



**Town of Clayton
Regular Town Council Meeting Minutes
Monday, February 20, 2023 at 6:00 PM
Council Chambers, Town Hall
111 E Second Street**

Council Present:

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
Lee Barbee, Interim Deputy Town Manager/Fire Chief
Heidi Holland, Town Clerk
Robert McKie, Finance Director
Greg Tart, Police Chief
Jonathan Jacobs, Assistant Engineering Director
Joshua Baird, Engineering Director
Nathanael Shelton, Communications Officer
Ben Howell, Planning Director
Shaun Mizell, Procurement Manager
Patrick Pierce, Economic Development Director
Bruce Venable, Planner I

Council Absent:

Mayor Jody McLeod

1. CALL TO ORDER

a. Call to Order

Mayor Pro Tem Thompson called the meeting to order at 6:00 p.m.

b. Pledge of Allegiance

Mayor Pro Tem Thompson led the Pledge of Allegiance.

c. Invocation

Mayor Pro Tem Thompson provided the Invocation.

2. ADJUSTMENT OF THE AGENDA

a. Approval of Agenda

Mr. Cappola requested to make the following adjustments to the agenda:

REMOVE:

3a. Minutes

4a. Employee Introduction

- Alicia Ballard, Part-Time Custodian

ADD :

9d. Hotel Occupancy Tax

Presenter: Patrick Pierce, Economic Development Director

Approve or Adjust the Agenda

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

3. CONSENT AGENDA

a. Minutes

- February 6, 2023 - Work Session
- February 6, 2023 - Regular Session
- February 6, 2023 - Closed Session

Presenter: Heidi Holland, Town Clerk

Removed from the agenda.

b. Accept Streets Into the Town of Clayton Street System For Maintenance – Riverwood Athletic Club, Phases 2B-3, Payton Drive, Phase 5A, 5B1, & 5B2

Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

c. FY 2023 Mid-Year Review Budget Amendments

Presenter: Robert McKie - Finance Director

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

4. ADMINISTRATIVE ITEMS

a. Employee Introduction

- Alicia Ballard, Part-Time Custodian

Presenter: Greg Nelson, Property Maintenance Superintendent

This item was removed from the agenda.

b. Recreation Advisory Board Appointment

Presenter: Heidi Holland, Town Clerk

Ms. Holland stated there has been a vacancy for an in-town position on this board to fill an unexpired term of 12/31/2023. One in-town application has been on file. Council and staff felt this applicant had met the criteria to fill this vacancy. It has been recommended to appoint Carol Houston to fill this vacancy.

Approval of Appointment

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

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. Recognition of Procurement Month

Presenter: Mayor Pro Tem Thompson

Mayor Pro Tem Thompson read the proclamation into the record and presented to Shaun Mizell, Procurement Manager. Mr. Mizell stated the Town would hold its first Town of Clayton Vender Expo on March 14, 2023 in the Town Hall lobby. The City of Raleigh contacted Mr. Mizell to attend their Minority Women Business Enterprise Expo on March 16, 2023. Mr. Mizell and his staff will be attending that. Council Member Everett would be attending as well. He stated they would be hosting Procurement Open House at Town Hall, more details to follow.

b. Employee Appreciation Day Proclamation

Presenter: Mayor Pro Tem Thompson

Mayor Pro Tem Thompson read the proclamation into the record. Town Facilities would be closed on March 3, 2023 from 1-3 p.m while for an employee appreciation opportunity.

c. National Engineer's Week Proclamation

Presenter: Mayor Pro Tem Thompson

Mayor Pro Tem Thompson read the proclamation into the record and presented to the Engineering Department. Joshua Baird stated he appreciates the recognition.

6. PUBLIC HEARINGS

a. 2022-206-OA Special Use Permit Text Amendments

Presenter: Ben Howell, Planning Director

Mr. Howell stated the amendment covers several different sections of the UDC:

- **155.202 – Land Use Regulations**
- **155.203(L) – Conditional Zoning District Standards**
- **155.402(E)(2)(d) – Project Boundary Buffers**
- **155.705 – Conditional Zoning District (Administration/Procedures)**

The purpose of this amendment is to allow certain residential uses to be approved through the Legislative Condition Zoning District process instead of the quasi-judicial special use permit process. This amendment was initiated at the request of Town Council and Town Administration.

