

**DRAFT SUMMARY MINUTES OF A BUSINESS MEETING
OF THE CHAPEL HILL TOWN COUNCIL
MONDAY, JANUARY 26, 2009, AT 7:00 P.M.**

Present were Mayor Kevin Foy, Mayor pro tem Jim Ward, Council Member Matt Czajkowski, Council Member Laurin Easthom, Council Member Sally Greene, Council Member Ed Harrison, Council Member Mark Kleinschmidt, and Council Member Jim Merritt.

Staff members present were Town Manager Roger Stancil, Deputy Town Manager Florentine Miller, Assistant Town Manager Bruce Heflin, Town Attorney Ralph Karpinos, Public Information Officer Catherine Lazorko, CIO/Deputy Director of Business Management Bob Avery, Mayoral Aide Carlo Robustelli, Parks & Recreation Director Butch Kisiah, Fire Chief Dan Jones, Deputy Chief/Fire Marshal Matt Lawrence, Economic Development Officer Dwight Bassett, Planning Director J.B. Culpepper, Senior Planner Kendal Brown, Transit Director Steve Spade, Communications & Public Affairs Director Sabrina Oliver, GIS Coordinator Chase Barnard, Firefighter Dave Spurgeon, and Communications Manager/Deputy Clerk Sandra J. Kline.

1. Opening Items:

a. Update on Carolina North.

Town Manager Roger Stancil gave an overview of the Council's January 14, 2009 meeting with the University of North Carolina (UNC) Board of Trustees. He said a major topic of discussion had been housing, and that several points of agreement had been reached. Twenty-five percent of Carolina North would consist of housing, with a full mix of affordable housing throughout, he said. Mr. Stancil noted that housing would be compact and energy efficient; there would be housing for students and employees; UNC would at least meet the Town goal of 15 percent affordable.

With regard to open space, Mr. Stancil said that UNC had offered a 50-year preservation commitment, which was less than the Town had wanted. There were discussions underway about how to resolve that policy issue, he said. Mr. Stancil said there would be another public information meeting on January 29, where the public would be invited to provide verbal and written comment on "Group 2 issues," which he then listed. The first round of joint UNC/Town discussions of Group 2 issues would be completed on February 2, 2009, and a public information meeting to discuss those would occur on February 19, he said.

Mr. Stancil explained the format of the March 4 meeting, which would include public input to staff members who were working on reports to the Council. Staff was discussing technology issues with UNC to see if there were more ways to make their joint work available to the public for comment, he said.

Mayor Foy verified that the next joint meeting of the Council and Trustees would be on February 11, 2009, and would be open to the public.

Mayor pro tem Ward mentioned that there had been a difference of opinion between some at the January 14 meeting with regard to the University's position on land preservation. He described UNC's position as inflexible. Mayor pro tem Ward said that one trustee had expressed

enthusiasm for a 12-to 20-story building on Carolina North. He could not personally expose the citizens of Chapel Hill to 50 years of that kind of open-ended density development, he said. Mayor pro tem Ward argued that the Town could not absorb that density on the 250 acres and beyond. It was difficult to decide how to proceed with conservation when there were no prospects of permanent land preservation, he said.

Council Member Harrison said that he was not at the point where he wanted to stop discussions. However, he described this as “a profound sticking point in the process” and said it should be a major topic of discussion for the Council and public. Council Member Harrison said he hoped to hear a lot about it from the public at the January 29 meeting.

Council Member Greene added that she too was disappointed by UNC’s refusal to consider a conservation easement. She asked Mr. Stancil when UNC’s responses would be funneled into Council discussions with citizens.

Mr. Stancil replied that all questions and comments would be on the Town website, and the goal was to provide information on how those comments were addressed, and on the reasoning behind how they were ultimately addressed in the development agreement or zone.

Council Member Greene noted that, in that case, the Council might not hear the staff’s responses to questions. She wanted to be more involved, she said.

Mr. Stancil replied that staff would report that work to the Council and Trustees. It would be an ongoing conversation right up to the development agreement public hearings and formal negotiations, he said.

