

**MINUTES OF THE BOARD OF ALDERMEN
TOWN OF KERNERSVILLE, N.C.
REGULAR MEETING 7:00 P.M. SEPTEMBER 7, 2010**

The Board of Aldermen of the Town of Kernersville met in regular session at 7:00 p.m. on the above date in the Municipal Council Chambers at the Municipal Building at 134 East Mountain Street.

Present: Mayor Dawn H. Morgan, Mayor Pro Tem Kevin Bugg, Aldermen Dana Caudill Jones, Keith Mason, Tracey Shifflette and Bob Prescott.

Absent: Alderman Bob Prescott

Staff Present: Curtis L. Swisher, Town Manager; John G. Wolfe, Town Attorney; Dale F. Martin, Town Clerk; Jeff Hatling, Community Development Director; Kenny Gamble, Chief of Police; Doran Maltba, Public Services Director; Franz Ader, Finance Director; Ernie Pages, Parks and Recreation Director; Walt Summerville, Fire Chief; Ray Smith, Human Resources Director, and Russell Radford, Engineering Director.

- **CALL TO ORDER**
- **INVOCATION BY REVEREND DAVID RORIE, BUNKER HILL UNITED METHODIST CHURCH**
- **PLEDGE OF ALLEGIANCE**

Mayor Dawn Morgan called the meeting to order and Reverend David Rorie of Bunker Hill United Methodist Church delivered the invocation which was followed by the Pledge of Allegiance.

- **PRESENTATION OF PROCLAMATION FOR THE 35TH ANNUAL HONEYBEE FESTIVAL**

Mayor Morgan presented the Honeybee Proclamation to Ernie Pages, Director of Parks & Recreation Department. The Kernersville Honeybee will be held September 18th.

PUBLIC HEARINGS

- 1 a. **PUBLIC HEARING:** Curtis Swisher, Agent for the Town of Kernersville, for a proposed Zoning Text Amendment to the Unified Development Ordinance (UDO) by amending Chapter B, Zoning Ordinance and Chapter D, Subdivision Regulations mandated by changes made to the planning statutes by the North Carolina General Assembly. Zoning Docket KT-197

Mr. Jeff Hatling, Community Development Director presented the Planning Board report for this text amendment. The Planning Board and Staff recommend approval of this text amendment. He explained that this proposed amendment makes changes to Chapter B, Zoning Ordinance and Chapter D, Subdivision Regulations mandated by the North Carolina General Assembly.

Mayor Dawn Morgan declared the Public Hearing open.

In Favor

None

Opposed

None

There being no speakers either in favor or opposed to this text amendment, Mayor Morgan closed the Public Hearing.

1 b. Consideration of an ordinance for text amendment.

Mayor Pro Tem Kevin Bugg made a **Motion** to approve the following ordinance for a Text Amendment to the Unified Development Ordinance (UDO) by amending Chapter B, Zoning Ordinance and Chapter D, Subdivision Regulations as mandated by changes made to the planning statutes by the North Carolina General Assembly. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

**Town Ordinance
Zoning Docket KT-197**

Ordinance No. O-2010-26

**AN ORDINANCE AMENDING
THE ZONING ORDINANCE AND SUBDIVISION
REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCES
TO REFLECT CHANGES MADE IN THE PLANNING LEGISLATION OF THE
NORTH CAROLINA GENERAL STATUTES**

Be it resolved, by the Board of Aldermen of the Town of Kernersville, North Carolina, that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

Section 1. Chapter B - Zoning Ordinance; Article VI – Administration and Amendments is amended as follows:

6-1 ADMINISTRATION

Part 1:

6-1.4 BOARD OF ADJUSTMENT

(B) VARIANCE

- (6) **Review of Applications.** Any such variance shall observe the spirit and purpose of this Ordinance and shall be granted only with reference to conditions and circumstances peculiar to the property involved. In passing upon such requests the Board of Adjustment may specify additional reasonable and appropriate conditions and safeguards, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, to protect the public health and safety, the value of neighboring properties and the health and safety of neighboring residents. If the Board of Adjustment denies the application for a variance, it shall enter the reasons for the denial in the minutes of the meeting at which the action was taken.

Part 2:

6-1.5 SPECIAL USE PERMITS AUTHORIZED BY THE ELECTED BODY

(A) ELECTED BODY REVIEW

The Elected Body shall review all requests for permits as designated in Table 2.6 and, in doing so, shall follow quasi-judicial procedures.

Part 3:

(E) ELECTED BODY DECISION

The Elected Body shall consider the matter and the recommendations of the Planning Board and may:

- (1) **Approve.** Approve the application and direct issuance of the special use permit therefore;
- (2) **Approve with Conditions.** Approve the application with the conditions as recommended by the Planning Board or additional conditions as specified in Section 6-1.3(A)(1) to assure that the site will be developed in a manner conducive to the public health, safety and welfare, and direct issuance of the special use permit; or,
- (3) **Deny.** Deny the application.
No vote greater than a majority vote shall be required for the Elected Body to issue a special use permit. For the purposes of this section, vacant positions on the Elected Body and members who are absent or excused from voting on a special use permit shall not be considered members of the Elected Body for calculation of the requisite majority.

6-2 ORDINANCE AMENDMENTS: ZONING TEXT AND OFFICIAL ZONING MAPS

6-2.1 GENERAL USE DISTRICTS

(F) NOTICE TO NONPETITIONING OWNERS FOR A PLANNING BOARD PUBLIC HEARING

Except for petitions providing notification under the provisions of Section 6-2(G), if a petition to amend the zoning is not signed by all of the owners of all land for which rezoning is requested, the following notification procedures shall be followed for a Planning Board Public Hearing:

- (1) Written Notification.** The petitioner shall notify in writing non-petitioning owners who have not signed the petition that the petition is being submitted. Written notification shall be by letter, in a form supplied by the Planning Board, and shall specify present and proposed zoning classifications. The letter shall be sent by certified or registered mail to the last known address of non-petitioning owners.
- (2) Alternative Notification.** As an alternative method of notice, the petitioner may obtain the signatures of non-petitioning owners on a statement acknowledging that said owners have received notice that a petition will be filed and heard at a public hearing before the Planning Board. In cases where signatures of non-petitioning owners are obtained, written notification shall not be necessary.
- (3) Second Notification.** If for any reason the initial letter is not delivered, a second letter on the required form shall be sent by certified or registered mail to the non-petitioning owner's address as shown on the records of the office of the Tax Assessor, if said address is different from the last known address.
- (4) Undelivered Notices.** If for any reason neither such letter notice is delivered, the petitioner shall then file with the Planning Board a signed certificate setting forth that written notification has been sent to all non-petitioning owners who have not accepted notice by signed statement, and shall attach thereto either the return receipts showing that the letters have been delivered or the letters themselves and the mailing envelopes thereof.
- (5) List of Owners Not Notified.** In the event all letters are not delivered, the petitioner shall attach to the certificate a list containing the names and street or mailing addresses and tax lot and block numbers of the property within the boundaries covered by the petition of all non-petitioning owners to whose addresses written notice was not delivered. This list of names and addresses shall be included in the notice of public hearing which shall be published in a newspaper as provided for in this Article.

