

**DRAFT SUMMARY MINUTES OF A BUSINESS MEETING
OF THE CHAPEL HILL TOWN COUNCIL
WEDNESDAY, NOVEMBER 29, 2017, AT 7:00 PM**

Council Members Present: Mayor Pam Hemminger, Mayor pro tem Donna Bell, Council Member George Cianciolo, Council Member Sally Greene, Council Member Ed Harrison, Council Member Nancy Oates, Council Member Maria Palmer, and Council Member Michael Parker.

Council Member(s) Absent: Council Member Jessica Anderson.

Staff members present: Town Manager Roger L Stancil, Deputy Town Manager Florentine Miller, Town Attorney Ralph Karpinos, Communications Manager Catherine Lazorko, Fire Chief Matt Sullivan, Deputy Fire Chief Matt Lawrence, Director of Planning and Development Services Ben Hitchings, Director of Organization and Strategic Initiatives Rae Buckley, Senior Planner Corey Liles, Fire Captain Stacey Graves, Fire Inspector Donnie Morrissey, Police Officer Rick Fahrer, and Deputy Town Clerk Amy Harvey.

[OPENING](#)

[Proclamation: Abolition Day.](#)

Mayor Hemminger opened the meeting at 7:00 p.m. and said that Council Member Anderson was absent due to illness.

Mayor Hemminger, accompanied by James Williams, read a proclamation regarding Abolition Day that Mr. Williams had brought forward. She read that the 13th Amendment to the U.S. Constitution had been ratified three years after President Lincoln signed the Emancipation Proclamation, but that people had continued to fight for equity for 152 years. Mayor Hemminger proclaimed December 6, 2017 to be Abolition Day in the Town of Chapel Hill, and urged all residents to support the ongoing struggle for freedom and justice for all.

Mr. Williams thanked the Mayor and Council for issuing the proclamation. He said that December 6th was arguably the most important historic date for African Americans, and that an effort had been launched to have it acknowledged more widely and declared a national holiday. He expressed hope that there would be a robust and collaborative effort to promote the idea, and said that many problems were the result of a failure to fully embrace the 13th Amendment. Mr. Williams mentioned that plans for a Frederick Douglass Bicentennial would be announced on December 6th.

[ANNOUNCEMENTS BY COUNCIL MEMBERS](#)

- a. [Mayor Hemminger Regarding Council Member Anderson Absence.](#)

Mayor Hemminger said that Council Member Anderson had been ill and wished her a speedy recovery.

b. [Mayor Hemminger Regarding Historic Civil Rights Commemorations Task Force Meeting.](#)

Mayor Hemminger said that the Town's Historic Civil Rights Task Force would meet the following evening at St. Paul's AME Church. The Task Force had begun documenting a community timeline regarding civil rights, she said, noting that three Council members were involved.

c. [Mayor Hemminger Regarding Chapel Hill High School Boys Soccer Team Championship.](#)

Mayor Hemminger congratulated the Chapel Hill High School Boys Soccer Team for winning the state championship. The Council would greet them and award certificates in January 2018, she said.

d. [Mayor Hemminger Regarding Community Meeting for Estes Drive Municipal Services Center.](#)

Mayor Hemminger said that a community meeting regarding the Estes Drive Municipal Services Center would be held the following evening at Phillips Middle School.

e. [Mayor Hemminger Regarding Holiday Events Schedule.](#)

Mayor Hemminger noted an upcoming holiday bazaar on Saturday from 12:00 to 3:00 p.m. at the 140 West Plaza. The Town's tree-lighting ceremony would be at 6:00 p.m. on Sunday at the Memorial Garden at University Baptist Church, she said. She also announced that the Holiday Parade would begin at 10:00 a.m. on Saturday, December 9th.

f. [Mayor Hemminger Regarding Free Parking on Weekends During Holiday Season.](#)

Mayor Hemminger reminded everyone that downtown parking would be free on Saturdays and Sundays during the holiday season.

[PETITIONS FROM THE PUBLIC AND COUNCIL MEMBERS](#)

1. [Petitions from the Public and Council Members](#)

b. [Council Members Anderson and Parker Regarding East Rosemary Street Design Guidelines.](#)

Council Member Parker gave examples of increasing development pressures on East Rosemary Street. He said that the request to develop design guidelines for the 100 block was in support of

consistency as that block develops. He noted that that the endeavor could lead to opportunities for shared or centralized parking.

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY COUNCIL MEMBER SALLY GREENE, TO RECEIVE AND REFER TO TOWN MANAGER AND MAYOR. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

a. [Housing Advisory Board Request to Remove Absentee Member.](#)

COUNCIL MEMBER SALLY GREENE MOVED, SECONDED BY MAYOR PRO TEM DONNA BELL, TO AGREED BY CONSENSUS REMOVE THE ABSENTEE MEMBER FROM THE HOUSING ADVISORY BOARD. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

[PUBLIC COMMENT - ITEMS NOT ON PRINTED AGENDA](#)

Mayor Hemminger noted that 80 third-graders from Scroggs Elementary School had visited Town Hall the previous day, and she described related activities.

Mayor Hemminger and Council Member Greene invited a group that had come for the item regarding American Legion property to comment earlier if they wished. They declined because they wanted to speak in the context of the item, which could not be moved ahead because it had been announced for later.

Mayor Hemminger said that Council members would be attending a Capital Area Metropolitan Planning Organization (CAMPO) meeting in Apex the following day.

