

**REGULAR BOARD OF COMMISSIONERS MEETING
TOWN OF WAKE FOREST, NORTH CAROLINA
November 21, 2006**

Mayor Jones called to order a regular meeting of the Board of Commissioners at 7:00 p.m. Present were Commissioners Stephen Barrington, Velma Boyd-Lawson, David Camacho, Frank Drake, and Margaret Jones Stinnett as were Town Manager Williams, Town Clerk Wilson, Public Works Director Barton, Planning Director Russell, Planner Sary, Planner Summers, Deputy Town Manager O'Donnell, Engineering Director Keravori, Finance Director Staples, Parks and Recreation Director Simpson, and Town Attorney Knight.

Mayor Jones led everyone in the Pledge of Allegiance.

1. Approval of agenda.

Mayor Jones reported that an additional item needed to be added to the agenda:

7. Planning Items.

- E. Consideration of approval of street lights for South White Street and South Franklin Street.

ACTION: Commissioner Drake made a motion to approve the agenda as amended. Commissioner Boyd-Lawson seconded the motion, which carried unanimously (5-0).

2. Approval of minutes.

A. Meetings held October 3, 2006 (Work Session and Joint Public Hearings) and October 17, 2006 (Regular Board of Commissioners Meeting).

ACTION: Commissioner Drake made a motion to approve the minutes of meetings held October 3, 2006 (Work Session and Joint Public Hearings) and October 17, 2006 (Regular Board of Commissioners Meeting). Commissioner Boyd-Lawson seconded the motion, which carried unanimously (5-0).

3. Presentations.

None.

4. Public hearings / Public Comment.

A. Public Comment.

No one spoke.

5. Consent Agenda.

ACTION: Commissioner Barrington made a motion to approve the Consent Agenda Items as presented. Commissioner Camacho seconded the motion, which carried unanimously (5-0).

A. Approval of tax releases (copy on file in Town Clerk's Office).

B. Approval of Budget Ordinance Amendment # 2 for Fiscal Year FY 2006-2007 resulting in the following ordinance:

ORDINANCE 2006-39

BUDGET ORDINANCE AMENDMENT NO. 2 OF THE TOWN OF WAKE FOREST, NORTH CAROLINA FOR FISCAL YEAR 2006-2007

(Body of ordinance contained in Ordinance Book 19)

C. Approval of resolution designating Deputy Finance Officer resulting in the following resolution:

RESOLUTION 2006-44

RESOLUTION AMENDING CHECK AND PURCHASE ORDER SIGNING PROCEDURES FOR THE

TOWN OF WAKE FOREST, NORTH CAROLINA

(Body of resolution contained in Resolution Book 24)

D. Approval of piggyback purchase of two (2) Material Handler/ Bucket Trucks.

E. Approval of bids received for items related to the electric substation (copy of bid tabulations on file in Town Clerk's Office).

6. Legislative Items.

A. Discussion concerning conflicts of interest (copy of documentation on file in Town Clerk's Office).

Consensus of the Board of Commissioners was to direct Town Attorney Knight to bring back a draft resolution at the December 7, 2006 Work Session.

7. Planning Items.

A. Consideration of approval of Case SU-06-06: Consideration of a request filed by Bass, Nixon & Kennedy, Inc. for a special use permit to allow the construction of Patterson Hall, a building taller than 35 feet, on the Southeastern Baptist Theological Seminary Campus, being Tax PIN 1841-42-3360.

ACTION: Commissioner Barrington made a motion to approve the Planning Board recommendation of Case SU-06-06: Consideration of a request filed by Bass, Nixon & Kennedy, Inc. for a special use permit to allow the construction of Patterson Hall, a building taller than 35 feet, on the Southeastern Baptist Theological Seminary Campus based on the findings of fact. Commissioner Drake seconded the motion, which carried unanimously (5-0).

Finding 1: The proposed use or development is located, designed, and proposed to be operated so as not to be detrimental to the public health, safety, and general welfare, in that the proposed building is designed to fit into the existing campus and provide an axial terminus for a planned campus quad.

Finding 2: The proposed facility is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities, in that the proposed building has access to South Wingate Street, a local major thoroughfare; and has been designed to utilize existing public utilities; and is located within the town limits and municipal services will be provided; in that the local fire department is equipped with an aerial apparatus capable of extending to 95 feet.

