



301 W. Main St.  
Town Hall  
Carrboro, NC 27510

## Town of Carrboro

### Meeting Minutes Board of Aldermen

Tuesday, February 26, 2019

7:00 PM

Board Chambers - Room 110

**Present:** Mayor Lydia Lavelle, Alderman Bethany Chaney, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

**Also Present:** David Andrews, Town Manager; Chris Milner, Deputy Town Clerk; Nick Herman, Town Attorney

\*\*\*\*\*

#### **POETRY READING, RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS**

Gary Phillips read a poem by Fred Joiner titled "Currency."

\*\*\*\*\*

#### **APPROVAL OF RESOLUTION SUPPORTING FARMWORKERS' RIGHTS AND URGING WENDY'S AND OTHER FOOD SERVICE PROVIDERS TO SUPPORT THE FAIR FOOD PROGRAM**

**A motion was made by Alderman Seils, seconded by Alderman Haven-O'Donnell, that the following resolution be approved:**

A RESOLUTION ENCOURAGING CARRBORO RESIDENTS TO SUPPORT FARMWORKERS' RIGHTS AND URGING WENDY'S AND OTHER FOOD SERVICE PROVIDERS TO SUPPORT THE FAIR FOOD PROGRAM

WHEREAS, the Town of Carrboro strives to foster a warm and welcoming community, protective of human rights, supportive of sustainable practices, and demanding of safe working conditions; and

WHEREAS, the Town of Carrboro is a local government partner in the Orange County Food Council and a certified employer in the Orange County Living Wage initiative, which promote the realization of a more just and sustainable economy that supports workers; and

WHEREAS, the Presidential Award-winning Fair Food Program, launched by the Coalition of Immokalee Workers (CIW) in 2011, creates partnerships between farmworkers, growers, and participating retail buyers to enforce fair wages, worker safety, and other basic protections, including verifiable protections for farmworkers against sexual violence and other abuses in the supply chain for food service chains and franchises; and

WHEREAS, numerous fast food restaurant chains, including McDonald's, Burger King, Subway, Taco Bell, KFC, and Chipotle, have signed on as Participating Buyers in the Fair Food Program and are cooperating with the monitoring requirements and purchasing guidelines of the program; and

WHEREAS, the corporate leadership of the Wendy's fast food chain has refused to participate in the Fair Food Program; and

WHEREAS, on March 5, 2019, the UNC Student-Farmworker Alliance and the Coalition of Immokalee Workers will hold a march from downtown Carrboro to the campus of the University of North Carolina at Chapel Hill to call on UNC-Chapel Hill to end business relationships with Wendy's until the company joins the Fair Food Program.

NOW, THEREFORE, BE IT RESOLVED that the Carrboro Board of Aldermen urges Wendy's to commit to farmworkers' rights by joining the Fair Food Program, and encourages members of the Carrboro community to join in this effort.

This the 26th day of February, 2019.

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Bethany Chaney, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

Alderman Seils then introduced Lupe Gonzalo who, along with a translator, spoke about the issue addressed in this resolution.

Alderman Foushee encouraged the speakers to contact the Chapel Hill-Carrboro chapter of the NAACP and seek their assistance in this effort and future efforts.

\*\*\*\*\*

**APPROVAL OF FEBRUARY 12 AND FEBRUARY 19, 2019 MEETING MINUTES**

Alderman Slade requested that the minutes for February 19 be pulled from consideration at this meeting.

**MOTION WAS MADE BY ALDERMAN SEILS, SECONDED BY ALDERMAN FOUSHEE, THAT THE MINUTES OF FEBRUARY 12, 2019 BE APPROVED. VOTE: AFFIRMATIVE ALL**

