

MINUTES  
ORANGE COUNTY PLANNING BOARD  
DECEMBER 3, 2014  
REGULAR MEETING

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

**MEMBERS PRESENT:** Peter Hallenbeck (Chair), Cheeks Township Representative; Herman Staats, At-Large, Cedar Grove Township; James Lea, Cedar Grove Township Representative; Tony Blake, Bingham Township Representative; Laura Nicholson, Eno Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative; Bryant Warren, Hillsborough Township Representative; Lydia Wegman-At-Large Chapel Hill Township;

**MEMBERS ABSENT:** Lisa Stuckey (Vice-Chair), Chapel Hill Township Representative; Maxecine Mitchell, At-Large Bingham Township;

**STAFF PRESENT:** Craig Benedict, Planning Director; Perdita Holtz, Special Projects Coordinator; Ashley Moncado, Special Projects Planner; Tina Love, Administrative Assistant II; Steve Brantley, Economic Development Director;

**OTHERS PRESENT:** Bonnie Hauser

**AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL**

**AGENDA ITEM 2: INFORMATIONAL ITEMS**  
a) Planning Calendar for December and January  
• Elect Chair and Vice-Chair for the year in January.

**AGENDA ITEM 3: APPROVAL OF MINUTES  
NOVEMBER 5, 2014 REGULAR MEETING**

**MOTION** by Bryant Warren to approve the October 8, 2014 Planning Board minutes with additional information. Seconded by Laura Nicholson.

**VOTE: UNANIMOUS**

**AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA**

**AGENDA ITEM 5: PUBLIC CHARGE**

**Introduction to the Public Charge**  
The Board of County Commissioners, under the authority of North Carolina General Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land development laws of the County. The general purpose of OCPB is to guide and accomplish coordinated and harmonious development. OCPB shall do so in a manner which considers the present and future needs of its citizens and businesses through efficient and responsive process that contributes to and promotes the health, safety, and welfare of the overall County. The OCPB will make every effort to uphold a vision of responsive governance and quality public services during our deliberations, decisions, and recommendations.

55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107

**AGENDA ITEM 6: CHAIR COMMENTS**

Pete Hallenbeck: Just to clarify, when we have a guest speaker come to speak to us it is for our information and not to create a public forum, that is not the purpose here. We will strike a compromise tonight and allow Bonnie to ask a few questions.

Pete Hallenbeck: Keep in mind that due to open meeting laws, when members email each other back and forth those emails are public record and as such will be part of the record or minutes.

Pete Hallenbeck: In the meeting the BOCC had with advisory board chairs, I asked about the preference for information in the minutes and the consensus was that going around the table is helpful and concise and the open back and forth discussion can become confusing and hard to follow. We will try to get away from that some and especially if something has been discussed at length.

**AGENDA ITEM 7: OVERVIEW OF COUNTY'S ECONOMIC DEVELOPMENT ACTIVITIES:** To receive an overview on the County's economic development activities, as requested at the November 5<sup>th</sup> Planning Board meeting.

**Presenter:** Steve Brantley, Economic Development Director

*Steve Brantley gave an in-depth review of the economic development department and its efforts to attract business and the challenges faced in Orange County.*

Tony Blake: They broke ground on Chatham Park yesterday, in one sense I'm a little afraid of over building, there seems to be a lot of competing dollars and projects going on, is there a concern that we might try to over build? And not be competitive?

Steve Brantley: How could we over build? We can run 4 million dollars' worth of water and sewer to serve industry that takes these sites whether they are marginal sites with poor topography and eye sores, whatever but the water sewer boundary agreement says you cannot have that industry that would rather be on the other side of the road and connect to utilities, it cannot happen. From there south all the way to the rural buffer to Chapel Hill/Carrboro it is rural. When you factor in watershed protection issues, and the water and sewer boundary agreement, the rural buffer you have multiple overlapping restrictions that won't allow industry or a Tanger mall type of development to be anywhere other than just along the highway.

Paul Guthrie: We've been looking for years at a unified water system, Durham, Cary, Raleigh, Chapel Hill and Hillsborough. There are some connections but there is not a straight way in. One of the long range development plans that needs to be undertaken is a serious look at the long range needs for water and wastewater disposal. Aren't those some common projects for multiple municipalities? That is a real key to give you tools but will also protect this whole area from long term droughts.

