

**TOWN OF WENDELL  
BOARD OF COMMISSIONER MEETING MINUTES  
January 22, 2018**

The Wendell Town Board of Commissioners held its regularly scheduled meeting on Monday, January 22, 2018, in the Town Board Room, Wendell Town Hall, 15 East Fourth Street.

**PRESENT:** Mayor Virginia Gray; Mayor Pro Tem Jon Lutz; Commissioners: John Boyette, David Myrick, Ben Carroll, and Jason Joyner.

**STAFF PRESENT:** Town Manger Teresa Piner, Special Assistant to the Manager–Town Clerk Sherry Scoggins, Finance Director Butch Kay, Planning Director David Bergmark, Police Chief Bill Carter, Parks and Recreation Director Jeff Polaski, and Information Technology Administrator Tamah Hughes.

**CALL TO ORDER:**

Mayor Gray called the meeting to order at 7:00 p.m. and welcomed attendees.

**PLEDGE OF ALLEGIANCE:**

Tamara Bridges, eighth grade student at Wendell Middle School, led the Pledge of Allegiance.

**INVOCATION:**

Errol Briggerman of Wendell Baptist Church provided the invocation.

**1. ADJUSTMENT AND APPROVAL OF THE AGENDA:**

**ACTION**

Mover: Mayor Pro Tem Lutz moved to approve the agenda as presented.

Vote: Unanimous.

**2. PUBLIC COMMENT PERIOD (*one hour time limit in total*):**

The following person(s) spoke during Public Comment Period:



Clara Giannetti of 1126 Old Zebulon Road expressed concern about the laws for restraining animals as she has a neighbor that keeps the dog chained in the backyard.

**3. CONSENT AGENDA**

The Board of Commissioners uses a Consent Agenda to act on non-controversial and routine items quickly. The Consent Agenda is acted upon by one motion and vote of the Board. Items may be removed from the Consent Agenda and placed on the Regular Agenda at the request of the Mayor or a Commissioner. The Consent Agenda contains the following items:

- a. Wake County Tax Report.
- b. Approval of the minutes from the January 8, 2018, regular meeting.

**ACTION:**

Mover: Mayor Pro Tem Lutz moved to approve the consent agenda as presented.

Vote: Unanimous.

**4. RECOGNITION OF WENDELL MIDDLE SCHOOL TEACHER: MARSIE RABII**

**SPEAKER: Mayor Virginia Gray**

**ACTION: Recognition.**

*[Staff Report]*

**Item Summary**

*Mrs. Rabii earned a bachelor's degree in psychology from Mary Washington University in Virginia. She joined the Teach for America Program and began teaching special education at JW Parker Middle School in the Nash-Rocky Mount Public School System. During her 16 year tenure at JW Parker, Mrs. Rabii received numerous awards and accolades. She was named JW Parker Middle School's Teacher of the Year in 2016. Mrs. Rabii has also completed her Masters in Educational Leadership. Mrs. Rabii has called Wendell Middle School home since August 2016. She is a special education math teacher at our school. She is also our special education department chair. Mrs. Rabii does an outstanding job teaching students with unique learning needs. She truly has a gift for building relationships with her students. Her laugh is contagious and you just can't help but smile in her classroom. She is always infusing her humor in her lessons. Mrs. Rabii is also very competitive whether it is challenging her students at a game of connect 4 or working with her special education team to build the biggest and best gingerbread house for a fun holiday competition. She does it all with an enthusiasm which can't be measured. These qualities have helped her students to thrive and flourish despite academic challenges in math. Her students have gained confidence in their math skills because of her instructional practice and the relationships that she has built with them. We are very fortunate to have Mrs. Rabii as a teacher at Wendell Middle School.*

Mayor Virginia Gray recognized Wendell Middle School teacher Marsie Rabii; report above in italics.

**5. PRESENTATION BY A REPRESENTATIVE OF THE LOCAL GOVERNMENT FEDERAL CREDIT UNION (LGFCU).**

**SPEAKER: Jazmine Kilpatrick**

**ACTION: Presentation**

*[Staff Report]*

**Item Summary**

*Ms. Jazmine Kilpatrick of the LGFCU will provide a presentation of the services provided to local government employees, local elected officials and volunteers serving the local government.*

Ms. Jazmine Kilpatrick, Senior Membership Development Officer – Elected Officials and Volunteers, provided an overview of the services provided to local government employees and local elected officials.

