



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 Michael Parker
Council Member Jessica Anderson
Council Member Allen Buansi

Council Member Hongbin Gu
Council Member Tai Huynh
Council Member Amy Ryan
Council Member Karen Stegman

Wednesday, February 17, 2021 6:30 PM Virtual Meeting

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 Zoom webinar directly online or by phone.

Register for this webinar:

https://us02web.zoom.us/webinar/register/WN_e7xR3TrFSle67P_vx2lx9A After registering, you will receive a confirmation email containing information about joining the webinar in listen-only mode. Phone: 301-715-8592, Meeting ID: 823 2368 5287

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

Roll Call

Present: 8 - Mayor Pam Hemminger, Mayor pro tem Michael Parker, Council Member Jessica Anderson, Council Member Allen Buansi, Council Member Hongbin Gu, Council Member Karen Stegman, Council Member Tai Huynh, and Council Member Amy Ryan

Other Attendees

Town Manager Maurice Jones, Deputy Town Manager Florentine Miller, Assistant Town Manager Mary Jane Nirdlinger, Town Attorney Ann Anderson, Assistant Planning Director Judy Johnson, LUMO Project Manager Alisa Duffey Rogers, Planning Director Colleen Willger, Principal Planner Corey Liles, Stormwater Engineer III Mary Beth Meumann, Senior Engineer Ernest Odei-Larbi, Community Education Coordinator Sammy Bauer, Manager of Engineering & Infrastructure Chris Roberts, Public Works Director Lance Norris, Interim Zoning Enforcement Manager Gene Poveromo, Executive Director for Technology and CIO Scott Clark, Communications and Public Affairs Director/Town Clerk Sabrina Oliver, and Deputy Town Clerk Amy Harvey.

OPENING

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

0.01 Mayor Hemminger Regarding Winter Weather Advisory. [\[21-0121\]](#)

Mayor Hemminger opened the virtual work session at 6:30 pm and previewed the agenda. She said that Town operations would begin late the following morning due to an expected ice storm.

0.02 Mayor Hemminger Regarding Food for Students Celebration of 1 Million Meals Served. [\[21-0122\]](#)

Mayor Hemminger commented on a recent celebration for Food for Students, which had served one million meals at 31 sites. She thanked the 150 team members who had participated and said she was proud of the Chapel Hill community for working together to feed its children during the pandemic.

0.03 Mayor Hemminger Regarding Peoples Academy. [\[21-0123\]](#)

Mayor Hemminger encouraged people of all ages to attend the People's Academy, which would be held virtually in 2021. She said that applications would be accepted until February 29, 2021.

0.04 Mayor Hemminger Regarding Black History Month. [\[21-0124\]](#)

Mayor Hemminger pointed out that February was Black History Month and that many Town events had been planned to celebrate. She mentioned some of the participating organizations and said that information was on the Chapel Hill Public Library's website.

0.05 Council Member Gu Regarding Chinese New Year and Light Up Event. [\[21-0125\]](#)

Council Member Gu pointed out that the Chinese New Year had begun the previous Friday but that street festivities had been cancelled again due to the COVID-19 pandemic. She looked forward to celebrating next year, she said, and wished all a healthy and prosperous new year.

AGENDA ITEMS

1. Continue Discussion of Chapter 160D Updates to Land Use Management Ordinance and Town Code of Ordinances. [\[21-0109\]](#)

Planner Corey Liles gave a PowerPoint presentation on 160D, a new section of NC General Statutes. He said that information in 160D needed to be reflected in both the Town Code and the Land Use Management Ordinance (LUMO) by July 2021.

Mr. Liles pointed out that Council Members had previously discussed how

160D would prohibit them from using advisory board (AB) recommendations as a basis for decisions on special-use permits (SUPs). He presented the following three options for addressing that prohibition: 1) Discontinue advisory board review of SUPs; 2) Recast board review of SUPs as a preliminary forum; 3) Have staff vet advisory board input and present a report to the Council. Mr. Liles asked the Council for guidance on which option to pursue.

The Council confirmed that AB meetings would be open to the public and that minutes of those meeting would be published. Mr. Liles commented, however, that Council Members would be expected to focus their decisions on evidence presented to them at SUP hearings. He offered to have the Town Attorney confirm those rules in writing.