[CONSENT](#)

2. [Approve all Consent Agenda Items. \(R-1\)](#)

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY MAYOR PRO TEM DONNA BELL, TO ADOPT R-1. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

[A RESOLUTION ADOPTING VARIOUS RESOLUTIONS AND ENACTING VARIOUS ORDINANCES \(2017-11-29/R-1\)](#)

3. Approve Miscellaneous Budget Ordinance Amendments to Adjust Various Fund Budgets for FY 2017-18. (O-1)(O-2)(R-2)(R-3)(R-4)

[AN ORDINANCE TO AMEND “THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 2017” \(2017-11-29/O-1\)](#)

[AN ORDINANCE TO AMEND A TRANSIT CAPITAL PROJECT ORDINANCE \(2017-11-29/O-2\)](#)

[A RESOLUTION DECLARING THE INTENT OF THE TOWN TO REIMBURSE ITSELF FOR THE HAMILTON ROAD FIRE STATION PROJECT EXPENDITURES \(2017-11-29/R-2\)](#)

[A RESOLUTION AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE FEDERAL TRANSIT ADMINISTRATION \(2017-11-29/R-3\)](#)

[A RESOLUTION AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION \(2017-11-29/R-4\)](#)

4. Award the Same Pay Increase Approved for all Employees to the Town Manager and Town Attorney. (R-5)

[A RESOLUTION TO AWARD THE SAME PAY INCREASE APPROVED FOR ALL EMPLOYEES TO THE TOWN MANAGER AND TOWN ATTORNEY \(2017-11-29/R-5\)](#)

5. Approve Changes to Parking Regulations on the South Side of Chase Avenue to Establish No Parking Anytime Except by Residential Permit. (O-3)

[AN ORDINANCE AMENDING CHAPTER 21 OF THE TOWN CODE OF ORDINANCES REGARDING PARKING REGULATIONS \(2017-11-29/O-3\)](#)

6. Authorize the Use of Construction Manager at Risk Services for Municipal Services Center. (R-6)

[A RESOLUTION AUTHORIZING THE TOWN MANAGER TO SOLICIT PROPOSALS FOR THE SERVICES OF A CONSTRUCTION MANAGER AT RISK FOR A MUNICIPAL SERVICES CENTER \(2017-11-29/R-6\)](#)

7. Adopt a Resolution Authorizing the Town Manager to Negotiate and Execute Contractual Agreements with Artist, Leo Gaev. (R-7)

[A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE A CONTRACT FOR PUBLIC ART FOR THE TANYARD BRANCH BRIDGE RAILING PERCENT FOR ART PROJECT \(2017-11-29/R-7\)](#)

8. Call a Public Hearing to Consider Abandoning a Portion of Public Rights-of-Way of Flemington Road between Maxwell Road and Brandon Road. (R-8)

[A RESOLUTION CALLING A PUBLIC HEARING ON THE PROPOSED ABANDONMENT OF A PORTION OF THE FLEMINGTON ROAD RIGHTS-OF-WAY BETWEEN MAXWELL ROAD AND BRANDON ROAD \(2017-11-29/R-8\)](#)

Mayor Hemminger expressed gratitude to Friends of the Library for making another generous donation toward the Hub Welcome Center at the Chapel Hill Public Library.

Council Member Cianciolo mentioned that Friends of the Library would hold a fund-raising book sale at the Library over the coming weekend.

INFORMATION

9. [Receive Upcoming Public Hearing Items and Petition Status List.](#)

Mayor Hemminger said that the Town was continually checking and updating its petition status list.

DISCUSSION

10. [Fire Station 2 Status Report and Authorize the Sale of Retiring Ladder Truck. \(R-9\)](#)

Fire Chief Mathew Sullivan gave a PowerPoint update and timeline for Fire Station 2. He asked the Council to authorize the sale of a retiring ladder truck, and the use of that revenue for fire station costs. Chief Sullivan described some unforeseen soil and groundwater issues that had added to the cost of the project. He also explained that a two-story station required two fire poles, the cost of which had risen significantly since the first estimate.

Chief Sullivan said that the business agreement had specified that the Town was responsible for all fire station overruns in excess of the developer's share on the Town-owned property. Water proofing was running \$190,000 over budget, the fire poles would cost \$70,000, he said, adding that the total budget was \$3,270,000.

Chief Sullivan explained that a bond project had authorized ordering a new ladder truck, and that the residual value of the old truck was an estimated \$275,000. He clarified that the ladder truck would be moved from Station 3 to Station 2, and that Station 3 would remain open. He showed locations of the Town's five fire stations, and said that staff continued to see a need to replace three of them.

Chief Sullivan said that staff would return in the spring with the final cost, estimated to be \$375,000 at the most. He asked the Council to authorize selling the ladder truck through a fire apparatus broker, and using revenue from that sale for the additional fire station costs.

Council Member Oates clarified with Chief Sullivan that the truck being sold had been purchased in 2016, and was being replaced by a new one that had already been purchased and was not dependent on any sale.

Mayor Hemminger verified with him that minimal contingency funds had been built into the

plan, but staff had exhausted those funds, and had not anticipated the need for large contingencies.

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY MAYOR PRO TEM DONNA BELL, TO ADOPT R-9. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

[A RESOLUTION AUTHORIZING A BROKERED SALE OF A FIRE APPARATUS PURSUANT TO NCGS SEC. 160A-274 \(2017-11-29/R-9\)](#)

11. [Consider Transmitting Proposed Revisions to the Ethics Guidelines for Town Advisory Boards and Commissions, to the Historic District Commission, and the Board of Adjustment for Review and Recommendations. \(R-10\)](#)

Town Manager Roger Manager pointed out that the ethics guidelines that had been adopted in March 1999, addressed conflicts of interest and applied to all Council-appointed Town boards. He said that the current proposal would revise those guidelines and incorporate statutory restrictions for quasi-judicial matters, and would apply to the Historic District Commission (HDC) and the Board of Adjustment (BOA) as well. Mr. Stancil read those guidelines and explained that R-10 would transmit the proposed revisions to the two boards for comments.

Council Member Oates asked that staff send updated materials, which included changes the Council had made, to the HDC and make sure that they and the BOA have the same information.

Council Member Parker said that confusion seemed to remain regarding quasi-judicial proceedings. He confirmed with Town Attorney Ralph Karpinos that a training workshop had been scheduled for those two boards early January.

