



TOWN OF CHAPEL HILL

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

Town Council

Meeting Minutes - Draft

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
Council Member Rachel Schaevitz

Wednesday, October 10, 2018

7:00 PM

RM 110 | Council Chamber

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, Assistant Town Manager Mary Jane Nirdlinger, Town Attorney Ralph Karpinos, Communications Specialist Catherine Lazorko, Senior Engineer Sue Burke, Housing and Community Assistant Director Sarah Vinas, Housing and Community Executive Director Loryn Clark, Affordable Housing Manager Nate Broman-Fulks, Principal Planner Corey Liles, Planning and Development Services Director Ben Hitchings, Operations Manager Judy Johnson, Community Resilience Officer John Richardson, Interim Business Management Director/Finance Officer Amy Oland, Assistant Chief of Police Jabe Hunter, Emergency Management Coordinator Vencelin Harris, Senior Ombuds Jim Huegerich, Dwight Bassett, Laura Selmer, Communications and Public Affairs Director and Town Clerk Sabrina Oliver

OPENING

Video: Celebrating Successes.

[\[18-0827\]](#)

Mayor Hemminger opened the meeting at 7:00 pm and introduced a "Celebrating Successes" video on how the Town had been building its greenways to withstand damage from heavy flooding. The video showed historic flooding at Bolin Creek and addressed the advantages of building trails with material other than asphalt.

Mayor Hemminger said that the Town would be dedicating new bridge art at the Tanyard Branch at 9:30 am on October 20, 2018. She also pointed out that schools would be cancelled the next day because Hurricane Michael was heading toward North Carolina.

Proclamation: American Pharmacists Month.[\[18-0828\]](#)

Council Member Gu read a proclamation that stressed the responsibility of users and physicians to be knowledgeable about drug therapy and pointed out that pharmacists were ideally suited to work with patients and others to improve medication use and outcomes. The Council was proclaiming October 2018 as American Pharmacists Month in Chapel Hill, she said, and she urged all to show appreciation for pharmacists in the community.

UNC School of Pharmacy students Karen Abernathy, Jennifer Sato, and Jennifer Schwager accepted the proclamation on behalf of the American Pharmacists Association's Academy of Student Pharmacists. Ms. Abernathy said that UNC pharmacy students were helping the community during American Pharmacy Month by providing blood pressure and blood glucose screenings, and immunizations, and by holding fund-raising events and medication take-back days.

Proclamation: Breastfeeding Family Friendly Community.[\[18-0829\]](#)

Council Member Bell read a proclamation on Breastfeeding Friendly Month that pointed out that breast milk was considered to be the optimal food for infants. Breast milk was associated with lower rates of illness for both infants and mothers and promoted mother-infant bonding as well as lifelong health and development, she said. Council Member Bell proclaimed the Town to be a "Breastfeeding Family Friendly Community" and urged all to provide a supportive and welcoming environment for mothers.

Kathleen Anderson, a Breastfeeding Family Friendly Community team member thanked the Town for its continued commitment and support. She said that many people did not realize that breastfeeding is good for communities and families as well as mothers and infants.

Proclamation: Domestic Violence Awareness Month.[\[18-0830\]](#)

Council Member Oates read a proclamation for Domestic Violence Awareness Month, which described domestic abuse and provided statistics from the National Coalition Against Domestic Violence. At least 82 people had been murdered by domestic violence in North Carolina in 2017, she said.

Council Member Oates said that the Compass Center for Women and Families served approximately 6,000 people from Orange, Durham and Wake Counties each year. She declared October 2018 to be Domestic Violence Awareness Month in Chapel Hill and urged citizens to become familiar with the signs of domestic violence and to support the Compass Center and other organizations that work to prevent domestic violence.

Cordelia Heaney, Compass Center executive director, thanked the Town for its longstanding support and described the Center's services. She

mentioned some of the events and activities that the Compass Center would hold during the month of October to raise awareness of domestic violence and support survivors.

Proclamation: Ombuds Day.

[\[18-0831\]](#)

Council Member Parker read a proclamation about how disagreements, conflicts, and confusion were inevitable in organizations and the importance of reaching equitable solutions. He explained that the Town and the University of North Carolina at Chapel Hill (UNC) had been offering confidential and impartial ombuds assistance for finding constructive paths forward. The Town and UNC were proclaiming November 11, 2018 to be Ombuds Day and were encouraging everyone in Town to become familiar with those essential services, Council Member Parker said.

Jim Huegerich, representing the Town's Ombuds office, replied that it had been a privilege and an honor to live, work and learn in a community that strives to be inclusive and build bridges rather than walls.

Don Osborn Adams, the new director of UNC's Ombuds Office, gave credit to others at his office who had been on the team from the start.

Mayor Hemminger expressed pride in the Town's Ombuds Office and said that its collaboration with the UNC office had worked out well.

ANNOUNCEMENTS BY COUNCIL MEMBERS

a. Mayor Hemminger Regarding Festifall.