**Public Hearing Guidelines:**

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- Case is announced
  - Staff presentation
  - Applicant presentation
  - Public hearing is opened; citizens will follow the same rules as Public Comment Period and will have five minutes to speak
  - Close public hearing
  - Board members ask questions
  - Board may take action
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**6. PUBLIC HEARING CONTINUED FROM JANUARY 8, 2018: PUBLIC HEARING ON A ZONING TEXT AMENDMENT TO CHAPTERS 11 AND 17 OF THE UDO AS THEY RELATE TO STREET LIGHTS.**

**SPEAKER: Planning Director David Bergmark**

**ACTION: Public Hearing. Board may take action.**

*[Staff Summary]*

**Specific Action Requested:**

- *That the Town Board resume a public hearing on the proposed text amendment request to Chapters 11 and 17 of the UDO and consider taking action.*
  - *Action could consist of adopting the attached ordinance to make changes to Chapter 11 and 17 of the UDO, as well as the proposed Wendell Street Light Policy.*

**Applicant:**

*Town of Wendell*

**Petition:**

*Due to an increase in residential development, the need to make modifications to the Town's street light policies has been identified. While Town Policies, such as a new Street Light Policy, do not require a public hearing for adoption, two sections of the UDO which reference Street Light standards would need to be amended to comply with recommended policy standard updates.*

*As can be seen in the existing language of Section 17.5 of the UDO, the Town's current standard requires the developer to be responsible for the difference in the costs between the Town's standard pole (a 25' wood pole) versus the upgraded lighting for a period of 20 years. This requirement creates a large up-front cost for the developer, and creates a long-term cost for the Town as that development will extend beyond 20 years. While this standard worked adequately for smaller subdivisions, the up-front cost can become untenable for larger subdivisions with hundreds of lots. Ultimately the existing standard could harm the Town, as after the 20 year period, the Town would be financially responsible for the full cost of the upgraded fixture indefinitely into the future.*

*At the request of the Town Board, an analysis of the financial impact of the existing and proposed streetlight standards is contained in Attachment C. This analysis consists of a price comparison summary with bulleted points illustrating the financial impact, as well as a detailed cost table. This analysis shows that under the existing policy the Town is paying more for pedestrian lights after 11 years, even with the up-front payment from the developer. Visual illustrations of different street light options are contained in Attachment D.*

*As proposed in the recommended changes to Section 11.10, the new Town regulation would call*

for a 25' fiberglass pole vs a wooden pole as the Town's standard residential street light. If a given developer uses this standard street light at the recommended spacing, the Town would pay all monthly operating costs due to Duke Energy. However, if the developer chose upgraded street light poles and/or fixtures, the new standard would require that a HOA enter into a contract with Duke/Progress Energy, with the Town reimbursing them the cost of the standard pole and fixture. An example agreement between the Town and a HOA is included as Attachment A.

Following the January 8, 2018 Town Board meeting, staff met with representatives of the Wendell Falls, Edgemont Landings, and Groves of Deerfield subdivisions to discuss the proposed street light policy. Lucius Jones expressed concerns for the up-front cost required under the current policy for pedestrian lighting (which would be approximately \$60,000 for Phase 3 and 4 of Groves of Deerfield). He did not wish to pursue the option to form an HOA to assume the cost of pedestrian lighting installation under the proposed policy, but he also voiced his desire to avoid payment as a developer for the up-front cost. His expressed preference was for the Town to pay street light installation costs using tax dollars. He said he would consider changing the lighting in Phase 3 and 4 to the proposed standard to avoid payment of up-front costs.

Jason Reiswig of DR Horton said he was very much in favor of the proposed street light policy. This response was expected, as DR Horton had already contracted directly with Duke Energy for lighting to avoid the up-front fee called for under the existing policy for Phase 2A-1 of Edgemont Landings. Newland also expressed support of the new street light policy structure. Similar to DR Horton, Newland Communities has been contracting directly with Duke Energy for lighting in order to avoid the up-front cost to the developer required by the Town's current policy.

The proposed text amendment would also reduce the number of zoning districts which require pedestrian street lights, as the long-term cost to the Town for pedestrian vs. roadway street lights is significantly higher. Developers who desired pedestrian lights in any zoning district could choose the option provided in the policy for installation, with the Town reimbursing them the cost of standard street lighting and the HOA assuming financial responsibility for the cost beyond the standard.

More detailed procedural information on the Town's proposed Street Light standards are contained in the proposed Wendell Street Light Policy (Attachment E). This policy has been reviewed by the Town attorney.

The following section details the specific changes proposed for Section 11.10 and 17.5 of the UDO, with the **amended text shown in red**.