MAYOR PRO TEM DONNA BELL MOVED, SECONDED BY COUNCIL MEMBER SALLY GREENE, TO ADOPT R-10. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

[A RESOLUTION TRANSMITTING PROPOSED REVISIONS TO THE ETHICS GUIDELINES FOR TOWN ADVISORY BOARDS AND COMMISSIONS TO THE HISTORIC DISTRICT COMMISSION AND THE BOARD OF ADJUSTMENT FOR REVIEW AND RECOMMENDATIONS \(2017-11-29/R-10\)](#)

12. [Call a Public Hearing for January 17, 2018 to Consider the Sale of Real Property at 127 West Rosemary Street Pursuant to an Economic Development Agreement. \(R-11\)](#)

Mr. Stancil reviewed Town interactions with Investors Title since September 2017, and presented a report of those negotiations to the Council. He explained that Investors Title had offered to purchase a .14-acre property, which had been appraised at \$285,000, for \$300,000. The company would provide commercially competitive parking on the site for six years, and the Town would have first right of refusal at the end of that term, he said.

Mr. Stancil described Investors Title's plan to combine the site with property that it owned, and

build a larger parking lot to support its current operations. That parking lot would make at least 75 spaces available for public use after 6:00 p.m., at commercially reasonable rates, he said. Mr. Stancil recommended that the Council adopt Resolution 11 to set the public hearing for January 17, 2018 to consider entering into a development agreement to transfer the property to Investors Title in accordance with proposed terms.

Council Member Oates clarified with Mr. Stancil that the Town's right of first refusal would pertain to the entire combined lot, not just the piece being sold. She commented that the Town would not realistically be able to afford that.

Mr. Stancil agreed that buying it would be hard to imagine. He noted, however, that the Town would likely want the property on its tax books anyway.

Council Member Harrison mentioned development pressures on the downtown area, and said he hoped that Town guidelines would be used. The current discussion was about a parking lot for at least \$2-million an acre, he pointed out. He said that was why the Council needed to grapple with what development would look like, and what the scale of it would be on West Rosemary Street.

Council Member Oates said that scheduling a public hearing was fine, but expressed disappointment that the Town would lose parking if the company decided to redevelop the property. She imagined that they would redevelop sooner than six years, she said, and suggested that negotiations include a discussion of some sort of rebate to the Town. Council Member Oates stated that the Town would be giving Investors Title a gift that would increase the value of its landholdings exponentially.

Council Member Cianciolo remarked that he would love to see the applicant redevelop the property the next year because the tax value of what they would put there would allow the Town to expand the Wallace Deck, or other potential parking areas. The current site was too small for the Town to do anything with, and redeveloping it would be the only way to get anything of significant value, he said.

Mayor Hemminger expressed appreciation to staff for spending more than a year in negotiations, trying to find a solution that would benefit both the Town and the applicant. Redevelopment takes a while to pay off, she pointed out. She said that Investors Title was a very successful business that the Town loved having downtown, and it needed more parking space for its employees because the business had grown. She did not think Investors Title would pull out of the agreement within six years, Mayor Hemminger said.

Council Member Palmer thanked staff for working so hard to come up with a creative solution. She said that the agreement would use one of the little pieces of land that the Town has, in a way that would achieve the Council's stated objective of activating and bringing more people downtown. It was a wonderful win-win solution, she said.

MAYOR PRO TEM DONNA BELL MOVED, SECONDED BY COUNCIL MEMBER MICHAEL PARKER, TO ADOPT R-11. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

[A RESOLUTION CALLING A PUBLIC HEARING ON A PROPOSED SALE OF REAL PROPERTY AT 127 WEST ROSEMARY STREET TO INVESTORS TITLE PURSUANT TO AN ECONOMIC DEVELOPMENT AGREEMENT \(2017-11-29/R-11\)](#)

13. [Consider a Land Use Management Ordinance Text Amendment - Proposed Changes to Articles 3 and 4 Related to Conditional Zoning. \(R-12\)\(O-4\)\(R-13\)](#)

Director of Planning and Development Services Ben Hitchings gave a PowerPoint presentation on a proposal to amend the Land Use Management Ordinance (LUMO) to include conditional zoning (CZ). He reviewed the process since October 2017, and noted that the current hearing was the second of three.

Mr. Hitchings said that CZ, which was being widely used in North Carolina, would give the Council another tool for reviewing development proposals, and would allow more engagement with stakeholders than a special use permit (SUP) did. He noted that the Council had asked for a concept plan review to be included in the proposed CZ process.

Council Member Parker confirmed with Mr. Hitchings that the Council would notify an applicant at the concept plan stage if it did not think CZ was a good option for a project.

Council Member Oates confirmed with Mr. Hitchings that, with CZ, an applicant could volunteer to double the size of the buffer, but then not be able to make the numbers work, and go to staff to approve the minimum.

If the applicant's commitment had not been memorialized in a condition, that could come to staff for review, Mr. Hitchings explained. If it had been memorialized, then it would have to go through the full board process, he said.

Mayor Hemminger confirmed with Mr. Hitchings that it would be possible, under the current proposal, for smaller projects to come back and ask for more parking spaces.

Council Member Parker verified, however, that staff would have the authority to deny a request based on whether or not it complied with LUMO standards, as modified by the Council. He also verified with Mr. Hitchings that staff would only have discretion if that were written into the guidelines.

Mr. Karpinos pointed out that there would not be any basis for staff to deny an increase in parking if parking met the requirements of the ordinance.

Council Member Oates confirmed with Mr. Hitchings that a project located downtown, where the underlying zone did not have a parking requirement, could presumably go back to staff, increase its floor area and get rid of its parking spaces, and staff could not refuse. Mr. Hitchings added, though, that there could be a condition requiring a certain number of parking spaces, and any change to that could only be approved by the Council.

Council Member Cianciolo verified with Mr. Stancil that there was no current provision to notify the Council when administrative changes to projects were made. However, the Council could add that, Mr. Stancil said, adding that staff made very few administrative changes.

Council Member Greene said that it would be incumbent upon the Council to be explicit about as many conditions as it could reasonably imagine.

Council Member Parker asked how reductions in parking spaces would be handled, and Mr. Hitchings replied that increases were the typical concern. However, if a minimum was an important consideration, it would be prudent to attach that as a condition, he said. He suggested that the Council consider whether it wanted to write that into the LUMO or evaluate it on a project-by-project basis, and attach it as a condition.