- (6) **Advertisement.** Such publication of the public hearing, together with the names, addresses and tax lot and block numbers of non-petitioning owners shall be made within one hundred and eighty (180) days of the posting of the first letter to the non-petitioning owner at such person's last known address. Otherwise, said notification procedure shall start anew. The Planning Board shall not advertise the public hearing until receipt of the petitioner's certificate as provided above.

(G) **NOTIFICATION TO PROPERTY OWNERS AND ADJACENT PROPERTY OWNER FOR AN ELECTED BODY PUBLIC HEARING**

- (1) ~~**Mailed Notices.** In the event of petition to amend the zoning maps, letters shall be sent to all property owners within and adjacent to the property for which the amendment is requested, in accordance with State law.~~
- (2) ~~**Newspaper Advertisement.** The first class mail notice required above shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Planning Board or Elected Body elects to use the expanded published notice provided for in this subsection. In this instance, the Planning Board or Elected Body may elect to either make the mailed notice provided for above or may as an alternative elect to publish once a week for at least four successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The amendment shall not be less than one-half of a newspaper page in size, and shall meet the timing requirements of State law and Section B-6-2.1(I). The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the more recent property tax listing for the affected property shall be notified by first class mail pursuant to this section.~~

Notification to property owners and adjacent property owners shall be handled as follows:

- (1) Letters shall be sent via first class mail to all property owners within and adjacent to the property for which the zoning map amendment is requested, in accordance with State law, except as exempted under subsection (2) of this section.
- (2) The first class mail notice required under subsection (1) above shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners,

and the governing unit uses the expanded published notice provided for in this subsection. In this instance, a municipality or county may choose to either make the mailed notice provided for in subsection (1) of this section or may, as an alternative, elect to publish notice of the hearing as required in G.S. 160A-364 or G.S. 153A-323, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property shall be notified according to the provisions of subsection (1) of the section.

- (3) In all cases of petitions to amend a zoning classification, the property shall be posted with a notice of public hearing by the Elected Body at least fifteen (15) days prior to the date of said public hearing. Said notice shall consist of a sign(s) posted on the property at a conspicuous location(s) or on an adjacent public street or highway right-of-way, which sign shall be legible from the nearest public road. Location(s) which are not conspicuous or require additional notification to the public will be required to have a directional sign(s) posted. The signs are and shall remain the property of the governmental agency which provided them, and shall be prepared, posted, and reclaimed by it. When multiple parcels are included within a proposed amendment, a posting on each individual parcel is not required, but there shall be sufficient signs posted to provide reasonable notice to interested persons.

Part 5:

(I) ADVERTISING AND POSTING FOR A PLANNING BOARD PUBLIC HEARING

Whenever a petition to amend this Ordinance is submitted to the Planning Board, the Planning Board shall schedule a public hearing. Notice of the public hearing shall be advertised once in a newspaper of general circulation in the adopting jurisdiction, said notice being not less than ten (10) days prior to the date fixed for the hearing.

In all cases of petitions to amend a zoning classification, the property shall be posted with a notice of public hearing by the Planning Board at least fifteen (15) days prior to the date of said public hearing. Said notice shall consist of a sign(s) posted on the property at a conspicuous location(s) or on an adjacent public street or highway right-of-way, which sign shall be legible from the nearest public road. Location(s) which are not conspicuous or require additional notification to the public will be required to have a directional sign(s) posted. Each sign(s) or each directional sign(s) will have an additional charge to be determined by the Planning Board to the petitioner. The signs are and shall remain the property of

the governmental agency which provided them, and shall be prepared, posted, and reclaimed by it. When multiple parcels are included within a proposed amendment, a posting on each individual parcel is not required, but there shall be sufficient signs posted to provide reasonable notice to interested persons.

Part 6:

(M) PLANNING BOARD REVIEW

~~The Planning Board shall submit a report and recommendations to the Elected Body in writing within one hundred and twenty (120) days after receipt by the Planning Board of a complete petition, including compliance with Section B-6-2.1(F), unless such period is extended by the Elected Body. Failure to submit a report and recommendation shall not be deemed to constitute either approval or disapproval of the petition by the Planning Board. The Planning Board shall, at the same time, mail or deliver to the petitioner, and also to the opponent(s), if any, a copy of the same report and recommendations sent to the Elected Body. In case there is more than one petitioner for or opponent to the proposed change, it shall be sufficient to mail or deliver a copy of the report and notice of any subsequent hearing before the Elected Body to the one petitioner designated by the petitioners to receive same and to any such opponent who requests receipt of such report in writing at the public hearing. Furthermore, in any case where any of the parties are represented by an attorney named in the petition, the mailing, or delivery of a copy of the report and notice of any hearing to the attorney shall be the equivalent of mailing or delivering the same to the party or parties represented by the attorney.~~

The Planning Board shall submit a report and recommendations to the Elected Body in writing within one hundred and twenty (120) days after receipt by the Planning Board of a complete petition, including compliance with Section 6-2.1(F) above, unless such period is extended by the Elected Body. Failure to submit a report and recommendation shall not be deemed to constitute either approval or disapproval of the petition by the Planning Board.

In the report, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the *Kernersville Development Plan* and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Elected Body that addresses plan consistency and whether the proposed amendment is reasonable and in the public interest. A statement by the Planning Board that a proposed amendment is inconsistent with the *Kernersville Development Plan* shall not preclude consideration or approval of the amendment by the Elected Body.

The Planning Board shall, at the same time, mail or deliver to the petitioner and also to the opponent(s), if any, a copy of the same report and recommendations sent to the Elected Body. In case there is more than one petitioner for or opponent to the proposed change, it shall be sufficient to mail or deliver a copy of

the report and notice of any subsequent hearing before the Elected Body to the one petitioner designated by the petitioners to receive same and to any such opponent who requests receipt of such report in writing at the public hearing. Furthermore, in any case where any of the parties are represented by an attorney named in the petition, the mailing or delivery of a copy of the report and notice of any hearing to the attorney shall be the equivalent of mailing or delivering the same to the party or parties represented by the attorney.

Part 7:

(N) ELECTED BODY PUBLIC HEARING

A public hearing shall be held by the Elected Body on each proposed amendment to the Zoning Ordinance, after publication of notice and posting of signs, as hereinabove provided. Said proposed amendment shall be placed on the agenda of a regularly scheduled public hearing of the Elected Body within sixty (60) days of receipt of the report and recommendations of the Planning Board.

A member of the Elected Body shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

Part 8:

(O) PROTEST PETITION

The Unified Development Ordinances may from time to time be amended, supplemented, changed, modified, or repealed. In case of a protest against any zoning map amendment or change of the Zoning Ordinance signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change; or of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet therefrom; or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots; either (i) twenty percent (20%) or more of the area included in the proposed change; or (ii) five percent (5%) of a one hundred foot (100') wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned; such amendment shall not become effective except by favorable vote of three-fourths (3/4) of all members of the Elected Body.—A street right-of-way shall not be considered in computing the one hundred foot (100') wide buffer area as long as that street right-of-way is one hundred feet (100') wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the one hundred foot (100') wide buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Elected Body may rely on the county tax listing to determine the owners of potentially qualifying areas. Such amendment shall not become effective except by favorable vote of three-fourths (3/4) of all members of the Elected Body. For the purposes of this subsection, vacant positions on the Elected Body and members who are excused from voting shall not be considered members of the Elected Body for calculation of the requisite supermajority.

