

MINUTES
ORANGE COUNTY PLANNING BOARD
JANUARY 6, 2010
REGULAR MEETING

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MEMBERS PRESENT: Brian Crawford, Eno Township At-Large (Chair); Judith Wegner (Vice-Chair) , Bingham Township Representative; Mary Bobbitt-Cooke, Cheek Township Representative; Samantha Cabe, Chapel Hill Township Representative; Peter Hallenbeck, Cheeks Township At-Large; Earl McKee, Little River Township Representative; Tommy McNeill, Eno Township Representative; Jeffrey Schmitt, Cedar Grove Township Representative; Larry Wright, Cedar Grove Township At-Large; Rachel Hawkins, Hillsborough Township Representative;

MEMBERS ABSENT: Mark Marcoplos, Bingham Township At-Large; May Becker, Chapel Hill Township At-Large

STAFF PRESENT: Craig Benedict, Planning Director; Tom Altieri, Comprehensive Planning Supervisor; Perdita Holtz, Planning Systems Coordinator; Michael Harvey, Zoning Administration; Tina Love, Administrative Assistant II

(Handouts: 2010 Meeting Schedule for Planning Board, Board of County Commissioners, Quarterly Public Hearings, and Joint Planning Area; 2009-10 Board of County Commissioners Goals and Priorities)

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: SELECTION OF CHAIR/VICE-CHAIR FOR 2010

Brian Crawford: Our first item will be to select a chair and vice-chair.

MOTION MADE BY Judith Wegner to nominate Brian Crawford. Seconded by Mary Bobbitt-Cooke.

VOTE: Unanimous

MOTION MADE BY Mary Bobbitt-Cooke to nominate Judith Wegner. Seconded by Larry Wright.

VOTE: Unanimous

AGENDA ITEM 3: INFORMATIONAL ITEMS

- a) Next Regular Planning Board meeting scheduled for Wednesday, February 3, 2010

Craig Benedict: There are by-laws for the Planning Board and some references that our meetings will be held in the Revere Road Food Lab. We will need to bring those by-laws back to change them to our new location.

Brian Crawford: Can we do that for the next meeting?

Craig Benedict: I think so.

Brian Crawford: Samantha, how is your baby doing?

Samantha Cabe: He is fine. I apologize I have not been back sooner. He is just now sleeping until the wee hours of the morning.

Brian Crawford: Mary, welcome back.

Mary Bobbitt-Cooke: Thank you for the cards. I've worked in a lot of offices and been on boards where I have signed and put little messages on cards and I always wondered if they make a difference and now I know they do, so thank you.

- b) Planning Calendar for January and February
- c) 2010 Planning Board Meeting Calendar

Larry Wright: I sent an email to ask if we could invite Tom Magnuson to speak to this Board. He has an enterprise and is well known in this area as an historian. He knows where old sites are located. This is important to this Board as we consider developments and where there are old cemeteries and working with easements. He had a half hour presentation to the OUTBoard and I think he should present it to this Board.

60 MOTION MADE BY Larry Wright to invite Tom Magnuson for a half hour presentation. Seconded by Mary Bobbitt-Cooke.

61 VOTE: Unanimous

62

63 Craig Benedict: I'll give him a call to find out which meeting would be best for him.

64

65 AGENDA ITEM 4: APPROVAL OF MINUTES

66 December 2, 2009

67

68 MOTION made by Larry Wright to approve minutes. Seconded by Rachel Hawkins.

69 VOTE: Unanimous

70

71 AGENDA ITEM 5: CONSIDERATION OF ADDITIONS TO AGENDA

72

73 AGENDA ITEM 6: PUBLIC CHARGE

74 Introduction to the Public Charge

75 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.

76 The general purpose of OCPB is to guide and accomplish coordinated and harmonious development.

77 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,

78 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.

79

80

81 PUBLIC CHARGE

82 The Planning Board pledges to the citizens of Orange County its respect. The Board asks its citizens to

83 conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At

84 any time, should any member of the Board or any citizen fail to observe this public charge, the Chair will

85 ask the offending member to leave the meeting until that individual regains personal control. Should

86 decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment

87 to this public charge is observed.

