

**TOWN OF WENDELL  
BOARD OF COMMISSIONER MEETING MINUTES  
March 13, 2017**

The Wendell Town Board of Commissioners held their regularly scheduled meeting on Monday, March 13, 2017, in the Town Board Room, Wendell Town Hall, 15 East Fourth Street.

**PRESENT:** Mayor Virginia Gray; Mayor Pro Tem Jon Lutz; Commissioners: John Boyette, Ben Carroll, and Jason Joyner.

**ABSENT:** Commissioner David Myrick.

**STAFF PRESENT:** Town Manger Teresa Piner, Special Assistant to the Manger-Town Clerk Sherry Scoggins, Town Attorney James P Cauley, Finance Director Butch Kay, Planning Director David Bergmark, Planner Allison Rice, Public Works Director Alton Bryant, Code Enforcement Officer Daryl Hales, IT Administrator Tamah Hughes, and Police Chief Bill Carter.

**CALL TO ORDER:**

Mayor Gray called the meeting to order at 7:00 p.m. and welcomed attendees.

**PLEDGE OF ALLEGIANCE:**

Kai Scarboro, student at East Wake High School, led the Pledge of Allegiance.

**INVOCATION:**

Mr. Don Mallard of Covenant Presbyterian Church shared Covenant Choir is one of seven churches performing in a special musical program, “*Come to the Cross and Remember*” at Meymandi Hall, Duke Energy Center for Performing Arts on Sunday, April 2, 2017, at 7 p.m. Tickets are \$10 and available at Covenant Presbyterian Church. Mr. Mallard provided the invocation.

**1. ADJUSTMENT AND APPROVAL OF THE AGENDA:**

**ACTION**

Mover: Mayor Pro Tem Lutz moved to approve the agenda as presented.

Vote: 4-0.

**2. PUBLIC COMMENT PERIOD (*one hour time limit in total*):**

No public comments were received by the Town Board.

**3. CONSENT AGENDA**

The Board of Commissioners uses a Consent Agenda to act on non-controversial and routine items quickly. The Consent Agenda is acted upon by one motion and vote of the Board. Items may be removed from the Consent Agenda and placed on the Regular Agenda at the request of the Mayor or a Commissioner. The Consent Agenda contains the following items:

- a. Approval of the Minutes from the February 23, 2017, work session meeting.
- b. Approval of the Minutes from the February 27, 2017, budget work session meeting.

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- c. Approval of the Minutes from the February 27, 2017, regular meeting.
- d. Approval of the Financial Goals Policy.
- e. Approval of Certificate of Sufficiency and Resolution Fixing the Date of Public Hearing for AnnexationA-17-02; two contiguous parcels located within Olde Wendell Subdivision.

**ACTION**

Mover: Mayor Pro Tem Lutz moved to approve the consent agenda as presented.

Vote: 4-0.

4. Recognition of East Wake High School teacher: Jeremy Hodges.

SPEAKER: Mayor Gray

ACTION: Recognition

*[Staff Report]*

**Item Summary**

*Jeremy Hodges is a first year teacher at East Wake High School and serves as a World History teacher. Mr. Hodges consistently demonstrates a commitment to his students, the school, and a commitment to the entire East Wake community. He has a unique ability to engage and motivate students. Mr. Hodges is like E.F. Hutton – when he speaks, everyone listens. When you are in his classroom, you can tell that students are hanging on every word. Mr. Hodges uses a variety of instructional strategies to engage his students and he always includes real-life and relevant experiences that make learning more meaningful. Overall, his lessons captivate students, and his classroom is a dynamic and positive learning environment.*

*Mr. Hodges is not only an awesome teacher, he is a true leader. He serves on the school improvement team and the Bring Your Own Device Committee. He has been the spark that ignited the spirit of collaboration within the staff and he is a great “influencer” within our entire school. Mr. Hodges is the ideal teacher that every principal would love to have on staff.*

*Mr. Hodges is well-respected by the students, parents and staff. He is a hard-working individual who goes above and beyond to help our students. Mr. Hodges has a vision for learning, he is sensitive to the needs of all students, he is a team player, and he knows how to motivate students and colleagues. Jeremy Hodges represented East Wake High as its nominee for the Diane Kent-Parker First Year Teacher of the Year. In February, Mr. Hodges was named one of the four finalists for the Diane Kent-Parker First Year Teacher of the Year in the Wake County Public School System. We are proud to have Mr. Hodges at East Wake High School.*

Mayor Gray introduced and recognized East Wake High School teacher Jeremy Hodges; staff report included above in italics.

Mr. Hodges expressed his appreciation for being recognized. He thanked the residents for sending their children to East Wake High School. He also thanked his fiancée Rachel Snyder for her support.

- 5a. PRESENTATION BY CITY OF RALEIGH REQUESTING SUPPORT OF THE CITY OF RALEIGH FALLS LAKE REALLOCATION WATER SUPPLY PLAN. SPEAKER: City of Raleigh Assistant Public Utilities Director Kenneth Waldroup ACTION: Board may take action.**

*[Staff Report]*

**Item Summary**

*As the population of Wake County continues to grow, the City of Raleigh has diligently developed water demand projections and future water supply needs that have been reviewed by the United States Army Corps of Engineer. To meet the demand of the expanding population, the City of Raleigh made a request for 17,300 acre feet of additional storage in Falls Lake via a reallocation of storage from the water quality pool. The United States Army Corps of Engineers has identified the reallocation at the Tentatively Selected Plan after exhaustive review of alternatives and future water resources needs.*

*The City of Raleigh is seeking the support of the elected officials of each merger community for the Falls Lake Reallocation Water Supply Plan.*

City of Raleigh Assistant Public Utilities Director Kenneth Waldroup provided a PowerPoint presentation; herewith incorporated:

