

October 10, 2011

Board of Commissioner's Meeting

The Wendell Town Board of Commissioners held its regularly scheduled meeting on Monday, October 10, 2011, at 7:00 p.m. in the Wendell Commissioner's Meeting Room with Mayor J. Harold Broadwell, II, presiding. Also present were Commissioners Carol Hinnant, Sid Baynes; Christie Adams; Ira Fuller and Virginia Gray, Town Manager Teresa Piner; Lieutenant Bobby Langston; Attorney Jim Cauley; Town Clerk Jonnie Driver; Planners Stacy Griffin and David Bergmark; Parks and Recreation Director Brinkley Wagstaff; and Finance Director Butch Kay.

Mayor Broadwell called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was led by Lieutenant Bobby Langston and an invocation was given by Reverend Claude Wilson-Stayton of Covenant Presbyterian Church.

Adjustment and approval of the agenda

Commissioner Hinnant made a motion to move Item #8 on the agenda to Item #3 and approve as amended. The vote was unanimous.

Item 1 – Public Comment Period

Laura Evans, 219 N. Hollybrook Road - stated she thought moving the Lake Myra Christmas Light Show to Wendell was a good idea for the town. She asked what we have downtown to encourage people to come. She said she asking the board to get busy in trying to get businesses in town, that the coffee shop had closed and that she heard another business would probably be closing by the end of the month. She said she would like to encourage the board to bring the light show to town and for everyone to work toward making our downtown a place where people would like to come and visit, eat and shop.

Item 2 – Consent Agenda

- a. Approval of the minutes from the September 26, 2011 Board of Commissioners meeting.
- b. Approval of the Wake County Tax Report from August 11, 2011

Commissioner Fuller made a motion to approve the consent agenda as written. The vote was unanimous.

Item 3 - Request by Matthew Cebey-Crecco for assistance toward his Eagle Scout project to be conducted at the Eastern Wake Senior Center

Manager Piner stated Matt met with the Senior Center director this summer about his project which would be to clean and rehabilitate the courtyard area at the Center. She stated the project would include two benches for seating in the courtyard as well as cleaning out overgrowth, planting and mulching.

Mrs. Piner stated the Parks and Recreation Department had received a request to install two benches in the courtyard and that Director Brinkley Wagstaff had received estimates of \$180 for

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two benches but once informed of Matt's potential project, the purchase of the benches were postponed until a decision by the board on the project.

Manager Piner stated Matt's project was approved by the Boy Scout council on October 4, 2011 and the project was estimated at \$600 for supplies and that Matt and other volunteers would provide the labor.

Matt Cebey-Crecco of 600 Boniface Face Court, Knightdale, NC - stated he planned to refurbish the garden at the Senior Center and was asking for funding on his Eagle Scout Project in the amount of \$600.

Commissioner Hinnant asked Matt if he planned on asking Knightdale and Zebulon for funding since it was a regional center. Commissioner Baynes stated he agreed that Knightdale and Zebulon needed to have the opportunity to participate.

Commissioner Grey congratulated Mr. Cebey-Crecco on his accomplishment of Eagle Scout.

Commissioner Hinnant asked Matt if he had considered a fundraising event for the project. Matt replied he had not, because a fundraiser could take quite a bit of time to organize and that he had to complete the Eagle Scout Project before he was 18 years old and that he was 17 now.

Commissioner Baynes made a motion to provide up to \$600 for Matt's project, but said he expected him, on scouts' honor, to ask the Town of Knightdale and Zebulon to contribute and anywhere else that he could to reduce the cost for the Town of Wendell.

Mayor Broadwell asked Matt when he would need the money. Matt said he would start the project the second week in November so as soon as possible would be helpful so that he had time to get the supplies needed.

Item 4 – Public Hearing on the request of Capital Area Preservation to establish the Hales-Tunnell-Bunn House located at 102 South Main Street as a historic landmark.

Manager Piner stated Wake County Historic Preservation had made an investigation of 102 S. Main Street and determined that it was eligible to be designated as a historic landmark. She said the home was owned by Keith and Kara Acree.

Mr. Gary Roth, President of Wake County Historical Preservation, gave a brief history of the Hales-Tunnell-Bunn house.

Mr. Chris Smith, 101 S. Main Street - stated he was in support of the request for the Hales-Tunnell-Bunn house as a historic landmark.

Mr. Keith Acree, 102 S. Main Street and owner of the Hales-Tunnel-Bunn house, stated the house was what brought him and his wife to Wendell and he would appreciate the board's support on the designation of a historic landmark.

