



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

Town of Carrboro

Meeting Minutes

Town Council

May 3, 2022

7:00 PM

Council Chambers - Room 110

This meeting was broadcasted live on cable television and the internet.

Present: Mayor Damon Seils, Council Member Susan Romaine, Council Member Barbara Foushee, Council Member Randee Haven-O'Donnell, Council Member Danny Nowell, Council Member Sammy Slade

Also Present: Richard White, Town Manager; Mary Bryant, Deputy Town Clerk; Nick Herman, Town Attorney

POETRY READING

Fred Joiner, the Town's Poet Laureate, read a poem by Barbara Kostas-Biggs entitled, "Naked in the Macy's Changing Room Trying to Think of Anything Other Than the Election" from her website called "Split this Rock."

PUBLIC COMMENT

Linda Haac, Carrboro resident and member of the Carrboro Transportation Advisory Board, commented on the Town's Comprehensive Plan. She has concerns about what she perceives to be the focus on development and infrastructure and the lack of focus on biodiversity. She also wanted to suggest the correction in the Comprehensive Plan of the Greenway Master Plan from 2006 to 2009.

APPROVAL OF MINUTES FROM THE FEBRUARY 22 AND MARCH 1, 2022 MEETINGS

MOTION WAS MADE BY COUNCIL MEMBER SLADE, SECONDED BY COUNCIL MEMBER NOWELL TO APPROVE THE MINUTES OF FEBRUARY 22, AND MARCH 1, 2022. VOTE: AFFIRMATIVE ALL.

AFFORDABLE HOUSING ADVISORY COMMISSION FUNDING RECOMMENDATION

The purpose of this item was for the Town Council to consider approving recommended funding for one nonprofit affordable housing application to the Affordable Housing Special Revenue Fund.

Motion was made by Council Member Slade, seconded by Council Member Nowell, to approve the following resolution:

A RESOLUTION AUTHORIZING GRANT FUNDING FROM THE AFFORDABLE
HOUSING SPECIAL REVENUE FUND TO EMPOWERMENT, INC.

WHEREAS, the Town Council on, June 27, 2007 adopted resolution no. 244/2006-07 creating the Affordable Housing Special Revenue Fund (AHSRF); and

WHEREAS, the goal of this Fund is to increase and maintain the stock of affordable housing within the Town and its planning jurisdiction; and

WHEREAS, the Affordable Housing Advisory Commission (AHAC) has reviewed and determined that the application from Empowerment meets the criteria for funding under the Affordable Housing Special Revenue Fund; and

WHEREAS, the AHAC has recommended awarding a grant to EMPOWERment in the amount of \$100,000.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO THAT:

Section 1. A grant in the amount of \$100,000 is awarded to EMPOWERment for the acquisition of real property provided that:

- a) The property located at 105 Fidelity Street, A-20 is deed-restricted for permanent affordability for 99 years;
- b) The property is leased to households earning under 60% of the area median income as determined annually by HUD.

Section 2. The Town Manager is authorized to develop and execute agreement(s) as necessary and appropriate to carry out the Council's action.

Section 3. This resolution shall become effective upon adoption.

Section 4. The Town Clerk shall provide a copy of this resolution to the Finance Officer within five days of adoption.

This, the 3rd day of May 2022

Ayes: Mayor Damon Seils, Council Member Susan Romaine, Council Member Barbara Foushee, Council Member Randee Haven-O'Donnell, Council Member Sammy Slade, and Council Member Danny Nowell

INDEPENDENT AUDIT CONTRACT FOR FISCAL YEAR ENDING JUNE 30, 2022

The purpose of this item was to award a contract for the Town's annual independent audit for the fiscal year ending June 30, 2022.

Arche McAdoo, Finance Director for the Town, spoke to Council about the contract and proceeding with Dixon Hughes Goodman LLP. He said that he has had multiple conversations with the representatives of Dixon Hughes Goodman and feels that they will not have another issue in the future.

Motion was made by Council Member Slade, seconded by Council Member Nowell, to approve the following resolution:

RESOLUTION TO AWARD CONTRACT FOR INDEPENDENT AUDIT SERVICES FOR
FISCAL YEAR ENDING JUNE 30, 2022

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO THAT:

Section 1: A contract for fiscal year ending June 30, 2022 is awarded to Dixon Hughes Goodman LLP for a total cost not to exceed \$61,100 to perform independent audit, two program single audits, and annual financial statements. If more than two program single audits are necessary, the

cost of each single audit above two will be \$2,500.

Section 2: The Mayor and Town Manager are authorized to execute the Contract to Audit Accounts (form LGC-205 or equivalent), engagement letter and/or additional items not addressed in the LGC-205.