[\[18-0832\]](#)

Mayor Hemminger said that Festifall had been a very successful event this year and thanked everyone for all the effort they had put into it. It seemed to have run seamlessly and smoothly and was one of the best Festifalls she had ever experienced, she said.

b. Mayor Hemminger Regarding Walk to School Day.

[\[18-0833\]](#)

Mayor Hemminger noted that it was Walk to School Day in Chapel Hill and said that she had participated in the fun event. She encouraged all to walk to school and work on that day and every day.

c. Mayor Hemminger Regarding 30th Anniversary of Rural Buffer and Joint Planning Agreement.

[\[18-0834\]](#)

Mayor Hemminger pointed out that it was the 30th anniversary of the formation of the Rural Buffer and the Joint Planning Agreement (JPA), which Chapel Hill, Carrboro and Orange County had created in 1987. The JPA reflected a joint commitment to environmental stewardship, sustainability, and to one another, she said. Mayor Hemminger noted that a celebration would be held from 5:00-6:15 pm on October 16th at Blackwood Farm.

d. Council Member Schaevitz Regarding the First Film Fest 919.

[\[18-0835\]](#)

Council Member Schaevitz said that the first "Film Fest 919" had been completed the prior week. It had been spectacular, she said, noting that many creative people had visited UNC and experienced the Town during that time.

e. Mayor Hemminger Regarding Pickleball Tournament.

[\[18-0836\]](#)

Mayor Hemminger said that the Town had held a successful Pickle Ball tournament the prior weekend, with 155 people from more than five states participating and visiting Chapel Hill.

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.

a. Jeff Charles Regarding Creating Citizen Advisory Board for Seniors.

[\[18-0837\]](#)

Jeff Charles, former chair of the Transportation Board, petitioned the Council to create a citizens advisory board for seniors with age-related disabilities. It could be called Quality Senior Living in Chapel Hill, he said. He noted that he was a stroke survivor and said that it was time for seniors with disabilities to be involved in the development process.

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

b. Whit Rummel Regarding Rezoning Property on Estes Drive.

[\[18-0838\]](#)

Whitt Rummel, a Chapel Hill resident, petitioned the Town to consider rezoning the property at the Martin Luther King Jr. Boulevard/Estes Road intersection, an area where he and his wife owned a 7.5-acre tract. He said that the Town had not responded to his year-old request that the corridor be rezoned in order to make it consistent with the 2020 Comprehensive Plan. Mr. Rummel mentioned recent proposals for that area and said that his request was even more urgent as a result of those.

A motion was made by Mayor pro tem Anderson, seconded by Council

Member Parker, that this Petition be received and referred to the Town Manager and Mayor. The motion carried by a unanimous vote.

PUBLIC COMMENT - ITEMS NOT ON PRINTED AGENDA

a. Sara Gear of the Chapel Hill Historical Society Celebration on October 21st. [\[18-0839\]](#)

Sara Gear, Chapel Hill Historical Society president, announced an annual celebration of Town leaders to be held at the Chapel Hill Public Library on October 21st at 3:00 pm. She said that all were invited all to join the celebration where Mayor Hemminger would present proclamations to the following "community treasures": Molly and Bob Broad, Martha Brunstein, Katherine Cheek, Bob Epting, Nerys Levy, David Mason Jr., and Edith Wiggins. Ms. Gear provided information about each recipient's contribution to the community.

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 Buansi, that R-1 be adopted, which approved the Consent Agenda. The motion carried by a unanimous vote.

1. Approve all Consent Agenda Items. [\[18-0804\]](#)

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

2. Approve Miscellaneous Budget Ordinance Amendments to Adjust Various Fund Budgets for FY 2018-19. [\[18-0805\]](#)

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

3. Approve the Housing Advisory Board's Recommended Funding Plan for the Affordable Housing Development Reserve. [\[18-0806\]](#)

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

4. Amend the 2018 Council Calendar. [\[18-0807\]](#)

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

5. Adopt Minutes from October 11, 2017 and February 7, 28, and April 25, 2018 Meetings. [\[18-0808\]](#)

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

INFORMATION

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6. Receive Upcoming Public Hearing Items and Petition Status List. [\[18-0809\]](#)

This item was received as presented.

7. Receive Annual Compliance Reports for July 1, 2017-June 30, 2018 for the Carolina North, Glen Lennox, Obey Creek, and Fire Station #2 Development Agreements. [\[18-0810\]](#)

This item was received as presented.

DISCUSSION

8. Open the Public Hearing and Consider Enacting Amendments to Section 5-56 of the Town Code to Incorporate the Revised Flood Insurance Studies and Flood Insurance Rate Maps. [\[18-0811\]](#)

Senior Engineer Sue Burke presented the proposed amendments to the Town's Flood Damage Prevention Ordinance. She gave a PowerPoint overview of the issue and explained that revised FEMA maps covered five areas that overlap with Durham and Orange Counties and two that were solely within Durham County. The Town was required to adopt those maps, and accompanying studies, in order to remain in the National Flood Insurance Program, she said.

