

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, January 17, 2012 in the Board Room of the Carrboro Town Hall.

Present and presiding:

Mayor	Mark Chilton
Aldermen	Dan Coleman
	Jacquelyn Gist
	Lydia Lavelle
	Randee Haven-O'Donnell
	Sammy Slade
Interim Town Manager	C. Matthew Efird
Town Clerk	Catherine C. Wilson
Town Attorney	Michael B. Brough

Absent:

Alderman	Michelle Johnson
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**ORANGE COUNTY LANDFILL CLOSING**

Tish Galu, a representative from Orange County Justice United, spoke to the Board about the upcoming January 26, 2012 joint meeting between the Town, Orange County and Chapel Hill. She spoke in favor of the closing of the Orange County landfill for the good of the Rogers Road neighborhood.

Mayor Chilton made comments regarding the impact that the closing of the landfill will have on the Town of Carrboro. He also suggested that the County consider delaying the closing of the landfill until 2015 to allow time for the construction of a transfer station.

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**COMMUNITY HOME TRUST**

Robert Dowling, Executive Director of the Community Home Trust, asked the Board to consider passing a resolution that will ask the Board of County Commissioners to reduce impact fees for private developers who develop inclusionary housing.

MOTION WAS MADE BY ALDERMAN COLEMAN AND SECONDED BY ALDERMAN SLADE FOR STAFF TO PREPARE A RESOLUTION AND TO BRING THE ITEM BACK AS A FUTURE CONSENT ITEM. VOTE: AFFIRMATIVE SIX, ABSENT ONE (JOHNSON)

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**POSSIBLE LIBRARY LOCATION**

Bill Madden, a resident of 124 Fidelity Street, spoke to the Board about a library location near Jones Ferry Road and Fidelity Street across the street from where he lives.

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**A RESOLUTION ON CORPORATE PERSONHOOD**

Brian Gasden, a resident of 180 BPW Club Road - Apt J1, spoke in favor of the proposed resolution.

The following resolution was introduced by Alderman Coleman and seconded by Alderman Slade:

A Resolution on Corporate Personhood  
Resolution No. 72/2011-12

Resolution supporting an amendment to the Constitution to provide that corporations are not entitled to the protections or “rights” of natural persons and to provide that campaign spending does not fall under the free speech protection of the First Amendment and can therefore be regulated.

Whereas, in 2010 the United States Supreme Court issued its decision in *Citizens United v. Federal Election Commission*, holding that independent spending on elections by corporations and other groups could not be limited by government regulations; and

Whereas, this decision rolled back the legal restrictions on corporate spending in the electoral process, allowing for unlimited corporate spending to influence elections, candidate selection, and policy decisions; and

Whereas, in reaching its decision, a majority of the Supreme Court, relying on prior decisions, interpreted the First Amendment of the Constitution to afford corporations the same free speech protections as natural persons; and

Whereas, in his eloquent dissent, Justice John Paul Stevens rightly recognized that “corporations have no consciences, no beliefs, no feelings, no thoughts, no desires.... [and] are not themselves members of ‘We the People’ by whom and for whom our Constitution was established”; and

Whereas Montana Supreme Court Justice James C. Nelson recently echoed Stevens’ sentiments, writing that “Corporations are not persons. Human beings are persons, and it is an affront to the inviolable dignity of our species that courts have created a legal fiction which forces people — human beings — to share fundamental, natural rights with soulless creatures of government.”; and

Whereas, the Court’s decision in *Citizens United* severely hampers the ability of federal, state and local governments to enact reasonable campaign finance reforms and regulations regarding corporate political activity; and

Whereas, the *Citizens United* ruling may wrongly lead to future legal decisions that could expand its holding further; for example, there is currently a case in the fourth Circuit Court of Appeals (*U.S. v. Danielczyk*) in which the district court judge, citing *Citizens United*, held that the Federal Election Campaign Act provision banning direct corporate contributions for federal office was unconstitutional; and

Whereas, corporations should not be afforded the protections or “rights” of natural persons, such that the expenditure of corporate money to influence the electoral process is a form of constitutionally protected speech; and

Whereas, several proposed amendments to the Constitution have been introduced in Congress that would allow governments to regulate the raising and spending of money by corporations to influence elections;

Now, therefore, be it resolved, that the Carrboro Board of Aldermen opposes the Supreme Court’s interpretation of the Constitution in *Citizens United* regarding the constitutional rights of corporations, and supports amending the Constitution as advocated nationally by the “Move to Amend” movement, specifically that:

**Section 1** [*A corporation is not a person and can be regulated*]

The rights protected by the Constitution of the United States are the rights of natural persons only.