Council Member Easthom pointed out that everything was still open, and that citizen comments do matter to the Council. She said she would take such comments very seriously as the Town engages in this very important process this year.

2. Public Forums and Hearings:

- a. Public Hearing: Land Use Management Ordinance Text Amendment regarding gravel as impervious surface area outside the Watershed Protection District.

Planning Director J. B. Culpepper explained that tonight’s public hearing was to consider a proposed Land Use Management Ordinance (LUMO) text amendment regarding gravel as an impervious surface that can be built upon. She discussed the 1993 watershed protection regulations that had since been extended throughout the Town. In 2003, the ordinance did not define gravel as an impervious surface outside of the watershed protection district, she said, and this amendment would remove that inconsistency by defining gravel as impervious in all developments throughout Town. The staff recommended that the Council open the public hearing and receive comment regarding this proposed Land Use Management Ordinance text amendment, Ms. Culpepper said.

Council Member Harrison did not think that gravel use would be widespread. Most people probably would opt for asphalt, he said.

Council Member Ward verified that all types of gravel would be treated as impervious. He asked

about other porous paving substances, and Ms. Culpepper agreed to return with an answer, and to find out if asphalt and gravel would be considered identical in a path.

Council Member Czajkowski said that the Town might want to encourage something a little less impervious. A blanket definition of them both being equally impervious might not suit the Town's purposes, he said.

Tom Henkel told the Council that he had been charged extra stormwater fees because his gravel driveway was considered pervious. He noted that the runoff goes into his backyard, and said the Town should consider such stormwater management on one's own property.

COUNCIL MEMBER MATT CZAJKOWSKI MOVED, SECONDED BY COUNCIL MEMBER MARK KLEINSCHMIDT, TO RECESS THE PUBLIC HEARING. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

3. Petitions by citizens and announcements by Council members.

1. Petition regarding the Council's consideration of Chapel Hill becoming a Human Rights City and the creation of an advisory committee.

Elizabeth Adkisson, a UNC senior, proposed a resolution declaring Chapel Hill a Human Rights City. Adopting the resolution would raise awareness of people's mutual obligations and duties to one another, she said. Ms. Adkisson read a resolution that would make Chapel Hill and Carrboro the first Human Rights Cities in North Carolina. She also asked the Town to appoint an advisory committee to report to the Council on a semi-annual basis about the condition of human rights in Chapel Hill.

COUNCIL MEMBER MARK KLEINSCHMIDT MOVED, SECONDED BY MAYOR PRO TEM JIM WARD, TO RECEIVE AND REFER TO THE JUSTICE IN ACTION COMMITTEE. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

2. Andrew Dykers re: CO for mobile home.

Andrew Dykers updated the Council on his situation with his home. He had met with an inspector, who told him he should soon be in his home, he said. Then he got a call from the Town, on January 20, saying it would accept his living in his home if the inspector would write a letter. The total cost of this was \$1,800, Mr. Dykers said, noting that he had to spend another \$695 to rent a room for February because of the delay.

Mr. Dykers read a NC general statute regarding the duties of an inspection department. He said the Council could have taken action to help him in October. Mr. Dykers expressed disagreement with Mayor Foy's former statement that there was equal blame to go around. He referred to points at which he thought the Town had been remiss. What exactly should he have done to make this better, he asked. Mr. Dykers said that maybe the expense should be divided equally along with the blame.

c. Announcements by Council members.

Council Member Harrison said that he and Council Member Kleinschmidt had attended a

memorial service that day for Roland Giduz, who had been a Council member 40 years ago. He praised Mr. Giduz's ability to admit he was wrong on things of importance.

4. Consent agenda: (R-1)

Council Member Czajkowski inquired about Item 4d, regarding the acceptance of bids for Section 504/ADA compliance work in public housing neighborhoods. He ascertained from Town Attorney Ralph Karpinos that this was not a deferrable capital expenditure. It was based on a review of the current conditions and the need to meet federal law requirements, Mr. Karpinos said.