Section 3: Since the governing board may not obligate future governing boards, it is the intent of the Town Council to renew the annual audit contract with DHG for the fiscal years ending June 30, 2023 and June 30, 2024 based on negotiation and approval by the Town Council.

Section 4: This resolution is effective upon adoption by the Town Council.

Section 5: Within five (5) days after adoption of this resolution the Town Clerk shall file a copy of this resolution with the Finance Officer.

This, the 3rd day of May, 2022.

Ayes: Mayor Damon Seils, Council Member Susan Romaine, Council Member Barbara Foushee, Council Member Randee Haven-O'Donnell, Council Member Sammy Slade, and Council Member Danny Nowell

UPDATES TO TOWN CODE ILLICIT DISCHARGE PROVISIONS

The purpose of this item was to update the Illicit Discharge provisions in Chapter 5, Article IV of the Town Code.

Motion was made by Council Member Slade, seconded by Council Member Nowell to approve the following ordinance:

AN ORDINANCE AMENDING THE CARRBORO TOWN CODE PROVISIONS FOR ILLICIT DISCHARGES TO THE TOWN'S STORM SEWER SYSTEM

Ordinance No. 8 / FY 2021-22

THE TOWN COUNCIL OF THE TOWN OF CARRBORO ORDAINS THAT:

Section 1. Chapter 5 (General Offenses) Article IV of the Carrboro Town Code is amended as follows:

Section 5-31. Definitions

(1) Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; soaps and cleaning solutions; kerosene, gasoline, oil and other automotive fluids; liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects or accumulations, to the extent that the same may cause or contribute to pollution; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, sewage sludge, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; dredged spoil; filter backwash; salt; chemical wastes; biological materials; toxic materials; radioactive materials; wrecked or discarded equipment; sand; dirt; ashes and incinerator residue; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind. This includes any chemical additive to water potentially causing or contributing to pollution.

(9) Surface waters. All, streams, lakes, and ponds that appear as surface waters on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS) as well as Town regulated streams.

Section 5-32 Illicit Discharges Prohibited

(b) Notwithstanding the other provisions of this article, the following shall not be regarded as constituting an illicit discharge:

13. Individual residential car washing or charity car washing that does not allow water to directly enter the stormwater system

15. Dechlorinated swimming pool discharges that discharge across ground in a diffuse and non-erosive manner outside the stream buffer
19. Runoff from residential properties that is discharged as diffuse flow in a non-erosive manner outside the stream buffer

Section 5-34 Inspections

(a) Upon the presentation of proper credentials, Town officers, agents, and employees engaged in the enforcement of this article shall have a right to enter on any premises within the Town at all reasonable hours for the purpose of making inspections, collecting samples, or carrying out other enforcement actions under this article.

Section 5-35 Enforcement

The Administrator is authorized to enforce the provisions of this article through the penalties and remedies available for enforcement as set forth in Section 5-21 of this chapter.

This is the 3rd day of May in the year 2022.

Ayes: Mayor Damon Seils, Council Member Susan Romaine, Council Member Barbara Foushee, Council Member Randee Haven-O'Donnell, Council Member Sammy Slade, and Council Member Danny Nowell

ANNUAL UPDATE FROM OWASA REPRESENTATIVES AND LONG-RANGE WATER SUPPLY PLAN UPDATE

The purpose of this item was to receive an annual update from the Town's appointees on the OWASA Board of Directors as well as an update to the Long-Range Water Supply Plan.

Yinka Ayankoya, Secretary to the OWASA Board of Directors, and Jody Eimers, Chair of the OWASA Board of Directors, provided OWASA's annual update.

Ms. Eimers asked the Council to appoint two new members to ensure that the board can make quorum. Council Member Foushee said that when Ms. Ayankoya leaves the Board in June, there will be no Board members of color remaining. Ms. Eimers said that the Board has tried to recruit in Carrboro's minority communities to find new applicants. Ms. Eimers also spoke about the compensation that Board members receive, which is currently \$100 per meeting with one meeting per month, and that they couldn't convince prospective applicants that this was enough of an incentive. Ms. Eimers said that the idea of other incentives such as child care, transportation costs, and laptops have been discussed.

Ruth Rouse, OWASA Planning and Development Manager, presented OWASA's Long-Range Water Supply Plan.

Todd Taylor, Executive Director of OWASA was on hand to answer questions.

Council Member Randee Haven-O'Donnell asked Ms. Rouse if the treatment center at Jordan Lake would be monitoring for PFAS and PFOA. Ms. Rouse said that they are monitoring for those parameters and looking at treatment. They will also be doing pilot tests on Jordan Lake water specifically.

Council Member Haven-O'Donnell asked if the Jones Ferry Rd. water treatment facility is currently treating the water for ionization or carbonization. Ms. Rouse said that they are effectively removing some of those materials and they have a PFAS dashboard on their website. They collect data quarterly and publish it on the OWASA website.

