

**MINUTES OF THE BOARD OF ALDERMEN
TOWN OF KERNERSVILLE, N.C.
REGULAR MEETING 7:00 P.M. NOVEMBER 12, 2013**

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 Dana Caudill Jones, Aldermen Keith Hooker, Tracey Shifflette, Irving Neal and Neal Stockton.

Absent: None.

Staff Present: Curtis L. Swisher, Town Manager; John G. Wolfe, Town Attorney; Jayne Danner, Deputy Town Clerk; Jeff Hatling, Community Development Director; Scott Cunningham, Police Chief; Franz Ader, Finance Director; Terry Crouse, Fire Chief; Doran Maltba, Public Services Director; Ray Smith, Human Resources Director; Angie Whitley, Safety Director; Bruce Hennequin, Fire Marshall; Adam Hutchins, Systems Administrator and Heather Wood, Marketing and Community Relations Specialist.

- CALL TO ORDER
- INVOCATION BY PASTOR CLARK VINCENT, FIRST PRESBYTERIAN CHURCH
- PLEDGE OF ALLEGIANCE LED BY CUB SCOUT PACK 779

Mayor Dawn Morgan called the meeting to order and Pastor Clark Vincent of First Presbyterian Church delivered the invocation.

Members of Cub Scout Pack 779: Jake Johnston, Wyatt Bullard, Ethan Thompson, Luke Johnston, Jacob Coffey, Nick Swisher, Will Swisher, Logan Nance and Jason Coffey led the Pledge of Allegiance.

PUBLIC HEARINGS

- 1a. **PUBLIC HEARING:** Curtis Swisher, Agent for the Town of Kernersville, for a proposed Unified Development Ordinance (UDO) Text Amendment by amending Chapter B, Article II, 2-1 Zoning Districts, 2-1.3 Commercial Zoning District, (L) MBP Medical Business Park District, (5) Building Materials & Colors, [A] Building Materials, 1) Building Facade of the Unified Development Ordinances to allow for additional architectural accent elements. Zoning Docket KT-209

Mr. Jeff Hatling, Community Development Director presented the Planning Board report for this text amendment request. He noted that the developer for the proposed Veterans Administration Health Care Center has requested the use of metal to articulate architectural accents at the

entrances and cornice areas of the building. He added that this text amendment will change the design standards permissible in the Medical Business Park. He further added that staff and the Planning Board approved the request as presented to add these architectural standards.

Mayor Dawn Morgan declared the Public Hearing Open.

In Favor:

None

Opposed:

None

Being no speakers either in favor or opposed, Mayor Morgan closed the public hearing.

Alderman Irving Neal asked if these standards would also apply to other business areas.

Mr. Hatling advised that this would only change buildings standards in the Medical Business Park.

1b. Consideration of an ordinance for said text amendment.

Alderman Irving Neal made a **Motion** to approve the following Ordinance to amend the Unified Development Ordinance of the Town of Kernersville to amend the MBP Building Façade standards by adding:

Architectural metal panels and columns, such as aluminum composite panels, copper, zinc or stainless steel, making up less than 25% of the façade, used to enhance the entrance(s), middle expression, or create a unique formal identity shall be allowed.

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

**Town Ordinance
Zoning Docket KT-209**

**ORDINANCE NO. O-2013-22
AMENDING
CHAPTER B ZONING ORDINANCE OF
THE UNIFIED DEVELOPMENT ORDINANCE**

BE IT ORDAINED by the Town of Kernersville, North Carolina, that the *Unified Development Ordinance* is hereby amended as follows:

SECTION 1:

Chapter B, Article II, 2-1 Zoning Districts, 2-1.3 Commercial Zoning District, (L) MBP Medical Business Park District, (5) Building Materials & Colors, [A] Building Materials, 1) Building Facade of the Unified Development Ordinances to allow for additional architectural accent elements to be amended as follows:

5) **Building Materials & Colors**

[A] **Building Materials.** The construction of any new building shall be restricted by use of the following:

- 1) **Building Facade** The primary facade material shall consist of brick and/or architectural precast or architectural cast stone, but may contain facade accent elements of drainable stucco, textured tinted concrete block, tile, native stone, columns, pre-cast trim, and/or canvas canopies. The primary facade material used in construction shall compose at a minimum seventy five percent (75%) of the non-glass wall surface. Quik Brik™ or similar product may be used as a substitute to brick. Architectural metal panels and columns, such as aluminum compost panels, copper, zinc or stainless steel, making up less than 25% of the façade, used to enhance the entrance(s), middle expression, or create a unique formal identity shall be allowed.

SECTION 2:

This ordinance shall become effective upon adoption.

Adopted this the 12th day of November, 2013.

- 2a. **PUBLIC HEARING:** Curtis Swisher, Agent for the Town of Kernersville, for a proposed Unified Development Ordinance (UDO) Text Amendment by amending Chapter B of the Unified Development Ordinances to reflect changes made by the General Assembly of North Carolina to the North Carolina General Statutes in Session Law 2013-126/House Bill (H.B.) 276 entitled “AN ACT TO CLARIFY AND MODERNIZE STATUTES REGARDING ZONING BOARDS OF ADJUSTMENT.” Zoning Docket KT-210

Mr. Jeff Hatling, Community Development Director presented the Planning Board report for this text amendment request. He noted that these changes are necessary to bring the Town’s UDO current and consistent with North Carolina General Statutes regarding the Board of Adjustment.

Mayor Dawn Morgan declared the Public Hearing Open.