MAYOR PRO TEM JIM WARD MOVED, SECONDED BY COUNCIL MEMBER MATT CZAJKOWSKI, TO ADOPT R-1. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

A RESOLUTION ADOPTING VARIOUS RESOLUTIONS AND ORDINANCES (2009-01-26/R-1)

A RESOLUTION NOMINATING APPLICANTS TO VARIOUS BOARDS AND COMMITTEES (2009-01-26/R-2)

A RESOLUTION REGARDING THE PROCESS FOR CONSIDERING APPOINTMENTS TO TOWN ADVISORY BOARDS AND COMMISSIONS (2009-01-26/R-3)

A RESOLUTION ACCEPTING AND AWARDED THE BID FOR THE SECTION 504/and UFAS COMPLIANCE WORK IN THE PUBLIC HOUSING NEIGHBORHOODS (2009-01-26/R-4)

A RESOLUTION SCHEDULING A PUBLIC HEARING TO AMEND THE LAND USE MANAGEMENT ORDINANCE TO REGULATE THE DEMOLITION OF HISTORIC STRUCTURES IN THE TOWN'S HISTORIC DISTRICTS (2009-01-26/R-5)

A RESOLUTION ENDORSING A PAYMENT PAYMENT-IN-LIEU OF PROVIDING AFFORDABLE HOUSING FOR THE MARRIOTT RESIDENCE INN SPECIAL USE PERMIT AS A MINOR CHANGE TO THE EXISTING AFFORDABLE HOUSING STIPULATION (2009-01-26/R-6)

A RESOLUTION MODIFYING THE COUNCIL'S EXPECTATIONS FOR AFFORDABLE HOUSING AS A COMPONENT OF NEW DEVELOPMENT PROPOSALS WITH A RESIDENTIAL COMPONENT (2009-01-26/R-7)

AN ORDINANCE AMENDING THE POSITION CLASSIFICATION AND PAY PLAN FOR EMPLOYEES OF THE TOWN OF CHAPEL HILL, SUCH AMENDMENT TO BE EFFECTIVE JANUARY 26, 2009 (2009-01-26/O-1)

A RESOLUTION CALLING PUBLIC HEARINGS TO CONSIDER VARIOUS AMENDMENTS TO ARTICLE 5.5 OF THE LAND USE MANAGEMENT ORDINANCE (2009-01-26/R-8)

A RESOLUTION OF SUPPORT FOR THE APPLICATION OF NORTH CAROLINA SAFE

ROUTES TO SCHOOL GRANT (2009-01-26/R-9)**5. Information items.**

c. Possible Alternatives for Library Project.

Mr. Stancil reported that the Town had taken a position in favor of a central library 10 years ago because of the lower operating costs associated with that. But, operating costs for the central library were high now, he said, and maybe having libraries closer to people would be better these days considering sustainability issues. Mayor Foy suggested that the Manager put this on the next Business Meeting agenda as an agenda item so that Council Member Strom could be present for the discussion.

6. Technology Update.

Consultant Jake Jacobstein presented an update on the June 2007 technology assessment report and reviewed the short-and long-term goals that had been developed at that time. The areas of major progress, he said, were MUNIS (the Town's financial reporting system), Website Enhancement, Agenda Process and Management, Fire Department Mobile, GIS, Emergency Notification System, and Transit. He reviewed the progress made in each area. Mr. Jacobstein said staff anticipated launching the Town's new website in mid-June. He discussed the homepage design, and described how the site was being standardized for all departments.

Council Member Czajkowski suggested having a highlighted function for "economic development" on the main page.

Council Member Kleinschmidt verified that one button on the main page would give information about business permits, etc.

Mr. Jacobstein explained that applicants would also be able to fill out forms, schedule inspections, and perform other functions online.

Council Member Easthom ascertained that citizens could pay some fees online, and that the goal was to have other similar functions in the future. She asked if one could search for an agenda item.

Mr. Jacobstein replied that such holistic searches would be a powerful aspect of the tool they were installing.