\*\*\*\*\*

**A REQUEST TO ADOPT A RESOLUTION TO AWARD A SERVICE SIDEARM TO A RETIRING POLICE OFFICER**

**A MOTION WAS MADE BY ALDERMAN SEILS, SECONDED BY ALDERMAN FOUSHEE, THAT PURSUANT TO NCGS 20-187 .2 POLICE LIEUTENANT KEITH WEBSTER BE AWARDED HIS SERVICE SIDEARM, VALUED AT \$250, AT NO COST TO HIMSELF, IN RECOGNITION OF HIS RETIREMENT FROM THE TOWN OF CARRBORO POLICE DEPARTMENT ON MARCH 1, 2019 AFTER APPROXIMATELY 16 ½ YEARS OF SERVICE. VOTE: AFFIRMATIVE ALL**

\*\*\*\*\*

**CONTINUATION-4 OF THE PUBLIC HEARING SANDERWAY AIS CUP**

The purpose of this agenda item was to continue the public hearing for the Sanderway Architecturally Integrated Subdivision Conditional Use Permit (CUP) an 18-lot residential subdivision with associated public and private infrastructure to be located at 1236 Hillsborough Rd. The hearing was opened by the Board on Tuesday June 26, 2018.

[MAYOR LAVELLE SWORE IN ALL SPEAKERS THAT ARE LISTED BELOW]

Jeff Kleaveland, Planner and Zoning Development Specialist, presented the staff report in which he provided details on the plan's improvements in stormwater mitigation. He noted that responsibility for maintenance of the stormwater system will fall upon the Homeowners Association (HOA).

Alderman Gist expressed concern that the HOA will not be held accountable for maintenance over the long-term. She asked for an example of when the Town required an HOA to comply with such requirements.

Jeff Kleaveland gave an example of a greenway that required maintenance and the Town held the HOA accountable for correcting the issue. He stressed that the Sanderway HOA will be aware of the requirements for maintaining the stormwater mitigation system and the Town will monitor their compliance.

Alderman Foushee asked about the grading of the lots.

Jeff Kleaveland discussed the importance of coordinating the grading to ensure that one lot does not adversely impact the overall drainage plan.

Alderman Chaney asked about managing the development of the lots since each property could be constructed by a different builder.

Jeff Kleaveland acknowledged that this would be a challenge but felt that Staff would be able to properly manage the process.

Bill Roark, an Engineer with McGill and Associates, the Town's engineering firm, provided details regarding the stormwater mitigation system. He stated that the proposed system would ensure that the development will not increase stormwater runoff, and might result in a slight reduction in flood waters. He noted that the system will be inspected by an engineer annually and after significant storm events.

Alderman Gist wanted to know whose responsibility it is to ensure that the inspections take place.

Bill Roark said it's a state requirement. He suggested that the Town should have an internal requirement to ensure it happens, and also stated that the same requirement exists in other neighborhoods.

Marty Roupe, Development Review Administrator, told the Board that the Town does monitor annual inspection requirements.

Alderman Haven-O'Donnell asked about the impacts on other neighborhoods near the Sanderway development.

Bill Roark said that since the development will not increase stormwater runoff, then there should not be any adverse impact on neighboring communities. He expressed confidence in the modelling and noted that the applicant has exceeded the requirements in the ordinance with respect to flooding.

Alderman Gist asked whether there will be prohibitions on future development of the properties to ensure that the stormwater mitigation plan is not negatively impacted.

Bill Roark said that there will be a limitation on impervious surfaces.

Alderman Slade noted that the lots would be developed over a long period of time and asked whether the two-year bond provides enough time to ensure the system functions properly after development is complete.

Bill Roark said that reviews will be conducted during and after construction and if properties are not built correctly then the bond will provide a form of insurance against post-development problems.

Marty Roupe clarified the timing of the bond and said the two-year timeframe will not begin until development is almost complete.

Wayne Hadler, attorney for the applicant, addressed the Board. He introduced Cliff Credle of Credle Engineering and Shannon Julian, a property appraiser.

Cliff Credle provided a description of the stormwater mitigation system and discussed the weather modelling that was used.

Alderman Gist asked whether the weather modelling incorporated projections for climate change.

Cliff Credle did not know, but he expressed confidence in the modelling. He also noted that the ordinance calls for applicants to address 25-year storms but this applicant exceeded the requirement by addressing 100-year storms. He said that the proposed system will result in a slight reduction of stormwater runoff.