Ms. Burke explained that the consequences for not participating could include residents not being able to purchase flood insurance and lending institutions not extending federally-backed financing for properties located within special flood hazard areas. It could affect the Town's ability to receive federal disaster assistance, she said. Ms. Burke recommended that the Council enact the proposed amendments.

A motion was made by Mayor pro tem Anderson, seconded by Council Member Bell, to close the Public Hearing. The motion carried by a unanimous vote.

A motion was made by Mayor pro tem Anderson, seconded by Council Member Bell, that O-5 be enacted. The motion carried by a unanimous vote.

9. Building Integrated Communities Project Update. [\[18-0812\]](#)

Sarah Vinas, assistant director of Housing and Community, provided a PowerPoint overview and update on the Building Integrated Communities (BIC) project. She explained that BIC was a statewide, community planning initiative based at the Institute for the Study of the Americas and the Center for Global Initiatives at UNC. BIC helped local governments engage with foreign-born residents in order to enhance communication, improve relationships, and increase leadership and civic engagement opportunities, she said.

Ms. Vinas said that a community assessment -- which was Phase I of a three-phase project -- had included public meetings that more than 160 immigrants and refugees had attended. Meetings had been held in seven different languages, she said. Ms. Vinas pointed out that UNC had prepared a report and executive summary that was available in Spanish, Karen, Burmese and Mandarin Chinese.

Principal BIC investigator Hannah Gill, associate director at the Institute for the Study of the Americas, gave a PowerPoint update on some of the study's findings and the recommendations that those who had participated in the community assessment had made. Based on data from the U.S. Census and U.S. Department of State, nearly 17 percent of the Town's residents were foreign born and more than 1,000 refugees had arrived in Orange County since 2005, she said.

Dr. Gill explained that 24 percent of those residents were living in households with limited English. The full report contained information about education, income, and home ownership, she said. She discussed recommendations that researchers had heard during public meetings and interviews with residents. Some of the topics discussed included transportation, language outreach, employment, transportation, housing, and legal resources, she said, and she provided details on each of those topics.

Jorge Gutierrez, BIC coordinator at UNC, continued the PowerPoint presentation. He outlined participants' responses and suggestions regarding public safety and law enforcement. He said that participants highly valued local leaders' efforts to engage their perspectives and he noted additional recommendations that residents had made. He pointed out that the Town and other key community organizations did not offer adequate language access.

Mr. Guitierrez said that residents had recommended making Town communications language-accessible, and he noted specific topics for which multi-lingual translation was needed but lacking. He explained that the committee was in the process of developing strategies to respond to residents' recommendations and would return to the Council at a later date with an update and request for action. The BIC program would then enter the implementation phase, Mr. Guitierrez said.

Council Member Gu confirmed with Dr. Gill that the data showed extremes regarding income levels, with foreign-born residents with US citizenship having higher incomes and home ownership than those who did not. There were great disparities, Dr. Gill explained, noting that the recommendations had been based on some of the neediest members of the community.

Council Member Gu pointed out the low number of foreign-born people involved in Town leadership. She asked that BIC's final recommendation

give a more complete picture of the needs of high income/high education members of that population and how those residents could contribute toward making the Town more vibrant.

Ms. Vinas acknowledged that the diversity of the Town's immigrant and refugee population created challenges. There had been extensive engagement with various populations, she said. The Chinese residents whom staff had met with that day, for example, had reiterated their interest in transportation and bus service, she said. Ms. Vinas pointed out that some issues cut across nationalities and said that developing specific action plans that respond to a diverse community would be the challenge in the action phase.

Dr. Gill offered to meet with Council Member Gu and hear her recommendations.

Council Member Buansi confirmed that public meetings in Phase II would include interpreter services and would meet at a central location.

Council Member Schaevitz pointed out that UNC's housekeeping staff worked at night when there was no bus service. She confirmed that data from the report would be presented to the University as well, and asked what would be different about Phase II.

Ms. Vinas replied that items with a budgetary requirement, or with specific policy or programmatic recommendations, would be accompanied by a staff recommendation and brought before the Council during the action phase.

Council Member Oates ascertained from Dr. Gill that the committee was exploring what aforementioned employer-provided transportation might involve. It could be vans, or other forms of publicly-funded transit, Dr. Gill replied. She stated that UNC was funding half of Chapel Hill Transit and said that BIC was exploring options that would engage all of the stakeholders who were already involved in public transit.

Council Member Oates confirmed with Ms. Vinas that the head of a household needed to have a social security number in order to apply for the Town's public housing.

Council Member Parker recommended including UNC and UNC Healthcare in the plan. He said that the solution to problems of such magnitude would require their cooperation as well.

Ms. Vinas replied that there had been strong participation from UNC and that the connection with UNC Healthcare could be strengthened through the BIC project

This item was received as presented.

10. Consider Authorizing the Transfer of Ownership of Town-Owned

[\[18-0813\]](#)

Land at 320 Lindsay Street and 506 Mitchell Lane in Support of the Northside Neighborhood Initiative and for the Creation of New Permanently Affordable Housing.

