

**MINUTES OF THE BOARD OF ALDERMEN
TOWN OF KERNERSVILLE, N.C.
REGULAR MEETING 7:00 P.M. DECEMBER 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: None.

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; Heather Wood, Marketing & Community Relations Specialist; Sharon Williams, Recreation Program Supervisor; John Edwards; Walt Summerville, Fire Chief; and Ray Smith, Human Resources Director.

- **CALL TO ORDER**
- **INVOCATION BY REVEREND STEPHEN MARTIN, FIRST BAPTIST CHURCH**

Mayor Dawn Morgan called the meeting to order and Reverend Stephen Martin of First Baptist Church delivered the invocation.

- **PLEDGE OF ALLEGIANCE**

The Town of Kernersville Color Guard presented the Colors.

Mayor Morgan introduced Mr. Jim Echols, NC Division of Veterans Affairs, State Service Office. Mr. Echols presented a commemorative US Flag to Mrs. Brittany Frazier, the wife of Daniel Frazier who was killed in Afghanistan. First Sergeant Adam Caetta and Retired USMC Colonel Dave Gignac assisted Mr. Echols with this presentation.

- **PRESENTATION TO THE TOWN OF KERNERSVILLE A LEVEL ONE GREEN CHALLENGE AWARD BY THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES**

Mayor Morgan recognized Mr. Rob Shepherd, a representative from the North Carolina League of Municipalities.

Mr. Rob Shepherd, of the North Carolina League of Municipalities presented Mayor Morgan with the Level One Green Challenge Award. Mr. Shepherd stated that he was pleased to present the Town with this award and shared his previous service to the Town as an Intern and as Assistant to the Town Manager and Human Resources Director. He explained steps the Town took to earn this award.

Mayor Morgan thanked Mr. Shepherd on behalf of the Board of Alderman for this award.

- **PRESENTATION ON SISTER CITY TRAVEL TO DASHI, TAIWAN**

Ray Smith gave a presentation on the Sister City Commission's recent trip to Dashi, Taiwan on November 11th, 2010. Helen Prince and Lezah Arney reported on the Flat Stanley educational theme of the trip and their meetings with educators. They spoke of the progress made in furthering our educational purposes during this trip. The group invited delegates and educators to visit Kernersville in 2011.

Mr. Smith presented Mayor Morgan with a picture, a plaque, a book and a tea cup from Daishi.

Mr. John Wolfe echoed the other's comments and spoke of the economic opportunities for exchanges with Daishi in the future.

Mayor Morgan thanked them for their presentation and added that the exchange of ideas is wonderful for Kernersville.

PUBLIC HEARINGS

- 1 a. **PUBLIC HEARING: Ray Thomas, Attorney for McDonald's Corporation, requests to amend Chapter B, Article II, Section 2-1.6 of the Unified Development Ordinance modifying the Central Kernersville Overlay District (CKOD) and the Highway Corridor Overlay District (HCOD) location/boundaries. Zoning Docket KT-200 (Continued from the November 2nd meeting.)**

Mayor Morgan reported that the Board continued this issue at the request of the petitioner at the last meeting. Since that time, Staff has prepared a revised staff report and a different proposal for the Board's consideration.

Mr. Jeff Hatling gave a presentation on the Town's overlay districts and the history of the current McDonald's site. He noted the overlay district characteristics which were designed to protect this gateway into the downtown area. He described changes that have taken place because these standards have softened the look of this area. He reported that the Planning Board and Staff recommend denial of the proposed text amendment. The Planning Board recommended a substitute text amendment. The Board of Aldermen directed Staff to review the overlay districts and come back with a proposal for the Board to review prior to sending this back to the Planning Board.

Mayor Morgan declared the public hearing open.

In Favor

Raymond D. Thomas, Attorney for McDonald's, 116 S. Cherry St., Kernersville, NC – reported that McDonald's has been in Kernersville since 1977 and are a nationally known firm. He stated that they can't vote however they have been a good partner in this community. He reminded the Board that the highway corridor overlay district does have conditions as well as the central overlay district. He stated that we have to follow the rules just like everybody else.

Mr. Thomas introduced Scott Thompson, Representative for McDonald's Corporation.

Scott Thompson, 2113 Village Oaks Lane, Raleigh, North Carolina – recognized John Nash, the owner of the McDonald's in Kernersville and thanked the Board for the opportunity to speak tonight. He reported that their proposed text amendment is to accomplish two things – make this site a conforming use and to rebuild our business here in Kernersville. He stated that we have operated our business at this location since 1977. We want to make a substantial reinvestment and to fix the non-conforming use status. He stated that McDonalds wants to comply with requirements in the overlay districts, however we do not feel that we should comply with the central business overlay district. The proposed amended text amendment is acceptable and the highway corridor overlay district requirements are clear and are more acceptable to them.

Mr. Thompson stated that passage of their proposed text amendment will allow them to move forward with a specific architectural design with more reasonable expectations. He stated that it was reported that we have worked with other communities to come up with acceptable design standards and in those communities we understood up front what those standards were. In the case of the Kernersville central overlay district, we cannot tell what type of building we will end up with. He asked the Board to consider passing their text amendment as proposed.