Described were details of this amendment:

155.202 – Land Use Regulations

- **Replace requirement for townhomes, duplexes, and apartments to get SUP with a requirement for a conditional zoning district.**

155.203(L) – Conditional Zoning District Standards

- **Add language specifying conditional zoning districts require either a site plan or master plan and narrative.**
- **Add language specifying that specific use standards in Article 3 apply to conditional zoning districts, unless modified standards are approved by Town Council.**

155.402(E)(2)(d) – Project Boundary Buffers

- **Replace “Planned Development” with “Conditional Zoning District.”**

155.705 – Conditional Zoning District (Administration/Procedures)

- **Remove 5 acre or one full city block size minimum for conditional zoning districts.**
- **Specify that certain conditional zoning districts require a Site Plan while others require a Master Plan and Narrative**
- **Add minimum requirements for Master Plan Narrative.**

For the approval criteria, essentially staff has determined the text amendment is consistent with the remainder of the code and all approved plans. The amendment is a result of changing circumstances. The text amendment does correct an error in section 155.402 (E)(2)(d) replacing the words plan development with conditional zoning districts.

Planning Board unanimously recommended the amendment for Public Hearing and Consideration by Town Council and approved the Consistency Statement.

Mayor Pro Tem Thompson stated this has been noted as a public hearing and asked if anyone wished to speak. With no one wishing to speak, the public hearing was closed and turned over to Council for deliberation.

Council Member Casey asked Mr. Howell to reiterate that a Special Use Permit process is a quasi-judicial and only certain testimony could be heard; with a Conditional Zoning, most people could speak. Mr. Howell went into detail on this and confirmed that is correct. Council Member Casey stated with this new process the Planning Board would also hear these cases, Mr. Howell stated under the current SUP process, these would come directly to Council, with the

Conditional Zoning Process, these cases would go to the Planning Board first for recommendation and then to Council. Council Member Casey asked if with this new Conditional Zoning process versus the SUP, are the UDC codes still being followed like the way the SUP process was? Mr. Howell stated like the SUP process, all cases go through significant review with the TRC committee before going through any board process. With Conditional Zoning Districts there is opportunity to deviate from certain sections of code, that must be clearly explained in the Conditional Zoning District materials, but where they are not allowed to deviate from code, the TRC reviews and ensures the project is meeting code before it comes to the Planning Board and Council.

Adoption of Ordinance #2023-02-01 and Approval of Consistency Statement

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

- b. **2022-214-RZ Town of Clayton Rezoning**
Presenter: Bruce Venable, Planner I Trainee

Mr. Venable presented this item. This is the R. Steven Biggs Wastewater Pre-Treatment Facility that the Town recently sold to Novo Nordisk. This is to rezone from Public Facilities to Industrial Light. This is approximately 22. Acres located on 3798 Powhatan Road. The Future Land Use Map shows this as employment center.

Staff recommends approval as well as the Planning Board.

Mayor Pro Tem Thompson stated this has been noted as a public hearing and asked if anyone wished to speak. With no one wishing to speak, the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance #2023-02-02 and Approval of Consistency Statement

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

- c. **2022-197-RZ Lot 8 Gateway Drive Rezoning**
Presenter: Bruce Venable, Planner I

Mr. Venable presented this item. He stated this is located at Lot 8 off Gateway Drive and approximately 1.24 acres, currently the property is vacant. The request is to rezone from Business Highway Special Use District to Office-Industrial. The applicant is requesting this rezoning because previous parcel

was zoned as Business Highway Special Use District, which is no longer a zoning district. They have requested the property to be rezoned to Office-Industrial.

The Future Land Use Map shows this as an employment center. Staff recommends approval as well as the Planning Board.

Mayor Pro Tem Thompson stated this has been noted as a public hearing and asked if anyone wished to speak. With no one wishing to speak, the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance #2023-02-03 and Approve Consistency Statement

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

7. OLD BUSINESS

- a. Rolling Stock Reimbursement Resolution
Presenter: Robert McKie, Finance Director

Mr. McKie stated he is asking for approval of a reimbursement resolution for Rolling Stock. In the 2023 budget there was a line item for a financing assumption for Rolling Stock. This resolution positions the Town to allow itself to reimburse with the proceeds of a subsequent financing for Rolling Stock. The amount of the resolution is not to exceed \$2.5 million dollars.

