



Wake County

301 South McDowell Street
Raleigh, NC

Meeting Minutes Board of Commissioners

Wednesday, November 9, 2022

5:00 PM

Wake County Justice Center

Regular Meeting

Meeting Called to Order: Chair Sig Hutchinson

Chair Hutchinson called the meeting to order.

Pledge of Allegiance

Invocation: Commissioner James West

Present: 7 - Chair Sig Hutchinson, Vice-Chair Shinica Thomas, Commissioner Vickie Adamson, Commissioner Matt Calabria, Commissioner Maria Cervania, Commissioner Susan Evans, and Commissioner James West

Staff present:

Others present:

Items of Business

1. Approval of Agenda

Commissioner Calabria moved, seconded by Vice-Chair Thomas, to approve the agenda. The motion carried by the following vote:

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

2. Approval of the Minutes of the Regular Meetings of September 19, 2022, and October 17, 2022, the Work Session of September 12, 2022 and the Special Work Session of September 19, 2022

Vice-Chair Thomas moved, seconded by Commissioner Evans, to approve the minutes of the Regular Meetings of September 19, 2022,

and October 17, 2022, the Work Session of September 12, 2022 and the Special Work Session of September 19, 2022. The motion carried by the following vote:

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

Consent Agenda

Commissioner Adamson moved, seconded by Vice-Chair Thomas, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

3. Accept and Appropriate Additional Funds from the NC Division of Child Development and Early Education and Establish (4) Full Time Positions for the Administration of the Subsidized Child Care Assistance Program
4. Award Construction Contract for the Marbles Museum Roof Replacement
5. Approval of Request from Orange County Commissioners Requesting to Join Capital Area Workforce Development Board Local Area
6. Subordination of an Affordable Housing Loan for King's Ridge Apartments in Raleigh, NC
7. Accept and Appropriate Additional Funds from The Town of Knightdale for Infrastructure Improvements on Flower Street
8. Amendment to Purchase and Sale Agreements and the MOA for Disposition and Development of Affordable Housing on County-Owned Property at 1317 N. Main St., Holly Springs
9. Award of Housing and Homeless Services Funding for the Bridge to Home Program
10. Accept and Appropriate Funds for Eva Perry Regional Library HVAC Air Handling System
11. Tax Committee Recommendations for Gross Receipts Penalty, Refund Requests and Various Reports

General Public Comments

12. General Public Comments

No one signed up online for general comments.

Ms. Shannon Hardy, Knightdale, thanked Mr. Maloney for his work with the firearms ordinance. She welcomed Sheriff Willie Rowe. She thanked the Board for their transparency.

Regular Agenda

13. Strengthening Wake County's Tobacco-Free Ordinance

Ms. Sarah Plenti, Health Promotion Section Manager, shared the existing ordinance.

The Existing Ordinance

Smoking and Use of Tobacco Products, including Vapor Products
All smoking, as defined in NCGS § 130A-492 (16), and **any use of tobacco products**, including **vapor products** as defined in NCGS § 14-313 (3a), (4), and (5), is hereby prohibited in all of the following places:

- **County buildings, as defined in NCGS § 130A-492 (8)**
- **County vehicles, as defined in NCGS § 130A-492 (9)**
- **County grounds, as defined in NCGS § 130A-492 (6)**

including, but not limited to:

**County Parks Systems, including playgrounds and athletic fields;
County Greenways, Trails and Parks**

She shared the proposed ordinance and why the policy change.

The Proposed Ordinance

Strengthen the existing ordinance to include indoor public places within unincorporated Wake County

“An enclosed area to which the public is invited or in which the public is permitted” G.S. §130A-492(14)

Why the policy change?

- Health in All Policies
- Tobacco use continues to be the leading cause of preventable death, disease, and disability
- Youth vaping continues to be a public health epidemic
- Health equity
- Creates Gold Standard to be modeled

She shared charts showing Tobacco-Free Policy Comparisons and a map

of the NC countywide Smoke-free and written regulations.

She shared that Local Governments have authority to regulate smoking in public places.