88

89

90 AGENDA ITEM 7: CHAIR COMMENTS

91 Brian Crawford: I will waive my comments.

92

93 AGENDA ITEM 8: PLANNING BOARD REPRESENTATIVE ON EFLAND-MEBANE SMALL AREA PLAN (EMSAP) IMPLEMENTATION FOCUS GROUP.

94 To consider making a recommendation to the BOCC on appointing a Planning Board representative to the EMSAP Implementation Focus Group

95 *Presenter: Perdita Holtz, Planner III*

96

97

98

99 Perdita Holtz: You've heard so much about the Efland Mebane Small Area Plan (EMSAP) and there is an implementation focus

100 group. It was appointed by the Board of County Commissioners in late 2006. We met and did the initial part of implementing the

101 plan and then we stopped meeting because we finished what we could and there were several things needed to do before

102 moving onto the next item, one of them being the Seven Mile Creek Critical Area.

103

104 Perdita Holtz: We are planning to start the implementation focus group early this year, probably next month and the focus will be

105 design guidelines for the Efland Core area. Several people who were initially on the implementation focus group have moved out

106 of the area or are no longer on the boards that they were representing. For instance, Brian Dobyms was the Planning Board

107 representative on the focus group and he hasn't been on the Planning Board for some time. Michele Kempenski did double duty

108 for Commission of the Environment and Planning Board when Brian left and now she's not on the Planning Board so we need a

109 Planning Board representative to serve on the committee.

110

111 Perdita Holtz: There is one slot for the Planning Board. I will point out that Pete Hallenbeck is a regular member of that group as

112 a member of the original task force that put the plan together. I am here to ask for the Planning Board to make a

113 recommendation on someone who to serve.

114

115 Brian Crawford: Is there a Planning Board member interested in serving?

116

117 Pete Hallenbeck: I will participate for the Planning Board.

118

119 Brian Crawford: Well Pete since you volunteered there is no reason to vote. Thank you very much.

120

121

122 **AGENDA ITEM 9: REVIEW OF DRAFT UNIFIED DEVELOPMENT ORDINANCE**

123 To begin review of certain sections of the draft Unified Development Ordinance.

124 Presenter: Michael Harvey, Planner III

125

126 Michael Harvey: Good Evening, the item before you is an informational item. Essentially it's an example of what the draft table
127 of contents for the Unified Development Ordinance (UDO) will look like. As you know back in August we got authorization to
128 begin the process in developing the Unified Development Ordinance and we are hard at work trying to figure out how to revise it
129 and incorporate some of the ideas we have already received not only from Board members but from County Commissioners as
130 well as addressing some of the concerns of staff.

131

132 Michael Harvey: The mandate staff received on the creation of the UDO is somewhat limited there are only specific sections we
133 will be able to modify. A lot of this project will involve the reorganization of existing land use regulations and trying to make the
134 Ordinance work better to incorporate existing documents that are separate and independent from one another. This separation
135 has caused some confusion in the past. We are specifically talking about Subdivision Regulations, Erosion Control Regulations,
136 and our Environmental Impact Ordinance. We jumped the gun last year in terms of starting the UDO project when staff at the
137 request of the State incorporated the existing flood damage prevention ordinance into our Zoning Regulations. The ultimate goal
138 of the UDO project is to come up with one central document that is easy for people to relate to and understand.

139

140 Michael Harvey: Staff anticipates that this will be a multiyear, multi-faceted project as we continue to refine and fine tune these
141 ordinances and address the various goals, policy and procedures of the Comprehensive Plan. What we were asked to do for the
142 County Commissioners is to provide some synopsis of our methodology in terms of how the revised UDO might look with respect
143 to the location of revised and reformatted regulations.

144

145 Michael Harvey: I am not sure any of you know this but the County does have land use regulations already codified. There are
146 several standards dealing with noise, dealing with licensing of businesses, dealing with emergency services, so what staff had
147 decided to do is utilize the existing codification construct. We will basically be modeling the UDO to go into this existing, codified,
148 County ordinance. That will hopefully benefit us in two ways, one it will allow us to codify these rules and regulations while
149 referencing potentially other regulations that are already in existence. Number two, having to adopt the same format that we
150 currently utilize so there is even less confusion as we are trying to make things as simple as possible.

