

MINUTES  
TOWN OF PITTSBORO  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
MONDAY, JULY 26, 2010  
7:00 PM

Mayor Randy Voller called the meeting to order at 7:04 p.m. and called for a brief moment of silence.

**ATTENDANCE**

Members present: Mayor Randy Voller, Commissioners Pamela Baldwin, Gene T. Brooks, Clinton E. Bryan, III, Michael Fiocco, and Hugh Harrington.

Staff: Town Manager Bill Terry, Town Clerk Alice F. Lloyd, Town Attorney Paul S. Messick, Jr., Finance Officer Kay Hamrick, Assistant Planner Paul Horne, Police Chief David Collins, Lt. Lesia McCollough, and Officer Troy Roberson.

Motion made by Commissioner Brooks seconded by Commissioner Bryan that Mayor Pro tem Baldwin be commended for the excellent and professional job she had performed conducting the Board meetings while the Mayor was out of town.

Vote   Aye-5   Nay-0

**CEREMONIAL AGENDA**

**1. Memorial Resolution Honoring the Life of Mr. Ralph Riddle.**

Mayor Voller requested that Commissioner Brooks to read the resolution into the record. Commissioner Brooks read the resolution into the record, as follows:

Whereas, on the 21<sup>st</sup> day of July, 2010, death ended the life of Ralph Riddle, a valued citizen of our community, at the age of 99 years old; and

Whereas, Ralph Riddle, through his zeal for this community earned the affection of the people in the Town of Pittsboro; and

Whereas, he served this community well for many years in numerous capacities, including four years of dedicated service to the citizens of Pittsboro as Commissioner and for numerous years as a Manager at Chatham Mills, Inc., in Pittsboro; and

Whereas, service to his community was given with such devotion that it won the respect, admiration and love of all with whom he was associated.

Now, Therefore, Be It Resolved by the Board of Commissioners of the Town of Pittsboro, North Carolina, that we hereby express our deep sympathy at the passing of Ralph Riddle, our former Commissioner.

Be It Further Resolved that a copy of this resolution be spread upon the permanent minutes of the Town of Pittsboro, and that a copy be presented to the family of Ralph Riddle.

Adopted this the 26<sup>th</sup> day of July, 2010.

Motion made by Commissioner Baldwin seconded by Commissioner Fiocco to approve the Memorial Resolution honoring the life of Ralph Riddle, with a copy to be forwarded to the Chatham Record.

Vote Aye-5 Nay-0

**A MEMORIAL RESOLUTION FOR RALPH RIDDLE IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 50**

**AGENDA**

Motion made by Commissioner Harrington seconded by Commissioner Fiocco to approve the agenda as submitted.

Vote Aye-5 Nay-0

**CONSENT AGENDA**

The Consent Agenda contains the following items:

1. Approve minutes of the June 28, 2010 regular meeting.
2. Scheduling a Public Hearing for August 9, 2010 to Consider Adjustments to Zoning Ordinance Parking Requirements.

Commissioner Harrington said regarding the minutes of June 28, on page 7, third paragraph, first sentence, "Commissioner Fiocco" should be corrected to read "Commissioner Harrington." He said on page 26, second paragraph, first sentence, "Commissioner Fiocco" should read "Commissioner Harrington," and in the third paragraph, first sentence, "...Mr. Litchfield had mentioned..." should read "...Mr. Terry had mentioned....". Commissioner Harrington said on page 10, third paragraph, fourth sentence, "He said people were told..." should read "He said people could be told..."

Motion made by Commissioner Fiocco seconded by Commissioner Brooks to approve the Consent Agenda as amended to include corrections to the June 28, 2010 minutes as noted.

Vote Aye-5 Nay-0

**REGULAR MEETING AGENDA**

**Citizens Matters**

Steve Carr, 433 West Salisbury Street, representing City Tap, stated he had submitted for the record a petition requesting changes to the Noise Ordinance. He is requesting changing the

Noise Ordinance to measure sound at the complainants property line – **not** the property line of businesses in the primary business downtown area (C-4 Zone), changing the Noise Ordinance to allow 80 db till midnight on weekends in and to the border of the primary business downtown area (C-4 Zone) and creating a seasonal event permit allowing the above.

Mr. Carr stated he has purchased a meter like the police department uses to measure the levels.

Commissioner Brooks said when the Noise Ordinance was adopted it was not done hastily but was done with a lot of forethought, and there were things in relation to that history that they needed to keep in mind. He said when the Noise Ordinance was first adopted there were no businesses with music such as at the City Tap, and the ordinance had been written for the entire Town and not just the downtown. Commissioner Brooks said because the Town was so old there was a mix of residential with commercial and whatever was done to change the Noise Ordinance would apply to the entire Town. He said he did not believe they would want to create different zones because it would be a law enforcement nightmare, and believed the reason they had required frequent renewal of noise permits in the ordinance was because organizations or individuals might infrequently rent or allow their facilities to be used by others. Commissioner Brooks said that each user needed to be familiar with the Noise Ordinance, and requiring frequent renewal of permits would ensure that. He said when they crafted any changes to the Noise Ordinance those and other variables had to be taken into consideration.

Commissioner Fiocco said the history of the Noise Ordinance Commissioner Brooks had provided was fascinating, noting that there were many communities that worked very hard to have mixed-use development such as what Pittsboro had. He said he had on more than one occasion borrowed the instrument to take measurements of noise in various places, and he had found that right outside City Tap he could get a reading of 70, 75, or 80 decibels, but when he walked about 100 feet away the measurement was back in the 60's. Commissioner Fiocco said what he had found most interesting was that he could take a measurement at the offices of Mr. Messick and could get a reading of 62 decibels, and when the music stopped he would continue to get a reading of 62 decibels because the cicadas were active.

Commissioner Fiocco said that some distance off the property could be a reasonable approach although it might be difficult to determine what that distance should be, so it may be the most reasonable logic to say that the measurements would be taken from the complainant's property line, if there was a complainant, because that would be where the sound was alleged to be offensive.

Mr. Messick said there were municipalities that used language that said measurements would be taken from the nearest residential property line. He said you could have a neighborhood party but one property owner that was not participating might complain about the noise.

Commissioner Baldwin said all of that needed to be taken into consideration as well as consulting with the Police Department to determine exactly where measurements were being taken. She said she did not believe changes should be considered until they received input from the Police Department.

Mr. Carr said the issue with the downtown was that there were zero setbacks, so if you were at the property line you were actually standing right at a building. He said that did not seem a very meaningful place to measure noise and with City Tap if people were on the porch talking they would likely be over the noise limit if measured at their property line. Mr. Carr said according to Mr. Messick noise was being measured now just beyond the property line, and even with conversational noise they would be over the current limit.

Commissioner Harrington said what Commissioner Brooks had pointed out was helpful. He asked if there was any permit that went to a commercially zoned business where the measurement was taken from the nearest residential property line.

Mayor Voller said that was something to work on while crafting new language.

Commissioner Harrington wondered if they could reach some consensus tonight that would indicate that for a permitted live music event at a commercial or business site that the noise measurements would be taken at the edge of the nearest residential zone. He said that was something the Board could do fairly quickly that would provide some relief, be fairly reasonable, and not cause a burden on the nearby residents.

Mayor Voller said that would at least allow them to move forward and craft new language. Mr. Messick said there was criminal liability that would hang or fall on that language, noting it was not just guidance. Mayor Voller asked what the criminal liability was. Mr. Messick responded if the Police were to arrest someone for violating the Noise Ordinance or issued a citation for a violation. Mayor Voller asked what he believed would be reasonable. Mr. Messick said at least they needed to put the language in writing so that they had some document to go on while other language was crafted.

Commissioner Harrington said he would be happy to put forth some language later in the meeting, noting the agenda could be modified by unanimous vote.

Commissioner Baldwin said before they considered any new language she would like to hear from the Police.

Samantha Birchard, 120 Hanks Street, stated that events such as First Sundays, street fairs, and other events relied on outdoor music to draw participants. She asked that the Town Board keep that in mind when considering modifications to the Noise Ordinance.

Gayle Hughes, 150-04 Hanks Street, suggested an acoustical wall might be considered to prevent amplified sound from filtering out of the downtown to residential properties. She said certain noises were more disruptive, such as bass coming through walls of homes, and noise was considered one of the most common occupational health hazards. Ms. Hughes said businesses should ask themselves if their noise level was too loud, and the answer was found when residents two blocks away complained. She said music was not the issue; the amplified bass coming through walls was the problem.

Ms. Hughes described some of the health effects that one study suggested might be due to exposure to varied noise levels, including the effects on heart rhythm. She said exposure to noise attributed to increased frequency of headaches, fatigue, and vertigo, among other more serious effects including how sound pressure affected the ear. Ms. Hughes said one of the questions that the owners of City Tap should be asking themselves was if the protection against the effects of occupational noise exposure provided with sound levels exceeded OSHA noise standards.

Ms. Hughes said she would like to know if any of City Tap's customers had ever complained that the music was too low, or had anyone ever suggested that the bass be increased. She said she understood that Mr. Carr wanted to be a good neighbor, but he also had stated that the law was too restrictive. Ms. Hughes asked that the Town Board make a fair and just decision.