Artificial entities, such as corporations, limited liability companies, and other entities, established by the laws of any State, the United States, or any foreign state shall have no rights under this Constitution and are subject to regulation by the People, through Federal, State, or local law.  
The privileges of artificial entities shall be determined by the People, through Federal, State, or local law, and shall not be construed to be inherent or inalienable.

**Section 2** [*Money is not speech and can be regulated*]

Federal, State and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate's own contributions and expenditures, for the purpose of influencing in any way the election of any candidate for public office or any ballot measure.  
Federal, State and local government shall require that any permissible contributions and expenditures be publicly disclosed.  
The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment.

**Section 3**

Nothing contained in this amendment shall be construed to abridge the freedom of the press.  
Be it further resolved that this resolution be forwarded to Carrboro's representatives in the United States Congress.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

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**APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

MOTION WAS MADE BY ALDERMAN GIST AND SECONDED BY ALDERMAN COLEMAN TO APPROVE THE JANUARY 10, 2012 MINUTES. VOTE: AFFIRMATIVE SIX, ABSENT ONE (JOHNSON)

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**CERTIFICATION OF FIRE DEPARTMENT ROSTER**

The purpose of this item was to satisfy North Carolina General Statute 58-86-25, which requires all certified fire departments to annually submit a complete roster of its qualified fire personnel to the North Carolina Firemen's Pension Fund. The roster must be signed by a representative of the Department's governing body.

The following resolution was introduced by Alderman Gist and duly seconded by Alderman Coleman:

A RESOLUTION AUTHORIZING THE MAYOR  
TO SIGN THE ANNUAL CERTIFICATION OF FIREMEN  
Resolution No. 66/2011-12

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

Section 1. The Mayor is hereby authorized to sign the 2011 Annual Certification of Firemen.

Section 2. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

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### **ASSISTANCE TO FIRE FIGHTERS GRANT AWARD**

The Town of Carrboro has received a grant from the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) to install a fire sprinkler system in Fire Station #1, next to Town Hall. This grant in the amount of \$67,950.00 requires a local match of \$7,550 for a total grant award of \$75,500.00. The Board is requested to approve a grant project ordinance to recognize these revenues and appropriate them for expenditure for their intended purpose. The Board is also requested to approve an amendment to the FY 2011-12 Budget Ordinance to appropriate \$7,550.00 from fund balance for the local match requirement.

The following ordinance was introduced by Alderman Gist and duly seconded by Alderman Coleman:

#### **2012 ASSISTANCE TO FIRE FIGHTERS GRANT PROJECT ORDINANCE** Ordinance No. 17/2011-12

WHEREAS, the Town of Carrboro, through the Fire-Rescue Department, has been awarded a \$67,950.00 Assistance to Fire Fighters Program Grant by the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) to install a fire sprinkler system in Fire Station #1; and,

WHEREAS, the grant must be used to install a fire sprinkler system in Fire Station #1; and,

WHEREAS, local matching funds in the amount of \$7,550.00 are required; and,

WHEREAS, the Board of Aldermen for the Town of Carrboro deems this activity to be a worthy and desirable undertaking;

NOW, THEREFORE PURSUANT TO N.C.G.S 159-13.2, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO THAT:

1. The grant project is authorized to support the installation of a fire sprinkler system in Fire Station #1 and is hereby authorized to be undertaken until all grant project activity is completed.
2. The Interim Town Manager is authorized to execute the grant agreement and other documents that are required or appropriate in order for the Town to receive the grant and undertake this project.
3. The following revenues are anticipated to be available to the Town of Carrboro to complete this project:

Assistance to Fire Fighters Program Grant	\$67,950.00
Fund Balance Appropriation for Local Match	<u>\$ 7,550.00</u>
Total	\$75,500.00

4. The following amount is appropriated for this project to be expended in the following manner:

Installation of Fire Sprinkler System	<u>\$75,500.00</u>
Total Appropriation	\$75,500.00

5. Within five (5) days after this ordinance is adopted, the Town Clerk shall file a copy of this ordinance with the Finance Director.

The foregoing ordinance having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

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**REQUEST TO APPROVE A SUPPLEMENTAL AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) FOR AN EXTENSION OF THE CONSTRUCTION COMPLETION DATE FOR THE ELM STREET (SR-5001AE) SIDEWALK PROJECT**

The Board was requested to approve a Supplemental Agreement with NCDOT allowing an extension of the Construction Completion date for the Elm Street (SR-5001AE) Sidewalk Project.