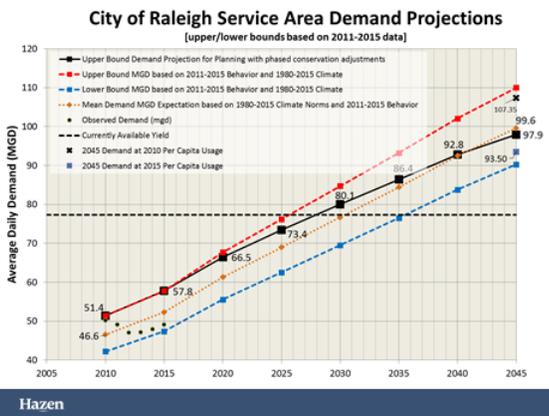
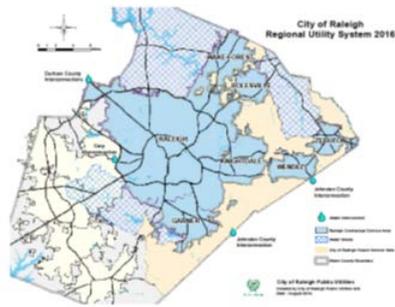


**Agenda for Today's Discussion**

- **Background**
- **Authority, the Falls Lake Project and the Timeline Up to Now**
- **USACE Preliminary Findings, the Timeline Going Forward & How You Can Help**

# Background

## Regional Utility- Growing Communities



**Source Water Supply Yield**  
*Meeting current and long-term demand*

- Raw water supplied from Falls Lake to the E.M. Johnson Water Plant results in a 100 MGD instantaneous yield and 63.4 MGD reliable yield for the drought of record.
- Raw water supplied from the Swift Creek lake system to the D.E. Benton Water Plant results in a 20 MGD instantaneous yield and 11.2 MGD reliable yield for the 50-year reoccurring drought



Year	Population Served	Water Demand	Available Supply
2015	549,112	49.9 mgd	75.9 mgd*
2045	1,048,700	97.9 mgd	75.9 mgd 22 mgd shortfall

\*For drought of record at Falls Lake the Swift Creek yield is actually 12.5 mgd (2007-08)



## Authority, the Falls Lake Project and the Timeline Up to Now

**Legislative Authority**

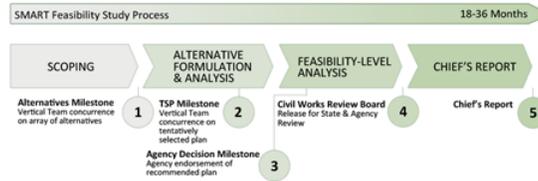
- Public Law 85-500, Title III, Water Supply Act of 1958 (43 USC 390b; P.L. 85-500), as amended.
- Congress intended for the Corps to use this authority to assume an active role, in conjunction with State and local interests, by including storage for water supply in the planning for new Corps projects or by allowing the use of storage in existing Corps projects for water supply, to the extent it could not already be used for that purpose. - 43 U.S.C. 390b(a)

## Study Purpose

- Evaluate the City of Raleigh's request for reallocating 17,300 acre-feet water conservation storage within Falls Lake, North Carolina
- Identify the most cost-effective means of providing water supply storage to the City of Raleigh and its partners, for the period 2016 to 2045.



## Feasibility Study Process

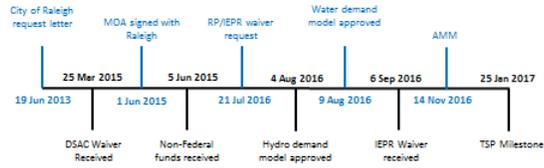


## Existing Storage Contract

Customer	Acre Feet of Water	Allocated As	Date of Approval
City of Raleigh, NC	45,000 AF	Water Supply	1972

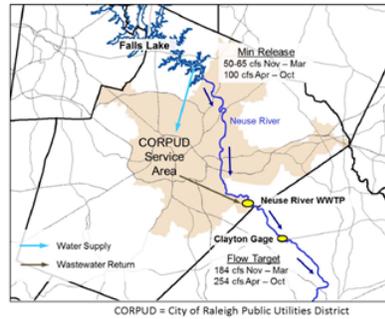


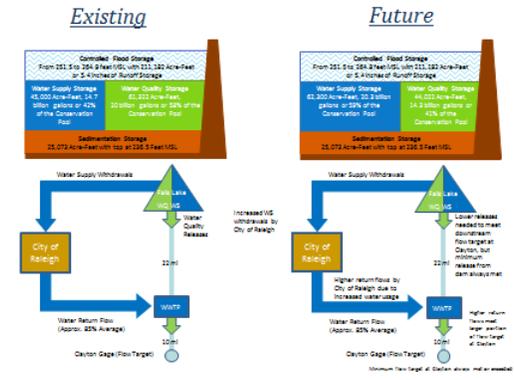
## Timeline Up to Now



**USACE Preliminary Findings,  
Timeline Going Forward &  
How You Can Help**

## Water Quality Pool – Water Supply Relationship





 **Falls Lake Reallocation Study**  BUILDING STRONG

Why is Reallocation of Storage within the Conservation Pool from Water Quality to Water Supply considered a viable option?

- WQ storage not depleted during drought of record
- Raleigh's future increased return flows from NRRRF will further contribute to target flows at Clayton
- Minimum flow target at Clayton (184/254 cfs) or minimum release requirement at dam (60/100 cfs) will not be impacted.
- Environmental impacts are likely very small.

*Trusted Partners Delivering Value, Today and Tomorrow*

 **Falls Lake Reallocation Study**  BUILDING STRONG

Preliminary Environmental Impacts of Reallocation

- Falls Lake impacts are minor
  - ▶ Chlorophyll a model (approved by DWQ)
  - ▶ Slight decrease in lake levels but within natural conditions
- Neuse River impacts are insignificant
  - ▶ Flow rates are above State minimums
  - ▶ Flow rates change are small

*Trusted Partners Delivering Value, Today and Tomorrow*

## Timeline Going Forward



## How You Can Help



- Let the USACE know this project is important to Wake County, the Triangle Region, and the State as whole.
- Thank the USACE for their work on this project and their continued support.
- Let the incoming Cooper Administration know this project is important to Wake County, the Triangle Region, and the State as whole.
- Encourage the North Carolina Congressional delegation to actively support this Project.