Ms. Hughes said at the last meeting Commissioner Baldwin had asked her if she had ever heard City Tap's music at her home and if any of her neighbors had ever complained, and she had responded no to both questions. But, she said, two weeks ago at around 9:30 p.m., she had heard in her home over the noise of her television the thumping from the bass coming from City Tap. Ms. Hughes said the next Sunday her 84-year-old neighbor had called her to say she could hear the music in her home. She said she did not believe that City Tap would appreciate her sitting in front of their business with a CD player loudly playing with lots of bass while she proclaimed that it did not affect their business.

Commissioner Harrington said to clarify, that music did not play every night but just on Friday, Saturday, and Sunday nights. He asked if the noise bothered her every night. Ms. Hughes said she had only heard it once. Commissioner Harrington said then she had not been bothered other than that one exception. Ms. Hughes said that was correct, noting that the noise did not bother some of the neighbors but there were just as many that were bothered. Commissioner Harrington said he was guessing that generally the music was not always considered to be too loud, in that every Friday, Saturday, and Sunday people were not complaining. Ms. Hughes said although she had only been bothered once, several of her neighbors had complained. Commissioner Harrington said what he was trying to establish was that even the people who might be the most sensitive to the noise were not complaining every night that the music played. Ms. Hughes said if any of the Board doubted the annoyance or effects of the music, they were welcomed to come and sit in their homes and judge for themselves.

Mayor Voller said at his home he sometimes heard music coming from the north although he did not know where it was originating from. He said it appeared that City Tap was now becoming the reservoir for all noise, and wondered if the neighbors always knew exactly where the noise they were hearing was coming from, particularly the bass. Mayor Voller said there was a likelihood that noise was issuing from a private individual and not the City Tap, and asked if the neighbors were absolutely sure that the City Tap was responsible in every instance they had complained. Ms. Hughes said her neighbors had complained only when City Tap had live music, and did not believe it originated from somewhere else. Mayor Voller said there were many sources of noise in the Town beyond just one place, so noise could be coming from some other location. Ms. Hughes stated that as you moved away from City Tap, you could no longer hear the music but could hear the thumping of the bass, and it was "unbelievable torture." Mayor Voller said he did empathize with the situation.

Lesley Landis, President of the Chatham County Arts Council, 45 West Street, stated that the Arts Council encouraged the Town Board to show an awareness of and an appreciation for the cultural value and economic development possibilities of a lively downtown enhanced with live music, and to set policy accordingly. She said specifically, the Arts Council was asking that the Board allow outdoor live music on weekend evenings at all establishments in Town, as well as amend the Noise Ordinance to allow music at 80 dB until 11 p.m. on weekends within and to the border of the primary business downtown area, the C-4 zone, and to measure sound levels at the complainant's property line and not the property line of businesses in the primary business district area. Ms. Landis noted that the Arts Council Board had unanimously voted in favor of those suggestions.

Commissioner Harrington asked how the 80 dB limit was arrived at. Ms. Landis said she was not sure how that number had been arrived at, but the Arts Council had discussed various limits for various times, including 70 dB with a limit of 12 midnight being one of the suggestions. She said that 80 dB with a time limit of 11 p.m. had been the compromise.

Police Officer Troy Roberson stated if the Board had specific questions for the Police Department regarding the Noise Ordinance he would try to respond.

Commissioner Baldwin said she specifically wanted to know where measurements for noise were taken. Officer Roberson said that varied depending on the officer responding to the call, because they were interpreting the ordinance to mean that measurements taken from a property line to be in different locations. He said the ordinance did not say to take measurements from the complainant's property line or from the border of a residential zone, so it was up to officer interpretation. Officer Roberson said he would say that the majority of times that complaints had been received about City Tap, the measurements had been taken across the street at the old PTA Thrift Store parking lot, but at times it had been taken at the old post office lot, at the first telephone pole beyond the City Tap property, and even from the middle of the street.

Commissioner Baldwin said the last time it was taken, did he recall what the location was. Officer Roberson said he did not, but did know that more often than not the readings were taken at the old PTA Thrift Store parking lot. Commissioner Baldwin asked did he know what that reading was. Officer Roberson said he did not. Commissioner Baldwin asked had he taken any measurements. Officer Roberson responded not since last fall, noting that complaints came in at night when he was not on duty. He said according to what other officers had reported, when taking measurements about half the time City Tap was in violation, but the other half they were not. Officer Roberson said that could be attributed to the particular band that was playing as well as where the measurements were being taken.

Commissioner Fiocco asked if the only time a reading was taken was when a complaint was received. Officer Roberson said that was correct. Commissioner Fiocco asked was there some logging of that data to track those readings. Officer Roberson said the officers would add that data to their daily activity logs to indicate the complainant, time, the location, what the reading was, and what action was taken based on that reading. Commissioner Fiocco said then those log

books would indicate how many times a violation was noted versus how many times there was no violation but there had been a complaint. Officer Roberson said that was correct.

Mayor Voller asked as the Community Policing Officer, what he would recommend as the most elegant solution in the interim to provide some clarity. Officer Roberson said he agreed that the Noise Ordinance should apply to the entire Town in the same manner, because having different regulations for certain zones would be very difficult to enforce. He said that would need to be considered, noting that when a band was playing at a First Sunday event how would you determine where their property line would be since they did not own the property.

Officer Roberson said it would be very easy for an officer to measure out 100 feet using a measuring wheel. He said that was an easy solution for the Police, but that might not be possible in all cases.

Commissioner Harrington said to clarify, sometimes there were complaints made about City Tap but they were found to be in compliance. Officer Roberson said that was correct, and in those cases the officers took no action other than to contact the complainant to relay that information.

Commissioner Harrington said he remembered that previously it had been said that the hand-held meters were relatively inexpensive although they did have a more high-tech measuring device. He asked if they had the ability to measure bass level. Officer Roberson said he did not know the answer to that, but he would check and get back to the Board with the answer. He said he considered himself to be knowledgeable regarding sound readings, noting he participated with a somewhat large church band and the device the Police Department used was the same device that the church used. Officer Roberson said when the band played inside the church, their dB levels were between 95 and 105 every Sunday, and he was up-to-date with how sound waves were measured. He said he did not know if there was a device that would measure only the bass line of a noise, but he would look into that this week.

Commissioner Baldwin said basically there were other people that complained about noise other than the music at City Tap, noting there was noise coming from other locations that were at times bothersome. Officer Roberson said that was correct, but most of those other occasions were attributed to a house party that was a one-time occurrence. He said the complaints received over the last year regarding City Tap were the only complaints being received about a business, and those complaints were coming in about every other weekend.

## **OLD BUSINESS**

### **1. Update on the Chapel Hill Transit Express Bus Service (Stephen Spade, Director, Chapel Hill Transportation Department).**

Mr. Terry stated that this item had come before the Board on June 28 with a request to execute an amendment to extend the Chapel Hill Transit Express Bus service for a period of about one year. He said at that time the Board had questions, with the primary question being whether or not they could realize some cost savings by eliminating an earlier route that was underutilized. Mr. Terry said the Board had tabled the item at that time, and subsequently the contract had been

extended through August 13 to allow time for Mr. Spade to appear before the Board to provide an update on ridership and other information.

Stephen Spade stated he wanted to provide the Board with information regarding the history of the Express Bus service, including ridership and operation, to talk a little about marketing activities, and then answer any questions they may have. He said he had provided the Board with a handout that contained an overview of the PX route as well as marketing efforts for that route.

Mr. Spade stated the following:

- The PX route had begun on August of 2009, so they had been operating for just under a year.
- They provided 3 trips in the morning and 3 trips in the afternoon, primarily serving the peak hours on weekdays.
- The ultimate destination was the University of North Carolina campus.
- The system had a \$3 one-way fare and a \$65 monthly pass. The pass price was competitive with Triangle Transit, which charged \$68 a month for its express pass.
- When the service began they were averaging about 17 riders per day, and since that time ridership had been steadily growing. It was their experience that it generally took about 18 months to establish a new transit service and to judge how well it was operating. In March the daily ridership was 147, in April it was 114, and in May it was 194. They were now experiencing their normal summer drop-off with about a 20% decrease in ridership.
- The ridership on this route had actually grown faster than the first-year service from Hillsborough to Chapel Hill and the service from Wake Forest to Raleigh.
- The handout contained a graph of the total monthly ridership on the PX express, as well as the average daily ridership.

Mr. Spade stated that they were now proposing to operate the service for the second year of the contract, and it was their recommendation to maintain the current service levels and continue to market the service to grow ridership. He said they had been working with the Town and Chatham County on the contract, which assumed that service would continue with a Town contribution of about \$18,000. Mr. Spade said they anticipated when they had put their budget together that the ridership of University employees would likely come close to doubling, and they were hopeful that that would be realized. He said they were projecting that ridership going to the University could go as high as 800 riders a day.

Mr. Spade said in terms of marketing, they had focused this first year on the University because they had wanted the ridership to take off quickly. He said marketing efforts had included identifying those people who lived in northern Chatham and Pittsboro so that they could be targeted with the thought that those people were the most likely to consume their product. Mr. Spade said the strategy for the second year would be to continue to focus on University employees and others that were traveling to and from Chapel Hill for work, but then to expand the marketing to include pamphlets in water bills, billboards and newspaper ads.

