



**Town of Clayton
Regular Town Council Meeting Minutes
Monday, May 16, 2022 @ 6:00 PM
Council Chambers**

COUNCIL PRESENT:

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

STAFF PRESENT:

Interim Town Manager Rich Cappola
Town Attorney Jim Cauley
Deputy Town Manager Dolores Gill
Interim Deputy Town Manager Lee Barbee
Deputy Town Clerk Heidi Holland
Finance Director Robert McKie
Police Chief Greg Tart
Town Engineer Joshua Baird
Assistant Town Engineer Jonathan Jacobs
Communication Director Nathanael Shelton
Procurement, Contracts and MWBE Manager
Shaun Mizell
Planning Director Ben Howell
Project Manager Patrick Paine

1. CALL TO ORDER

- a. Mayor McLeod called the meeting to order at 6:00 p.m.
- b. Pledge of Allegiance and Invocation

Mayor McLeod led the Pledge of Allegiance. Mayor McLeod provided the invocation.

2. ADJUSTMENT OF THE AGENDA

a.

ACTION:

MOVER: Mayor Pro Tem Thompson moved to approve the agenda as presented.

SECOONDER: Council Member Archer

VOTE: Unanimous

3. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a. Resolution to Accept Streets into the Town of Clayton Street System for Maintenance – Riverwood Athletic Club, Phase 4A – 4F
Presenter: Jonathan Jacobs, Assistant Town Engineer
- b. Audit Contract for fiscal year 2022

Presenter: Robert McKie, Finance Director

- c. Resolution to Use the Competitive Bidding Exception, also known as Sole Source Exemption (Standardization)

Presenter: Shaun Mizell – Procurement, Contracts and MWBE Manager

- d. May 2, 2022, Work Session DRAFT Minutes
May 2, 2022, Closed Session DRAFT Minutes
May 2, 2022, Regular Meeting DRAFT Minutes

Presenter: Sherry Scoggins, Interim Town Clerk

ACTION:

MOVER: Council Member Everett moved to approve the consent agenda as presented.

SECONDER: Council Member Archer

VOTE: Unanimous

4. ADMINISTRATIVE ITEMS (NONE)

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. National Police Week Proclamation

Presenter: Mayor Jody McLeod

Mayor McLeod read a proclamation in honor of National Police Week and presented to the Town of Clayton Police Department. He expressed his most sincere gratitude to them and their families for what they do on a daily basis.

6. PUBLIC HEARINGS (NONE)

7. OLD BUSINESS

- a. Resolution Authorizing the Town Manager to Execute a Utility Construction Agreement with NCDOT for the Ranch Road Extension Project (TIP-U-6223)

Presenter: Joshua Baird, Engineering Director

Mr. Baird stated as part of the proposed project, NCDOT will relocate a portion of existing Town water and sewer infrastructure along Rose Street. Town staff has coordinated with NCDOT to install some betterments as part of the project to minimize future impacts to the area and minimize overall project costs. In addition to the required relocation, NCDOT will be increasing the size of the existing waterline on Rose Street from 6" to 12" and extending it to the existing waterline on Little Creek Church Road as a betterment to the project.

He stated the Town is responsible for 25% of those utilities and 100% of all betterment costs associated with the project. The cost is \$452,181.95 with 10% contingency. Construction is estimated to begin in fall of 2022.

ACTION:

MOVER: Council Member Casey moved to approve the Resolution Authorizing the Town Manager to Execute Agreement.

SECONDER: Council Member Archer

VOTE: Unanimous

- b. Country Lane Conditional Zoning District
Presenter: Ben Howell, Planning Director

Mr. Howell provided history on this item. He stated the initial request is for 270 units, down from 299. He stated the revised proposed use is still residential with access off Country Lane and full access to County Lane connections to Hunter Way and Lynn Drive. There are 3 proposed phases, Phase 1 to proposed to be sub-phased into phase 1A and 1B. Shared were examples of architectural elevations.

Conditional Zoning District Criteria include:

- Consistency with adopted plans and policies of the Town
- Suitability of Subject Property Improves Balance of Uses/Meets Specific Demand in Town
- Capacity of Adequate Public Facilities and Services
- Legal Purposes of Zoning are not contravened
- No adverse effect on adjoining property owners
- No one property owner/small group will benefit to detriment of general public

Mr. Baird spoke about the wastewater and shared the different phases.