Mayor Morgan stated that it was reported in the Staff report that the setbacks could be problematic in the highway overlay district and asked them to address that issue.

Mr. Thompson stated that it would not be a problem since they can rebuild this facility within the current setbacks.

Opposed

None

Mayor Morgan reported that the Planning Board was involved in establishing the standards for the overlay districts and therefore recommended that the Planning Board review this new Staff proposal.

Mayor Morgan stated that the Board could vote on the McDonald's proposal tonight. The Staff's proposal for a change in the uses has not been reviewed by the Planning Board and recommended that it be reviewed by them prior to action by the Board of Aldermen.

Alderman Tracey Shifflette made a **Motion** that we take "1a" and "1b" back to Planning Board.

Mayor Morgan asked Alderman Shifflette if she wanted to have a public hearing on this issue.

Alderman Dana Caudill Jones noted that the Planning Board has already made their recommendation to deny "1 a" as proposed. She recommended that the Board take action on "1 a" and send "1 b" back for review.

Mr. Curtis Swisher, Town Manager stated that the Planning Board will not vote again on "1 a".

Alderman Bob Prescott stated that the Planning Board has already heard this text amendment and gave us a recommendation. They didn't like "1 a" and requested Staff to come up with a recommendation and that's what we have in "1 b". He felt that they have already reviewed this and are sending it back to us. They have said that they don't like the overlay district as it is. He didn't see a need to send this back to the Planning Board.

Mayor Pro Tem Kevin Bugg stated that there has been no discussion or vote on "1b".

Mayor Morgan stated that we have heard presentations tonight and it seems that the Board wants the proposed text amendment to go back to the Planning Board. She asked if the Petitioner had any further comments.

Mr. Thomas stated the he wants everyone to understand that there will be an overlay district. The question is which one. They are requesting that it be something defined. As it is, it's a question of interpretation. He stated that it should not be up to interpretation, either you meet the requirements or you don't. This is a policy issue you will have to decide upon.

Mr. Thomas stated that the ordinance in this case applies to someone that is starting over. He could not recall anybody in this area that has torn down their building and started over.

Mr. Thomas stated that as a resident, he questioned some of the things that have already been done. McDonald's wants to comply with Town requirements but is concerned with what standards you apply and that they don't change. They feel that the highway business overlay district is more defined with less interpretation. The nonconforming status will be resolved with what is proposed.

Alderman Prescott stated that McDonald's has been a community friendly company. He stated that they are building brick restaurants all over. He stated that when the overlay

districts were established we were asking for a nice entrance into Kernersville which is what anybody else asks for. He suggested leaving everything the same but letting them have the drive-through.

Mr. Thompson stated that we appreciate the compliment that we are a community friendly business. We do vary our designs and do what communities ask us to do. However, we don't want to submit a plan and have the Town come back and say this isn't it and have to come back again and again. We are asking for design standards that we can take to our planners and have them design it to those standards and we don't feel that we have that in this case.

Mr. Swisher stated that the standards are not as subjective as they say; changes and designs have been successful before.

Mr. Hatling explained that the two types of overlay districts were drafted and are laid out clearly. He gave examples of designed projects for illustrative purposes. He reported that in this case, Staff did not have an opportunity to work with McDonald's on a design. They came in once and then hired an attorney and walked away.

Mayor Morgan declared the public hearing closed.

1 b. Discussion regarding Amendments to Zoning Docket KT-200 Regarding Central and Highway Business Overlay Districts.

Mayor Morgan asked the petitioner if they wanted to respond to Staff comments.

Mr. Thompson stated that they did have contact with staff and comments were that the buildings need to be more square and the entrances more centered and nowhere in the standards could we find these sorts of things. He then asked how many fast food restaurants have been built in the central overlay districts. Mr. Hatling stated that McDonald's would be the first.

The Board and Staff discussed the process used by Kentucky Fried Chicken. Mr. Hatling stated that he did not foresee any problems with a fast food restaurant meeting our standards.

Mr. Wolfe reported that in what Mr. Thomas is saying, he is challenging the entire overlay district regulations.

Mayor Morgan pointed out that stand alone businesses are not addressed. Mr. Wolfe added that in all of our overlay districts there is some level of standardization.

Mr. Thompson presented renderings of their proposed restaurant.

Mr. Wolfe reminded the Board that this case is not really about McDonald's or renderings of buildings but it is a text amendment that will apply to the entire district.

Alderman Mason stated that there have been some pretty substantial buildings built in this district under the overlay district requirement and was concerned with the breakdown in communication. He expressed his confidence that McDonald's would build a nice building but was concerned with changing our overlay district to accommodate one business.

Alderman Caudill Jones expressed her concern with non-conforming use of a fast food restaurant as well as changes to the overlay district. She believed that the Planning Board has taken action on what was before them. She recommended that we send "1 b" back to the Planning Board for more comments and more discussion regarding the central overlay district.

Alderman Shifflette amended her **Motion** to take action tonight on "1 a". Alderman Dana Caudill Jones seconded the motion. The vote in favor: Aldermen Mason, Shifflette, Caudill Jones and Bugg. The vote in opposition: Alderman Prescott. Motion carried on a 4-1 vote.