In Favor:

None

Opposed:

None

Being no speakers either in favor or opposed, Mayor Morgan closed the public hearing.

2b. Consideration of an ordinance for said text amendment.

Mayor Pro Tem Dana Caudill Jones made a **Motion** to approve the following Ordinance to amend the Unified Development Ordinance of the Town of Kernersville to be consistent with North Carolina General Statutes regarding the Board of Adjustment. Alderman Keith Hooker seconded the motion and the vote was all for and motion carried.

**Town Ordinance
Zoning Docket KT-210**

**ORDINANCE NO. O-2013-23
AMENDING
CHAPTER B ZONING ORDINANCE OF
THE UNIFIED DEVELOPMENT ORDINANCE**

BE IT ORDAINED by the Town of Kernersville, North Carolina, that the *Unified Development Ordinance* is hereby amended as follows:

SECTION 1:

Chapter B, Article VI – Administration and Amendments is hereby amended as follows:

6-1.4 BOARD OF ADJUSTMENT

(A) SPECIAL USE PERMITS AUTHORIZED BY THE BOARD OF ADJUSTMENT

(1) Board of Adjustment Review. The Board of Adjustment shall review all requests for permits as designated in Table 2.6 and Section 2-5.

(2) Planning Board Report. Applications for special use permits may be approved by the Board of Adjustment after such board receives a report from the Planning Board and holds a duly advertised public hearing in each case, except that the Planning Board shall not be required to review and report on applications for:

- (a) Riding Stables;
- (b) Kennels;
- (c) Shooting Ranges;
- (d) Manufactured Homes Not in Manufactured Housing Developments;
- (e) Expansion or Conversion of a Nonconforming Use;
- (f) Accessory Uses;

- (g) Accessory Structures; or
- (h) Parking reductions for churches

The Planning Board shall submit its report in writing to the Zoning Administrator not more than sixty (60) days after receipt of the application in accordance with established review procedures. In reviewing the request, the Planning Board shall review the application to assure compliance with all provisions of this Ordinance. The Planning Board report shall make a finding that the application as submitted either complies with the Ordinance, complies with recommended conditions, or does not comply with the Ordinance. If the Planning Board recommends conditions, the Planning Board shall have the authority to recommend conditions as identified in Section 6-1.3(A)(1) to reduce impacts associated with the project.

(3) Required Findings. The Board of Adjustment shall issue a special use permit only when the Board of Adjustment makes an affirmative finding as follows:

- (a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
- (b) That the use meets all required conditions and specifications;
- (c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
- (d) That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*.

Except with regard to the conversion of nonconforming uses in Section 5-2, no provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a special use permit for any use unless authorized in Table 2.6. In approving an application for the issuance of a special use permit, the Board of Adjustment may impose additional reasonable and appropriate conditions and safeguards to protect the public health and safety, and the value of neighboring properties, and the health and safety of neighboring residents. If the Board of Adjustment denies the application for the issuance of a special use permit, it shall enter the reasons for denial in the minutes of the meeting at which the action was taken.

(4) Extension of Permit. A letter requesting an extension of time and indicating the reason for such request, submitted prior to the termination date and duly approved by the Board of Adjustment, shall extend the

validity of such permit for a period of six (6) months. No other extension of time shall be granted. ~~For any development approval that is current and valid at any point during the period beginning January 1, 2008, and ending December 31, 2011, the running of the period of the development approval and any associated vested right under G.S. 153A-344.1 or G.S. 160A-385.1 is suspended during the period beginning January 1, 2008, and ending December 31, 2011.~~

- (5) **Review of Request for Extension.** In considering such extension, the Board of Adjustment may make such changes in the conditions under which the permit was granted as may be indicated by any new information relating to the property or to the use proposed thereon, provided the extension or changes still comply with the affirmative finding set forth above.
- (6) **Special Use District Zoning.** No separate special use permit is required for a use which is permitted as a part of a special use district zoning adopted by the Elected Body and which meets the requirements of this Ordinance.

(B) VARIANCES

- (1) **Authority.** No provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:
 - (a) General Dimensions Requirements for Zoning Districts listed in Sections 2-1.2, 2-1.3, 2-1.4 and 2-1.5 of this Ordinance and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;
 - (b) Floodplain reconstruction as specified in Chapter C of the *Unified Development Ordinances*;
 - (c) Vehicular use landscaping requirements as specified in Section 3-4;
 - (d) Bufferyard requirements as specified in Section 3-5;
 - (e) Setback and landscaping requirements of the TO District as specified in Section 2-1.6(B).
 - (f) Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978; and
 - (g) Delay of building permits within designated *Transportation Plan* corridors as specified in Section 3-7.1.

- (2) **Limitations.** The Board of Adjustment shall not grant a variance to permit a use not permitted in the applicable zoning district, nor shall it grant a variance for a site plan feature or condition adopted in conjunction with a special use district zoning.
- (3) **Public Hearing.** Applications for variances may be approved by the Board of Adjustment after such Board of Adjustment holds a duly advertised public hearing in each case.
- (4) **Difficulty or Hardship.** Said application for a variance may be approved only upon a finding of ~~practical difficulty or unnecessary hardship~~ in meeting the dimensional requirements of this Ordinance. ~~The~~ which difficulties **hardship must** arise from the recorded platting or deeding of land prior to the adoption of this Ordinance, or from any act of a public agency, or from natural conditions beyond the control of the property owner. The Board of Adjustment shall have the power to vary or modify such dimensional requirements. **The Board of Adjustment shall vary the provisions of the ordinance upon showing of all of the following:**
- (a) The unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of a variance, no reasonable use can be made of the property;
 - (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
 - (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and
 - (d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- (5) **Findings.** The Board of Adjustment shall approve of a variance only when the Board of Adjustment makes an affirmative finding as follows:
- (a) That the approval of the variance will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
 - (b) That the use of the property otherwise meets all required conditions and specifications;

(c) That the approval of the variance will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,

(d) That the location and character of the use, if developed according to the variance, will otherwise be in harmony with the area in which it is to be located and in general conformity with *Legacy*.