Council Member Easthom said she would like the Council to have an opportunity to tweak the system before it went live. She inquired about the choice of color for the Town seal.

Town Communications and Public Affairs Director, Sabrina Oliver explained that staff had tried the traditional blue and gold seal but that the gold seal, which is used on official Town documents, worked better with this design.

Mayor pro tem Ward asked how departments such as the Town Library would be incorporated into the system.

Ms. Oliver explained that “web stewards” in each department were responsible for that. The Library site already was well-designed, she said, so the only change would be to modify the colors to coordinate with the rest.

Mr. Stancil pointed out that interior pages would be the creation of the each interior department.

Mayor pro tem Ward inquired about links to non-Town websites.

In response, Mr. Jacobstein referred to a web policy, which was currently being reviewed by the Technology Committee, that would address the issue of what is an appropriate link.

Mayor pro tem Ward asked that the Council have an opportunity to vet that issue as well.

Council Member Harrison expressed hope that the web stewards had been asked to think about the quality of information that goes on the site.

Council Member Kleinschmidt said it was important for the Council to see the new website before it goes live, noting that the Council definitely hears about problems when they arise.

Mr. Jacobstein demonstrated how the Firehouse Mobile Project would be used in the field during a new inspection. He also showed a command and control piece that had been integrated with GIS, and he demonstrated how it could be used on a hospital call. Mr. Jacobstein explained that citizens would be able to download maps and GIS data. He noted the standard disclaimer that would have to be clicked on first. Mr. Jacobstein explained that portal pages would include data from Orange County and Carrboro that would automatically be updated when any of the three makes a change. He said that GIS data could be downloaded for developers, and that development plans could be electronically submitted to the Town. Mr. Jacobstein said, in summary, that web stewards must keep the content current and focused. Intranet development would enable internal communications, online personnel, and action forums, to name a few. He pointed out that the next phase would be to build on those projects.

Mayor pro tem Ward asked if this system would reduce staffing and maintenance costs.

Mr. Stancil noted that although much effort had gone into automating the Fire Department, for example, that does not reduce the need for firefighters. The goal was to get better at what the Town does, he said. Mr. Stancil pointed out that it had been a Council priority to catch up to other towns technologically. Creating these data bases dramatically increases productivity, he said, and it gives the Council, staff and citizens better access to information.

7. Continuation of a Public Hearing: UNC Innovation Center SUP.

Senior Planner Kendal Brown gave a brief summary of the project. She pointed out four additions to the stipulations in Resolution A, as well as an additional provision.

UNC Architect Anna Wu, joined by UNC’s development partner, Alexander Real Estate Equities Inc. said that her partner sought the certainty of an approved SUP to continue the design process. She said the Innovation Center would comply with the zoning ordinance, would significantly improve the area in several ways, and would generate tax revenues for the Town.

Ms. Wu said the Center was consistent with the Town's general plans for development and with the Comprehensive Plan. The applicant had no objections to the requirements outlined in the manager's memo, she said. UNC believed the Council could make the four findings, and approve the SUP, said Ms. Wu.

Council Member Greene noted that a copy of the view from Martin Luther King Jr. Boulevard, which was included in the Council's packet, was too dark to really see, and included trees that will not be that big for many years.

Council Member Kleinschmidt asked why one piece of the notification boundary was not shown on the map.

Ms. Wu apologized, and said the notification boundary was a mistake on the PowerPoint graphic.

Mayor pro tem Ward mentioned a discrepancy between what he had previously been told about the notification boundary, and what was being shown on the map.

Ms. Wu agreed that the map would be clearer if it said the boundary around University property rather than boundary around Carolina North property.

Tom Henkel, a sustainable energy consultant, discussed the applicant's proposed energy management plan. He said that goals would be higher during 2011-2013, when the Innovation Center would be under construction, so the SUP ought to reflect a higher level of energy efficiency. UNC had told the community that its intent was to make Carolina North a model of sustainability, he said, so it was only fitting that the first building demonstrate the finest energy efficiency and integrative renewable energy systems available today.