Existing Language (Section 11.10)

**11.10 Street Lighting**

- A.** *Street lighting shall be placed on all streets by the developer to allow for the safe use of streets by both cars and pedestrians. All street lighting shall be placed in accordance with the following minimum design standards:*

- I. Minimum average street light spacing:**

	R7, TND, NC, RR, R2, R3, R4, CMX, CC, DMX CH, M&I				
	OSC	RA	MH		
<b>Minimum Average Street</b>	n/a	n/a	300 ft.	150 ft. (pedestrian-scaled)	300 ft.

<b>Light Spacing</b>				
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2. Lighting shall be placed at street intersections and is preferred at street curves.
3. Pedestrian-scaled lighting (no taller than 18 feet) should be prioritized over automobile lighting. Lighting should be placed in a manner to limit the casting of shadows on sidewalks.
4. All lighting shall utilize a cutoff fixture. Where buildings are close to the street (less than 15 feet from the right-of-way), full cutoff fixtures are required to limit glare and light spillage on upper levels.

B. Alleys are excluded from the spacing and lighting requirements of this Chapter.

Proposed Language (Section 11.10) (modified language shown in red)

**11.10 Street Lighting**

A. Street lighting shall be placed on all streets by the developer to allow for the safe use of streets by both cars and pedestrians. *Developer placed lighting shall also include all improved frontages on local and NCDOT streets (with DOT approval). Developers requesting upgrades beyond the Town's minimum street light specification of a 25' fiberglass pole with a fully-shielded, arm-mounted LED fixture must follow the procedures outlined in the Town's Street Light Policy.* All street lighting shall be placed in accordance with the following minimum design standards:

1. **Minimum average residential street light spacing:**

	OSC	RA, RR	R2, R3, R4, MH, R7, TND, NC, CMX, CC, CH, M&I	DMX
<b>Minimum Average Street Light Spacing</b>	n/a	500 ft.	300 ft.	150 ft. (pedestrian-scaled)

2. Lighting shall be placed at street intersections and at the end of cul-de-sacs or street stubs 200 ft. or longer, and is preferred at street curves.
3. Pedestrian-scaled lighting (no taller than 18 feet) is required in the DMX zoning district. Developers electing to use pedestrian lighting in other zoning districts may do so with the Administrator's approval, using the same spacing requirement as listed for the DMX district. Where used, pedestrian lighting should be placed in a manner to limit the casting of shadows on sidewalks.
4. All lighting shall utilize a cutoff fixture. Where buildings are close to the street (less than 15 feet from the right-of-way), full cutoff fixtures are required to limit glare and light spillage on upper levels.
5. Nothing in these provisions shall exempt the developer from meeting any additional NCDOT lighting standards along state maintained roadways.
6. The construction of a single dwelling not part of a major or minor subdivision, or which is located within a Family Subdivision shall not initiate street light requirements.

B. Alleys are excluded from the spacing and lighting requirements of this Chapter.

C. More information on Street Lighting may be found in the Town's Street Light Policy.

Existing language (Section 17.5)

**17.5 Street Lights**

A. The developer shall install underground wiring for street lights and shall install lights at the developer's cost prior to final plat approval. The Town will notify Progress Energy when the lights should become operational for each block within the applicable phase.

B. **Decorative Street Lights:** Custom or decorative street lighting proposed by the developer is subject to approval by the Town prior to installation. The developer is responsible for all costs associated with the use of

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*custom or decorative materials, to include the difference in the costs associated with the town's standard pole versus the upgraded lighting for a period of 20 years.*

Proposed Language (Section 17.5)

**17.5 Street Lights**

- A.** *The developer shall install underground wiring for street lights and shall install lights at the developer's cost prior to final plat approval. The Town will notify Duke Energy when the lights should become operational for each block within the applicable phase.*
- B.** **Decorative Street Lights:** *Use of any street lighting other than the Town's standard 25' fiberglass pole with a fully-shielded, arm-mounted LED fixture must follow the procedures outlined in the Town's Street Light Policy, and is subject to approval by the Town prior to installation. Use of non-standard poles shall require the owner to enter into a contract directly with the utility provider. The Town shall issue reimbursements to the owner based upon its standard pole costs, as outlined in the Town's Street Light Policy.*

Statement of Plan Consistency and Reasonableness

- *Any recommended change to the zoning text should be accompanied by a statement explaining how the change is consistent with the comprehensive plan, and is reasonable in nature.*
  - *At their November meeting, the Planning Board found the requested zoning text amendment (as modified at the meeting) to be consistent with Principle # 5 of the Wendell comprehensive plan and reasonable in order to protect vehicular and pedestrian safety through adequate lighting.*
    - *Principle # 5: Promote Wendell's attractiveness to business and people of all walks of life.*