Alderman Dana Caudill Jones made a **Motion** for the denial of item "1 a" as proposed and that item "1 b" be taken back to the Planning Board for further review and substitute text amendment. Mayor Pro Tem Kevin Bugg seconded the motion. The vote in favor: Aldermen Mason, Shifflette, Caudill Jones and Bugg. The vote in opposition: Alderman Prescott. Motion carried on a 4-1 vote.

2 a. PUBLIC HEARING: Michael Interlandi, Owner, for property located at 316 Nelson Street, being all of PIN #6886-36-1508, containing .40 acres more or less. Petitioner requests a General Use District rezoning to rezone from GI (General Industrial) District to PB (Pedestrian Business) District. Zoning Docket K-704

Mr. Jeff Hatling presented the Planning Board report for this rezoning request. Staff and Planning Board recommend approval of this request as submitted.

Mayor Morgan declared the public hearing open.

In Favor

Michael Interlandi, 1013 Branchwood Drive, Kernersville, NC – stated that this will be an improvement to the community and asked for approval. He made himself available for questions.

Opposed

None presented.

Being no additional speakers, Mayor Morgan closed the public hearing.

2 b. Consideration of an Ordinance for zoning petition.

Alderman Bob Prescott made a **Motion** to approve the following ordinance to amend the Unified Development Ordinance of the Town of Kernersville by rezoning the property in case K-704 from GI to PB, the said rezoning being consistent with the Town's Comprehensive Plan and the Kernersville Development Plan, and further being consistent with the public interest due to the following facts:

1. The Pedestrian Business zoning district promotes a more "diverse economic base" for such a small lot than the General Industrial zoning.
2. This area is identified in the Land Use Plan as "Mixed Use" and is established to promote redevelopment in areas such as the Bodenhamer Street corridor in order to accommodate a variety of less intrusive land uses, which may range from residential, commercial, or office uses.

Alderman Dana Caudill Jones seconded the motion and the vote was all for and motion carried.

Town Ordinance

Zoning Petition of Michael Interlandi, Owner

Zoning Docket K-704

**ORDINANCE NO. O-2010-32
AN ORDINANCE AMENDING THE
KERNERSVILLE ZONING ORDINANCE AND THE
OFFICIAL ZONING MAP OF THE
TOWN OF KERNERSVILLE, NC**

BE IT ORDAINED by the Board of Aldermen of the Town of Kernersville as follows:

SECTION 1. The Kernersville Zoning Map be amended by changing from GI (General Industrial) District to PB (Pedestrian Business) District for property located at 316 Nelson Street, being all of PIN #6886-36-1508, containing .40 acres more or less and being further described as follows:

BEING KNOWN AND DESIGNATED as all of PIN#6886-36-1508 containing a total of .40 acres more or less as recorded in the Office of the Register of Deeds, Forsyth County, North Carolina.

SECTION 2. This Ordinance shall be effective from and after its adoption.

Adopted this the 7th day of December, 2010.

PUBLIC SESSION

3. SPEAKERS FROM THE FLOOR.

None presented.

Mayor Morgan called a recess at 8:52 PM. The meeting reconvened at 9:02 PM.

4. Presentation of Annual Audit by Dixon Hughes for FY 2009-2010.

Mr. John Frank, of Dixon Hughes gave the Audit report for FY 2009-2010. He thanked the Board for the opportunity to present the highlights of this year's audit report. He stated that the Town finances are all in order again this year with no Management letter written. He reported that once again the Town will receive the CAFRA award.

Mr. Frank highlighted the economic impact on this year's budget and noted that revenues were down. In response to that, Management froze and reduced expenditures. He noted that the Town's Bond rating was raised this year. He made himself available for questions.

Mayor Morgan thanked the Staff for the excellent job in handling the Town's finances. Mr. Swisher thanked department heads and staff for managing their departmental budgets.

5. Consideration of a Revision to the Subdivision Conditions for the Forsyth Medical Center.

Town Attorney John Wolfe stated that the Medical Center is fast approaching a request for a Certificate of Occupancy (CO) from the Town. There are certain conditions that must be met before the CO can be issued. He explained the conditions regarding the construction of the boulevard and whether or not the developer has shown due diligence in meeting these requirements. Staff feels that the conditions should be revised and Staff has proposed changes to these conditions. He also reported on a condition regarding water lines along Medical Parkway Lane. Staff recommends the condition be amended as follows:

1. Transportation

- c. Prior to a Certificate of Occupancy being issued for the operation of the proposed 50-bed Medical Center, adjoining Medical Office Building, and/or necessarily related structures, the Developer shall have (a) completed four (4) lanes and median of the Medical Parkway from Macy Grove Road westward for a minimal distance of two thousand (2,000) feet, and (b) completed preliminary, engineered, drawings (minimally 80% completed) for the remaining portion of the Medical Parkway with the exception of any portion of the Parkway for which necessary Federal, State and/or local permitting is required and Permits have not been issued. Construction of the remaining portion of Medical Parkway shall be commenced within six (6) months of Developer having obtained required Federal, State and/or Local Permits.

This item (d) is currently in the zoning conditions and is simply restated here for informational purposes only.