Mayor Pro Tem Lutz questioned if there is a cost to the taxpayers. Mr. Waldroup stated the additional water is estimated at \$23million along with costs to upgrade the water treatment plant would be absorbed by all rate payers. This is a reduction from the \$300 million estimated to build the reservoir.

**ACTION:**

Mover: Mayor Pro Tem Lutz moved to approve the resolution supporting the City of Raleigh Falls Lake Reallocation Water Supply Plan.

Vote: 4-0.

**5b. PRESENTATION AND UPDATE ON THE CITY OF RALEIGH BILL ASSISTANCE PROGRAM.**

**SPEAKER:** City of Raleigh Assistant Public Utilities Director Kenneth Waldroup

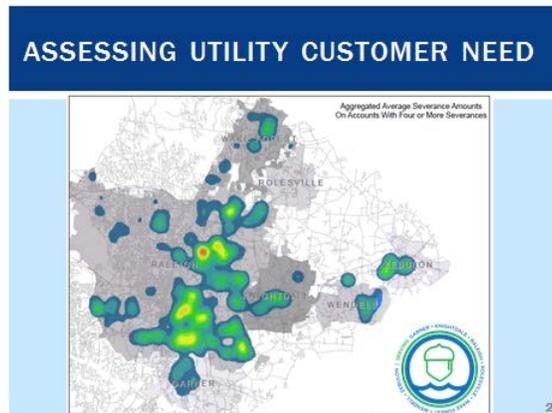
**ACTION:** Presentation.

*[Staff Report]*

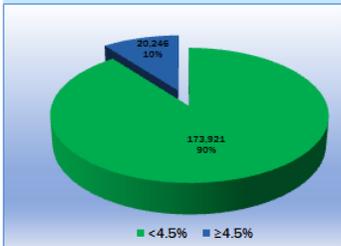
**Item Summary**

*FY 17 is the first year of the City of Raleigh Bill Assistance Program. The presentation will provide an overview of the pilot program.*

City of Raleigh Public Utilities Environmental Coordinator Ed Buchan provided a PowerPoint presentation; herewith incorporated:



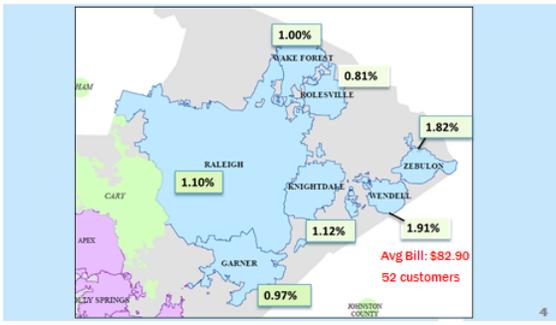
### Potential Need Based on EPA Criteria



Bill as % of Income	Number of Households
<1.0%	73,428
1.0% - 1.9%	62,047
2.0% - 2.9%	20,692
3.0% - 4.4%	17,754
4.5% - 4.9%	8,309
5.0% - 5.9%	420
6.0% - 6.9%	10,499
7.0% - 7.9%	707
8.0% - 8.9%	145
9.0% - 10%	166

3

### ESTIMATED PERCENT ELIGIBILITY



4

### GUIDING LEGAL FRAMEWORK

**Based on N.C. General Statute §160A-314, public utilities cannot subsidize a customer's utility bill with utility revenue**



5

### PROGRAM FUNDING

Township	Active Residential Accounts	Proportional Funding
Raleigh	125,661	\$200,000
Wake Forest	13,201	\$21,000
Garner	8,912	\$14,200
Knightdale	5,102	\$8,100
Wendell	2,591	\$4,100
Rolesville	2,198	\$3,500
Zebulon	1,930	\$3,100

### CURRENT PROGRAM

**Program Eligibility Criteria**

- Based on Light Energy Assistance Program (LEAP) - Income 130% Below Fed Poverty Level, <\$2,200 in reserves, CDR Utility Customer.

**Programmatic Elements**

- Customers referred by CDR Utility Billing staff
- Means testing for program qualification conducted by Wake County Human Services staff
- Program credit is applied to account by CDR Utility Billing staff
- Benefit limit per customer (\$240/cust/yr)

**Program Update**

- Program has been effective since November 1, 2016 for Raleigh customers
- Town of Garner customers are now eligible as of March 6, 2017
- Garner and Raleigh funds are only applied to respective citizens
- Over 300 customers have received assistance

# Questions?

Commissioner Boyette stated 52 residents in Wendell were identified as who could possibly use the program. Is this based on the average amount of the bill or did the City dig deeper into data on a household basis? Mr. Buchan stated the 52 is based on the active number of residential accounts and the average bill [\$82.90].

Commissioner Boyette clarified this is not based on account by account basis, this is a generalization. Mr. Buchan stated yes.

Commissioner Boyette questioned if there are some users pushing up the average use numbers. Mr. Buchan stated the number provided is a gross average of residential accounts.

Commissioner Joyner questioned the reason funds come out the general fund is because State Law prohibits use of the enterprise funds. Mr. Buchan stated yes.

Commissioner Joyner asked is the general fund used because it is more constant. Mr. Buchan stated yes.

Commissioner Joyner questioned when someone from Raleigh or Garner calls for assistance with their bill, do they get other [human] services. Mr. Buchan stated those funds stay within the communities. When persons go to Wake County Human Services, they are exposed to the other programs.

Commissioner Joyner stated LIEAP is Low-Income Energy Assistance Program and is a good program. In the Town of Wendell he would not support a program that does not offer wrap around services. He appreciates that City of Raleigh has come back and isolated those communities. He appreciates referring persons to Wake County to be exposed to additional services.