Local Governments Have Authority to Regulate Smoking in Public Places

“An enclosed area to which the public is invited or in which the public is permitted” G.S. §130A-492(14)

- Grocery stores
- Shopping centers
- Banks
- Gaming facilities
- Bowling centers
- Movie theaters
- Other places where the public is permitted

She shared what areas may NOT be covered by a local regulation.

What areas may NOT be covered by a local regulation?

- Private residence
- Private vehicle
- Tobacco shop (*as defined by State Law*)
- All premises, facilities and vehicles owned, operated or leased by any tobacco products processor or manufacturer, or any tobacco leaf grower, processor, or dealer
- Cigar bar, (*as exempted and approved under State law*)
- Private club, (*non-profit, as defined by State Law*)
- Designated smoking guest room in a lodging establishment
- Motion picture, television, theater, or other live production set

She shared the Tobacco Product Expanded Definition.

Tobacco Product Expanded Definition

- “Tobacco product”: Any product that contains tobacco or nicotine, irrespective of whether the nicotine is tobacco-derived or synthetic, and is intended for human consumption, as defined by G.S. § 14-313(4).
- “Tobacco product” includes but is not limited to: cigarettes, cigars, pipe tobacco, electronic cigarettes, hookah, smoked or vaped tobacco substitutes, chewing tobacco, snuff, snus, dissolvable tobacco products, and heated tobacco products.
- “Tobacco product” does not include nicotine replacement products

approved by the USFDA for treatment of tobacco use and dependence.

She shared the Educational Enforcement.

Educational Enforcement

- Approaching enforcement in an educational manner with non-compliant establishments
- Not focusing on individual people who use tobacco
- FTE Health Educator Tobacco Prevention Position dedicated to Wake County

She shared the timeline, staff contact information, action items, and next steps.

Chair Hutchinson shared that tobacco kills. He shared that we have a responsibility to the public. He shared that vaping is an epidemic with youth and has increased 1000 percent. He shared this an opportunity to shed a light on the issue. He shared that children can have an addiction-free life. Wake County are the leaders and are leading the way and encouraged the municipal partners to join in the efforts of saving our youth.

Commissioner Cervania shared that the Poe Center and the Department of Health and Human Services (DHHS) have been great partners. She shared that youth have identified the needs and thanked them for being advocates.

Chair Hutchinson moved, seconded by Commissioner West, that the Board of Commissioners update the existing tobacco ordinance (Section 32.15 of the Wake County Code of Ordinances) to include "public places" and the expanded definition of "tobacco product". The motion carried by the following vote:

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

14. Public Hearing to Consider Ordinance Amendment 02-22 to amend Various Articles of the Wake County Unified Development Ordinance

Mr. Tim Maloney, Planning, Inspections and Development Director, shared the Stakeholder & Public Engagement.

Stakeholder & Public Engagement

1. PLANWake
3,642 surveys completed

- 93,247 Ideas and comments collected
- 45 public events
- 18 stakeholder meetings conducted
- 2. Home Builder's Association of Raleigh / Wake County
- 3. Wake County Soil and Water Conservation District

He shared the Proposed Amendments.

Proposed Amendments

1. Amend the open space requirements for certain new subdivisions and include a farmland protection incentive.
2. Consider the preservation and protection of "agricultural resources" during subdivision review/design.
3. Amend requirements for greenway trail easements and connections in new subdivisions.
4. Amend references and other language in the UDO to align with the new Comprehensive Plan.

He shared the Unified Development Ordinance (UDO) article 5-12, Open Space Requirements and Farmland Protection Incentive.

He shared the purpose.

Purpose

Amend open space requirements for new subdivisions and include a farmland protection incentive.

- Address the community's concern about the loss of natural areas.
- Simplify subdivision options offered to developers.
- Maintain the incentives of the Cluster subdivision that many developers use.
- Incorporate tools to protect existing farmlands from adjacent developments.

He shared the background.