- d. Until such time as the entire four (4) lanes of the Boulevard have been constructed and accepted by the Town of Kernersville, the Town shall not issue, nor shall Developer be entitled to be issued, any Certificate(s) of Occupancy for any structure other than for the Hospital, adjoining Medical Office Building, and necessarily related structures.

5. Emergency Services

To provide long-term fire protection for the anticipated development along the Kernersville Medical Parkway a looped water system shall be installed along the proposed Kernersville Medical Parkway as the same is constructed. The water line installed along the Medical Parkway shall be a twelve (12") water line connecting the current twelve (12") water line along Industrial Park Drive and the twelve-inch (12") water line along Highway 66 South.

David Park, 3604 Cherry Laurel Ct., Winston-Salem, NC – stated that we are excited about bringing this hospital to your community. He then introduced JoAnne Allen, Administrator of the hospital. He projected the hospital to open in March 2011. He stated that there are two conditions that need to be clarified for the hospital to receive a Certificate of Occupancy. He stated that they accept the language as recommended by staff. He stated that the second amendment is in regard to the installation of a loop water system. These matters have been discussed with Staff and Legal and the hospital understands and accepts the conditions as proposed.

Leroy Spangler, 323 Macy Grove Road, Kernersville, NC – reminded the Board of the conditions put into place in 2007. He stated that the residents expressed their concern with the road from Hwy. 66 to Macy Grove at that time and it keeps getting pushed back. Macy Grove Road is now the primary entrance to the hospital. This road was not built for this kind of traffic and sees no reason to change the condition. He added that the residents had to have faith in the hospital that they will build this road as promised. He requested the Board give strong consideration to holding these folks to what they agreed to in the beginning. He stated that the water line is important. He asked what will we do if something happens to that water line.

David Chappell, 285 Macy Grove Rd., Kernersville, NC – stated that he stood here three years ago and there was a lot of discussion about the road. We had to have faith in the hospital. There has been no construction on the road. He reminded the Board that Macy Grove is a residential street. He projected that the traffic will be a nightmare when the hospital opens. He stated that the residents have had three years of this.

Mr. Chappell stated that he understands the water line is a State code requirement for a hospital and must be followed. He reminded the Board of their obligation to the people and not the hospital.

Doris Chappell – 285 Macy Grove Road, Kernersville, NC – stated that she too spoke on this three years ago to express her concern with this small town farm road. She stated that the road was widened and resurfaced and is better now but it is still narrow and not designed for hospital

traffic. She stated that Mr. Park assured them three years ago that the road would be built and it has not happened. She stated that she is not sure that we can trust what the hospital people say to us now. They are a powerful nonprofit but have lots of money which comes from me and you. She noted that the residents are also good people and it's their money being used.

Mrs. Chappell felt strongly that we should insist that they comply with the requirement that this Board put in place there 3 years ago. She stated that they have not complied and have not made any real effort to comply. The Board acted in good faith and gave them three years to work on this. She added that the hospital has not demonstrated any faith to this community. This road is difficult so they threw their hands up. They knew we wanted this hospital and they used that. She stated that it is important that the Board demonstrate to the community that you develop codes and regulations and stand behind those codes and regulations. That will assure others that everyone abides by the same rules.

Mayor Morgan explained that a lot of things have happened in the last three years regarding this site. She stated that Macy Grove Road is a concern. The Mayor asked the Town Manager to address the issues with inspections, code regulations etc.

Mr. Swisher explained that there has been work done on the road from Macy Grove Road to Highway 66. As of this time, there are some permits outstanding that are obtained by the State. The original condition required that the road be done at the same time occupancy permits were issued. Permits have not been obtained allowing them to cross the creek. This is out of our control and one reason for the revision.

Mr. Swisher addressed Mr. Chappell's comment regarding plumbing codes relative to the loop water system. Staff has checked and their waterline does meet state building codes and we have received confirmation as such. There are two lines going into the hospital. As far as Emergency Services the hospital complies with the state fire code as well.

Mayor Morgan asked the Town Manager to address the issue of eminent domain. Mr. Swisher stated that representatives from Novant have met with 90% of the property owners in the area from Hwy. 66 to the creek. Until they get the permit from the state on where they can cross the creek, they don't know which way to go. Once the permit is received, they will know exactly where the road can go and can proceed with acquiring the necessary right of way.

Alderman Caudill Jones stated that she shares the neighborhoods frustration. We have talked about the road for years. She added that she did not feel that amending this condition would be taking anything away from this site. At this time, overall it is not right for us to hold out on the opening of the hospital as long as we make sure that that road is constructed. This is not a perfect situation and we all have been frustrated. We are not doing away with the road. Is it an inconvenience, yes it has been. Now we are trying to get the facility open and we feel that with this amendment we can have the four (4) lane road open. She stated that this is very valuable land out there and there will be no other Certificates of Occupancy given until the road is completed.

Mayor Morgan asked the Town Manager to address “d” regarding future development of the area.

Mr. Swisher stated that item “d” ensures that nothing will be built on the adjoining parcels owned by Blue Diamond until the road is built and accepted by the Town. Blue Diamond wants the road built as well as the hospital because they can’t develop on their remaining land either until the road is built. They are paying taxes on this other property.