- 270 SFR units at 250 gallons per day (GPD)
- Community Center (2,000 GPD)
- Total Request 69,500 GPD
- Project meets Town wastewater policy with a score of 50

Mr. Jacobs spoke about the considerations for Council. He stated both staff and the Planning Board recommends approval. He read through the revised recommended conditions of approval.

Town Attorney Cauley stated that the town does not have any purview on native American burial grounds, that is handled at the state level and any findings would require coordination with the Department of Cultural Arts.

Council Member Casey shared thoughts on moving the parking lot over to the existing Lynn Road community to provide more room for a buffer as well as a plan to protect two trees in question. He stated he thinks this is a fair and reasonable request based on the concerns of the neighborhood and the size of this project. Applicant Brandy Vega addressed this. She stated she would like to offer the condition that the development shall install tree protection fencing around each of the two trees identified as bent trees.

Council Member Archer asked, pertaining to condition #9, is the phrase enhanced erosion control measures a defined term, the applicant answered erosion controls are considered anything that goes above and beyond what would normally be required for normal conditions, those are typically not very complicated. He gave examples of a typical erosion control measure such as

silt fences around the perimeter of the land disturbing activities and skimmer basins where you have more concentrated flow. There was further discussion on this. He stated they would work with staff from the town's engineering department during the review process. Council Member Archer asked if this was enough information for staff to draft a condition up. Attorney Cauley suggested if the applicant is agreeable to just insert enhanced erosion control measures as reasonably determined by town staff.

Council Member Archer asked for clarification pertaining to condition #31 if this is normal operating procedure. Mr. Cappola stated yes, it is normal. She asked don condition #29, for the phrase steep areas on the site, does that mean an area on the parcel that is steep but wouldn't necessarily constitute what our UDC Defines as a steep slope area, the applicant stated that is correct. Council Member Archer further discussed her concerns on steep slopes as well as the retention ponds. the applicant addressed these concerns.

Council Member Casey asked about one of the 3D renderings of the retaining wall, the applicant stated there is a section on the site that would propose a substantial size retaining wall, more than the typical five-to-six-footer. Council Member Casey asked what the potential height of this wall would be, the applicant stated it is anticipated to be close to 20'. Council Member Casey asked if there were any safety features being placed around it, the applicant answered there would be. Council Member Casey asked what the lifespan of a retaining wall that size is, the applicant answered the design is expected to last 50-100 plus years.

Council Member Sims stated the at the last meeting he mentioned to Mr. Howell about stormwater runoff and there was discussion on having in place a guarantee that the applicant would have an allotted amount of time to be responsible for things that might occur afterwards, Mr. Howell had stated he would look into this. Mr. Cappola stated from a normal course of business, the engineer record is responsible for the design construction inspection and certifying that measures are put into place per design and should function correctly, he stated outside of that he is unsure of any other guarantees other than operation and maintenance requirement also requires that as designed it is then in perpetuity being maintained to make sure there are not significant failures with the overall operation long-term. Mr. Baird stated until it's to a certification point, the engineering department does require bonds, but they cannot be held into perpetuity once a certification is received stating it is designed, constructed, implementing, and operating. When certifications are received, those bonds are released. Attorney Cauley stated one of the conditions requires entering a stormwater control O&M agreement, that agreement would contain the terms Council Member Sims is referring to, in that it would require the structure to be maintained in a manner that it functions properly. If that is not done, the town has a recourse to do the work and recover the costs.

Council Member Archer stated as she looks at this plan, she sees a lot of improvements but at this time she cannot approve that much disturbance of

steep slopes. Mayor Pro Tem Thompson stated he thinks the developers have really been working hard to address the issues and he feels like we are gaining ground and working towards this goal. He agrees with Council Member Archer that it may do a disservice to both sides to make a decision tonight.

ACTION:

MOVER: Council Member Archer moved to table this item until the next meeting which will be on June 6, 2022.