Steve Brantley: I wish that certain sites that border the existing EDDs, even though outside the water and sewer boundary agreement, could be incorporated. If that's what it takes to get that big project which would otherwise walk and go to Alamance County, I'd like to be able to have that as an option. Secondly, what I personally consider the best land in Orange County to attract business is where 85 and 40 come together in Efland. There is watershed and water and sewer boundary issues that keep all that land off limits to what actually would be the most successful to develop with big projects. It has rail, it has visibility, it is not encumbered with topography, housing, etc.

Tony Blake: I am really more of a representative of Bingham, and what they want is small community/organic business. What is stopping that is the land doesn't perk and there is no way to support sewer, however, I've seen two instances in my immediate area where there is a technology call AdvanTex. We put it in in the fire department. UNC is using it at their animal research facility. What I'm wondering is there a way to bring in a private organization

108 or the County or the State into those areas to enable that kind of small development. Is there a way to enable this  
109 type of small business through economic development?

110  
111 Steve Brantley: I'm not the person to comment on that technology but I will say that I know of a retail prospect that is  
112 probably going to Efland, it's about a dozen jobs, it's sales tax and employment opportunity and the ability to shop  
113 without driving to Alamance County and I'm in support of that so I think if someone who lives in an area is able to  
114 promote a local business situation, I think that's great. There are a lot of people in the County that need choices that  
115 fit their scale, we have 6,000 people in Orange County on welfare. 1 in 3 children in Orange County are on Medicaid  
116 for their healthcare and 1 in 4 are on free or reduced lunches. We have a poverty index which is under the radar and  
117 I want to see opportunities for those people to work and shop.

118  
119 Tony Blake: Look at the situation for Fiesta Grill, he has been reduced by the health department to 4 or 5 tables  
120 because of the septic situation and he could employ more people and serve a lot more food if that situation were  
121 resolved but there is no resolution for that.

122  
123 Pete Hallenbeck: Whenever anyone talks about water, sewer, and power, I always chime in with 'data'. What is  
124 being done, particularly in the Efland area, to get data?

125  
126 Steve Brantley: Craig and I met recently with the county's IT director and he is currently now working with the data  
127 providers to help us understand what is in the County, particularly along the highway, what would it cost, and the  
128 delivery times to upgrade to the level that projects require.

129  
130 Pete Hallenbeck: One thing that is interesting is that we have dug up a lot of ground in that area and this came up  
131 and I was asking why we were not putting the plastic pipe in for data while we were installing sewer lines. The  
132 answer was that the County will not spend anything for infrastructure that would be for the phone company. They are  
133 on their own.

134  
135 Steve Brantley: I think the utility, Time Warner, Duke Energy, PSNC etc. would install the lines to the property for  
136 any big projects at no cost to the industry. It is business for them that they can and want to serve. I would think that  
137 fiber can work like that.

138  
139 Bonnie Hauser: Could you give us a number on Morinaga after the incentive is paid, what is the property tax revenue  
140 going to be on that property?

141  
142 Steve Brantley: For the first 5 years, assuming the company actually hires the people they say and makes the  
143 investment, then we will pay a five year benefit or bonus to the company. They will pay 100% of their property taxes  
144 and we will give them a check equal to 75% of it. So for 5 years we get 25% of the property tax and we have done  
145 surveys with all counties like ours across North Carolina and that is exactly what other counties do. We are doing  
146 nothing out of the ordinary.

147  
148 Bonnie Hauser: I want to know what the number is, is it 5 million dollars, or is it, what is the actual tax revenue once  
149 we are through the deal, roughly.

150  
151 Steve Brantley: Well, you're the accountant, you can multiply 87 cents per 100 times 48 million dollars.

152  
153 Bonnie Hauser: So it's 48 million.

154  
155 Steve Brantley: I think that is only half if not a third of what we are going to get. We have incentivized phase one of  
156 a project that may turn into phase two and maybe even phase three over the next six to 10 years and if that happens  
157 then we are going to have 300 jobs not 100; we're going to have 150 million dollar investment not 48 or 58. A 100  
158 million dollar investment, like Carrboro is sitting on with the Lloyd Farm Project, if they were to recruit that tonight and  
159 it got built it would generate to Orange County, just to the County, almost 900,000 dollars annually in new property  
160 taxes plus whatever Carrboro gets. Then you have the retail sales tax. That retail sales tax goes to transit,  
161 economic development and the general fund and schools get 50% of the general fund.