No protest against any ~~change or amendment of the Zoning Ordinance~~ zoning map amendment shall be valid or effective under the provisions of the foregoing paragraph unless such protest is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless such protest shall have been received by the Elected Body in sufficient time to allow at least two (2) normal workdays, excluding Saturdays, Sundays, and legal holidays, prior to the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. Such petition shall be accompanied by a map or sketch clearly showing the property of the petitioners in such detail as to show that the ownership requirements of the foregoing paragraph are met, ~~which would compel a three-fourths (3/4) favorable vote by the Elected Body.~~ A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning map amendment. Only those protest petitions that meet the qualifying standards set forth above at the time of the vote on the proposed zoning map amendment shall trigger the supermajority voting requirement.

The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted special use district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening provided for the special use district.

Part 9:

(Q) CONSIDERATION

In deliberating each petition for amendment of the Official Zoning Maps, the Elected Body may consider such information and assertions as are presented in the petition as well as evidence presented and arguments made at the public hearing. Additional considerations by the Elected Body may include, but shall not be limited to the following:

- (1) Whether the proposal is consistent with the purpose statements of the requested zoning districts;
- (2) Whether the uses permitted under the proposed classification would be compatible with uses permitted on other property in the vicinity;
- (3) Whether changing conditions have substantially affected the area included in the petition; and

- (4) Whether the proposed amendment is in conformance with ~~Legacy and the Kernersville Land Use Plan~~ the Kernersville Development Plan.
Prior to adopting or rejecting any zoning amendment, the Elected Body shall adopt a statement describing whether its action is consistent with Legacy and explaining why the Elected Body considers the action taken to be reasonable and in the public interest.

Section 2. Chapter B - Zoning Ordinance; Article IX - Enforcement is hereby amended as follows:

9-3 SUBDIVISION REGULATIONS

Any person who, being the owner or agent of the owner of any land subject to the Subdivision Regulations of Forsyth County and the Town of Kernersville, thereafter subdivides his or her land in violation of the Subdivision Regulations or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such Regulations and recorded in the Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The respective unit of government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the Subdivision Regulations. Building permits may be denied for lots that have been illegally subdivided. In addition to other remedies, the unit of government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

Section 3. Chapter B - Zoning Ordinance; Article X - Appointed Boards is hereby amended as follows:

10-1 BOARD OF ADJUSTMENT

Part 1:

10-1.2 ESTABLISHMENT AND MEMBERSHIP

(B) MEMBERSHIP

- (1) **Tenure.** The members are to serve for terms of three (3) years.
- (2) **Vacancies.** Any vacancy on the Board of Adjustment is to be filled by the Elected Body for the remainder of the unexpired term; provided, however, that a vacancy in a position filled by appointment of the Board of County Commissioners is to be filled by the Board of County Commissioners.

- (3) **Removal for Cause.** Any member of the Board of Adjustment may be removed for cause by the Elected Body upon written charges and after a public hearing.
- (4) **Alternate Members.** There shall be two (2) alternates appointed from the townspeople and two (2) representing the extraterritorial area. The alternates shall serve in the absence of a regular member of the Board of Adjustment from their respective areas and shall have all the rights, privileges, and duties of the regular member he or she is replacing. In the absence or temporary disqualification of any regular member at a regular or special meeting of the Board of Adjustment, an alternate member or members may sit on the Board of Adjustment and serve in replacement while attending the regular or special meeting, and shall have and exercise all the powers and duties of a regular member for that meeting.

Part 2:

(C) **FOUR-FIFTHS (4/5) VOTE REQUIRED**

~~All members of the Board of Adjustment shall have equal rights, privileges, and duties in all matters that come before the Board of Adjustment no matter where they arise. The concurring vote of eight (8) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which the Board of Adjustment is required to pass judgment, or to grant a variance from the provisions of this Ordinance.~~

The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Director or to decide in favor of the applicant on any matter upon which the Board of Adjustment is required to pass judgment or to grant a variance from the provisions of this Ordinance. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

Part 3:

(E) **RULES AND PROCEDURES**

A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome

of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

The Board of Adjustment shall adopt other rules and procedures as it deems necessary, as long as they do not conflict with the rules and procedures established in this section.

Part 4:

10-2 PLANNING BOARD

10-2.1 TOWN OF KERNERSVILLE

(D) CONFLICT OF INTEREST

Planning Board members shall not vote on items decided by the Planning Board or on zoning map and text amendment recommendations forwarded to the Elected Body where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member(s).

Section 4. Chapter D - Subdivision Regulations is hereby amended as follows:

1. GENERAL PROVISIONS AND ADMINISTRATION

(M) VIOLATION OF THE SUBDIVISION REGULATIONS

Violations of the Subdivision Regulations shall be enforced through the provisions established in 9-3.

Section 5. Chapter D - Subdivision Regulations is hereby amended as follows:

2. SUBDIVISIONS EXEMPTED BY STATE LAW OR COURT JUDGMENTS.

(A) DEFINITION

A subdivision exempted by State law or court judgments is a division of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of a gift, sale, or building development, whether immediate or future. All lots must comply with the size and area requirements of the Zoning Ordinance or any other applicable local or State land regulatory ordinances and meet any one of the following definitions:

- (1)** The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased;
- (2)** The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation corridors. The transfer of pieces of property between developed lots where the transfer of property does not create a substandard lot or any setback violations on either lot. (These subdivisions are not required to comply with the size and area requirements of the Zoning Ordinance, nor the provisions in Sections (B) and (C) of this section).
- (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no public or private street right-of-way dedication is involved; or,
- (5) The creation of lots by or pursuant to an order or judgment of a court of competent jurisdiction.

Section 6. Chapter D - Subdivision Regulations is hereby amended as follows:

3. MINOR SUBDIVISIONS

(A) Definition

A minor subdivision shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of a gift, sale, or building development, whether immediate or future. All lots must comply with the lot size and area requirements of the Zoning Ordinance or any other applicable local or State land regulatory ordinances and meet any one of the following criteria:

- (1) Is a division of land where the entire area is greater than two (2) acres into not more than a total of three (3) lots, where no street right-of-way dedication is involved (see exception for industrial and commercial subdivisions in Section 5(C));
- (2) Is created by a private access easement established in compliance with the Zoning Ordinance and consists of no more than a total of three (3) lots per tract which do not front on a public street (see exception for industrial and commercial subdivisions in Section 5(C)); or,
- (3) Is created by lots all of which front on an existing public street, provided that the subdivision would not impair ingress and egress to or from the rear or side of the subject tract or any adjacent property. All lots which front on a public street shall not be included in the provisions of Section 3(A)(2). Lots which are approved must front on a public street with right-of-way which meets the standards of the North Carolina Department of Transportation and/or the applicable jurisdiction. Any portion of the lot lying within the required public street right-of-way must be quitclaimed,

conveyed, and dedicated as public right-of-way before receiving Planning staff approval. The Planning staff can only require the dedication of standard right-of-way. Additional right-of-way for future widening of roads cannot be required.

