

April 14, 2014

Wendell Town Board of Commissioners Meeting Minutes

The Wendell Town Board of Commissioners held their regularly scheduled board meeting on Monday, April 14, 2014 at 7:00 p.m. in the Town Boardroom with Mayor Timothy Hinnant presiding. Present at the meeting were Commissioners James Parham; Sam Laughery; Jon Lutz; John Boyette; Virginia Gray; Manager Teresa Piner; Town Clerk Jonnie Drive,, IT Administrator Tamah Hughes; Finance Director Butch Kay; Police Chief Bill Carter; Public Works Director Alton Bryant; Tim Kay Program Coordinator Parks and Recreation; Daryl Hales Code Enforcement Officer; Interim Planning Director David Bergmark; and Planner Patrick Reidy.

Mayor Hinnant called the meeting to order at 7:00 p.m. and thank the guest for attending.

Police Chief Bill Carter led the Pledge of Allegiance and Bennie Collins of Wendell Baptist Church gave the invocation.

Adjustment and approval of the agenda.

With no adjustment, Commissioner Parham made a motion to approve the agenda as written. The vote was unanimous 5-0.

Item 1-Public Comment Period.

No one wished to be heard.

Item 2 – Consent Agenda

- a. Approval of the minutes from the Monday, March 24, 2014 Board of Commissioner’s meeting.
- b. Approval of the minutes from the Monday, March 24, 2014 Budget Work Session.
- c. Approval of the January 2014 Wake County Tax Report.

Commissioner Lutz made a motion to approve the Consent Agenda as written. With no discussion the vote was unanimous 5-0.

Item 3 – Public Hearing on proposed amendments to the Wendell Code of Ordinances and UDO regarding nuisance vehicles and front yard parking regulations.

Planning Director David Bergmark stated that staff was asked to review the town’s existing nuisance and vehicle regulations to determine where changes were warranted. Wendell’s code was compared to nearby towns such as Zebulon, Rolesville, Wilson, Greenville, and Williamston. He said the language closely resembled the language used by other nearby municipalities. He said the enforcement of such regulations can vary significantly from one town to another, and can be greatly impacted by other factors, such as whether or not a municipality has active Home Owners Associations enforcing restrictive covenants.

Mr. Bergmark stated in order to better address deficiencies in the current standards which regulate nuisances and vehicles within the Town of Wendell; staff proposes the following ordinance amendments to the existing 7;

- (8) One which has flat tires or is resting on blocks;
- (9) One which fails to display current tags/registration;

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- (10) One which is has broken windows;
- (11) One which is utilized for storage.

Mr. Bergmark said another change recommended is to clarify that residential utility trailers are not considered a commercial, industrial or construction truck or vehicle. Right now any type of utility trailer is not allowed in a residential area. The proposed amendment would read: To move the 'Residential Parking Area' standards from section 10.4,k,1 of the UDO to section 24-95(b)(5) of the Wendell Code of Ordinances and to amend the language so that parking on prepared surfaces is only required in the front yard. Since this change involves an amendment of the UDO, the Planning Board's recommendation is required.

Mr. Bergmark said it would also create a Subsection 5 in Section 24-95 in the Code of Ordinances which is where the parking standards under the UDO would be moved but it would be changed to say in the front yard. Mr. Bergmark said there was a proposed limitation on how many cars can be parked on the side or rear while still being on a non-prepared surface. That number is 5, past that number they would have to be on a prepared surface. It also would add a definition as to what was considered a front yard.

Mr. Bergmark said the draft ordinance shows the amendments and definitions. The Planning Board voted 9-0 in favor of the amendments and staff recommends the amendments as well.

Commissioner Parham said staff had done a wonderful job, but what he had heard from some of the citizens was that they did not understand the protocol. Could you go thru the protocol from the time the resident is notified? David said when the code enforcement officer identifies a violation, he would talk with them if they are at home, if not, he would go back to the office and send a letter to make them aware of the violation and code and give them a specified amount of time to come into compliance, typically a week or sometimes two. If we saw the resident making progress, we can give them additional time. Commissioner Parham said the procedure needed to be more defined as to how much time they are given rather than one to two weeks.

Commissioner Gray said wouldn't the letter be specific as to the time frame. Mr. Bergmark said yes.

Commissioner Boyette said he thought a letter is the initial contact, if he rides by and see's someone at home and tells them about the violation that was fine, but the letter is the initial contact.