Mayor Hemminger and Mr. Hitchings discussed how the Planning Commission (PC), and other advisory boards would review proposed CZ projects.

Mr. Hitchings then began to present four proposed revisions based on PC recommendations to structure the process to obtain public input in a way similar to that for SUPS. The first recommendation was to match the number of public hearings, he said, noting that a proposed revision had been included.

Council Member Harrison expressed support for the change. He said that current and future planning staffs would appreciate having more than one hearing.

Mr. Hitchings agreed, and explained that he had used CZs for 10 years in his previous position as planning director in Morrisville. "You don't want to be writing conditions on the fly. You want to be able to digest the public input, and craft that condition appropriately," he said.

Mayor Hemminger said it was wise to take time to work out the fees. If the amendment were approved this evening, she did not want people to file before such details had been worked out, she said.

Mr. Hitchings replied staff, too, could also use a little more time to draft answers to questions, and was proposing an effective date of April 4, 2018, rather than the date of adoption.

Mr. Hitchings said that the PC's second recommendation -- to require a CDC review of final plans, as with the SUP process -- had been made a provision as well. The third PC recommendation was to encourage applicants to comply with the latest American Institute of Architects green building standards, and that had also been included, Mr. Hitchings said.

Council Member Parker asked about the legal standard for "encouraging," and Mr. Hitchings explained that it was the same as a suggestion, and not mandatory. It would be a reminder to the applicant that it was important to the Council and community, and it often set the stage for a discussion of potential conditions associated with that suggestion, he said.

Mr. Hitchings pointed out that responses to additional Council questions were in the Council's

packets. He addressed some of those, such as public information meetings, level of detail in concept plans, and administrative modifications never being contrary to LUMO requirements. Mr. Hitchings clarified that it was staff's obligation to confirm compliance with ordinance requirements when doing an administrative review, but that staff did not have the authority to deviate from LUMO standards. He said that the ordinance had been drafted to allow conditions to be more or less restrictive than current LUMO requirements. However, less restrictive conditions could not be approved by anyone but the Town Council, he pointed out.

Mr. Hitchings said that the PC had also recommended allowing CZ to apply to districts R-5 and R-6. He noted that some areas -- such as Southern Village and Meadowmont -- were zoned R-5-C and that applicants there would need to rezone and abandon their SUP to change that designation. He said that there had been some concern about R-5 districts that were close to other residential districts. Staff believed that CZ would benefit those areas because it allowed consideration of the context of a given project, he said. If the project might have an impact on an adjacent district, the Council could attach conditions to address that, he explained.

Mr. Hitchings discussed adding the Stormwater Management Utility Advisory Board to the review process, and pointed out that doing so would differ from the current SUP process.

Council Member Harrison advocated for increasing the level of information on environmental features, and drainage matters included in the concept plan. He gave an example of when a developer should go to the Stormwater Board for improvements, but said that being charged with reviewing developments would be a major change for that board.

Mr. Hitchings pointed out that the list of questions for applicants that would accompany concept plans had been changed to include more information on environmental features and drainage patterns. He then concluded his presentation with a recommendation to continue the public hearing, receive comments, close the hearing and adopt Resolution A and Ordinance-2017-11-29/O-4, as amended.

Council Member Oates asked about a staff agreement to allow CZ for a particular R-2 project, and Mr. Hitchings replied that the Town's zoning framework allowed applicants to propose projects in any of the districts that were enabled under "general use" in any location in Town. The benefit of CZ would be that the Council could attach site-specific conditions, he said. Mr. Hitchings stressed that the Council would make the ultimate decision on whether to approve or deny a proposal.

Council Member Oates replied that R-2 was not one of the areas where CZ could be used, according to the current LUMO. She told Mr. Hitchings that he had earlier said that the applicant was in control, and made the decision about whether to do a CZ, DA, or SUP.

Mr. Hitchings explained that there was a difference between existing and a proposed district, in which an applicant could propose CZ, and the Council would decide whether or not to enable the technique. The Council would decide whether to approve it or not, and give guidance to the applicant on the preferred approach at the concept plan stage, he said.

Council Member Greene asked about a possible scenario where an applicant might ask for a DA after being told by the Council that it wanted an SUP.

Mr. Hitchings confirmed that the Council would have the option to decide whether or not it wanted to negotiate a DA. If not, then there would not be one, he said.

Council Member Greene asked if the Council deciding whether or not to negotiate would mean that it accepted the premise of it being a DA.

Mr. Hitchings replied that the applicant would need to submit materials when proposing a DA. At that point, the manager could tell the applicant, after conferring with Council, that the Town was not willing to negotiate a DA.

Mr. Karpinos pointed out that a DA was different from CZ, and Council Member Greene said that that was what she was trying to understand. She asked if the applicant could insist on CZ when they apply. Was it entirely the applicant's choice at that point, she asked.

Mr. Hitchings replied that CZs and DAs did differ in that respect. According to the proposed framework, a CZ request would be reviewed and processed by staff, and then brought forward to the Council, which would decide whether or not to approve it.

Council Member Greene confirmed that the premise would be that the discussion is about a CZ application. She also confirmed that the Council could suggest an SUP, for example, but the applicant would not have to follow that suggestion. She said, though, that this did not change her view that Conditional Zoning was a good idea.

Mayor Hemminger commented that she did not think most applicants would choose an SUP over a CZ, but Council Member Parker countered that some applicants might do so because the four findings would restrict the Council.

Mayor Hemminger asked Mr. Hitchings if he had seen many SUP applications after Morrisville began using CZs.

Mr. Hitchings replied that SUPs had been authorized there for certain activities. The Morrisville town council preferred the CZ process because it allowed more engagement with stakeholders, he said, adding that it had been used efficiently on a wide range of projects. Morrisville did not use DAs at all because CZ was more efficient, he said.

Council Member Parker confirmed with Mr. Hitchings that a developer could use CZ to rezone R-1 to R-5 or R-6 or one of the other permitted zones. Mr. Hitchings said that the district set parameters for the types of uses, dimension requirements, and so forth, that would be allowed.

