL HILL POLICE ACTION AT YATES MOTOR COMPANY**

The following resolution was introduced by Alderman Coleman and seconded by Alderman Haven-O'Donnell:

WHEREAS the Chapel Hill police took action to detain and arrest several citizens at the Yates Motor Company on November 13, 2011 for breaking and entering, and in the course of so doing, apparently detained two members of the media, Ms. Katelyn Ferral and Mr. Josh Davis; and

WHEREAS, Ms. Ferral and Mr. Davis were forced to lie on the ground and were handcuffed and Ms. Ferral was told not to take any further photographs; and

WHEREAS Ms. Ferral and Mr. Davis positively identified themselves as a member of the press, had visible press badges, and vocally stated their positions; and

WHEREAS Ms. Ferral and Mr. Davis were not attempting to disrupt the police in their work; and

WHEREAS Ms. Ferral and Mr. Davis were told they would be detained and arrested if they were "caught on the premises again"; and

WHEREAS, the details outlined above are according to media accounts, and are currently under review by the Town of Chapel Hill; and

WHEREAS under the terms of our police department mutual aid agreement with Chapel Hill, the Carrboro Police Department played a supporting role in this event, and

WHEREAS two weeks hence, the Town of Carrboro will renew its commitment to the Bill of Rights through our participation in the annual Bill of Rights Day event,

Now therefore, the Town of Carrboro officially apologizes for its part in any improper actions taken against Ms. Ferral and Mr. Davis and will work to ensure that such actions do not occur in the future.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

The following resolution was introduced by Alderman Coleman and seconded by Alderman Slade:

WHEREAS the Chapel Hill police took action to detain and arrest several citizens at the Yates Motor Company on November 13, 2011 for breaking and entering, and

WHEREAS under the terms of our police department mutual aid agreement with Chapel Hill, the Carrboro Police Department played a supporting role in this action, and

WHEREAS the Chapel Hill SERT unit was brought to the scene as the primary response without prior warning of impending police action, and

WHEREAS the Chapel Hill SERT unit appears to have used the unprovoked threat of deadly violence against apparently unarmed and unresisting citizens, and

WHEREAS the Town of Chapel Hill is reviewing the events of November 13, 2011 and the results of that review are not yet known, and

WHEREAS in government as in private life, certain offenses merit an apology even if all the facts are not yet known, and

WHEREAS the Carrboro Police Department is known for its respectful treatment of citizens and its prudent and judicious use of police tactics,

Now therefore, the Town of Carrboro apologizes if unarmed and cooperating citizens were unnecessarily held at gun-point or hand-cuffed and further resolves to review our Mutual Aid Agreement with Chapel Hill as well as our own internal policies to ensure that Carrboro officers at all times operate according to the standards adopted by our town and that all such standards carefully match police response to the requirements of the situation at hand.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Mark Chilton, Randee Haven-O'Donnell

Noes: Lydia Lavelle, Joal Hall Broun, Jacquelyn Gist

Absent or Excused: None

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### **CHARGES ISSUED**

The Town Clerk issued charges to Jerry Glass, recent appointee to the Recreation and Parks Commission, and Dustin Chicural-Bayard, recent appointee to the Environmental Advisory Board.

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### **APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

MOTION WAS MADE BY ALDERMAN BROUN AND SECONDED BY ALDERMAN COLEMAN TO APPROVE THE MINUTES OF NOVEMBER 15, 2011, AS AMENDED.  
VOTE: AFFIRMATIVE ALL

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### **REQUEST TO SET A PUBLIC HEARING ON A LAND USE ORDINANCE TEXT AMENDMENT MAKING TECHNICAL CORRECTIONS TO WATER QUALITY BUFFER REQUIREMENTS PER ACTION OF THE ENVIRONMENTAL MANAGEMENT COMMISSION ON JULY 14, 2011**

The Environmental Management Commission made technical changes to the Rule for Jordan Lake on July 14<sup>th</sup>. The Town has been notified of these changes and the need to submit a revised buffer ordinance by March 1, 2012. A resolution that sets a public hearing on the draft ordinance and refers it for review has been prepared.