Commissioner Laughery said he would like to see another step in there, if they go to the door and no one is home, a door hanger would be left to notify them.

Mayor Hinnant said the problem he saw was there are still some gray areas and there was a large majority of our citizens not in compliance to the ordinance. He said anything that had most of our town out of compliance was not good. My recommendation would be to follow through with the abandoned vehicles. He did not think we were where we needed to be as far as determining the parking in the front yard and the number of vehicles behind the house. He would like to see that taken back to the Planning Board to be addressed again.

Commissioner Gray said the reason we went to the letter was sometimes someone would be at home but no one talked to them. We were trying to create continuity and treat everyone the same and she

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thought that was important. She would like the idea of the door hanger; it was a good first step in the alternative of running into the person in the yard. She said people may not know they are in violation.

Commissioner Boyette said at some point in time we were doing a door hanger because he received one concerning his garbage container. Daryl Hales said up until October 28th he personally addressed each person if he saw them or left a note on the door to call. The board instructed me to send letters at the October 28th Board meeting and that was what he was now doing. He said since then Mrs. Piner had given me the authority to have some door hangers made and every person having a violation gets a hanger noting the violation, the correct date to have it fixed and his contact information. The door hanger states that a letter would be forthcoming, so when he gets back to the office and sends them a letter. He said if they call and explain their situation, the can be extended. He said if they do not contact him the day after the deadline, he would go out and enforce the violation.

Commissioner Gray asked Mr. Hales if the door hanger was working well for him, and if he had any suggestions. Mr. Hales said the problem he had was when he was trying to enforce town ordinances, he was told not to touch anything with wheels. Mayor Hinnant said that was until we could get the ordinance in place.

Mayor Hinnant said that was the problem, half the town would be out of compliance and we were going to have them coming to the meetings and complaining. He said he did not feel that it was a good ordinance. He said until we can say we have a problem that is causing our properties to depreciate, he was not sure it is something that the board wanted to expose ourselves to.

Commissioner Parham said it should go back to the Planning Board and be looked at again because a lot of families have 5-6 vehicles and no place to park them.

Commissioner Gray said we do have a few places that are problematic, but she thought there was an exception to the rule. She did not like the thought of sending it back to the Planning Board.

Mr. Hales said as far as the cars, he believed that if the board acts on the nuisance vehicles, most of the problems with multiple vehicles would be solved. Mayor Hinnant said he agreed with that part of the ordinance.

Commissioner Boyette said it seem that the problem is not necessarily the number of vehicles, it is the abandoned, used, no tags, safety issues not necessarily this is a big family and they have to many vehicles.

Commissioner Laughery said it appears that the question was should we let people park in the grass in the front yard or not. We can send it back to the Planning Board, but they voted unanimously to approve the amendments. He said if we are going to send it back to the Planning Board we need to make that suggestion to them.

Commissioner Lutz said he did some driving around over the weekend and there were a couple of yards where the cars were pulled right up to the front door, and to him this was taking their liberty too far. He recommended clarifying what was the front yard. He said it was not fair for code enforcement to have to play judge.

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Commissioner Laughery said if we send it back to the Planning Board it was not fair to send it back without a recommendation. Mayor Hinnant said we can't solve this tonight, he thought it was an issue we needed to put on their plate and let them do what they felt was best.

Commissioner Parham said if we wanted to send this back, he thought we needed to identify what we thought should be discussed. Commissioner Gray said maybe we could tweak the language a little to address the ordinance.

Commissioner Boyette said he thought the board could keep the nuisance vehicle ordinance as is, ban parking on grass in the front yard only, and campers and boats would be subject to the same nuisance rules as motor vehicles.

Mr. Bergmark said one point of clarification when we talk about boats and campers the town does not allow them in the front yard, but they can be parked in the back and they count as one of your vehicles.

Commissioner Laughery asked if there were restrictions on the number of cars one can park in the front yard assuming you have a prepared space to park. Mr. Bergmark said no, there was also no restriction on the back yard if you have a prepared surface.

Mayor Hinnant opened the Public Hearing. No one wished to be heard. He closed the public hearing.

Item 4 – Public Hearing on proposed amendments to sections 12.8 and 19.3 of the UDO as they relate to murals.

Planner Patrick Reidy stated Section 12.8Q of the UDO states that “murals or similar wall art located on secondary building walls (not primary frontages) are permitted provided the total area of commercial copy does not exceed 10 percent of the total wall area”.