Mr. Spade said he wanted to point out that they had received a federal grant to support 50% of the operating costs of the project, noting that funds remained in that grant that would subsidize the program through the end of the 2010-2011 fiscal year. He said they currently had an application pending with the State requesting another 18 months of support for this project, and they should know by the end of next month if that application had been successful. Mr. Spade said it was their hope to establish a solid base for the service so they could continue to work to fine-tune the schedules and get people accustomed to depending on the service.

Commissioner Fiocco asked if the 18 months that he was referring to began in 2011. Mr. Spade said that the second 18 months would begin when the current grant expired on June 30, 2011. He said if the grant was approved then the service would be extended another 18 months from that date.

Commissioner Fiocco said they had budgeted \$18,000 to cover the cost of that contract, and asked over the course of providing the service what might cause that cost to increase. Mr. Spade said first of all was the labor, which accounted for about 70% of the operating costs. He said the other issue that could have an impact was fuel prices, although they currently had a contract for \$2.45 a gallon for the fiscal year so any impact would come during the next fiscal year. Mr. Spade said what was most at risk was the revenue, noting that they had gotten a number of calls from University employees asking what was happening since there had been a bit of a delay. He said they had put their marketing efforts on hold, noting that should have begun in July, so they would have to be very aggressive in their marketing efforts. Mr. Spade said they would be closely watching the revenue figures.

Commissioner Fiocco said one of his concerns was that if there were cost increases and the Town had capped its funding at \$18,000, that it might mean a diminishment of service. Mr. Spade said they were fine with having a maximum cost contract with the Town and the County with the understanding that there be a clause that said if something happened and the revenues, grants, and contributions did not cover the operating costs, that they could come back with recommendations on how to reduce costs or give the entities the opportunity to contribute more money. He said the point was that there needed to be the opportunity for that discussion if necessary.

Mayor Voller asked what had been the Town's contribution last year. Mr. Terry said they had budgeted \$24,000, but believed the actual expensive for about a 10-month period was around \$13,000.

Mayor Voller said he believed that was about right, noting the service had not begun until August. He said he believed their payment had been around \$1,200 to \$1,400 a month and the estimates had been based on numbers before the service had grown. Mr. Spade said the contract was higher for both the County and the Town because it was for a 12-month period.

Commissioner Bryan asked what was special about March that caused the numbers to rise. Mr. Spade said there were 4 months that saw typical increases in ridership, which were March and April and October and November when people took fewer vacations. He said they always saw a dip during the summer months and in the winter months when the weather was bad.

Commissioner Harrington asked what percentage of revenue was paid by the University. Mr. Spade said they were budgeting \$32,400 in revenues. Commissioner Harrington said then very few people were paying the \$65 per month. Mr. Spade replied they were budgeting only \$2,400 this year in revenue from passes.

Commissioner Harrington asked if he had the raw data for daily ridership per bus. Mr. Spade said they had average daily ridership that they could look at by trip. Commissioner Harrington asked could the raw data be supplied. Mr. Spade replied yes. Commissioner Harrington said the average daily ridership by trip was in the handout, and asked what period those figures covered. Mr. Spade said that was the average for the year. He said if the Board wanted more detail he could provide the average daily ridership for particular time periods, noting those calculations were done on a monthly basis. Commissioner Harrington said he would very much like to see that data, noting he had been somewhat surprised to see the 6 a.m. data which indicated a 7.5 ridership average. He said he was hearing from others that only about 3 to 4 people rode that bus every morning so the number seemed high to him. Mr. Spade said they normally relied on automated passenger counters which were typically very reliable, but if it was of interest once they got into the fall months they could actually ask the drivers to take visual counts.

Commissioner Harrington asked about bus capacity. Mr. Spade said they ran 2 buses, one of which would hold 36 passengers and the other 43 passengers. Commissioner Harrington said they were using 2 drivers to service the 3 routes. Mr. Spade said the first and third trips were linked together, and then the second trip was covered separately. Commissioner Harrington said he was very concerned about underutilization and the overall cost, and especially about the need for a third route. He said when looking at the numbers it was quite a bit higher than he had expected for that 6 a.m. route. Commissioner Harrington said he was out there every morning, and there were routes that were heavily used. But, he said, he also saw a bus waiting for that later route and at the same time saw a Chatham Transit van also sitting and waiting, and that was a waste. Commissioner Harrington said he did not see the Chatham Transit van every day, but he wondered why they did not coordinate with Chatham Transit to use those smaller vans. He wondered if the Town was paying way more than they needed for that bus route, and asked why not cut the service to two routes a day.

Mr. Spade said he believed the most concern was about the 6 a.m. route, and the way the system was built was that the first trip and the third trip were covered by the same driver. He said according to their payroll policy they had to pay drivers a minimum of two hours, so if that trip was eliminated they would still have to cover a significant portion of that cost by paying wages. Mr. Spade said secondly, as they began to attract more riders they would attract people who had varying work hours, so that first trip in the morning and that last trip in the late afternoons that traditionally had lower ridership would be important to catch those people with more non-traditional work hours. He said their thought was to start the year with the understanding that they would be marketing the service to grow ridership, and then see what happened to the ridership on that early morning trip. Mr. Spade said that route continued to stay at 7.5 and everything else increased, and then they would have to give some consideration to changing that route. He said from their experience they believed that as ridership increased that the early morning route would also increase.

Mr. Spade said in regards to Chatham Transit, there was an effort underway to coordinate with them and he knew that Brian Litchfield had even talked about Chatham Transit making one of the trips for them. But, he said, there was a capacity issue with their vehicles because they were using vans that had very small capacities. Mr. Spade said he would be happy to look into that further with Mr. Litchfield and provide the Board with more information.

Commissioner Harrington said it had been his inclination to pay for two routes and coordinate with Chatham Transit to take that early morning route that was being under-utilized. He said that would bring the cost down, and if they found that the need was increasing they could also bring that route back. Mr. Spade said they would look at that more closely, but reiterated that if they did not use their driver for the 6 a.m. route there would still be costs involved unless they could find somewhere else for that driver to be utilized. Commissioner Harrington said that Chapel Hill Transit had that problem, in that it was not incumbent upon Pittsboro to keep a Chapel Hill employee employed. He said his concern was only that they had a route that was not being used. Mr. Spade said they wanted to provide a resource that was being used by the public, and if not then they would be the first ones to try to allocate that resource elsewhere.

Commissioner Baldwin said in regards to marketing, she continued to hear from people that they had no idea that there was a Pittsboro Express. She asked what new marketing techniques they planned to use. Mr. Spade said he heard that occasionally as well, noting that they would continue to market to the University because that was where the major portion of their revenue would come from. He said as well, they would have a more community-based awareness program that would utilize newspapers, billboards, and flyers so that the general public would know that the service was there. Mr. Spade said they planned to provide more information about that campaign in the next month or so.

Commissioner Baldwin said the people she had heard from were actually University employees, so she believed that more marketing efforts were warranted. Mr. Spade said he hoped she was right, because they wanted to double the ridership to the University. Commissioner Baldwin asked was there any instances where someone was placed on a waiting list, noting one person had told her they had been trying to get on the bus for some time but had not been successful. Mr. Spade replied that might be the result of the University having a cap, although he did not believe that was the case. He said he would check into that and report back to the Board.

Mayor Voller said when they had originally considered this program, there had been a budget put forth for marketing that was included in the grant. Mr. Spade said that was correct, noting he believed it was between \$10,000 and \$15,000. Mayor Voller said they wanted to increase the marketing, and believed that if the Town and the County included flyers in the water bills that they would get a lot more people informed about the service. Mr. Spade agreed that was exactly right, in that they needed to broaden the base of their marketing. He said that he and Mr. Litchfield were working on a more accurate and focused marketing campaign that was community wide. Mayor Voller suggested providing information to the local homeowners associations, and asked if Mr. Spade could come back at some point and discuss with the Board the cost of adding special routes, such as on Saturdays, between Pittsboro and Chapel Hill. He said as ridership grew that perhaps they could consider such an expansion.

Commissioner Harrington said that daily tickets of \$3 and monthly passes at \$65 seemed expensive to him, and he believed that should be considered. He said they were better off getting more riders at a lower cost. Mr. Spade said they had virtually no one paying cash at present. Commissioner Harrington said the price had remained the same, and asked why. Mr. Spade said they could consider some form of discount once the ridership grew. Commissioner Harrington said he believed \$2 was a more appropriate fee. Mr. Spade remarked that Triangle Transit's express fare was \$2.50 and their monthly fare was \$68, so Chapel Hill Transit's fare was certainly in line.

Mayor Voller said perhaps a discount program that would allow the service to grow would be a good marketing tool, noting the goal was to make the service fully functional for all.

Commissioner Baldwin suggested that since football season was fast approaching, perhaps a service from Pittsboro to the University stadium should be considered. Mr. Spade said they would take a look at all of those ideas, but cautioned that some would be somewhat expensive to operate.

Mayor Voller agreed they would need to consider the costs.

Motion made by Commissioner Baldwin seconded by Commissioner Fiocco to approve the Resolution Authorizing the Town Manager to execute the contract amendment extending the Chapel Hill Express Bus Service to June 30, 2011.