Section 7. Chapter D - Subdivision Regulations is hereby amended as follows:

4. MAJOR SUBDIVISIONS

(A) Definition

A major subdivision of land whether in single or multiple ownership shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of a gift, sale, or building development, whether immediate or future where new public streets will be constructed and shall include all divisions of land involving the construction and dedication of a new public street or change in existing public streets. All lots must comply with the size and area requirements of the *Zoning Ordinance* or any other applicable local or state land regulatory ordinances. Preliminary subdivision approval of a plat in accordance with Section 4(C) is required by the Elected Body. Final plats must be recorded in the office of the Register of Deeds in accordance with Section 4(H) when all the requirements of these regulations have been met for the subdivision.

Section 8. This ordinance shall become effective upon adoption.

This 7th day of September, 2010.

PUBLIC SESSION

2. SPEAKERS FROM THE FLOOR.

Jimmy Morgan, 8625 Bull Road, Colfax, NC – spoke of the economic issues of this area and efforts to bring more jobs here. He noted last week's issue of *Progressive Farmer's* magazine reported on the increase in placing people in agriculture jobs. He stated that we should be looking to bring companies here that provide these types of jobs since we have a very strong agricultural educational system in North Carolina.

3. Consideration of a Potential Resolution of Honoraria.

Mayor Morgan stated that the Board wants to recognize Kevin Harvick, Inc. for their economic impact to this area and read the proposed resolution.

Mr. Swisher presented options for the honorary sign to be installed. He described the pole configurations and the types of name blades that can be used. He noted that we need time to order the pole and blade in time to have it here by October 17th.

Alderman Dana Caudill Jones stated that she has been out to the site to look at the best location for the placement of the sign. She recommended that we set a dollar amount not to exceed and then have the Town Manager get back with us on our different options.

Alderman Dana Caudill Jones made a **Motion** for the approval of the following resolution honoring Kevin and DeLana Harvick. Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

Resolution No. R-2010-29

WHEREAS, Kevin Harvick Inc. (“KHI”) is a nationally known NASCAR Nationwide Series and NASCAR Truck Series racing company which is co-owned by Kevin and DeLana Harvick; and

WHEREAS, KHI operates a state of the art, 70,000 square feet, race shop and administrative facility in Kernersville, North Carolina; and

WHEREAS, KHI is a successful business and employer in Kernersville, making significant contributions to the local economy; and

WHEREAS, through its generosity in supporting charitable causes over the years, including the Victory Junction Gang, the Shepherd’s Center of Kernersville, a ministry that serves senior adults, and the Kevin Harvick Foundation, which benefits children, KHI has reached out to help others; and

WHEREAS, the Town of Kernersville recognizes the many outstanding contributions of Kevin Harvick, Inc. as the company celebrates its 10th Anniversary on October 17, 2010 at a special event to which KHI is inviting citizens to visit KHI and join them in celebration;

NOW, THEREFORE, BE IT RESOLVED, THAT THE Mayor and Board of Aldermen of the Town of Kernersville, North Carolina, do hereby recognize Kevin Harvick and DeLana Harvick with an Honorary street name for Park Lawn Court and authorize the installation of an identification sign at the intersection of Park Lawn Court and Gralin Street. The honorary street name shall be (Honorary) **KEVIN HARVICK COURT**, and Park Lawn Court shall carry this designation from October 17, 2010 to June 30, 2011. It is hereby authorized by the Mayor and the Board of Aldermen that the Town Manager has a street sign commemorating this designation installed and maintained from October 17, 2010 to June 30, 2011.

This the 7th day of September, 2010.

Alderman Dana Caudill Jones made a **Motion** authorizing up to \$830.00 to be spent on a sign as presented by the Town Manager. Alderman Keith Mason seconded the motion.

The Board continued to discuss options available.

Alderman Jones amended her **Motion** authorizing up to \$900. Alderman Mason seconded the amendment. The vote was all for and motion carried.

4. Presentation by the KDPDC on the Brick Pavers Program.

Mr. Duane Long, Chairman of KDPDC – introduced Katherine Schipp – Chairperson of the Fundraising Committee. He added that she is a business person in Kernersville and is not a KDPDC Board member.

Katherine Schipp, Chairperson of the KDPDC Fundraising Committee - stated that the purpose of this project is to enhance the downtown area by offering personally engraved bricks in honor or memorial of someone. She stated that this program would offer opportunities for ownership in downtown and will be an on-going project for many years to come. She noted two areas: the area around the trellis on S. Main Street at John Wolfe's office and the area around the depot at the town clock as locations for the first round of bricks. She noted that Pine Hall Brick will be the supplier of the bricks. Laser technology will be used instead of sandblasting. She estimated the KDPDC's potential profit to be approximately \$32,000, with associated cost of approximately \$28,000. The Committee's goal is to sell 600 bricks by the end of the year in lots of at least 100 bricks. The cost per standard brick is \$100, \$250 for the larger bricks.

Ms. Schipp explained that the committee has walked downtown several times to determine the best places for these bricks to be seen by foot traffic. She stated that Public Works has been consulted and that no utilities are currently located at these locations. She requests permission by the Board to implement this program.

Mr. Swisher asked if the bricks will be installed into areas where there is already concrete. Ms. Schipp stated that yes; the concrete will be taken up and bricks installed in the same area.

Mr. Swisher asked if the KDPDC will be responsible for installing the bricks. Ms. Schipp stated that the KDPDC will be responsible for installing the bricks and will be done in accordance with all Town ordinances.

Alderman Caudill Jones asked if it would be one large installation. Ms. Schipp stated that that is the plan so that we can keep costs down.

Mayor Pro Tem Kevin Bugg made a **Motion** to approve the Personal Brick Marker Program as recommended by the KDPDC. Alderman Dana Caudill Jones seconded the motion and the vote was all for and motion carried.

Alderman Caudill Jones asked Mr. Doran Maltba if he had any comments regarding this matter.

Mr. Maltba stated that he is aware of what is being requested. He did ask them for an encroachment permit which will state their responsibility. He stated that he did check these areas and as far as we know there are no utilities underground. He did add that the utility companies have a right to use this easement and could at some point need to install something here and would need to tear this up.

5. Consideration of an Ordinance Approving a Service Agreement with Piedmont Natural Gas Company Inc.

Town Attorney John Wolfe reported on a new service agreement with Piedmont Natural Gas.

Mayor Pro Tem Bugg asked if there were other service companies in Kernersville, could we have multiple service agreements. Mr. Wolfe stated yes, he would advise the Town to have multiple agreements.

Alderman Keith Mason made a **Motion** to approve the following ordinance authorizing a service agreement with Piedmont Natural Gas Company, Inc. Alderman Dana Caudill Jones seconded the motion and the vote was all for and motion carried.