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Commissioner Hinnant made a motion to approve the ordinance designating the Hales-Tunnell-Bunn House a historic landmark in Wendell. The vote was unanimous.

Item 5 – Appointment of a voting delegate to the North Carolina League of Municipalities Annual Conference

Commissioner Fuller made a motion to appoint Mayor Harold Broadwell as voting delegate for the Town of Wendell at the League of Municipalities Annual Conference. The vote was unanimous.

Item 6 – Review of Wendell Boulevard and Highway 231 study conducted by CAMPO

Manager Piner stated as a result of unallocated planning funds, CAMPO conducted a study of Highway 231, Wendell Boulevard and the Old Wilson Road intersection. She said suggested alignments and associated costs were included in the report.

Mrs. Piner said one of the next steps once an alignment was selected was to request funding for design of the project. She said there were five alternatives offered and it was recommended that Alternative 4 be implemented to address the existing geometric and traffic issues within the study area. She stated Alternative 4 could be implemented in phases to address specific issues and spread out the total cost and impacts. (Listed below are the Phases of Alternative 4).

Phase 1 is recommended as the construction of the left-turn lane along US 64 Business (Wendell Boulevard) and SR 2359 (Old Zebulon Road). This improvement is simple, relatively inexpensive and can be constructed within the existing right-of-way by widening only three to four feet of additional pavement on each side and replacing the curb and gutter to provide three eleven-foot lanes. The estimated construction cost would be \$65,000.

Phase 2 includes the closure of SR 2353 (Old Wilson Road) at US 64 Business (Wendell Boulevard) and the realignment SR 2353 such that it connects to US 64 Business approximately 800 feet east of the existing intersection, allowing the westbound movement to operate under free flow; eastbound SR 2353 (Old Wilson Road) would form a T-intersection with the realigned segment. This improvement would address the confusing geometry that is currently present at the US 64 Business and SR 2353 and NC 231 (N. Selma Road) intersection. The estimated construction cost is \$310,000.

Phase 3 includes the relocation of SR 2359 (Old Zebulon Road) such that it ties into the existing US 64 Business (Wendell Boulevard) at NC 231 (N Selma Road) intersection. The need for this relocation should be evaluated based on the effectiveness of the left-turn lane at SR 2359 (Old Zebulon Road) constructed in the first phase of improvements. The estimated construction cost would be \$255,000.

Phase 4 includes the construction of a roundabout at the US 64 Business (Wendell Boulevard) and NC 231 (N. Selma Road) intersection. The roundabout could be implemented prior to the relocation of SR 2359 (Old Zebulon Road) as a three legged roundabout with the option of adding a fourth leg when the relocation is implemented or it could be placed after the relocation has taken place. This round about would require some additional land for construction beyond the

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conventional intersection, but the additional land would be minimal. The estimated construction cost would be \$220,000.

Mrs. Piner stated the estimated construction cost did not include the cost of acquiring necessary right-of-way or other non-construction costs such as relocation assistance.

Commissioner Hinnant said the route that Alternative 4 took cut up two properties pretty severely, and asked if they considered going straight across on Selma Road and taking the corner of the church property and tying back into Old Zebulon Road so they would miss the historic district altogether. Mrs. Piner said that was not the indication that they gave her, but that she would follow up with CAMPO and see if they had looked at that.

Commissioner Adams said she was concerned about the amount of commercial traffic and the use of the roundabout. She said she had a concern about how the roundabout could handle large trucks. Mrs. Piner said it could be designed to allow for large vehicle traffic. Commissioner Adams asked was the fact that there was a large amount of commercial traffic at that intersection taken into consideration. Manager Piner said yes it was.

Commissioner Hinnant asked if the town had to wait until the state got funding. Mrs. Piner said she had talked with CAMPO and one of the things that she would recommend doing next would be a detailed study like what the town is doing at Rolesville Road and Wendell Boulevard, and budget the 25 percent cost for the town in the next fiscal year if this was a project that the board wanted to see move forward.

Commissioner Baynes said Wendell Boulevard, Selma Road and Old Wilson Road are all state maintained roads and that the state created these problems, not the Town of Wendell, but the state seems to be looking at the town for the solutions. He said he would like for the town to do whatever they could to get DOT to give more help. He said he would like for the board to make some kind of affirmative statement about this intersection tonight, but I would like for staff to ask DOT to look at a design modification that would straighten out this problem that the board has talked about tonight.