Commissioner Bryan said even though our percentage changed the money stayed the same.

Commissioner Harrington said the contract still allowed us the 60 days out clause.

Vote Aye-5 Nay-0

**A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDMENT TO EXTEND THE CHAPEL HILL TRANSIT EXPRESS BUS SERVICE FOR A PERIOD OF ABOUT ONE YEAR, IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 51**

**2. Audited Financial Statements for the Year Ended June 30, 2009 (Lynda Ward, Ward & Foust, CPAs).**

Lynda Ward of Ward and Foust, CPA presented the audit for the Town of Pittsboro for the 2008-2009 Fiscal Year. She briefly reported on the audit findings and complimented the Board on the positive operating performance of the Enterprise Fund. The Board members were encouraged by the report.

The Board accepted the report.

### 3. Update on Potential Changes to the off-premise signs regulations in the Town Zoning Ordinance (Leigh Anne King, Clarion Associates).

Leigh Anne King gave the background on the matter:

- On October 21, 2009, Pittsboro Planning Director David Monroe prepared a memorandum for the Planning Board introducing this issue. The memorandum stated that Mr. Doug Jacobs of ReMax Realty had appeared before the Board of Commissioners and petitioned the Board to consider amending the town's sign regulations to allow the placement of off-premise signs for businesses located away from major highways. The Commissioners referred the matter to the Planning Board for consideration and recommendation. The Planning Board recommended against amending the ordinance.
- On March 23, 2010, Mr. Monroe prepared a follow-up memorandum transmitting a request from the Board of Commissioners asking the Planning Board to re-examine the issue. Focus shifted to off-premises signs for churches. On April 5, 2010 Mr. Monroe prepared a follow-up memorandum to the Planning Board with additional suggestions for consideration. The Planning Board did not have a quorum for the April meeting, and accordingly the item is returning for discussion at the Board's June 7 meeting. On May 3, 2010 Town Attorney Paul Messick prepared a memorandum offering comments on the issue. In June, the Planning Board received a memorandum and recommendation from us outlining options and recommending no changes to current regulations.
- On July 19, the Planning Board continued discussion and had additional information offered as options for consideration.
- At the July 19<sup>th</sup> meeting the Planning Board asked for additional information regarding the practicality of various options to be prepared, and brought to the Board at its early August meeting. The Board voted to table consideration of a recommendation to the Town Board, pending that additional discussion. No action is being requested of the Town Board at this time.

Commissioner Brooks begged to differ with Ms. King and made a motion seconded by Commissioner Baldwin to adopt the amendments to Pittsboro's sign regulations for churches, parks, and other non-commercial facilities or buildings with the following provisions:

1. Signs will be of permanent materials not to exceed 6' by 4' mounted on secure posts or framework.
2. Applicant will pay a \$100 fee and register the sign with the Town Clerk. The fee will be retained by the Town and used to remove the sign if it is not kept in a state of good repair, including painted, good physical shape, and free of trash around the sign.
3. Applicant must have permission from the landowner to place a sign and must show written proof of such permission when making an application.
4. The sign may be lighted with a light focused directly on the sign of no more than 150 watts.
5. The applicant may place banners on the sign for special events such as suppers, fundraising activities, revivals, bible school, etc. This ordinance would not limit banners to those activities mentioned here as they were used as examples.

6. The Town currently allowed such a sign to be used by the Farmers Market. Banners or other methods of informing the public could be put on a permanent sign five (5) days before an event, with removal required within five (5) days after the conclusion of the event.

Mr. Messick stated that the Sign Ordinance was a part of the Zoning Ordinance, and if the Board was inclined to make changes to the Sign Ordinance then it should be referred to the Planning Board for public hearing.

Commissioner Brooks said that the Town Board had the authority to amend the Zoning Ordinance without going through that process. Mr. Messick said he was not aware of that, noting that the Board could make a recommendation for an amendment without it coming from a citizen or from the Planning Board. But, he said, it would still have to go through the public hearing process.

Mayor Voller asked if the Board chose to adopt the motion, what the next steps would be. Mr. Messick replied that the motion was to adopt the amendments, and that motion was out of order. He said if the motion was to recommend the amendments to the Planning Board for its consideration and recommendation and scheduling of a public hearing for some future date, then that would be appropriate.

Commissioner Brooks said he saw no reason why the amendments should not go directly to public hearing, noting that the Planning Board had reviewed the sign ordinance numerous times. He asked was there any objection to doing that. Planning Board Chair Ken Hoyle said that the Planning Board was scheduled to meet next week and the sign ordinance could be discussed at that time.

Mayor Voller said then the Town Board could schedule a public hearing next month, with the assumption being that the Planning Board would have already discussed it and forwarded its recommendation by that time.

Commissioner Brooks amended his motion to include that the proposed changes to the sign ordinance be scheduled for a public hearing on August 23, 2010, accepted by Commissioner Baldwin as the seconder.

Vote Aye-5 Nay-0

#### **NEW BUSINESS**

1. **Informational Report on Efforts to Fight the Crime of Human Trafficking (Dr. Ellen Blair, Soroptimist International of Raleigh, NC and Barbara Sawyer, Women's Club of Raleigh).**

Mayor Voller asked how the word "soroptimist" was defined. Barbara Sawyer responded the term meant "the best for women," adding their local Raleigh organization now had 40 members and were dedicated to improving the lives of women and girls.

Dr. Ellen Blair stated that they worked to improve the lives of women and girls both locally and nationally, and one of their initiatives was to assist local communities in raising awareness and taking action against human trafficking. She said they would be holding a region-wide conference in partnership with the TJCOG to further educate the community and focus on taking action to fight human trafficking. Dr. Blair said they wanted to extend an invitation to the Board as well as the Chief of Police to attend that conference.

Dr. Blair highlighted some points regarding human trafficking, as follows:

- Human trafficking is most often defined as modern-day slavery, which was a criminal activity and morally and ethically abhorrent.
- The federal Trafficking Victims Protection Act (TVPA) of 2000 provided a legal definition which spotlighted the terms “force,” “fraud,” and “coercion” when used for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- The TVPA focused on prevention, protection, and prosecution, which required a community-wide effort to achieve.
- Human trafficking is of concern because it is extremely lucrative. It is the fastest growing criminal activity, it involves organized crime, it is at the international level, and it is second only to drug trafficking. It is estimated to be a \$32 billion operation per year.
- An estimated 27 million people world-wide are being held in human slavery, of which 80% were female. 50% of those females are under the age of 18.
- 100,000 – 300,000 American children are at risk for commercial sexual exploitation each year. The average age of a trafficking victim in the U.S. is 12 to 14 years old, with many much younger. Actual numbers are difficult to determine because the trafficking operates under the radar of most law enforcement.
- Trafficking victims are forced to work in two types of activities: sexual and manual labor. Manual labor includes agriculture, landscaping, domestic, factory, hotels, janitorial, restaurant, day labor, and construction. Other activities include exotic dancing, stripping, carnival work, begging, street peddling, criminal activity, and commercial sex crimes.
- Victims are most often vulnerable people such as the poor, the uneducated, adults and children, male and female immigrants. Those victims include American citizens, orphans, kidnapped victims, runaways, mail-order brides, and gang members.
- Trafficking occurs everywhere in the world, including the United States and including North Carolina.
- North Carolina is one of the top 10 states where traffic occurs, because of its tourism, agriculture, international population, military presence, interstate highways, and its position along the Atlantic seaboard.
- It is a myth that all prostitutes are willing participants. Rescued victim testimonials confirm violations of human rights, and traffickers’ tactics of coercion and force condition victims to convey actions as choice.
- Smuggling and human trafficking are not the same crime. Trafficking is a crime against a person; smuggling is a crime against a border.
- The commercial component of human trafficking: a mother trading her daughter for rent or drugs; a minor may feel obligated through force, fraud, or coercion to stay with a trafficker for shelter or food; or, a pimp prostituting an adolescent.

- Prostitution is not the same as being prostituted, which needed to be remembered when dealing with victims of sexual trafficking.

Dr. Blair stated that their goal was to raise awareness and foster action through citizen actions and community involvement. She said the challenges included that human trafficking was increasing in the region, that human trafficking operated beneath the surface of daily life, and traffickers' operations were highly mobile. Dr. Blair said what they were asking of the Town and its citizens was to assist in raising awareness and a willingness to report suspicious activities, to participate in creating a seamless, timely referral system across the region that would include willingness by law enforcement to respond, and to adopt the most effective policies and enact them throughout the region.

Dr. Blair said that the regional conference entitled "Fighting the Crime of Human Trafficking" was scheduled for September 1 beginning at 8:30 a.m. at the Hope Community Church off I-440 near the Cary Crossroads Shopping Center. She said the conference was open to all elected officials, city and county managers, chiefs of police and sheriffs, and law enforcement telecommunication personnel. Dr. Blair said the general session would focus on establishing a clear understanding of human trafficking and a discussion on the anatomy of a human trafficking case. She said there was breakout sessions planned to discuss the role of elected officials as well as the training of law enforcement telecommunication personnel. Dr. Blair said the expected outcomes included a commitment to lead the region to incorporate policies proven effective in combating human trafficking, and a commitment to incorporate into existing operations the necessary steps and processes to respond to citizen calls regarding human trafficking situations.