The following resolution was introduced by Alderman Broun and seconded by Alderman Coleman:

A RESOLUTION CALLING A PUBLIC HEARING ON AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO REFLECT TECHNICAL CORRECTIONS MADE TO THE JORDAN RULES BY THE EMC ON JULY 14, 2011  
Resolution No. 31/2011-12

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 January 24, 2012 to consider adopting "an ordinance amending the Carrboro Land Use

Ordinance to reflect technical corrections made to the Jordan Rules by the EMC on July 14, 2011”

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

BE IT FURTHER RESOLVED that the draft ordinance is also referred to the following advisory boards and commissions for consideration and recommendation prior to the specified public hearing date:

- |  |  |
|--|--|
| <input type="checkbox"/> Appearance Commission                   | <input type="checkbox"/> Recreation and Parks Commission             |
| <input type="checkbox"/> Transportation Advisory Board           | <input type="checkbox"/> Northern Transition Area Advisory Committee |
| <input checked="" type="checkbox"/> Environmental Advisory Board |  |
| <input type="checkbox"/> Economic Sustainability Commission      |  |

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O’Donnell

Noes: None

Absent or Excused: None

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**A REQUEST TO ADOPT A RESOLUTION TO AWARD A SERVICE SIDE ARM TO A RETIRING POLICE OFFICER**

Police Lieutenant John Lau will retire from the Town of Carrboro Police Department on December 1, 2011 after 25 years of service. The Police Department would like to award Lieutenant Lau his service side arm to recognize his dedication to duty and his service to the Town of Carrboro. The Board of Aldermen was requested to adopt, by resolution, Town staff’s recommendation to award the service side arm to Lieutenant John Lau without cost to him.

The following resolution was introduced by Alderman Broun and seconded by Alderman Coleman:

A RESOLUTION AWARDING A SERVICE SIDE ARM TO A RETIRING POLICE  
OFFICER

Resolution No. 46/2011-12

WHEREAS, Police Lieutenant John Lau is retiring from the Town of Carrboro Police Department on December 1, 2011 after approximately twenty-five years of service; and

WHEREAS, Lieutenant Lau has demonstrated his dedication to duty and to the citizens of the Town of Carrboro; and

WHEREAS, North Carolina General Statute 20-187.2 allows the governing body of a law enforcement agency to award to a retiring member, upon request, the service side arm of the retiring member;

NOW, THEREFORE, BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen adopt this resolution awarding the service side arm to Lieutenant John Lau, without cost to him.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

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**AUTHORIZATION FOR THE INTERIM TOWN MANAGER TO AWARD A  
CONTRACT FOR BOLIN CREEK GREENWAY PHASE 1B PRELIMINARY  
ENGINEERING**

The Board of Aldermen is asked to consider approval of a contract for preliminary engineering (PE) of Phase 1B of the Bolin Creek Greenway.

The following resolution was introduced by Alderman Broun and seconded by Alderman Coleman:

A RESOLUTION APPROVING A PROFESSIONAL SERVICES CONTRACT FOR  
PRELIMINARY ENGINEERING FOR THE HOMESTEAD-CHAPEL HILL HIGH SCHOOL  
MULTI-USE PATH (BOLIN CREEK GREENWAY PHASE 1B)

Resolution No. 51/2011-12

WHEREAS, a multi-use path along Bolin Creek connecting neighborhoods north of Homestead Rd. with the area south of Homestead Rd., including Chapel Hill High School, is identified as Phase 1B in the Bolin Creek Greenway Conceptual Master Plan; and

WHEREAS, on December 8, 2009, the Board of Aldermen approved the Conceptual Plan's recommendations for Phases 1A, 1B, and 2, with the stipulation that Phase 1B not extend south of Jolly Branch; and

WHEREAS, federal funding for the Bolin Creek Greenway under the Surface Transportation Program-Direct Attributable (STP-DA) category has been programmed by the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization; and