Alderman Slade pointed out that the developer did not spec stormwater control for 50 year storm events and he asked if the 100 storm event stormwater control devices would also be treating 50 year storm water events.

Cliff Credle stated that the 100-year storm retention devices would also be effectively handling the 50-year storm events.

Bill Roark addressed the concerns about updates to weather modelling and said he found a news article stating that models are being updated.

Shannon Julian provided information on real estate valuation. Based on his evaluation he stated that the Sanderway development will not have a negative impact on real estate values in neighboring communities.

Casey Gordon, a resident of 102 Downing Court, provided video footage of flooding on her property and discussed the impacts of the flooding. She stated that the current proposal for the development is an improvement over previous proposals but expressed frustration over the time and efforts leading to it. She also expressed a lack of confidence in the developer and the approval process and was concerned that there still might be problems with the plan.

Mike Humphreys, a resident of 1244 Hillsborough Road, also provided video footage of flooding on his property and expressed concern about the development. He reviewed the history of the public discussion and debates over the development plan, then asked 3 previously prepared questions:

1. Will the Town's Engineer please confirm on the record the proposed development will not exacerbate the existing problems of flooding routinely experienced from the Cates Road Culvert to our properties located at 1242, 1244 and 1246 Hillsborough Road?
2. Will the Town Engineer and the Applicant please confirm on the record that a new proposed vehicular and pedestrian access to 1242, 1244 & 1246 Hillsborough Road will be provided via the proposed new Pathway Drive to link up to our existing 11' wide gravel drive and obviate the need to access our driveway directly from Hillsborough Road?
3. Will the Applicant please confirm on the record that the new access will provide equal or better access/egress from our properties and will not result in any additional maintenance obligations for the owners of 1242, 1244, and 1246 Hillsborough Road?

James Joyce, a resident of 1246 Hillsborough Road, addressed the Board. He provided a picture of flooding near a well and requested easement rights to connect to Cates Farm to get water.

Wayne Hadler, attorney for the applicant, addressed the questions asked by Mike Humphreys. In answer to the third question, he confirmed that the applicant will provide equal or better access and the residents at 1242, 1244 and 1246 Hillsborough will not be responsible for maintenance. He also provided an affirmative response to the second question and stated that both issues are addressed in the CUP.

Bill Roark, responding as Town Engineer, confirmed that the proposed development will not exacerbate flooding as asked in Mike Humphrey's first question. He also provided an affirmative response to the second question.

Alderman Chaney needed to leave the meeting due to a prior engagement.

**A MOTION WAS MADE BY ALDERMAN SEILS AND SECONDED BY ALDERMAN GIST THAT ALDERMAN CHANEY BE EXCUSED FROM THE REMAINDER OF THE MEETING. VOTE: AFFIRMATIVE ALL.**

Jerre Kennedy, a resident of 1246 Hillsborough Road, expressed concern over the development and its potential impact on her water supply. She also expressed concern about the safety of the traffic flow between the newly constructed roadway and the current gravel road. She told the Board that she, along with other residents, hired their own engineering firm (McAdams) to assess the plan. She stated that McAdams told her that the calculations provided by Credle Engineering did not include the values that were required to create the calculations. She stated that she wants everything to be proven and expressed frustration over the process involved with this plan.

Andrew Lerner, a resident of 1242 Hillsborough Road, addressed the Board regarding access and stated that the notification of road closures as stated in condition #18 of the CUP are inadequate. He also expressed concern about pipe-laying and the potential for erosion that it could cause. He felt that the CUP did not adequately address this concern.

Jeff Kleaveland noted that some issues still needed to be worked out in the construction management plan and told the Board that there would be alternate means of access.

Marty Roupe said the construction plan would be collaborative with the neighbors and issues such as these would be discussed during that process.

Noel Lerner, property owner of 1242 Hillsborough Road, raised the issue of drainage during the construction process. He said he had requested 24-hour prior notice for road closures. He also expressed concern over weather modelling.

Mayor Lavelle said that many of the issues and concerns, to include notification, could be addressed in the construction management plan.