Manager Piner said the board could accept this tonight and be given the directive to move forward in asking the engineer for more information and to look at an alternative for leaving the land in tact where the church was concerned.

Commissioner Baynes said he would like for the board to accept and endorse the report and to move forward by asking CAMPO or DOT to look at the modification at the intersection.

Mayor Broadwell said it might be helpful to get the engineers to come and speak to the board to clarify how they came up with this plan. Commissioner Baynes said he thought Mrs. Piner could handle that and just report back to the board.

Commissioner Fuller said he did not believe that the board had enough information to make a decision. He said he would like for the DOT engineers to come to a board meeting and give the

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board more information and answer the questions that we have talked about tonight. He said he would ask that the board receive the report and put it on the next work session for the engineers to be here and talk with the board. Everyone was in agreement.

Item 7 – Request by planning staff to forward proposed civil penalty amendment to the Planning Board.

Planner Stacy Griffin stated the civil penalty violation that was in the UDO was set at \$100 per violation per day which was consistent with the old zoning code.

Ms. Griffin said in June 2011 the Fiscal Year 2011-2012 budget was adopted by the board and a schedule of fees was contained in that budget which set the zoning violations at \$25 for the first violation and \$100 for further violations. She said this fee change necessitated a UDO text amendment to make the information in Section 18.3A1f correspond to the adopted Schedule of Fees.

Ms. Griffin stated the UDO required a warning citation be sent setting out the nature of the violation, the section violated and an order to cease the violation. The letter also stated that a second citation shall incur a civil penalty.

Ms. Griffin stated all text amendments must be reviewed by the Planning Board prior to being voted on by the Board of Commissioners and the Board of Commissioner must hold a public hearing prior to voting on amendments to the text of the UDO.

Ms. Griffin stated Section 18.3A1f currently read civil penalties shall be in the amount of \$100 for each violation and each calendar day any single violation continues shall be a separate violation.

Ms. Griffin said the suggested amendment would read civil penalties shall be in the amount of \$25 for the first day a violation continues past the date stated in the warning citation. The second notice shall inform the violator that such penalty has been assessed and that if the violation is not corrected within a stated period of time, that penalties will accrue at the rate of \$100 per violation per calendar day that the violation continues.

Ms. Griffin stated she was asking for direction from the Board to take this issue to the Planning Board and bring back to the board for a public hearing and consideration.

Commissioner Hinnant said we never talked about the fee schedule during the budget presentation and she was not sure the board had done the right thing. She said the town needed to be able to afford to enforce the violations. She said she thought we are looking at changing the wrong thing. Ms. Griffin said it needed to be consistent.

Commissioner Fuller made a motion to delay action tonight on the fee schedule and ask Manager Piner to bring the entire fee schedule that was adopted as part of budget back to the October 24, Board meeting to make sure there were no more inconsistencies with the UDO or other documents. The vote was unanimous.

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Item 8 – Request by Planning Staff to forward a request to amend the zoning map for properties located at the corner of Marshburn Road and Hanor Lane.

Planner David Bergmark said in September 2011, staff was notified that the owner of Maple Court Apartments had plans to renovate the units and add a new 2,000 sq. ft. structure to serve as the apartment office. He said Maple Court Apartments is currently zoned R3, and prior to the adoption of the UDO, this property was zoned R10, which allowed multi-family uses with a special use permit. He said multi-family uses are not listed as a permitted use with the R3 district and as a result of the ordinance changes adopted in the UDO, Maple Court Apartments was considered an existing nonconforming use.

Mr. Bergmark stated in section 13.4 of the UDO, an existing nonconforming residential use “may be enlarged or altered. Any such enlargement or alteration shall be in compliance with all yard requirements and other regulations of such structures as required in the specific district.” He said since multi-family uses are not allowed in the R3 districts, there were no yard requirements or standards to go by in order to conform to those standards.

Mr. Bergmark said staff was suggesting a town initiated rezoning request to rezone this property Neighborhood Commercial. He said they were also suggesting that the rezoning request be expanded to cover Robinwood Apartments and Crestfield Apartments which were also currently nonconforming uses.

Mr. Bergmark stated since multi-family uses were only allowed with a Special Use permit, the owner of Maple Court Apartments would need to submit a special use permit request in order to expand this use through the construction of a 2,000 sq. ft. building. The public hearings for both the rezoning and special use could be held concurrently.