WHEREAS, on March 1, 2011, the Board of Aldermen approved a Municipal Agreement – subsequently executed on April 8, 2011 – with the North Carolina Department of Transportation (NCDOT) to authorize funding for Phase 1B, using the title, “Homestead-Chapel Hill HS Multi-use Path” and TIP number U-4726 DE; and

WHEREAS, a request for qualifications (RFQ) process was implemented in Summer 2011 for preliminary engineering services for the project, and Kimley-Horn and Associates (KHA) was selected as the most qualified firm;

WHEREAS, a draft contract has been developed that includes the scope of services and a fair and reasonable fee for the amount of services proposed;

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Board of Aldermen approves the Professional Services Contract with Kimley-Horn and Associates for preliminary engineering for the Homestead-Chapel Hill HS Multi-use Path (Bolin Creek Greenway Phase 1B) and authorizes the Interim Town Manager to execute the contract.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

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**APPROVAL OF A MUNICIPAL AGREEMENT WITH NCDOT AND CAPITAL PROJECTS ORDINANCE TO DESIGN AND CONSTRUCT BICYCLE LOOP DETECTORS**

The Board was asked to consider approval of a Municipal Agreement with the North Carolina Department of Transportation to design and construct bicycle loop detectors at signalized intersections.

The following resolution was introduced by Alderman Broun and seconded by Alderman Coleman:

**RESOLUTION APPROVING A MUNICIPAL AGREEMENT WITH NCDOT TO DESIGN AND CONSTRUCT BICYCLE LOOP DETECTORS**  
Resolution No. 52/2011-12

WHEREAS, bicycle loop detection at signalized intersections allows bicyclists to request a green light by placing their bicycles over an inductive loop that communicates with the traffic signal; and,

WHEREAS, bicycle loop detectors have the potential to discourage red-light running by providing an alternative to quickly cross the intersection; and,

WHEREAS, the Comprehensive Bicycle Transportation Plan recommends placement of bicycle detectors at various intersections and provides loop detector design guidance; and,

WHEREAS, the Board of Aldermen approved the bicycle loop detectors as a federal STP-DA transportation project on November 20, 2007, and subsequently designated fund balance for the local match required to install ten bike loop detectors; and,

WHEREAS, the Durham-Chapel Hill-Carrboro MPO allocated \$30,000 of STP-DA funding for the project on May 14, 2008; and,

WHEREAS, a Municipal Agreement is necessary to proceed with preliminary engineering and construction of the loop detectors;

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

1. The Board of Aldermen approves the Municipal Agreement with NCDOT to design and construct bicycle loop detectors (NCDOT TIP # U-4726-DF);
2. The Interim Town Manager or Town Manager is authorized to execute the Municipal Agreement;
3. The Interim Town Manager or Town Manager is authorized to designate a "Person in Responsible Charge" for the project, as stipulated in the Municipal Agreement and in accordance with 23 CFR 635.105.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

The following ordinance was introduced by Alderman Broun and seconded by Alderman Coleman:

**BICYCLE LOOP DETECTORS CAPITAL IMPROVEMENT PROJECT ORDINANCE,  
FY 2011-12  
Ordinance No. 14/2011-12**

WHEREAS, the Town of Carrboro, has received funding from the North Carolina Department of Transportation (NCDOT) under the federal Surface Transportation Program-Direct Attributable (STP-DA) program for the design and construction of Bicycle Loop Detectors; and,

WHEREAS, the Town of Carrboro intends to enter into a Municipal Agreement with NCDOT to administer this federal funding to design and construct bicycle loop detectors; and,

WHEREAS, local funds are required and have been designated in the Town's unassigned fund balance in the general fund to match the NCDOT STP-DA funding award;

NOW, THEREFORE PURSUANT TO N.C.G.S 159-13.2, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO THAT:

1. The Bicycle Loop Detectors Capital Improvement Project is hereby authorized to be undertaken until all project activity is completed.
2. The following revenues are anticipated to be available to the Town of Carrboro to complete the project:

Federal STP-DA Funds	\$ 30,000.00
Town General Fund Unassigned Fund Balance	\$ 7,500.00
	<hr/>
	\$ 37,500.00

3. The following amount is appropriated for this project to be expended in the following manner:

Design, Environmental Documentation and Construction    \$ 37,500.00

4. Within five (5) days after this ordinance is adopted, the Town Clerk shall file a copy of this ordinance with the Finance Director and Planning Director.