Mr. Liles said that ABs had expressed a preference for Option 3 during a joint meeting that 34 members from seven different boards had attended. Of the 15 AB members who responded to a survey, none had chosen Option 1 and a few had expressed opposition to Option 2, he said.

Mr. Liles described how Option 3 might function. He pointed out that AB members might feel their time was being wasted if they could not see their input being directly incorporated into SUPs. In addition, the relationship between staff and ABs might become strained, and a month would likely be added to the review process, he said.

Council Members confirmed that 160D applied only to SUPs, not to Conditional Zoning. Mayor pro tem Parker verified with Mr. Liles that staff members normally attended AB forums and incorporated relevant information into their reports. Mr. Liles said that Option 3 would formalize that process.

Council Members spoke in favor of doing a pilot program with Option 2. They said that Option 3 would put staff in a difficult position for many reasons, and they confirmed with Mr. Liles that staff leaned toward Option 2 as well. The Council agreed that the role of ABs should not be eliminated, and they supported the idea of having a planner attend AB hearings.

Council Members asked for clarification regarding the implications of emails that someone from an AB might send them. They asked about expressing an opinion that might be similar to what someone on an AB had said. They wondered if watching AB meetings online would open the Council up to legal implications.

Town Attorney Ann Anderson offered to return with answers to those kinds of questions. She recommended that the Council be very cautious because it was "difficult to un-hear things".

LUMO Project Manager Alisa Duffey Rogers described two appeals processes under 160D for Historic District Commission (HDC) decisions on Certificates of Appropriateness: one would appeal directly to Superior Court; the other would be a Board of Adjustment (BOA) hearing and then appeal to Superior Court, if necessary.

Ms. Duffey Rogers explained that the LUMO currently specified that appeals of HDC decisions go to the BOA. The Council could choose to continue that process, or it could amend the LUMO to have appeals go directly to Superior Court, she said. She said that members of both the HDC and the BOA had expressed a preference for maintaining the current process of appealing to the BOA.

Town Attorney Anderson noted, however, that the BOA opinion had not been unanimous. A couple of members said they would like to see the tension that sometimes exists between them and the HDC eliminated, she said.

Council Member Anderson spoke in favor of continuing to let the BOA hear appeals, arguing that it was good to keep things out of court when possible. Mayor Hemminger noted that the Town would need to attend hearings, if appeals went to Superior Court, since it would be the defendant. Council Member Ryan pointed out that going to the BOA was a much less expensive option for applicants. Mayor Hemminger confirmed by a show of hands that no Council Member was interested in changing the current process.

Ms. Duffey Rogers said that the Council would need to enact a LUMO text amendment by June 30, 2021. The Planning Commission would consider the item as well, and the Council would hold a public hearing in April and consider adoption on May 19, 2021, she said.

Mayor Hemminger said that frequently asked questions, recordings of meetings, and UNC links to a 160D site were on the Town's website.

This matter was received and filed

2. Resource Conservation District Presentation.

[\[21-0110\]](#)

Stormwater Engineer Mary Beth Meumann gave a PowerPoint tutorial regarding the Resource Conservation District (RCD). She defined riparian buffers and explained how they protect stream quality. On a map, she indicated seven impaired stream segments in Town that did not meet federal water quality standards.

Ms. Meumann provided background on how the RCD had been adopted into Town ordinances in 1984 and had been updated in 1987 and 2003. She

said that the current version was intended to preserve valuable land along streams while allowing landowners a reasonable use of their properties. She discussed RCD impacts on Jordan Lake quality and described how stream buffers helped to mitigate flooding and reduce nutrient load.

Ms. Meumann explained the differences between stream types: perennial streams flow all year, intermittent streams flow with changes in ground water levels, and ephemeral stream flow only during and right after rainfall. She described the circumstances that determine riparian buffer widths and said that 150-foot perennial stream buffers were divided into three 50-foot zones (streamside, managed use, and upland) with declining levels of protection.

Ms. Meumann presented a development scenario that involved RCD encroachment and explained what would be allowed in the three zones and why. She said that buffer encroachment was not always visible at the concept plan stage of review. Staff worked with applicants to minimize encroachment but applicants could ultimately request a modification from the Council or a variance from the BOA, she pointed out.

Ms. Meumann said that developers and landowners had expressed concerns about the RCD limiting their ability to develop certain parcels. In addition, homeowners were not always sure what was allowed in the RCD or who was responsible for drainage or stream erosion issues, she said.