(e) That the basis for a hardship determination in subsection B.6-1.4(B)(4) is met.

(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.~~

(7) Conditions. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

(8) Voting on Variance Requests. The concurring vote of four-fifths (4/5) of the board shall be necessary to grant a variance. 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 majority if there are no qualified alternatives to take the place of such members.

(C) PROCEDURE TO BE USED IN PROCESSING SPECIAL USE PERMITS, AND VARIANCES REQUESTS AUTHORIZED BY THE BOARD OF ADJUSTMENT

(1) Application. Applications for special use permits or variances to be considered in any month by the Board of Adjustment shall be made by the property owner or the owner's authorized agent to the Zoning Administrator not less than twenty-four (24) days prior to the established meeting date of that month. Each petition shall be accompanied by a fee as authorized in Article VIII.

(2) Posting Posted Notice of Hearing. The applicant shall post on the property a notice of public hearing at least fifteen (15) days prior to the date of the hearing before the Board of Adjustment.

Such notice shall be of sufficient size to contain, and shall contain, heavy black lettering not less than three (3) inches high on a white background and shall be posted in a conspicuous place on the premises. Where such posting is not clearly visible from the nearest public right-of-way, a second directional sign which is clearly visible from the nearest public right-of-way shall be posted. A sign shall be provided by the Zoning Administrator consistent with these requirements. Such sign structure shall be removed by the applicant within thirty (30) days after said public hearing.

~~(3) — **Advertisement.** The Board of Adjustment shall advertise a public hearing not less than ten (10) days in advance of such hearing, by a single insertion in a daily or weekly newspaper of general circulation in Kernersville.~~

(3) Mailed Notice of Hearing. Notice of hearings shall be mailed to the person or entity whose appeal, application or request is the subject of the public hearing; to the owner of the property that is subject to the public hearing, if different from the applicant; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other person entitled to receive notice as otherwise provided in the Unified Development Ordinances. The County Tax listing shall be utilized to determine the owners entitled to receive mailed notice. The notice must be deposited in the mail at least ten (10), but not more than twenty-five (25) days, prior to the date of the hearing.

(4) Voting on Special Use Permits and Variance Requests. The concurring vote of four-fifths (4/5) of the board shall be necessary to grant a variance. A majority of the members shall be required to issue a Special Use Permit. 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 majority if there are no qualified alternatives to take the place of such members.

(D) APPEALS AND INTERPRETATIONS

(1) General. The Board of Adjustment shall hear and pass upon appeals from and shall review any disputed order, requirements, decision or determination made by the Zoning Administrator or his/her designee. The Board of Adjustment shall also hear and pass upon all other matters upon which it is required to act under this Ordinance. **The appeal request is subject to the following:**

(a) Only written decisions or determinations shall be appealed. A decision includes any final and binding order, requirement or determination. The Zoning Administrator or his or her

designee shall give written notice to the owner of the property that is subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail or by first class mail.

(b) The owner or other party receiving the written notice shall have thirty (30) days from receipt of the written notice, decision or determination to file an appeal. Any other person or party with standing to appeal shall have thirty (30) days from receipt of any source of actual or constructive notice of the decision or determination to file an appeal. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date the landowner or applicant posts a sign on the property using six inch (6 ") letters with the words "ZONING DECISION" or "SUBDIVISION DECISION" along with information identifying the means to contact an official for information about the decision in a prominent location on the property for at least ten (10) days. Posting of such signs is not the only form of constructive notice. Verification of the posting shall be provided by the owner or applicant to the official who made the decision.

(c) The Zoning Administrator or his/her designee shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Zoning Administrator or his/her designee shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(d) An appeal of a notice of violation or other enforcement action stays enforcement of the action appealed from unless the official who made the decision certified to the Board of Adjustment after notice of appeal has been filed that because facts stated in the affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the

further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed. Otherwise, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

(e) The official who made the decision shall be present at the hearing as a witness. The appellant may not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing.

(f) Procedure to be Used in Processing Appeals and Interpretations of Decisions of the Zoning Administrator or His/Her Designee Authorized by the Board of Adjustment.

(i) Applications for appeals of decisions, determinations or interpretations of the Zoning Administrator or his/her designee to be considered in any month by the Board of Adjustment shall be made by the Board of Adjustment shall be made by the property owner or the owner's authorized agent or any other party with standing to the Town Clerk not less than twenty (20) days prior to the established meeting date of that month. Each petition shall be accompanied by:

- A fee as authorized in Section B.8.
- The written decision of the Zoning Administrator or his/her designee that is the subject of the requested appeal or interpretation.

(2) **Board of Adjustment Authority.** Upon appeal, the Board of Adjustment shall have the following powers:

- (a) To hear and decide appeals based on alleged error in any order, requirement or decision made by the Zoning Administrator or his/her designee in the enforcement of this Ordinance;
- (b) To hear and decide requests for special exceptions or for the interpretation of the *Official Zoning Maps* or for decisions upon other special questions upon which the Board of Adjustment is authorized to pass.
- (c) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall

make any order, requirement, decision or determination that ought to be made. The Board of Adjustment shall have all the powers of the official who made the decision.