Patrick stated at the Board of Commissioners retreat, an interest was expressed in amending the UDO to allow businesses to add murals to their buildings. We have had interest from businesses in the past to have a mural, but the UDO does not allow for them to create a mural to the size they desire.

Patrick said the Appearance Commission was currently raising funds to add murals to the downtown area as a way to bring visual interest to buildings. It was requested that the current mural language be amended to expand the mural program.

Patrick said the commissioner's had a copy of an ordinance containing proposed language for adoption which has been reviewed by the Appearance Commission and Planning staff.

Patrick stated staff recommends approval of the proposed text amendments. It was staff's opinion that the existing regulations governing murals do not provide sufficient flexibility to accommodate businesses who desire to have a mural on their building. The proposed amendment would allow a reasonable review process that would not create an extended review time.

Commissioner Laughery said as he understood it, the way it was written a mural on the back of one of the buildings on Main Street could cover 100% of the size. Patrick said that was correct. Commissioner Laughery said it stated no murals shall be added to the primary faced of the building. He thought that

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someone may want to put a mural on the front of the building. Patrick said it was considered and it was decided that it may not look as attractive on the front as it would on the side or back of the building. The Appearance Commission would have to approve any request to put a mural on the front of the building.

Commissioner Boyette said in 12.8Q #2 says murals are not intended to be placed on residential structures or their accessory structures. Does this mean it was not allowed or we would prefer that you don't put them on your house? Patrick said there have been some cases with Cary that were controversial and the intent is not to allow them, but we do not know that the Town could legally enforce that position.

Mayor Hinnant said under 12.8Q, #5 says the proposed mural must be approved by the Appearance Commission prior to any paint being added to the building to review for appropriateness. He said his concern was you can't dictate taste and he was assuming the Town Board had the final approval or does the final approval come from the Appearance Commission. Patrick said the way it was written, final approval comes from the Appearance Commission. Mayor Hinnant said he did not agree with that. He would be skeptical of what kind of advisory board would dictate taste and character for the town. He said it would be his recommendation to change that to read "it must come from the Town Board for final approval". Patrick said the reason for this was that the businesses wanted a quick turnaround. Mayor Hinnant said if we were going to allow murals we needed to make sure that we don't put up a poor product and poor taste. Commissioner Gray said could try to schedule that so the Appearance Commission meets the first Monday and the Board meet the second Monday and that would only be one week. Commissioner Laughery said he agreed with the mayor that the ultimate decision should be made by the board and if it was a mistake, blame the board.

Mayor Hinnant opened the Public Hearing for anyone wishing to speak for or against murals. No one wished to speak. Mayor Hinnant closed the Public Hearing.

Item 5 - Discussion and action on an amendment to the Wendell Code of Ordinances and UDO regarding nuisance vehicles and front yard parking regulations.

Commissioner Parham made a motion that the Planning Board look at the yard parking regulations and send a recommendation back to the board and to continue with the enforcement of the nuisance vehicles and to adopt the Ordinance # O-3-2014 without #5 and #6 of Section 2.

Commissioner Laughery said in Section# 5 it speaks about the width of the parking area and it says 20 feet or 25 percent of the yard whichever is less. He said with the exception of driveways was that saying that the driveway could be 40 feet wide and then people could park four cars across. David said the driveway in general does not count; anything beyond driveways has to be on a prepared surface. Mayor Hinnant said that was why we needed some clarity, and that was why we were sending it to the Planning Board for a recommendation with our concerns.

Commissioner Boyette said if you just take care of the nuisance part 95% of this is water under the bridge.

The motion passed unanimously 5-0.

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Item 6 – Discussion and action on amendments to sections 12.8 and 19.3 of the UDO as they relate to murals.

Commissioner Parham made a motion to approve the amendment to sections 12.8 and 19.3 with the exception of 12.8Q #5 which currently read approved by the Appearance Commission should be changed to read approved by the Town Board.

Commissioner Boyette said he did not have a problem with allowing the Appearance Commission to make the final decision, that was why we had that commission and if we were going to decided issues of appearance we could easily get rid of that commission. Mayor Hinnant said he did not think it was a good idea for an advisory board to have the final authority that the Town Board should have.

Commissioner Gray said as long as we can maintain a one week turn around she was fine, but she understood where Commissioner Boyette was coming from.

Commissioner Laughery said he thought we needed to make some kind of commitment to a term of within two weeks or 30 days to include it in the ordinance. Commissioner Gary said she thought the turnaround time was important and if they were agreeing to get it in the agenda packets then she thought that was what we should do.

