



Town of Clayton
Regular Town Council Meeting Minutes
Monday, September 18, 2023 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

Council Present:

Mayor Jody McLeod
Mayor Pro Tem Jason Thompson
Council Member Porter Casey
Council Member Avery Everett
Council Member Andria Archer
Council Member Michael Sims

Staff Present:

Rich Cappola, Town Manager
Jim Cauley, Town Attorney
Heidi Holland, Town Clerk
Dolores Gill, Deputy Town Manager
Lee Barbee, Deputy Town Manager
Robert McKie, Finance Director
Greg Tart, Police Chief
Jonathan Jacobs, Assistant Engineering Director
Nathanael Shelton, Communications Officer
Bruce Venable, Planner
Joy Garretson, Library Director
Ann Game, Rev. & Utility Customer Service Director

Council Absent:

None

1. CALL TO ORDER

- a. Call to Order

Mayor McLeod called the meeting to order at 6:00 p.m. and welcomed the Cub Scouts Troop in the audience.

- b. Pledge of Allegiance

Mayor McLeod led the Pledge of Allegiance.

- c. Invocation

Mayor McLeod provided the Invocation.

2. ADJUSTMENT OF THE AGENDA

- a. Mr. Cappola provided adjustments to the agenda:

Switch order of items 4a and 4b.

Item 6b. will be continued due to the applicant not being able to attend tonight.

Remove item 8a. Clayton to Raleigh Pump Station Improvements Project Bid Award

Add 9d. Update on Data Voice IVR Usage.

Approve or Adjust the Agenda

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson

SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

3. CONSENT AGENDA

- a. Minutes
 - September 5, 2023 - Work Session
 - September 5, 2023 - Regular Session
 - September 5, 2023 - Closed Session

Presenter: Heidi Holland, Town Clerk
- b. Budget Amendment and Amended Budget Ordinance - Section 8
Presenter: Robert McKie - Finance Director
- c. Resolution 2023-73 Supporting a Realignment of a Section of US 70 and Elimination of US 70 Business in Johnston County
Presenter: Jonathan K. Jacobs, PE, CFM - Interim Planning Director/ Assistant Engineering Director

Approve Consent Agenda as Presented

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

4. ADMINISTRATIVE ITEMS

- a. Programming Policy
Presenter: Joy Garretson, Library Director

Ms. Garretson stated she has been working with the Library Advisory Board on reviewing policies and with staff to propose new and updated policies at appropriate times. To build new policies, they pull from libraries in the State and the area and use those to help build a strong policy. Last spring this policy was brought to the Library Advisory Board for their consideration. The policy puts forth the aim to provide programs as a community resource, discusses guidelines, collaborations with outside presenters, volunteers, and co-sponsors, talks about evaluation process, patron guidelines and methods for challenging a program.

Adoption of Resolution #2023-69

RESULT:	CARRIED 5-0
MOVER:	Porter Casey
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

- b. Co-Sponsorships and Exhibits Policy

Presenter: Joy Garretson, Library Director

Ms. Garretson stated this comes out of the Programming Policy. This enumerates how the library would work with co-sponsors and exhibitors when programming or exhibits are provided. Two important parts of this policy are that under the guidelines it's stated the library co-sponsorship of a program or exhibit doesn't constitute an endorsement of the program or the views expressed by the presenter or exhibitor. Also discussed were fees and sales. She stated presenters and/or exhibitors are not allowed to sell goods at the library.

Both policies have a place for patrons who are concerned about a program or exhibitor to ask for the library to review those, a process is outlined in both policies.

Adoption of Resolution #2023-68

RESULT:	CARRIED 5-0
MOVER:	Porter Casey
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. National IT Professionals Day Proclamation
Presenter: Mayor McLeod Will Present to IT Staff

Mayor McLeod read the proclamation into the record and presented this to IT Director John Mack.

- b. Finance and Accounting Appreciation Week Proclamation
Presenter: Mayor McLeod Will Present to Finance Staff

Mayor McLeod read the proclamation into the record and presented this to the Finance Department.

- c. Human Resource Professionals Day Proclamation
Presenter: Mayor McLeod Will Present to HR Staff

Mayor McLeod read the proclamation into the record and presented this to the HR department.

- d. Fire Chief Recruitment Update
Presenter: Rick Cappola, Town Manager

Mr. Cappola provided an update on this process. He stated as you recall Chief Barbee retired from the Fire Chief position on May 1, 2023 which kicked off a recruitment process for a Fire Chief. Town staff committed to the Fire Department to try to have the process completed by September 15, 2023. Over 70 applications from across the nation were received. The applicants were put through an extensive assessment center that was conducted at Town Hall utilizing veteran Fire Chiefs and Emergency Management personnel from across the state to help evaluate the applicants.