(d) When hearing an appeal pursuant to G.S. 160A-409(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. 160A- 393(k).

(3) ~~Four-Fifths (4/5) Vote Required.~~ 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 interpretation of the Zoning Administrator.

(3) Voting on Appeals/Interpretations. A majority of the members shall be required to overturn a decision of the Zoning Administrator or his/her designee. 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 majority if there are no qualified alternatives to take the place of such members.

(E) ~~Decisions.~~ Decisions of the Board of Adjustment regarding special use permits, variances, appeals from the Zoning Officer, and any other question upon which the Board of Adjustment is authorized to pass, shall be filed in the office of the Secretary of the Board of Adjustment.

(E) Quasi-Judicial Decisions. The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or secretary of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(F) Subpoena Power. The board of adjustment through the chair, or in the chair's absence, any one acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, a person with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he/she determines to be

relevant, reasonable in nature and scope, and not oppressive. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to the subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed.

(G) Voting on All Other Matters. All other matters coming before the Board of Adjustment, such as the approval of minutes or decision regarding rehearing requests, etc. shall be decided based on majority vote. 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 majority if there are no qualified alternatives to take the place of such members.

SECTION 2.

Chapter B, Article X – Appointed Boards is hereby amended as follows:

10-1 BOARD OF ADJUSTMENT

10-1.1 ESTABLISHMENT AND MEMBERSHIP

(A) CREATION

The Kernersville Board of Adjustment, consisting of ten (10) members with four (4) alternate members, appointed by the Elected Body (Board of Aldermen), has been created and is hereby continued.

(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.

(5) **Composition.** There shall be proportional representation allotted to residents of the extraterritorial area. The proportion shall be determined by first combining the population of the Town with the population of the extraterritorial area, based on the most recent decennial census. The population of the extraterritorial area shall then be divided by the combined population to determine the proportion of the ten (10) members to be appointed from the extraterritorial area. Not less than one resident from the extraterritorial area shall be appointed, regardless of the proportion. The Town shall review the proportion and make any necessary adjustments within one hundred eighty (180) days of (1) receiving the results of the most recent decennial census, (2) being granted additional extraterritorial jurisdiction by any county, or (3) the effective date of any annexation of populated land. Members representing the extraterritorial area shall be appointed by the appropriate Board of County Commissioners in accordance with NCGS Section 160A-362.

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

~~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.~~

(D) **COMPENSATION**

The per diem compensation of the members of the Board of Adjustment shall be fixed by the Elected Body.

(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.

SECTION 3:

This ordinance shall become effective upon adoption.

Adopted this the 12th day of November, 2013.

PUBLIC SESSION

3. SPEAKERS FROM THE FLOOR.

None

4. Presentation regarding Chamber of Commerce Building Expansion.

Mr. Swisher stated that the Town has received a request from the Chamber of Commerce seeking approval from the Town to extend the building they currently lease from the Town to add an additional 832 square feet to accommodate their growing staff. He added that the Chamber is also requesting a \$25,000 contribution from the Town that if received could potentially be matched by a local business to help offset the costs to extend the building. Mr. Swisher further added that the Chamber is also requesting an amendment to the current lease with the Town to reduce the monthly rent for the building to \$437 per month for fifteen years. Mr. Swisher advised that Bruce Boyer, Chamber of Commerce Executive Director would be happy to address any questions the Board may have regarding this request

Mayor Morgan recognized Mr. Harvey Pulliam who had signed up to speak about this matter.

Harvey Pulliam Jr. 415 Holt Street, Kernersville, NC Congratulated the Board members on their reelection and thanked those not seeking reelection for their service. He expressed his surprise over this request. He stated that the Board should deny this request and ask the Chamber to pay an appropriate rent for this building, not give an additional reduction in rent, just as Allegacy Credit Union did for the building next door @ \$2,500 per month with a 3% COLA and no services unlike the Chamber. He added that this is not a service to the Town, this is a service to the businesses and it's their responsibility not the tax payers, it's what their dues should be used for. He added this would be a \$1/2 million loss in revenue for the Town over 15 years and it's not right. The Board should deny this request and reconsider the current lease for the building for a fairer price and stop subsidizing the Chamber and its programs. He suggested the Chamber look at using the old School Tools building.

Alderman Irving Neal expressed his appreciation to Mr. Boyer for the work he and the Chamber do for the Town. He stated however that he doesn't feel it would be a wise decision for the Town to approve this request. He added that there could be a new library in a few years and asked Mr. Boyer if the Chamber had considered using the old library which has a lot more square footage. He suggested that Mr. Boyer talk to Mr. Swisher to see if the Town had any other available space that could be used in the interim either for office or meeting space. He noted that fifteen years is a long time and he had concerns that the Chamber would outgrow the expanded space before the end of the lease. Alderman Neal stated that if the purchase of the land from Novant is completed maybe the Forsyth County Commissioners would reprioritize the Town's new library.

Mayor Pro Tem Jones reiterated Alderman Neal's concerns and she expressed surprise at not having prior information on the Chambers plans to expand prior to this letter. She suggested that

there be more dialogue and the matter be discussed again in the new year for the Board to get a better idea of the Chamber's needs and future plans.

Alderman Neal Stockton stated that the Chamber is an important part of the Town and that he would not want to jeopardize this great partnership, however he agrees with Mayor Pro Tem Jones that more discussion would be a good idea.