The following resolution was introduced by Alderman Gist and seconded by Alderman Coleman:

A RESOLUTION AUTHORIZING THE INTERIM TOWN MANAGER TO EXECUTE, ON BEHALF OF THE TOWN OF CARRBORO, A SUPPLEMENTAL AGREEMENT EXTENDING THE CONSTRUCTION COMPLETION DATE TO DECEMBER 31, 2012, FOR THE PROJECT KNOWN AS THE TOWN OF CARRBORO ELM STREET (SR-5001AE) SIDEWALK PROJECT

Resolution No. 67/2011-12

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

Section 1. The Interim Town Manager of the Town of Carrboro is hereby authorized to execute on behalf of the Town of Carrboro the attached Supplemental Agreement extending the Construction Completion date to December 31, 2012 for the Town of Carrboro Elm Street (SR-5001AE) Sidewalk Project, provided the agreement is subsequently approved by the North Carolina Department of Transportation.

Section 2. The resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

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**ENERGY EFFICIENCY PROGRAM UPDATE AND APPROVAL OF ADDITIONAL AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDS**

The purpose of this agenda item was to provide an update on recent activities related to an ARRA award for energy efficiency in buildings and to approve additional federal funds and program plans for the next phase of the program.

The following resolution was introduced by Alderman Gist and seconded by Alderman Coleman:

**A RESOLUTION ACCEPTING THE STAFF REPORT AND SEEA ALLOCATION AND APPROVING THE MULTIFAMILY RESIDENTIAL PILOT FOR THE ENERGY EFFICIENCY PROGRAM**

Resolution No. 65/2011-12

WHEREAS, the Town submitted an ARRA grant application that was accepted by the US Department of Energy (USDOE) Retrofit Ramp Up/Better Buildings program through the Southeastern Energy Efficiency Alliance (SEEA) in collaboration with the Town of Chapel Hill and other southeastern jurisdictions to pursue community scale energy efficiency retrofits; and

WHEREAS, the Town has previously accepted grant awards of \$75,000 and \$50,000 and negotiated an agreement with the SEEA, and developed a Memorandum of Agreement with Chapel Hill to share administrative costs and make all necessary arrangements to implement a budget; and

WHEREAS, the initial \$75,000 of funding from SEEA and the Memorandum of Agreement with Chapel Hill included funding for extension of \$55k of loans through a revolving loan fund to small businesses, with an additional \$5k of funds to support residential energy efficiency assessments, and the remainder to administration via a contractor, Clean Energy Solutions, and quality assurance; and

WHEREAS, the Town has used local funds to supplement the small business energy efficiency revolving loan fund with \$45,000, and support program administration; and

WHEREAS, the additional \$50,000 of discretionary funds from SEEA received in 2011 is being used to launch a single family residential energy efficiency program in Carrboro;

WHEREAS, the Town has entered into a triparty agreement with Duke Energy and Chapel Hill to pilot single family residential energy efficiency improvements, with funding from Duke Energy;

WHEREAS, SEEA has approved the allocation of an additional \$165,000, to be spent by May 2013, to the Town to expand the single family residential energy efficiency program and pursue one or more pilot multifamily residential projects; and

WHEREAS, Town staff continue to work with Clean Energy Solutions, Chapel Hill, SEEA, Duke Energy staff and contractors to implement the energy efficiency program, and meet ARRA requirements;

NOW THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen accept the staff update, approve the multifamily residential energy efficiency pilot design, and authorize the Interim Town Manager

to update the Agreement with SEEA and Memorandum of Agreement with Chapel Hill to recognize and accept the new funding, and prepare a budget amendment.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

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### **PRESENTATION ON CONSERVATION EASEMENTS AT CAROLINA NORTH**

The Board of Aldermen requested information on the status of conservation easements at Carolina North. UNC Staff made a presentation on recent activities. A resolution accepting the presentation was provided for the Board's use.

Bruce Runberg, UNC's Associate Vice Chancellor for Facilities Planning, introduced Anna Wu, UNC's Architect and Director of Facilities Planning. Anna Wu gave the presentation and answered questions from the Board. She explained that conservation areas will be obtained by the use of restrictive covenants. The conservation areas will be managed by a third-party that has not been named at this point.

Mayor Chilton suggested that the University consider naming part, or all, of the conservation areas after the land grantor, Horace Williams.

Alderman Haven-O'Donnell asked that this information be shared with the Greenways Commission.

The following resolution was introduced by Alderman Coleman and seconded by Alderman Haven-O'Donnell:

**A RESOLUTION ACCEPTING THE REPORT ON THE STATUS OF CONSERVATION EASEMENTS AT  
CAROLINA NORTH  
Resolution No. 69/2011-12**

WHEREAS, The Board of Aldermen recently reviewed the work of the Greenways Commission, including a report on conservation easements in Town; and

WHEREAS the University of North Carolina at Chapel Hill has been working to establish conservation easements as specified in the Development Agreement controlling activities at Carolina North; and

WHEREAS, the Board of Aldermen requested an update on the status of conservation easements at Carolina North.

