



## **Town of Carrboro**

**Town Hall  
301 W. Main St.  
Carrboro, NC 27510**

## **Meeting Minutes**

## **Board of Aldermen**

**Tuesday, March 24, 2015**

**7:30 PM**

**Board Chambers - Room 110**

**Present:** Mayor Lydia Lavelle, Alderman Damon Seils, Alderman Michelle Johnson, Alderman Randee Haven-O'Donnell, Alderman Bethany Chaney and Alderman Sammy Slade, Alderman Jacquelyn Gist

**Also Present:** David Andrews, Town Manager, Catherine Wilson, Town Clerk, Nick Herman, Town Attorney

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### **CHARGES ISSUED**

The Town Clerk issued charges to the following advisory board members:

- 1) Sarah Moore, Transportation Advisory Board
- 2) Tai Ayankoya, Human Services Commission
- 3) Tim Turner, Environmental Advisory Board
- 4) Jay Parker, Arts Committee
- 5) Tamara Sanders, Recreation and Parks Commission
- 6) Robin Siska, Human Services Commission

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### **A RESOLUTION OPPOSING NORTH CAROLINA SENATE BILL 2 (MAGISTRATES RECUSAL FOR CIVIL CEREMONIES) AND SUPPORTING MARRIAGE EQUALITY**

MOTION WAS MADE BY ALDERMAN SEILS, SECONDED BY ALDERMAN HAVEN-O'DONNELL TO APPROVE THE RESOLUTION BELOW:

A RESOLUTION OPPOSING NORTH CAROLINA SENATE BILL 2 (MAGISTRATES RECUSAL FOR CIVIL CEREMONIES) AND SUPPORTING MARRIAGE EQUALITY

WHEREAS, Carrboro is a community dedicated to the principles of equality, nondiscrimination, and full inclusion and engagement by any resident in the civil rights, benefits, and privileges of all residents; and

WHEREAS, the US Court of Appeals has determined that provisions of North Carolina law that prevent same-sex couples from marrying and prohibit the State from recognizing same-sex couples' lawful out-of-state marriages are unconstitutional; and

WHEREAS, in the wake of these rulings, the North Carolina Administrative Office of the Courts determined that the State's judicial magistrates, who are bound by their oath of office to support the Constitution of the United States, cannot deny same-sex couples their constitutional rights to due process and equal protection by refusing such couples the right to marry; and

WHEREAS, members of the North Carolina General Assembly have asserted that requiring magistrates and registers of deeds to fulfill their statutory duties consistent with their oath to support the Constitution of the United States may conflict with an individual's personal beliefs; and

WHEREAS, members of the General Assembly have introduced legislation to exempt magistrates and registers of deeds from their statutory duties to comply with the US Constitution and to discriminate against same-sex couples seeking to marry; and

WHEREAS, such legislation, if it becomes law, will violate the constitutional rights of our residents and once again institutionalize discrimination and division through the laws of our State; and

WHEREAS, the Carrboro Board of Aldermen respects the right of all people to their sincerely held religious beliefs but is committed to the fundamental constitutional principle of separation of church and state and insists, as James Madison wrote, that "the civil rights of none shall be abridged on account of religious belief."

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The Carrboro Board of Aldermen is opposed to and urges the General Assembly to reject (and if necessary, for Gov. McCrory to veto) any legislation that seeks to exempt government employees or agents from fulfilling their constitutional duties, including but not limited to guaranteeing the right of same-sex couples to marry in North Carolina.

Section 2. The Board of Aldermen opposes discrimination, prejudice, and homophobia and supports preserving and protecting the constitutional rights and equal treatment of all residents.

Section 3. In the event that this discriminatory legislation becomes law, the Board of Aldermen directs the manager and the attorney to collaborate with other governmental entities and community partners to participate in litigation seeking to challenge such legislation.

Section 4. The clerk is directed to send copies of this resolution to the members of the Town's legislative delegation, the chair of the Orange County Board of Commissioners, the mayor of the Town of Chapel Hill, and the mayor of the Town of Hillsborough.

This the 24<sup>th</sup> day of March, 2015

Ayes: Damon Seils, Sammy Slade, Bethany Chaney, Lydia Lavelle, Michelle Johnson, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Jacquelyn Gist

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### **CHAT WITH TOWN HISTORIAN APPLICANT**

The purpose of this item was to allow the Board of Aldermen to meet and chat with the applicant for the Town Historian position.