Alderman Tracey Shifflette also expressed appreciation for all the Chamber does for the local business community. She also agreed that more discussion needs to take place so the Board can better determine the Chamber's needs and wants.

Alderman Keith Hooker stated that he would like to help the Chamber but feels there needs to be a more cost effective solution and that fifteen years is a long time for a lease when there may be better options in 2 - 3 years.

Mr. Bruce Boyer stated that the Chamber had looked into other options and they believed the new library was 4 -5 years away. He added that the suggested expansion would provide the space that is desperately needed now to allow the Chamber to operate more efficiently. The matching funds also offered an opportunity to begin the expansion in mid-June, and a temporary location for office space had already been secured for the expected 12 weeks construction time.

Mr. Swisher stated that the Chamber is welcome to use the Executive Conference Room for meetings if it's available; however the properties on Main Street that aren't currently rented are no larger than the Chamber's current location. He stated that 15 years is a long time for the Chamber to be locked into a lease in order to recoup the money invested.

Mayor Morgan asked Alderman Neal if he would follow up with the Forsyth County Commissioners to clarify the new Kernersville library timeframe. She asked Mr. Boyer what the anticipated construction start date is.

Mr. Boyer stated that the Chamber hoped for a June 1, 2014 start date.

It was the consensus of the Board to revisit this matter in the first quarter of 2014.

Mr. Boyer thanked the Board for their consideration and added that he would keep them informed of any Chamber discussion on the matter.

5. Consideration of a Request to transfer \$350,000 Hold Harmless Funds to the Street Department for Street Resurfacing.

Mr. Swisher stated that the Board had discussed potentially using any Hold Harmless Funds received from the State in FY 13-14 for a single purchase or for items that due to budget restraints had not been budgeted the past several years. He further stated that one of those uses the Board had discussed was road resurfacing which has had decreased funds allocated the past three years. He added that Staff is recommending several roads that could be resurfaced and is requesting a transfer of \$350,000 from Hold Harmless Funds to the Street Division.

Mr. Doran Maltba, Public Services Director used a power point presentation to illustrate the current conditions of roads in Town due to the lack of road maintenance. He recommended using the \$350,000 Hold Harmless Funds to resurface the following streets in the spring of 2014:

The Authors Subdivision

Reynolds Price
Anne Tyler
Jon Enle
Matthews Place
Fred Chapel
Clyde Edgerton
Lee Smith
Kaye Gibbons

Kristen's Gate Subdivision

Leicester
Thomas Drake
Marylbone

for a total of approximately two miles, depending on the bid price for asphalt

Mayor Pro Tem Jones asked what if the material costs are over \$350,000.

Mr. Maltba stated that it is more cost effective to resurface a complete neighborhood and if necessary there may be funds available in the maintenance budget if we don't have snow removal costs this winter.

Alderman Keith Hooker stated that the Board did discuss if Hold Harmless Funds were received they would consider using these funds for something with a fixed cost and not something that would require budgeting in FY 14-15. He added that he thought this was a good use of the funds. He asked Mr. Maltba how long he thought the project would take.

Mr. Maltba advised based on weather not more than a couple of weeks.

Alderman Irving Neal made a **Motion** authorizing the transfer of \$350,000 Hold Harmless Funds to the Street Department for Street Resurfacing as recommended. Mayor Pro Tem Jones seconded the motion and the vote was all for and motion carried.

6. Consideration of an Ordinance Amending the Kernersville Code of Ordinance Book:

**Chapter 12 – Parades
Chapter 13 – Police**

Mr. John Wolfe, Town Attorney stated that as the Board is aware the Town is reviewing each Chapter of the Town Code of Ordinances. He advised that he has sent a Memo to the Board regarding his legal recommendations for revisions to Chapter 12 and Chapter 13. He further advised that he is recommending Chapter 12 be broken down into two sections; Article I – Protests and Picketing, Article II – Parades and Public Assemblies. He stated that the Legal Department has done extensive research prior to making these recommendations and feels that these recommendations allow individuals to express themselves in a sound manner and are similar to those adopted by Charlotte and Raleigh. He added that since the Briefing Meeting a revision has been made and is being recommended to Chapter 12, Article II Sec 12-21(b) adding

paragraph 8 clarifying that an applicant will need to submit a Certificate of Insurance for the duration of the permit period providing liability insurance with a minimum limit of \$1 million.

Mr. Wolfe advised that the recommended changes for Chapter 13 are primarily grammar and changes to reflect the current operations regarding school guards. He offered to answer any questions.

Mayor Morgan stated that the recommended amendments to the Town's Code of Ordinance Chapter 12 would no longer permit sandwich board signs and asked why the size restrictions on signs.

Mr. Wolfe advised that after consultation with the Police Chief regarding the amendments in Chapter 12, the 24" width x 36" length size sign is strongly recommended as a safety measure, these signs would allow individuals to pass each other on a sidewalk safely. He added that sandwich board signs are not recommended.

Mayor Morgan recognized Mr. Harvey Pulliam who had a number of signs and flags that he had used in a recent protest. She noted that these signs would now be in violation of the new ordinance as the flag measured 3' x 5' and although the signs were 24" x 36" they were horizontal and not vertical and therefore would also be in violation.

Mr. Wolfe advised that is correct.

Alderman Keith Hooker asked Mr. Wolfe to clarify that the person wishing to protest is only notifying the Police Department of a group assembly and not requesting permission and that the sign size would apply for an individual and not just a group.

Mr. Wolfe advised that is correct. Mr. Wolfe further noted that these restrictions are being recommended because not all protests are peaceful and that this Ordinance is applicable to all situations and the safety of all citizens is being considered.