Mr. Henkel recommended that Stipulation 33 on the energy management plan be modified to require that the final plans incorporate at least 30 percent more energy efficient features relative to the latest American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) recommendation. In other words, he recommended changing it to 30 percent rather than 20 percent, with the understanding that this be a floor rather than a maximum.

Mayor Foy ascertained that UNC was committing to 20 percent below the ASHRAE standards of 2007. If there were new ASHRAE standards in 2011, then UNC would be committed to 20 percent below those revised standards, he said.

Mayor pro tem Ward verified that the Town would issue the building permit after the construction documents were complete. He recommended changing the requirement to 25 percent below the ASHRAE 2007 standard, as a minimum. An Innovative Center should show leadership by committing to 25 percent, Mayor pro tem Ward said.

Mayor Foy asked if the University would be willing to commit to 25 percent below ASHRAE 2007.

Bruce Runberg, Associate Vice President for Facilities Planning and Construction at UNC, asked if the Council had any other issues with regard to the SUP. He said that he preferred to discuss everything at once.

Council Member Easthom said that whether or not the University paid into the Town's stormwater utility program was an issue for her. She said she found it ironic that UNC was asking the Council to evaluate this SUP outside of the larger Carolina North master plan, while refusing to discuss stormwater fees for one project because it was outside of the University as a whole. Council Member Easthom said that UNC's refusal tells her that maybe the Town should wait until they too have a view of the entire system.

Council Member Easthom said UNC should pay into the stormwater utility for many reasons. The University was being provided a service, she said, and that placed a burden on the Town. She acknowledged that UNC was not required to pay, but said the situation was not equitable. The University should pay, at least for Carolina North, and begin with this particular project even though it was not part of the SUP, said Council Member Easthom.

Council Member Harrison noted a provision in the resolution that said the terms of the SUP for the Innovation Center may be modified or superseded by the development agreement and/or master land use plan. He said that the terms of the SUP presumably could refer to any number of provisions, such as paying the stormwater fee or bicycle lanes, to name a couple. Council Member Harrison discussed erosion control issues involving state property as well, and said that property managers must look at erosion control issues every day. He recommended keeping this in mind for the larger picture of Carolina North.

Council Member Easthom ascertained that UNC would not have to close the Horace Williams Airport in order to construct the Innovation Center.

However, Mr. Runberg said, some other projects, particularly the Law School, would require that closure.

Mayor Foy noted that construction was scheduled to begin in 2011-2013, but pointed out that this was not an absolute deadline.

Council Member Easthom recommended changing the language in the second "be it resolved" to say "after master land use plan, as agreed upon by both parties in the development agreement." She asked if that would clarify the issue.

Mr. Karpinos replied that the point of the provision was that there would not have to be a separate process to amend this SUP, which, once it is issued under a normal set of circumstances, would require another SUP proceeding in order to modify it. Including the language as written meant that there would not need to be that process if it is folded into a development agreement that the parties agreed to, Mr. Karpinos said.

Council Member Easthom concluded that the Town could not just relax and assume that the SUP, as it is now written, would remain the same if the development agreement was different.

Mayor Foy noted that the University wanted some assurance that they could proceed with whatever this permit allows. But the Town and University have an interest in incorporating it into the full Carolina North project, he said. Mayor Foy said it was possible that they would finish the development agreement before getting started on this project, and then the permit would just be incorporated. He noted that there were benefits to both parties with the current language.

Council Member Greene agreed with Council Member Easthom. If UNC does not agree to join the stormwater utility for this SUP then they could, in theory, maintain that position for the Innovation Center, even if they agree to it for the remainder of Carolina North, she said, Council Member Greene noted that what changed from what they decide on the SUP would be in UNC's control. She noted that the Town could not unilaterally impose a new condition on what they decide with this SUP.

Mayor Foy suggested putting language in the SUP saying that in the event that the development agreement required University participation in a stormwater management utility, then this SUP would also require such participation. He explained that the Council did not want to be put in the position of refusing to enter into the development agreement because UNC refuses to put this SUP into it.