Affordable Housing Manager Nate Broman-Fulks gave a PowerPoint presentation on transferring ownership of two parcels of Town-owned land to the Northside Land Bank for creation of three permanently-affordable homes. He provided background on the Town's work in the Northside Community, which had led to the 2015 Northside Neighborhood Initiative (NNI), a collaborative effort that maintains and strengthens that neighborhood and honors its history.

Mr. Broman-Fulks said that the NNI's structure included collaboration among Self-Help Credit Union, the Marion Cheeks Jackson Center, the NNI steering group, and others. He explained that an owner had donated four cottages from the Town's Historic District to Self-Help, which had then worked with the Jackson Center and Town staff to identify sites to which they could be relocated. That had led to a request that the Town donate two sites -- on Lindsay Street and Mitchell Lane -- for permanent affordable housing, said Mr. Broman-Fulks.

Operations Manager for Planning Judy Johnson explained that the Lindsay Street site had been proposed as a donation to Habitat for Humanity in 2014, but Habitat had been unable to use it because of its configuration. However, Self-Help had found a solution to the awkward site and that included an adjacent property owner donating a portion of land, she explained.

Ms. Johnson said that the vacant lot on Mitchell Lane had fairly significant site constraints, which she described. She said that the proposal to locate one cottage on that lot would require a variance from the Board of Adjustment and that a back-up plan would be to put a smaller home on that property.

Ms. Johnson explained that the Historic District Commission (HDC) had approved the relocation of four cottages, but had imposed a one-year waiting period on their removal. The Planning Commission had approved all three site plans and staff believed the transfer would be consistent with Town goals and recommended the transfer of ownership to Self-Help, she said. Ms. Johnson pointed out that Council approval of Resolution 9 would create four affordable units, including one on Craig Street.

Mayor Hemminger asked about a piece of property for which Town ownership could not be determined. Probably no one was paying property taxes on that, she said, and she asked if staff could obtain more information about it.

Town Attorney Ralph Karpinos replied that staff could try, and Ms. Johnson said that staff had done quite a bit of research on it.

Mayor Hemminger proposed involving the Jackson Center in that project.

Bob Epting, HDC chair, stated that the HDC had not approved removal of the cottages, which it viewed as precious resources and an important part of the Town's historic fabric. He explained that a Town ordinance and statute had not allowed the HDC to deny the request to move the properties but that the HDC had unanimously voted to oppose moving them. The HDC's only option had been to delay removal for 365 days, he said.

Mr. Epting provided background on the process and said that the Town's proposition would have been strengthened by a conversation with the HDC, whose mission was to protect the district. He asked that it be made clear, for the record, that the cottages were very valuable and important, where they were located, and that removing them would be a detriment to the historic district's special character.

Hudson Vaughan, representing the Jackson Center, provided information about ongoing attempts to trace titles on the properties. He said that the Jackson Center was extremely excited about the plans to maximize those lots while also leaving open space. He pointed out that the structures would be preserved and would have quality uses rather than just being demolished or removed from the community. Mr. Vaughan said that plans had been sent to the HDC, but they had apparently not been received.

Mayor pro tem Anderson praised the plan, but recommended clarifying for the public that the Town did not typically give property away -- except in the case of such a wonderful use. She praised the partnership and lauded the fact that the houses would remain in Town even though they would not be in the historic district.

Mayor Hemminger noted that the transaction would put the parcels back on the Town's tax roles. She also said that she loved the collaboration.

Council Member Oates emphasized the importance of all parties being represented and said that the HDC, which included many knowledgeable resources, should have been included in the conversation. She said that the owner would get about a \$900,000 tax write-off, \$300,000 of which would go "into his pocket". There might have been a way to leverage even greater resources for affordable housing, Council Member Oates said. Council Member Stegman agreed with Mayor pro tem Anderson's comments and thanked all who had worked for a year to figure out how to create new homes for families.

Council Member Schaevitz asked Mr. Vaughan to convey the Council's gratitude to the property owner who donated the extra piece of property that had made the Lindsay Street parcel viable. The Council was grateful for that generosity, she said.

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

11. Blue Hill Biannual Report #8.

[\[18-0814\]](#)

Principal Planner Cory Liles provided a PowerPoint biannual report on the Blue Hill District (BHD), which included updates on the Elliott Road Extension and Elliott Road Flood Storage and a March 2018 petition by Council to encourage non-residential development and address other goals and concerns. He noted that staff had explored a package of text amendments, new requirements, and possible strategies in response to the Council's petition.

Mr. Liles discussed the status of projects under construction, such as Hillstone, Fordham Boulevard Apartments, and Greenfield Commons/Phase II. He said that new applications included Tarheel Lodging (which was under review) and Park Apartments, which was tied to the Elliott Road Extension project. Smaller scale projects dealt with facade and site improvements and included the Cava Restaurant, the Village Plaza, and the Haw River Grill, he said. Mr. Liles provided statistical information on the number of newly completed residential and commercial units and compared that with Town projections.

Council Member Parker asked if staff was expecting zero commercial development after current projects were completed.

Mr. Liles replied that there certainly could be additional projects over that 10-year period that the Town did not yet know about. He pointed out that there already had been some that had not been projected in 2014.