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

1. Accepts the report and requests that University of North Carolina officials continue to keep the Town up to date on the status of activities at Carolina North.
2. Suggests that some part of the natural areas be named for Horace Williams, a former philosophy professor at UNC, and land grantor.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

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### **BALDWIN PARK GARDEN EXPANSION PROPOSAL**

The purpose of this item was for the Baldwin Park Gardeners to present a garden expansion proposal and rain catchment plan.

Matthieu Campbell presented the information and answered questions from the Board.

Katie Alman, a representative of the Carrboro Parks Project, asked the Board to help with purchasing a sign for the community garden.

Alderman Gist asked to see a list of the Community Garden members with addresses.

The following resolution was introduced by Alderman Haven-O'Donnell and seconded by Alderman Slade:

#### **RESOLUTION ACCEPTING BALDWIN PARK GARDEN EXPANSION PROPOSAL Resolution No. 76/2011-12**

WHEREAS, the Baldwin Park Gardeners presented a Cistern-Shed Expansion Proposal and Rain Catchment Plan for consideration.

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen accept the presentation, request that small loose items be placed inside fenced garden area, and allow staff an opportunity to review the proposals and make recommendations.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

Matt Efird, Interim Town Manager, stated that staff will review the requests and proposals and report back to the Board during the February 7, 2012 meeting.

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### **PHOTOVOLTAIC INSTALLATION OPPORTUNITY AT TOWN COMMONS**

The purpose of this agenda item was to provide a report on the potential for the installation of a photovoltaic system at the Town Commons and to receive direction regarding further pursuit of this opportunity.

Randy Dodd and Chris Lazinski made the presentation and answered questions from the Board.

Alderman Slade suggested that the Board use this as a starting point to begin identifying green capital improvement options throughout the town.

The following resolution was introduced by Alderman Slade and seconded by Alderman Haven-O'Donnell:

A RESOLUTION ACCEPTING THE STAFF REPORT AND AUTHORIZING STAFF TO PURSUE A  
COMMUNITY FINANCED PHOTOVOLTAIC ARRAY  
AT THE TOWN COMMONS  
Resolution No. 70/2011-12

WHEREAS, the Town of Carrboro wants to demonstrate that conservation practices can be applied to the daily operations of municipal government and to infrastructure projects; and

WHEREAS, the Town of Carrboro seeks to find methods of service delivery and operations that conserve energy and resources, thus saving taxpayer dollars and protecting and preserving the environment; and

WHEREAS, sound conservation practices can reduce government costs over the long-term; and

WHEREAS, the Town of Carrboro chooses to lead by example to show the practicality and effectiveness of conservation practices; and

WHEREAS, the Town of Carrboro seeks to encourage its citizens and its businesses to be stewards of the environment; and

WHEREAS, the Town of Carrboro seeks to pursue emerging and innovative approaches to community-based renewable energy.

WHEREAS, the Appalachian Institute for Renewable Energy (AIRE) is pioneering approaches for community investment in renewable energy;

NOW THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that

1) the Aldermen accept the staff report and approve the pursuit of a feasibility study (to be completed by AIRE, in collaboration with staff) of the installation of a photovoltaic array (up to 10 kW) on the south facing market stall at the Town Commons.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 17th day of January 2012:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: Michelle Johnson

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**SMITH LEVEL ROAD – NCDOT**

Alderman Gist stated that neighbors on Smith Level Road continue to be approached by NCDOT. She asked why NCDOT is contacting the neighbors directly without sharing the information in a public meeting. She asked for the revised NCDOT map to be displayed on the Town's website.

Matt Efird, Interim Town Manager, stated that NCDOT representatives are trying to meet with the neighborhood groups to set up meetings but they are not interested in having another public meeting with the Town. He will work to obtain the updated plans and maps from NCDOT to place on the website.

Mayor Chilton suggested speaking to NCDOT, through the state legislative delegation, to help obtain a public meeting so that the new information can be shared in a transparent way.

MOTION WAS MADE BY ALDERMAN HAVEN-O'DONNELL AND SECONDED BY ALDERMAN GIST TO HAVE THE MAYOR CONTACT THE TOWN'S LEGISLATIVE DELEGATION, AND THE NCDOT BOARD MEMBERS, TO URGE NCDOT TO HAVE A PUBLIC MEETING, AS SOON AS POSSIBLE, TO DISCUSS THE CHANGES TO THE SMITH LEVEL ROAD PROJECT. VOTE: AFFIRMATIVE SIX, ABSENT ONE (JOHNSON)

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MOTION WAS MADE BY ALDERMAN GIST AND SECONDED BY ALDERMAN HAVEN-O'DONNELL TO ADJOURN THE MEETING AT 9:24 P.M. VOTE: AFFIRMATIVE SIX, ABSENT ONE (JOHNSON)

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Mayor

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Town Clerk