151

152 Michael Harvey: The on-line Zoning Ordinance is out of date certain revisions have never been updated and it is technically not
153 viewed as the official Zoning Ordinance. We are in the midst of completing our proposed revised UDO and will be distributing it
154 to various County departments. We have identified ten, but will be more as we go through the process. The Planning Board will
155 get a copy of what we are going to be proposing. The one point I want to make sure you understand is that this will continue to
156 be modified and changed. There will also be many groups that will review this and suggest changes.

157

158 Michael Harvey: All we are asking you to do tonight is accept this as an update and understand the methodology we will be
159 utilizing.

160

161 Mary Bobbitt-Cooke: Will there be any citizens' groups, or anybody else as well as the government agencies.

162

163 Michael Harvey: Look at the last page of your attachment which is a timeline. We are holding several community outreach
164 meetings in the different phases to solicit public comment. We are also placing this information on the website as well as
165 information to solicit comments and share information.

166

167 Mary Bobbitt-Cooke: Is it possible to see if there are any other groups interested in working with you. There are a lot of users
168 down the road using it so you might want to hear from them as develop it.

169

170 Michael Harvey: We are inviting those groups to these community sessions and we will also accept their comments.

171

172 Pete Hallenbeck: This states multi-year but I thought it there was a goal to get a lot done this budget year.

173

174 Michael Harvey: What we have been authorized to modify is to encapsulate the various existing land use regulations into a
175 central document, eliminate inconsistencies, and were given authority to look at revising existing parking, signage, lighting,
176 provisions of Article 6 and into eliminating inconsistencies within the subdivision regulations. As the County Commissioners
177 establish their goals for us as a department every year, we will identify other ideas or facets of this.

178
179 Samantha Cabe: This is just mainly function that is changing.
180
181 Michael Harvey: Yes. Also, we will try to incorporate revised and updated graphics to try to articulate what we are trying to
182 accomplish with regulations.
183
184 Brian Crawford: Will there be any specific outreach to developers and getting their comments?
185
186 Michael Harvey: We have had a couple of meetings and we have encouraged them to get copies of the ordinance but they have
187 asked for them. We have invited them to attend the public information sessions or provide comments to us.
188
189 Tommy McNeill: What has been the feedback?
190
191 Michael Harvey: From the two community outreach meetings and the couple of meetings with developers, they are excited.
192
193 Craig Benedict: They suggested having a separate meeting with the developers and what we are going to consider is having a
194 breakout session with the Home Builders Association.
195
196 Judith Wegner: It seems to me there may be some clusters of people, maybe Chamber of Commerce folks, farmers, or settings
197 like that where you could ask what difficulties they have encountered in their field. When it goes to the drafting state, figuring out
198 how to present it to people and get the best results.
199
200 Brian Crawford: I would like to see real focused effort by staff to get this in front of developers who will be using this UDO to
201 make sure they get their comments earlier. It is all about attracting business into this County.
202
203 Michael Harvey: The methodology used in the approved process that we have sanctioned, we can accommodate those
204 concerns.
205
206 Mary Bobbitt-Cooke: It is much easier to avoid those criticisms if people are invited to the table as opposed to saying we had a
207 meeting, why didn't you come. That puts the responsibility on them to find out about the meeting.
208
209 Michael Harvey: As Craig indicated we are looking to do the essentially that, to put developers at a table to address potential
210 issues.
211
212 Judith Wegner: Please get some farmers too.
213
214 Michael Harvey: We want to hear from everyone. The developers don't want to feel like they are saying something to offend
215 someone and have an argument. We have agreed to meet with some citizens and some groups who have concerns.
216
217 Samantha Cabe: I would like to make a comment and this is obviously within the staff's discretion since they can make
218 substantive changes in this process, I think it would be helpful if in the compilation that we made as few substantive changes in
219 creating the combined ordinance. Then after it is all together, then make the substantive changes.
220
221 Michael Harvey: We are not looking to do any modification that would alter any philosophical nature of the existing development
222 criteria. We have been pushing sign amendments waiting for a Unified Development Ordinance and also a parking ordinance is
223 out of date. We are proposing additions to the existing constructs. Conditional use will come up. There will be many
224 opportunities to make suggestions. Our main focus is to make these regulations more user friendly and easier to understand.
225
226 Craig Benedict: The Board of County Commissioners has asked us to let them know what a new section is. We will note which
227 a new area is and when we delete an area. Also, on this outline, we are putting placeholders for potential planning philosophical
228 changes which will be addressed independently.
229
230 Earl McKee: We mentioned developers and farmers but in talking to people, the most frustrated individuals who have dealt with
231 the planning department are individuals who are trying to build a house or barn, etc. Generally, a developer knows the process.
232
233 Michael Harvey: There will be modifications to the ordinance to explain it better. Secondly, the County is implementing a central
234 permitting system.
235