Council Member Greene said it was hard to imagine any Council rezoning an R-1 district to R-5. That would be a "huge conversation," she said. However, it seemed as though the Town would have better control over what would happen on that piece of land if that conversation were within a CZ, she said. If such an unlikely scenario were to confront a Council, the CZ process

would be the better one, Council Member Greene said.

Council Member Palmer gave an area on Piney Mountain Road as a perfect example of where such a rezoning could happen. That area included public housing that had been poorly constructed, and was far from transit, she said, adding that the area served very few people on prime land. She noted several options that would be available if it were rezoned, and said that many places in Town were prime for redevelopment. The Council could always vote against a proposal, Council Member Palmer pointed out.

Bill Camp, a Chapel Hill resident, asked that the process be slowed down and tightened up. He mentioned areas where he thought the wording needed more clarity. Mr. Camp expressed concern about transparency, and said he was not against the idea of CZ, but thought it needed more work.

Sheila Creth, a Chapel Hill resident, said that the proposal contained confusing aspects. She recommended tightening it up and giving examples, particularly with regard to buffers for developments that abut neighborhoods. She gave a PowerPoint presentation that showed impacts on neighborhoods if adequate buffers do not screen against noise and light. Even a 10 percent buffer reduction would have an impact on a neighborhood, she said. Ms. Creth stated that most CZs in the state had demanding standards to protect adjacent neighborhoods, and there was no reason for Chapel Hill's standards to be lower.

Joan Guilkey, a Chapel Hill resident, read from handouts regarding two issues that she said merited more consideration: 1) If the project abuts a residential area, the wording should offer no opportunity to renegotiate a buffer, not even by the Council. 2) Require that a community meeting be held before a public hearing.

Julie McClintock, representing the Stormwater Board, said that the PC chair had made a good case for including a stormwater review early in the process. The PC chair had also discussed creating conditions in CZ for difficult sites, she said, adding that she agreed that the official responsibility for that should be with the Sustainability Board. However, there was only one stormwater engineer on the Sustainability Board, she said. Ms. McClintock clarified that she was not suggesting that the Stormwater Board review every project, but thought that it should do so if a property were flood prone, in the floodplain, or had significant streams on it.

Mayor Hemminger asked staff to comment on the buffering language.

Mr. Hitchings noted a recommended modification threshold for parking for requests to decrease a buffer below the minimum LUMO requirement. Such a request could not be reviewed administratively and would have to come before the Council, he said. Mr. Hitchings noted that the Council would also have the ability to negotiate a larger buffer as a special condition attached to the zoning, and that could only be changed by a Council decision.

Council Member Oates commented that that would "go out the window" if there were an extended buffer on an R-5-C zone and someone came back for CZ.

Mr. Hitchings replied that R-5-C included a rezoning and an SUP. It would depend on some of the details of the case, he said, explaining that a buffer stipulated in an SUP that was larger than the LUMO required would be memorialized in the SUP.

Council Member Oates asked if that could be thrown out, and Mr. Hitchings replied that it depended on whether it ended up being a minor change or a modification. He thought that was an argument in favor of CZ, which, as structured, would only allow the Council to change any condition that it approves, he said.

Council Member Oates asked the Attorney if a condition allowing a double-wide buffer could be thrown out if someone wanted to redevelop an R-5-C property using CZ.

Mr. Karpinos replied that it would be back for renegotiation, as a condition of the CZ, and the Council could approve it, or not, with whatever buffer conditions it chose to impose on the new development.

Council Member Greene mentioned the City of Charlotte's procedure regarding public community meetings, and Council Member Harrison said that one difference between that and the Town's proposal was that the Town would have staff members present at public information meetings.

Developer Dan Jewell, of Coulter Jewell Thames, commented that any developer or development consultant, if given the option, would choose the process that allowed open and transparent conversation among Council members, neighbors, and advisory boards. The CZ process would lead to better outcomes, and an application could be withdrawn before having to spend many months getting to the Council, he said.

Mayor Hemminger spoke about the Town's desire for a tool that would allow more conversation, transparency, and openness. She said that not being able to communicate with the PC, other boards, and the public had been frustrating. She pointed out that other communities had been using CZ, and argued that it was a much better tool than the SUP process.

Council Member Cianciolo agreed with the Mayor's remarks and said that CZ was a tool that he would love to have if he were remaining on the Council. Being able to interact with the community, and to be clear with developers about what the Town wanted would make Council members' lives much easier, and assuage developers' sense that they could be blind-sided after investing in the process, he said. Council Member Cianciolo characterized CZ as an extremely useful tool, and said he could not imagine why anyone would not want to have it in the toolbox.

Council Member Parker said he had heard and understood the community's concerns, but that staff's response to Council and PC requests had shown that CZ was basically an SUP with conversation, and was a superior way of doing business. Being able to interact with residents would make the Council better informed, and better able to get the right conditions, and would result in projects that residents would be happier with, he said.

Council Member Oates shared information that she had learned from talking with public officials

in Morrisville about their experience using CZ. She said that she was not comfortable making a decision because there were many aspects that had not been nailed down. It was a policy change that would mean "spot zoning" Townwide, she said. The Council still needed to define what would be required in the application in the ordinance and needed to see where to incentivize growth, she said. Council Member Oates said that the Town had not really looked at what it wanted and what it was trying to achieve, but could do so with a little more thought.

Mayor Hemminger pointed out that CZ was a process, not a zone. If an applicant started down the process, and the Council did not like any particular part of a project, it could attach conditions, and ultimately vote the project down if it did not like it, she said. That could not be done with the SUP process, where the Council must approve a project if the applicant meets four findings, she pointed out. CZ would be a much better tool for allowing the Council to get the result it wanted, she said. The LUMO sets the standards, but the Town could go beyond those and ask for more with CZ, Mayor Hemminger pointed out.

Council Member Oates asked why the Town was rewriting the LUMO if CZ allowed the Council to override whatever the LUMO says.

Mayor Hemminger replied that the Town needed to establish standards. And the Council might want to have more standards, such as a wider buffer, she said.

Council Member Oates repeated her view about wanting to see a final project before voting. There were too many things that the Council did not understand, she said.