Mr. Cappola thanked Chief Matt Poole from Garner, Chief Dewayne Church from Greensboro, Chief Mike Hill from Fayetteville, Director Kelly Drayton from Chapel Hill, Chief Phil Welt from Gastonia, Chief Tim Herman from Apex, and Chief Greg Grayson from Greensboro. He also thanked the Executive Team, Nathanael Shelton, Joshua Baird, Allen Turnage, and Byron Poelman.

Candidates were evaluated for over a week. Mr. Cappola called up Chief David Ranes to the podium. He stated Chief Ranes scored highly on every element of the assessment and from an overall fit his experience and knowledge as well as being local was clearly the best fit. Currently Chief Ranes is serving as Assistant Chief for the Town of Cary, and has spent 25 years there, and is a volunteer with Wilsons Mills. His official start date will be October 16, 2023 where there will be an official swearing in.

Chief Ranes thanked Council for this once in a lifetime opportunity. He stated he is excited to be able to build relationships and he looks forward to working with everyone.

6. PUBLIC HEARINGS

- a. 2023-111-RZ Project Life Dust Rezoning
Presenter: Jonathan K. Jacobs, PE, CFM - Interim Planning Director/Assistant Engineering Director

Allen Tew stated he has one point of order that is whether this is being held in compliance with 7.2 to a public notice and 7.2 which requires for rezoning published, mailed and posted notice being 704. He stated he asked the Town Clerk to put an email in the Council's packet showing the posted sign regarding this rezoning. Council was emailed this posted sign prior to the meeting. He stated the posted notice shows it is being heard at the August 28th Planning Board meeting. He stated his interpretation of the statute is this requires the posting of a notice in order to comply with the notice requirements under the code. He suggests this has not been properly noticed.

Mayor McLeod turned this over to the Town Attorney. Attorney Cauley deferred to the Planning Department. Jonathan Jacobs confirmed they were both posted for two consecutive weeks in the Johnstonian Newspaper as well as posted in person. Bruce Venable stated the new signs unfortunately are a work in progress, they are trying to create more transparency; the previous signs did not offer any date or information as to what the meeting would be about. The new signs would offer a new sign as well as a QR code that links directly to the website with information on public meetings. He stated it was Planning's understanding there was an older sign out there to meet the public hearing requirements. He stated he was not aware until recently it had the Planning Board meeting date on it. All other required notices have been fulfilled.

Attorney Cauley asked if he could see a copy of the sign. Mayor McLeod asked those in the audience to raise their hand if they were here for this public hearing. Mayor McLeod asked Council if they would like to hold off on this or continue. Council Member Archer asked Attorney Cauley if he could review the statute Mr. Tew provided to make sure our signs were in compliance. Attorney Cauley pulled the statute. He stated there is no requirement that the date of the hearing be on the signs. He read the statute into the record. Council Member Sims stated based off of that, he is fine with

proceeding. Council Member Archer stated the rest of the postings were done, in terms of the mailings to the residents and posting in a local newspaper, she is in favor of proceeding. Council Member Casey stated he is in favor or proceeding also.

Mr. Jacobs spoke on this item. This is a request to rezone from RE to I-1. The location is on the corner of Ranch Road and Little Creek Church Road, parcel size approximately 68.836 acres and the existing use is vacant. Shared was the current zoning map as well as the proposed zoning map. The two stars on the map show where the two posted signs were put up as required. Shared was an excerpt of the Employment Center description.

Factors to consider: the approval of the rezoning would allow any permitted use within the I-1 Zoning District to be constructed on the site. Shared were all of those uses available.

Planning staff recommends approval and planning staff recommends denial of this request. Shared was the consistency and reasonableness statement.

Mayor McLeod stated this has been noted as a public hearing and gave this to over to Town Representative Rich Cappola to speak in place of Patrick Pierce. This project was purchased in 2014 and evaluated to be able to determine if it was suitable for park use. Consultants at the time were discussing what to do with this site. At the time, due to natural features and including the existing topography, streams, wetlands, as well as existing rock outcropping found on the site, the recommendation was this was not suitable for active recreation use. With discussion with the Parks and Recreation Director at the time as well as the subsequent one, the discussion was to look at other opportunities for this site.