Mr. Waldroup stated this is brought before the Board as a resource. He added there are other tools the City of Raleigh is working on with Wendell staff. He added the City of Raleigh has been responsive in working with persons requesting payment arrangements.

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**Public Hearing Guidelines:**

- Case is announced
  - Staff presentation
  - Applicant presentation
  - Public hearing is opened; citizens will follow the same rules as Public Comment Period and will have five minutes to speak
  - Close public hearing
  - Board members ask questions
  - Board may take action
- 

- 6a. PUBLIC HEARING TO CONSIDER ZONING TEXT AMENDMENTS TO CHAPTER 12 OF THE UDO AS IT RELATES TO TEMPORARY SIGNS.  
SPEAKER: Planning Director David Bergmark  
ACTION: Public Hearing. Board may take action.**

*[Staff Report]*

**Item Summary:**

*In January of 2015, the Town Board approved amendments to Chapter 12 of the UDO related to temporary signage. Significant features of the approved text amendment (see Attachment A) were that small ground signs erected by a non-profit operating within the Town's jurisdiction or a business located within the Town's jurisdiction could post up to 12 signs (no more than 2 per property) with no time limit. The text of the ordinance was based on language provided at the*

*board meeting. Prior to these new rules and following a period of no enforcement at the Town Board's direction, only 6 small ground signs could be erected at once and the permit was valid for 10 calendar days.*

*The intent of the 2015 amendment was to provide more flexibility to businesses wishing to erect temporary signs and to provide staff time to gauge the impact of the amendments passed. However, the current regulation which provides no expiration date for these temporary signs has created enforcement issues for staff and has caused complaints from citizens. Some citizen complaints have been related to signs being erected on their property without their permission. Other complaints were regarding temporary signs creating an overall unkempt and messy appearance along the town's entrance roadways. Even if properly placed and permitted, the omission of a duration period for smaller temporary sign permits increases the total number of temporary signs erected around town at any given time.*

*As a result, it is staff's recommendation that an expiration date for temporary signs be re-established. At the February 7<sup>th</sup> board meeting, the Town Board expressed a desire to simplify regulations by avoiding having separate permit durations for different types of signs, to the greatest extent possible. The Board acknowledged that lighter than air signs did require a different standard. The Board also expressed a desire to create language to accommodate more than one feather flag sign.*



*Towards this purpose, staff suggests that businesses be allowed to obtain a total of 5 temporary signs permits in a given calendar year (rather than 4) and that small temporary signs permits and banners be valid for 21 days (5 permits x 21 days = 104 days). This represents a significant increase in the duration of small ground sign permits and a small decrease in the duration of banner permits, compared to prior standards. Proposed language has been added to create a new temporary sign category for feather flags, which shall be permitted for 21 days as well. The number of feather flags permitted shall range from 2-4, depending upon the frontage of the lot.*

*The proposed amendments also include modifications to other sections of Chapter 12 in order to make the Town's regulations more in line with the 'Reed vs. Town of Gilbert' court case. This case found sign regulations should be as content-neutral as possible.*

**Summary of Proposed Changes (for red-lined changes to Chapter 12, see Attachment B)**

- *Make temporary 'ground signs- small' valid for 21 days (rather than 10), with 6 signs permitted per business (rather than 12).*
- *Remove content related language from the 'Banners' section and make banner permits valid for 21 days (rather than 30).*
- *Add 'feather flags' as a temporary sign category and permit 2-4 feather flags (up to 12 feet tall) with a single permit for up to 21 days. The number of feather flags allowed is increased to 4 for those businesses with greater road frontage.*
- *Amend 'sandwich board signs' so that the sign does not have to be located within 8 feet of the business's door. Instead, the sign simply has to be placed on or directly behind the sidewalk in front of the business, with at least 4 feet of clearance if placed on a sidewalk.*

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- *Remove the 'Mobile Sign' category from temporary signs. This provision is rarely used, and can be lumped into the 'All other temporary signs' category.*
- *Remove language related to 'special event signs of recognized non-profit or charitable organizations' from the 'Realtor and Non-Realtor Open House Signs, and Yard Sales Sign' section of 'Signs Not Requiring a Permit'. Special event signs should be addressed by the 'temporary sign permit' section.*
- *Add language under the 'Applicability' section of Chapter 12 to reference the general statute ([160A-381j](#)) which creates a 24 month exemption from sign regulations for fence wrapping. Currently Chapter 12 does not address fence wrapping. The added language is meant to provide clarification of a recent change to the general statutes.*

**Planning Board Recommendation:**

*At their January 17, 2017 meeting, the Planning Board made two motions. In the first motion, the Planning Board voted 4-2 against proposed changes to section 12.7D (Temporary Signs Requiring a Permit). There was some discussion of modifying staff's proposal to allow more temporary sign permits or to increase the permit duration, but ultimately they recommended suspending all temporary sign regulations for a period of 1 year. Planning Board members in favor of this suspension of enforcement stated that they did not believe temporary signage was a problem in Wendell at this time. In the second motion, the Planning Board voted 6-0 in favor of all other proposed changes outside of section 12.7D.*

**Motion 1:**

***Voting in favor of suspension (against changes to Section 12.7D):*** Lloyd Lancaster, Gilda Wall, Errol Briggerman, and Kathe Schaecher.

***Voting against suspension:*** Harold Broadwell and Ruth Van der Grinten

***Absent:*** Allen Swaim, Ashley Anderson, and Victoria Curtis

**Motion 2:**

***Voting in favor of changes outside Section 12.7D:*** Lloyd Lancaster, Ashley Anderson, Errol Briggerman, Kathe Schaecher, Allen Swaim, and Gilda Wall.