Mayor Morgan recognized Mrs. Chappell. She stated that they didn’t come tonight thinking that this would not happen. She added that you are the rule makers, these folks are rule breakers. You showed good faith, as citizens we went along with this. These folks showed no faith. Yes we want the hospital but they are not going to be good neighbors to this town.

Mayor Pro Tem Bugg stated that he agrees with other comments made tonight. He stated that there has been due diligence on all parties. He understands the feelings of the neighbors but also reminded everyone that they are life savers as well and that is the reason that they are here. He stated that we need to have the faith that this road will be built.

Alderman Shifflette stated that this was done prior to my time on the board however; she has spent a lot of time trying to catch up with the situation. Yes there are rule makers and rule breakers but sometimes a compromise is in order.

Alderman Dana Caudill Jones made a **Motion** to amend condition as presented by the Staff and Town Attorney.

1. Transportation

- c. Prior to a Certificate of Occupancy being issued for the operation of the proposed 50-bed Medical Center, adjoining Medical Office Building, and/or necessarily related structures, the Developer shall have (a) completed four (4) lanes and median of the Medical Parkway from Macy Grove Road westward for a minimal distance of two thousand (2,000) feet, and (b) completed preliminary, engineered, drawings (minimally 80% completed) for the remaining portion of the Medical Parkway with the exception of any portion of the Parkway for which necessary Federal, State and/or local permitting is required and Permits have not been issued. Construction of the remaining portion of Medical Parkway shall be commenced within six (6) months of Developer having obtained required Federal, State and/or Local Permits.

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Occupancy for any structure other than for the Hospital, adjoining Medical Office Building, and necessarily related structures.

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Mayor Pro Tem Kevin Bugg seconded the motion and the vote was all for and motion carried.

Alderman Prescott stated that everybody here wants that road to be built.

Mayor Morgan thanked Dr. Record, in attendance, for his efforts and commended him on being named the Chief Medical Officer.

Alderman Mason stated that the whole process has been frustrating for most of us. He explained that there have been challenges out there and this Board and Staff has spent hours discussing these issues and working towards a compromise. He added that the road is going to be built and we will hold their feet to the fire to see that it happens. We have learned a lot about FEMA and the other agencies involved. We have good faith that they will get this done and that the residents will get some relief as soon as possible.

6. Consideration of a Master Plan for Beeson Park.

Ernie Pages, Parks & Recreation Director present the proposed Master Plan for Beeson Park. He added that no funding is being requested at this time. Staff chose to present this plan to the Board because no one knows the park better than us. He presented some history of acquiring land and development of the park and current statistics on the use of the park. Kernersville's needs have changed. He reported on the increases in Lacrosse Leagues, Cross County and the future of Field Hockey. He noted that a semi-pro team wants to play here as well. The park is only 20% developed. We have traffic issues to address.

Mr. Pages presented the financial impact of Beeson Park on the area's economy. We can develop the park at our own pace and projected the total cost for building out the project to be \$16,000,000+.

Mr. Pages explained available funding options both public and private partnerships.

Mr. Swisher read the following letter from a citizen not able to attend the meeting.

Board of Aldermen:

I first apologize for not being able to attend tonight's meeting, but I thank you for allowing me to submit comment via email on the topic of Beeson Park. Rather than go into a great bit of history on my stance as a citizen and former board member, as it relates to the tax rate in Kernersville, I will simply say up front, it is too high. Adding, proposing to add or even committing time and energy for plans that are this extensive for the major expansion of a park is poor timing and frankly poor taste. As millions of Americans are struggling to even keep the lights on and are dreaming of how they are going to make their next house payment, our town government is planning to spend more of the citizens hard earned dollars. My family uses Beeson Park and understands the wonderful impact that the current facilities have on the town and its economy, but at the level of use and the demographic of the users this seems to be a project that is certainly more fitting for the private sector to undertake. I appreciate Mr. Pages comments in today's paper and think that his proposal to look to private donors and sponsorships for various segments of the park is very fitting and wise, however, these corporations are cutting back on luxury investments. Looking forward is certainly a good thing and I hope that this board with the recent "feel good" projects that have been undertaken will also continue to "look forward" to the perpetual cost that is incurred during these expansions. Once the ribbon is cut, the cost of maintenance begins and if I am not mistaken, the parks and recreation budget is fairly healthy at just 2 million dollars of a 25 million dollar town budget. I encourage you to look at our current park situation, which is one of the treasures of our community. The landscaping is beautiful and maintained by the town, the facilities and programs are staffed and maintained by the town (I participate in several) and overall with our parks, things are good. Good, not great. The skate park is a constant thorn in the side of the community for vandals and graffiti artists and the two tennis facilities that we have are in such disrepair that players can sometimes not play or have to bring their own equipment to make minor repairs to clear the court of debris and avoid cracks. Unfortunately, most of our residents are working to foot the bill, rather than playing, while those outside of the town limits enjoy the fruits of their labor. We must first take care of what we have and the current citizen investment. The town not only has improvements needed at the existing parks but also has road projects that need completion, public safety needs and we still have homes within our immediate town limits that have no sewer service.