Ordinance No. O-2010-27

**AN ORDINANCE APPROVING A SERVICE AGREEMENT WITH
PIEDMONT NATURAL GAS COMPANY, INC.**

WHEREAS, the franchise authorizing Piedmont Natural Gas Company, Inc. to provide natural gas service expired on December 2, 2005 and the Town of Kernersville desires to continue to permit Piedmont Natural Gas Company, Inc. to operate within the corporate limits of the Town of Kernersville, a municipality located within the Piedmont Natural Gas Company, Inc. Service Area as defined by the North Carolina Utilities Commission; and

WHEREAS, the Town of Kernersville and Piedmont Natural Gas Company, Inc. have discussed the rights and responsibilities that each entity should have in addition to the service provision requirements established by the North Carolina Utilities Commission; and

WHEREAS, the Board of Aldermen of the Town of Kernersville wishes to authorize the continued provision of natural gas service within the Town subject to the terms of the Service Agreement as defined herein.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Board of Aldermen of the Town of Kernersville that the following Service Agreement is approved:

**“TOWN OF KERNERSVILLE SERVICE AGREEMENT WITH
PIEDMONT NATURAL GAS COMPANY, INC.**

I. DEFINITIONS

1.01 As used in this Agreement, the following terms, words and phrases shall have the meanings respectively ascribed to them in this section:

"Company" shall mean Piedmont Natural Gas Company, Inc., a corporation organized under the laws of the State of North Carolina and authorized to do business in the State of North Carolina and any successor in interest to Piedmont Natural Gas Company, Inc. under this Service Agreement.

"Town" shall mean the Town of Kernersville, a North Carolina municipal corporation located in Forsyth and Guilford Counties, North Carolina.

" Board of Aldermen " shall mean the governing body of the Town of Kernersville;

"Gas" when used as an unqualified term shall mean either natural or artificial gas, by whatever process or processes derived or manufactured, or both such gases either separately or a mixture of them;

II. SERVICE RIGHTS GRANTED

2.01 The Company is hereby granted the right to construct operate and maintain a gas utilities system within the Town for the production, transmission, distribution and sale for gas to consumers and users within the Town corporate limits, and to the Town, and any and all agencies and departments thereof.

2.02 The Company is hereby granted the right, authority and privilege to construct and install, operate, maintain, lay or relay, renew, replace and repair gas pipes, mains, pipelines, conduits, regulators, connections, services and all other appurtenances thereto, in, through, across, along and under streets, avenues, roads, public alleys, lanes, parks and squares, and other public places and ways within the Town corporate limits for the production, pumping, handling, transmission, distribution and sale of gas for any and all purposes, subject to the terms and conditions hereinafter set forth in this Agreement.

2.03 (a) Whenever the Company shall cause any opening, excavation or alteration to be made in any streets, avenues, roads, public alleys, lanes, parks and squares, or other public places and ways within the Town in the construction, operation or maintenance of any of its pipelines or other appliances owned or used by it, the Company shall, immediately upon completion of said work, repair and restore such portions of such streets, avenues, roads, public alleys, lanes, parks and squares, or other public places and ways to either the same condition in which it found them as nearly as practicable to the same condition in which it found them. If the Company fails to restore the area to its the required former condition within a reasonable period of time, hereby agreed to as no more than three days after completion of said work (notwithstanding reasonable delays caused by weather or similar conditions not within the control of the Company), the Town

may proceed to restore such streets, avenues, roads, public alleys, lanes, parks and squares, and other public places and ways as nearly as practicable to their original condition. In such event, the Town shall submit an invoice for its costs plus 50% for this restoration to the Company. The Company agrees to pay the Town the amount of any such invoice within thirty days.

(b) Except in emergencies, the Company shall obtain an encroachment permit from the Public Works Director before beginning any work in, upon, or under the streets, avenues, roads, public alleys, lanes, parks and squares, and other public places and ways of the Town for the purpose of constructing, installing, or repairing any mains, pipes, or other appurtenances of the gas system. The Public Works Director may require that the Company file a sufficient plan with specifications showing the nature, timeframe and extent of the proposed construction, installation, or repair work prior to issuance of such a permit.

(c) All work upon the streets, avenues, roads, public alleys, lanes, parks and squares, and other public places and ways of the Town shall be done under the general supervision of the Public Works Director and/or the North Carolina Department of Transportation ("NCDOT"), and in accordance with the requirements imposed by the Town and/or NCDOT. Without limiting the generality of the foregoing, the Company and the Town shall coordinate the location of their respective facilities within the streets and public places of the Town so that the facilities of each do not interfere with the construction, operation, and maintenance of the facilities of the other as much as practicable.

2.04 In the event that Company facilities described in Section 2.02 are located within streets, avenues, roads, public alleys, lanes, parks and squares, or other public places and ways within the Town, and work within said locations necessitates the movement, removal or relocation of the Company facilities, the Company shall bear the cost of moving, removing, or relocating such facilities.

2.05 The term of this Service Agreement is granted twenty years beginning **Sept. 8**, 2010 and ending at midnight **Sept. 7**, 2030.

2.06 Excluding fees that may be adopted by the Board of Aldermen for the encroachment permit required in Section 2.03(b), the Company shall not be obligated to the Town or any of its departments or agencies for any tax, license fee, other fee, or any other payment whatsoever, relating to the rights granted herein this Agreement other than that which is levied by state law; provided, however, that if state law is changed to authorize the Town to charge such a tax, license, or other fee, then the Company shall pay to the Town either a mutually agreeable fee arrived at upon good faith negotiations or any fee established by the North Carolina Utilities Commission.

2.07 The Company is hereby granted the right during the existence of this Service Agreement to mortgage or hypothecate this Agreement, together with all rights and privileges hereunder and any right or interest herein, as security for indebtedness, subject to acceptance by any legal successor in interest of the obligations, duties, liabilities, limitations and prohibitions set out herein and subject to the approval by the North Carolina Utilities Commission or other governmental agency whose approval is required by law. The Company shall not assign or

transfer its rights under this Agreement, provided, however, that this provision shall not prohibit the Company from assigning its rights here under to the surviving corporation in any corporate reorganization in which the Company is a party.

III. ACCEPTANCE OF SERVICE AGREEMENT

3.01 By entering this Service Agreement, the Company acknowledges that its rights hereunder are subject to Town use of its police power to adopt and enforce Ordinances that the Board of Aldermen may deem necessary for the health, safety, and welfare of the public, and the Company agrees to comply with all applicable Ordinances enacted by the Town pursuant to such power. Any conflict between the provisions of this Agreement and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

3.02 This Agreement shall take effect from the day both parties have executed the same; provided that, if the Company has not executed the Agreement within sixty (60) days of approval of the Agreement by the Board of Aldermen of the Town, then the same shall be null and void and of no effect.

This the ____ day of _____, 2010.

6 a. Presentation on “Heart of the Triad – A Collaborative Plan for Economic Vitality and Quality of Life”.

Mr. Hatling presented the history of this project whereby area Mayors got together to talk about an area plan and described the boundaries for this project. Committees have since worked together to establish a joint plan. He stated that if this resolution is adopted, it could facilitate amendments to the Comprehensive Land Use Plan in the future. The Planning Board and Staff recommends approval of the resolution to accept and endorse this plan.