Finding 3: The proposed use will not substantially injure the value of adjoining or abutting property, in that the proposed building will improve the character of the area because it will replace gravel parking lot and several dilapidated apartment structures; and is maintaining the overall design integrity of the campus and minimizing any adverse impacts on the neighboring residential and historic areas.

Finding 4: The proposed use will not cause undue traffic congestion or create a traffic hazard, in that access is provided from two (2) locations along South Wingate Street and total parking count does not represent an increase.

Finding 5: The proposed use will not create undue noise, dust, and gasses, in that the proposed building is not immediately adjacent to residential use, except for student housing, and the office/classroom will not generate undue noise or pollution.

- Finding 6: The proposed use, if developed accordingly to the plan submitted and approved, will be in harmony with the area in which it is located, in that the proposed building is within the seminary campus and surrounded by existing campus buildings of similar size and architectural character.
- Finding 7: The proposed use or development conforms with the general plans for the physical development of the town, in that the proposed building is an addition to the seminary campus within the Institutional Campus Development (ICD) district. The plan fits with the current Land Development Plan.
- Finding 8: The proposed use or development meets all other rules and regulations within the zoning ordinance and all existing Town polices, in that the proposed building has been designed within the regulations and guidelines of all the Town of Wake Forest plans and ordinances; in that the proposed building complies with the setback requirements for buildings in excess of 35 feet in height as specified in the Institutional Campus Development District (ICD).

B. Consideration of approval of Case SU-06-07: Consideration of a request filed by Centex Homes for a special use permit for a multi-family development (townhomes) to be located in the northeastern quadrant of the intersection of Heritage Hills Way and Dimock Way in the Heritage North Subdivision, being Tax PIN Nos. 1850-06-3539, 1840-95-2959 & 1940-76-0008.

ACTION: Commissioner Boyd-Lawson made a motion to approve the Planning Board recommendation on Case SU-06-07: Consideration of a request filed by Centex Homes for a special use permit for a multi-family development (townhomes) to be located in the northeastern quadrant of the intersection of Heritage Hills Way and Dimock Way in the Heritage North Subdivision based on the findings of fact and conditions as listed below. Commissioner Barrington seconded the motion and the vote was as follows:

<u>Aye</u>	<u>Nay</u>
Commissioner Barrington	Commissioner Drake
Commissioner Boyd-Lawson	Commissioner Stinnett
Commissioner Camacho	

- Finding 1: The proposed use or development is located, designed, and proposed to be operated so as not to be detrimental to the public health, safety, and general welfare, in that the site is appropriately zoned (C.U. R-5) to allow multi-family developments through a special-use permit; and, site density is within the allowable density of the R-5 Zoning District; and, the site will have access to public streets.

- Finding 2: The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities, in that upon annexation, municipal water and sewer service will be available to the site; and, the site will be located within the Town's corporate limits and municipal services; and the site will have pull-out trash containers for refuse disposal; and, the site is located adjacent to and will have access to Heritage Hills Way and Dimock Way, both public roads capable of handling the traffic pertaining to this development.
- Finding 3: The proposed use will not substantially injure the value of adjoining or abutting property, in that the proposed development will provide buffering, screening, and landscaping as required by the Town ordinances. The proposed use is a multi-family residential development (townhomes) which is allowed by a special-use permit in the R-5, Residential-5 District.
- Finding 4: The proposed use will not create undue traffic congestion or create a traffic hazard, in that the adjacent public roads will be designed and built to accommodate the proposed use; and, the proposed development will have access on to Heritage Hills Way and Dimock Way, all of which are public roads and capable of handling traffic generated with this development.
- Finding 5: The proposed use will not create undue noise, dust, and gasses, in that the proposed development is a residential use to which noise, dust, and gasses are not normally associated; and, all vehicle access areas will be paved alleviating potential dust problems.
- Finding 6: The proposed use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is located, in that the proposed use is residential development (single-family attached townhomes) and is similar to other development approved in the overall Heritage Community.
- Finding 7: The proposed use or development conforms with the general plans for the physical development of the town, in that the Town of Wake Forest Land Use Management Plan supports a residential use for this location; and, multi-family residential developments are allowed in the R-5, Residential-5 District through special-use permit; and, the proposed development offers an optional housing type for the Wake Forest Community.
- Finding 8: The proposed use or development meets all other rules and regulations within the zoning ordinance and all existing town polices, in that the master plan submitted with the special-use permit application complies with the requirements of the zoning ordinance; and, the proposed development will comply with all policies and ordinances, including dimensional and other zoning ordinance requirements of the R-5, Residential-5 District.