Alderman Tracey Shifflette asked if these size restrictions would also apply to individuals holding signs advertising businesses along the side of the road.

Mr. Wolfe advised they would not, however he reiterated that this is a matter the Board needs to address.

Mayor Morgan recognized Police Chief Cunningham. She thanked him for working with legal counsel to address this matter. She asked if the motorcycle ministry that often held signs at the intersection of Main and Mountain Streets would be in compliance.

Police Chief Scott Cunningham stated that he was unsure if the signs would comply but once any changes were adopted then the group would need to comply. He added that is has been the practice of the Police Department to allow individuals to voice their opinion with as little police presence as possible.

Mayor Pro Tem Dana Caudill Jones expressed concern that it appears that the Town is trying to impose more restrictions on those expressing freedom of speech as opposed to the commercial businesses.

Mr. Wolfe advised that the Town Ordinances are not designed to squelch an individual's ability to express oneself. He added that he has recommended to the Board that the matter of commercial signs needs to be addressed and that certain aspects of Town law pertaining to this matter is not legal, however this evening the signs being addressed pertain only to parades and the safety of the citizens.

Mayor Morgan recognized Mr. Pulliam who had signed up to speak on this matter.

Mr. Harvey Pulliam Jr. 415 Holt Street, Kernersville, NC stated that the Constitution does not state a certain size of sign a person can carry when protesting or in parades or events. He added the Town can't interfere with the Constitution and restrict signs. He presented pictures of his recent protest to the Mayor. He said that they were not passing each other and getting in each other's way. He said the reason he stood on the overpass was to reach people coming through Kernersville and get the message out of Town and that this was a nationwide event. He asked if he would be charged like he was on August 6, 2013 if he doesn't get insurance or his flags and signs are too large. He added this was a peaceful assembly not walking around and the Town can't restrict size of signs and violate the Constitution of the United States. He wasn't picketing or selling anything and it was a violation of his 1st amendment rights.

Mayor Morgan notified Mr. Pulliam that the matter of his recent protest was already addressed and that it is not the issue being discussed at this time. She stated that she does have an issue with the size restrictions recommended for signs and flags and feels Mr. Pulliam raises a good point, we haven't had issues with protests and that she would like to see signs allowed up to the size of standard poster board and flags sizes to be the same as the standard size flag that people have in their homes.

Alderman Irving Neal asked Mr. Wolfe if there was a specific reason behind the sign size recommendation.

Mr. Wolfe stated that in the interest of safety of all citizens there has to be a size limit on signs and flags. He emphasized the extent of the research that has gone into this recommendation. He reiterated that not all protests are peaceful and that the size recommended was found to be reasonable for all potential protests.

Alderman Hooker asked Mr. Wolfe to clarify that the recommendation is that each individual be permitted to carry one item, either flag or sign and if in his research he had looked into Town's the same size as Kernersville.

Alderman Neal Stockton asked if this was similar to other municipalities studied.

Mr. Wolfe advised that it is similar to what other municipalities have done and that each Town adopts Ordinances for freedom of speech and safety of its citizens that is best for them.

Alderman Shifflette stated that she agrees with Mr. Wolfe that there needs to be a size restriction, however she would like to increase the size of flags permitted to 3' x 5'.

Phil Loflin, 324 Kilburn Way Lane, Kernersville, NC stated that he didn't think these restrictions would hold up in court. The Town can't restrict one person holding signs and not the other; size restrictions on signs period will create legal issues later on down the road, unless the Town applies the same rule to all.

Mayor Morgan advised that commercial signs will be addressed by the Board at a later time.

Mr. Swisher advised that commercial speech falls in the Town's UDO and not the Code of Ordinances, which are being reviewed at this time.

Mr. Pulliam asked why is it that he could be arrested for holding a large sign and not getting a permit when the Town has large signs for the Spring Folly and Honeybee Festival.

Mayor Morgan stated that this is not what the Board is discussing at this time. She asked the Board how they wished to proceed.

Alderman Stockton stated that from a public safety aspect a 24" wide x 36" long sign would allow an individual to stand safely on a sidewalk and the sign not protrude over the sidewalk. He added that not all protests are peaceful and larger signs can be used as weapons or shields and can impede a police officer's use of a stun gun or tazer should an incident arise. He further added that he trusts the judgment of the Police Chief and Legal Counsel and supports their recommendations on size restrictions.

Mr. Swisher stated that if two 36" signs were held side by side they would take up the entire width of a sidewalk.

Alderman Irving Neal made a **Motion** to approve amendments to Chapter 12 Town Code of Ordinance as presented with an additional amendment to the size of signs permitted from 24" x 36" to 30" x 36".

Motion failed for lack of a second.

Mayor Pro Tem Jones made a **Motion** to approve amendments to Chapter 12 Town Code of Ordinances as presented with an additional amendment to omit the words "width" and "length", in section D pertaining to the sign size 24" x 36". Alderman Neal Stockton seconded the motion. The vote was 2 in favor, 3 opposed, the motion failed.

Alderman Keith Hooker made a **Motion** to approve amendments to Chapter 12 Town Code of Ordinances as presented along with additional amendments to Sec 12- 3 (d) allowing sign sizes up to 24" x 36" omitting the words "width" and "length" and flags or banner sizes up to 3' x 5'. Alderman Tracey Shifflette seconded the motion. The vote was 4 - 1, Alderman Stockton opposed, and the motion carried.