Gabriel Vinas, resident of 200 Barrington Hill Road, said his backyard neighbor is Casey Gordon, and he shares many of the flooding issues that her property encounters. He spoke of the flooding issues and also expressed concerns about the impact on property values if flooding becomes worse. He said that he is not confident in the plan and is concerned about erosion, especially during the construction phase.

Wayne Hadler provided a closing statement in which he emphasized the fact that the applicant exceeded the ordinance requirements and stated that the plan meets health and safety requirements.

There were no further comments.

**Mayor Lavelle closed the public hearing.**

Alderman Gist said she preferred to delay the vote until the full Board was available.

Alderman Slade acknowledged the burdens that this process has put on the neighbors. He requested that the issue of notification of closures in condition 18 be clarified to require 24-hour advanced notification and include notification of "full closures." He requested that the issue of erosion during the construction phase be addressed in the conditions. He also asked that the impact of climate change be reflected in the Town's ordinances.

Nick Herman, Town Attorney, said that climate change could be included in future development plans, but not in this case.

Alderman Seils acknowledged the inputs from the neighbors and noted that the improvements in the plan were due to their participation in the process. He also expressed appreciation for the responsiveness of the applicant.

Alderman Haven-O'Donnell expressed concern over the fact that multiple developers will build on the lots, and also about the possibility that future residents will alter the properties without coordinating with Town Staff. She said she would prefer to delay the vote so she can further consider some of the issues.

Nick Herman raised two issues. First, he stated that Alderman Chaney could not vote on this matter without consent from both parties since she had left the hearing early. He also reminded the Board that the Public Hearing is closed, so no further information can be presented or acquired.

Mayor Lavelle asked if Alderman Chaney could vote if she reviews the portion she missed on video.

Nick Herman suggested that consent for this be given by both the applicant and the residents who had expressed concerns about the plan.

Mayor Lavelle asked the audience if anyone had objections to allowing Alderman Chaney to vote if she watched the video of the hearing. There were no objections.

Mayor Lavelle asked for condition #18 to be updated to include 24-hour notification and include both partial and full closures.

Alderman Slade requested that Staff address the issue of erosion during the construction phase and determine whether that should be added as a condition.

Alderman Gist, Mayor Lavelle and Alderman Seils reminded the audience that the issue is quasi-judicial so they will be limited in their ability to address concerns on this matter until after the vote.

**A MOTION WAS MADE BY ALDERMAN SLADE AND SECONDED BY ALDERMAN FOUSHEE, TO CONTINUE THE DELIBERATION OF THIS ITEM TO THE MARCH 5, 2019 MEETING. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHANEY)**

\*\*\*\*\*

**A RESOLUTION MAKING APPOINTMENTS TO THE ENVIRONMENTAL ADVISORY BOARD**

The purpose of this agenda item was for the Board of Aldermen to make appointments to the Environmental Advisory Board.

Kathy Kauffman, one of the candidates, addressed the Board and asked that both candidates be appointed.

Alderman Slade expressed support for appointing both members as that would help the board to carry out its climate change-related responsibilities. Alderman Slade noted an upcoming change to the Environmental Advisory Board's (EAB) charge to reflect their advisory work on the implementation of the Community Climate Change Action plan and Town's action plan. He proposed that one of the applicants could be appointed at that time since the EAB's membership would need to be expanded to accommodate the extra applicant. He reminded the BOA that they had previously discussed the possibility of expanding the EAB if the BOA received new applicants with climate change interests or who had participated on the town's Energy and Climate Action Task Force.

Alderman Seils noted that the number of people on advisory boards is defined by an ordinance and agreed with the idea of appointing someone who had served on the Energy and Climate Action Task Force.

Alderman Foushee addressed diversity on the Environmental Advisory Board as it relates to gender because there are four females and two males, seeking more balance there. She also stated that she would have liked to have appointed both candidates if the Board had been able to.

Alderman Haven-O'Donnell stated that it would be a bad precedent to modify ordinances and change the number of advisory board members based on interests for a particular advisory board. She also expressed support for having a voice for climate change on the advisory board.