Planning Board Recommendation:

*At their November 20, 2017 meeting, the Wendell Planning Board voted 6-2 in favor recommending approval of a modified version of the proposed text amendment. The only change made by the Planning Board was to remove the requirement for street lighting in the Residential Agricultural (RA) zoning district, and to leave the spacing requirement for the Rural Residential (RR) zoning district as 300 feet.*

**Voting in Favor:** *Michael Clark, Errol Briggerman, Gilda Wall, Jonathan Olson, Kathe Schaecher, and Victoria Curtis.*

**Voting Against:** *Lloyd Lancaster and Allen Swaim*

**Absent:** *Ashley Anderson*

Staff Recommendation:

*Staff supports the proposed UDO amendments and Street Light Policy. The attached ordinance for adoption reflects the Planning Board's recommended amendment.*

Planning Director David Bergmark provided an overview of the zoning text amendment to Chapters 11 and 17 of the UDO as they relate to Street Lights; staff report above in italics. Staff met with the following developers: Lucius Jones, DR Horton of Edgemont Landing, and Wendell Falls. He added DR Horton of Edgemont Landing and Wendell Falls are in favor of the structure of an HOA having the contract.

Commissioner Joyner stated he spoke with Planning Director Bergmark earlier. He understands there is a fiscal impact. He questioned why this has not come up before as a Town financial obligation. Planning Director Bergmark stated Wendell Falls brought this to the Town's attention. The Town began working with the numbers and put together a policy that would work

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for more than just Wendell Falls. The analysis brought to light long term cost impact to the Town.

Commissioner Joyner questioned if this is a number the Town has been paying. Town Manager Piner stated with the recession, there has not been new development for an extended period of time in Wendell. With development picking up, the smaller developments did not see a large upfront cost or have much of an impact on the Town. With the larger developments, the upfront costs are more. This is an effort to be fair to all across the board.

Commissioner Joyner appreciates when Town staff finds ways to save money. He added that residents count on the Town providing lights on the street without an expectation as to what the light will look like. The goal is to be the best version Wendell can be. This is an economic decision that will have to be made by the developer. He does intend to look at this and continue having conversations to make this better.

Commissioner Myrick questioned since Newland entered into a contract for Duke Energy they are responsible for the cost of the power and maintenance. Planning Director Bergmark stated yes.

Commissioner Myrick stated he would not want to pay the price tag for some of these houses and then look outside and see a wooden pole. Planning Director Bergmark stated the upgrade is to a fiberglass pole.

Mayor Gray stated this is an upgrade from a wood pole to a fiberglass pole and the Town is not taking on the financial cost on the front-end. Planning Director Bergmark stated the developer would pay the underground connection fee of \$500 per pole to Duke Energy and the Town would pay the monthly cost.

Mayor Gray questioned if there is a cost savings to the Town over a period of time. Planning Director Bergmark stated yes.

Commissioner Carroll questioned where the numbers are derived. Planning Director Bergmark stated the pole placement increased from one pole every 300 feet to one pole every 150 feet and the other reason is the upfront fee to developer is based on a 20 year timeframe and the Town will continue to pay for the pole beyond the 20 year agreement and within the 20 year timeframe is a per pole cost.

Commissioner Carroll heard form an HOA and the HOA would offset the cost throughout the development and the HOA may regulate. The HOA may charge a minimal monthly amount for the upkeep.

Commissioner Boyette questioned the frequency the rates charged per pole updated, who sets the rates and how frequently the rates are amended. Planning Director Bergmark believes the rates are set annually.

Town Manager Piner stated the cost per pole and fixture is evaluated annually. The underground

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charge came about with the merger between Duke and Progress Energy.

Commissioner Joyner stated the Utilities Commission decides the rate increases and then Duke may come up with additional charges to off-set the lack of increase.

Commissioner Joyner stated the LED fixture is presently \$7.53 a month. If the rates are fixed for a period of time, he would be less concerned about the financial cost. He questioned when the rate was last adjusted.

Town Manager Piner stated once there is a contract, the rate is locked into the period of the contract.

Commissioner Boyette questioned if there is an option for the Town to be in a long term agreement to keep the costs of the pole down. Town Manager Piner stated she could speak with Duke.

Mayor Pro Tem Lutz stated he looked at the chart with the existing policy and the Foxborough Crossing example. His concern is the developer not opting for HOA and doing the standard fiberglass. Planning Director Bergmark stated the fiberglass option may cost the Town a little bit more.

Mayor Gray asked what the other Towns do. Planning Director Bergmark stated this option presented to the Town by Duke Progress Energy as Raleigh and Knightdale use this model.