The foregoing ordinance having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

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**UPDATE FROM THE NC DEPARTMENT OF TRANSPORTATION ON THE SMITH LEVEL ROAD PROJECT – U2308**

The purpose of this item was for the Board of Aldermen to receive a report from North Carolina Department of Transportation (NCDOT) staff regarding resident concerns with the Smith Level Road project.

John Nigro, Dayton Martin, and Steve McGee, representatives from the North Carolina Department of Transportation were available to answer questions.

An unidentified citizen asked for access to the latest NCDOT plans and explained that she has had a difficult time getting the information in the past. Mr. Martin presented her with a copy of the plans.

Mayor Chilton asked that staff place a copy of the plans on the Town's website.

Anil Peres da Silva, President of the Berryhill Homeowners Association stated that 10% of homes are affected in the Berryhill neighborhood. He expressed concern over the plans showing a utility easement on the opposite side of the road of existing power lines and asked why the power lines are being moved across the street.

Mr. Martin, with NCDOT, stated that utility easements are shown on both sides of the road in case 15' is not enough utility right-of-way on one side.

Matt Efird, interim Town Manager, stated that the project will also require an easement from the Town and that will not be considered until the Board has indicated they are ready to move forward with the project.

Alderman Coleman suggested that the discussion be curtailed and moved to a future agenda where the Board would have a report and maps which "clearly delineate where the easements are, and whose properties they are encroaching on, and what the purpose is."

Alderman Gist requested photographs as well as maps.

Alderman Broun suggested than an informational meeting with neighbors precede the Board meeting.

MOTION WAS MADE BY ALDERMAN BROUN AND SECONDED BY ALDERMAN GIST FOR NCDOT TO SCHEDULE A MEETING WITH PROPERTY OWNERS TO DISCUSS CHANGES FROM THE ORIGINAL SET OF PLANS AS COMPARED TO THE CURRENT SET OF PLANS. NCDOT STAFF SHOULD BE PREPARED TO EXPLAIN TO PROPERTY OWNERS, IN DETAIL, WHAT THE EASEMENT PROCESS WILL ENTAIL FROM START TO FINISH. TOWN STAFF SHALL PREPARE AN AGENDA ITEM TO BE RETURNED TO THE BOARD AS SOON AS POSSIBLE AFTER THE INFORMATIONAL MEETING IS HELD. VOTE: AFFIRMATIVE ALL

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**FOLLOW-UP REPORT ON THE LIMITED ANTI-LINGERING ORDINANCE FOR THE AREA NEAR THE INTERSECTION OF JONES FERRY AND DAVIE ROAD**

At the Board of Aldermen meeting on September 13, 2011, staff presented a follow-up report on the limited anti-lingering ordinance for the area near the intersection of Jones Ferry Road and Davie Road. Following their discussion, Board members directed staff to provide additional information related to this issue. The purpose of this item was to provide the requested information to the Board of Aldermen.

Carolyn Hutchison, the Town's Police Chief, made the presentation to the Board. She discussed the proposed community support officer position and noted that part of that job would require an enforcement component. Preliminary conversations have taken place with a few human services agencies about the creation of a community support person from their staff but none have indicated that they are ready or able to create that position.

Rev. Robert Campbell, resident of 1711 Purefoy Drive and President of the Chapel Hill - Carrboro NAACP and the Rogers Neighborhood Association, asked the Board to rescind the anti-lingering ordinance. He stated that the day laborers are being taken advantage of by not being paid for work. He encouraged further collaboration between the Police Department, Abby Court, the Board, and day laborers and the creation of a community support position.

