



# TOWN OF CHAPEL HILL

Town Hall  
405 Martin Luther King Jr.  
Boulevard  
Chapel Hill, NC 27514

## Town Council

### Meeting Minutes - Final

Mayor Pam Hemminger  
Mayor pro tem Jessica Anderson  
Council Member Donna Bell  
Council Member Allen Buansi  
Council Member Hongbin Gu

Council Member Nancy Oates  
Council Member Michael Parker  
Council Member Rachel Schaevitz  
Council Member Karen Stegman

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**Wednesday, November 20, 2019**

**7:00 PM**

**RM 110 | Council Chamber**

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### Roll Call

**Present:** 9 - Mayor Pam Hemminger, Mayor pro tem Jessica Anderson, Council Member Donna Bell, Council Member Allen Buansi, Council Member Hongbin Gu, Council Member Nancy Oates, Council Member Michael Parker, Council Member Karen Stegman, and Council Member Rachel Schaevitz

### Other Attendees

Town Manager Maurice Jones, Deputy Town Manager Florentine Miller, Town Attorney Ralph Karpinos, Police Officer Rick Fahrer, Fire Inspector Donnie Morrissey, Communications Specialist Mark Losey, Interim Planning Director Judy Johnson, LUMO Project Manager Alisa Duffey Rogers, Principal Planner Corey Liles, Planner II Becky McDonnell, Economic Development Officer Dwight Bassett, Community Safety Planner Meg McGurk, Police Chief and Executive Director for Community Safety Chris Blue, Business Management Director Amy Oland, Ombudsman Jim Huegerich, Executive Director for Chapel Hill Community Arts & Culture Susan Brown, Urban Designer Brian Peterson, Assistant Town Clerk Christina Strauch, and Deputy Town Clerk Amy Harvey.

### OPENING

0.01 Proclamation: 200th Birthday of Chapel Hill Government.

[\[19-0988\]](#)

Mayor Hemminger opened the meeting at 7:00 p.m. with a proclamation for the 200th birthday of Chapel Hill's government.

Council Members read the names of public officials who had been "firsts" since the Town was founded on November 18, 1819. These included: Wilson Caldwell, first African American to hold public office in 1886; Hubert Robinson, first African American Alderman in 1953; Howard Lee, first African American mayor in 1969; Jerry Cohen, first UNC student elected to Council in 1973; Joe Hertenberg, first openly gay person elected official in 1987; Barbara Powell, first African American woman elected to Council in 1992; Rosemary Waldorf, first woman mayor in 1995; Mark Kleinschmidt, first openly gay mayor in 2009; Maria Palmer, first

Latin American elected to Council in 2013; and Hongbin Gu, first Asian American elected to Council in 2017.

Mayor Hemminger said that the Town was proud of all of the Council Members and staff who had made the Town what it currently was. She acknowledged public officials who were in attendance and held a moment of silence for former Council Member Joyce Brown, who had recently passed away.

One by one, Council Members read a proclamation that addressed the history of Chapel Hill since The University of North Carolina (UNC) laid the cornerstone for the first building in 1793. They read that the NC General Assembly had appointed the Town's first commissioners in 1819 and that the Town was incorporated in 1851. The proclamation included significant milestones up to the present day.

#### 0.02 Success Video: The People's Academy. [\[19-0989\]](#)

The Council observed a video about the People's Academy, a highly interactive program in which people learn how everything in Town works. The People's Academy was a good place to become more involved in the community, said Mayor Hemminger, and she noted that information was available on the Town's website.

### **ANNOUNCEMENTS BY COUNCIL MEMBERS**

#### 0.03 Mayor Hemminger Regarding Upcoming Meetings. [\[19-0990\]](#)

Mayor Hemminger said that the current meeting would be the Council's last regular business meeting of the year. There would be an organizational meeting on December 4, 2019 and regular meetings would begin again in January 2020, she said.

#### 0.04 Mayor Hemminger Regarding Well Dot Inc. [\[19-0991\]](#)

Governor Roy Cooper had announced that Well Dot Inc. had chosen Chapel Hill for its home operations center, Mayor Hemminger said. She explained that Well Dot was a fast-growing health-tech company, founded by UNC Morehead scholars, that was expected to bring 400 good-paying jobs to downtown Chapel Hill.

#### 0.05 Mayor Hemminger Regarding Holiday Events. [\[19-0992\]](#)

Mayor Hemminger urged residents to go to the Downtown Partnership's website to learn about all the events that merchants had planned for the holiday season.