Mayor Lavelle suggested proceeding with the vote and discussing the number of members for the advisory board at a later date.

The Board cast paper ballots with the following results:

Keith Barnhouse: (Zero)

Kathy Kauffman: (Six) Foushee, Gist, Haven-O'Donnell, Lavelle, Seils, Slade

The Deputy Town Clerk tallied the ballots and announced the results.

**A motion was made by Alderman Seils, seconded by Alderman Foushee, that the following resolution be approved:**

A RESOLUTION MAKING APPOINTMENT(S) TO THE ENVIRONMENTAL  
ADVISORY BOARD

Section 1: THE BOARD OF ALDERMEN HEREBY APPOINTS THE FOLLOWING APPLICANT TO THE ENVIRONMENTAL ADVISORY BOARD:

Seat Designation	Appointee	Term Expiration
Member	Kathy Kauffman	2/2024

Section 2: This resolution shall become effective upon adoption.

**This the 26th day of February 2019.**

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

**Excused:** Alderman Bethany Chaney

\*\*\*\*\*

**REQUEST TO MAKE APPOINTMENTS TO THE AFFORDABLE HOUSING ADVISORY COMMISSION**

The purpose of this agenda item was for the Board of Aldermen to make appointments to the Affordable Housing Advisory Commission.

The Board cast paper ballots with the following results:

Bridgit Adamou: (Zero)  
 Betty Curry: (Six) Foushee, Gist, Haven-O'Donnell, Lavelle, Seils  
 Luther Gates: (Zero)  
 Gabriel Vinas: (Six) Foushee, Gist, Haven-O'Donnell, Lavelle, Seils, Slade

The Deputy Town Clerk tallied the ballots and announced the results.

**A motion was made by Alderman Seils, seconded by Alderman Haven-O'Donnell, that the following resolution be approved:**

**A RESOLUTION MAKING APPOINTMENT(S) TO THE AFFORDABLE HOUSING ADVISORY COMMISSION**

Section 1. THE BOARD OF ALDERMEN HEREBY APPOINTS THE FOLLOWING APPLICANTS TO THE AFFORDABLE HOUSING ADVISORY COMMISSION:

Seat Designation	Appointee	Term Expiration
Member	Betty Curry	2/2022
Member	Gabriel Vinas	2/2022

Section 2: This resolution shall become effective upon adoption.

**This the 26th day of February 2019.**

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

**Excused:** Alderman Bethany Chaney

\*\*\*\*\*

**REVIEW OF PRELIMINARY DRAFT ORDINANCE, MASTER PLAN, AND SCHEDULE FOR CONSIDERING A PETITION TO REZONE PROPERTY AT OLD NC 86 AND EUBANKS ROAD TO A SITE SPECIFIC, FLEXIBLE ZONING (FLX) DISTRICT**

The purpose of this item was to provide the Board with an opportunity to review the preliminary draft ordinance and graphic illustrations prepared as part of the application to rezone property to a FLX district and to consider a schedule for moving forward to a public hearing for formal consideration.

Tina Moon, Planning Administrator, presented the staff report.

Alderman Seils recommended adding formal consideration by Chapel Hill Transit on transit-related issues. He also expressed concern about the parking plan and the use of the term "overflow parking."

Tina Moon said the parking plan was intended to provide flexibility for future parking needs.

Mayor Lavelle suggested “satellite parking” might be better than “overflow parking” and referenced Morris Grove Elementary as an example.

Alderman Foushee requested more information on affordable housing in this plan.

Tina Moon highlighted the variety of residence sizes in this plan.

Alderman Foushee clarified that pricing was a key considering in affordability, not just size.

Alderman Gist used the Southern Village development in Chapel Hill as an example that size, density and affordability are not always related.

Alderman Slade asked about future expansion and whether the proportion or ratio of planned sub-districts would be maintained if additional parcels are added to the District.

Tina Moon agreed that this is an important question and needs further consideration.