***Voting against:***

***Absent:*** Allen Swaim, Ashley Anderson, and Victoria Curtis

**Statement of Plan Consistency:**

*The proposed ordinance for adoption includes a statement of plan consistency and reasonableness, referencing the following principles of the comprehensive plan:*

- *Principle #1: Preserve the small-town feel and historic character of the community*
- *Principle #5: Promote Wendell's attractiveness to business and people of all walks of life.*

**Staff Recommendation:**

*Staff recommends approval of the proposed text amendments. The proposed changes simplify the Town's sign regulations and accommodate more temporary signage than previously allowed, while still maintaining a defined permit duration in order to ensure that temporary signs are truly temporary.*

Planning Director David Bergmark provided an overview of the zoning text amendment to Chapter 12 of the UDO as it relates to temporary signs; staff report included above in italics.

Mayor Pro Tem Lutz questioned currently there are no ordinances that address the bullet points that are being enforced. Planning Director Bergmark stated there are some rules, but there is not a time limit or duration. This would address duration and feather flags.

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Mayor Pro Tem Lutz questioned the sandwich board. Planning Director Bergmark stated sandwich board signs are to be located within eight feet of the business doors. This would allow it to be in front of the business the sandwich board relates to.

Commissioner Joyner stated for 12.9 Item 5, "Such sign shall be properly maintained and in the upright position or may be subject to removal by the Town." He questioned if that is in each of these. Planning Director Bergmark stated that is included in the temporary signage that requires a permit.

Commissioner Joyner stated under staff recommendations, "The proposed change is to simplify and accommodate more temporary signage than previously allowed while still maintaining a defined permit." He stated if trying to simplify, then use the language at the bottom that if sign is not in compliance – if it's in the right-of-way or not tipped over. He read this several times and it's complex. Move to adopt the Planning Board recommendation to continue current status of temporary signs as well as those changes requested by staff.

Mayor Gray asked if he would hold that until after the public hearing. Commissioner Joyner stated yes.

Commissioner Boyette stated [sign] may be subject to removal by the Town. He questioned the practice of the Town when a sign is in disrepair and in the right-of-way. Planning Director Bergmark stated it depends on the sign. If it is an event sign for the general public, will attempt to fix; in general will remove a sign.

Mayor Gray stated that up until this time there has not been enforcement. The small signs are in the right-of-way, crooked, or pushed over. Believes the Board is trying to get these signs out of the right-of-way, getting them out of places they are not supposed to be, business owners are to keep in a state of repair that would take care of the majority of the messy complaints that are received. Planning Director Bergmark stated that would take care of a lot.

Commissioner Boyette questioned how many other municipalities in the County disallow temporary sign. He clarified signs that advertise. Planning Director Bergmark stated he is not aware of any that totally disallow, he is aware no feather signs.

Mayor Gray opened the public hearing at 7:43 p.m.

Paul White, Main Street, stated signs are to promote businesses. He questioned if signs are not permitted in the right-of-way, where to place the signs.

Ray Hinnant, 205 Dogwood Trail, stated he is not a business owner. He stated from a homeowner's perspective, there are too many temporary signs in Wendell and it looks tacky. He would like to see a more restrictive use of the signs, these ought to be super regulated and have a permit. He suggested using the 21 days and come in to get a permit at the beginning of the month and by the end of the month the signs must be up; and then wait 30 days and then come back the following month.

Mayor Gray closed the public hearing at 7:45 p.m.

Commissioner Joyner stated it's hard to get a business in a small town and the business community to unite and work together as a group. The example given earlier about the Chamber and we call the Chamber. If the Chamber has an event in the Town and it is bent over, he is not going to ask a government worker to straighten the sign. He asked to be called on his cell phone and he will go do it. He wants to give support to the Chamber where he can. He stated to address Mr. White, the right-of-way is for public utilities and that is defined in the State statute. He stated property owners may allow you to place a sign on his/her property.

**ACTION:**

Mover: Commissioner Joyner moved to adopt the Planning Board recommendations to suspend enforcement of Section 12.7D [revisit in one year] and to support proposed changes outside Section 12.7D.

Vote: 4-0.

**6b. PUBLIC HEARING TO CONSIDER A ZONING TEXT AMENDMENT TO CHAPTER 4 OF THE UDO AS IT RELATES TO FRONT YARD FENCE HEIGHT STANDARDS.**

**SPEAKER: Planner Allison Rice**

**ACTION: Public Hearing. Board may take action.**

*[Staff Report]*

**Item Summary:**

*Richard Sykes of 232 S. Cypress Street submitted an application for a Zoning Text Amendment in January 2017. His application requests that Chapter 4.5 of the UDO be amended to allow front yard fences up to a maximum 4 feet in height. The UDO currently allows front yard fences and walls up to 3 feet in height, and this proposed amendment would bring Mr. Sykes' recently installed fence into compliance. Renee Broach, of Broach's Signs, subsequently joined Mr. Sykes' amendment request. All other regulations regarding residential fences would remain.*

*Side and rear yard fences may be installed up to 6 feet in height. The height for front yard fences is typically lower in municipal standards, for both safety and aesthetic reasons. Front yard fences are meant to be more decorative, rather than serve as a physical and visual barrier.*

*Upon researching fence regulations in surrounding municipalities, staff found that Wendell's front yard fence height standards were more strict than most. All municipalities in Wake County have height restrictions for front-yard residential fences, but the vast majority allow for a maximum height of 4 feet. A comparison is shown in Attachment A.*

*Staff supports changing section 4.5 of the UDO in accordance with the applicants' request. This change will make Wendell's regulations more consistent with those in surrounding municipalities. If the proposed amendment is passed, the only exception to the new 4 foot height allowance would be when a fence is located within the sight triangle of an intersection on a corner lot. Sight triangles establish a defined area along street intersection which must be clear above 3 feet in order to ensure visibility of motorists. Sight triangles are currently addressed in Section 9.E.3 of the UDO. For clarity, staff recommends adding a sentence to Section 4.5.A.1 that directs the reader to the section of the UDO that addresses height requirements on corner*

lots.