#### 0.06 Mayor Hemminger Regarding Alleyway Ribbon-Cutting. [\[19-0993\]](#)

Mayor Hemminger pointed out that the Town's alleyways had been improved and that a ribbon-cutting ceremony had recently celebrated that.

0.07 Council Member Stegman Regarding Proclamation  
Honoring 50th Anniversary of Cat's Cradle.

[\[19-0994\]](#)

Council Member Stegman said that she had recently participated in presenting a proclamation in honor of the 50th anniversary of Cat's Cradle. She said that a packed house of local musicians and others had attended.

0.08 Mayor Hemminger Regarding North Carolina Supreme  
Court Oral Arguments and 200th Anniversary.

[\[19-0995\]](#)

Mayor Hemminger said that she and several Council Members had attended oral arguments at the NC Supreme Court the previous day. The Court was celebrating its 200th anniversary by traveling to 26 sites across the state, she said.

**PUBLIC COMMENT FOR ITEMS NOT ON PRINTED AGENDA AND  
PETITIONS FROM THE PUBLIC AND COUNCIL MEMBERS**

Petitions and other similar requests submitted by the public, whether written or oral, are heard at the beginning of each regular meeting. Except in the case of urgency and unanimous vote of the Council members present, petitions will not be acted upon at the time presented. After receiving a petition, the Council shall, by simple motion, dispose of it as follows: consideration at a future regular Council meeting; referral to another board or committee for study and report; referral to the Town Manager for investigation and report; receive for information. See the Status of Petitions to Council webpage to track the petition. Receiving or referring of a petition does not constitute approval, agreement, or consent.

0.09 John Morris Request Regarding Local & Regional Transit  
Planning.

[\[19-0996\]](#)

John Morris, a Chapel Hill resident, petitioned the Council to become actively involved in local and regional transit planning. He read conclusions from a peer study about GoTriangle's (GT) errors during a failed light rail project and argued that the Town should not allow GT to manage significant transit projects that affect Orange County until its board and staff had been rebuilt. Mr. Morris also made suggestions regarding a related Orange County proposal.

A motion was made by Mayor pro tem Anderson, seconded by Council Member Schaevitz, that this Petition be received and referred to the Town Manager and Mayor. The motion carried by a unanimous vote.

**CONSENT**

Items of a routine nature will be placed on the Consent Agenda to be voted on in a block. Any item may be removed from the Consent Agenda by request of the Mayor or any Council Member.

### *Approval of the Consent Agenda*

A motion was made by Mayor pro tem Anderson, seconded by Council Member Schaevitz, that R-1 be adopted as amended, which approved the Consent Agenda. The motion carried by a unanimous vote.

1. Approve all Consent Agenda Items. [\[19-0962\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

2. Adopt a Resolution Supporting an Application for Transportation Demand Management (TDM) Grant. [\[19-0963\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

3. Amend Chapter 2, Article IV, Section 2-72 of the Town Code of Ordinances Regarding Campaign Disclosure and Contribution Limitations Based on Changes to State Statutes. [\[19-0964\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

4. Call for a Public Hearing for January 8, 2020 to Consider a Request to Close a Portion of the Public Right-of-Way on Glen Lennox Drive between Flemington Road and Fordham Boulevard. [\[19-0965\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

- 4.1 Appoint the Town of Chapel Hill's First Poet Laureate. [\[19-0997\]](#)

Mayor Hemminger introduced CJ Suitt, the Town's first poet laureate. Mr. Suitt shared some of his personal experiences growing up, becoming educated in Town, and forming a local non-profit called The Sacrificial Poet. Council Member Buansi said that Mr. Suitt was a true advocate for social justice.

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

### **INFORMATION**

5. Receive Upcoming Public Hearing Items and Petition Status List. [\[19-0966\]](#)

This item was received as presented.

6. Receive the First Quarter Fiscal Year 2020 Affordable Housing Report. [\[19-0967\]](#)

This item was received as presented.

7. Receive Update on Mayor's Southern Area Focus Group. [\[19-0968\]](#)

This item was received as presented.

## DISCUSSION

8. Consider Supporting a UNC Health Care Eastowne Request to the State of North Carolina to Drain the Pond, Permit Stream Restoration, and Water Quality Improvements.

[\[19-0969\]](#)

Town Manager Maurice Jones gave an update on a development agreement (DA) with UNC Healthcare (UNC-HC) regarding property at Eastowne. He noted that a Council subcommittee comprised of the Mayor and Council Members Schaevitz and Gu had met with UNC-HC 13 times since February 2019. UNC-HC was currently asking the subcommittee to support its application to the state to drain an existing farm pond on the southern portion of the property and to build two stream crossings on a northern parcel, he said.