At this time the Economic Development office was charged with researching the best use for this land. A Comprehensive Land Use Plan update kicked off shortly after that where extensive public outreach was held to look at what the overall Town future land use plan would look like. This parcel was identified as being an opportunity for an additional employment center as currently shown on the Future Land Use Plan. One of the reasons this property was identified as an opportunity aside from being adjacent to other areas that were identified at that time for future land use; this is one of the few parcels in that vicinity that is not currently within the RTZ, therefore, this would be a parcel that could develop for Town tax base outside of residential tax base. At this time, the request is for a general use rezoning to allow for all uses that were noted.

Council Member Casey asked if this parcel was purchased at a fair market value when the Town purchased it and what was the purchase price? Mr. Cappola stated in 2014, the purchase price was approximately \$1.2 million dollars, that equates to about \$18,000 per acre. When the property was assessed for current fair market value, that came up to approximately \$31,000 per acre or \$2.1 million dollars. Going from that price, it does feel like it was a fair market price at that time, but he stated he is not an appraiser or broker so cannot speak specifically to that.

Council Member Casey asked knowing that this parcel would require wastewater improvements which would help resolve some existing infrastructure challenges in that area, is the developer helping to offset some of that cost? Mr. Cappola stated currently in this area there is not a wastewater facility that could directly serve the property so any developer for any use on the property would be required to install the conveyance

systems that are required to be able to serve that property. Current conversation for the Town has been, we have an actual Regional Pump station that is intending to be put into this area, if the Town could coordinate schedules and needs for whatever is developer on this property, the preference would be to build the regional station once as opposed to having someone install a pump station on this property just to serve their property. He stated they would like to partner with the developer of the property to do the Regional pump station. Council Member Casey asked if this would make it more efficient and allow the developer some responsibility, Mr. Cappola stated that it is correct.

Council Member Casey asked if there are any buffer requirements next to the farm based on current UDO guidelines or would this be more consistent with the upcoming UDO? Mr. Cappola stated for tonight's action for the rezoning, the buffers do not come into play; at the next stage of a site plan or subdivision - depending on the timing of the submittal, they would have the option of the language in the current UDO or they could have developers choice based on how the statutes allow.

Council Member Sims asked if the Town is currently looking at any other parkland? Mr. Cappola stated yes. The Town is actively in negotiations with at least one track of land.

Mayor McLeod stated this has been noted as a public hearing and asked if anyone wished to speak. He asked everyone to limit their comments to 3 minutes.

Allen Tew spoke about contract zoning. He discussed an application from the Town of Clayton which is a result of a contract that was negotiated and calls into question whether what is supposed to be an employment center as a part of this area. He spoke on the limitations of this and spoke on the property history. He discussed timelines of this parcel and the Future Land Use Plan adopted in 2021. He urged Council not to adopt this rezoning. He stated there is a legal basis to contest this.

April Williams spoke in opposition of this project. Bruce Venable passed out information to each Council member from Ms. Williams. She stated this violates open space requirements. Shared were her concerns of stormwater and the flooding issues with the stream. She stated the Town is throwing away a viable resource. She stated if there was a park put there, the property value would increase. Mayor McLeod asked if she had any documentation to back this up, she stated it is all in the orange folder provided to Council.

Michael Williams spoke in opposition and stated his concern is about the smell of a pump station. He stated a park would go so much further than an industry. He stated this is an underserved part of Clayton. He asked Council to see the personal side of this not the business side.

Kevin Maran, asked if anyone involved in this rezoning has financial ties with this project? He spoke in opposition. He stated the sale price makes no sense. He stated Little Creek is a residential road, not a commercial road. Shared were his concerns with this project being built on a residential road.

Marilyn Pounds spoke in opposition. This has already made a huge impact on the family farm. The farm has been in the family for over 75 years. She stated this land is

farmed on and their livelihood is there. She spoke about surveyors that came through her land. She stated she had no notification they were coming out. She spoke about the elderly not being able to receive notifications via email. She invited Council to come out to the farm and look.

Bobby Thompson, moved here last year from Pennsylvania and spoke in opposition. She spoke about learning about the bypass shortly after moving here. She spoke about the Council goals listed on the website; some of the several recurring things listed are quality of life and safety of individuals. She contests that the 77 acres is not an approximate area for this rezoning. She quoted statements from the comprehensive growth plan that she feels is inconsistent with the rezoning of this property.

Clayton citizen, on Jack Road, spoke in opposition. He spoke about the lack of parks in that area. He spoke about possible grants available to the Town for parks. He asked for clarification, if we make an agreement with BioRealty and there are no tenants that fill this space, the Town will pay \$3 a sq. ft. for two years? Mr. Jacobs stated he would look for the agreement to that contract.