Commissioner Baynes said he had a concern that we are making a major change to a small problem. He said the town knew when the UDO was re-written there would be nonconformities and they would be grandfathered rather than terminated as the previous UDO did. He said they were talking about residential properties and if they were rezoned to NC they would be commercial properties where all sort of uses could be had. He said he was more inclined to protect the housing development on the other side of Marshburn Road. He suggested taking a look at all the nonconforming uses in general and come up with some rule that could be used to mitigate these kinds of instances. He asked if an accessory building could work because they were allowed in R3.

Manager Piner said staff would take a look at accessory use structures, but when this was brought to staff’s attention they looked at this change and other properties that were multi-family and because of the location of other commercial establishments like the post office and shopping center that they would always be a more intense use whether it is offices or the ability to have multi-family and to expand with that special use process. She said when the changes were made in the UDO it was a transition of what that zoning designation was to another one. She said staff felt Neighborhood Commercial best served this entire intersection to make it conforming and

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that they would not be able to do expansions without coming before the board as a Special Use and then the nonconforming designation could be taken off.

Manager Piner said they had taken a look at the accessory use structures and that could be used if that was the direction the board chose to go.

Commissioner Hinnant asked what the other apartment complexes in town were zoned, because she did not want to start selecting some parcels and zoning them one way and having a similar use somewhere else and not handle it in the same way. Mr. Bergmark said there are not a lot of apartment buildings and the only residential district where multi-family was listed as permitted with a Special Use Permit was the R7 District and right now there was no R7 District, but that it was an option for someone to rezone. Commissioner Hinnant said this may be one of the areas that staff needs to look at and bring some more information back to the board.

Commissioner Adams said she did not see that it was right to rezone just because the peg does not fit the hole, and that it sets the precedent that this is how we would handle these situations and she could see that causing more long term problems than providing long term solutions. She said she would favorably consider another alternative.

Mr. Bergmark said staff would look at this situation and create some different options for how to resolve this in other ways.

It was the consensus of the board for staff to look at non-conforming parcels all over town and bring something back to the board that might work in these instances.

Item 9 – Discussion and approval of the amended agreement between NCDOT and the Town of Wendell for STP-DA project U-5323.

Manager Piner said the town currently has an agreement with NCDOT that calls for a contribution of \$96,000 Federal Funds and the town agreed to a \$24,000 match. She said Ramey-Kemp was chosen as the engineer for the project and estimated the cost at 25 percent of design to be \$179,551 as a result of the amount of survey detail required to determine current utility locations and relocations for construction.

Mrs. Piner said staff presented the need for additional funds to the Town Board on August 8, 2011 and at that time the board approved a match of up to \$50,000. She said per the amended agreement, the town's match would be \$35,910.

Mrs. Piner stated once the agreement between the town and NCDOT has been signed by both parties the town would be given the approval to enter into the contract with Ramey-Kemp. She said staff was asking the Town Board to review and approve the supplemental agreement between NCDOT and the Town of Wendell for Surface Transportation Program/Direct Attributable (STP-DA) funds.

Commissioner Fuller asked Attorney Cauley if he had reviewed the Supplemental Agreement. Attorney Cauley said he had and that it was acceptable.

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Commissioner Baynes asked to be recused from the vote and discussion due to a possible conflict of interest. Commissioner Fuller made a motion to recuse Commissioner Baynes from discussion and vote. The vote was unanimous.

Commissioner Fuller made a motion to approve the supplemental agreement as stated in the agenda. The vote was unanimous.

Item 10 – Commissioner’s reports.

Commissioner Baynes thanked the Chamber of Commerce, staff, and the many other people that made the Harvest Festival a success this year. He said he was also hearing from excited people about what Commissioner Gray was involved in with the revitalization of the downtown and he wanted to thank her and all the others that were involved in this project.

Commissioner Hinnant also thanked everyone for a successful Harvest Festival. She said we had a downtown group and they are meeting regularly and Mr. Wagner at the Corner Collectibles has some great ideas. She encouraged citizens to go in and speak with him and see as individuals what we can do to recruit businesses to downtown.

Commissioner Gray said the downtown group would be meeting at the Chamber of Commerce on Tuesday night, October 11, at 6:30.

Commissioner Hinnant said there was a workshop scheduled for October 19, at the Community Center and Mr. Tomlinson of NC State University and his students to talk about an Economic Development project and that Mr. Tomlinson had some great ideas.

Item 11 – Mayor’s report / comments.

Mayor Broadwell said the CAMPO meeting scheduled for October 19 had been cancelled.

Adjournment.

Commissioner Hinnant made a motion to adjourn. The vote was unanimous.

J. Harold Broadwell, II, Mayor

Attest:

Jonnie S. Driver, Town Clerk