Dr. Blair proposed actions included:

- Attend the regional conference to become informed about human trafficking, to learn about promising practices employed in other cities, counties and states, and to form a region-wide task force to review the best practices, identify those most effective for this region, and to recommend a prioritized list for implementation and appropriate action.
- Train telecommunication personnel at the regional conference, and to train investigative units using free on-line training that ranged from 1.5 to 6 hours and also through the use of a training DVD that would be made available to all chiefs in the region.
- Determine where human trafficking fits into the existing response protocols.
- Share information across jurisdictions as needed.

Dr. Blair said that an email would be forthcoming to the Board, the Manager and the Police Chief to provide further information about the conference as well as registration information.

Commissioner Brooks said he had read many years ago about cases in South Carolina that had been referred to as peonage, and that the federal government had passed some laws that had addressed that. He said in 1960 North Carolina native Edward R. Murrow had focused national attention on the plight of American migrant farm workers with his television documentary "Harvest of Shame." Commissioner Brooks asked had conditions improved at all. Dr. Blair responded to a certain degree, but there were also those who withheld payment to their workers. She said that the TVPA of 2000 had also provided some protection.

Commissioner Brooks said there had been a case in Florida where a young girl was kidnapped and eventually murdered and it had led to what was called Meghan's Law in many states. He asked if any of those types of legislations were helping to address the problem. Dr. Blair said that human trafficking meant that you were forcing someone to work in some manner with the perpetrator experiencing monetary gain, which was a different issue. Commissioner Brooks said if a child was being exploited for sexual purposes that would be pedophilia. Dr. Blair said there may be cases where pedophiles were involved in human trafficking, but pedophilia was a separate offence. She said there had been an increase in awareness, but horrific cases still occurred.

Commissioner Brooks thanked the Soroptimist organization for their much needed work, and suggested that Chief Collins be sent the DVD and that he make it available to all of his officers. He also suggested that their Community Policing Officer, Troy Roberson, attend the conference. Chief Collins said he would be glad to make that happen.

Mayor Voller suggested that the Domestic Violence Officer, Lesia McCollough, attend the conference as well. Mr. Terry said he would work with Chief Collins on that, noting there may be others who should attend. He said they would send as many officers as the training budget would allow.

Commissioner Harrington said he understood that this was an increasing problem, and asked if she saw it increasing in this State specifically. Dr. Blair replied yes. Commissioner Harrington asked was it increasing in one particular segment more than others. Dr. Blair said she did not personally know the breakdown for the State, but she could get that information.

Barbara Sawyer said that within the past 9 months, 16 cases had been reported to Legal Aid of N.C. She said those were only the ones that had been reported, and it was their job to make people aware so that more cases would be reported and acted on.

Dr. Blair said they also wanted to empower victims, and on the national level they would be active in the state of Washington during the next Olympics to get their message out to as many people as possible. She said part of the TVPA included what was called a T visa that allowed an illegal to remain in this country for up to 3 years on the condition that they cooperate in the prosecution against their perpetrator. Dr. Blair said that had been a huge help to law enforcement to actually prosecute criminals.

Commissioner Fiocco said they had provided a list of reasons why trafficking occurred in this State, and he could see the correlation to most of them. He said the one he did not see the correlation with was the military presence, and asked how that correlated. Dr. Blair said not to disparage the military, but from her experience during her time in the Navy and living in and around military bases prostitution was prevalent. She reiterated that there was a huge difference between someone choosing to be a prostitute and being forced into prostitution through coercion or force.

Commissioner Baldwin thanked them for their report, noting she had heard the presentation they had given at a recent TJCOG meeting and it was definitely an eye-opener.

## **2. Report on New Buffer Regulations Required by the Jordan Lake Rules (Leigh Anne King, Clarion Associates).**

Mr. Terry stated there was a resolution provided with the briefing tonight, noting that it did not ask that the Board adopt the ordinance but asked that they approve a draft ordinance to be submitted to NCDENR for their review and comment, which would then be sent back to the Town for further consideration. He said that this was a task that Clarion had been asked to assist the Town with, and Ms. King was present to provide some background.

Leigh Anne King with Clarion Associates stated that the Jordan Lake Rules were broken down in the 7 strategies, and 3 of those strategies the Town of Pittsboro must comply with according to State rules. She said the first rule was the stormwater rule for existing development, and the Town had partnered with the County to send in an Adaptive Management Program Proposal to DENR back in December, 2009. Ms. King said they had recently received word from DENR an acknowledgement that that proposal had been accepted and approved. She said they would now move into stage 2 where the County and the Town would work together to implement the program outlined in the proposal, which must be initiated by August 13, 2010.

Ms. King said the second rule focused on new development, and that would not be due until September, 2011. She said that rule required local governments to develop stormwater programs that met 4 specific criteria and a model ordinance was currently being developed by the State to assist local governments in focusing on the minimum requirements they needed to meet. Ms. King said that model ordinance would not be available until February, 2011 and the Town would have until September, 2011 to come into compliance, so no action was required at this point.

Ms. King said the third rule was the riparian buffer rule, which had been due in March of this year and required that local governments establish a 50-foot buffer around all surface waters present on the floodplain map. She said the State had provided model ordinance language to meet the minimum requirements of the rule, and submission was due on May 10, 2010. Ms. King said the Town had just received a letter dated July 20 from DENR suggesting that the Town adopt the model ordinance language and giving them to mid to late August to submit that proposal to DENR to meet the requirement. She said that letter also requested that grammatical and typographical errors be addressed in the version sent to DENR.

Ms. King said that the Planning Board had discussed this item at its July 19 meeting and recommended that the Town Board endorse the State model ordinance for adoption subsequent to approval by the NC Environmental Management Commission. She said the Planning Board had also discussed some components of the ordinance that would likely need some attention and probably a public review process to enhance the ordinance to include issues that had been under discussion by different groups within the community. Ms. King said those components were establishing a buffer width wider than the 50-foot minimum, requiring field verification of stream classifications, and adjusting the Table of Uses that were prohibited within buffer areas.

Ms. King said they agreed with the Planning Board's recommendation and suggested that the Town Board consider adopting the resolution provided in the packet.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to receive the report and to approve the resolution that would endorse the draft Riparian Buffer Protection Ordinance for Land Within the Jordan Lake Watershed with the intent of bringing this draft ordinance to a public hearing for consideration and adoption, and to direct the Town Manager to communicate the Board's endorsement and intent, along with the draft ordinance, to the NC Division of Water Quality for review by the NC Environmental Management Commission.

Mayor Voller asked what modifications they would be able to make to the draft ordinance, noting that the public hearing was to receive comments from the public about issues that may lead to amendments to the draft ordinance. Ms. King said as long as the Town was meeting the minimum requirements included in the State model ordinance, if the Town wanted to increase the restrictions that would not be an issue.

Catherine Deininger said the 3 areas Ms. King had mentioned were of interest to the Roberson Creek Watershed Council as well as their ordinance review committee. She said the areas they wanted to see expanded on in the model ordinance would include the Town's entire jurisdiction and not just Jordan Lake, as well as the issue of identifying streams through field work rather than being based on mapping. Ms. Deininger said as well, the table provided in the model ordinance was burdensome on the Town as far as enforcement, and there were many things included that did not need to be and they would recommend that they be pulled out to simplify enforcement.

Commissioner Fiocco asked how the document should be edited, noting that the Town of Pittsboro had been added in the appropriate places throughout but that was the extent of the editing. Ms. King said that was correct, noting that was done to meet the requirements of the State and later on they would work to improve the ordinance through various edits. Commissioner Fiocco pointed out that on page 29 under #3. Hearing, some of those edits had been overlooked as well as places where specific numbers of days should have been filled in.

Commissioner Fiocco said he was also concerned about the process, noting that the document was due on May 10 and they had been under the impression that Clarion would have reviewed and produced feedback on that document by the end of July. But, he said, at this point they were being urged to submit it to the State in its present form with the thought being that it would have no ramifications because they would have a chance later on to edit it. Ms. King said that was correct, noting it was her understanding that Chatham County was making edits to the ordinance and had also missed the deadline, so Pittsboro certainly was not the only community that would be making edits to the ordinance following the approval by DWQ.

Commissioner Fiocco said he was concerned about what obligation the Town would be committing to by just submitting the ordinance verbatim. He said the Board did not like the ordinance and changes would be suggested to it. Mr. Messick said they were under no obligation other than what was required by law, which was that the Town was to have had the ordinance in place two months ago. He said all they were doing by sending the draft ordinance to the State was to get their approval, and then once the Town made whatever edits it deemed appropriate it would have to be sent back to DWQ for further approval before implementation.

Commissioner Fiocco said then these were rules to address the law. Mr. Messick said that was correct. Commissioner Fiocco said then had they as a Town concurred with those rules. Mr. Messick said that if the Board adopted the model ordinance then the Town would have met its minimum requirement and could not be faulted. Commissioner Fiocco said he was only concerned about not having the opportunity for due process. Mr. Messick said the Town did not have to approve it if the State approved it, but believed they might be in trouble if they did not approve it.