236 Earl McKee: As this moves through the process, keep enough publicity going to let basically the citizens to know what is being
237 done.
238

239 Mary Bobbitt-Cooke: It looks like you have done a lot already. Look at article one.
240

241 Tommy McNeill: I want to make a comment about what Earl said. It may help to have a flow chart for individuals to see what the
242 process would be.
243

244 Michael Harvey: We are already planning that for this document and other documents.
245

246 Judith Wegner: I wonder if there is a set of examples that people have referenced as a final cross check.
247

248 Michael Harvey: That may not be a bad idea.
249

250 Tommy McNeill: The buzz word for 2010 is user friendly.
251

252 Craig Benedict: This conversation is very consistent with the joint meeting you had with the Board of County Commissioners in
253 November and we will let the public know that the intent is, yes, there are technical issues, but we are trying to make it more user
254 friendly. We will use this as an opportunity to say we are trying to streamline what we do in Orange County. It will take a lot to
255 change the image we have.
256

257 Judith Wegner: I've got a state and local government law class this spring and if I call it a land use class I could see that as a
258 very good student project.
259

260 Jeffrey Schmitt: Did we do a comparative analysis on these things with other counties to see how we rank?
261

262 Michael Harvey: Obviously, we don't look to other counties for their development philosophy. We try to determine how it is done
263 elsewhere and if it worked. But we have to ensure the Orange County development philosophy is represented in a manner that
264 is easy to understand.
265

266 Jeffrey Schmitt: I think Mary was asking how the meeting went with the Board of County Commissioners last time. I think I
267 heard loud and clear from the chair person that she was very eager to make sure we found ways to have and began getting
268 some economic development. It will be interesting to see how this new UDO fleshes out against places that are getting
269 economic development and if there are things we are adding that may be our red lights.
270

271 Rachel Hawkins: I think the Chamber of Commerce in Orange County, Hillsborough, and Chapel Hill-Carrboro is the perfect
272 opportunity for a speaking engagement at one of their meetings. Chapel Hill will have a breakfast meeting and have a speaker
273 and everyone comes and listens. I always hear negative comments about Orange County.
274

275 Craig Benedict: Do they put together a joint meeting once a year?
276

277 Rachel Hawkins: Brad Broadwell would tell you about that. We just had one this fall and he was on the panel. We really need
278 to let people know the County is changing their attitude a bit.
279

280 Michael Harvey: I would like to review the table of contents. Please remember this may change. We are envisioning Article 1 to
281 provide answers to basic questions for individuals. Article 2 starts getting into addressing some Planning Boards and Board of
282 County Commissioners concerns. If we are moving stuff around, where was it located and how did it change. It will not be a full
283 blown appendix but it does provide that gap.
284

285 Samantha Cabe: Back in 2001, they revised the Uniform Commercial Code and they have an excellent comparative table in
286 Chapter 25 of the North Carolina General Statutes.
287

288 Michael Harvey: As we get into Article 3, we start with General Provisions and we will try to provide you footnotes on where the
289 regulations are coming from. Article 4 deals with administration which specifically focuses on Article 2 and also some things out
290 of the subdivision regulations.
291

292 Mary Bobbitt-Cooke: I want to go back to Article 3. I think what you said in the staff note is that a lot of people want to know who
293 enforces their restrictive covenants, is this where you will deal with that?
294