Ms. Meumann said that Stormwater and Planning staff members had been coordinating and developing processes to provide applicants with consistent and clear information on stream determinations and buffers. Staff members were interested in reviewing development applications in order to understand their impacts, she said.

Council Member Ryan requested that staff present the Council with pros and cons regarding applications rather than recommendations, but Council Member Anderson said she supported having staff continue to review and make recommendations. Mayor pro tem Parker asked to see fact-based staff recommendations that include more underlying information on whether or not a project would impair a stream.

Council Member Gu asked that future presentations include a way to show the type and amount of incursion into zones based on specific use and impact. Mayor pro tem Parker proposed that presentations include specifics and percentages on how much a proposed development would impair water quality. Council Member Anderson asked for more information at the concept plan stage on areas to avoid.

Ms. Meumann replied that applicants at the concept plan stage might be far enough into the design process to have a general idea of what their

project might require. She agreed to talk with staff about encouraging applicants to look at potential RCD encroachment earlier in the process.

The Council recommended that staff develop stormwater and RCD maps in the Town's Future Land Use Map into tools that could show the impacts of potential projects. They encouraged staff to ensure that ordinance standards from 20-30 years ago were accounting for climate change and more extreme weather.

In response to a question from the Council about how to evaluate applications that include a commitment to restore an RCD area, Ms. Meumann discussed a process through which the applicant would pinpoint specific benefits that were being lost and staff would evaluate the kind of restoration that might be appropriate. She said that staff needed to create a menu of restoration options and a way to provide those on a project-by-project basis.

Mayor Hemminger noted that respecting the RCD meant less expensive retrofits later on. It was much easier to prevent excess runoff or impaired waterways from happening in the first place, she pointed out. She confirmed with Ms. Meumann that the BOA could give variances for incursions from small projects but then not many had been given in recent years.

Mayor Hemminger recommended that stormwater staff take their presentation to the BOA in order to help them understand the importance of not giving exemptions. She confirmed with Ms. Meumann that the Triangle J Council of Governments was offering a series about RCDs, stormwater, and retrofit options.

Community Education Coordinator for Stormwater Sammy Bower gave an update on Town infrastructure projects that address water quantity concerns. She provided background on Booker Creek Basin Park, in the Eastgate area, for which Town residents had approved a 2015 bond to build along with other projects.

Ms. Bower said that the Booker Creek Basin Park plan had evolved to include additional amenities such as a concrete trail system, public art, and a creek overlook. The project had involved several Town departments, outside agencies, businesses, residents, and nearby RAM Development, she said. She presented a virtual walk through of the park and pointed out where landscaping needed to be filled in.

Ms. Bower said that approximately half of a 2015 bond had been spent on the Booker Creek Basin Park, and the remaining funds would be used to increase flood storage capacity near Redbud Lane, Lake Ellen, and to address Booker Creek Road culvert issues. Staff was hoping to receive

federal funding for two other projects at Piney Mountain Road and at Honeysuckle Road and would return with more details on those in the spring, she said.

Council Member Stegman confirmed with Ms. Bower that Eastwood Lake and Cedar Park sub-watershed studies should come to the Council in the spring and summer of 2021, respectively. Council Members asked about possible other projects, and Ms. Bower said that staff had been prioritizing those that bring the greatest public benefit for the least amount of money. She said she would return in the spring with a report on other types of interventions.

Council Member Gu asked if anything could be done to mitigate flooding at Eastgate, and Ms. Bower replied that the Elliot Road Flood Storage Project would help with 10-year and 25-year storms. The Town could not design a flood storage device that would contain hurricane levels of rainfall, she pointed out.

Chapel Hill residents Julie McClintock and Ed Harrison praised Booker Creek Basin Park. Ms. McClintock pointed out that wildlife depended on having fairly wide buffers along creeks and that the park presented an opportunity for shade trees. Mr. Harrison said that the project lit up the landscape and would be a treat for birdwatchers.

Mayor Hemminger pointed out that stormwater fees had been a good source of revenue as well. She mentioned that Chapel Hill resident Melissa McCullough had posted a comment online about an Atlanta Beltline Project.

This matter was received and filed

ADJOURNMENT

The meeting was adjourned at 8:27 p.m.