Mr. Karpinos suggested asking the University if they had any suggestions.

Mayor pro tem Ward suggested that the Council request changing the 20 percent standard in Stipulation 33 to 30 percent.

Mr. Runberg addressed the stormwater concerns. He said that stormwater does flow off University land onto Town land, but Town stormwater flows onto University land as well. A detailed analysis would likely show that the difference is not huge, Mr. Runberg said. He said that there might be more agreement on that issue than had been expressed tonight. There were openings for discussion and negotiation, he said, adding that wished the Council had brought the issue up during its recent meeting with UNC's Board of Trustees.

Ms. Wu said that this SUP would be encompassed by the development agreement, and the conversation relative to stormwater would be in the context of the overall discussions.

Mayor Foy recommended adding a stipulation that addresses only stormwater, and says something to the effect that any commitment with regard to a stormwater utility that is contained in a development agreement shall be applicable to this SUP. Pat Crawford, UNC attorney, offered language that she and Mr. Karpinos had agreed upon. It read: "If the parties enter into a development agreement for the Carolina North property, the property subject to this SUP will be covered by the development agreement." Council members accepted that language as a replacement for the second "...be it further resolved..." on page 15.

With regard to the ASHRAE standard, Mr. Runberg said UNC would agree to 25 percent of the 2007 standard, subject to whatever the change happens to be in subsequent years. Mayor Foy clarified that this would mean changing "20 percent" to "25 percent of the 2007" in Stipulation 33. Mr. Runberg promised that UNC would go as low as possible since they too wanted the Innovation Center to be a model building.

Mayor pro tem Ward said he did not think 30 percent was impractical.

Mr. Runberg said he could agree to 30 percent of the 2007 ASHRAE, period, without any consideration of what might happen in the future.

Council Member Czajkowski remarked that one could only ask someone to commit to something

with a current definition. He clarified that the proposal on the table was that the permit would grow over time. So, if it's 25 percent of the 2007 standards now, it would be 25 percent of the 2010 standards and 25 percent of whatever the standard is when the building permit is issued, he said. Council Member Czajkowski characterized 25 percent as reasonable. He said he did not accept the criticism that UNC was unwilling to reach for the highest standard possible. One cannot commit to something in the future that is undefined, he said.

Mayor Foy agreed to support the SUP as modified, on the assumption that they will negotiate many other things as well.

Dr. Henkel addressed the Council again. He said that some of UNC's other plans, such as a solar roof, would immediately boost this project above 25 percent.

Mayor pro tem Ward verified with Dr. Henkel that a flexible 25 percent of 2007 standards was better than a flat 30 percent.

Council Member Harrison thanked the UNC planning team for bringing a project of this quality forward. He noted that UNC's projects were at a higher level in general than much of what comes before the Town. He thanked UNC for submitting straightforward applications.

COUNCIL MEMBER MATT CZAJKOWSKI MOVED, SECONDED BY MAYOR PRO TEM JIM WARD, TO ADJOURN THE PUBLIC HEARING. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

MAYOR PRO TEM JIM WARD MOVED, SECONDED BY COUNCIL MEMBER MATT CZAJKOWSKI, TO ADOPT R-10A AS AMENDED. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

A RESOLUTION APPROVING AN APPLICATION FOR SPECIAL USE PERMIT FOR THE UNC INNOVATION CENTER (2009-01-26/R-10a)

8. Appointments:

- a. Historic District Commission.

The Council appointed to the Historic District Commission Gregory Scott Burd.

- b. Human Services Advisory Board.

The Council appointed to the Human Services Advisory Board Tom Greene and Mae McLendon.

9. Petitions:

- 10. Reserved for discussion of consent agenda items if necessary.**

- 11. Request for closed session to discuss property acquisition, personnel, and litigation matters.**

Council Member Greene read, "I move that the Council go into closed session this evening, as

authorized by North Carolina General Statute Section 143-318.11(a)(4), to discuss matters related to the location of a business within the Town."

The meeting was adjourned 9:54 p.m.