Council Member Oates confirmed with Mr. Liles that Tarheel Lodging was a mixed use project that included a hotel, office building, and apartment project.

Mr. Liles continued his presentation, with a breakdown of square footage and tax value for completed projects and those that were under construction. He said that the total square footage of projects completed was 421,960, with a property tax value of approximately \$73 million. The total under construction was 745,783 square feet with an estimated \$109.34 million tax value, he said.

Mr. Liles pointed out that projections through 2018 had been for 1,150,000 square feet with \$193 million in total tax value. Therefore, the Town was on track with a total of 1,167,703 square feet and \$182.33 million in tax value, he said. He acknowledged, however, that there had been a shift toward residential development.

Mr. Liles said that the Debt Scorecard for the fiscal year that had concluded in June showed that property tax revenues exceeded debt

service payments. By June 2020, the Town will have collected enough property tax revenue to exceed cumulative debt payments and will be in the black, he said. In response to a prior Council request for information on the cost of providing public services to BHD properties, Mr. Liles said that an analysis of completed projects in FY2019 showed estimated revenues of \$821,000 and estimated costs of \$389,000, with a resulting difference of \$432,000.

Council Member Parker replied that was just allocating existing average costs per capita.

Mr. Liles agreed, and acknowledged that the estimates included caveats and that per capita was a best guess.

Mayor Hemminger confirmed with Mr. Liles that Transit was not on the list because it and stormwater were considered "revenue offset."

Mr. Liles provided updates on connectivity, displaying maps showing areas where multi-use paths, greenways, sidewalks, crosswalks and bike lanes had been added in the BHD. He pointed out that a Story Map that provided online interactive tracking of many such projects could be found at townofchapelhill.org/bluehilldistrict. Mr. Liles said that next steps would include an update on massing standards and a Housing Department presentation on strategies for affordable housing, with the next BHD update occurring in the spring.

Mayor pro tem Anderson asked if staff thought the Town would be able to achieve its targets for a non-residential mix and if a change the Council had enacted would help achieve that.

Mr. Liles replied that projections assumed market forces that would make it more commercial.

Mayor pro tem Anderson said that having a cost of service estimate that included factors other than just per capita would be valuable for making data-informed decisions about development in Town. However, she did appreciate the per capita estimate as a placeholder because zero did not make sense, she said.

Council Member Schaevitz asked staff to meet with the Cultural Arts Commission regarding its budget related to the Elliot Road Flood Storage Project. She also proposed that staff develop strategies for reaching out to those who were considering redeveloping their properties in the BHD because they might have questions regarding the new 10 percent requirement.

Council Member Parker pointed out that there was a finite amount of land in the BHD. He said that he would like to know whether properties that had been projected to be commercial had become occupied by things that

were residential. How much footprint is actually left for commercial development and what is a realistic projection, he asked.

Mr. Liles replied that the Hillstone site had originally been projected for retail. He did not think there were other sites that had developed as only residential that had been expected to be non-residential, he said.

Council Member Gu remarked that presuming the 10 percent of commercial space that had been put in the Design Guidelines would mean needing about six million square feet to achieve the projection. The Town probably needed a special committee to promote the BHD as a commercial site through initiatives, she said. She asked if the next staff presentation on the BHD could include information about traffic conditions, including data on pedestrians and cyclists in that area.

Mr. Liles replied that staff did have traffic counts dating back about a year and that he would look at what else they might be able to provide.

Lib Hutchby, a Chapel Hill resident, pointed out that the Environmental Impact Statement had not been mentioned. It was disturbing not hearing from developers about how they planned to use renewable energy, she said.

Mr. Liles replied that the Town was limited by the state on how much environmental regulation it could require. Solar panels, for example, were voluntary, he pointed out.

Mayor Hemminger noted that the Town was required itself to meet certain guidelines, and Mr. Liles added that there was an incentive to defray some costs with green building practices.

Council Member Buansi asked for more demographic information on those living in the apartments that had already been developed in the BHD. That might help the Council better understand the kinds of amenities that would be desired there, he said.

Mayor Hemminger asked staff to keep striving to meet the target for more commercial space in the BHD.

This item was received as presented.

12. Update on Coal Ash Remediation at Police Station Property.

[\[18-0815\]](#)

Emergency Management Coordinator Vencelin Harris gave a PowerPoint presentation that outlined a Brownfields option for remediation and removal of coal ash from the Chapel Hill Police Department headquarters. He showed the contamination site on a map and provided background on the problem. The Town had been working with the NC Department of Environmental Quality (DEQ) and was committed to following all environmental laws and standards to ensure the health and safety of the community, he said.

Mr. Harris asked the Council to consider authorizing staff to proceed with the Brownfields eligibility process. Once eligibility had been determined, staff would return to Council regarding moving forward with Brownfield negotiations or with an alternate path, he said. He recommended that the Council adopt Resolution 10, authorizing the Town Manager to apply for Brownfields eligibility through the DEQ, and hold up to three additional public meetings, and return to the Council once eligibility had been determined, Mr. Harris said.