295 Michael Harvey: That is actually section 50-16 on the first page.
296
297 Mary Bobbitt-Cooke: Article 6, which is Enforcements is just zoning?
298
299 Michael Harvey: In this case, it is the enforcement of this document.
300
301 Perdita Holtz: Mary, you do realize that the County does not enforce restrictive covenants. It is a private matter between the
302 homeowners.
303
304 Mary Bobbitt-Cooke: No, I did not know that.
305
306 Michael Harvey: With respect to definitions in Article 5. This will incorporate all the definitions of existing regulations. There will
307 be some dramatic modifications to make sure they all match together. Article 6 is Enforcement which deals with enforcement of
308 the UDO. We put subdivision in Article 7. We have basically put in another general section talking about jurisdictional
309 application. A lot of this comes from the existing text. Land Use Development which is Part 3, Article 8 deals with the various
310 zoning districts.
311
312 Jeffrey Schmitt: Under Industrial Districts, are we are going to incorporate what exists and then look at what is in there and see if
313 there are other changes that need to be made.
314
315 Craig Benedict: In the Eno EDD, we took a look of all the uses in some different categories and terminology so we might
316 suggest something called light industrial, office industrial, and other categories. Right now our economic development districts
317 have permitted use tables which vary sometimes slightly from our other conventional zoning districts and in some cases they
318 vary widely. It is confusing to say what is the difference between an EDD and a commercial district when they really could have
319 all the same uses. I think there will be some work in that area.
320
321 Jeffrey Schmitt: Chair, would it be appropriate to have the Economic Development Commission review Section 58 for all four of
322 these and ask specifically for their input, modifications, etc.
323
324 Michael Harvey: They will be a review partner in this.
325
326 Jeffrey Schmitt: I would guess that this is an area that is highly debated.
327
328 Samantha Cabe: The current inconsistencies that exist, one interpretation of an ordinance or definition, for example, one of
329 these documents, might be interpreted to be more pro development than the other. My concern is in the wordsmithing, will it be
330 done to adopt one view point and eliminate the other.
331
332 Jeffrey Schmitt: An attorney can play with those words. A slight word can change the appearance and substance of the section
333 for the developer.
334
335 Samantha Cabe: Someone will not review every word but my concern is that we make a consecrated effort not to slant it one
336 way.
337
338 Craig Benedict: What I have asked Michael and the future consultant is to do a lot of annotations. They will not be part of the
339 final document but be part of the rationale for the change itself.
340
341 Larry Wright: I think we really need to think about the Comprehensive Plan. We spent a lot of time on the Comprehensive Plan
342 and I have not heard one thing around this table about it.
343
344 Mary Bobbitt-Cooke: How would you like to use the Comprehensive Plan?
345
346 Larry Wright: The Comprehensive Plan sets out where we should be going. That sets the basis and the spirit of all the
347 guidelines and I hear around the table one way or another but we should be following the Comprehensive Plan and this should
348 be following the Comprehensive Plan.
349
350 Michael Harvey: Since the Unified Development Ordinance and the Land Use Regulations were based on the standards, goals
351 and policies of the Comprehensive Plan; in several public meetings we have said this will be consistent with the Comprehensive
352 Plan. I think we can address your concern that it follows that guideline.
353

354 Larry Wright: I hear the developer wants this or that. We need to follow the Comprehensive Plan. If a developer wants to come
355 in this County they know the spirit of the Comprehensive Plan.
356

357 Judith Wegner: I thought what we are doing is reorganizing what we have now and not try to do a lot of substantive changes. I
358 also heard that where there are substantive changes needed because of the Comp Plan that will be flagged on to be worked on,
359 is that right?
360

361 Michael Harvey: Yes.
362

363 Tom Altieri: It is where those substantive changes are made where we will have a reference or footnote indicating the supporting
364 goals and objectives of the Comprehensive Plan.
365

366 Brian Crawford: I don't think we are saying anything about Michael managing the process but the reality is that I hear the echoes
367 in my ear of that November and how we have to be as friendly as possible for economic development in Orange County. That is
368 the spirit in which we are putting this out.
369

370 Samantha Cabe: This is a huge undertaking and it hard to wrap my brain around how you can do this and not have unintended
371 consequences.
372