Mayor pro tem Bell pointed out that the application for CZ was basically the same as an SUP application. She said that her colleagues had answered citizens' questions and that she would like to move ahead and vote on the item.

Council Member Palmer moved to close the public hearing.

Council Member Harrison commented that people seemed to think the Town refused SUPs, but the last one the Council turned down was almost 19 years ago. That project did get built because the developer took the Town to court and won the lawsuit, he said. Council Member Harrison noted that there had been close votes, but, as the Mayor had said, those had been approved because the applicant had shown that it met the four findings. CZ would give the Town much more flexibility, Council Member Harrison said.

Council Member Greene said that she appreciated the Mayor's and others' comments in support of flexibility and about the fact that CZ was a process, not a zone. She said that CZ would be a good tool for the Town and that she appreciated the many revisions because it was important to include safeguards from the SUP process in order to negotiate the exact conditions that the Town wanted.

Mayor Hemminger thanked the PC and staff for the good revisions. CZ was probably not yet perfect, but it was a much better tool for the community, she said.

COUNCIL MEMBER MARIA PALMER MOVED, SECONDED BY MAYOR PRO TEM DONNA BELL, TO CLOSE THE PUBLIC HEARING. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

MAYOR PRO TEM DONNA BELL MOVED, SECONDED BY COUNCIL MEMBER MICHAEL PARKER, TO ADOPT R-12. THE MOTION WAS ADOPTED BY A VOTE OF 7-1, WITH MAYOR PAM HEMMINGER, MAYOR PRO TEM DONNA BELL, COUNCIL MEMBER GEORGE CIANCIOLO, COUNCIL MEMBER SALLY GREENE, COUNCIL MEMBER ED HARRISON, COUNCIL MEMBER MARIA PALMER, AND COUNCIL MEMBER MICHAEL PARKER VOTING AYE AND WITH COUNCIL MEMBER NANCY OATES VOTING NAY .

[A RESOLUTION REGARDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE AMENDMENT TO EXPAND THE USE OF CONDITIONAL ZONING AND CONSISTENCY WITH THE COMPREHENSIVE PLAN \(2017-11-29/R-12\)](#)

MAYOR PRO TEM DONNA BELL MOVED, SECONDED BY COUNCIL MEMBER MARIA PALMER, TO ENACT O-4 AS AMENDED. THE MOTION WAS ADOPTED BY A VOTE OF 7-1, WITH MAYOR PAM HEMMINGER, MAYOR PRO TEM DONNA BELL, COUNCIL MEMBER GEORGE CIANCIOLO, COUNCIL MEMBER SALLY GREENE, COUNCIL MEMBER ED HARRISON, COUNCIL MEMBER MARIA PALMER, AND COUNCIL MEMBER MICHAEL PARKER VOTING AYE AND WITH COUNCIL MEMBER NANCY OATES VOTING NAY .

[AN ORDINANCE AMENDING ARTICLES 3 AND 4 OF THE LAND USE MANAGEMENT ORDINANCE RELATED TO CONDITIONAL ZONING \(2017-11-29/O-4\) as Amended](#)

16. [Receive the Second American Legion Task Force Report and Consider the Recommendations. \(R-15\)](#)

Mr. Stancil recommended that the Council take the same action with the American Legion Task Force (TF) report as it had with the Historic Town Hall and Town Properties Committees reports and refer it to staff to come back in the spring with a report on findings.

Mayor Hemminger pointed out that staff had only recently received the report and had not had time to delve into it.

Senior Planner Corey Liles, liaison to the TF, gave a PowerPoint presentation and noted that staff was presenting the second TF report regarding the 36-acre property that the Town had purchased in March 2017. He provided background on the public engagement process, which had included establishing the TF and hiring Mr. Jewell to facilitate community meetings. Mr. Liles reviewed the TF composition and charge and summarized its previous recommendations.

Mr. Jewell reviewed the TF's process of studying the land and whittling potential uses down to about 20. Those uses had informed a survey that had brought 972 respondents who wanted active and passive activities and "other uses" (a category in which affordable housing was ranked

highest), he said. The TF used that, and information from other sources, to rank uses for the property, and then took a survey themselves, Mr. Jewell explained. He said that the results of the TF's own survey had closely correlated with the results of the public survey.

Mr. Jewell listed evaluation criteria for future uses that the TF had developed. He said that there had been discussion about land that might be conveyed later on. However, the next step needed to be a more detailed master plan for the future park, he said. Mr. Jewell told the Council that the TF was interested in being involved in the master planning process if/when that happened.

With regard to the fiscal impacts, Mr. Liles said that the property would cost \$4.3 million in future installment payments through March 2019. General Obligation Bonds would be the source of funds for the 2018 payment, he said. Mr. Liles noted that there would also be some future cost for construction of public facilities, and that the Town would need to identify sources for those and operation funds. Revenue options include selling a portion of property and possible public/private partnerships, he said. Mr. Liles recommended that the Council adopt R-15, which would accept the report, and authorize the Manager to review it, and return with findings in spring 2018.

Council Member Palmer pointed out that 55 percent of those who had answered the survey had no children. Therefore, she was not surprised that walking trails had been the highest recreational priority, she said. She asked if the survey had been sent to public housing residents, and translated into other languages.

Mr. Jewell replied that outreach had been through a link on the Town website, and that the survey had also gone to all elementary and middle schools.

Council Member Palmer confirmed with Mr. Jewell that surveys had not been specifically sent to public housing residents because there had not been enough time or money to tabulate that.

Council Member Cianciolo recalled that an engineering analysis had found that a dam on the property would cost an estimated \$400,000 to repair. He confirmed that the Town was not legally obligated to address that within any specific time-frame, but asked if there was a moral obligation to do so.

Mayor Hemminger pointed out that the TF had recommended budgeting for an official study of the dam in the next fiscal year.

Dan Cefalo, chair of the Cultural Arts Commission, expressed concern about the Town using Cultural Arts bond funds - for which the Commission had campaigned and fought - for a payment on the American Legion property. He pointed out that there was an opportunity for art and dancing on that property, but that had not been highly ranked on the survey.