Pat Schreiber, 1717 Bunker Hill Road, Kernersville, NC – stated that she is a native of Kernersville and therefore has a special interest in this project. She reported that she was the Chair of the Stakeholder’s Committee. We worked together for 2.5 years to come up with a plan for this area. She stated that sometimes it is better to ask people who live here. The Committee consisted of representatives who were land owners, developers and many people didn’t think we could get along. She stated that we met with residents on a regular basis, we worked with the Planners from the different counties and municipalities. She added that they discussed all the different issues and made changes where appropriate. Their goal was to protect land usage, agriculture, we wanted to look at widening existing highways instead of building new ones, we wanted to protect people’s rights to own and use their property and we wanted to protect our resources. We respected each other during this process and came up with a compromise. We now encourage the Board to adopt the resolution.

Jimmy Morgan stated that he also encourages the Board to pass this resolution. He added that he became interested because there was no mention of agriculture in the previous plan. He spoke of his family's farming history and his desire to pass this farm along to his daughter someday.

Mr. Morgan stated that discussions were intense and they did bump heads but came out with a better plan that is sustainable and allows for a variety of lifestyles. He noted that the previous plan did not mention the widening of existing roads; it was always to build and build. He spoke of the higher building standards in Kernersville and the environmental responsibilities we have to the area.

Mr. Morgan stated that he appreciates the opportunity to serve and that he wants to be able to control as much of his life as possible.

Alderman Dana Caudill Jones thanked both Ms. Scrieber and Mr. Morgan for being involved in this process and for their willingness to compromise and come back to the table to establish this plan.

6 b. Proposed Resolution of Adoption for the “Heart of the Triad – A Collaborative Plan for Economic Vitality and Quality of Life”.

Alderman Dana Caudill Jones made a **Motion** to approve the following resolution of adoption for the Heart of the Triad – A Collaborative Plan for Economic Vitality and Quality of Life. Mayor Pro Tem Kevin Bugg seconded the motion and the vote was all for and motion carried.

Resolution No. R-2010-30

WHEREAS, it was recognized by leaders in the region in April of 2004 that a unified land use plan did not exist for an area including portions of High Point, Kernersville, Winston-Salem, Oak Ridge, Greensboro, and equally situated areas near the Forsyth/Guilford County Line; and

WHEREAS, a Strategic Planning Committee consisting of elected officials who were appointed by the participating units of local government undertook a land use study in the area which became known as the “Heart of the Triad;” and

WHEREAS, a Stakeholders Committee consisting of residents, landowners, businesses, and developers was appointed by the participating units of local government to work with area Planning Directors to develop a land use plan that would enhance the Heart of the Triad while maintaining its natural beauty and unique features; and

WHEREAS, the draft plan was also made available to the general public for comment, and a community input meeting was held on April 22, 2010; and

WHEREAS, all parties have spent many hours reading, reviewing, discussing, debating, compromising, and developing a consensus on the final recommended plan.

WHEREAS, the Strategic Planning Committee by resolutions (See Exhibit A) accepted and endorsed the “Heart of the Triad Collaborative Plan for Economic Vitality and Quality of Life;”

WHEREAS, the Strategic Planning Committee by resolutions (See Exhibit A) recommend that the affected Planning Boards and units of local government review, endorse and incorporate the recommendations of the plan into existing land use and transportation plans and development regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Kernersville accepts and endorses the “Heart of the Triad Collaborative Plan for Economic Vitality and Quality of Life” and directs the Town Manager to begin the process of reviewing existing land use and transportation plans and development regulations for consideration of amending those plans and regulations by incorporating recommendations from the Plan.

Adopted the 7th day of September, 2010.

7. Consideration of an Ordinance amending the Code of Ordinances for the Town of Kernersville:

- 1. Chapter 1 – General Provisions**
- 2. Chapter 2 - Administration**
- 3. Chapter 10 – Nuisances**

Mr. John Wolfe, Town Attorney explained that the amendments to the Town’s Code of Ordinances were primarily made to clean up our existing Code of Ordinance. He noted the following specific changes:

- Chapter 2
 - Department and Employee Titles have been updated
 - Finance section has been modified to more clearly state the need to comply with applicable state law and to incorporate the Town’s Finance Policy.
 - Article V is amended to conform to UDO requirements.
 - Historic Properties section to reflect the use of the joint FC Historic Properties Commission
 - Removal of the Sister City Commission and adopt by reference in the same manner as the CAC.
- Chapter 10
 - Change resulting from the modification to state law to chronic Nuisance violations

Alderman Dana Caudill Jones made a **Motion** for the approval of an ordinance amending Chapters 1, 2 and 10 as recommended by Staff. Mayor Pro Tem Kevin Bugg seconded the motion and the vote was all for and motion carried.

ORDINANCE NO. O-2010-28

**AN ORDINANCE AMENDING CHAPTERS 1, 2 AND 10 OF
THE CODE OF ORDINANCES OF THE TOWN OF KERNERSVILLE**

WHEREAS, the Board of Aldermen has determined that the Code of Ordinances of the Town should be reviewed regularly to ensure that the provisions contained therein are up-to-date and in conformity with state and federal laws and to make minor adjustments as needed to make the enforcement of the Ordinances more effective; and

WHEREAS, the Town Manager, Department Heads and Town Attorney have reviewed, discussed and researched the proposed Ordinance changes and recommended changes have been provided to the Board of Aldermen and after review been found to be in the best interest of the Town.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF KERNERSVILLE THAT:

1. Chapter 1 of the Code of Ordinances entitled “General Provisions” is amended to read as shown in the attached Exhibit A, which reflects adoption of all of the changes shown in the attached Exhibit B.

2. Chapter 2 of the Code of Ordinances entitled “Administration” is amended to read as shown in the attached Exhibit C, which reflects adoption of all of the changes shown in the attached Exhibit D.

3. Chapter 10 of the Code of Ordinances entitled “Nuisances” is amended to read as shown in the attached Exhibit E, which reflects adoption of all of the changes shown in the attached Exhibit F.

4. This Ordinance shall be effective upon adoption.

5. All laws and clauses of laws in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Adopted this the 7th day of September, 2010.

8. Consideration of a DWI Task Force Grant through the Governor’s Highway Safety Program.

Police Chief Ken Gamble explained that last year in Forsyth County there were 3,752 arrests for impaired driving, 1500 accidents that were caused by impaired drivers and 39 deaths. Permission was granted by the Manager and Board back in the spring to apply for this grant. This grant will provide for 2 Forsyth County Deputies, 5 Winston-Salem Police Officers and 1 Kernersville Police Officer that will work the entire County with the goal of reducing impaired driving. This grant is worth \$2.9 million to the County. Our portion is totaled at \$351,000 out of which we will have matching funds at \$69,000. No match the 1st year, next year \$11,000 match and steps up from there.

Alderman Keith Mason made a **Motion** for the approval of the following resolution accepting said DWI Task Force Grant through the Governor's Highway Safety Program. Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

RESOLUTION NO. R-2010-31
North Carolina Governor's Highway Safety Program
LOCAL GOVERNMENT RESOLUTION
Form GHSP-02-A

(To be completed, attached to and become part of Form GHSP-02, Traffic Safety Project Contract.)