Chris Brook, a resident of 200 Elm Street and staff attorney for the Southern Coalition for Social Justice, asked the Board to rescind the ordinance. He also presented articles about similar ordinances being struck down in Redondo Beach, California and Alabama. He stated that the ordinance is unconstitutional, unjust, and has a negative economic impact.

Steve Dear, a resident of 207 Wyndham Drive, asked the Board to rescind the ordinance. He stated he has been going to the corner to have lunch since October and was not approached by the police. He stated that selective enforcement is unjust.

Mayor Chilton explained that the Police Department has not enforced the ordinance when people were at the corner for a political protest.

Chris Kreutzer, a resident of 806 Davie Road, stated that things have improved on the corner since the ordinance was originally passed. He stated that his fiancé has been subject to sexually threatening language. They also have had issues with people being drunk and urinating on their property. He will begin calling the police for illegal activities on his property and this may have negative immigration consequences.

Sophie Suberman, a resident of 107 Old Pittsboro Road, asked the Board to rescind the ordinance. She stated that she lives in Carrboro because of the welcoming nature of the Town and does not think the ordinance is compatible. She cautioned that the ordinance may be used as a model for less welcoming and friendly communities.

Lori Hoyt, a resident of 119 Fidelity Street, speaking on behalf of the Women's International League for Peace and Freedom asked the Board to rescind the ordinance.

Rafael Gullegos, the Associate Director of the Chapel Hill-Carrboro Human Rights Center, asked the Board to rescind the ordinance. He stated that the ordinance makes it more difficult for day laborers to find work.

Santiago Hernandez, a day laborer, stated that not being able to stand on the corner after 11:00 a.m. makes it harder to find work. He has never had an issue with the police but he asked the Board to rescind the ordinance to allow the workers more time to find work.

Michelle Johnson, a resident of 109 Center Street, asked the Board to rescind the ordinance. She thinks that a better, long term solution needs to be developed. She also encouraged the Board to work with a taskforce to seek a solution that is socially just.

Alberto Rodriguez, a day laborer, presented the Board with a signed copy of a Workers Code of Conduct. He asked the Board to rescind the ordinance. Has been a day laborer for almost fifteen years and sometimes it makes him feel bad when the police arrive at 11:00 a.m. He stated that the workers are just looking for a job and that is all they need.

Jose Francisco-Gonzalez, a resident of 206 B Laurel Avenue, asked the Board to allow the workers additional time to be at the corner. He also asked the Board to look into the issue of wage theft.

Mark Dorison, a Carrboro resident and managing attorney at the UNC Center for Civil Rights, asked the Board to rescind the ordinance because it is unconstitutional and does not address the illegal activities that occur. He also suggested that the Board consider translation services.

Bill Madden, a resident of 124 Fidelity Street, stated that he used to live at Abby Court previously and that the corner looks much better now than it did before the ordinance went into effect. He moved because it was not a good place to be. He stated that the community needs to call the police with regards to illegal activity and that harassing speech should not be tolerated.

**MOTION WAS MADE BY ALDERMAN GIST AND SECONDED BY ALDERMAN BROWN THAT SECTION 5-20 OF THE CARRBORO TOWN CODE BE REPEALED. TOWN STAFF**

ARE DIRECTED TO SEEK FUNDING FOR A COMMUNITY RESOURCE OFFICER THAT WILL BE EMPLOYED EITHER BY THE TOWN OR BY A PARTNERING COMMUNITY GROUP. TOWN STAFF ARE FURTHER DIRECTED TO RESEARCH THE STRENGTHENING OF THE TOWN'S ANTI-HARASSMENT ORDINANCES TO INCLUDE SEXUALLY HARASSING OR THREATENING COMMENTS TOWARD WOMEN AS HATE SPEECH.

The following ordinance was introduced by Alderman Gist and seconded by Alderman Broun:

AN ORDINANCE REPEALING THE ANTI-LINGERING ORDINANCE  
ORDINANCE NO. 15/2011-12

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 5-20 of the Carrboro Town Code (Limitation on Use of Designated Right-of-Way) is repealed.