**Proposed Changes:**

*Proposed additional language is shown in blue, subtracted language is shown striked-out in red.*

**4.5 Fences & Walls**

**A. Residential Fences**

1. **Front Yard:** Fences or garden/decorative walls shall be no greater than ~~3~~ 4 feet in height in the front yard. (Refer to Section 9.E.3 for height requirements of fences placed within sight triangles on corner lots.)
2. **Side/Rear Yard:** Fences or garden/decorative walls shall be no greater than 6 feet in height in the side or rear yard.
3. **Materials:** Garden/decorative walls may be of brick, stone, wrought iron, or stucco matching the principal building. Retaining walls shall be wood, brick, stone or stucco. Front yard fences shall be wood picket, wrought iron or materials similar in appearance and durability. Side and rear yard fences may be green or black chain link, wood, wrought iron, or similar material.
4. **Exceptions:** Engineered retaining walls that may be needed due to topography are not subject to height limitations.

**Planning Board Recommendation:**

*At their February 20, 2017 meeting, the Planning Board voted 6-2 to amend section 4.5 of the UDO to allow a maximum height of 4' for front yard walls and fences.*

***Voting in favor:** Errol Briggerman, Allen Swaim, Ashley Anderson, Victoria Curtis, Harold Broadwell, and Kathe Schaecher.*

***Voting against:** Lloyd Lancaster and Gilda Wall*

***Absent:** None*

**Statement of Plan Consistency:**

*The proposed ordinance for adoption includes a statement of plan consistency and reasonableness, referencing the following principles of the comprehensive plan:*

- *Principle #1: Preserve the small-town feel and historic character of the community*

**Staff Recommendation:**

*Staff recommends approval of the proposed text amendment.*

***Comparison of municipalities' residential front-yard fence/wall height regulations***

Municipality	Front Yard Max Open Fence Height
Wendell Current	3'
Wendell Proposed	4'
Apex	4'
Clayton	4'
Fuquay-Varina	4'
Garner	4'

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<i>Holly Springs</i>	4'
<i>Knightdale</i>	4'
<i>Morrisville</i>	4'
<i>Rolesville</i>	4'
<i>Wake Forest</i>	3.5'
<i>Zebulon</i>	4'

Planning Allison Rice provided an overview of the zoning text amendment to Chapter 4 of the UDO as it relates to front yard fence height standards; staff report included above in italics.

Commissioner Boyette questioned this change was submitted because someone built a fence that was not in compliance and they wish to bring into compliance. Planner Rice stated yes.

Commissioner Boyette questioned since the text amendment is for one or more fences out of compliance, are there pictures.

Mayor Gray stated the first fence is up.

Planner Rice stated the first applicant built the fence. The second applicant would like to build a similar fence.

Mayor Gray stated the request is about the height, not the look.

Commissioner Boyette stated the reason the height was set at three feet originally was for aesthetic purposes so people could not wall off the house. If the Board is not getting into the aesthetics, then to have the height the same as a backyard fence for the sake of consistency.

Planner Rice stated the height is for aesthetics and safety. This would maintain visibility for law enforcement and public utility workers. Language for transparency was discussed and it became complex.

Commissioner Boyette stated the Stated has stripped the Boards ability to have a say in aesthetics for residential dwellings. He does not have a problem with four feet. He stated since the fence was already built and out of compliance he was asking to see the fence.

Mayor Gray opened the public hearing at 7:56 p.m. No one spoke on this item. Mayor Gray closed the public hearing at 7:56 p.m.

**ACTION:**

Mover: Mayor Pro Tem Lutz moved to approve the ordinance amendment as presented [amend the fence height from three feet to four feet].

Vote: 4-0.

- 6c. PUBLIC HEARING TO CONSIDER AN ORDINANCE AUTHORIZING AND DIRECTING THE MINIMUM HOUSING INSPECTOR TO CAUSE THE DWELLING LOCATED AT 315 COOK STREET, OWNED BY LISA MESSICK, TO BE DEMOLISHED DUE TO MINIMUM HOUSING CODE VIOLATIONS.  
SPEAKER: Planning Director David Bergmark  
ACTION: Public Hearing. Board may take action.**

*[Staff Report]*

**Minimum Housing Summary:**

*General Statute 160A-431 authorizes municipalities to cause dwellings considered unfit for human habitation and inimical to the welfare and dangerous and injurious to the health, safety and morals of the population to be repaired, closed, or demolished. General statutes further define specific procedural requirements for carrying out a minimum housing case.*

*The Town's Minimum Housing Ordinance is included within Chapter 34 of the Wendell Code of Ordinance and establishes the duties and powers of the minimum housing inspector, responsibilities of owners and occupants, and minimum standards that all dwellings within the Town's corporate limits must meet. These minimum standards relate to the dwelling's structural condition, functionality of plumbing, heating, and electrical systems, ventilation, control of insects and rodents, and general maintenance requirements.*

*Minimum housing inspections may be initiated at the request of an owner or occupant, by direct observance of violations by the minimum housing inspector, by petition of a public authority, or by petition of at least five residents of the town. Per the Town's code, the minimum housing officer is the Zoning Administrator, or his or her designee. Daryl Hales serves as the town's minimum housing officer for the purpose of investigating violations. Planning Director David Bergmark has traditionally overseen any minimum housing violations which were not promptly corrected and resulted in a minimum housing hearing.*

**315 Cook Street Summary:**

*The minimum housing violations at 315 Cook Street were observed by Daryl Hales in January of 2016, following Wake County Animal Control investigation in November. Wake County Animal Control advised waiting until January for anyone to enter the property, in order for the ammonia levels to decrease. Upon inspection, many significant minimum housing violations were observed, including floors completely rotted out, portions of the roof falling in, hydraulic jacks being used in place of fallen support pillars beneath the house, a lack of functioning heat, and numerous areas where damage and lack of maintenance resulted in the home not being sealed against the weather or infestations. By the time the housing inspection occurred, the rental tenants had been moved out due to Wake County Animal Control's investigation.*