Mr. Jones explained that it would take 6 to 24 months for the state to evaluate the results of draining the pond. An affirmative Council vote would not mean approval of the stream crossings, but it would allow UNC to move forward in its discussions with the state, he said. Mr. Jones pointed out that most members of the full Council had expressed opposition to developing the northern parcel.

Simon George, representing UNC-HC, expressed concern about misunderstandings that had arisen regarding the Eastowne project. He stressed that UNC-HC was strongly committed to the Town. Its mission was to create a thriving, economically vibrant, mixed-use environment at Eastowne that would benefit patients, employees and residents while attracting premier businesses to Town, he said.

Mr. George emphasized the following points in response to criticisms that he had heard: 1) UNC-HC had known there would be a large medical presence at Eastowne but had never said it was going to be a medical village; 2) the Town's land use ordinance and its 2020 Comprehensive Plan both showed the entire site as prime for development; 3) going higher than six stories would cost 20 percent more.

Dr. Ian Buchanan, president of Ambulatory and Post-Acute Care, discussed UNC-CH's mission of service and caring for patients throughout the state regardless of their ability to pay. The Eastowne development was critical to that vision because patients would be able to coordinate office visits with multiple doctors in one location that would have easy access from Interstate 40, he said.

Dr. Buchanan said that UNC-HC wanted Eastowne to be a place where employees and patients would feel comfortable in early mornings and evenings in addition to the workday. They wanted a hotel for long-distance patients, and planned to include retail and other amenities as well, he said. As a Chapel Hill resident, he was deeply invested in maintaining the Town's values such as green spaces, a small town feel,

and a spirit of helping others, he said.

Mr. George then described a development plan that included medical and commercial office space combined with retail, food services, and residential development. The final DA would be a culmination of what the site would allow and how those things tied into UNC-HC's and the Town's guiding principles, he said. Mr. George cautioned that the process was running the risk of being behind schedule. He said that no one wanted to reach an impasse.

John Martin, of Elkus Manfredi Architects, discussed the value of a mixed-use environment, the importance of open space, the plan for affordable and market rate housing, and the need to have a substantial amount of retail to support research and clinical practices. He said that the applicant had shown three different density scenarios and would continue to develop along a range of densities. Mr. Martin showed 30-year projections and said that the project would be built incrementally, over time.

Mr. Martin said that there were 13-14 acres of developable land in the north parcel when the 20 acres of natural heritage land is subtracted. The south parcel contained a 6.6-acre farm pond that was not fulfilling any environmental or stormwater function and UNC-HC wanted to drain that, he said. He noted that a related dam and intermittent stream were both in poor condition.

Mr. Martin explained that draining the pond could free up an additional 3.6 acres of developable land, and he proposed reducing the north parcel's developable area to 8.89 acres in return for that. He showed two scenarios for how the development might look with those changes and said that the Council's decision would be a threshold for UNC-HC to continue planning.

David Laube, of Noell Consulting Group, discussed an analysis of what the site could potentially support in the first phase and also at full build-out. He discussed factors that made the Eastowne location a premiere mixed-use site, but clarified that it would be all luxury housing. Market rate apartments would be based on the Town's median household income, and affordable units would be negotiated, he said. Mr. Laube explained that market-rate housing would not support underground parking, buildings on top of parking, or high-rise construction.

Council Members confirmed with Mr. George that construction cost was the fundamental reason why UNC-HC did not want to go higher than six stories. They also confirmed that the stream crossings could be attractive, but would need to be able to support a fire truck. They verified with the applicant that UNC-HC had known the land would need to be rezoned and understood that the current request was for three to five times the allowable square footage.

Council Member Gu commented on the increased profit that UNC-HC would make from having a larger project, but Mr. George replied that UNC-HC was a not-for-profit entity that invested in patient care. UNC-HC essentially gave away \$1/2 billion in free healthcare each year, he said.

Council Member Gu suggested that UNC-HC was asking the Town to support letting it do whatever it wanted because it reinvested its profits in healthcare.

Mr. Martin pointed out that UNC-HC could develop 550,000 square feet by right which would translate to about three buildings surrounded by 10 acres of surface parking with no amenities or public benefits, he said. Mr. Marin argued that increased density created a better place.

The Council confirmed that the development, as presented, would be about 2.5 million square feet. They also verified that the drained pond would become a low area that would be more intermittent than perennial and would have a 50-foot buffer around it.

Mayor pro tem Anderson recalled an agreement with UNC-HC to do a transportation impact analysis (TIA) on existing conditions and proposed densities before deciding about intensity of uses or anything else. She asked why that had not been done. Bill Dirks of McAdams Company replied that the applicant needed to know the size and uses in order to run traffic scenarios. He said he had thought the applicant would be closer to an agreement with the Town by now on the amount of residential versus office space, whether or not there would be a hotel, and the mix of uses, he said.