Section 2. This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

MOTION WAS MADE BY ALDERMAN COLEMAN AND SECONDED BY ALDERMAN SLADE THAT THE EFFORTS TO LOOK INTO STAFFING FOR THE CORNER INCLUDE, BUT NOT BE LIMITED TO, TOWN STAFFING AND THE POSSIBILITY OF COLLABORATING WITH HUMAN RIGHTS CENTER, EL CENTRO, AND WHEN APPROPRIATE, BOTH. IF THERE ARE BUDGETARY IMPLICATIONS FOR THE STAFFING DECISION THE BOARD SHOULD BE INFORMED OF THOSE NO LATER THAN THE BUDGET PRESENTATION FOR FY 12-13 AND THAT THE BOARD RECEIVE PROGRESS REPORTS BETWEEN NOW AND THAT BUDGET REPORT. VOTE: AFFIRMATIVE ALL

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**MINOR MODIFICATION OF EXISTING CONDITIONAL USE PERMIT FOR 300 EAST MAIN STREET**

Main Street Partners, LLC has submitted an application for a Minor Modification of the existing Conditional Use Permit for 300 East Main Street to allow for minor changes to the proposed

design of Boyd Street. Town staff requested that the Board of Aldermen review the information and consider approving a resolution permitting the changes.

Marty Roupe, the Town's Zoning Development Specialist, made the presentation to the Board.

George Seiz, the Town's Public Works Director, answered the Board's questions about gutter and storm inlet size requirements.

Mike Brough, the Town's Attorney, explained the standard and concept of "good faith" as referenced in the resolution. He also answered questions about the option of requiring a bond from the contractor.

Ricardo Palau, 103 Boyd Street, stated that the passage of the minor modification permit will halt future good-faith negotiations between him and the developer. The letter from the contractor does not speak to the ability to build the retaining wall without encroaching on his property.

Laura Van Sant, developer with 300 East Main, stated that she plans to continue negotiations with the Palau's. They are before the Board tonight to keep the loan process on pace.

The following resolution was introduced by Alderman Coleman and seconded by Alderman Haven-O'Donnell:

**A RESOLUTION APPROVING A MINOR MODIFICATION OF THE CONDITIONAL USE  
PERMIT FOR 300 EAST MAIN STREET TO ALLOW A DESIGN MODIFICATION FOR  
BOYD STREET  
Resolution No. 57/2011-12**

WHEREAS, the Town of Carrboro approved a Conditional Use Permit on September 30, 2008 for a commercial project located at 300 East Main Street (Combination Use); and

WHEREAS, the currently proposed changes to the design of Boyd Street constitute a Minor Modification to the CUP per the applicable language from the Town of Carrboro Land Use Ordinance; and

WHEREAS, the Board of Aldermen finds that the applicant has satisfied the requirements related to Minor Modifications contained in the Land Use Ordinance, subject to the conditions included below.

NOW, THEREFORE BE IT RESOLVED that the Carrboro Board of Aldermen hereby approve the Minor Modification to Conditional Use Permit for 300 East Main Street to potentially allow an alternative design for Boyd Street, identified as 'option 2,' subject to the following four (4) conditions:

- 1) That the final 'option 2' design may be modified as requested by Town Staff to incorporate standards and devices found acceptable to the Public Works Department prior

to construction plan approval. The final design drawings must include all appropriate details for the retaining wall, guard rail, and other treatments.

- 2) That if 'option 2' is the design constructed, that the construction plans must indicate construction fencing along the edge of the Boyd Street right of way in front of the Palau/Harmon properties (103 and 105 Boyd Street). This fencing must remain in place throughout construction of Boyd Street and the developer must clearly convey to all contractors that they are not in any circumstance allowed to cross the fence.
- 3) That the developer must continue pursuing an easement to allow for construction of the originally-approved design for Boyd Street. This includes continued, good-faith negotiations with the neighboring property owner until the actual construction of Boyd Street is imminent. The applicant will copy town staff with correspondence with the property owner.
- 4) That that the retaining wall will be built without encroaching on the Palao property.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

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### **REPORT ON THE TRIANGLE REGIONAL TRANSIT PROGRAM ALTERNATIVES**

The Board of Aldermen was asked to receive an update on the Triangle Regional Transit Program, including the Durham-Orange Corridor Alternatives Analysis and associated regional transit planning efforts.