WHEREAS, the Town of Kernersville (herein called the "Agency") has completed an application contract for traffic safety funding; and that the Kernersville Board of Aldermen (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract:

THEREFORE, NOW BE IT RESOLVED BY THE KERNERSVILLE BOARD OF ALDERMEN IN OPEN MEETING ASSEMBLED IN THE TOWN OF KERNERSVILLE, NORTH CAROLINA, THIS 7TH DAY OF SEPTEMBER, 2010, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Chief of Police Kenneth W. Gamble is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety program for federal funding in the amount of \$136,125 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$0.00 as required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangements for other appropriate person to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by _____
(Chairperson/Mayor)

Mayor Morgan called a short recess at 8:10 PM. Mayor Morgan reconvened the meeting at 8:20 PM.

9. Consideration of Budget Amendment No. 1 for Fiscal Year 2010-2011.

Mr. Swisher presented the following explanation for this proposed budget amendment. Most of the items were budgeted for last year and the funds were encumbered however the money has not been spent for various reasons.

General Fund – Expenditures

1. To increase the Inspection Department expenditures in the amount of \$17,029 to cover expenditures associated with the implementation of the MUNIS software system that were budgeted yet unspent at fiscal year-end (FY09-10).
2. To increase the Human Resource Department expenditures in the amount of \$5,600 to cover expenditures associated with converting to the MUNIS software system that were budgeted yet unspent at fiscal year-end (FY09-10).
3. To increase the Police Department expenditures in the amount of \$16,400 to cover departmental supplies, uniform/accessories and Highway Traffic Safety Grant expenditures budgeted yet unspent at fiscal year-end (FY09-10).
4. To increase the Fire Department expenditures in the amount of \$88,900 to cover departmental supply and capital asset (hazardous materials vehicle accessories) expenditures budgeted yet unspent at fiscal year-end (FY09-10).
5. To increase the Sanitation Department expenditures in the amount of \$1,800 to cover a battery recycling program expense budgeted yet unspent at fiscal year-end (FY09-10).
6. To decrease the Recreation Department expenditures in the amount of \$58,306 to reflect salary expenses transferred to the Central Maintenance Department.
7. To decrease the General Services Department expenditures in the amount of \$1,200 to reflect overtime expenses transferred to the Central Maintenance Department.
8. To increase the Central Maintenance Department expenditures in the amount of \$59,506 to reflect the transfer of salary and overtime expenses.

General Fund – Revenues

1. To increase the Governor Crime Commission Grant revenues by \$3,300 to reflect additional revenues collected for new GHSP Equipment Grant.
2. To increase the revenues by \$1,100 to reflect a transfer from the Law Enforcement Forfeiture Fund (State/Local) to match the GHSP Grant.

3. To increase the Fund Balance Appropriated in the amount of \$125,329 to balance the general revenues with the general fund expenditures.

Transportation CPO Fund – Expenditures

1. To increase the expenditures in the amount of \$2,525,108 to cover expenses relating to the street bond principal and interest payments, Transportation Division labor expenses, and for capital project expenses.

Transportation CPO Fund – Revenues

1. To increase the revenues in the amount of \$2,525,108 to offset the expenditure of the same amount required. The revenues are primarily generated from the general fund transfer and from the NCDOT.

Public Works Facility CPO Fund – Expenditures

1. To increase the expenditures in the amount of \$136,000 to cover the costs associated with the Public Works facility project, primarily capital outlay reserves and property tax.

Public Works Facility CPO Fund – Revenues

1. To increase the revenues in the amount of \$136,000 to offset the costs associated with the Public Works facility project. The funds originate from the Stormwater Enterprise Fund and interest on investments.

Law Enforcement Forfeiture – Expenditures (Federal Justice)

1. To increase the expenditures in the amount of \$1,121 to reflect ammo expenditures encumbered last year but unspent at fiscal year-end (FY09-10).

Law Enforcement Forfeiture – Revenues (Federal Justice)

1. To increase the revenues in the amount of \$1,121 to offset the expenditures of the same amount.

Law Enforcement Forfeiture (State/Local) – Expenditures

1. To increase the expenditures in the amount of \$1,100 to reflect a transfer to the general fund for the GHSP Equipment Grant match.

Law Enforcement Forfeiture (State/Local) – Revenues

1. To increase the revenues in the amount of \$1,100 to offset the expenditures of the same amount.

Justice Assistance Grant – Expenditures

1. To increase the expenditures in the amount of \$5,227 to reflect expenditures encumbered last year but unspent at fiscal year-end (FY09-10).

Justice Assistance Grant – Revenues

1. To increase the revenues in the amount of \$5,227 to offset expenditures of the same amount.

Stormwater Enterprise Fund – Expenditures

1. To decrease the expenditures in an amount of \$1,800 to reflect moving a battery recycling program expense to the Solid Waste Department of the general fund.

Stormwater Enterprise Fund – Revenues

1. To decrease the revenues in the amount of \$1,800 to offset expenditures of the same amount.

Alderman Dana Caudill Jones made a **Motion** for the approval of the following ordinance for Budget Amendment No. 1 of fiscal year 2010-11. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

10. Update on Medical Parkway and Potential Condemnation on Related Property.

Mr. Swisher explained that a portion of the parkway at Macy Grove Road is complete. The hospital is working on getting permission to cross the creek and once that permission is giving by the State, they will provide the Town with a final design plan. At this point, we will know more about the exactly location of the road however it could shift in one direction or the other. They do have the portion completed from Macy Grove Road to the hospital.

Mr. Wolfe explained that Novant and Blue Diamond had property rezoned and there were certain conditions placed upon this property which included a requirement that the developer design and acquire rights-of-way from Highway 66 S. to Macy Grove Road. The timing was such that the developer was to make a reasonable effort to acquire certain property necessary to construct a boulevard as established on the plan. Mr. Wolfe read the condition that was placed on this property that spoke of the need to condemn property when efforts failed.

Mr. Wolfe explained that there is certain property that must be crossed and those involved have been unable to acquire this property owned by Sandra Riddle. He noted several attempts to contact the property owners regarding this matter and the appraisals conducted on the property. He then introduced Scott Horn, Attorney for Trade Street Development who was hired to oversee the construction of this boulevard.

Scott Horn, 380 Knollwood St. Winston-Salem, NC – stated that they have made numerous attempts to acquire this property but have not been successful. He made himself available for questions.

Mayor Morgan asked if the hospital is planning to bring any other property to the table and have you been involved in those efforts? Mr. Horn stated that he believes there are 12-13 properties between Novant's land and Highway 66 but he has not been involved with these other situations.

Mayor Pro Tem Bugg asked if they are trying to buy the whole property? Mr. Horn stated that they have only been trying to buy 3.7 acres of an 11 acre tract.

Mr. Wolfe asked if we have a legal description of exactly what property we need. Mr. Horn stated that we don't have a metes and bounds description but we do have a drawing of the property.

The Board briefly discussed the appraisals conducted on the property and the dollar amounts offered to the property owner.

Mr. Wolfe stated that to proceed with any legal action, we would have to have a legal description of the specific property in question and recommended the matter be tabled.

Mayor Pro Tem Kevin Bugg made a **Motion** to continue this matter to the Briefing, September 29th. Alderman Dana Caudill Jones seconded the motion and the vote was all for and motion carried.