Mayor Gray opened the floor for citizen comment.

Lucius Jones, 410 Selma Road, stated when he served on the Board, the Town spent money putting in the pedestrian lights in downtown. He believes the fiberglass poles are a step back in aesthetics for the Town. This would increase the cost of his product by \$1,000. He added many people do not want an HOA. By having an HOA, the burden is placed on the homeowners; instead of raising taxes. He thought it was the responsibility of the Town to provide street lights. He is in disbelief that his 60 lot subdivision will cost \$60,000.

Commissioner Carroll stated he heard the last time Mr. Jones developed lots it cost him under \$1,400 for pedestrian lights and he questioned what year that was. Mr. Jones stated it was before the recession.

Commissioner Carroll questioned the policy before the UDO. He questioned how the rate went from \$1,400 to \$60,000. Town Manager Piner stated the underground cost was not in place prior to the recession and the other is the difference between the wooden pole and the upgraded pole.

Commissioner Carroll questioned the amount of the pedestrian lights installed by Mr. Jones.

Commissioner Carroll is hearing a price increase per pole due to the material itself from Duke.

Town Manager Piner stated she would research Mr. Jones' prior development costs and staff will



research the costs for the overhead lighting.

Commissioner Joyner stated he was at the Town of Tarboro in 2009 when an 18 percent increase in price in electricity. He added the electric company can request a rate increase. He stated the Board cannot predict the cost 20 years out. He questioned if the numbers in the spreadsheet includes a rate increase. Town Manager Piner stated no. The numbers in the spreadsheet are the numbers from the agreement.

Planning Director Bergmark stated Duke will do a 20 year contract.

Mayor Gray closed the public hearing at 7:44 PM.

Mayor Pro Tem Lutz stated the policy is an improvement. He thinks there is a compromise in the middle.

**ACTION**

Mover: Commissioner Joyner moved to continue this item to the first budget work session to receive information on what is paid currently and what is projected by the Town. [March 26, 2018 is the first FY 19 budget work session].

Vote: Unanimous.

**7. UPDATE ON BOARD COMMITTEE(S) BY TOWN BOARD MEMBERS:**



**Fire Advisory Board [Commissioner Joyner]**



**Capital Area Metropolitan Planning Organization (CAMPO) [Mayor Gray]**

Commission Joyner met last month and beginning the budget process with Wake County as well as beginning plans for the opening of the new fire station. The new fire station will increase Wendell's Fire Department by nine personnel and one engine.

Mayor Gray stated this was re-scheduled due to the weather to this week.

**8. COMMISSIONERS' REPORTS.**

Commissioners Joyner, Myrick and Carroll stated no report.

Commissioner Boyette thanked the Town staff for their efforts during the winter weather.

Mayor Pro Tem Lutz shared the Wendell United Methodist Church is hosting a pancake and sausage dinner this Friday from 5 PM to 7 PM; adults are \$6 per person and children are \$4 per child.

**9. MAYOR'S REPORT.**

Mayor Gray stated the Town of Wendell contracts with Wake County Animal Control. She met with Wake County Animal Control a few weeks ago to film a Public Service Announcement, PSA. Dr. Jennifer Frederico is the Animal Services Director for Wake County Animal Control.

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Tethering has been brought to her attention several times. As long as a dog has shelter, food and shelter, tethering is permitted. If there is an animal problem, citizens may call 919-856-6911.

Mayor Gray stated she and several Town of Wendell staff members met with representatives of the North Carolina Sports Hall of Fame this past Tuesday. Jake May of Wendell is part of the 2018 class of inductees. She will be attending the induction event and the event is open to the public. She thanked everyone for their effort in helping to get Jake May inducted into the North Carolina Sports Hall of Fame. This is a great honor to the Jake May family.

**10. CLOSED SESSION.**

**ACTION: Will be called if necessary.**

**ACTION**

Mover: Mayor Pro Tem Lutz moved to go into closed session at 7:55 p.m. in accordance with NC GS 143-318.11 (a) (6) [personnel].

Vote: Unanimous.

**ACTION**

Mover: Mayor Pro Tem Lutz moved to return to open session at 8:36 p.m.

Vote: Unanimous.

**11. ADJOURN.**

**ACTION:**

Mover: Mayor Pro Tem Lutz moved to adjourn at 8:36 p.m.

Vote: Unanimous.

Duly adopted this 12th day of February 2017, while in regular session.

**ATTEST:**

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Virginia R. Gray, Mayor

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Sherry L. Scoggins, MMC; Town Clerk