Mayor Hemminger confirmed that UNC-HC would be amenable to a longer meeting with the Council subcommittee in December. She had hoped the full Council would work on a path forward regarding the stream crossings and pond, but the Council did not seem ready to make those decisions, she said. Mayor Hemminger proposed that Council Members focus on whether or not to endorse UNC-HC's request to the state for permission to drain the pond. Approving that would not mean approving the draining, she pointed out.

Interim Planning Director Judy Johnson gave a PowerPoint presentation on a revised resolution that addressed UNC's request to the state to drain the pond, create stream crossings, and preserve an equivalent amount of land on the north parcel. She showed an aerial shot of the site and surrounding area and said that the pond currently provided little or no stormwater benefit. Ms. Johnson showed the natural heritage area as well and said that staff had previously shared a suitability analysis of that land with the Council.

Ms. Johnson reported that Town advisory boards and the Planning

Commission had expressed strong interest in preserving the natural heritage area and in maintaining the affordable housing components of the plan. She recommended that the Council adopt a revised Resolution A, to support UNC-HC's request to the state.

Council Member Parker and Ms. Johnson discussed adding a clause about land being placed into perpetual preservation, but Town Attorney Ralph Karpinos said that nothing could be added that would ensure things would remain as they are forever.

Mayor pro tem Anderson confirmed that the revised resolution would not mean approving the number of stream crossings. She said that agreeing to UNC-HC preserving land in an amount equal to developable land created by draining the pond would be premature. Mayor pro tem Anderson asked if there was any way that UNC-HC could get permission from the state without the Town committing to anything.

Jim Tully, with DCI, pointed out that UNC-HC would not need the state's permission to drain the pond if it were not for the DA process. He explained how the land might react after the pond was drained and said that the state would designate whatever formed there after at least a year. Mr. Tully said that UNC-HC had proposed the land swap because it had not wanted to ask the Town about draining the pond without offering something in return.

Council Members noted that the Town might want something other than land in return and discussed possibly addressing that in Resolution A. The consensus was to leave in what the Town would get in return and to leave the discussion open.

Julie McClintock, a Chapel Hill resident and former Council Member, said that she and others had sent a letter to the Council regarding stormwater. She was feeling upset by the current conversation, she said, adding that nearby neighbors probably would have attended if they had known that the entire project would be discussed. Ms. McClintock described what she saw as flaws in the plan and asked UNC-HC to respect the Town's role and not to ask it to give up its standards.

Ed Harrison, a Chapel Hill resident and former Council Member, recommended Resolution A not include language about evaluating stream crossings in the northern parcel. There was great interest in preserving the natural area and he would like more time to talk with the Council about its uniqueness, he said. Mr. Harrison pointed out that the entire Council had been engaged in DA negotiations for Carolina North and that a professional negotiator had been involved as well.

Pamela Schultz, Environmental Stewardship Advisory Board chair, said she felt uncomfortable about the map being shown for the first time only two days ago. She commented on how so much development was being



proposed on a unique natural heritage area/wildlife corridor and strongly recommended as much of that be preserved as possible. Ms. Schultz said that draining the pond should be kept separate from other issues.

Mr. Karpinos put a revised resolution on the screen, and Council Member Gu suggested that it address stream enhancements and water quality improvements. She would not be able to vote for the resolution without knowing the exact kind of enhancements UNC-HC was planning, she said.

Mr. Dirks replied that UNC-HC would ultimately need a permit from the Town to drain the pond. In addition, it would need an erosion control permit from Orange County and the Town's agreement in order to get permission from the state to actually work on the stream, he said.

Council Member Gu confirmed with Mr. Tully that Resolution A did not mean the Town supported draining the pond and building there. Mr. Karpinos showed where the resolution stated that any enhancement plan would be subject to Town approval.

Council Member Gu said there was not sufficient justification for draining the pond. She raised questions about how the Council could give approval without knowing what would be submitted to the state. UNC-HC had not presented a proposal or any research findings regarding the environmental impact, she remarked.

Mayor Hemminger pointed out that Town advisory boards and subcommittees had agreed that the farm pond was serving no stormwater value. She then confirmed by a straw vote that the other Council Members were okay with draining the pond.

Council Member Gu and Mayor Hemminger continued to discuss the amount of information available to Council Members. Mayor Hemminger pointed out that they had advisory boards' written reports, documentation given to the subcommittee about returning the area to a natural stream, and the fact that any owner of the pond could have drained it prior to the DA.