Assistant Planner Paul Horne remarked that the Town could make its changes at any time.

Mr. Terry said that was correct, noting this would be just like any other ordinance in that the Town Board could change it at any time although there were some minimum standards that had to be adhered to. He said the deadline the Town had missed was to get the State a draft of what they intended to adopt, and not an approval, so the State would be satisfied if the draft ordinance was adopted and sent to them.

Commissioner Fiocco said in any case they would be going through a process to analyze that document to see if it satisfied the Town. Mr. Terry said that was correct, noting that although the requirements could not be any less stringent the Town could make them more stringent in whatever way its saw fit. He said he believed the process they had set out would be satisfactory to achieve what the Board wanted to achieve.

Commissioner Harrington said that Ms. Deininger had already suggested some changes that should be made to make it less restrictive. Ms. Deininger said no, that what she was suggesting would not make it less restrictive but would make it less cumbersome to enforce. She said those changes would actually make it more restrictive for the landowner it was applied to.

Commissioner Brooks said this situation was not the Board's fault because they had been given nothing to work with, but since the Town was being told that they had to approve the draft then that was what needed to be done unless they wanted to fight with the State.

Mayor Voller said he believed the frustration was getting something at the last minute that was obviously not the best that they could have and having to pass it when they had in fact had a planner on board. He said obviously this was one thing that had not been done on time, and here they were trying to rush something through that the Board did not entirely agree with.

Mayor Voller asked if they could set the public hearing now. Mr. Messick replied no, because they would have to wait until they received the approval from the State.

Ms. King said that DWQ would submit its approval to the Town in September and would give the Town to sometime in November to incorporate amendments.

Mr. Terry suggested that the Board might want to make a separate motion to form a companion working group that would include their planner and their contract planners and other interested parties to work on some amendments.

Mayor Voller said his only concern was that he did not want to have to wait to get the issues settled and wanted to get the work done as quickly as possible. He asked if anyone had any objections to allow Mr. Terry to form a working group. Mr. Terry said the Board could think about that until the August 9 meeting and decide who they wanted to participate in the working group to conduct a detailed review of the draft ordinance. Mayor Voller agreed that the issue should be placed on the August 9 agenda for the Board's consideration.

Philip Culpepper stated that there was a lot of work that had been done and presented to the Planning Board on this issue, and believed once the Town Board saw that work they would realize that a lot more had been moved forward than they were aware of at present.

Mayor Voller called for the vote.

Vote Aye-5 Nay-0

### **3. Amendment One to the Planning Services Contract with Clarion Associates.**

Mr. Terry stated that they had concluded their recruitment and hiring process for a new Planning Director and he would soon begin working with the Town. He said that the attached resolution would authorize the Town Manager to execute an amendment to extend the Clarion Associates Planning Services Contract for a period of about 30 days to coincide with the arrival of the new Planning Director.

Mayor Voller said then apparently the Manager was happy with the work that Clarion was doing. Mr. Terry said he was pleased in many respects, with the biggest impact that he had observed being in the day-to-day work of the Planning Office and the assistance Clarion was providing to keep business flowing.

Commissioner Bryan asked how often Clarion was in the office. Mr. Terry replied Monday afternoons, Wednesday afternoons, and Friday afternoons for about 4 hours.

Commissioner Bryan asked if Clarion returned return phone calls to citizens. Mr. Terry replied he would assume so.

Commissioner Harrington said the amendment to the contract stated that the agreement with Clarion was dated May 26, 2010, and expired on August 10, 2010, and that was not 90 days. He asked if that was a typo.

Commissioner Fiocco said he believed the contract had actually started on May 11, but may have been executed on May 26.

Motion made by Commissioner Harrington seconded by Commissioner Baldwin to approve Amendment One to the agreement between the Town and Clarion Associates.

Commissioner Brooks said he may have missed something when they had initially entered into an agreement with Clarion. He said he had thought their responsibility was to be in the office to

deal with subdivisions, plats, and that type of thing that the Town had no expertise in dealing with without a Planner on board. He said he had not understood that they would be spending their time on issues that were not major situations.

Commissioner Bryan said he had understood that Clarion would work on an as needed basis. Commissioner Baldwin agreed that was her understanding as well. Mr. Terry said they had budgeted for a certain number of hours per month.

Commissioner Brooks asked how much they had paid Clarion so far, noting he remembered the fee to be \$90 per hour. He said at 12 hours a week that amounted to \$1,080 a week. Mr. Terry said he did not have that figure in front of him.

Commissioner Harrington said he believed the Board had stated they did not want to have office hours where people would just sit and be paid for 4 hours, but would have Clarion's services available when needed.

Mayor Voller said he had the same recollection as Commissioner Harrington, but obviously they could not have a situation where there was no one available to sign zoning compliance permits or to keep other work flowing. He said he did not know how they would function without having someone doing that job.

Commissioner Harrington said he believed they had also said that during the times Clarion was in the office that they would be working on other things. Mr. Terry said there had been three people on the Clarion staff working for them, including Leigh Anne King and Roger Waldon. He said every time that Clarion had staff in the office they had been working on projects, but they also served citizens who came into the office. Mr. Terry said he was satisfied with how those individuals had spent their time.

Commissioner Fiocco said he had heard people say that the Clarion group had done a very good job and helped them out in their issues with the Town. So, he said, he was receiving indications that Clarion was providing a good service to the Town.

Commissioner Baldwin said she did not necessarily want to take away the service, but it appeared that the cost was more than what they had expected.

Mayor Voller said if you looked at what was budgeted, he believed the cost was closely in line. He said his only concern was that the value that the citizens were receiving was excellent, regardless of the number of hours Clarion was working. Mayor Voller said that high value was the most important element, noting that someone could be there all day long and provide no value. Mr. Terry said he believed everyone was doing the very best job possible with the restricted hours that Clarion personnel were in the office. He noted that he had not seen one day that Clarion had not been steadily working while in the office.

Commissioner Brooks said he hoped that in future it would be made clearer what they would be doing and how much it would cost, noting they were the stewards of the citizens.

Mayor Voller called for the vote.

Vote Aye-4 Nay-1 (Commissioner Brooks)

**A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDMENT TO EXTEND THE CLARION ASSOCIATES PLANNING SERVICES CONTRACT FOR A PERIOD OF ABOUT 30 DAYS IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 53**

### **CAPITAL PROJECTS REPORT**

#### **1. Manager's Update on Capital Projects.**

Mr. Terry said due to the late hour he would not provide a detailed update, noting the agenda item contained information that the Board could read at leisure.

Mayor Voller said he believed the most important issue the Board wanted to discuss was the sidewalk project associated with the County Library and the Community College, noting that everything else could wait.

Mr. Terry said that Jay Johnston and Becky Smith with Hydrostructures were present tonight to provide a report on that project, noting they had received bids from the contractor working for NCDOT.

Jay Johnston with Hydrostructures stated that the CMAQ sidewalk project had been a very hard project to negotiate, noting that the notion of the sidewalk was solid, the grant application was approved, and the Town had moved forward to design and construct a relatively small piece of sidewalk which should have been very simple. He said that NCDOT had invited the Town to place its sidewalk project into one of their construction contracts, noting that would provide some NCDOT control over pricing and some assistance in contract administration. Mr. Johnston said that had sounded beneficial to the Town and they had pursued that avenue, but at the time that they had received the quotes from NCDOT's contractor the quotes were in excess of available funding and they had learned today that they were also in excess of what NCDOT administratively had the latitude to approve. So, he said, the price they had in hand did not appear to be a 'move forward' price, and he did not know exactly what the next step should be.

Mr. Johnston said that he and Mr. Terry intended to draw together a meeting with the appropriate NCDOT representatives to try to take the forward steps they would normally take with a bidder whose bid did not quite jive with what they believed was reality. He said options would include that the Town could bid the project independently of NCDOT, although there were some gyrations they would have to go through to procure an engineer, to properly advertise the bidding process, and to oversee the project.

Mr. Johnston said the only real avenue right now was for him and Mr. Terry to meet with NCDOT and a representative of the contractor to try to understand what the apparent resistance was on the part of the contractor to provide a good price. He said it almost seemed that the

contractor did not really want to do the work and had priced it accordingly, and they needed to determine if that was the case and how to address it.

Mr. Terry said they did have a contract with NCDOT to get the work done, and what he had not yet sorted out in his mind was whose problem this was. He said part of him wanted to say it was an NCDOT problem, in that they had a recalcitrant contractor who had provided them a bid that contained numbers that were unrealistic, but the other part of him wanted to just rebid the project separately from NCDOT. Mr. Terry said they did not yet know where they were headed, and that was the reason for the meeting with NCDOT and the contractor.

Commissioner Bryan asked how this situation affected the opening of the roundabout. Mr. Johnston said if they had a good bid from the contractor and could proceed, NCDOT's contract time would not change. Commissioner Bryan said but they did not have that right now. Mr. Johnston said they wanted to try to get the issue solved quickly so that the contract time would not change. Commissioner Bryan said if that did not work out and no sidewalk was constructed, could the roundabout still open. Mr. Johnston said that NCDOT would have to finish the project and open the road, and if the Town chose to proceed with the sidewalk installation it would not require a closure of the road but there would be traffic controls put in place.