The motion passed unanimously 5-0.

Item 7 – Discussion and action requesting the Wendell Planning Board to review a zoning text amendment to the UDO as it relates to Quasi-Judicial Proceedings and the Board of Adjustment.

Planning Director David Bergmark said during the end of the 2013 Legislative session, a number of changes were passed regarding the Board of Adjustment and quasi-judicial proceedings. He said Planning Staff attended a Board of Adjustment training session offered by the UNC School of Government in which these changes were discussed. In order to bring the town's UDO into compliance with these recent legislative changes, a number of text amendments are required.

Commissioner Gray made a motion to requesting the Planning Board to review a zoning text amendment to the UDO as required by State law. The vote was unanimous.

Item 8 – Discussion and action on a proposed amendment to the agreement between the Research Triangle Regional Transportation Authority and the Town of Wendell.

Manager Piner stated the agreement between the Town and TTA expired in 2012. TTA had requested that the agreement be amended to include the following:

- Extend the agreement through June 2017
- Increase the amount the Town can be charged from \$20,000 to \$28,000 beginning in FY 15/16
- Amend the holiday schedule

Mr. Piner said although the increase could go up to \$28,000 the town has not paid the \$20,000 in the current agreement. We had been paying approximately \$13,000. We have the ability to terminate the contract with a 30 day notice to TTA in the even the Town could not afford an increase in cost to support the program in FY 15-16; the town may terminate the contract.

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Commissioner Parham made a motion to approve the proposed amendments to the agreement between the Research Triangle Regional Transportation Authority and the town. The vote was unanimous 5-0.

Item 9 – Discussion and action to the Appearance Commission’s recommendation regarding fourth quarter Downtown Façade Grant applications.

Planner Patrick Reidy stated at the November 121, 2013 meeting Wendell IGA was approved for a façade grant in the amount of \$452.00. The IGA was not able to meet the guidelines to receive disbursement of the approved funds.

Patrick said based on the grant deadline passing, staff discussed with the Town Manager about using the \$452 that was previously allocated to provide additional funding for both façade grant application during this review cycle. The Town Manager felt that it would be appropriate to use unspent funds from the third quarter and that the Economic Development budget would allow for the full \$1,000 to be awarded for the fourth quarter for a total of \$1,452.

Patrick said at the April 4, 2014 meeting, the Appearance Commission reviewed two Downtown Façade Grant applications for the March 31st deadline period. A quorum could not be established, but they request to staff to forward an unofficial recommendation to the Board of Commissioners.

Patrick said the Appearance Commission members recommended to the Board of Commissioners by a vote of 2 to 0 approval of the downtown façade grant application for 350 E. Fourth Street (Mechanical Trades Carolina) in the amount of \$1000 and 128 N. Main Street (Hedrick Insurance) in the amount of \$452 for a total of \$1452. The Appearance Commission felt that the full amount requested should be awarded to 350 E. Fourth Street due to the substantial investment in their property.

Mayor Hinnant said this recommendation was not the recommendation of the Appearance Commission since it did not have a quorum, but the recommendation of two people. If the Board makes a motion to approve this request it would be the recommendation of the Town Board not the Appearance Commission.

Commissioner Laughery made a motion to approve the Façade Grant Application for 350 E. Fourth Street in the amount of \$1,000 and 128 N. Main Street (Hedrick Insurance) in the amount of \$452.00. The vote passed unanimously with a 5-0 vote.

Commissioner Laughery said this was the balance of the funding for the façade grant program, but he would suggest if we receive more applications that they be considered and brought forward. If the board thinks something needs to be done then we could look at it and try to find some extra money and fund the application.

Commissioner Parham asked how many members were on the Appearance Commission. Patrick said there are 5 spots, but right now there are only 4 people because one person resigned a while back. Three is needed for a quorum.

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Item 10 – Discussion and action on a request by the Wendell Chamber of Commerce to close Main Street, on Friday, May 2, 2014, from Campen to Third Streets to kick off the Downtown Merchants Sidewalk Sale.

Mrs. Piner stated at the March 24, 2014 board meeting the Town Board supported the chamber's request for the closing of Main Street. The Board asked the Chamber to provide documentation that the business owners along this section of Main Street did not object to the street closing.