Background

- The UDO includes three options for subdivision development.
 1. Conventional
 2. Cluster
 3. Open Space
- The Cluster and Open Space subdivisions require open space to be preserved as part of the development.
- The Cluster and Open Space subdivisions have incentives that

allow for smaller lot sizes, but overall density stays the same.

- The Open Space subdivision is rarely used (community sewer).

He shared the Proposed Amendments breakdown.

Proposed Amendments

1. Combine the standards of the Cluster subdivision and Open Space subdivision and call them Open Space subdivisions.
2. In water supply watersheds, maintain the current open space requirement for Open Space (Cluster) subdivisions at 25 percent.
3. In areas outside of water supply watersheds, increase the open space requirement for Open Space (Cluster) subdivisions from 10 percent to 25 percent.
4. Conventional (lot-by-lot) subdivisions require no open space set aside.
5. Incorporate a farmland protection incentive.

He shared Farmland Protection.

Farmland Protection

- Amend UDO Section 5-12 to provide an incentive to locate open space adjacent to designated farms (VAD, EVAD or permanent Conservation Easement).
- The open space set-aside requirement could be reduced from 25 percent to 15 percent.

Commissioner Cervania asked if farmers have been included in conversations. Mr. Maloney shared that he has been in touch with Soil and Water and they are in agreement.

Commissioner Adamson shared that the farmers are excited about this project and the additional protections.

Mr. Maloney shared the UDO Article 8-30, Preservation and Protection of Agricultural Resources.

He shared the purpose.

Purpose

Incorporate strategies for farmland protection and other natural, historical, and cultural resources.

- Identify natural, cultural, historical, and agricultural resources during the development process.
- PLANWake advocates for the protection of agricultural resources.

He shared the background.

Background

- The UDO currently requires due consideration be given to preserving natural features (woodlands, steep slopes, rock outcroppings, ponds, streams, and lakes) as well as the preservation of historic and cultural resources when developing a subdivision.
- Agricultural resources is NOT included in the current language.
- There's no authority to require additional measures for protection of these resources during the development process.

He shared proposed amendments.

Proposed Amendments

1. Incorporate the identification of designated agricultural uses adjacent to a proposed subdivision development.
2. Include authorization for the Planning Director to require the subdivision design implement further measures that preserve and protect natural, agricultural, cultural, and historic resources as part of the overall subdivision design.

Vice-Chair Thomas asked about general dates for master plans.

Mr. Maloney shared that 5-10 years is standard for master plans.

Mr. Maloney shared the UDO Article 8-33 Greenway Trail Easements, Connections and Construction.

He shared the purpose.

Purpose

Amend requirements for pedestrian/trail connections for new subdivisions.

- To update the county's efforts to promote pedestrian and bicycle mobility.
- Develop standards that take advantage of pedestrian/trail connections that are planned or already exist.
- Incorporate references to the County's 2017 Greenway System Plan.

He shared the background.

Background

- The UDO includes guidelines for when and where pedestrian, bicycle, and off-road trail improvements are required.

- There are currently no standards for off-road trail easements in the UDO.
- The County adopted its first Greenway System plan in 2017.

He shared the proposed amendments.

Proposed Amendments

1. Incorporate standards for proposed developments to dedicate off-road trail easements for future greenway trails.

Commissioner Calabria asked what is the trigger to require the set aside of the easement.

Mr. Maloney shared the trigger to require the set aside of the easement occurs if it is identified on the Wake County Greenways 2017 Master Plan or on any municipal Master Plan.

Commissioner Calabria asked how often are the Master Plans updated.

Mr. Maloney shared that the current Master Plan were created and approved in 2017 and updates are incorporated on an as needed basis.

Commissioner Cervania asked when was the last Parks Bond passed and if that was aligned with the 2017 Greenway plan.

Mr. Maloney said that the last Parks bond passed in 2018 and yes it was aligned with the 2017 Greenway Master Plan.

He shared information for amending various articles of the Unified Development Ordinance to Align with the New Comprehensive Plan.

He shared the purpose.

Purpose

Amend references and other language in the UDO to align with the new Comprehensive Plan

- The UDO has many references to the former Land Use Plan, which has been replaced by the new Comprehensive Plan.
- Language in the UDO needs to align with the new Comprehensive Plan.