Council Member Haven-O'Donnell said that she would like to hear a continued discussion on COVID-19 numbers in the wastewater for Carrboro.

Council Member Slade said that he is interested in exploring the way that COVID-19 water samples are taken and the results distributed because instead of receiving them twice a week, as they were previously, the Council is only receiving them once a week. It was determined that the Council needs to contact the County to arrange a different distribution schedule of the COVID-

19 results.

Council Member Romaine said that as a community owned utility, OWASA has tended to have higher drinking water standards than other utilities. So, if OWASA joins this partnership, how will they hold on to their high standards when others may want to just meet the standard as opposed to exceeding the standard.

Ms. Rouse replied that when she meets to discuss planning the treatment facility, the planners say they want to design the plant so that it can meet the standards and are also looking at other ways to implement plans for certifications and sustainability.

Council Member Romaine asked about the proposed 16% rate increase and what OWASA is doing to let the community know how they can receive billing assistance. Ms. Rouse replied that OWASA's Strategic Initiatives Manager is working with local agencies to get the word out to the community about programs.

Council Member Foushee asked the Town Manager when the Council could expect the OWASA appointments to come before them for a vote. The Mayor said that it will probably be in June 2022.

Council Member Nowell asked Mr. Taylor about the specifics of payment plans, forgiveness, and other relief programs for those who owe past due water bills.

Mr. Taylor said that once their plans for repayment are implemented, there should be quite a bit of past due bill reduction then OWASA can collaborate with the Town on how to close the final gap.

Council Member Slade asked Ms. Rouse to compare the direct potable water reuse option and the Jordan Lake agreement option. Ms. Rouse said that she can provide that information to the Council for them to review.

Mayor Seils asked Ms. Rouse to elaborate on the idea of Jordan Lake augmenting OWASA's water source as opposed to using the Jordan Lake supply in an emergency.

Ms. Rouse said that if reservoirs become depleted, there may be a need to switch to another creek to allow them to recover.

Mayor Seils asked Ms. Rouse how OWASA projects demand based on data they receive about the community. She said that they calculate it based on housing and business units and their square footage to calculate water demand.

Council Member Foushee asked Ms. Rouse what the last phase of the plan looks like. Ms. Rouse said that they are going to give the OWASA board a summary of what they heard through the community engagement process in June, then also give them a comparison of the alternatives. She said that the Western Intake Partnership is moving ahead so they need to know if they will join that plan.

**RESOLUTION FOR COUNCIL FINAL APPROVAL FOR FINANCING UP TO
\$12,650,000 FOR THE 203 PROJECT AND APPROVAL OF FINANCING
CONTRACT WITH TRUIST BANK**

The purpose of this item was for the Town Council to approve a final resolution for financing the 203 South Greensboro Street Project and approve a financing contract with Truist Bank.

Bob Jessup, Attorney and Bond Council with Sanford Holhouser was in attendance to answer questions from the Council.

Council Member Romaine asked why there is a specification in the contract that says that the space can only be leased to other 501c3's.

Mr. Jessup said that federal tax laws limit how much space in a building can be used by non-government's non-501c3's and still qualify for the benefit of lower interest rates through tax exempt financing. This provision could only be changed by returning to the lender for their permission.

Motion was made by Council Member Nowell, seconded by Council Member Foushee to approve the following resolution:

**RESOLUTION PROVIDING FINAL COUNCIL APPROVAL FOR FINANCING UP TO
\$12,650,000 FOR THE 203 PROJECT**

INTRODUCTION –The Town of Carrboro has previously determined to carry out a plan to acquire, construct, equip and finance the 203 South Greensboro Street Project (the “Project”) for proposed Town recreation, parks, & cultural resources operations and other various office spaces. The Town has also determined to finance Project costs through an installment financing, as authorized under Section 160A-20 of the General Statutes. In an installment financing, the Town’s repayment obligation is secured by a mortgage type interest in all or part of the property being financed, but not by any pledge of the Town’s taxing power or any specific revenue stream. In this case, the project site and the Town’s interest in the constructed building will serve as the collateral.

The Town has solicited competitive proposals from banks and other financial institutions to provide the desired financing, and Town staff has recommended that the Town accept the proposal submitted by Truist Bank (the “Lender”). The Town’s Finance Officer has made available to this Council a draft financing contract between the Town and the Lender, which will be used in carrying out the Town's financing plan. In this resolution, the Council formally approves financing terms, approves substantially final documents, and authorizes Town representatives to complete the financing.

The Town Council of the Town of Carrboro, North Carolina, RESOLVES as follows:

1. Determination To Proceed with Financing – The Town confirms its plans to undertake the Project. The Town will carry out the Project with financing from the Lender substantially in accordance with a financing proposal dated April 4, 2022.