Mr. Terry stated that doing that would increase the cost of the project. Mr. Johnston said that was correct, noting that one of NCDOT's selling points was that if the Town piggybacked onto their project that there would be only one disturbance of traffic while the construction was going on.

Commissioner Fiocco asked had there been any rough grading accommodations for the sidewalk included in the contract for the sidewalk to be constructed. In other words, he said, could they build the shoulders appropriately to manage getting the sidewalk installed? Mr. Johnston said he believed the answer was no, noting there may have been some grading around the traffic circle itself, but the sidewalk project extended southward to the signalized intersection at Al's Diner.

Commissioner Fiocco said then the sidewalk contract that was bid would include grading and stormwater issues and not just the sidewalk. Mr. Johnston said that was correct.

Mr. Terry said he believed those were the issues where the prices that were bid were out of line. Mr. Johnston said by piggybacking onto NCDOT's project the sidewalk scope utilized NCDOT's contract and prices, but there were 5 items within the sidewalk scope that NCDOT's prices did not address. He said one of those was grading for the sidewalk, which was the one line item provided by the contractor that was out of line in the eyes of CMAQ and that CMAQ had said they would not accept.

Mayor Voller asked which side of the road the sidewalk would be. Mr. Johnston said the east side from the service station to the traffic circle, and it then crossed over to the Community College to Camp Drive. Mayor Voller asked what would happen to the old gravel road bed they were using now as a temporary access to Camp Drive. Becky Smith, Project Manager with Hydrostructures, said that the NCDOT plan was to open just one piece of the circle to go into

Camp Drive, and then do the grading where that temporary access road was now. Mayor Voller said then the sidewalk would go on top of that temporary access. Ms. Smith replied yes.

Mayor Voller said that was compacted fill and would not require much grading at all, so something did not seem quite right. Mr. Johnston commented “there’s a fly in the ointment.” Mayor Voller agreed.

Commissioner Bryan asked wasn’t that issue brought up about a month ago via an email. Mr. Terry said he did not recall, but the issue had been raised that the contractor had acted as if he did not know he would be doing the work.

Mayor Voller said his impression had been that the contractor had not really wanted to do the work.

Commissioner Brooks said there had been an email sent out over a month ago that basically said that the contractor had not been aware that he was expected to do that work. Mr. Johnston said there was a great deal of information propagated from that site.

Commissioner Brooks asked wasn’t the roundabout designed so that 18-wheelers could actually get up onto the shoulder somewhat. Mr. Johnston said that was his understanding.

Commissioner Harrington said they do it a lot in Raleigh where roundabouts were constructed so that buses could travel over them.

Commissioner Brooks said he believed what would happen was that Park Drive would be torn up by the 18 wheelers, as well as Mitchell Chapel Road. He said he believed the Town would begin to see its secondary roads torn up because large trucks would not want to travel through the roundabout.

Mayor Voller asked if it was possible to invest any of the CMAQ funding in greenways since the intent of the funds was for congestion mitigation and air quality. Mr. Johnston responded he did not know the answer, noting that had not been listed on the grant application. Mayor Voller said that sidewalk would be a big design job, but there were other ways that the funding could potentially be used. Mr. Johnston said when the grant administrator had told him today when she had said the bid was too out of line for NCDOT to approve, he had asked if the scope of the project could be altered in order to salvage the project. He said the answer went back to the application process where you equated linear feet of sidewalk and its reach to the number of trips and cars reduced by construction of the sidewalk. Mr. Johnston said if they reduced the scope of the project, in theory they reduced the number of people using sidewalks instead of cars, and that would be taken very seriously.

Commissioner Fiocco asked if they knew whether the general contractor provided the bid or had they sent it out to subcontractors. Mr. Johnston said the word he had gotten was that the general contractor was not terribly interested in the Town’s sidewalk project because most of the work in a sidewalk project would go to subcontractors.

Commissioner Harrington said they had a contract with NCDOT to build the sidewalk, and in theory they should be saying to NCDOT that this was their problem. Mr. Terry said part of him agreed, but if he took that position NCDOT may not agree. Commissioner Harrington said they had made a deal with NCDOT and had a contract with NCDOT to get the sidewalk built, so why was it not NCDOT's problem.

Mr. Messick said he had not looked at the contract so he could not comment one way or the other.

Mayor Voller said if NCDOT had the Town over a barrel they would certainly enforce the contract and force the Town to pay for it. He said that NCDOT had done that to them in the past. Mr. Terry said it was his first inclination to say that if NCDOT's general contractor did not want to do the work then they needed to find another general contractor.

Commissioner Bryan said that would be his thought as well.

Commissioner Harrington said the Town had never had any arrangement with that contractor, so that was really not their problem at all. Mr. Johnston said the Town had done its part in this case to meet all the requirements.

Commissioner Bryan asked what Mr. Johnston suggested that the Town do. Mr. Johnston said the only thing to be done now was to meet with NCDOT and the contractor, and that was his recommendation.

Mr. Terry said that would be his recommendation as well, and he would try to get a meeting scheduled within the next week.

Mayor Voller asked Mr. Johnston to determine if CMAQ funds could be used for greenway. He said they wanted to have the sidewalk built and they needed to do right by their citizens. Mr. Johnston stated that they received weekly updates, and people on the site had said that the contract would be longer and the road would be closed longer because of Hydrostructures. He said that was not true and had never been true, noting that was not a part of the relationship with NCDOT. Mr. Johnston said the contract specified a completion time for the project and that completion time remained the same.

Mr. Terry said part of why NCDOT had requested that the Town piggyback the sidewalk project was in response to County Manager Charlie Horne's concern that he wanted the work done before he had to close the circle around the courthouse.

Mayor Voller agreed, adding he did not like the way the Town was being treated by the general contractor.

Commissioner Fiocco asked what the unit cost was for the sidewalk. Mr. Johnston said the original bid for the roadway contained language for the additional scope of the sidewalk, and the cost was quoted at \$29.74 per square yard. He said they had budgeted for an average cost of \$25

per square yard. Commissioner Fiocco asked what the date was of the bid. Mr. Johnston stated it was dated last Tuesday.

Commissioner Fiocco if they had gotten sleeves in for the water mains. Ms. Smith replied yes.

Mr. Johnston said NCDOT had executed the scope of its project, and had really seemed to push off the time to give the Town its quote. He said it was about 3 weeks late.

Commissioner Fiocco said he believed those sleeves were also part of Pittsboro's contract.

Mayor Voller said it was beyond him that with the number of people out of work and with contractors struggling to find work that the Town could not find someone to do the work at a reasonable cost.

Mr. Terry said he believed that Mr. Johnston would also provide the Board with an update on the USDA grant process for the Downtown Water System Improvement Project.

Mr. Johnston said they had written the preliminary engineering report portion of the application and had forwarded it to the USDA for its review. He said the second requirement of the process was an environmental document which would go out this week, and the third part was the application for funding which would soon be completed. Mr. Johnston said the most difficult part that remained was the work to fill in some of the numbers, which they could not do without Kay Hamrick's assistance and they were working with her to get those numbers. Mr. Johnston said there had been a request for documentation sources which would be submitted once all edits were completed.

Mayor Voller said the main thing was that if they were going to contact the Congressman to have someone on staff to look into the context of those grants, they had to have a reference and that was what he needed. Mr. Johnston said he had talked with USDA about that but a reference number had not yet been assigned. Mayor Voller said having that reference number it made it much more effective when they wanted to support the project. Mr. Johnston said he would get that to him as soon as it was available.

Commissioner Fiocco said he was watching the completion date for the upgrades at the Wastewater Treatment Plant, noting it had something to do with payment of the loan. Mr. Terry said he believed they were still on schedule with that.

Mr. Johnston said the project was on schedule, and it was not uncommon to get three days ahead or three days behind. He said there had been no major upsets or issues that would cause the schedule not to be met.

Commissioner Fiocco said that the quote for change order #5 was in excess of \$95,000, but believed they could do that work at a later time. He asked if Mr. Terry had an estimate of when that might be possible. Mr. Terry replied they would have to prepare a scope of work, but did not believe the work was an emergency. He said if they got to the end of the project and there were funds remaining, then it was possible that they could move forward with work on that

change order. Mr. Terry said for now, he believed they should table it and take another look at it in late August or early September.

Mr. Johnston said in regards to the Improvements on 15-501 and Springdale Drive project, he had been asked by Mr. Terry to review the drawings and budget estimates for that work. He said that his memo had provided the budget estimates for adding the northbound turning lane at \$32,000 and the southbound turning lane at \$53,000. Mr. Johnston said in 2008 those estimates had been \$23,000 and \$29,000 respectively, and the reason he had adjusted the estimate up was due to asphalt that was thicker than what had been originally considered, as well as some additional grading and some impact to the stormwater system under Springdale Drive.

Commissioner Harrington asked why the estimate was so much higher than the \$50,000 that had been estimated by Samir Bahho. Mr. Johnston said he had not seen the breakdown in Mr. Bahho's estimate so he could not comment. He said he had provided his estimate by line item so that the work could be broken out. Mr. Johnston said as the Town's representative he tried to provide them with conservative estimates so that they could budget enough for the project, because he would rather they had money left over rather than having to put more money into a project.