He shared the background.

Background

- The County adopted the new Comprehensive Plan in April 2021.
- The Comprehensive Plan has introduced new planning terms and approaches to our land use planning, while eliminating others.

He shared the proposed amendments.

Proposed Amendments

- “Activity Centers” have changed to “Multi-Use Districts”
- “Urban Service Areas” are no longer used
- The Land Use Plan is replaced by the Comprehensive Plan
- “Cluster” subdivisions are being combined with “Open Space” subdivisions

Proposed Amendments

Add four new definitions in UDO Section 21-11:

- Comprehensive Plan
- Development Framework Map
- Municipal Transition Area
- Open Space Subdivision

He shared staff findings.

Staff Findings

1. Aligns the UDO with the new Comprehensive Plan (PLANWake).
2. Addresses the community’s concern about the loss of natural areas.
3. Under certain circumstances, increase in open space requirements and trail easement requirements may result in the loss of new lots, impacting the cost of housing in that community.
4. Gives agricultural uses (and natural, cultural and historic resources) due consideration during the development review process.
5. Provides a farmland protection incentive as an initial step toward developing further tools for farmland protection.
6. Plans for future trails that are identified on County and municipal greenway plans.

He shared staff recommendation.

Staff Recommendation

That the Wake County Board of Commissioners adopt the text amendments as presented.

Mr. Tom Wells, Planning Board, shared the recommendations.

Planning Board Recommendation

On October 5, 2022, the Planning Board voted 6-1 to recommend that the Board of Commissioners adopt the statement of consistency for Ordinance Amendment 02-22 as presented; and by separate motion, voted 7-0 to recommend that the Board of Commissioners adopt Ordinance Amendment 02-22 as presented.

Chair Hutchinson opened the public hearing.

Ms. Suzanne Harris, Homebuilders Association, shared that the staff is great and involved them in the process. She shared comments on designated agriculture uses. She shared that she has an issue with the language and requirements for the measures. Include language that requires a meeting and talk about preservation.

Mr. Tom Hankins, Custom Homebuilder, reinforced what Suzanne shared. He shared that Wake County is by far the best for development. He shared comments on the 10-25 percent. He shared that the vote will increase home buying.

Mr. Tom Anhut, Residential Contractor, shared full support to the proposed UDO. He shared thanks to Chair Hutchison for his commitment to Wake County.

Chair Hutchinson closed the public comments.

Mr. Maloney shared feedback from comments that were made. He shared that the requested language could be added to the UDO.

Commissioner Adamson asked if a language change in regard to buffers can still be put in.

Mr. Maloney shared that this would be okay.

Commissioner Calabria shared comments on adding the additional language. He asked If a Director makes changes, are there appeals that go to Planning Board.

Mr. Maloney shared that yes any changes go before the Board of Adjustment to review.

Commissioner Calabria shared that his concerns are density and increase in housing. Density needs to be considered for home affordability, but we also want to ensure that open spaces are preserved as well.

Mr. Maloney responded that in the unincorporated areas of Wake County, density is very difficult to achieve due to infrastructure issues. Small lots are difficult to find which also limits the ability to achieve higher density, and in addition he commented that once open space is developed it is gone; therefore, proceeding thoughtfully is key.

Commissioner Calabria made additional comments on density and natural space. He shared comments on housing affordability.

Commissioner West shared comments on making the process seamless. He shared comments on Planning Board being quasi-judicial.

Mr. Maloney shared that this is standard.

Commissioner Evans thanked Mr. Maloney and his department for being thoughtful and projecting the future with change. She added that she shares Commissioner Calabria's concerns on density and increased housing. She asked what is the incentive for developers to do the open space cluster vs. conventional subdivisions given this increase in set aside requirement of space.

Mr. Maloney shared feedback on lot sizes and infrastructures.

Commissioner Evans shared additional concerns about the UDO and the proposed 25 percent.

Commissioner Adamson asked if they could add 10 percent required but goal is 25 percent language.