Mayor McLeod asked the audience to raise their hands if they were in opposition of this rezoning. Most of the citizens in the audience are in opposition. Mayor Pro Tem Thompson asked how many of these citizens that raised their hands live in the city limits. Only 4 of them that live in the city limits are here in opposition. Mayor McLeod clarified that if you live on Jack Road, for example, you don't pay taxes to the Town of Clayton, the taxes are paid to Johnston County. He stated in an effort to get more recreational spaces in proximity to that location, you would need to be in communication with the people that you pay your taxes to.

Mayor McLeod stated this public hearing was closed and turned over to Council for deliberation.

Council Member Casey stated he doesn't want citizens to think we approve every project; they have everyone's best interest in mind. He stated Council actively takes a hard look at everything. He spoke about his history on Little Creek Church Road. He stated he must think about what works best for Clayton, and it's tough because you have to look at the big picture.

Council Member Archer appreciates everyone coming out tonight. She stated this Council really does care. This story started with the pharmaceutical companies that came to Hwy 71 and those are not located in the Town of Clayton. As a Town, they must make business decisions. There are also rights for property owners and tonight that is represented through the seven criteria of a rezoning and that's what she is focused on and that's what the law requires. She stated a lot of what has been heard tonight does not pertain to those criteria. The area where this parcel is located is changing. This request is compatible with the comprehensive growth plan.

Council Member Everett would love to know more about how this affects historic black communities as well. He stated we are seeing this is consistent with what we have as a Town and our goals. He stated we are looking at other areas for parkland. He stated he is very big on working together with citizens. One thing, he stated, he does care about is focusing on communities and families that have been here.

Council Member Sims thanked everyone for coming out. He stated to be involved you need to get your voice out. This is not based upon what we think about the park, this goes beyond how the future of Clayton will evolve. He stated it is essential we still look at parklands. He is sensitive to the needs of surrounding communities but does think this is essential for the long term of Clayton.

Mayor Pro Tem Thompson stated this is tough because we must keep in mind this is the rezoning. When looking at it from a rezoning perspective, it changes his point of view. There are a lot of projects that come through that he doesn't like. But when you put your legal hat on, Council must decide if there are legal merits, that's what Council has to weigh. He stated some positives he sees is the money from sale goes directly into future parkland. He stated regarding general life changes, he doesn't think Life Dust would affect that area because of the future road coming in. He stated developers and landowners do have rights, but most people that spoke tonight do not live in Town or pay the taxes. That needs to be weighed. He stated he would be ok with tabling this to have more discussion. It's a lot to think about tonight.

Mayor McLeod stated he has never had the opportunity to cast a vote but that makes him a good listener. After 20 years he has become a good listener. For an education statement, he understands while one Council is in office in 2014 and says they will buy this property and use it for parkland, the general statute in North Carolina doesn't allow one Council to bind another. There is no legal bind for this Council to honor what the previous Council said. He stated this is important to know. A decade later, needs are different. He appreciates that citizens did their homework. He stated we are all going to be impacted by the development of this area. Council has to look after the business in the Town and the citizens who are ad valorem citizens. There is a need of this industrial zoning. He thinks it will not impact property value. Our property value is soaring in this area, we have seen this historically. This isn't an easy call to make. He appreciates the common courtesy and level of respect from the citizens.

Council Member Archer echoed what everyone has said about the legal basis for a rezoning. Shared were six additional data points which are in support of her decision for approval of this rezoning.

April Williams asked if it's because they are ETJ is why they are being ignored? Mayor McLeod stated no, nor was it implied.

Council Member Sims stated he lives less than a mile from this area, so this impacts him as well. Council Member Casey stated his family owns land that abuts Swift Creek which runs off Little Creek Church Road.

Adoption of Ordinance 2023-09-03 Consistency and Reasonableness Statement

RESULT:	CARRIED 4-1
MOVER:	Andria Archer
SECONDER:	Michael Sims
YES:	Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	Jason Thompson

- b. 2022-125-CZM: Summer Glen Conditional Zoning with Master Plan
Presenter: Bruce Venable, Planner I

Mr. Venable stated the applicant was not able to attend tonight and has asked for this to be continued to the October 2, 2023 meeting. The wastewater resolution would be moved to this meeting as well.

Adoption of Ordinance #2023-9-03 and Consistency and Reasonableness Statement (Motion to Continue to October 2, 2023)

RESULT:	CARRIED 5-0
MOVER:	Andria Archer
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Adoption of Wastewater Resolution #2023-70 (Motion to Continue to October 2, 2023)

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

7. OLD BUSINESS

8. NEW BUSINESS

- a. Clayton to Raleigh Pump Station Improvements Project Bid Award
Presenter: Shannon Poole - Engineering Technician

This item was removed from the agenda.