ORDINANCE NO. 2013-24

**AN ORDINANCE AMENDING CHAPTER 12 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; and

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

1. Chapter 12 of the Code of Ordinances entitled "Parades, Pickets and Group Demonstrations" is repealed and replaced by the attached Exhibits A and B.
2. This Ordinance shall be effective upon adoption.
3. 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 12th day of November, 2013.

Alderman Tracey Shifflette made a **Motion** to approve the amendments as presented to Chapter 13 of the Town Code of Ordinances. Alderman Keith Hooker seconded the motion and the vote was all for and motion carried.

ORDINANCE NO. 2013-25

**AN ORDINANCE AMENDING CHAPTER 13 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; and

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

1. Chapter 13 of the Code of Ordinances entitled "Police Department" is amended to read as shown in the attached Exhibit A.

2. Chapter 9 of the Code of Ordinances entitled "Motor Vehicles and Traffic" is amended to add the following:

"Sec. 9-68. Authority of school guards to direct traffic.

(a) School guards, also known as school crossing guards, acting in an official capacity are hereby authorized to direct traffic, as needed, in the area of their assigned schools and in conformance with the Town ordinances and State statutes.

(b) No person shall fail to obey any hand signal, flag, stop sign or audible signal given by a school guard in the performance of the school guard's duties."

3. This Ordinance shall be effective upon adoption.

4. 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 12th day of November, 2013.

7. **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 August 28, 2013 Briefing Session
Approval of Minutes for September 3, 2013 Regular Session
Approval of Minutes for September 25, 2013 Briefing Session**

C-2 Consideration of Appointment to the Board of Adjustment

Mr. David Brooks, Alternate Board of Adjustment member to fill an unexpired term that will begin immediately and expire on June 30, 2015.

C-3 Consideration of a Resolution executing a Revised Memorandum of Understanding with the Winston-Salem Urban Area Metropolitan Organization.

R-2013-26

**RESOLUTION AUTHORIZING THE EXECUTION OF A
REVISED MEMORANDUM OF UNDERSTANDING**

**FOR THE
WINSTON-SALEM URBAN AREA METROPOLITAN PLANNING ORGANIZATION**

WHEREAS, the Memorandum of Understanding (MOU) for the Winston-Salem Urban Area Metropolitan Planning Organization (MPO) is an agreement between governmental entities to establish a comprehensive, continuing, and cooperative transportation planning process for the Winston-Salem Urban Area; and

WHEREAS, as part of the Federal Certification Review in 2012, the Federal Transit Administration and the Federal Highway Administration directed the Winston-Salem Urban Area MPO to add the local transit agency, the Winston-Salem Transit Authority (WSTA), as a voting member of the MPO's policy making body, the Transportation Advisory Committee (TAC); and

WHEREAS, on April 3, 2013, the Public Transportation Division of the North Carolina Department of Transportation (NCDOT) requested that the status of their representative on the Technical Coordinating Committee (TCC) be changed from a voting member to an advisory, non-voting member; and

WHEREAS, from time to time language in the MOU needs to be revised and updated to reflect changes in federal or State legislation or policies or to reflect changes in organization, department or staff position names; and

WHEREAS, on September 19, 2013, the TAC approved amendments to the Winston-Salem Urban Area MPO MOU to: add WSTA as voting member of the TAC; change the status of the representative of the NCDOT Public Transit Division from a voting member to an advisory, non-voting member of the TCC; modify language as directed NCDOT staff; and update names of various organization, department and staff positions; and

WHEREAS, the TAC also voted to require that each Winston-Salem Urban Area MPO unit of local government execute the revised MOU prior to the January 16, 2014 meeting of TAC or forfeit any and all voting rights until such time as the revised Memorandum of Understanding is executed.

NOW, THEREFORE BE IT RESOLVED by the Board of Aldermen of the Town of Kernersville that we authorize Mayor Dawn H. Morgan to sign the revised Memorandum of Understanding of the Winston-Salem Urban Area Metropolitan Planning Organization.

Adopted this 12th day of November, 2013

C-4 Consideration of Forsyth County Tax Refund.

Name	Stormwater Fee Refund	Recycling Fee Refund
Adkins, Allan R.	39.51	32.40
Allen, Brandon	39.51	32.40
Wemyss, Shannon K.	39.51	32.40
Robertson, Eller V. K.	52.77	64.80
Vanhoy, Rufus S.	39.51	32.40
Davis, Jeffrey L.	39.51	32.40
Pope, Penny	39.51	32.40
Bovender, David C.	39.51	32.40
Pope, Penny	39.51	32.40

Conrad, Merri Lynne	39.51	32.40
Hodges, Brenda F.	39.51	32.40
	<hr/> 447.87	<hr/> 388.80

Alderman Tracey Shifflette made a **Motion** to approve the Consent Agenda as presented. Alderman Neal Stockton seconded the motion and the vote was all for and motion carried.

8. ITEMS REMOVED FROM CONSENT AGENDA.

None

9. SPEAKERS FROM THE FLOOR.

None

10. TOWN MANAGER'S REPORT AND MISCELLANEOUS.

Mr. Swisher presented a Resolution to Surplus and Authorize Disposal of the Kernersville Fire Rescue Departments current ladder truck. He added that the Town has received an offer from Yadkinville Volunteer Fire Department to purchase this ladder truck once the Town's new ladder truck is delivered.

Alderman Irving Neal made a **Motion** to approve the following Resolution as presented. Alderman Neal Stockton seconded the motion and the vote was all for and motion carried.