Mr. Maloney shared that this is too ambiguous.

Vice-Chair Thomas shared comments on attachment B. She asked for a definition of agriculture.

Mr. Maloney said that it can be added to the UDO.

Vice Chair Thomas shared comments on trail easements and road issues and how are they different.

Mr. Maloney shared the history of the trails and how they came to be.

There was additional Board discussion on the 25 percent and incentives.

Attorney Warren shared that if delayed, the item would need to be published again.

Commissioner Adamson shared that she would like to move forward tonight with the 10 percent.

Commissioner Calabria asked if it might be better to wait and consider some of the questions that have arisen before approving.

Mr. Maloney shared that he is comfortable with deferring this item.

Commissioner Evans shared that she is open to a compromise, perhaps 15 percent and agrees that more discussion is warranted.

A second public hearing is required and has to be advertised within in 90 days.

Commissioner Evans moved, seconded by Commissioner Calabria to defer the item until a later date.

Commissioner Evans moved, seconded by Commissioner Calabria to defer this item.

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

15. Amendments to the Wake County Code of Ordinances Chapter 130 Firearms (Second Reading)

Mr. Tim Maloney shared the background.

Public Safety Committee - August 22, 2022

Public Hearing - September 6, 2022

Listening Session - September 13, 2022

Special Work Session - September 19, 2022

Work Session - October 10, 2022

Regular Meeting (first reading) - October 17, 2022

He shared the Wake County Firearms Ordinance.

Wake County Firearms Ordinance

- No discharge on/from public street or highway
- No discharge within 100 yards of a dwelling, public building, or livestock.
- Distance can be reduced with permission from adjacent property owners.
- The projectile may not leave the property from which it is lawfully discharged on.

- Penalty for violation is a class 3 misdemeanor and \$50 fine.
- Local jurisdictions cannot regulate the discharge of firearms when used for hunting animals or birds (§153A-129).

He shared the Proposed Amendments.

Proposed Amendments

1. Increase the minimum distance from a dwelling, public building or livestock in which a person may discharge a firearm from 100 yards to 300 yards.
2. Written permission from adjacent property owners allows reduction of the distance.
3. Require a backstop that meets industry standards and at least meets the height and width standards specified in the ordinance (height must extend 4' above the target and 2' thick).
4. Only fixed, stationary targets at which the firearm is specifically aimed, directed and fired upon may be used.
5. Prohibit the discharge of a firearm between 10 p.m. and 7 a.m.
6. Increase the maximum fine for violation from \$50 to the statutory limit of \$500.

He shared Public Awareness.

Public Awareness

1. Create a webpage on the County's website that outlines the rules and standards of the Firearms Ordinance so that it's easy to understand.
2. Provide information on the website on how to make a complaint.
3. Provide a downloadable template of the "Permission Form" when seeking permission from neighbors to reduce the 300-yard distance requirement.
4. Staff to assist residents in determining the extent of 300 yards from their property.

He shared the effective date.

Effective Date

The amendments adopted herein will be effective on December 9, 2022.

Chair Hutchinson moved, seconded by Commissioner Evans, that the Board of Commissioners adopt proposed amendments to the Wake County Code of Ordinances Chapter 130 Firearms. The motion carried by the following vote:

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

Appointments

16. Alliance Health

Dr. George Corvin was appointed to the Alliance Health board.

17. Capital Area Workforce Development

Mr. Walter Axford was reappointed to Capital Area Workforce and Development, representing a Labor Organization.

18. Fire Commission

Mr. Christopher Perry promoted to East Region Primary on the Fire Commission.

Mr. Chris Ward appointed to the Fire Commission as East Region Alternate.

19. Open Space and Parks Advisory Committee

One District 2 vacancy.

20. United Arts Grants Panel

Ms. Ruth Dyer appointed to the United Arts Grants Panel, District 6 seat.

21. Wake County Water Partnership

Mr. Bill Summers appointed to the Water Partnership representing the Town of Knightdale, Municipal seat.