Economic Development Officer Dwight Basset provided additional information on options for remediation, which included the Brownfields process. He explained that such a Brownfields agreement would potentially reduce the cost of remediation, and he reviewed the steps through which the Town had arrived at the current decision point.

Mr. Bassett explained that the Council would eventually need to decide whether it wanted to proceed with a Brownfields program or go into a voluntary remediation agreement with the state. He would return to the Council for a decision on whether to proceed with a Brownfields program once the DEQ had determined the Town's eligibility, he said. Then, in 2019, the Town would consider selecting a redevelopment partner and decide whether to enter into Conditional Zoning or Development Agreement process, he said.

Steve Hart, an environment engineer with Hart and Hickman, provided a brief summary of the environmental conditions at the site and gave a PowerPoint presentation on where the coal combustion products (CCPs) were located. He described several remediation options, noting that the two that were available through the DEQ were the Brownfields Program and Voluntary Clean Up. Mr. Hart noted that the latter option was primarily used by parties that had caused the contamination and it did not include liability protection.

Mr. Hart discussed steps and fees associated with each process. The estimated cost to remove all CCPs and contaminated soil and replace the soil was \$13 million to \$16 million, he said. He described an alternative that would involve capping the contamination, adding a retaining wall, and removing the contamination materials. That would cost between \$1.6 million and \$3.5 million, Mr. Hart said.

Community Resilience Officer John Richardson provided additional details on how the Brownfields agreement would work. He said that it would be transferable and that it would include opportunities for partnerships. He explained that the Council was being asked to authorize the Town Manager to explore whether the Town was eligible for the Brownfields Program and said that staff would hold additional public meetings and return to the Council once there was a letter of eligibility from DEQ regarding Brownfields eligibility. Staff would then ask the Council to

consider options for moving forward, Mr. Richardson said.

Dan Douglas, of Benchmark Planning, provided an update on the engagement and reuse scenarios that had been presented to the public. He explained that it was based on a "reverse pro forma" -- i.e. what would have to be developed in order to be able to afford to pay \$5 million for the land. He had met with Town boards and commissions and its technical review team, and had held two public information meetings and one meeting focused specifically on the immediate neighborhood, he said.

Mr. Douglas reported that the main comments he had heard at those meetings included a strong preference for mixed-use and objections to how large the structure would have to be to support a \$5 million remediation cost. He showed a concept plan for a 98,000 square-foot, 6-story office building with a 6-story parking deck that included approximately 560 spaces. The development would also include 150 residential units in another 6-story building, adjacent amenities, and access road plus a fire road connection, Mr. Douglas said.

Council Member Schaevitz requested that future public meetings be held with the Town's environmental and stormwater boards first so that other boards would have the benefit of their comments. She confirmed with Mr. Hart that a Brownfields agreement, including any restrictions or requirements, would run with the land/title if the property were sold.

Mayor pro tem Anderson agreed with Council Member Schaevitz's recommendation regarding advisory boards. She confirmed with Mr. Hart that the Brownfields option would not necessarily mean doing the lowest cost remediation and that the Town could do as much as it wanted through that or the Voluntary Cleanup option.

Council Member Gu asked about the rationale for the Brownfields Program and the logic behind having it in conjunction with new development.

Mr. Hart reviewed the background of the Brownfields Program, which the DEQ had begun in 1997 to allow towns to develop sites that had contamination and were abandoned and underutilized because of that. The purpose was to enable sites to be redeveloped, and the agreement with the state provided liability protection in exchange for the Town making the site safe for its intended reuse, he said.

Council Member Gu verified with Mr. Hart that it was a program to encourage development and the state provides certainty regarding liability and helps developers obtain loans in return. In that case, why would the Town, rather than the developer, apply for the Brownfields Program, she asked.

Mr. Bassett reviewed the history of the Town's discussions and negotiations regarding the site and explained how that had led to a

former Council's conclusion that it needed to own the Brownfields application for its own protection and future benefit.

Council Member Gu said she was not sure she agreed with that idea because the Brownfield Program was not a standard for cleaning up. It was a program to provide incentive and liability certainty for the developer to obtain loans that it would otherwise be unlikely to obtain, she said.

Mr. Bassett expanded on his previous explanation and said that the benefit to the Town was that it would decide whether to do full or partial remediation. The Town would negotiate directly with the state, rather than with the developer, he said. The Council had decided that it would be better for the Town to make the application and pay the fee so that it could set the standard for remediation and what the site might be in the future, Mr. Bassett explained.

Council Member Gu confirmed with Mr. Bassett that the standards for cleanup were different depending on the type of development. For example, standards for a daycare center would be more rigid than for a factory. She expressed concern about the Brownfields Program not reaching any state standard and said she did not understand why the Town was discussing that program without first agreeing on what kind of clean-up it wanted.

Mr. Hart explained that the redevelopment would drive the level of cleanup, which might be different from what the community would want. Therefore, the state would look at that and include prohibitions in the Brownfields agreement on such projects, he said.

Council Member Gu pointed out that the safety of the surrounding environment -- such as the creek, trail and underground water -- was of concern as well.