SECONDER: Mayor Pro Tem Thompson

VOTE: Unanimous

8. NEW BUSINESS

- a. Resolution to Award Construction Contract for the City Road Improvement (Utilities) Project

Presenter: Patrick Paine, PE; Project Manager

Mr. Paine stated the town received bids from three (3) different contractors on April 28, 2022. Mohammad Construction was the apparent low bidder at bid opening, after further research Mohammad was found to be nonresponsive as well as having several errors in the bid. T.A. Loving Company was the next lowest bidder at \$1,005,500.50. The City Road Improvements Project will abandon the City Rd wastewater pump station and convey sewage to the Parkview subdivision sewer line and eventually to the Sam's Branch Outfall and install a 10" water main up City Road from Stallings Road to Humboldt Road.

ACTION:

MOVER: Mayor Pro Tem Thompson moved to approve the Contract for the City Road Improvement Project.

SECONDER: Council Member Sims

VOTE: Unanimous

- b. Resolution to Award Construction Contract for the Potable Ground Storage Tank at Fire Station 2 Project

Presenter: Patrick Paine, PE - Project Manager

Mr. Paine stated the town received bids from five (5) different contractors on May 5, 2022, with the low bidder, Eberhart Construction Inc. The bid came in at \$707,051.00. The Potable Ground Water Tank at Fire Station 2 Project will install the piping and plumbing along with the pumps for the ground water tank already installed.

ACTION:

MOVER: Council Member Everett moved to approved Award Construction Contract for the Potable Ground Storage Tank at Fire Station 2 Project.

SECONDER: Mayor Pro Tem Thompson

VOTE: Unanimous

- c. Selection of a Consultant Firm for the Town Manager Recruitment

Presenter: Jody McLeod, Mayor

ACTION:

MOVER: Council Member Archer moved to table this item until the next meeting which will be on June 6, 2022.

SECONDER: Council Member Casey

VOTE: Unanimous

9. STAFF REPORTS

a. Town Manager

Mr. Cappola provided an update on the Wastewater Reclamation Facility. He stated the price has been received from the Design Build firm, the initial offer is unacceptable and currently under negotiation. He will provide an update when there is a recommended path.

He shared today makes one year he has been Interim Town Manager. He thanked Council for being patient with him.

b. Town Attorney

No Report.

c. Town Clerk

No Report.

d. Other Staff

No Report.

10. OTHER BUSINESS

a. Informal Discussion & Public Comment

- Individuals have 3 minutes to address the Town Council.
- Groups will designate a spokesperson. Spokesperson will have 5 minutes to address the Town Council.

David Cawthorn, 3109 Horseshoe Lane pointed out inconsistencies in what the developer has provided. He discussed these consistencies. He spoke on the steep slope erosion issue.

Robert Chavis, Tuscarora Nation member, asked has anyone walked this site yet? He stated the land is steeper than a 45-degree angle. The slope goes down to a natural large stream and two other smaller streams.

Mr. Brown 3112 Horseshoe Lane, talked about retention pond. He stated a wall collapsed and they put a pipe in, he doesn't want to see the same thing happened as it did in this other neighborhood.

b. Council Comments

Council Member Sims commented on the Country Lane project and stated there has been a lot of passion put out, he has received a lot of communication from residents. He stated he does visit every property that comes to Council and puts the research and time in.

11. CLOSED SESSION

- a. Closed Session to discuss Economic Development Opportunity Pursuant to NCGS 143-318.11(a)(4) and Consult with the Town Attorney Pursuant to NCGS 143-318.11(a)(3)
Presenters: Rich Cappola, Interim Town Manager and Jim Cauley, Town Attorney

ACTION:

MOVER: Mayor Pro Tem Thompson moved to go into closed session at 8:02 p.m.

SECONDER: Council Member Casey

VOTE: Unanimous

ACTION:

MOVER: Mayor Pro Tem Thompson moved to return to open session at 8:48 p.m.

SECONDER: Council Member Casey

VOTE: Unanimous

12. ADJOURNMENT

- a. Motion to Adjourn

ACTION:

MOVER: Council Member Everett moved to adjourn at 8:49 p.m.

SECONDER: Council Member Casey

VOTE: Unanimous

Duly adopted this 21st day of June 2022, while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi Holland, NCCMC
Deputy Town Clerk