Nancy Mason, the applicant for the Town Historian Position, spoke to the Board about her interest in the work of the Town Historian position. She also expressed concern with the amount of work prescribed for the Historian in the founding resolution.

The Board discussed the position with the applicant and decided that they would be happy to work with her on reworking the duties in the original resolution.

Alderman Chaney suggested a meeting between the Mayor and the applicant to discuss the resolution and the duties that would be more appropriate for a one-person volunteer position. Mayor Lavelle stated that she will schedule a meeting with Nancy Mason.

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### **A PUBLIC HEARING TO OBTAIN COMMENT ON IMPLEMENTATION OF BODY WORN CAMERAS (BWC) BY THE CARRBORO POLICE DEPARTMENT**

The purpose of this public hearing was to receive comments from the public regarding the implementation of Body Worn Cameras by the Carrboro Police.

Chief Walter Horton introduced item and opened the public hearing.

Braxton Foushee asked the following questions: Who would be in possession of the documents and films? How long will they be retained? Will the films be under security? How will they be accessed? When will the cameras be turned on? Alderman Seils noted that the policy should answer all of these questions.

Chris Brook, Legal Counsel for the ACLU, thanked the Police Department and Board of Aldermen for fostering a robust discussion regarding the development of the policy.

James Williams thanked the Town for the deliberate manner in the way that they went through this

process. He stated that he thinks it would work best to notify people that they are being recorded. He expressed concerns with recording children in the schools. He expressed concern with possible situations where the recording stops, but there is no explanation of why.

Chief Horton stated that he has met with the School Board and that they are not opposed to having the cameras but that they would continue the discussions.

Jay Bryan asked that the Board spend the money for good quality cameras so that they can be accurately used if they are needed in court.

Alderman Johnson stated that body cameras don't address the issues that come up regarding racial profiling. She reminded folks that there are multiple discussions regarding policing in Carrboro. She stated that there are potentials for recording to escalate a situation. She asked if the Chief has thoughts about how this policy may be different if implemented in schools.

Alderman Slade stated that the repercussions for officers need to be clear when the recordings are stopped, erased, or altered. He stated that he would like the Town to be explicit that the goal is for transparency and not for surveillance and asked for that to be written in the policy. He asked to make sure that there are spare cameras available in the instance that equipment fails. He stated that the definition of "Optimal" should be defined as to where on the uniform the camera will be worn. He stated that he prefers that the officer inform the person that they are being recorded. He asked that the cameras be on for unplanned tactical operations. He asked if the technology allows deleting. He asked to hear back on all of the points listed by the ACLU in their letter. He asked staff to make sure that the retention schedule matches well with court dates so that recordings are not disposed prior to court. He asked why the preservation of the original recording would not be possible. He wanted to make sure that the policy reflects that these recordings are for local use only.

Alderman Seils asked for more information on what the school district wants and how this equipment will be used in the schools. He asked how many cameras will be used. Chief Horton stated that the request is for 42 cameras that would include spares in the case where equipment fails.

Mayor Lavelle asked about the quality of the video. Chief Horton stated that it is HD quality and similar to the in-car video quality.

Alderman Chaney asked about the retention schedule regarding court. Chief Horton stated that the retention schedule will allow the officer to burn a hard copy and be locked in the evidence room for retention in the case that it goes to court.

Alderman Seils stated that he feels that it is important to notify the person being recorded. He also asked for who, outside of the department would have access to the video. It was stated that without a court order, these videos will not be released.

Alderman Chaney stated that camera training should be very clear and there should be established timelines for introductory and continuing training.

Alderman Haven-O'Donnell asked that the minutes include the points that Alderman Slade made and that they be followed-up by staff. She encouraged letting people know that they are being recorded. She expressed concern with the ability of deleting and asked for clarification on how it is deleted and who can delete. She asked for further clarification on the retention as it relates to possible court cases. She asked how much local authority exists to prevent outside agencies from taking the recordings. She

asked staff to explore if there is a way to limit the video for local use only.

David Andrews, the Town Manager, stated that the next discussion regarding this policy will be implanted in conjunction with the budget discussions and will occur before the Board's summer break.

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### **PUBLIC HEARING ON LAND USE ORDINANCE TEXT AMENDMENTS RELATING TO TEMPORARY FAMILY HEALTH CARE STRUCTURES**

The purpose of this item was for the Board of Aldermen to consider potential text amendments to the Land Use Ordinance to allow temporary family health care structures as provided for in S.L. 2014-94.

Tina Moon, the Town's Planning Administrator, made the staff report.