In summary, each year that I served on the board, we struggled over budgetary items and hard decisions were made, some good, some bad. June is just around the corner and committing the town and its citizens, even for the future, is a dangerous game. Citizens are getting savvy to wasted monies as they have to tighten their belts and make hard decisions in their everyday lives. I know it is difficult to discuss items that might be controversial or heated among comrades, as each of you are, but sometimes, doing the right thing and taking an empathetic look at who and what you represent has to be done because it's just right. Please consider the taxpayers and work not towards a master **park** plan, but rather a **master tax reduction** plan. It will be hard, take time and not be enjoyable, but it can be done and certainly what you were elected to do.

Thank you so much for your hard work, I know it is at times thankless, but I certainly appreciate your willingness to represent me and my neighbors. Feel free to contact me via email or phone with questions or to discuss further.

Brooke Cashion
5953 Kenton Drive
Kernersville NC 27284

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Alderman Prescott stated that we must have a plan to start anything out there and at this point this is not costing us anything.

Mayor Pro Tem Kevin Bugg made a **Motion** to approve the plan as presented. Alderman Dana Caudill Jones seconded the motion and the vote was all for and motion carried.

7. Consideration of an Adopt-A-Street Program.

Mr. Swisher explained that a citizen has submitted a request to adopt a street in memory of her father that used to walk that street each day. We had no plan in place and therefore Staff got together to establish the proposed plan for your consideration.

Mr. Doran Maltba, Public Services Director stated that he worked with Dale Metzinger and Dale Martin to draft this program. He made himself available for questions. He introduced Sarah Fletcher the citizen that made this request.

Mayor Morgan added that some of our Boy Scout troops may consider this program for one of the Town's streets.

Sarah Fletcher thanked Dale Metzinger for his help in bringing this to the Board. She thanked the Board for their consideration. She explained that she lost her father recently and wished to adopt the street that he and his family walked almost every day. She noted that her father loved this community and they want to keep it nice and clean.

Alderman Dana Caudill Jones made a **Motion** to implement the Adopt-A-Street Program as recommended. Alderman Keith Mason seconded the motion and the vote was all for and motion carried.

8. Consideration of a revised Ordinance for the Tree Commission.

Town Attorney John Wolfe explained that this ordinance is required for the Town to become a tree city. Mr. John Edwards has worked hard putting this together and it has been reviewed by legal and Public Services and therefore, Staff recommends approval of the proposed ordinance.

John Edwards, Landscape Specialists made himself available for questions. He added that there has been a great deal of discussion between departments regarding this ordinance.

Alderman Bob Prescott made a **Motion** to approve the following ordinance as recommended by the Tree Commission. Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

ORDINANCE NO. O-2010-33

PART II CODE OF ORDINANCE

Chapter 21(Presently Reserved)

Section 21 KERNERSVILLE PUBLIC TREE ORDINANCE

Article I. APPLICABILITY

Section 21.1 PURPOSE

The purpose of this Ordinance is to regulate and control the planting, maintenance and removal of trees and shrubs on public lands; to encourage the protection of existing trees as assets of the Town; and to establish standard arboricultural specifications and practices to be used for the protection of existing and future trees in the Town of Kernersville.

Section 21.2 JURISDICTION

The requirements of this Article shall apply only to Town owned or controlled property, which is property owned or leased by the Town of Kernersville or is property that the Town controls through rights-of-way and easements for public purposes, such as streets, the construction and maintenance of public utilities, the provision of pedestrian access across private land, the development and maintenance of greenways and open space, or the protection of water quality.

Section 21.3 RIGHTS OF THE TOWN

The Town of Kernersville has the inherent power to plant, prune, maintain and remove any tree, plant or shrub on or encroaching on Town owned or controlled property as deemed necessary to ensure public health and safety, to preserve and enhance the symmetry and beauty of public property, or to protect public property, its improvements, and utilities and has established the Kernersville Tree Commission to assist in the management of trees on such property.

Article II. DEFINITIONS

ANSI A300 - American National Standards Institute - reference source for standards for management, pruning, fertilization, transplanting, supplemental support systems, lightning protection systems, and integrated vegetation management for trees.

ANSI Z133.1 - American National Standards Institute - reference source for safety standards for arboricultural operations.

ANSI Best Management Practices – International Society of Arboriculture has developed these companion publications to aid in the interpretation and implementation of ANSI A300 standards.

Encroachment Permit –Permit which authorizes public utilities, other government agencies, developers, contractors, civic groups and individuals to perform work on Town controlled Public Rights-of-Way. This permit shall also authorize such persons or entities to perform work on the trees, plants or shrubs in accordance with the terms of this Section (The Kernersville Public Tree Ordinance). This permit is issued by the Public Services Department.

Pruning - Systematic removal of branches of a plant, usually a woody perennial.

Public Rights-of-Way - Any sidewalk, planting strip, alley, street, or pathway, improved or unimproved, that is owned by or dedicated to the Town of Kernersville for public use.

Tree - Any hard-wooded perennial plant, whether coniferous or deciduous, of a species which normally reaches a height of eight feet or more at maturity.