Commissioner Fiocco said the plans he was basing his estimate on were the approved permitted plans from NCDOT. Mr. Johnston stated the plans he had were under Mr. Bahho's seal and were labeled for reviewed and not for construction. Commissioner Fiocco said he believed there had been a permit issued, so it would be complete with the encroachment agreement and all the stipulations. Mr. Johnston said there were no NCDOT stamps on the documents he had.

Mr. Terry said the set of plans that Mr. Johnston had were the same set that Mr. Bahho had provided, and Mr. Bahho had said that the plans he had submitted to him were the approved plans.

Mayor Voller said he did not believe they would get stamps until the encroachment agreement was signed.

Mr. Johnston said a key question was what to do about the existing 10-inch a/c water line that ran under Springdale Road. He said that Mr. Terry had asked him to determine what NCDOT required for the relocation of that main as a function of the project, and he had not gotten a response to the question of whether they would require it. But, he said, it was a proposed project on the Town's CIP and it was part of the project that the USDA law was written for. Mr. Johnston said he would not recommend working on only a piece of that a/c pipe because it was failure prone under the rigors of close construction. He said he would recommend that the Town address the whole issue at once.

Commissioner Harrington said if they were to do the work piecemeal, did he have a number of what they would cost. Mr. Johnston said if, for instance, they wanted to do just 60 feet of it the cost would be about \$20,000. He said 1,900 feet of a/c pipe was what was in the USDA proposal.

Commissioner Brooks said at one time the State was picking up the cost for piping if it was in a community under 5,000 in population. Mr. Johnston said he believed what he was referring to was some roadway improvement and relocation projects. Commissioner Brooks said that the State was requiring that roadway. Mr. Johnston said that was a good point, and he would be happy to pose the question.

Commissioner Harrington asked about the cost of the full run of 1,900 feet. Mr. Johnston said that was likely to be a quarter million dollar project, although that estimate was a ballpark.

Commissioner Harrington said the estimates included \$30,000 for traffic calming, \$85,000 for the turning lanes, and \$20,000 for relocating the pipe. He said that totaled \$135,000, and he believed that Mr. Terry had said they would need to hire an engineer to oversee the work which would carry an additional cost. Mr. Johnston said that there would also be inspection costs which should have a placeholder in the budget.

Mr. Johnston said they had worked a lot with the Jordan Lake rules, and one interesting thing they had learned was that the rules had come about opposite from the normal path, which would be to recognize a need at the State or legislative level, directing staff to come up with rules and then have the legislature act on them. He said these rules had apparently occurred at the legislative level and then handed to DENR, and DENR themselves had struggled to figure them out. Mr. Johnston said for the first several months of involvement they had tried to learn the impact and how to apply the rules to design work and review work, and DENR had been somewhat helpless because they were trying to figure out what to do. Mr. Johnston said he believed that there was some time to get it right, and that there were resources that the Town could call on including Fred Royal and others.

Commissioner Brooks asked why the State was doing those regulations for a federal project, noting that the federal government controlled over 40,000 acres of land with 14,000 plus acres of water. He said he believed the federal government through the Army Corp of Engineers already had regulations in place, and did not understand why the State was getting involved. Mr. Johnston said he did not know if anyone knew, but the practical answer was that it was related to water quality which was passed down to the State level. He said this was really about water quality downstream and the State trying to honor its commitment to the federal government, or the EPA, to implement rules that they believed were necessary.

Mr. Messick said it was also linked to concerns regarding drinking water.

Mr. Johnston said many of the regulations being pushed these days were related to water quality.

Commissioner Brooks asked that Mr. Johnston obtain a copy of the August edition of Wildlife in North Carolina, noting the cover story was suppose to be about pollution in Jordan Lake.

Mr. Terry Horton noted that the Horton Booster Pump Project had been completed on Friday.

## **Commissioner Concerns**

Commissioner Brooks said that the old railroad depot that had been given to the Town many years ago and moved to its present location beside the basketball court and the tennis courts was dilapidated. He said it had a hole in roof, the door was hanging open, and the building had deteriorated, and it was a potential threat as well as an eyesore. Commissioner Brooks said he would like to at least do something to prevent people from going in that building as well as to make some plans as soon as possible to tear it down because it was dangerous. Mr. Terry said they would take a look at it and report back to the Board. Commissioner Brooks said he did not believe that structure could be repaired, noting it should be torn down before someone was injured.

Commissioner Brooks said he had looked at the situation on NC 87 and believed when completed there would be more water coming down Salisbury Street during rain events. He proposed that they install some larger pipes under driveways and walkways to prevent flooding of yards. Mr. Terry said that was a part of the sidewalk project. Commissioner Brooks said he was talking about turning down Salisbury Street and traveling towards the Episcopal Church and the creek. Mr. Johnston said the project Mr. Terry referred to covered only about the first half of the block off of NC 87. Commissioner Bryan said that area already flooded during rain storms.

Mayor Voller said that improvements such as that could be done with Powell Bill funds.

Commissioner Fiocco said that regarding the Central Electric Membership Corporation loan, he believed they were on schedule to submit all of the information to the LGC at the end of this month. Mr. Terry said that the LGC met monthly, with their next meeting on August 4, so he believed they were looking at September.

Commissioner Fiocco said he wanted to know if they could transfer funds from the Downtown project to the Woodbury Forest project, which was Central Electric Membership Corporation money and was suppose to go towards water improvement. He said if the USDA covered all the costs, could they take those other funds and transfer them to the Woodbury Forest project. Mr. Messick said he was not sure they cared what it was spent for. Mr. Terry said he would check on that.

Mayor Voller said there were other Block Grants that could be used as well, and they needed to explore other funding opportunities.

Commissioner Baldwin said she remained concerned about the work on 87 and that large trucks continued to use the secondary roads

Commissioner Brooks asked Mr. Terry if he knew when the railings would be installed at the drop off at the sidewalk on 64 east. Mr. Terry said the materials had been received and he was optimistic it would be done by the end of the week.

Mr. Messick said regarding the promised language for the sign ordinance, there was alternative language that Clarion had proposed to the Planning Board. He said that provision 17-202 was

the provision that said that noise shall not be beyond the property line from which the sound originated. Mr. Messick said that Clarion had suggested that it be measured at a distance of 100 feet from the source of the sound or at the edge of the property from which the sound was generated, whichever was greater. He said his alternative spoke specifically to commercial properties, which would amend Section 17-202 to include: "Provided, however, that sound levels originating from commercially zoned property shall not exceed the limits set forth herein when measured at the nearest residentially zoned property."

Motion made by Commissioner Harrington seconded by Commissioner Fiocco to modify the meeting agenda to include consideration of an amendment to the Noise Ordinance.

Vote Aye-5 Nay-0

Motion made by Commissioner Harrington seconded by Commissioner Fiocco to approve the amendment to Section 17-202 of the Code of Ordinances to be effective immediately, as follows: "Provided, however, that sound levels originating from commercially zoned property shall not exceed the limits set forth herein when measured at the nearest residentially zoned property."

Vote Aye-5 Nay-0

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWN OF PITTSBORO IS RECORDED IN THE BOOK OF ORDINANCES NUMBER ONE, PAGE 26**

Mayor Voller asked that the Police Department be supplied with an updated zoning map so that they would know exactly where measurements should be taken.

Commissioner Harrington remarked that on behalf of the Park and Recreation Department, they would like to have a portable toilet placed at the new park. He asked that staff come back with a price estimate of what that would cost so that the Board could consider funding that. Mr. Horne stated the cost would be \$60.00 per month. Commissioner Harrington said it also appeared that the one at Town Lake Park was not being cared for. Mr. Horne stated that it was serviced on a regular basis, but he would check into that.

Mr. Terry said he would bring an agenda item forward for the Board's consideration at the next meeting.

Mayor Voller noted that he had received a very nice letter from the corporate offices at 3M, which reflected well on the Board and the Town. He said he had taken resolutions from the Town and the County with him that he had delivered to different places in Europe during his recent trip, noting those had been well received. Mayor Voller said their Senator had provided a similar resolution, which he provided to the Town Clerk for the record. He said his last item was that he would like the Board to comment on a request from Tony Aulisa; 3M for a resolution, and those comments could be brought to the next meeting.

**FYI**

1. Mayor Pro Tempore Commissioner Baldwin's letter of July 2, 2010; RE: Future Use of the Pittsboro Memorial Library Building
2. Citizen Input on the Noise Ordinance and/or the Music Program at the City Tap.
3. Steve Carr memorandum of July 21, 2010; RE: Petition for modification of the Noise Ordinance.
4. NCDENR letter of July 7, 2010; RE: Follow-up question relating to the NPDES permit for the Town of Pittsboro 3.2 MGD Waste Water Treatment Plant project.
5. Chatham County Health Department News Release of July 13, 2010; RE: The Town of Pittsboro Awarded the Fit Community designation at the Bronze level.

**ADJOURN**

Motion made by Commissioner Brooks seconded by Commissioner Bryan to adjourn the meeting at 11:15 p.m.

Vote    Aye-5    Nay-0

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Randolph Voller, Mayor

ATTEST:

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Alice F. Lloyd, CMC, Town Clerk