Under the financing plan, the Lender will make funds available to the Town for use on Project costs. The Town will repay the amount advanced, with interest, over time. The Town will grant to the Lender a mortgage-type interest in the Project site and the Town’s interest in the constructed building to secure the Town’s repayment obligation.

2. Approval of Financing Contract; Direction To Execute Contract -- The Council approves the draft submitted to this meeting of a Financing Agreement and Deed of Trust (the “Contract”) for use in the Project. The Council authorizes the Mayor and the Town Manager, or either of them, to execute and deliver the Contract in its final form. The Contract in its final form must be in substantially the form presented, with such changes as the Mayor or the Town Manager may approve. The execution and delivery of the final Contract by an authorized Town officer will be conclusive evidence of that officer’s approval of any changes. The Contract in final form, however, must be consistent with the financing plan described in this resolution and must provide (a) for the amount financed by the Town not to exceed \$12,650,000, (b) for an annual interest rate not to exceed 2.82% (in the absence of default, or a change in tax status, as described in the Contract), and (c) for a financing term not to extend beyond December 31, 2042.

3. Officers To Complete Closing – The Council authorizes the Town Manager, the Finance Officer and all other Town officers and employees to take all proper steps to complete the financing in cooperation with the Lender and in accordance with this resolution.

The Council authorizes the Town Manager to hold executed copies of all financing documents authorized or permitted by this resolution in escrow on the Town's behalf until the conditions for their delivery have been completed to that officer's satisfaction, and then to release the executed copies of the documents for delivery to the appropriate persons or organizations.

Without limiting the generality of the foregoing, the Council authorizes the Town Manager to approve changes to any documents previously signed by Town officers or employees, provided that the changes do not conflict with this resolution or substantially alter the intent from that expressed in the form originally signed. The Town Manager’s authorization of the

release of any document for delivery will constitute conclusive evidence of that officer's approval of any changes.

In addition, the Council authorizes the Town Manager and the Finance Officer to take all appropriate steps for the efficient and convenient carrying out of the Town's on-going responsibilities with respect to the financing of the Project. This authorization includes, without limitation, contracting with third parties for reports and calculations that may be required under this resolution or otherwise with respect to the financing, and making appropriate payments prior to the loan closing for costs related to the financing and the Project.

4. Resolutions as to Tax Matters – The Town will not take or omit to take any action the taking or omission of which will cause its obligations to pay principal and interest (the "Obligations") under the Contract to be "arbitrage bonds," within the meaning of Section 148 of the "Code" (as defined below), or "private activity bonds" within the meaning of Code Section 141, or otherwise cause interest components of the installment payments to be includable in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Town will comply with any Code provision that may require the Town at any time to pay to the United States any part of the earnings derived from the investment of the financing proceeds. In this resolution, "Code" means the United States Internal Revenue Code of 1986, as amended, and includes applicable Treasury regulations.

5. Additional Provisions – The Council authorizes all Town officers and employees to take all further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. The Council ratifies all prior actions of Town officers and employees to this end. Upon the absence, unavailability or refusal to act of the Town Manager, the Mayor or the Finance Officer, any other of those officers may assume any responsibility or carry out any function assigned in this resolution. The Council authorizes the Clerk to apply the Town's seal, and to attest to the seal, on any document related to the purposes of this resolution. The Mayor Pro Tem or any Deputy or Assistant Clerk may in any event assume any responsibility or carry out any function assigned to the Mayor or the Clerk, respectively, in this resolution. All other Council proceedings, or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict.

This resolution takes effect immediately.

This is the 3rd day of May in the year 2022.

Ayes: Mayor Damon Seils, Council Member Susan Romaine, Council Member Barbara Foushee, Council Member Randee Haven-O'Donnell, and Council Member Danny Nowell

Noes: Council Member Sammy Slade

A MOTION WAS MADE BY COUNCIL MEMBER SLADE, SECONDED BY COUNCIL MEMBER HAVEN-O'DONNELL, DIRECTING THE TOWN MANAGER TO FIND OUT MORE INFORMATION ABOUT WHO IS RESPONSIBLE FOR THE OLD BUS STOP SHELTERS THAT ARE BEING REPLACED, AND HOW THEY MIGHT BE USED TO PROVIDE SHELTER AT THE CORNER OF DAVEY AND JOHNSON AND OTHER POTENTIAL LOCATIONS AS NEEDED. VOTE:AFFIRMATIVE ALL

ADJOURNMENT

MOTION WAS MADE BY COUNCIL MEMBER FOUSHEE, SECONDED BY COUNCIL MEMBER SLADE, TO ADJOURN THE MEETING. VOTE: AFFIRMATIVE ALL

Town Clerk

Mayor