Alderman Slade pointed to table 5 on Attachment D-6, he expressed we should learn lessons from our downtown constraints so that building setback minimums be sufficient to allow for separated bike lanes, on street parking, 10’ sidewalks, tree strips large enough to accommodate canopy street trees, etc.. He also expressed agreement with Alderman Seils parking concerns and stated that at a minimum we should not be prescribing an additional 20% parking beyond the amount of parking associated with the allowed use with the highest prescribed parking standard. He also flagged for staff to look at table 3 on Attachment D-5; minimum residential unit sizes for commercial areas are too large, they should be smaller than residential. He also stated that instead of having these as minimums they should be maximums. He also pointed to table 6 on attachment D-6 questioning why the height of commercial buildings is less than that of residential ones.

Mayor Lavelle wanted to ensure that an opportunity for additional Board review and feedback would be available prior to the May/June timeframe in the resolution. She also asked Tina Moon to ensure that all relevant advisory boards are notified of the Joint Advisory Board meeting on March 7.

Alderman Seils asked that the plan clarify the term “rural setting.”

**A motion was made by Alderman Gist, seconded by Alderman Seils, that the following resolution be approved:**

**A RESOLUTION APPROVING A SCHEDULE FOR CONSIDERING A PETITION FOR CHANGE OF ZONING TO A SITE SPECIFIC, FLEXIBLE ZONING DISTRICT**

WHEREAS, on June 21, 2016, the Board of Aldermen of the Town of Carrboro adopted amendments to the text of the Carrboro Land Use Ordinance, authorizing the Board to establish site specific flexible zoning districts, (FLX); and

WHEREAS, on February 7, 2017, the Board of Aldermen approved a request from Parker Louis, LLC to submit a petition for change of zoning for property at the north east corner of NC Old 86 and Eubanks Road to a FLX district; and

WHEREAS, a possible schedule for considering the petition is as follows:

1. Present formal application: preliminary ordinance/master plan February 26, 2019
2. Joint Advisory Board Review March 7, 2019
3. Public Input/drop in Session?
4. Revisions (mid-March to mid-April)
5. Submittal of TIA/Stormwater Analysis (early April)
6. Board of Aldermen Request to Set Public Hearing April 17, 2019
7. Public Input/drop-in Session?
8. Revisions (mid-April to mid-May)
9. Joint Advisory Board Review May 2, 2019
10. Board of Aldermen Consideration of Annexation Request May/June 2019
11. Board of Aldermen Public Hearing on FLX ordinance & rezoning May/June 2019

NOW, THEREFORE, the Board of Aldermen of the Town of Carrboro resolves that Parker Louis LLC may proceed with the schedule identified above the requested rezoning to a site specific, flexible zoning district subject to the process described in Article XX of the Carrboro Land Use Ordinance for map amendments and the specific requirements outlined in Section 15-141.5 for FLX districts, and the findings from the site specific planning study.

BE IT FURTHERMORE RESOLVED, that the Board of Aldermen offers the following additional comments:

Comments by the Board were provided in discussion items noted above.

**This the 26th day of February 2019.**

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

**Excused:** Alderman Bethany Chaney

\*\*\*\*\*

**MATTERS BY BOARD MEMBERS**

Alderman Foushee suggested removing specific references to environmental issues from the Board retreat topics and instead focus on problem-solving and discussion techniques in general.

Other board members expressed general agreement with this idea, but Alderman Slade wanted to ensure that this would not preclude the mentioning of specific environmental issues for illustrative example purposes.

**MOTION WAS MADE BY ALDERMAN FOUSHEE, SECONDED BY ALDERMAN HAVEN-O'DONNELL TO REMOVE THE "ENVIRONMENTAL" FOCUS FROM THE PROBLEM SOLVING WORK THAT THE BOARD PLANS TO DO DURING THEIR ANNUAL RETREAT. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHANEY)**

\*\*\*\*\*

**ADJOURNMENT**

**MOTION WAS MADE BY MAYOR LAVELLE, SECONDED BY ALDERMAN HAVEN-O'DONNELL, TO ADJOURN THE MEETING. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHANEY)**