**R-2013-27
RESOLUTION TO DECLARE
A 1990 GRUMMAN/DUPLEX
SURPLUS AND AUTHORIZE ITS DISPOSAL**

WHEREAS, the Town of Kernersville owns a 1990 Grumman/Duplex Aerial Cat 102' Platform Fire Unit Serial # 1G9ACHDT2LR088067 formerly used by the Kernersville Fire Rescue Department; and

WHEREAS, the Town has acquired new Equipment for use by its Fire Rescue Department rendering the aforementioned 1990 Grumman/Duplex Aerial Fire Unit obsolete for its use; and

WHEREAS, the Board of Aldermen of the Town of Kernersville has no reason to believe that said equipment would be of further benefit to the Town; and

WHEREAS, the Board of Aldermen of the Town of Kernersville desires to dispose of said surplus property of the Town and has researched its current value; and

WHEREAS, municipalities are authorized by N.C.G.S. §160A-274 to sell surplus property to other governmental entities upon such terms and conditions as are deemed wise.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Kernersville that:

1. The 1990 Grumman/Duplex Aerial Cat 102' Platform Fire Unit Serial # 1G9ACHDT2LR088067 previously used by the Kernersville Rescue Department is hereby declared to be surplus property of the Town of Kernersville;
2. The Board of Aldermen finds it wise to dispose of the said surplus equipment by sale to another governmental entity; and
3. The Town Manager is hereby authorized to, pursuant to N.C.G.S. § 160A-274, dispose of said surplus property by sale to the Yadkinville Volunteer Fire Department, Inc. for the sum of Fifty Thousand and no/100 Dollars (\$50,000.00).

Adopted this 12th day of November, 2013.

11. MATTERS TO BE PRESENTED BY THE TOWN ATTORNEY.

Mr. Wolfe advised the Board that no additional bids were received during the Upset Bid process required after a \$10,000 offer to purchase property on East Mountain Street was received from Omar Kalaf of Armanzi Marble & Granite. He presented a Resolution for the Board's consideration to authorize the sale of this property.

Alderman Irving Neal made a **Motion** to approve the following Resolution as presented. Alderman Keith Hooker seconded the motion and the vote was all for and motion carried.

R-2013-28
RESOLUTION AUTHORIZING THE SALE OF A PORTION OF
REAL PROPERTY ON EAST MOUNTAIN STREET

WHEREAS, the Town of Kernersville has received an offer of Ten Thousand (\$10,000.00) Dollars from Omar Kalaf of Amanzi Marble & Granite, LLC for a .999 acre portion of certain real property owned by the Town and located on East Mountain Street, further described as Pin 6896-11-1312.00 (Tax lots 2J, 2L, 2K & 2M of Tax Block 5402); and

WHEREAS, pursuant to North Carolina General Statute §160A-269, which authorizes the Town to negotiate an offer for the sale of property and advertise it for upset bids, if the Board of Aldermen has proposed to sell the property to the bidder for the amount bid; and

WHEREAS, the Board of Aldermen has previously proposed to sell the property to the bidder for the Ten Thousand (\$10,000.00) Dollars; and

WHEREAS, the Bidder made a deposit of five percent (5%) of the bid amount and the Town Clerk published a notice of the offer and the opportunity for upset bids to be filed in the Kernersville News on October 22, 2013; and

WHEREAS, the time for filing upset bids has expired and no further bids were received by the Town.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Board of Aldermen of the Town of Kernersville that:

1. The .999 acre portion of certain real property owned by the Town and located on East Mountain Street, further described as Pin 6896-11-1312.00 (Tax lots 2J, 2L, 2K & 2M of Tax Block 5402) and shown as Lot One on the attached Exhibit A be sold to Omar Kalaf of Amanzi Marble & Granite, LLC for Ten Thousand (\$10,000.00) Dollars.

2. Closing on the sale of said property is held within thirty (30) days of the adoption of this Resolution.

3. The Town Attorney shall prepare a deed and represent the Town at the closing.

This the 12th day of November, 2013.

Mr. Wolfe stated that he did have a matter to discuss with the Board in Closed Session.

12. MATTERS TO BE PRESENTED BY THE MAYOR AND BOARD OF ALDERMEN.

Alderman Tracey Shifflette thanked Mr. Brooks for his willingness to serve on the Board of Adjustment.

Alderman Keith Hooker asked Mr. Swisher if he had looked into his concern regarding striping of the West Bodenhamer Street parking lot at 4th July Park.

Mr. Swisher advised that that particular area of the parking lot did need re-striping.

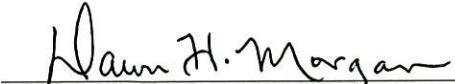
Mayor Morgan thanked everyone for their attentiveness this evening.

Alderman Tracey Shifflette made a **Motion** to enter into Closed Session at 9:17 pm to discuss certain matters regarding land acquisition which our Town Attorney needs to advise us and which fall within the Attorney-Client privilege for discussion in Closed Session. Alderman Keith Hooker seconded the motion and the vote was all for and motion carried.

13. ADJOURNMENT.

Alderman Tracey Shifflette made a **Motion** to adjourn the meeting. Alderman Neal Stockton seconded the motion and the vote was all for and motion carried.

Being no further business to come before the Board, the meeting was adjourned immediately following the Closed Session at 9:41 PM.


Dawn H. Morgan, Mayor

Attest:

Jayne Danner
Jayne Danner, Deputy Town Clerk

I, Jayne Danner, Deputy 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 November 12, 2013.

This the 5th day of December, 2013.

Jayne Danner
Jayne Danner, Deputy Town Clerk