Mr. Hart replied that all such "receptors" would be fully considered in the Brownfields agreement and were often monitored afterward as part of the agreement process.

Council Member Gu asked who would be responsible for the cleanup in that case, and Mr. Hart replied that the Town and developer would negotiate those issues in the agreement. She confirmed with him that "exempt from liability" meant exempt from full clean up. The developer would be responsible for making sure that the site was considered "safe" but would not be required to restore it to pristine levels, Mr. Hart explained.

Council Member Stegman clarified with Mr. Bassett that clean up costs were assumed to be about \$3.5 million and that the Town had invested between \$.5 million and \$.75 million over recent years in meeting DEQ requests. The Brownfields Program would give the Town a chance to

recoup that money and clean the site up to the minimum standard, she said. Council Member Stegman noted the importance of considering the impacts on whatever community the coal ash would be sent to and she requested additional information on that.

Mr. Bassett replied that staff would work to make sure that the Town was not creating environmental injustices with whatever path the Council chose.

Council Member Bell pointed out that the Council was not being asked to make a Brownfields agreement but was only considering applying to find out if the state would permit it to have one.

Mr. Bassett agreed, noting that the Town had already budgeted for a Brownfield agreement and would merely be finding out if the site would be eligible for that. Staff would then return with that and other information for a Council decision on the Brownfields Program versus voluntary remediation, he said.

Michael King, Winding Ridge Homeowners Association president, expressed objection to what he viewed as a rush to development. The Town would be taking property that had been used for the public good and giving it to a developer to build three, 6-story buildings, a parking deck, and egress onto a street that was currently mediated by speed bumps due to families living there, he said. Mr. King said that he would almost call that "tantamount to negligence" and he asked the Council to reconsider the issue.

Evelyne Huber, a Bolingwood Drive resident, agreed with Mr. King's comments and spoke in favor of re-purposing the existing building. She recommended leaving the cap and remove only the area close to Bolin Creek. Ms. Huber urged the Council to slow down and consider the property from a public use and environmental quality point of view.

Nick Torrey, representing the Southern Environmental Law Center and speaking on behalf of Friends of Bolin Creek, offered several arguments for waiting to get more information. He acknowledged that applying for eligibility would not commit the Town to a final Brownfields agreement, but said that proceeding would build momentum for an approach that would leave the coal ash in place and do the bare minimum that the DEQ required.

Mr. Torrey noted that a letter from citizens asking the Council to hold off and first look at other options had been submitted to the Town. He said that creating a remediation plan that would look at multiple alternatives and include public comment would be the right approach. Mr. Torrey asked the Council to require a full evaluation of remediation options before starting the Brownfields process.

Jeff Charles, a toxicologist and Chapel Hill resident, asked why public

safety in removing contamination had not been addressed along with liability. The Council should consider long term public safety, he said, and he asked why the Town had not consulted with UNC's School of Public Health and other sources about the health effects and long-term safety of redeveloping the site.

Sonia Dasai, a Chapel Hill resident, agreed with others that expertise had not been sought and asked that the opinion of those who had done ground water and soil sampling and testing be included. She also asked that those results be made available to the public.

Mayor Hemminger pointed out such information was available on the Town's website.

Ms. Dasai also asked to see an analysis by health professionals and people who have done health surveys in towns where data on long-term health impacts was available. She said that she would like to hear a brief explanation about what coal ash is and what it does to the body, and she listed several illnesses that coal ash can cause. This was a case where moral law should take precedence where legal law fails, said Ms. Dasai.

Ms. Hutchby stated that not enough complicated questions had been answered for the Council to make a proper decision. She stressed the importance of putting citizens' health and safety ahead of development and recommended that the Council vote against the resolution or postpone its decision.

Council Member Oates confirmed with Mr. Bassett that an option to restore and reuse the police station had been dropped because the cost of making it fully usable would be equal to constructing a new building. Mr. Bassett explained that going forward with Brownfields consideration would not commit the Town to anything and seemed like a logical next step.

Council Member Oates proposed waiting until after UNC students had made a presentation to Council in three weeks.

Town Manager Maurice Jones said that it would be useful for staff to see the students' report before it was presented to Council.

Council Member Oates wondered if there was any particular reason why the Council needed to pass the resolution tonight. She mentioned several costs related to the application.

Mr. Bassett replied that the \$7,500 for the initial determination had already been budgeted and that the Council would decide whether to spend more money later on. He said that the Town had been working with DEQ for a number of years to arrive at the current point and that staff and consultant teams had agreed that applying for consideration for the Brownfields Program would be the next logical step in the process. Once

DEQ responded to that, then the Council would determine whether to pursue Brownfields and whether to do a full clean up or partial remediation, he said.

Council Member Oates said there seemed to be a disconnect in saying that building on coal ash is safe but there cannot be a park or first floor housing there.

Mr. Hart replied that the DEQ would ensure that the site was safe for its intended use, as part of the Brownfields process.

Council Member Oates confirmed with Mr. Hart that a park could be built at the site without removing all of the contamination and that there should not be any restriction on first-floor residential.