Patrick McDonough, a representative of Triangle Transit, made the presentation to the Board.

The following resolution was introduced by Alderman Slade and seconded by Alderman Broun:

A RESOLUTION RECEIVING AN UPDATE ON THE TRIANGLE REGIONAL TRANSIT  
PROGRAM AND PROVIDING COMMENTS ON THE DURHAM-ORANGE CORRIDOR  
ALTERNATIVES ANALYSIS  
Resolution No. 54/2011-12

WHEREAS, *Carrboro Vision 2020* (4.13) states that the "town should cooperate with Chapel Hill and other regional entities in a comprehensive transportation plan to include: regional transit service conducted by the Triangle Transit Authority, seamless connections among all the region's public transit systems, and shorter routes and more frequent service"; and

WHEREAS, 14.1 percent of Carrboro residents take public transportation to work, according to the 2005-2009 American Community Survey, conducted by the U.S. Census Bureau; and

WHEREAS, the Durham-Chapel Hill-Carrboro 2035 Long Range Transportation Plan recommends a light rail corridor connecting Durham with the UNC campus, with a recommended future expansion to Carrboro; and

WHEREAS, Triangle Transit is conducting an Alternatives Analysis to apply for Federal Transit Administration funding for a regional fixed guideway between Durham and UNC; and,

WHEREAS, the Alternatives Analysis has recommended light rail transit as the Locally Preferred Alternative between Durham and Orange Counties; and

WHEREAS, the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC-MPO) Transportation Advisory Committee is expected to consider approval of a Locally Preferred Alternative (LPA) at its February 2012 meeting;

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Board of Aldermen receives the update on the Triangle Regional Transit Program.

BE IT FURTHER RESOLVED that the Board provides the following additional comments:

- a. The Board recommends:
  - i. That A3(d) station at UNC Hospital does not preclude future extensions to downtown Chapel Hill, Carrboro
  - ii. That the University Square Redevelopment may impact one possible alignment
  - iii. The TAC consider inclusion of any rail extensions in Orange County in 2040 LRTP
  - iv. The TAC conduct corridor or feasibility study examining rail alternatives to connect Carrboro with first phase of rail after LPA is adopted in 2012

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

Alderman Slade requested that staff keep the Board informed with the development status of University Square.

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**2014-2020 TRANSPORTATION IMPROVEMENT PROGRAM REGIONAL PRIORITY LIST AND 2016-2020 STP-DA CALL FOR PROJECTS**

The Transportation Advisory Board (TAB) has developed a recommendation with comments on project rankings in the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization's (DCHC-MPO) draft 2014-2020 Regional Priority List (*Attachment B*). The TAB has also prepared a preliminary list of potential STP-DA projects for the 2016-2020 period (*Attachment C*), but needs more time to finalize the list.

Jeff Brubaker, the Town's Transportation Planner, made the presentation to the Board. He explained the MPO points assigned to the Town's local priority list.

Alderman Coleman requested that future agenda packets include point rankings so the Board can review them prior to the meeting date.

The following resolution was introduced by Alderman Haven-O'Donnell and seconded by Alderman Coleman:

**A RESOLUTION PROVIDING COMMENTS TO THE DURHAM-CHAPEL HILL-CARRBORO METROPOLITAN PLANNING ORGANIZATION ON THE DRAFT 2014-2020 REGIONAL PRIORITY LIST  
Resolution No. 56/2011-12**

WHEREAS, the Town of Carrboro participates in regional transportation planning, including the adoption of long- and short-range transportation improvement programs, through the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC-MPO); and,

WHEREAS, the Town of Carrboro is represented on the DCHC-MPO's Transportation Advisory Committee (TAC) by members of the Board of Aldermen; and,

WHEREAS, every two years, the North Carolina Department of Transportation develops a Statewide Transportation Improvement Program (STIP) to guide statewide transportation investments; and,