Mayor Hemminger and Mr. Tully discussed how the pond would need to go through a natural course after draining before anyone would know if the land could be developed there. Mayor Hemminger confirmed that UNC-HC would come back during the DA process to negotiate any possible development. She pointed out that the state would not permit UNC-HC to build in the drained area if other streams appeared there.

A motion was made by Mayor pro tem Anderson, seconded by Council Member Parker, that R-4 be adopted as amended deleting a statement regarding the land swap, changing a clause regarding Council approvals, adding information about final approval by the Town Council, changing

wording, and information regarding stream enhancements, and other changes, such as an option to receive community benefits in exchange for land. The motion carried by the following vote:

**Aye:** 8 - Mayor Hemminger, Mayor pro tem Anderson, Council Member Bell, Council Member Buansi, Council Member Oates, Council Member Parker, Council Member Stegman, and Council Member Schaevitz

**Nay:** 1 - Council Member Gu

9. Charting Our Future - Reconsider Petition from Residents of Glenn Heights.

[\[19-0970\]](#)

Land Use Management Ordinance (LUMO) Project Manager Alisa Duffey Rogers said that residents of Glen Heights had petitioned the Council in September to remove their neighborhood from the South Martin Luther King Jr. Boulevard (MLK) Focus Area. She provided background on subsequent discussions and proposed a new "traditional" character type for that community.

Ms. Duffey Rogers said that Glen Heights would likely retain its Residential 1 zoning with the traditional character type. She recommended that the Council adopt Resolution A, which would authorize the Town Manager to retain Glen Heights in the MLK Focus Area and apply the traditional character type to it.

Council Members Oates and Schaevitz confirmed with Ms. Duffey Rogers that the traditional character type would not provide more protection against so-called McMansions but would give developers options to build duplexes and triplexes.

Bob Schreiner, a Glen Heights resident, said that the proposal would lead to an even higher density which would change the character of their neighborhood. He said that Glen Heights was the only single-family neighborhood in the Future Land Use Map (FLUM) and was being singled out as having a density change imposed on it. Mr. Schreiner proposed that the Town develop a Residential 1 character type that would mean no change and apply it to Glen Heights.

Gary Baum, a Glen Heights resident, said that the traditional character type was very vague and left the possibility for any kind of development. The infrastructure in his neighborhood would not handle the density, he said, noting that there was only one way in and out and that there were no sidewalks.

Council Members asked why Glen Heights was the only single-family

detached neighborhood included on a focus area map and the pros and cons of removing it from the MLK Focus Area.

Ms. Duffey Rogers pointed out that the Chapel Hill 2020 process was before her time, but said that Glen Heights had probably been included because it was adjacent to MLK and across from a new bus rapid transit (BRT) stop. Removing it would likely mean that an accessory dwelling unit would be the only allowable additional density in the neighborhood, she said.

The Council verified with Ms. Duffey Rogers that parcels at Glen Heights were small and would need to be combined and rezoned to build a larger project there under Residential 1 zoning. They also confirmed that Glen Heights had only one access point and that anyone who wanted to build a duplex or triplex there would have to discuss that with the fire marshal.

Council Member Oates said that the fire marshal had told her the neighborhood was at capacity and that adding a duplex would trigger the need for another point of access.

Council Member Bell pointed out that duplexes and triplexes were required to work within the scale of lots and to comply with regulations.

Council Member Gu noted that problems had arisen in other neighborhoods when parking had not been specified. She asked Ms. Duffey Rogers to include in the LUMO rewrite an explanation of how parking would be managed if more units were added.

A motion was made by Mayor pro tem Anderson, seconded by Council Member Parker, that R-6 be adopted. The motion carried by a unanimous vote.

**10. Charting Our Future - Update on Engagement Results for the Draft Focus Area Maps & Principles.**

[\[19-0971\]](#)

Ms. Duffey Rogers gave a PowerPoint update on the results of public engagement regarding draft focus area maps and principles. There had been an agreement on the desire for great streetscapes, sensitive transitions between land uses and buildings, wonderful and unique places, civic spaces, and multi-modal connectivity with walkable activity centers throughout Town, she said.

Ms. Duffey Rogers said that discussions would continue regarding the following: population goals for 2049, capacity of Town infrastructure for redevelopment, whether or not redevelopment should be allowed in floodplain areas, downtown issues such as building heights, and appropriate maximum height for buildings throughout Town. She said that the community needed to be reassured that "places" would be created in

focus areas, not just buildings that do not relate to their surroundings or contribute to the public realm.