Tree Canopy - The part of the tree composed of leaves and small twigs that act as the protective cover providing enhancements to our environment through the cooling effect of the shade they produce, air filtering and carbon dioxide reduction, noise reduction, as well as providing aesthetic value to our surroundings.

Topping (and/or top)- is defined in the ANSI A300 standards as the reduction of a tree's size using internodal cuts without regard to the tree's health or structural integrity, and is not an acceptable pruning practice. Other names for topping include "heading", "tipping", "hat-racking", and "rounding over". Topping has been shown to increase the risk of tree failure.

ARTICLE III. TREE CANOPY PROTECTION

Section 21.4 GUIDELINES

- a) Town Employees or contractors employed by the town who are engaged in the planting, maintenance, and removal of trees located on any property owned or controlled by the town shall adhere to current ANSI A300 standards and ANSI A300 Best Management Practices. Required employee training in ANSI A300 standards shall be provided by the Town.
- b) All projects using Town funds shall require the use of ANSI A300 standards to be applied during construction, including but not limited to tree planting and construction protection guidelines.
- c) Any owners, developers, or contractors of Town approved construction projects which include properties designated to be dedicated or conveyed to the town shall adhere to current ANSI A300 standards and ANSI A300 Best Management Practices concerning but not limited to; a) the protection of existing and newly planted trees during construction, b) planting trees and tree maintenance during construction.

Section 21.5 REMOVAL OF DEAD, DAMAGED, OR INFESTED TREES

The Town shall remove or cause the removal of any dead or diseased trees on Town owned or controlled property, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Town.

Section 21.6 REMOVAL OF STUMPS

All tree stumps on Town owned or controlled property shall be removed to a depth of eight inches below the soil surface. This will be accomplished within an appropriate time period as established by the Tree Commission.

Section 21.7 UNAUTHORIZED OR PROHIBITED TREE ACTIVITIES

- (a) No person shall spray, fertilize, remove, destroy, cut, top or severely prune, including the root system, or treat any tree or shrub having all or any portion of its trunk in or upon any public property without first obtaining an encroachment permit from the Town and without complying strictly with the provisions of the permit and this chapter.
- (b) No person shall plant any tree or shrub on any public street right-of-way or public property without first obtaining an encroachment permit from the Town and without complying strictly with the provisions of the permit and the provisions of this chapter.
- (c) No person shall damage, cut, or carve any tree or shrub having all or any portion of its trunk in or upon any public property; attach any object, including, but not limited to, rope, wire, nail, chain or sign, to any such tree or shrub or attach any such object to the guard or stake intended for the protection of such tree.
- (d) No person shall place, store, deposit, or maintain, upon the ground in any public street or public place, any compacted stone, cement, brick, sand or other materials which may impede or obstruct the free passage of air, water and fertilizer to the roots of any tree or shrub growing in any such street or place without written authorization from the Town.
- (e) No person shall change the natural drainage; excavate any ditches, tunnels, or trenches; or lay any drive within the root protection zone of any tree having all or any portion of its trunk in or upon any public property without obtaining an encroachment permit from the Town and without strictly complying with the provisions of the permit and provisions of this chapter including adherence to ANSI A300 tree protection standards.

Section 21.8 PENALTY

Each tree damaged or removed without authorization must be replaced by two trees as approved by the Tree Commission, either in the same location (if suitable site conditions exist) or in another town controlled space that is deemed appropriate by the Commission. The party responsible for the damage or removal may provide funds equivalent to the trees' replacement costs (as determined by the Tree Commission), which funds shall be placed in the Commission's tree planting account in lieu of tree replacement.

Section 21.9 REPLACEMENT POLICY

To encourage the continued maintenance of our existing tree canopy, when a tree has to be removed from a Town owned or controlled site, every effort shall be made to replace it by planting a new tree either in the location where one has been removed, or in an adjacent area, or in another location within the Town's owned or controlled property.

Section 21.10 EXEMPTIONS

Public and private utilities shall submit written specifications for pruning operations to the Town for approval. Specifications shall be reviewed periodically by the Town and the Tree Commission for necessary improvements and as required by modifications in this chapter. Upon approval of its specifications, a utility shall not be required to obtain a permit for routine pruning operations affecting a tree having all or any portion of its trunk in or upon any public property so long as such work is done in strict compliance with the approved specifications. Requests for the removal of trees shall be handled on an individual permit basis. Failure to comply with the approved specifications is a violation of this chapter.

Section 21.11 WAIVER

The Kernersville Tree Commission shall provide a waiver to the authorization requirement for the pruning or removal of trees on Town owned or controlled property when there is significant tree damage resulting from severe weather, fire or other emergency conditions and where immediate removal of such tree(s) is necessary to protect the health and safety of the public, restore order, restore proper operation of utilities or remove obstructions blocking access to streets and property. The Commission shall provide for such waiver which shall be implemented for a specified period of time or for specified emergency situations.

Section 21.12 APPEALS

Any person or any officer, department, board or commission of the Town may appeal any decision of the Kernersville Tree Commission to the Town Manager. Any appeal shall be taken within thirty (30) days from the rendering of the decision by filing with the Kernersville Tree Commission and the Town Manager a notice of appeal. The decision of the Town Manager shall be final.

