



TOWN OF CHAPEL HILL

Town Council

Meeting Minutes - Draft

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

Mayor Pam Hemminger
Mayor pro tem Karen Stegman
Council Member Jessica Anderson
Council Member Camille Berry
Council Member Tai Huynh

Council Member Paris Miller-Foushee
Council Member Michael Parker
Council Member Amy Ryan
Council Member Adam Searing

Wednesday, March 2, 2022 **6:30 PM** **Virtual Meeting**

Language Access Statement

For interpretation or translation services, call 919-969-5105.

ဘာသာပြန်ဆိုခြင်းနှင့် စကားပြန်ခြင်းအတွက်၊ (၉၁၉) ၉၆၉-၅၁၀၅ ကိုဖုန်းခေါ်ပါ။

Para servicios de interpretación o traducción, llame al 919-969-5105.

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919-969-5105.

Virtual Meeting Notification

Town Council members will attend and participate in this meeting remotely, through internet access, and will not physically attend. The Town will not provide a physical location for viewing the meeting.

The public is invited to attend. The Town of Chapel Hill wants to know more about who participates in its programs and processes, including Town Council business meetings and work sessions. Please participate in a voluntary demographic survey <https://www.townofchapelhill.org/demosurvey> before accessing the Zoom webinar registration. After registering, you will receive a confirmation email containing information about joining the webinar in listen-only mode. Phone: 301-715-8592, Meeting ID: 893 7704 2600

View Council meetings live at <https://chapelhill.legistar.com/Calendar.aspx> – and on Chapel Hill Gov-TV ([townofchapelhill.org/GovTV](https://www.townofchapelhill.org/GovTV)).

OPENING

Mayor Hemminger opened the Council work session at 6:30 p.m.

ROLL CALL

Mayor Hemminger called the roll and all Council Members replied that they were present.

Present: 9 - Mayor Pam Hemminger, Mayor pro tem Karen Stegman, Council Member Jessica Anderson, Council Member Camille Berry, Council Member Paris Miller-Foushee, Council Member Tai Huynh, Council Member Michael Parker, Council Member Amy Ryan, and Council Member Adam Searing

Other Attendees

Town Manager Maurice Jones, Deputy Town Manager Mary Jane Nirdlinger, Deputy Town Manager Loryn Clark, Town Attorney Ann Anderson, Economic Development Specialist Laura Selmer, Police Chief Chris Blue, and Communications and Public Affairs Director/Town Clerk Sabrina Oliver.

ANNOUNCEMENTS BY COUNCIL MEMBERS

0.01 Mayor Hemminger Regarding the Council Committee on Economic Sustainability. [\[22-0173\]](#)

Mayor Hemminger announced that the Council Committee on Economic Sustainability would meet virtually on March 4th from 8:00-10:00 a.m.

0.02 Mayor Hemminger Regarding March 9th Council Meeting. [\[22-0174\]](#)

Mayor Hemminger said that the next Council meeting would be held virtually on March 9th at 7:00 p.m. She and the Town Manager hoped to resume in-person Council meetings at Town Hall on April 1st, she said.

0.03 Mayor Hemminger Regarding Future of Orange County Mask Mandate and Council Meetings. [\[22-0175\]](#)

Mayor Hemminger said that Orange County leaders hoped to lift the mask mandate on March 7th, if the number of positive COVID-19 cases continued to be low.

0.04 Mayor Hemminger Regarding Inner City Planning Meeting with Chamber. [\[22-0176\]](#)

Mayor Hemminger mentioned tentative plans for an intercity planning meeting with the Chapel Hill-Carrboro Chamber of Commerce on October 2022. She would update the Council on that when more specific information became available, she said.

0.05 Council Member Miller-Foushee Regarding Women's History Month. [\[22-0177\]](#)

Council Member Miller-Foushee pointed out that March 1st marked the first day of Women's History Month.

AGENDA ITEMS

1. Discuss Redevelopment of the Police Station Property at 828 Martin Luther King Jr., Boulevard. [\[22-0172\]](#)

Mayor Hemminger opened the discussion regarding re-development possibilities for a contaminated property at 828 Martin Luther King Jr. Boulevard (MLK). She pointed out that the Town had been processing information from experts regarding the site for eight years, through three different iterations of the Town Council. A website with related information had been available to the public since July 2013, she said.

Mayor Hemminger urged the Council to make a decision about whether or not to enter into a memo of understanding (MOU) with Belmont-Sayer to pursue redevelopment through an NC Department of Environmental Quality's (DEQ) Brownfields Program. She said that an MOU would be a non-binding agreement that would allow the Town to more fully understand what would be required to make the site safe again. She noted that any project would have to go through the Town's extensive development review process and that signing an MOU would not constitute any rezoning or project approval.

Economic Development Specialist Laura Selmer gave a brief summary of the site's history since construction debris and coal combustion products were deposited there in the 1960s and 1970s. She reviewed how the Town had acquired the property and built a police station on it in the 1980s. Coal ash was then discovered on the site in 2013, she said.

Legal Counsel Keith Johnson, an environmental attorney with Poyner-Spruill, gave a detailed presentation on remediation measures the Town had taken in 2019 to stabilize an embankment and removed coal ash from a stream area. He said that the Town had then selected local developer Belmont-Sayer in 2020 to discuss capping and containing the coal ash and developing the property under the Brownfields Program.

Mr. Johnson explained that a cap and contain approach meant removing some of the coal ash and covering areas with impervious surface such as buildings, pavement, sidewalks or three to four feet of clean fill. A retaining wall would be built and there would be permanent deed restrictions regarding use of groundwater, he said.