Ms. Duffey Rogers said she would return in January 2020 with revisions to maps and principles. She recommended that the Council make decisions regarding remaining FLUM elements, a new University-supported mixed use category, a revised map book, and revised guiding statements.

The Council confirmed with Ms. Duffey Rogers that there would be an opportunity to add place-making guidelines to the FLUM before the LUMO rewrite. They verified that the community's view of desired population in 2049 ran from 78,000 to 128,000, and that some citizens had said that the Council should decide what the desired population should be. The Council confirmed that the Chapel Hill Carrboro City School System leaders felt comfortable about the first 15 years of higher density development. The Schools would start looking at student numbers after that, she said.

The Council confirmed that parking ratios must be stated in the LUMO rewrite and would need to be constantly monitored. In response to a comment regarding two pieces of property that had previously been considered undevelopable, Ms. Duffey Rogers pointed out that the Council had voted in October not to include one of them on the maps.

This item was received as presented.

**11. Open the Public Hearing and Consider Action on a Petition to Annex Properties at Sunrise Road and Ginger Road.**

[\[19-0972\]](#)

Planner Corey Liles reviewed the state statute and process for annexation and said that the Town had held two public hearings since October 2019 regarding annexing properties at Sunrise and Ginger Roads. He showed the 33.72-acre site on a map and said that annexing it would allow residents to be eligible for Town services.

Mr. Liles said that currently, there was no approved development for the site but that Habitat for Humanity had submitted a Conditional Zoning application in June 2019 for a mixed-income housing development, called Weavers Grove. He said that the property was in a transition area and was covered by a joint planning agreement between the Town, Orange County and the Town of Carrboro.

If the property were annexed and developed, annual Town revenue and costs would be estimated at \$487,571 and \$467,584, respectively, he said. He noted that the Town would be required to pay an estimated \$1,527 to the rural fire district upon annexation. Mr. Liles said that the Town would hold a public hearing regarding zoning if annexation were approved. He recommended that the Council receive public comment and either continue the public hearing or close it and enact the ordinance to

annex the properties. Council Member Oates verified with Mr. Liles that the Town did not currently receive tax revenue from the properties.

Michael Murphy, a Chandlers Green resident, said that he and his neighbors wanted to be part of any discussions regarding sewer system placement if the Town annexed the property.

Nancy Smythe, a Chandlers Green resident, asked the Council to continue the hearing because the neighborhood had not received adequate notification.

Jennifer Player, representing Habitat for Humanity, asked the Council to approve annexation, noting that the site would ultimately be home to nearly 100 lower-income people and would provide middle-market homes as well. Annexation would allow Town services, simplify the approval process, and make the development eligible for Town funding, she said.

Council Member Bell pointed out that annexation did not mean automatic approval of any future project.

Council Member Oates confirmed with Mr. Liles that the Town, Orange County, and Carrboro would need to agree to amend the joint planning agreement and add the land to the Town's extraterritorial jurisdiction. She also confirmed that annexation would not provide any ability to develop or disturb the property. She asked if the property would come off the tax rolls once it had been purchased by a non-profit.

Mr. Liles did not know the answer to that for certain, but said there would be a \$6,227 annually gap in taxes if that were the case.

A motion was made by Council Member Bell, seconded by Council Member Parker, to close the public hearing. The motion carried by a unanimous vote.

A motion was made by Council Member Bell, seconded by Mayor pro tem Anderson, that O-2 be enacted. The motion carried by a unanimous vote.

- 12.** Consider Land Use Management Ordinance Text Amendments - Proposed Changes to Sections 3.6.2 and 8.4 Related to Historic District Commission Procedures.

[\[19-0973\]](#)

Planner Becky McDonnell gave a PowerPoint presentation on a series of LUMO text amendments (TAs) that were among those the Council Committee on Boards and Commissions, the Historic District Commission, and Town staff had proposed in recent years regarding Historic District Commission (HDC) procedures. In September 2019, the Council Committee had recommended moving forward with some of them, she said, and she provided additional information on the following seven TAs:

1. Reduce time for action on Certificate of Appropriateness (COA) applications.
2. Clarify language for resubmittal of COA applications.
3. Add a provision for expiration of a COA.
4. Tie Design Guidelines to the LUMO.
5. Clarify review criteria and congruity standard.
6. Clarify voting procedure.
7. Require updated inventories.

Ms. McDonnell said that #4 had been included since the last public hearing, and she noted an attached memo from the Town Attorney regarding how those guidelines were being used. She pointed out that #1 related to the time period for action that the HDC may take on certificate of appropriateness COA applications. Ms. McDonnell recommended that the Council close the public hearing, adopt the Resolution of Consistency, and enact Ordinance A.