373 Pete Hallenbeck: You said in the beginning of this that this would not change the philosophy of the Zoning Ordinance, would it
374 safe to say that the philosophy of this is what is laid out in the Comprehensive Plan?
375

376 Michael Harvey: Zoning Ordinance is based on the standards, goals and policies of the Comprehensive Plan.
377

378 Craig Benedict: What this will do in those substantive areas is tell you what the process is now. Development type A has to go
379 through process 1 so you will be able to see the uses we have laid out now and what type of processes you have to go through.
380 That will add clarity. This iteration of the UDO will not be that we don't want to use A to go through process 1; we would like to
381 go through process 2 because that is consistent with the Comprehensive Plan. It will be clear that a change is necessary.
382

383 Michael Harvey: Overlay Districts. The current Zoning Ordinance lacks any real definition or explanations are what nodes are.
384 We will be providing that. We have also included a placeholder for the Efland Mixed Use Overlay District. The next section
385 deals with Traditional Use Districts. We were authorized by the Board of County Commissioners to develop the constructs and
386 present it. We have put up several conditional use districts. (Continues reviewing Table of Contents).
387

388 Jeffrey Schmitt: Could you spend a few seconds on Number 114?
389

390 Michael Harvey: We currently don't have technical regulations on fences and laws in the Zoning Ordinances however, the
391 definition of side yard does contain a lengthy discussion of how you should be allowed to erect fences and what standards you
392 should abide by.
393

394 Samantha Cabe: Do we really need that on a County wide level?
395

396 Michael Harvey: We already have it. It's buried in the definition, a couple of definitions.
397

398 Mary Bobbitt-Cooke: You have the conditional use districts and I wonder how does that relate to Section 8? Is there
399 duplication?
400

401 Michael Harvey: Section 8 is the description of the district. Think of that section as being the narrative while you are referring to
402 is how do I build there? What is the minimum lot size, the impervious requirement, what are setbacks?
403

404 Mary Bobbitt-Cooke: You think those should be separate?
405

406 Michael Harvey: Yes. And they are currently separate.
407

408 Craig Benedict: That is the simple forum I think you need.
409

410 Mary Bobbitt-Cooke: If I were interested in Economic Development, I would want to go to one place to get all the information I
411 need.
412

413 Craig Benedict: We will have cross-references.

414
415 Michael Harvey: I understand your concern.

416
417 Pete Hallenbeck: To what degree are using electronic information when you are creating this document. If you are reading
418 something and there is a reference for a definition, will you be able to click on it and then come back.

419
420 Craig Benedict: I think that is what we had in mind for the consultant company.

421
422 Michael Harvey: On the next page, we have a couple of placeholders. Green building standards. We have been working on
423 what we can identify to promote green buildings. We have also put in a placeholder dealing with crime prevention through
424 environmental design.

425
426 Earl McKee: On Section 50-122, I know that is something we are working toward but in the wording it says "will incorporate new
427 regulations being revised by staff", etc. If you will keep in mind as you develop the question do we want to make this so all
428 inclusive that it basically leaves not room to move. In the past 15-20 years, there have been more and more regulations. I
429 realize there are reasons for these regulations but give some consideration to putting regulations that are necessary but not
430 every regulation that comes down the pipe.

431
432 Michael Harvey: We can certainly work on that. Part 5, you will not see many changes to this except redundancy.

433
434 Judith Wegner: What is the story on the consultant?

435
436 Michael Harvey: We have 12 applicants submitted. Most of the proposals are excellent. Just so the Board is aware, we have
437 asked Brian and/or Judith if they want to participate in that process and Judith volunteered.

438
439 Mary Bobbitt-Cooke: I want to say thank you for your hard work.

440
441 **AGENDA ITEM 10: COMMITTEE/ADVISORY BOARD REPORTS**
442 a) Board of Adjustment
443 b) Orange Unified Transportation

444
445 Mary Bobbitt-Cooke: I'm sorry, I haven't been to the OUTBoard meeting

446
447 Jeff Schmitt: The Board of Adjustment meets next Monday.

448
449 **AGENDA ITEM 11: ADJOURNMENT**

450
451 **MOTION:** Judith Wegner made a motion to adjourn. Seconded by Larry Wright.

452 **VOTE:** Unanimous

453