Section 21.13 SEVERABILITY

If any provision or provisions of this Ordinance shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

THROUGH Section 21 (RESERVED)

This Ordinance shall be effective from and after its adoption.

This the 7th day of December, 2010.

9. Consideration of the 2011 Board of Aldermen Meeting Schedule.

Mayor Morgan asked for suggestions to change any of the dates recommended. She explained changes to the March Briefing due to the WS/FC school break and the July meetings due to the Fourth of July holiday and the need to adopt the Town's budget prior to July 1st.

Alderman Prescott suggested we move the regular meeting to July 12th instead of up to June. A discussion was held.

Alderman Bob Prescott made a **Motion** to approve the 2011 meeting schedule as amended.

March Briefing to be held on March 23, 2011

July Briefing to be held on June 22, 2011

July Regular meeting to be held on June 28, 2011

Alderman Tracey Shifflette seconded the motion and the vote was all for and motion carried.

10. Election of Mayor Pro Tem as required by Town Charter.

Alderman Dana Caudill Jones made a **Motion** to nominate Alderman Kevin Bugg as Mayor Pro Tem as required by the Town Charter. Alderman Keith Mason seconded the nomination and the vote was all for and motion carried.

11. Appointment of Nominations Committee as required by Resolution R-2009-37.

Mayor Morgan appointed Aldermen Tracey Shifflette and Bob Prescott to serve on the Nominations Committee with Alderman Keith Mason as alternate when needed.

12. 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 October 27, 2010 Briefing Session
Approval of Minutes for October 27, 2010 Closed Session
Approval of Minutes for November 2, 2010 Regular Session**

Alderman Dana Caudill Jones made a **Motion** to approve the Consent Agenda as presented. Alderman Bob Prescott seconded the motion and the vote was all for and motion carried.

13. ITEMS REMOVED FROM CONSENT AGENDA.

None presented.

14. SPEAKERS FROM THE FLOOR.

None presented.

15. TOWN MANAGER'S REPORT AND MISCELLANEOUS.

Mr. Swisher stated that some of you attended the meeting on the Macy Grove interchange last week. From that meeting an issue came up about the realignment of a side road. He stated that

DOT needs comments from the Town. Mr. Swisher explained the proposed staff recommendation to DOT to realign the road. He presented maps illustrating the shift recommended. He asked the Board to contact Mr. Hatling, Mr. Ulrich or himself if they have any comments.

After a discussion on the alignment, it was the consensus of the Board to accept the Staff's recommendation for the alignment of this roadway.

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

Town Attorney John Wolfe requested a Closed Session.

Alderman Keith Mason commented on the humbleness of the ceremony at the beginning of tonight's meeting.

Mayor Pro Tem Kevin Bugg thanked everyone for their thoughts and prayers during his recent illness.

Alderman Bob Prescott commended all involved in the Christmas Tree Lighting and Christmas parade and wished everyone a Merry Christmas.

Alderman Tracey Shifflette complimented the Downtown on the holiday decorations.

Alderman Dana Caudill Jones also spoke of the humbleness of the ceremony tonight. She commended everyone involved in all the Downtown holiday events as well. She also wished everyone a Merry Christmas.

Mayor Morgan commended the Board and Town for being proactive and suggested we hold a retreat in January to discuss upcoming issues.

Mayor Morgan mentioned recent health issues brought up by Representative Larry Brown and asked Ernie Pages, Parks & Recreation Director to share new programs that the department is considering implementing. Mr. Pages and Sharon Williams, Recreation Program Supervisor reported on a meeting they attended and learned about the Step Up Forsyth County program and a Community Garden program.

Mayor Morgan commended Ms. Williams on coordinating the Christmas Tree Lighting this year.

Mayor Morgan noted that the Girls Scouts will be celebrating 100 years in 2012 and that the Town will be recognizing them at a later time.

Mr. Phil Loflin asked if the Town uses Performance Clauses in contracts and could they be used to address the issue with the Medical Center discussed earlier. Mr. Wolfe stated that they are used in appropriate contracts entered into by the Town but that in the situation with the Medical Center it would not apply.

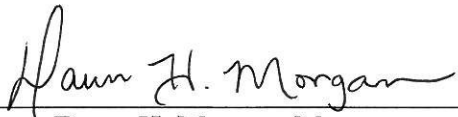
Mayor Morgan commended Town Staff on the cleanup efforts after the Christmas Parade.

Alderman Keith Mason made a **Motion** to go into Closed Session to discuss matters about which our Town Attorney needs to advise us, and which fall within the Attorney-Client privilege for discussion in closed session. I further understand that the Board needs to meet in closed session regarding land acquisition which is permitted by NCGS 143-318.11. Alderman Dana Caudill Jones seconded the motion and the vote was all for and motion carried.

The Board adjourned to Closed Session at 10:46 P.M.

17. ADJOURNMENT.

Being no further business to come before the Board, the meeting was adjourned at 11:08 pm immediately following the closed session.


Dawn H. Morgan, Mayor

Attest:


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 December 7, 2010.

This the 4 day of February, 2010.


Dale F. Martin, MMC, Town Clerk