Mayor Morgan announced that she has received a request for item C-2 to be removed from this Consent Agenda.

11. **CONSENT AGENDA:** All of the following matters are considered to be routine by the Board of Aldermen and will be enacted by one motion. There will be no separate discussion unless a Board member or citizen so requests, in which event the matter will be removed from the Consent Agenda and considered under the following item.

**C-1 Approval of Minutes for July 28, 2010, Briefing Session
Approval of Minutes for August 3, 2010 Regular Session**

**C-2 Consideration of a Resolution of Support for the Piedmont Triad
Sustainable Communities Regional Planning Grant Application.**

Removed for discussion

**C-3 Consideration of an Appointment to the Community Appearance
Commission.**

Kelly Walker, appointed to three year term, term to expire 6-30-2013

C-4 Consideration of a Resolution in Support of a Forsyth County Animal Control Ordinance Prohibiting the Tethering of Dogs as the Primary Method of Confinement.

R-2010-32

**A RESOLUTION IN SUPPORT OF A FORSYTH COUNTY
ANIMAL CONTROL ORDINANCE PROHIBITING THE
TETHERING OF DOGS AS THE
PRIMARY METHOD OF CONFINEMENT**

WHEREAS, the Forsyth County does not currently regulate the unattended restraint of dogs through their Forsyth County Animal Control Ordinance; and

WHEREAS, the unattended restraint of dogs can result in dogs possibly strangling when becoming entangled in ropes and chains, being exposed to harsh weather conditions without access to shelter, and being unable to reach a supply of food and water; and

WHEREAS, the Town of Kernersville supports the Forsyth County's Animal Control Advisory Board's recommendation that an ordinance be adopted by the Forsyth County Board of Commissioners that would prohibit the tethering of dogs as the primary method of confinement, a situation that has been linked to dog aggression and situations of abuse.

NOW THEREFORE, BE IT HEREBY RESOLVED, that the Mayor and Board of Aldermen of the Town of Kernersville support the adoption by the Forsyth County Board of Commissioners of an Ordinance prohibiting the Tethering of Dogs as the primary method of confinement.

Adopted this 7th day of September, 2010.

Alderman Dana Caudill Jones made a **Motion** for approval of the Consent Agenda items C-1, C-3 and C-4 as recommended. Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

12. ITEMS REMOVED FROM CONSENT AGENDA

C-2

Mr. Jimmy Morgan stated that his same speech applies here that he gave for the Heart of the Triad. It sounds good, but again he worries that we will lose control. We have just gone through a smaller version of this type project. He reported that a selling point that has been discussed is the need to engineer our community in order to reduce transportation costs and to save money.

Mr. Morgan stated that we can do this local. What comes with this grant? What kind of regulations come with this grant? He stated that questions were presented at a recent meeting on

this in which his question was selected for the panel to answer. His question was: What do you project that the average resident in a sustainable community would save in transportation costs and how much would taxes increase to pay for all of this? He stated that grants bother him because we are in debt and this is not free money.

Mr. Morgan spoke of regulations that may be put into place that we don't want. It may benefit the region but may not benefit this community. As has been said earlier, people living in the area should have a strong voice in something like this. The Town may be committed to things that we do not want. He believed that High Point has approved this, but Stokesdale did not. He noted that Piedmont Triad Partnership is doing a 12 county development study. A number of agencies are all conducting plans, but how are they going to mesh. Where does the average citizen come into play in all of this? They are going to be the ones lost in the shuffle and it will be for the government by the government instead of for the people and by the people.

Pat Shcrieber stated that this study includes the HOT areas and it concerns her that the Stakeholder's Committee never saw this resolution. She stated that she mentioned earlier how hard and diligently they worked and this is the same type of conduct that caused the "hot" issues that started six years ago. She encouraged the Board to seriously consider the implications of something like this. It does not have property owner input and it does concern her greatly. It is the kind of slippery that causes discord.

Mayor Morgan explained that the Town did receive a letter and asking us on short notice to lend our support for a regional grant. Since the exact information was not available at this meeting, she recommend that this matter be continued to another agenda.

Mr. Jeff Hatling stated that this is a 12 county effort and the first coordination among the regional groups. Piedmont Triad Partnership and the two Council of Governments all working together on this plan. The effort is to look at the broad spectrum of workforces, land use planning, housing, transportation, etc.

Mayor Pro Tem Bugg asked who is applying for this grant. Mr. Hatling explained how this effort got started and it was recognized early on that the COG's needed to be involved. The regional group came together and began this process.

Mayor Pro Tem Bugg stated that he has some of the same concerns expressed by Mr. Morgan. This is a federal grant which may put us on the hook from now on and we don't know what all this may cost us. It may put the burden back on the taxpayers. He stated that this request doesn't tell us anything specific.

Mr. Hatling stated that at this point there are no requested funds from municipalities and counties.

Mayor Pro Tem Bugg stated that he is concerned with not knowing what the long term affects of this are. He stated that the HOT project is a model to be followed and would like this to be conducted in a similar manner. It may have been painful at first, but it worked.

Mr. Hatling stated that this is similar to the Aerotropolis process. Mayor Pro Tem Bugg stated that Aerotropolis is not a federal grant and we know more about that process. Mr. Hatling suggested the Board ask for more information instead of denying support.

Mayor Morgan recommended we continue this matter to the Board's Briefing. She reported that we received a letter requesting a letter of support from the Town. A letter of support was sent which also advised them that we would be interested in hearing more about this project and that a resolution of support will be placed on the Board's September agenda for consideration.

Alderman Keith Mason made a **Motion** to place this item on the Board's Briefing September 29 for consideration. Mayor Pro Tem Bugg seconded the motion and the vote was all for and motion carried.

13. SPEAKERS FROM THE FLOOR.

None presented.

14. TOWN MANAGER'S REPORT AND MISCELLANEOUS.

No items presented.

15. MATTERS TO BE PRESENTED BY THE MAYOR, BOARD OF ALDERMEN AND TOWN ATTORNEY.

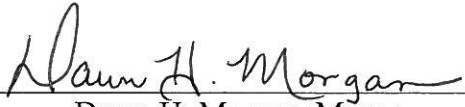
Mayor Pro Tem Kevin Bugg announced the end of our first successful Farmer's Market season. A meeting will be planned in the near future for those involved to come together to discuss this year and any improvements that are needed. Improvements to the park area should begin in the near future as well.

Mayor Morgan stated that next month we will present the decorative street sign to Kevin Harvick, Inc.. We will continue to work on issues relating to the hospital road and we will try to get more information on this sustainable community grant application.

16. ADJOURNMENT.

Alderman Tracey Shifflette made a **Motion** to adjourn the meeting at 9:05 PM. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

Being no additional business to come before the Board, the meeting was adjourned.


Dawn H. Morgan, Mayor

Attest:

Dale F. Martin
Dale F. Martin, Town Clerk

I, Dale F. Martin, Town Clerk of the Town of Kernersville, North Carolina, do hereby certify that this is a true and correct copy of the minutes of the meeting duly held on September 7, 2010.

This the 8 day of October, 2010.

Dale F. Martin
Dale F. Martin, MMC, Town Clerk