Alderman Slade asked if the Town's ordinance could be amended to allow the temporary "Granny Pods" to be turned permanent structures as a way to encourage the "tiny houses" movement.

Braxton Foushee, representing the Planning Board, stated that the Planning Board does not feel that this represents Vision2020 and that they feel the State's definition of indigent people left out a lot of people. The Planning Board voted to approve the resolution but did not include comment.

Alderman Haven-O'Donnell stated that she realized that this is required by the State but expressed concern with including Vision2020 consistency with the adoption. She also stated that the Bill is not coming from a place of pragmatism because anyone needing care will not be able to be placed in an accessory dwelling and left alone.

Alderman Chaney stated that the pods are actually intended to allow caregivers a place to stay and not necessarily place the person in need of care in the pod. She stated that it would be in compliance with the affordable housing priorities to allow persons to stay in their home and receive care. The State allowing the units to be temporary keeps them taxed at a lower rate. She also suggested that the Board continue discussions regarding tiny homes and secondary auxiliary units and how they can be encouraged in the land use ordinance.

**A motion was made by Alderman Seils, seconded by Alderman Chaney, that this resolution be approved.**

### **A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR ADOPTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE ORDINANCE**

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO ALLOW A TEMPORARY FAMILY HEALTH CARE STRUCTURE AS AN ACCESSORY USE TO A SINGLE FAMILY DETACHED DWELLING ON RESIDENTIALLY ZONED PROPERTY.

NOW, THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1: The Board concludes that the above described amendment is consistent with Carrboro

Vision2020, insofar as the Land Use Plan must be consistent with statutory law.

Section 2. The Board further concludes that the above described amendment, which will conform the provisions of the Land Use Ordinance, with regard to temporary family health care structures, to recent changes in federal and state legislation, is in the public interest.

Section 3. This resolution becomes effective upon adoption.

This 24th day of March, 2015.

**The motion carried by the following vote:**

**Aye:** Mayor Lavelle, Alderman Seils, Alderman Slade, Alderman Chaney, Alderman Johnson, Alderman Gist, and Alderman Haven-O'Donnell

**A motion was made by Alderman Seils, seconded by Alderman Chaney, that this ordinance be approved.**

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO ALLOW A  
TEMPORARY FAMILY HEALTH CARE STRUCTURE AS AN ACCESSORY USE TO A SINGLE  
FAMILY DETACHED DWELLING ON RESIDENTIALLY ZONED PROPERTY  
Ordinance No. 6/2014-15

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15-150 (Accessory Uses) is amended by adding the following new subsection (f):  
(f) On property that is residentially zoned (SEE Section 15-135), a temporary family health care structure shall be regarded as an accessory use to a single-family detached dwelling to the extent authorized and in accordance with the provisions of G.S. 160A-383.5 (S.L. 2014-94).

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

This 24th day of March, 2015.

**The motion carried by the following vote:**

**Aye:** Mayor Lavelle, Alderman Seils, Alderman Slade, Alderman Chaney, Alderman Johnson, Alderman Gist, and Alderman Haven-O'Donnell

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**PUBLIC HEARING ON LAND USE ORDINANCE TEXT AMENDMENTS RELATING TO  
UNDERGROUND UTILITY LINE INSTALLATIONS**

The purpose of this item was for the Board of Aldermen to consider text amendments to the Land Use Ordinance to establish a new use classification and permitting process for underground utility line installations.

Tina Moon, the Town's Planning Administrator, made the staff report.

Jay Bryan spoke in favor of a process that requires further public hearings in the process and provides the land owner more involvement opportunities.

Jean Earnhardt, stated that most of her land is in a conservation easement. She stated that they have had no voice in the process and that they have been dealing with a company that has no requirement to respond to individual land owners and they have been very difficult to work with.

Braxton Foushee, representing the Planning Board, expressed frustration because the land use amendment left the public with no voice at all because no one would take jurisdiction over the process.

Alderman Slade asked if there would be a way to work with companies related to broadband digging to negotiate a lesser impact via a simple permit process. Marty Roupe stated that there would most likely be no permit required for the type of digging.

**A motion was made by Alderman Chaney, seconded by Alderman Haven-O'Donnell, that this resolution be approved.**

A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S  
REASONS FOR ADOPTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND  
USE ORDINANCE

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO REQUIRE A SPECIAL USE PERMIT FOR UNDERGROUND ELECTRIC AND GAS UTILITY LINES.