Mayor Hemminger emphasized that those bond funds would be a temporary way to pay the bill, and that the Council was committed to replenishing them. The Council understood how hard the Arts Commission had fought for that bond money, and it would only be borrowing the funds, she said.

Bliss Naves, representing Meeting of the Minds, expressed gratitude to the Council for securing the American Legion property for public use. He and others were counting on the Council to assure that any development there would be consistent with Town values, he said. Mr. Naves requested that the next phase of the process determine how affordable housing (AH) could be included on the site. He noted that AH had been identified as a high priority for the Town, and was the top issue discussed during the recent Town election.

Yvette Saunders, a Chapel Hill resident, led a group of low-income residents in a song that asked the Council to do the right thing, and build more AH.

Ira Jackson, a Chapel Hill resident, said that he had been living at the Inter-Faith Council's Community House for 15 months. Even though he worked in Town, he could not afford to live there, he said. Mr. Jackson said that he loves Chapel Hill, and calls it the "town of second chances." However, he and others need help and it seemed as though 36 acres could provide for AH, as well as parks, he said. "Why are we building more parks for us to sleep in," Mr. Jackson asked.

Jackie Jenks, Inter-Faith Council executive director, asked that the next phase of the project include plans to develop AH on the site. She also asked that an AH representative be seated on the next iteration of the TF. Ms. Jenks said that she knew 17 working men and women who were ready and waiting for an affordable place to live. She pointed out that 10 percent of the survey's respondents had written AH in. "Just think about what the response might have been if they'd been given AH as an option," she said.

Laurie Paolicelli, Chapel Hill-Orange County Visitors Bureau director, said that she had been asked to serve on the TF, but had avoided giving her opinion, and relied instead on the data. The collected data showed a strong demand for sporting fields for local and visiting teams, she said.

Ms. Paolicelli showed a short video about pickleball, and said that the Triangle area was seeing great demand for the sport. She said 68 percent of pickleball players were over the age of 60, but younger people were rapidly taking up the game as well. There was unmet demand for pickleball courts in the state and region, and it was a potential source of Town revenue, Ms. Paolicelli said. She noted that being competitive would require 24 to 32 pickleball courts.

Diane Willis, a TF member, expressed a desire to be part of the master planning process. She called attention to a May 2013 discussion during which the Council had expressed the desire to add the American Legion land to Ephesus Park, in order to create a much-needed community park in the eastern part of Town. Ms. Willis pointed out that much apartment development, including AH, had already been approved for the area. It would be a mistake to add more AH, and bunch it all in one part of Town, she said.

Kathleen Herr, a Colony Woods resident, and Inter-Faith Council president, noted that some AH projects target families whose income is 80 percent of the median area income. She said that there was a need for approximately 5,000 housing units for people in Orange County who earn less than \$20,000 per year. The Legion Road property was an ideal location to provide housing

for very low-income community members, Ms. Herr said. She recommended that the next steps include enlarging the conversation.

Dan Levine, a Colony Woods resident, and Orange County Affordable Housing Coalition member, pointed out that the Council had agreed to a mix of uses in its original resolution. He said that more attention needed to be given to issues other than parks and recreation, noting that several parks, playgrounds and fields were located nearby. There was a need for affordable housing on the site, and on every large piece of land that the Town develops, he said.

Council Member Palmer asked Mr. Levine if he, as a developer, had ever built a combination of office, retail, commercial and affordable housing.

Mr. Levine replied that he was developing an AH project in Durham, in partnership with DHIC, that would include retail and office. It was harder to do, but it was doable, he said.

George Barrett, associate director at Marion Cheek Jackson Center, pointed out that a publication called Northside News was hand delivered to all 850 households in Northside and Pine Knolls, where there was a large population of public housing, and low- to middle-income people. Links to websites and other electronic communication did not work in those neighborhoods, he said. Mr. Barrett said he wondered what the racial and economic makeup of the respondents had been.

Kristie Mather, a Chapel Hill resident, urged the Council to think about how much impermeable surface would be created. She pointed out that flooding was such a large issue in that part of Town that FEMA had planned to demolish several houses.

Vanessa Simon, a Chapel Hill resident, said she wondered how the number of parks in Town compared with the number of community centers. And how many of the pickleball courts would allow people like her to sleep there at night, she asked. Ms. Simon said that disabled people needed places to live, and she expressed gratitude to the Community Empowerment Fund and the Inter-Faith Council, without whom she would be sleeping in a park, she said.

Mayor pro tem Bell explained that part of the reason the survey results were weighted toward recreational uses was that the TF's charge was to focus on those uses. The idea had been that a larger conversation would happen during the master planning stage, she said. She said that the TF did understand the limitations of the survey, and had been interested in doing greater outreach. The group as a whole had acknowledged that the information gathered was useful, but limited, she said.

Mayor pro tem Bell pointed out that the master planning process would delve into ideas about appropriate recreational uses, as well as, other uses on the site. She questioned using funds that had been identified for other uses, and spending so much money on a "park crisis" that did not exist when there were so many more critical needs in the community. Any conversation about recreational uses on the land had to be larger, Mayor pro tem Bell said. She said that she was not sure that the TF was the group that the Council needed as partners when doing the master plan.

Council Member Palmer agreed with Mayor pro tem Bell's comments, and said she felt encouraged by Mayor Hemminger's statement about using bond funds as a stop-gap measure. She agreed that the Town had urgent needs, but noted the potential for the property to generate funds on a continuing basis. The community needed healthy places to exercise, she said, and she listed several possible facilities that could be on the land for various age groups, and economic levels. She thanked the TF for its work, but noted that there were gaps, such as the Youth Council, which was desperate for a teen center, had not been included. Young people had not been represented or surveyed enough, Council Member Palmer said. She suggested issuing a new bond.

Council Member Parker said that he wanted continuing input from TF members, but was not sure that keeping the TF intact was the right way to do that. He agreed that AH needed to be accommodated on the site, and that the Town should recoup some costs through other kinds of compatible uses. He said it was likely that the Town would need additional expertise, and hoped staff would return with a plan that would address a broader range of needs.