162 Bonnie Hauser: If I go to Mebane or another community versus Orange County what is the time table to get  
163 something approved in another place versus Orange County?

164  
165 Steve Brantley: I think Mebane approved Morinaga within 60 to 90 days and had Mebane not annexed Morinaga, it  
166 still could have gone on here but it would have taken them longer to go through the process which in Orange County  
167 would have been....

168  
169 Craig Benedict: What Steve mentioned was pre-zoning where zoning has certain uses permitted by right which  
170 means review can be a staff function and if it was a staff function we would match the same time frame that Mebane  
171 would have. If they have to go through a rezoning process where they have to change or up zone it from the base  
172 zoning that is probably 4 to 5 months of process and a developer may not want to go through the site plan process  
173 concurrent with this legislative rezoning process.

174  
175  
176 **AGENDA ITEM 8: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT:** To continue discussion and  
177 provide input on government-initiated amendments to the text of the UDO to change the  
178 existing public hearing for Comprehensive Plan, UDO, and Zoning Atlas related items/  
179 amendments. This item was heard at the September 8, 2014 quarterly public hearing and was  
180 discussed at the October 8 and November 5 Planning Board meetings.  
181 **Presenter:** Perdita Holts, Special Projects Coordinator

182  
183 *Perdita Holtz reviewed abstract*

184  
185 Paul Guthrie: I think the flowchart pretty much portrays the conversation, I am still concerned about how some of this  
186 will work. We may not find that out until we do it.

187  
188 Pete Hallenbeck: I read the minutes and this certainly seems to align with it. The problem is that at the quarterly  
189 public hearing the commissioners went in all different directions of opinions and at some point we have to just let  
190 them decide. The other problem is the concept that some people only want to deal with the decision makers so no  
191 matter what process you put in place some people will want to just wait and talk with the commissioners. We will at  
192 least have a system where people can come to the Planning Board and express their concerns early; we can only do  
193 as good as the feedback we get from people.

194  
195 Lydia Wegman: How do you reconcile that with you hearing that the County Commissioners want the Planning  
196 Board to attend the quarterly meetings?

197  
198 Pete Hallenbeck: That's a decision they have to make. My interpretation of that is because it is currently a joint  
199 meeting and if the rules change on that then they'll have to give us guidance.

200  
201 Lydia Wegman: Then what is the point of the Planning Board? How significant has this quorum problem been?

202  
203 Pete Hallenbeck: We've had two events in the last year of so where the meeting was held up and one 3 or so years  
204 ago there was over a 30 minute hold up.

205  
206 Lydia Wegman: Isn't it a simpler solution to make sure the Planning Board members know they are expected to  
207 attend rather than change the whole process.

208  
209 Perdita Holtz: It depends a lot on who is on the Planning Board and what commitment they have. Some people had  
210 jobs where they had to travel a lot and that Monday night meeting was difficult for them. It varies depending on who  
211 is on the Planning Board.

212  
213 Pete Hallenbeck: I think the fact that we've had two problems in the last year or so and we made it clear and it  
214 happened again so I don't know what more could be done.

215

216 Laura Nicholson: I brought it up in a previous meeting and the consensus was it is easier to fix it this way. Judging  
217 by the push back I think there are things going on the new members don't always get.  
218

219 Lydia Wegman: I am stating for the record my main problem is having the Planning Board offer its view before the  
220 public hearing is problematic. The Planning Board will never be sufficiently informed to offer a well-considered view  
221 without having heard the presentations at the BOCC meetings.  
222

223 Pete Hallenbeck: I understand, we are all wrestling with this problem. At least this mechanism has a way where the  
224 Commissioners can identify that this one is going to take a while, etc.  
225

226 Perdita Holtz: In this process it would also allow the lay person to actually speak to the Planning Board, in a lot of  
227 communities if you are not an expert at the quasi-judicial hearing, you don't get to speak. If Orange County were  
228 ever to perhaps be sued over that, we might adopt that type of attitude about it too. This process would allow the lay  
229 person to come to the Planning Board and speak their concerns and why.  
230