Mrs. Piner stated staff request information for planning purposes, the size tractor trailer being used for stage purposes and when it would be delivered, time of closing of main street and time reopening, list of items needed such as signage, cones, electrical needs, list of performers and sound system to make sure there is enough power for their equipment. They are still working on locating a band for this event, and they have signatures from all the businesses except Collector's Corner and we have asked that they secure that.

Mrs. Piner said it would be our recommendation at this time to approve this with the caveat that all business owners on Main Street approves of it. Commissioner Gray made a motion to approve the closing of Main Street on Friday May 2, 2014. The vote was unanimous 5-0.

Item 11 – Discussion and action on a proposed amendment to the alcohol policy for Wendell Park

Manager Piner said in accordance with the Wendell Community Center Entire Facility Renal Policies and Procedures, the parks and recreation department has not scheduled indoor or outdoor events during the same time slot, when an alcohol event is scheduled in the park. Events are scheduled prior to the beginning of the alcohol event with the understanding that each event would be concluded prior to the beginning of the alcohol event. This practice was put in place to prevent potential conflicts.

Mrs. Piner said based upon feedback from the March 24, 2014 board meeting, item #15D of the policy will now read: "At events where alcohol is distributed and consumed, the entire Community Center must be rented.

Mrs. Piner stated the amendment will allow for the scheduling of outdoor activities within the park if an alcohol event has been scheduled inside the community center.

Commissioner Gray said she wanted to make sure that the way we are wording it allows other events to be going on outside. Mrs. Piner said the intent was to eliminate the reference to renting and scheduling an event based upon alcohol. Attorney Cauley said the language that the manager is referring to, creates a prohibition against the use of the park, and what she was suggesting to remove that part and by removing that prohibition, you do not have that conflict.

Commissioner Gray made a motion to approve the amendment to the alcohol policy for Wendell Park. With no further discussion the motion passed with a 5-0 vote.

Item 12 – Commissioners' Comments

Commissioner Gray stated she attended the Arbor Day Celebration with the Fifth graders and it was so exciting. I also read the proclamation from the Mayor declaring it Arbor Day. She wanted to thank Parks and Recreation the School and staff for all they did to make this successful.

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Commissioner Gray said she attended the Wendell Chamber of Commerce Board meeting and they were discussing the Annual Sidewalk Sale which is May 2nd and 3rd and their kickoff celebration on Friday Night, May 2nd. Please come out and join us.

Commissioner Gary reported that the Chamber was having their Annual Golf Tournament on May 9th and it sounds like it is going to be a really fun time. She said the Farmers Market will open May 10th at the Wendell Boulevard location and she would like to congratulate Kirk, Kirk, Howell and Cutler as being named Business of the Month.

Commissioner Gray said the Parks and Recreation Department has released the list of Summer Camps that they will have this year and they have two new Camps Theater and Dance Camps. You can contact Tim Kay at the Parks and Recreation Department.

Commissioner Boyette thanked the citizens for attending the meeting and asked that everyone keep Herb Ramsey in their prayers. He said he would like to remind everyone that we were still accepting applications for Citizen Boards until April 30th. He said Commissioner Gary and he attended the United State Senate Debate at Hephzibah Church and there were a large number of people which it brought to town.

Commissioner Parham said at the Eastern Regional Center was gearing up to establishing a foster parent group down here. We are in need of that, we have many kids that need to be placed. The training session will be May 8th. He said we also have the Eastern Regional Center Coalition that was working with Pleasant Grove Baptist Church trying to get referrals for people who cannot be accepted at the Senior Center.

Commissioner Lutz said he would like to invite the citizens to be more physically active. Wendell is a walkable community and he would encourage everyone to get out and walk around and see what Wendell had to offer. Enjoy some fresh vegetables and fruit from the Farmer's Market.

Commissioner Laughery encouraged the citizens to continue to support businesses in town. If we were going to be a productive downtown we had to support our businesses. He would also like to thank the manager and staff for the progress being made on the Welcome to Wendell sign that the reading material in our agenda packet featured. He was excited to see that taking place.

Item 13 – Mayor's Comments

Mayor Hinnant said he had two different inquires last week to call about Wendell Falls, one was commercial developer that does the build out for the Raleigh malls and the other one was pursuing the building and potential buyers for that. He said the good news was the interest being expressed about the development outside of this building and town.

Item 14 – Recess

Commissioner Gray made a motion to recess the meeting until 8:00 a.m. on Saturday, April 19, 2014 in the Board of Commissioners' Meeting Room.

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Timothy A. Hinnant, Mayor

Attest:

Jonnie S. Driver, Town Clerk