Council Member Greene agreed with what other Council members had said, and praised the TF's report. It was clear that the conversation needed to be broadened to include other needs and interests, she said. She supported turning the report over to the manager for next steps, and expressed strong opposition to borrowing from bond funds. That was not a good practice, and would not be keeping good faith with voters, she said.

Council Member Cianciolo discussed the value of AH residents to the Town and the importance of not being so elitist as to argue against having them live in the same location. The Town should help them get what they need rather than tell them what that should be, he said. Council Member Cianciolo argued that AH should be a high priority for at least part of the site, because the Town should use its land to provide a service to those who are so critical to the community.

Council Member Oates thanked the low-income residents who were present for coming to the meeting. She told them that they were "invisible" in Town, and encouraged them to attend Council meetings regarding development projects. The TF had just earmarked 3 of 27 Town-owned parcels for AH, she pointed out, and she urged low-income residents to look at the other 24, and see what would be a good candidate for AH. Council Member Oates said that she felt strongly about using the land for a free, open park where people could breathe.

Council Member Harrison pointed out that the American Legion land was the last piece of woods in that part of Town, and that probably only 20 acres could be developed. He supported quickly moving forward with the master planning process, adding that TF members should be involved in some way. Council Member Harrison said that he had counted 37 proposed uses for the property when AH is included. He pointed out that AH was as expensive as any other housing to build.

Mayor Hemminger noted that the Town had not planned on purchasing the property, but had been excited when the opportunity to do so arose. Part of the plan was to figure out if it would be possible to sell a piece of it, she said. She pointed out that the Town had many different growth pressures, desires, and values. There was an opportunity to look at all kinds of different

uses for the property, she said. Mayor Hemminger expressed pride over the Town's work toward collecting data, and figuring out a strategic plan to address AH needs. She agreed with the proposal to send the report to the manager, who would return with a process.

Council Member Greene thanked those who had turned out for AH. She said she agreed with Council Member Cianciolo's thoughtful comments, adding that the Town could put AH on every block, and still not satisfy the need. The argument against concentrating AH in one area reflected a past notion of "ghettoizing" a part of Town, she said. However, the DHIC building looked just like market-rate apartments, and it was no longer a stigma to have AH on the block next to you. Council Member Greene urged the Council to consider using some part of the land for AH.

COUNCIL MEMBER MARIA PALMER MOVED, SECONDED BY MAYOR PRO TEM DONNA BELL, TO ADOPT R-15. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0)

[A RESOLUTION TO ACCEPT THE SECOND AMERICAN LEGION TASK FORCE REPORT AND RECOMMENDATIONS \(2017-11-29/R-15\)](#)

14. [Consider Adopting the Land Use Management Ordinance Rewrite Project Charge. \(R-14\)](#)

Director of Organizational and Strategic Initiatives Rae Buckley explained that Resolution 14 would adopt the charge for the LUMO rewrite project charter. That charge was to deliver a refinement of the Future Land Use Map, a rewrite of LUMO regulations, and an opportunity to consider any changes to zoning code that might result, she said. She discussed the project's goals, and said that its vision was compatible with the Chapel Hill 2020 Comprehensive Plan. Ms. Buckley noted a three-year timeline, and a cost of \$830,000.

Council Member Harrison confirmed with Ms. Buckley that a large portion of the cost would be for staff time, and about \$500,000 of it would be for consulting fees. Ms. Buckley estimated that the first phase of the project would cost about \$100,000, and would be for refining the Future Land Use Map.

Council Member Harrison asked how the cost compared with similar projects in other towns, and Mr. Hitchings replied that the City of Raleigh had spent \$400,000 on its Unified Development Ordinance.

Mayor pro tem Bell said that she had high expectations for the project. The cost did not surprise her, she said, but she expressed concern about keeping people engaged for three years.

Council Member Oates agreed that the length of time was a concern and asked why experienced staff and consultants could not pull things together faster. She confirmed with Ms. Buckley that the first year would be mainly devoted to the Future Land Use Map rewrite and said it seemed like the Town already had a lot of input regarding that. She advised staff to work from the base it already had.

Ms. Buckley agreed that staff had a great deal of information for the consultants and said they would not be going back to ground zero.

Joan Guilkey, a Chapel Hill resident asked if the LUMO would look the same as the current one. Mayor Hemminger said no, the LUMO rewrite will be a different animal than the current one.

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY MAYOR PRO TEM DONNA BELL, TO ADOPT R-14. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0)

[A RESOLUTION ADOPTING THE LAND USE MANAGEMENT ORDINANCE REWRITE PROJECT CHARTER \(2017-11-29/R-14\)](#)

15. [Provide Feedback on the Proposed Process to Refine the Future Land Use Map.](#)

Ms. Buckley gave a PowerPoint presentation on the first phase of the LUMO rewrite project, which was to refine the Future Land Use Map. The Future Land Use Map was not a zoning map, but a visual guide to future planning, and a geographic depiction of goals for the built environment, she said. She gave a PowerPoint presentation on the process, and asked for Council input. Staff would return to the Council with a final draft in October 2018, Ms. Buckley said.

Council Member Parker said that staff had mentioned bringing options for various land use maps so the Council could better understand, and help staff determine what, and how detailed, land uses should be. He pointed out that having that conversation early on would make the process of reviewing drafts less painful.

Ms. Buckley proposed making it a practice to send the Council different types to consider.

Mayor Hemminger recommended that stakeholders include various age, income and cultural groups, adding that much could be gained from blending demographics. She suggested reaching out to the University and UNC Hospitals, and said there was value in talking to a developers group, as well. The Town needed a realistic, informed approach, Mayor Hemminger said.

Ms. Buckley replied that the PC had offered a similar perspective and staff had proposed that they manage that part of the process. Staff would report on its efforts in that regard as well, she said.

Mayor Hemminger thanked staff and Council for their dedication over several recent, long. end-of-year meetings. She expressed appreciation to the four members who were leaving the Council and said she would miss their input, experience, advice and dedication.

The meeting was adjourned at 11:32 p.m.