Adoption of Resolution #2023-07

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

8. NEW BUSINESS

9. STAFF REPORTS

- a. Town Manager

Mr. Cappola stated last week the Executive Team spent four days meeting with departments to discuss the 2024 budget calendar. Initial requests from all departments were received. The Executive Team is working through all compiled information to determine what could be supported. At the Council Retreat this information would be discussed.

On March 3, 2023, Town Facilities would be closed from 1-3 p.m. to have an employee appreciation opportunity.

b. Town Attorney

Attorney Cauley stated he would like to commend Council for the action taken tonight to amend the SUP process. This is a much simpler process. He stated he thinks Council would like this change and could avoid any litigation.

c. Town Clerk

d. Other Staff

Hotel Occupancy Tax

Presenter: Patrick Pierce, Economic Development Director

Mr. Pierce discussed the Hotel Occupancy Tax. This is a common tool used throughout the State. This is a tax the General Assembly passed in the late 80's that allows counties and towns to assess a tax on visitors coming in for hotels, AirBNB, short-term rentals and bed and breakfasts. This is a tool that has been considered and has been on legislative priorities for Town Council in the past. There is an opportunity this year to look at this. Currently Johnston County assesses this 3% tax.

Enabling Process

- General Assembly considers local legislation
- Town enacts Hotel Occupancy Tax ordinance
- Town creates a Tourism Advisory Committee (recommended)
- Legislation typically only considered during long sessions (odd years)

Remittance Process

- Hotels collect tax and remits to Town
- Town retains 3% administration fee
- Town sends remaining collections to Johnston County Tax Administration
- County deposits into Johnston County Tourism Authority account for use on Projects in Clayton

Use of Funds

- Options
 - Contracts with Johnston County Visitors Bureau for Professional Services and projects (15% fee)
 - Reimbursement from JCVB for qualifying expense
- Two-thirds for promotion; one-third for tourism-related projects, including capital projects (wayfinding is also included in this)

This is just a toolbox, once this bill has been passed, when and if Council does decide to pass an ordinance, that time would be up to Council.

Mayor Pro Tem Thompson stated this is something Council has wanted to do for a long time, we need to seize the opportunity. Attorney Cauley asked if the local delegation is ready to submit a bill on behalf of the Town, Mr. Pierce stated because there is a local jurisdiction that is already looking to do this, he believes there is already language to be drafted. Attorney Cauley stated the local bill deadline for Senate is this week and the House is next week, so this needs to move quickly. Mr. Cappola stated if we have consensus from Council, a letter from himself would be sufficient to move forward.

A motion was made for staff to move forward with the Hotel Occupancy Tax

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

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.
- b. **Council Comments**

Council Member Casey stated he would like Council and staff to take note of a letter received from Downtown Development Advisory Board regarding obstacles with Downtown lighting ordinance. He asked Staff to review those considerations and come to Council with a revised ordinance.

Council Member Sims stated he would like to thank all employees and staff that participated in the Healthy Heart Breakfast.

11. CLOSED SESSION

- a. **Closed Session to Discuss Economic Development in Accordance with NC GS 143-318.11(a)(4) and to Consult with the Town Attorney in Accordance with NC GS 143-318.11(a)(3)**

Motion To Go Into Closed Session at 6:40 p.m.

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

Motion To Return To Open Session at 7:35 p.m.

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

12. ADJOURNMENT

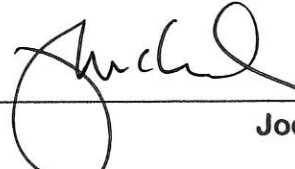
a. Adjourn

With nothing further, the meeting was adjourned at 7:35 p.m.

Motion to Adjourn

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

Duly adopted this the 6th day of March 2023, while in regular session.



Jody L. McLeod
Mayor

ATTEST:



Heidi L. Holland, CMC, NCCMC
Town Clerk