*Following the minimum housing inspection, town staff began discussions with the owner, who expressed an interest in repairing and occupying the home. A timeline for the Cook Street minimum housing case is provided as Attachment A. As can be seen in this timeline, staff provided ample time and opportunity for the owner to take corrective actions. Initially the owner, Lisa Messick, was in open communications with the town, but over time she became unresponsive and no repairs were made. Numerous attempts were made to reach the owner by certified mail, text messages, and phone calls.*

*In June of 2016, staff determined that it was time to move forward with a minimum housing hearing, as there was no evidence that repairs would otherwise be made. The minimum housing hearing was held on July 14, 2016. The property owner did not attend the minimum housing*

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hearing, nor did any neighbors. Following the hearing the Zoning Administrator reviewed the evidence and determined that the house was considered to be dilapidated, meaning repairs would exceed 40% of the value of the home. Per the Town's Minimum Housing Code, dilapidated structures must be demolished and removed (rather than repaired). A letter was sent to the owner notifying her of the findings and giving her 90 days to remove the structure.

A copy of the letter detailing all observed minimum housing violations is included as Attachment B. Pictures of select violations are included as Attachment C. When the letter failed to be accepted via certified mail, staff posted notice of the findings in the East Wake News and provided additional time for compliance.

In order to meet all statutory requirements for notice, this resulted in the owner being given until February 8<sup>th</sup> to demolish the structure. Since the structure has not been removed, the next step per the Town's minimum housing ordinance is for the Town Board to adopt an ordinance ordering the minimum housing inspector to cause the dwelling to be demolished, and for a lien to be placed against the property in the amount of the cost of the demolition.

A copy of the ordinance ordering the demolition is included as Attachment D. If the Board adopts the attached ordinance, staff will contact contractors, obtain bids, and see that the dwelling is demolished. The dwelling in question has not been occupied since November of 2015.

**[Attachment B]**

July 15, 2016

Messick, Lisa L

167 Amsterdam Drive

Clayton NC, 27527-5740

Ref: 315 Cook Street ~ Wendell, NC  
Dilapidated dwelling

Dear Lisa Messick:

This letter is being sent via certified mail as advisement to you, the real property owner of 315 Cook Street, Wendell, North Carolina, that following the minimum housing public hearing held on July 14, 2016, the dwelling located at this address has been determined to be dilapidated and therefore unfit for human habitation, per Minimum Housing Code Section 34.21, located in the Wendell Code of Ordinances. Per section 34-88 of the Wendell Code of Ordinances, a dilapidated structure must be removed or demolished within 90 days of the date of this letter.

If you believe there is cause, an appeal of this decision may be filed in writing with the minimum housing inspector within 10 days from the service of this order and shall specify the grounds on which the appeal is based.

Included below are those findings by which the determination has been based. Photographs demonstrating violations are also attached

**Violations for the dwelling at 315 Cook Street are as follows:**

**Section 34-51 Structural condition.**

Dwelling is a single family dwelling built in 1935. The dwelling had numerous holes in the floor, revealing deteriorated or missing floor joists, in addition to deteriorated or missing floor boards. Examination of the foundation revealed failing or missing foundation support columns. In some places, the dwelling is supported by jacks where the foundation has failed. The ceiling has fallen in due to the roof leaking and the insulation has fallen in this area. The floor is buckling in the living room, and the floor going into the bathroom has a 1 inch drop

*compared to the hallway flooring. The exterior siding, fascia, and exterior door was seen to be rotting and deteriorated in numerous places.*

**Section 34-52.**

*(a) Plumbing system.*

*Water supply to this dwelling was not in service therefore the efficacy of the plumbing could not be determined. As both water and electricity were not in service we could not check for hot water.*

*(b) Heating*

*The heating unit located on the rear of the house showed significant signs of neglect and did not appear operational. The only heat source on site was a small space heater, which does not meet the qualifications of a primary heating source.*

*(c) Electrical System*

*The electricity to this dwelling was not connected. Several wall plates were missing.*

**Section 34-53 Ventilation**

*Each room had a window. Several windows appeared to be inoperable.*

**Section 34-55 Maintenance**

*(a) Exterior foundation, walls and roofs*

*While the roof was not directly inspected it appeared to be in poor condition from a visual inspection from the ground. Interior water damage and ceiling failure indicates a roof leak. No holes in the roof could be seen from the ground. The exterior siding, fascia, and exterior door was seen to be rotting and deteriorated in numerous places. As previously noted, the foundation was seen to be failing in numerous places.*

*(b) Interior floor, walls and ceilings.*

*As previously noted holes in ceilings, doors, and the interior floor were observed.*

*(c) Windows and door.*

*Several of the windows appeared to be inoperable and were not air tight. The door on the side of the house had a hole in it.*

*(d) Stair.*

*No problems were recorded.*

*(e) Bathroom floor.*

*Bath room floor had a 1 inch dip compared to the hallway floor. The sink cabinet was taped shut and a hole in the floor was located beneath the sink, due to foundation issues or a water leak.*

*(f) Supplied facilities*

*Systems were not active, so these could not be checked.*

*(g) Drainage.*

*No issues were recorded*

*(h) Noxious Weeds*

*Area included noxious weeds and grasses*

*(I) Egress*

*No issues were recorded.*

**Section 34-56 Control of insects, rodents and infestation.**

*Numerous holes in the ceiling, roof, and walls provide entry for insects and rodents. Pictures of the dwelling prior to it being vacated indicate signs of infestation.*

*As previously stated, you have 90 days from the date of this letter to remove or demolish the dwelling. Failure to do so will require further enforcement action to be taken by the Town,*

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*which may include the Town demolishing the structure and placing a lien against the real property to cover the cost of demolition.*

*Your cooperation is appreciated, and the Town of Wendell will do whatever we can to assist you in expediting this process.*

*Respectfully,*

*David Bergmark*

*Zoning Administrator*

*Attachment: Photos*

*Cc: Teresa Piner – Town Manager*

*Lisa Messick – home owner*

Planning Director David Bergmark provided an overview of the ordinance authorizing and directing the minimum housing inspector to cause the dwelling at 315 Cook Street, owned by Lisa Messick, to be demolished due to minimum housing code violations; staff report included above in italics.