Council Member Stegman pointed out that the design guidelines (DGs) did not match the LUMO in some ways and that the Town had been attempting to clarify that and make them more consistent. She confirmed with Ms. McDonnell that staff was planning to hire a consultant by early December 2019 and that a grant required that the DGs be completed by August-September 2020.

The Council confirmed with Ms. McDonnell that the HDC was currently using the DGs and that staff would probably create a more comprehensive TA once the DGs had been rewritten. They ascertained that the reason for shortening the 180-day period to 90 days was to encourage more efficient decision-making. They confirmed that a "completed" application meant one that had been deemed complete by the Town Manager. The Council verified with staff that 180 days was the absolute maximum authorized by the general statute and that the state model was 90.

Attorney Randall Roden, speaking for 84 residents, said that #1 and #4 had been generated because someone thought there needed to be a severe overhaul of the HDC. That had been in response to complaints from a handful of people who were not representative of the entire community, he said.

Mr. Roden said that the HDC could not act on applications that staff deemed complete when those applications were missing required elements. Cutting the time in half so that applications would get approved by default was a perfect example of how badly drafted #1 was, he said.

Mr. Roden said that the Town needed to rewrite its 40 year-old LUMO

rather than making piecemeal changes to it. He said that DG criteria were things that should be considered, but they were not standards. He advised against passing any of the TAs and recommended that the Town rewrite the LUMO and make it effective when the new state statute comes into effect.

However, if the Council did vote for approval, then it must adopt the alternate language that the HDC had proposed about possibilities for reasonable extensions, he said. Mr. Roden also said that an amendment the Council had recently adopted, which required five votes for HDC action, violated state law and could not be enforced.

Randall Lanou, a Chapel Hill resident, said it did not make sense to reference DGs in the LUMO when they need to be revised for conflict in some cases. He said that public opinion was irrelevant for quasi-judicial decisions but that the current HDC used public opinion regularly to make decisions on COAs. Mr. Lanou said he had sent a recommendation to the Council with proposed wording for the LUMO.

Bill Raynor, a Chapel Hill resident, said that his case was a prime example of why the TAs were being proposed. He described an "18-month odyssey" that he had experienced with the HDC. He thanked the Mayor and Council for addressing that and urged them to continue on that path.

Susan Smith, a former HDC member, disagreed with Mr. Raynor's position and agreed with the petition from Mr. Roden. She thanked the Council for clarifying HDC rules and shared her experiences with making HDC decisions since 2009. Confusion would increase if the Council adopted the proposed amendment, she said, and she suggested additional wording.

David Schwartz, representing the HDC, said that the commission did not make determinations based on public opinion and it followed the requirement to cite findings of fact. The HDC used the DGs every month, and welcomed anyone who wanted to help fix any perceived problems, he said.

Mr. Schwartz read four recommendations that the National Trust for Historic Preservation had made in a recent letter to him. He said that the HDC supported what Mr. Roden had advocated and would like to see language as close as possible to what it had submitted to the Council in April 2019, he said.

Mr. Schwartz asked that the proposed new language be put up on the screen and juxtaposed with what the HDC had recommended so that he could compare the two.

Mr. Karpinos replied that the HDC's recommendation had been an

incomplete provision and that staff had cut and pasted those into the ordinance. Ms. McDonnell put the seven TAs back on screen, and Mr. Schwartz said that #1 was close to what the HDC had recommended. He referred to Mr. Roden's comments regarding #4 and proposed alternative language.

Mayor Hemminger and Mr. Karpinos discussed whether or not to send the TAs back through the process for discussion and revision. Mr. Karpinos said he thought the current language addressed the requests, and Mr. Schultz said he preferred that the Council take action and adopt an explicit reference to the DGs in the LUMO.

A motion was made by Mayor pro tem Anderson, seconded by Council Member Parker, to close the public hearing. The motion carried by a unanimous vote.

A motion was made by Council Member Bell, seconded by Mayor pro tem Anderson, that R-9 be adopted. The motion carried by a unanimous vote.

A motion was made by Mayor pro tem Anderson, seconded by Council Member Parker, that O-3 be enacted as amended. The motion carried by a unanimous vote.

- 13.** Consider Authorizing the Town Manager to Proceed with Financial Planning for West End Parking Deck and Call a Public Hearing on February 12, 2020 Related to the Parking Payment-in-Lieu Program.

[\[19-0974\]](#)

Mayor pro tem Anderson left the meeting at 11:22 p.m.