- Conditions:
1. Dedicate land along Smith Creek to the Town of Wake Forest for future greenway usage. Area to be dedicated shall be determined by the Town's staff with the value of the dedication to be credited towards recreation facility fees.
 2. Extend the area to be preserved as open space to include the 22" sycamore Tree and 18" Oak Tree located in the southern portion of the property.

C. Consideration of approval of a restrictive covenant and non-exclusive landscape easement between the Town of Wake Forest and Dameron Family Ventures, LLC (DFV) for the purpose of landscape installation and maintenance along section of the NC-98 By-pass (copy of documentation on file in Town Clerk's Office).

ACTION: Commissioner Camacho made a motion to approve a restrictive covenant and non-exclusive landscape easement between the Town of Wake Forest and Dameron Family Ventures, LLC (DFV) for the purpose of landscape installation and maintenance along section of the NC-98 By-pass. Commissioner Barrington seconded the motion, which carried unanimously (5-0).

D. Resolution of an encroachment of a swimming pool and fence on town-owned property located in the Crenshaw Manor Subdivision (copy of documentation on file in Town Clerk's Office).

Planner Summers reported that The Kunkles of 1571 Crenshaw Pointe (Crenshaw Manor Subdivision) received a swimming pool and fence permit from the Department of Planning & Inspections on February 1, 1999. During the sale of the property, a survey dated October 23, 2006 revealed that a portion of the pool and fence were installed in error on property owned by the Town of Wake Forest. The fence encroaches approximately 30 feet while the pool and subsequent concrete decking encroaches approximately 9.5 feet.

In order to obtain a swimming pool permit, the planning department requires a development permit along with a site plan showing the proposed location of both the pool and fence. After reviewing the permit application, the pool was appropriately permitted by this office. The encroachment is the result of an error by either the property owners or the contractor, Rising Sun Pools. The planning department has historically experienced problems with Rising Sun Pools either undertaking work without the appropriate permits or on-site installation that varies from approved site plans.

Planning Staff currently utilizes additional safeguards that were not present in 1999. It is now common to require a professional surveyor prepare the site plan

as well as flag the location of the pool before construction in tight situations. On-site zoning inspections are another means of preventing this type of encroachment problem that our office regularly undertakes.

Staff is seeking resolution from the Board of Commissioners through one of the following available alternatives:

1. Enforcement Action. The pool was appropriately permitted and installed in violation of that approval. As a result, it would be the responsibility of the property owner to remove all portions of the pool, decking, and fencing that are on town-owned property. Furthermore, a new permit and survey would be required before another pool could be reinstalled.
2. Exchange of Property (G.S. 160A-271). The town would exchange an equal amount of property with the Kunkles in order to remedy the encroachment. Under this alternative, the town would exchange enough property to accommodate the pool and decking but would require the relocation of the fence to an area more immediate to the decking. For this option, the Board must adopt a resolution authorizing the exchange of property at a regular meeting upon at least ten days' public notice.

Notice must be given by publication describing the properties to be exchanged, stating the values of the properties and announcing the Board's intent to authorize the exchange at its next regular meeting. Staff recommends that the property owner provide the cost for the appraisal, recombination survey, and any other associated fees.

ACTION: Commissioner Barrington made a motion to move forward with the exchange of property. Commissioner Boyd-Lawson seconded the motion, which carried unanimously (5-0).

E. Consideration of approval of street lights for South White Street and South Franklin Street.

Consensus of the Board of Commissioners was to proceed with the recommendations as shown on the following page.