Commissioner Boyette questioned when the Wendell Town Board held a public hearing for minimum housing violations to demolish. Manager Piner stated 10 or 15 years ago since the last case.

Mayor Gray opened the public hearing at 8:00 p.m.

Mayor Gray questioned if the owner or a representative for the owner were present. Neither the owner nor a representative was in attendance.

Mayor Gray closed the public hearing at 8:00 p.m.

**ACTION:**

Mover: Commissioner Boyette moved to approve the ordinance ordering the minimum housing inspector to cause the dwelling at 315 Cook Street to be demolished as presented.

Vote: 4-0.

**6d. PUBLIC HEARING FOR ANNEXATION A-17-01, PARKVIEW PROPERTY.**

**SPEAKER: Planning Director David Bergmark**

**ACTION: Public Hearing. Board may take action.**

*[Staff Report]*

**Item Summary:**

*The Town of Wendell has initiated an annexation request for approximately 35 acres of land located immediately to the south of the Town Park property, identified by PIN # 1783383891. This property, which was part of the 'Parkview' tract, was purchased by the town in 2016 using Wake County and Clean Water Management Trust Fund grants. Since this property is under Town ownership and is contiguous to the existing corporate limits, a request has been made to incorporate this property in order to extend the town's primary corporate limits.*

*The Parcel identified by PIN # 1783383891 and recently purchased by the town is actually 36 acres in total. However, 1 acre located in the northeast corner of this parcel is already within*

*the town's corporate limits.*

**Project Profile:**

<b><u>PROPERTY # 1 LOCATION:</u></b>	<i>0 Wendell Falls Parkway</i>
<b><u>WAKE COUNTY PIN(s):</u></b>	<i>1783383891</i>
<b><u>ZONING DISTRICT:</u></b>	<i>R3 &amp; R2</i>
<b><u>PROPERTY OWNER(s):</u></b>	<i>Town of Wendell</i>
<b><u>APPLICANTS:</u></b>	<i>Town of Wendell</i>
<b><u>PROPERTY SIZE:</u></b>	<i>36 ac. (1 acre already annexed)</i>
<b><u>CURRENT LAND USE:</u></b>	<i>Vacant</i>
<b><u>PROPOSED LAND USE:</u></b>	<i>Conservation/Recreation</i>

**Zoning District:**

*This property is zoned Residential-3 (R3), but is subject to a conservation easement which only allows limited passive recreational activities.*

**Tax Information:**

*As this property is Town owned, it would not generate tax revenue.*

Planning Director David Bergmark provided an overview for annexation request A-17-01, Parkview Property, owned by the Town of Wendell and contiguous to the corporate limits; staff report included above in italics.

Mayor Gray opened the public hearing at 8:02 p.m. No one spoke on this item. Mayor Gray closed the public hearing at 8:02 p.m.

**ACTION:**

Mover: Mayor Pro Tem Lutz moved to approve the annexation ordinance for annexation petition A-17-01 for 35 acres of Town owned property located on Wendell Falls Parkway as presented.

Vote: 4-0.

**7. UPDATE ON BOARD COMMITTEE(S) BY TOWN BOARD MEMBERS:**

 Technical Review Committee (TRC) [Commissioner Carroll]

No update as there was not a March TRC meeting.

**8. COMMISSIONERS' REPORTS.**

Commissioner Joyner stated he intends to go to East Wake High School to discuss an initiative in which the kids in the school initiate policies that may be adopted at the local, state and federal level. He stated he will spearhead that for Wendell. He also invited the community that if something can be changed for the better to contact a Board member.

Commissioner Boyette stated he would like something for temporary signage that is amenable to businesses and the Town and homeowners. This requires a sit down to discuss so that it does not continue to come up each year.

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Mayor Pro Tem Lutz stated he enjoyed what the Appearance Commission did with the Party with a Purpose “Masquerade Ball.”

Commissioner Carroll echoed Mayor Pro Tem Lutz’s comments on Party with a Purpose event. He recommends going next year as it is a great cause.

**9. MAYOR’S REPORT.**

Mayor Gray shared the following:

- Attended the Party with a Purpose event; looking forward to seeing what the proceeds of the event will be used for around the Town of Wendell.
- Thanked Planner Patrick Reidy who is the liaison for Party with a Purpose.
- Carver Elementary 5<sup>th</sup> graders returned from the annual field trip to Washington D.C. This year’s trip including the laying of a wreath with the school’s name at the Tomb of the Unknown Soldier.
- ProTown BMX Show is Saturday, March 25, 2017 with shows at 11 a.m. and 1:30 p.m.
- Wendell’s Dr. Gene Hester wrote, My Friend Hootie. Dr. Hester was interviewed by Scott Mason of the WRAL Tar Heel Traveler and it will air on WRAL on Tuesday, March 14, 2017, at 5:55 p.m.
- Recruitment for Citizen Advisory Boards is open through Tuesday, April 4, 2017.

**10. CLOSED SESSION**

**ACTION: Closed session will be called if necessary.**

No closed session was called

**11. ADJOURN.**

**ACTION:**

Mover: Mayor Pro Tem Lutz moved to adjourn at 8:10 p.m.

Vote: 4-0.

Duly adopted this 27th day of March 2017, while in regular session.

**ATTEST:**

\_\_\_\_\_  
Virginia R. Gray, Mayor

\_\_\_\_\_  
Sherry L. Scoggins, MMC; Town Clerk