Community Safety Planner Meg McGurk began the staff's PowerPoint presentation with a report on a parking study that found approximately 1,000 parking spaces would be needed downtown in the future. She said that staff had been working on a parking strategy to address the high demand for guaranteed leased, turnover, and hourly parking. Staff had been using a Parking Information Management System, which used GIS data to determine parking occupancy counts, she said.

With regard to a new West End Parking Deck, Ms. McGurk said that staff was calling a public hearing for February 12, 2012. She recommended that the Council authorize the Town Manager to proceed with financial planning for that project (Resolution 11) and consider calling a public hearing for February 12, 2020 regarding a possible payment in-lieu program (Resolution 12).

Economic Development Officer Dwight Bassett showed the locations of eight potential development sites and said that a proposed parking deck would free those locations for development and would serve about



two-thirds of downtown's short- and long-term parking demand. He discussed the height and layout of the proposed deck and said that the costs would be about \$22,000 per parking space.

Mr. Bassett said that the project would lead to a potential loss of about \$567,000 for the first four years of operation based on 60 percent occupancy in the lease space and 65 percent occupancy in the hourly rates. The deck would have 455 (325 new) spaces, he said. He described the types of development that 325 spaces could support and pointed out that the deck would potentially free up five acres of surface parking for development. Mr. Bassett said that he would return to Council in approximately 90 days with a financial plan.

Ms. Johnson proposed calling a public hearing for February 12, 2020 to address an ordinance text amendment that would create a parking payment-in-lieu and increase the participation fee. She said that the goal would be to capture 50 percent of the parking on site and the other 50 percent as a \$10,000 payment-in-lieu.

Council Members confirmed with Mr. Bassett that the parking demand numbers that Ms. McGurk had reported could shift according to market demand. They also confirmed that the \$10,000 payment-in-lieu seemed reasonable to him based on three case studies that a consultant had provided. Mr. Bassett said that whether or not to make it a mandatory component of rezoning or have it be an opt-in approach would be the Council's decision.

In response to Council questions, Mr. Bassett said that he had been encouraging a couple of current projects to consider the idea. He said that staff had discussed developing a policy for operating the program that would not require an annual text amendment to update parking generation rates. The Council asked what authorizing the Manager to proceed with financial planning would mean, and Mr. Bassett replied that "internal conversations pertained to being conservative, in keeping a deficit in the pro forma, and in looking at specific tools for back-filling that deficit."

The Council verified whether an opt-in program would provide an option to participate in the parking payment-in-lieu system or not. They asked about offering incentives, and Mr. Bassett pointed out that the Council had the right to request that the applicant consider participating during the SUP process.

In response to a question raised about limiting the number of spaces that could be built downtown, Mayor Hemminger said that financing could be limited when such restrictions were attached. Those issues would be discussed at the public hearing, she said.

Mayor Hemminger verified with Mr. Bassett that the Town paid \$170,000

in annual rent for lots that would be eliminated with the new deck.

Matt Gladdeck, representing the Downtown Partnership, stressed the need for parking downtown and pointed out that the deck would free land for things that are more useful than the current surface parking.

Developer Scott Radway expressed support for the program and cautioned the Council to pay attention to details and to be aware of unintended consequences. For example, the Town should consider that it would lose revenue from things such as land taxes, he said.

Council Members Stegman and Gu requested that a multi-modal system plan be included in the financial analysis. Mr. Bassett replied that working on the mobility plan was a staff goal and was part of the parking strategy.

A motion was made by Council Member Parker, seconded by Council Member Oates, that R-11 be adopted. The motion carried by a unanimous vote.

A motion was made by Council Member Parker, seconded by Council Member Schaevitz, that R-12 be adopted. The motion carried by a unanimous vote.

## **APPOINTMENTS**

**14. Appointments to the Community Design Commission. [\[19-0975\]](#)**

The Council appointed Kim Levell to the Community Design Commission.

The Council appointed Kim Levell to the Community Design Commission.

**15. Appointments to the Historic District Commission. [\[19-0976\]](#)**

The Council appointed Madhu Beriwal and Jennifer Hoffman to the Historic District Commission.

The Council appointed Madhu Beriwal and Jennifer Hoffman to the Historic District Commission.

**16. Make a Recommendation to the Orange County Board of Commissioners to Fill One Vacant Seat on the Planning Commission. [\[19-0977\]](#)**

A recommendation was made to the Orange County Board of Commissioners to appoint James Baxter to the vacant seat on the Planning Commission.

A motion was made by Council Member Parker, seconded by Council Member Schaevitz, that R-13 be adopted. The motion carried by a unanimous vote.

## **ADJOURNMENT**

The meeting was adjourned at 11:56 p.m.