Mr. Johnson said that a 2021 environmental assessment by Hart and Hickman had found no unacceptable health risk from the upland portion of the property. There could be some risk, under current conditions, from areas along a steep embankment, but that property would not be re-purposed in its current condition, he said.

Mr. Johnson said that options other than capping and containing would include leaving the property as it is and putting a fence around or transporting the coal ash to a disposal facility and replacing the land with clean fill. He noted the risk of exposure with the latter scenario and said that removing and transporting coal ash would cost an estimated \$13-16 million, compared to \$3-5 million for capping and containing it.

Mr. Johnson said that it was not accurate, in his opinion, to call the site a "waste dump" since the circumstances were not the same as spilling millions of gallons of ash slurry into a river. He described what coal ash consisted of and said that using it for structural fill was still legal, though less common than in the past. The risk from coal ash depended on its location and whether or not it is covered, he said.

Mr. Johnson said that a Brownfields Program included long-term requirements that other remediation programs did not. The MOU, and any subsequent economic development agreement (EDA), must show that the property would fully protect public health and the environment, he said. He explained that the Brownfields Program included perpetual deed restrictions and said that Brownfields projects must have annual inspections, certifications, and re-openers if something changes that could create a risk.

Mr. Johnson reviewed what an MOU typically contained and said that there would be an option to build only the Town's multi-service center if the Council did not approve a private project during the conditional zoning process. If approved, however, the private project could be completed within 18-24 months from when the permit is issued, he said.

Mr. Johnson said that the next steps would be for the Council to review a concept plan and send that to the DEQ for evaluation. The Council confirmed with him that he believed the Town had done its due diligence and could feel confident moving to the MOU phase. He said that the Brownfields Program probably was more conservative than other states where long-term monitoring and evaluation does not occur. If anything, the Town might have over-studied the project, he said.

The Council verified with Mr. Johnson that an EDA would include which party has responsibility if the cap and contain plan failed. He noted that it had not yet been determined whether a retaining wall would be on private or public property. However, maintenance of that wall would be required in the Brownfields' agreement regardless of who owned the land, he said.

Council Member Searing challenged the notion that the site was not a "coal ash dump", since the coal ash had likely come from UNC's power plant and been put there. Mr. Johnson replied that the site was not

legally classified as a "waste dump" and that using coal ash for structural fill continued to be legal under certain circumstances.

Council Member Anderson clarified with Mr. Johnson that by saying the Town might have over-studied the site, he meant that development plans and signed MOUs typically precede risk assessments. She asked for a summary of the site's current condition based on the last risk assessment, and Steve Hart, an environmental engineer with Hart and Hickman, replied that the trail was currently safe for users. The Police Station area was safe for maintenance crews and others who visit but not acceptable for residential use under its current conditions, he said. Mr. Hart mentioned other areas of exposed soil where long-term exposure would be unacceptable as well.

The Council confirmed with Mr. Johnson and Mr. Hart that short-term exposure would not be a risk and that redevelopment would reduce potential exposure. They asked about protections for people in areas to which the coal ash would be taken, if excavation and transport were the chosen remedy. Would that constitute off-loading Chapel Hill's risk to some other community, Council Member Parker asked.

Mr. Johnson replied that some coal ash would have to be shipped to a landfill that is permitted to accept it. Mr. Hart added that such a landfill would be lined, permitted, and operated by Waste Management or Public Services. The Council confirmed with both of them that the ultimate goal of cap and contain was to have no human exposure, assuming that no major catastrophe were to occur.

Council Members verified with Mr. Johnson that the current MOU structure included a requirement for Belmont Sayer to maintain liability coverage but it would not be expected to post a bond or have any additional insurance. In response to a question about funds for maintenance/upkeep/safety, Mr. Johnson said that the Town could try to negotiate that during the EDA process.

The general consensus on Council was that the Town did not have enough information to abandon the project without engaging in an MOU process. Council Member Ryan pointed out that the Town had spent eight years looking at technical reports and could get more information only if an MOU and concept plan were in place. Council Members Anderson and Parker agreed, and Council Member Parker said that the Town was no longer debating whether or not the land would be safe.

The majority of Council Members said they were ready to move forward with an MOU, but Council Member Searing argued that building residential housing on a "coal ash dump" would be a mistake and difficult to undo after approving an MOU. He would not live on the site with his

family and did not think that the Council should ask others to do so, he said.

Council Member Anderson said that it was inaccurate to label the site a "coal ash dump" and Mayor pro tem Stegman said that the Council had been listening to science and that reacting emotionally was not helpful. Council Member Parker said it was not helpful for Council Members to characterize living on the property as something they would not do themselves, and Council Members Berry, Miller-Foushee, and Huynh all said that they might consider living there.

Council Member Searing replied that he had been speaking only for himself. He was not opposed to looking at the site for commercial and/or retail uses, but could not support it for residential uses, he said.

Mayor Hemminger expressed appreciation to all for the work that had gone into studying the site. She said that the land presented opportunities for people to live in a great location, on the greenway and a transit corridor, and within walking distance to downtown and amenities. She was eager to see a concept plan and the DEQ's response to it, she said. She repeated that an MOU was a non-binding agreement, not an ED or an approval for zoning or a guarantee of any entitlement. The item would come back to a regular Council meeting for a vote on whether or not to move forward with one, she said.

This item was received as presented.

ADJOURNMENT

This meeting was adjourned at 7:58 p.m.