Light Post: Style A - South White Street w/skirt
Style B & D - South Franklin Street w/skirt
Picture #1: Bench

8. Administration and Financial Items.

A. Consideration of approval of resolution to proceed with installment agreement.

ACTION: Commissioner Barrington made a motion to approve a resolution to proceed with installment agreement. Commissioner Camacho

seconded the motion, which carried unanimously (5-0) resulting in the following resolution:

RESOLUTION 2006-45

RESOLUTION APPROVING THE
FINANCING TERMS
WITH RBC CENTURA

(Body of resolution contained in Resolution Book 24)

9. Public Services Items.

- A. Consideration of approval of the real property purchase and sale agreement between the Town of Wake Forest and William B. Ray (copy on file in Town Clerk's Office).**

ACTION: Commissioner Stinnett made a motion to approve the real property purchase and sale agreement between the Town of Wake Forest and William B. Ray for the purchase of 1.43 acre tract of land that will be incorporated into the Wake Forest Cemetery in the amount of \$98,000. Commissioner Drake seconded the motion, which carried unanimously (5-0) resulting in the following resolution:

RESOLUTION 2006-46

RESOLUTION OF THE BOARD OF COMMISSIONERS
REGARDING PURCHASE OF PROPERTY AT OR
NEAR 330 NORTH WHITE STREET

(Body of resolution contained Resolution Book 24)

- B. Consideration of approval of the real property purchase and sale agreement between the Town of Wake Forest and Joseph W. Cooke and Clara B. Cooke (copy on file in Town Clerk's Office).**

ACTION: Commissioner Stinnett made a motion to approve the real property purchase and sale agreement between the Town of Wake Forest and Joseph W. Cooke and Clara B. Cooke for the purchase of 0.048 acre tract of land which will be incorporated into the Wake Forest Cemetery in the amount of \$10,000. Commissioner Drake seconded the motion, which carried unanimously (5-0) resulting in the following resolution:

RESOLUTION 2006-47

RESOLUTION OF THE BOARD OF COMMISSIONERS
REGARDING PURCHASE OF PROPERTY AT OR
NEAR 330 NORTH WHITE STREET

(Body of resolution contained Resolution Book 24)

C. **Consideration of approval of a 4-way stop at junction of East Juniper Avenue and North Allen Road.**

ACTION: Commissioner Boyd-Lawson made a motion to approve the installation of a 4-way stop at the junction of East Juniper Avenue and North Allen Road. Commissioner Barrington seconded the motion, which carried unanimously (5-0).

10. **Parks and Recreation Items.**

A. **Consideration of approval of authorization to apply for a Parks and Recreation Trust Fund Grant (PARTF).**

ACTION: Commissioner Barrington made a motion to authorize staff to apply for a Parks and Recreation Trust Fund Grant for the construction of a 10' wide asphalt paved trail along a 1.1 mile sewer easement from Smith Creek Soccer Center to a pedestrian culvert at NC-98 By-pass. Commissioner Drake seconded the motion, which carried unanimously (5-0).

B. **Consideration of bids for Flaherty Park Phase III (copy of bid tabulations on file in Town Clerk's Office).**

ACTION: Commissioner Barrington made a motion to approve the low bid received from Court One in the amount of \$736,875 for Flaherty Park Phase III. Commissioner Boyd-Lawson seconded the motion, which carried unanimously (5-0).

11. **Public Safety Items.**

A. **Consideration of approval of retirement of Judge (K-9) due to health reasons.**

ACTION: Commissioner Drake made a motion to approve the retirement of Judge (K-9) due to health reasons and sell him to his trainer in the amount of \$1.00. Commissioner Boyd-Lawson seconded the motion, which carried unanimously (5-0).

Town Manager Williams announced that the dates for the Annual Planning Retreat would be January 12 & 13, 2007. He asked everyone to let Town Clerk Wilson know as soon as possible if the date would work for them.

Mayor Jones reported that she had received a letter from Mr. Ed Morris of the Wake Forest College Birthplace Society letting the Board of Commissioners know that its Board of Directors had changed its by-laws for the possible nomination of a Wake Forest Board of Commissioner serving as a voting member. Consensus of the Board of Commissioners was to decline the invitation.

13. Adjournment.

ACTION: At 9:26 p.m., Commissioner Barrington made a motion to adjourn the meeting. Commissioner Boyd-Lawson seconded the motion, which carried unanimously (5-0).