NOW, THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is consistent with *Carrboro Vision 2020*, particularly the provisions under Section 2.0, Development, which speak to the importance of considering the interests of all members of the community, including property owners, neighbors, and other interested citizens when making development decisions.

Section 2. The Board further concludes that the above described amendment is reasonable and in the public interest because it will require a public hearing for certain public utility installations, which do not currently require a public hearing and will thereby provide more opportunities for public input on such installations.

Section 3. This resolution becomes effective upon adoption.

This 24th day of March, 2015.

**The motion carried by the following vote:**

**Aye:** Mayor Lavelle, Alderman Seils, Alderman Slade, Alderman Chaney, Alderman Johnson, Alderman Gist, and Alderman Haven-O'Donnell

**A motion was made by Alderman Seils, seconded by Alderman Haven-O'Donnell, that this ordinance be approved.**

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO REQUIRE A  
SPECIAL USE PERMIT FOR UNDERGROUND ELECTRIC AND GAS UTILITY LINES  
Ordinance No. 7/2014-15

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15-146 (Table of Permissible Uses) of the Carrboro Land Use Ordinance is amended by dividing use classification 17.400 ("Underground Utility Lines") into two subclassifications: "17.410 Electric Power Lines and Gas Lines" and "17.420 Other Underground Lines" The Table of Permissible Uses is further amended to indicate that (i) underground lines that fall within new use classification 17.420 shall continue to require the type of permit currently required for all 17.400 uses, and (ii) underground lines that fall within new use classification 17.410 shall require a conditional use permit in the C, WR, and WM3 districts and a special use permit in all other zoning districts.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective thirty days after adoption.

This 24th day of March, 2015.

**The motion carried by the following vote:**

**Aye:** Mayor Lavelle, Alderman Seils, Alderman Slade, Alderman Chaney, Alderman Johnson, Alderman Gist, and Alderman Haven-O'Donnell

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**CONSIDERATION OF A TOWN CODE AMENDMENT RELATING TO NOISE  
COMPLAINTS LINKED TO THE OPERATION OR USE OF CERTAIN TOOLS,  
MACHINERY, OR EQUIPMENT**

The purpose of this item was for the Board of Aldermen to consider an amendment to the Town Code relating to the enforcement of violations of construction noise.

Tina Moon, the Town's Planning Administrator, made the staff presentation.

**A motion was made by Alderman Johnson, seconded by Alderman Chaney, that this ordinance be approved.**

AN ORDINANCE AMENDING THE TOWN CODE TO PROVIDE THAT COMPLAINTS  
REGARDING ALLEGED VIOLATIONS OF THE TOWN'S ORDINANCE REGULATING  
CONSTRUCTION NOISE MAY BE FILED WITH THE TOWN MANAGER OR THE  
MANAGER'S DESIGNEE OR WITH THE POLICE DEPARTMENT

Ordinance No. 8/2014-15

THE CARRBORO BOARD OF ALDERMEN ORDAINS:

Section 1. Section 5-21 of the Carrboro Town Code (which establishes penalties and remedies for enforcement of the ordinance provisions set forth in Chapter 5) is amended by adding a new subsection (f) to read as follows:



(f) Complaints regarding alleged violations of the provisions of Subsection 5-12(4) (which deal with construction noise) may be filed with the police department or with the town manager or the manager's designee (other than a member of the police department). Complaints filed with the manager or the manager's designee shall be referred to the police department. The police department shall investigate such complaints and take such action as is warranted by the results of that investigation.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

This 24th day of March, 2015.

**The motion carried by the following vote:**

**Aye:** Mayor Lavelle, Alderman Seils, Alderman Slade, Alderman Chaney, Alderman Johnson, Alderman Gist, and Alderman Haven-O'Donnell

**CLOSED SESSION**

MOTION WAS MADE BY ALDERMAN CHANEY, SECONDED BY ALDERMAN JOHNSON TO ENTER INTO CLOSED SESSION TO DISCUSS A PERSONNEL MATTER AND A MATTER OF ATTORNEY-CLIENT PRIVILEGE. VOTE: AFFIRMATIVE ALL

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**OPEN SESSION**

MOTION WAS MADE BY ALDERMAN SEILS, SECONDED BY ALDERMAN CHANEY TO RETURN TO OPEN SESSION. VOTE: AFFIRMATIVE ALL

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**ADJOURNMENT**

MOTION WAS MADE BY ALDERMAN JOHNSON, SECONDED BY ALDERMAN HAVEN-O'DONNELL TO ADJOURN THE MEETING. VOTE: AFFIRMATIVE ALL