9. STAFF REPORTS

- a. Town Manager

Mr. Cappola provided an update on Legend Park. The public comment period did close for the remedial action plan associated with the pre-regulatory landfill site so we are in conversations with the State to determine what the start of that would be. He stated he would provide an update as soon as possible. He stated they are still in conversations with parks folks in terms of how that land would have to be repurposed.

He stated at the last meeting he spoke about negotiations about Community Park. He stated they are looking to get bids in line with current available funding. He stated they were not able to get to a workable number with the one contractor that did bid so they have moved forward with rejecting those bids and would look to repackage the bid and put it back out sometime later this year. They would continue to work towards a sales date in January for the remaining \$4.5 million dollars of additional bonds. He stated Finance Director Robert McKie and himself have had conversations with the financial advisors and would have updated calls with the ratings agencies in December.

- b. Town Attorney

- c. Town Clerk
- d. Other Staff

Lead and Copper Rules Revision
Presenter: Rick Cappola

Mr. Cappola provided an update on this item. He stated all should have received release of information regarding the lead and copper rules revisions. Mr. Carroll would have more information at the next meeting. For the general public, we are moving forward with a federal mandate to determine if we have any lead or lead service lines within the Town's system. Information has been provided by the Communication Department in coordination with Water Resources to help educate citizens. The kickoff has just begun and has started to pilot test procedures on how to verify those services based on the age of the system and number of total services. The number based on is 1800 which is a smaller sample set that will have to go through the process of identifying. He stated there are opportunities for property owners to self-inspect and report that back to us. All of that information is provided on the Town's website.

Update on Data Voice IVR Usage
Presenter: Ann Game

Ms. Game stated they are in the process of rolling out the Outage Management System software for customers. A piece of that affects Customer Service directly and is the IVR (Interactive Voice Recordings) that can be used to call out to customers. This was rolled out in August and every week they are calling their delinquent list. In the month of August, 69% of customers that received the phone calls paid their bills before the cutoff day. So far this month, 82% have paid their bill. She stated this is going very well and a lot of citizens have called thanking them for the reminder.

These calls go out the business day prior to a cutoff. She stated today 241 people received a call and as of this evening, half of that have paid their bill. Staff have been working to make sure all phone numbers are correct in the system. Mayor Pro Tem Thompson thanked Ms. Game for this and for humanizing this side of things. Mr. Cappola gave a compliment to Terry Johnson and her group. He received nice kudos about a citizen and their leak.

10. OTHER BUSINESS

- a. Informal Discussion & Public Comment
 - Individuals have three (3) minutes to address the Town Council.
 - Groups will designate a spokesperson. Spokesperson will have five (5) minutes to address the Town Council.

Mark Strickland, Clayton citizen, thanked Council for their service. Stated he found out about the Summer Glen project and would like to come back on the October 2nd meeting and speak on this.

- b. Council Comments

Council Member Sims stated he would like to apologize to Council for his outburst but refuses anyone to speak about this Council in a negative way. He knows how hard this Council works. He stated his decisions are not anything personal. Mayor Pro Tem Thompson stated he is proud of the work this Council does, the item tonight is something he doesn't agree with, but he respects the decision his fellow Council Members made.

11. CLOSED SESSION

- a. To Discuss Legal Matter in Accordance with NC GS 143-318.11(a)(3); To Discuss Economic Development in accordance with NC GS 143-318.11(a)(4); and To Discuss Personnel Matter in accordance with NC GS 143-318.11(a)(6)

Motion To Go Into Closed Session

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Motion To Return To Open Session at 8:46 p.m.

RESULT:	CARRIED 5-0
MOVER:	Porter Casey
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

12. ADJOURNMENT

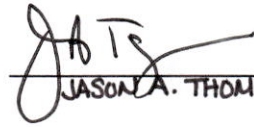
- a. Adjourn

With nothing further, the meeting was adjourned at 8:46 p.m.

Motion To Adjourn

RESULT:	CARRIED 5-0
MOVER:	Michael Sims
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Duly adopted by the Town Council this 2nd day of October 2023 while in regular session.

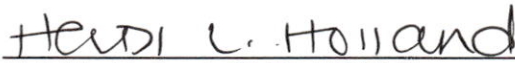


JASON A. THOMPSON

Jody L. McLeod

Mayor PRO TEM

ATTEST:



Heidi L. Holland, CMC, NCCMC
Town Clerk