Mr. Bassett interjected that DEQ officials had told him not to request a park or first floor residential. He acknowledged, however, that view could have changed since that time.

Council Member Oates pointed out that some had said that having any remaining toxicity was a health hazard and others had said it was safe to just cap it off.

Mr. Hart replied that the NC toxicologist who had looked at the data had determined that there was no unacceptable risk to people using the Bolin Creek Trail. The upland areas were primarily paved with asphalt and a cap, he said. No one was using groundwater in the immediate area, so there was no risk of someone being in contact with that, said Mr. Hart.

Council Member Oates replied that it would be worth having an information meeting with experts, so the Council could have a full idea of what it was dealing with. She pointed out that there was no deadline for the decision.

Mr. Richardson replied that staff intended to include such expert testimony in the additional public meetings that he had mentioned.

Council Member Parker said that the Brownfields regulatory path offered the Town a level of protection that the voluntary path would not. And it would relieve the Town of any potential liability, he said.

Mayor pro tem Anderson said that she had no objection to applying for eligibility. She recommended listing a broad array of uses, since the Town did not yet know what it wanted to do there. The community needed to figure out what remediation it needed and not let a developer lead the way on that, she said. The clean up would have to be something between the state minimum and total remediation, said Mayor pro tem Anderson.

Council Member Buansi asked if there was a time in which the Council

needed to act, if it learned it was eligible for the Brownfields Program.

Mr. Hart clarified that the Town would not have to pay to apply for eligibility and that the \$7,500 fee would only be for proceeding after that point. If the Town received eligibility, it could wait, but it would typically be taken off the list of eligible sites after a year, he said. Mr. Hart pointed out that the Town could pick the application up again as long as the uses were still the same.

Council Member Buansi said that he had worked as an advocate for environmental justice and was sensitive to citizens' concerns. He had worked with communities that had been intentionally misled, but he did not think that was what was going on in Chapel Hill, he said. Council Member Buansi emphasized that applying for a letter of eligibility did not mean committing to the Brownfields program. He wanted to know what the options were and wanted to get more public input and more information, he said.

Council Member Bell said that the Town had been discussing the site for five years and had done more testing, discussing, and information-gathering than was necessary. There was one developer who wanted to work with the Town, and the goal of Brownfields would be to provide more options and not be tied down to one developer, she pointed out. If the Town were to send the eligibility request to the DEQ, it would still take years to address the complicated issue on that site, said Council Member Bell. She noted that the Town had an ethical responsibility for its citizens. The council had only discussed costs, but was trying to create an environment where citizens would be safe, she said.

Mayor Hemminger pointed out that there would be many opportunities for more dialogue. The specific item before the Council was whether it wanted to find out if it was eligible for the Brownfields Program, she said. She added that she did want that information and she pointed out that the Town would not be making a commitment to the rest of the process.

Council Member Parker moved Resolution 10 for "mixed use" and Mayor pro tem Anderson suggested a friendly amendment to add more than one use on the application. Mayor Hemminger confirmed with Mr. Hart that the use could change at any point in the application process.

Council Member Gu verified with Mr. Hart that the criteria for eligibility was a state determination that the site had actual or perceived contamination and had been abandoned or underutilized.

Mayor pro tem Anderson confirmed with Mr. Hart that the Town could check many of the boxes regarding use on the application for eligibility.

Council Member Gu asked what remediation was available for Bolin Creek and Bolin Creek Trail.

Mr. Bassett replied that applying for eligibility with all of the boxes checked would mean applying for the entire site, not parceling it off.

Mr. Hart added that the Town could subdivide the site after it receives a Brownfields agreement and the agreement would still apply to both property owners.

Council Member Oates emphasized that the Council would be voting only on applying for eligibility, not for developing anything. The goal was simply to find out what the options were and it would not cost anything, she said.

Mayor Hemminger noted that the Council had requested that the Environmental Sustainability Advisory Board and the Stormwater Advisory Board hold their meetings first so that information from those could be passed on to the other boards and commissions. In addition, staff had been asked to come back with information about possible options between capping and complete contamination removal, she said.

A motion was made by Council Member Parker, seconded by Council Member Bell, that R-10 be adopted as amended. 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

13. Open the Public Hearing: Application for Land Use Management Ordinance Text Amendment -Self-Storage Facility, Conditioned, and Floor Area Ratio Adjustment for Office/Institutional-2 (OI-2) Zoning District.

[\[18-0816\]](#)

Item 13 moved to October 17 due to lateness of the hour.

APPOINTMENTS

14. Appointments to the Chapel Hill Cultural Arts Commission.

[\[18-0817\]](#)

The Council appointed Janice A. Farringer, Jennifer Lawson, Dianne Pledger, and Megan A. Winget to the Chapel Hill Cultural Arts Commission.

15. Appointment to the Housing Advisory Board.

[\[18-0818\]](#)

The Council appointed Dawna Jones to the Housing Advisory Board.

ADJOURNMENT

The meeting was adjourned at 11:21 p.m.