Vice Chair Thomas moved, seconded by Commissioner Evans to Waive Section 4 of the Wake County Board of Commissioners Policy and Procedures for Advisory Boards and Committee Appointments, which states: " No member shall serve more than three (3) consecutive terms (6 years) or a total of five (5) terms (10 years) in any one appointed position", and to reappoint George Matthis and Suzanne Harris to a fourth consecutive term on the Water Partnership.

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

22. Upcoming Vacancies for the month of December

Upcoming Vacancies for December 2022

(All applications are due by November 17, 2022, by COB)

Appointments made December 5, 2022

- **Alcoholic Beverage Control Board = 1 Vacancy**
 - 1 Resignation:
 - Willie Rowe

- **Fuquay-Varina Board of Adjustment = 1 Vacancy**
 - 1 Reappointment:
 - Dan Miller

- **Fuquay-Varina Planning and Zoning Board = 1 Vacancy**
 - 1 Reappointment:
 - Barbara Marchioni

- **Human Services Board = 7 Vacancies**
 - 3 Vacancies:
 - _____, Optometrist (1 seat open)
 - _____, Consumer (2 seats open)
 - 2 Reappointments:
 - Tonya Minggia, Registered Nurse
 - Ann Rollins, Board Chair
 - 2 Resignations:
 - Edward Buchan, Engineer
 - Deborah Lawson, Social Worker
 - 3 Recommendations by Human Services Board:
 - Terry McTernan, Engineer
 - Tamara Wilson, Social Worker
 - Wanda Hunter, Consumer

- **Industrial Facilities and Pollution Control Financing Authority = 4 Vacancies**
 - _____
 - _____
 - _____

- _____

(Please note: Preferred candidates to fill the vacancies should have knowledge of/experience in the financing of industrial or commercial development projects; or background with pollution control, especially in the context of manufacturing, industrial, or public utility facilities).

- **Raleigh Durham Airport Authority = 2 Vacancies**

- 2 Reappointments:
 - David Kushner
 - Stewart Hankins

- **Wake County Board of Adjustment = 1 Vacancy**

- _____ 1 Vacancy

- **Water Partnership = 10 Vacancies**

- 9 Reappointments:
 - Rachel Ingham
 - Kelly Arnold
 - Leah Harrison
 - Benjamin Mills
 - Heather Keefer
 - Joe Moore
 - Edward Buchan
 - Mitchell Woodward
 - Teresa Furr
- 1 Resignation:
 - Thomas Dean, Agricultural Representative

- **Yates Mill Park Advisory Board = 3 Vacancies**

- 1 Vacancy _____
- 2 Reappointments:
 - Gene Brothers
 - Jan Weems
- 1 Recommendation by the Yates Mill Park Advisory Board:
 - Robert Winstead

Other Business

23. Informational Items for the Board of Commissioners

Commissioner Cervania shared comments on the election. She thanked Gary Sims and his team for their work this year.

Vice-Chair Thomas reminded everyone about Veterans Day. She shared comments on Operation Greenlight and said that she has seen a lot of homes lit up with the green lights.

Commissioner Adamson thanked the Communications Department. She shared that they knocked it out of the ballpark with the Greenlight Project.

Chair Hutchinson shared that the Board, are leaders and the best in the country.

Closed Session

Attorney Warren shared that there was not a need for a Closed Session.

Adjourn

The meeting adjourned at 6:45 p.m.

Respectfully submitted,

Yvonne C. Gilyard, NCCCC
Deputy Clerk to the Board

Commissioner West moved, seconded by Commissioner Cervania, to adjourn the meeting. The motion carried by the following vote:

Aye: 7 - Chair Hutchinson, Vice-Chair Thomas, Commissioner Adamson, Commissioner Calabria, Commissioner Cervania, Commissioner Evans, and Commissioner West

Rollcall

Rollcall

Present: 7 - Chair Sig Hutchinson, Vice-Chair Shinica Thomas, Commissioner Vickie Adamson, Commissioner Matt Calabria, Commissioner Maria Cervania, Commissioner Susan Evans, and Commissioner James West