231 Lydia Wegman: You're right Perdita but I'll just note that because of the public hearing, the layperson's testimony is  
232 irrelevant. It would have to be made very clear to the lay person that while they might speak at the Planning Board  
233 that because it is quasi-judicial, by the time it's before the Board of County Commissioners, only expert witnesses  
234 can give testimony.  
235

236 Pete Hallenbeck: Again, with the solar project as a reference, if there were interaction with the Planning Board while  
237 the developers were here there are a lot of questions, answers, interchanges that just can't happen at a quasi-judicial  
238 setting and the resident have an opportunity to get better organized so that when you went quasi-judicial and you  
239 have to swear in you have experts and it's much more focused.  
240

241 Lydia Wegman: The three most critical elements in that was the staff could not make a recommendation.  
242

243 Craig Benedict: Nor the Planning Board.  
244

245 Lydia Wegman: Nor the Planning Board, they are the most critical ones and they are the only ones in fact which the  
246 case if it ever went to court would be considered. The key one was 'the use will maintain or enhance the value of  
247 contiguous property'. In the case of the solar application, there was an appraisal offered by the solar company and I  
248 bet that appraiser, even if he showed up, would have come and said whatever he was going to say to the Planning  
249 Board and at the public hearing they have a new appraisal and a new appraiser which no one had seen before. And  
250 there would be nothing that could have been done.  
251

252 Pete Hallenbeck: There's another example, they showed this picture of these panels that were further away than  
253 what was planned with trees there and claimed that was equivalent and so to have that opportunity to do that in  
254 advance...  
255

256 Lydia Wegman: The advance doesn't necessarily stop the applicant from showing up with new information that is  
257 crucial to the decision.  
258

259 Pete Hallenbeck: I think it is a great way to think through the ramifications of the process because we have an  
260 example to look at. Those are the discussion you can have when you're not constrained by the quasi-judicial  
261 process and the benefit there if we had this discussion is the residents would have an opportunity to see and get  
262 feedback from the Planning Board and staff and all of that would help them to make a better presentation.  
263

264 Lydia Wegman: It is disingenuous to the community to pretend that what the Planning Board and staff can offer an  
265 opinion on the 3 most crucial elements. I think that is a flaw in the process.  
266

267 Perdita Holtz: That's under state law, it's not something we can change. In some communities the Planning Board  
268 doesn't hear the quasi-judicial matters at all.  
269

270 Paul Guthrie: It seems to me that if this process will work at all, this Board may have a bigger responsibility because  
271 we have one shot to raise the critical questions that need to be considered in the decisions and that doesn't happen  
272 in the joint session now where we sit there and listen to something until 11 o'clock at night and then by the time it's  
273 over we can't even remember what the questions are that you really think need to be considered. I think we have an  
274 obligation if this becomes practice to think through how we communicate through staff to the Board of County  
275 Commissioners on issues that need to be dealt with by the Commissioners at the time of testimony. The Boards that  
276 I have seen operate in this County only occasionally rise to that level. The staff rises to it but I'm not sure the boards  
277 do and we need to think about that as a Board.

278  
279 Perdita Holtz: Probably what will happen is that the Planning Board minutes will become part of that public hearing  
280 packet.

281  
282 Craig Benedict: We would accent anything different that occurred in the application from the original material. We do  
283 accent any new information, any change in information that has occurred from the original application and evidentiary  
284 material that comes forward.

285  
286 Pete Hallenbeck: Ok, so the action for tonight is?

287  
288 Perdita Holtz: Is there consensus that this flowchart captured the quasi-judicial discussion.

289  
290 **MOTION** by Paul Guthrie that the flowchart captured the Planning Board discussion of the quasi-judicial process.  
291 Seconded by Buddy Hartley.

292 **VOTE: UNANIMOUS**

293  
294 Lydia Wegman: Let me clarify. I am voting to say the flowchart captures what we've talked about, I am not saying I  
295 agree with it just to be clear.

296  
297

298 **AGENDA ITEM 9: COMMITTEE/ADVISORY BOARD REPORTS:**  
299 a. Board of Adjustment

300  
301

302 **AGENDA ITEM 10: ADJOURNMENT:**

303  
304 **MOTION** by Bryant Warren to adjourn. Seconded by Tony Blake.

305 **VOTE: UNANIMOUS**

---

Pete Hallenbeck, Chair