WHEREAS, the DCHC-MPO is required to approve a Metropolitan Transportation Improvement Program (MTIP) for the metropolitan area that becomes a subset of the STIP; and,

WHEREAS, on May 17, 2011, the Board of Aldermen approved a 2014-2020 Local Priority List of transportation projects to be considered for prioritization in the MPO Regional Priority List; and,

WHEREAS, NCDOT and MPO evaluation has resulted in a draft Regional Priority List to be considered for approval by the TAC;

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

1. The Board provides the following comments on the draft Regional Priority List and-or MPO rating methodology:
  - a. The Board recommends that the TAC reallocate the 25 points from Old NC 86 and 25 points from Eubanks Road to the Estes Drive project for a total of 100 points for Estes Drive.
2. TAC representatives may represent any Board action on this item to the TAC.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

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**REQUEST TO CONSIDER A RESOLUTION OF INTENT TO PURSUE THE CONSTRUCTION OF A PUBLIC SEWER LINE**

The purpose of this agenda item is for the Board of Aldermen to consider a resolution of intent to pursue the construction of a public sewer line.

The following resolution was introduced by Alderman Broun and seconded by Alderman Coleman:

**A RESOLUTION OF INTENT TO PURSUE CONSTRUCTION OF A PUBLIC SEWER LINE  
Resolution No. 55/2011-12**

WHEREAS, a common private sewer lateral serving the 100 block of East Main Street in Carrboro failed on August 26, 2011; and

WHEREAS, the Orange Water and Sewer Authority (OWASA) does not accept responsibility for private sewer lines; and

WHEREAS, the Town has worked with the affected property owners to attempt to find a common solution to the failed sewer line; and

WHEREAS, the businesses in this location are vital to the economic health of a thriving Carrboro; and

WHEREAS, a public sewer line will offer a solution to the failure of the common sewer line serving these properties and may open up property along Roberson Street for future economic development activity; and

WHEREAS, Town staff is currently pursuing obtaining funding for the construction of a public sewer line from outside sources; and

WHEREAS, if staff is unable to obtain funding from outside sources it may become necessary for the Board of Aldermen to consider allocating funding to pay for the project; and

WHEREAS, the estimated cost of the project, including design, construction and contingency, is approximately \$250,000.

NOW THEREFORE BE IT RESOLVED that the Town of Carrboro Board of Aldermen express the intent for the Town to pursue the construction of a public sewer line. Town staff is directed to provide the County with the estimated cost of the project and to research the possibility of County reimbursement. Town staff are also directed to research the OWASA policy related to developer reimbursement.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

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**A RESOLUTION CALLING A SPECIAL MEETING OF THE BOARD/TOWN  
MANAGER SEARCH COMMITTEE ON NOVEMBER 29, 2011**

The purpose of this item was to schedule a special meeting for November 29, 2011 for the Board to meet with Springsted, INC., the Town Manager Search Firm, in Executive Session for a personnel matter.

The following resolution was introduced by Alderman Lavelle and seconded by Alderman Slade:

**A RESOLUTION CALLING A SPECIAL MEETING OF CARRBORO BOARD OF  
ALDERMEN  
Resolution 53-2011/12**

**THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:**

Section 1. The Carrboro Board of Aldermen shall hold a special meeting on Tuesday, November 29, 2011, at 7:30 p.m. in the Carrboro Town Hall for the purpose of discussing with the Town's consultant, Springsted, Inc., the applications received by the Town from persons seeking to be appointed as town manager. It is expected that the Committee will meet in a closed session under the personnel exception to the Open Meetings Law.

Section 2. This resolution shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote received the following vote and was duly adopted this 22nd day of November 2011:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

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**ADJOURNMENT**

MOTION WAS MADE BY ALDERMAN COLEMAN AND SECONDED BY ALDERMAN BROUN TO ADJOURN THE MEETING AT 11:16 P.M. VOTE: AFFIRMATIVE ALL

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Mayor

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Town Clerk