Town of Clayton
Regular Town Council Meeting Minutes
Monday, April 18, 2022 @ 6:00 PM
Council Chambers

COUNCIL PRESENT:
Mayor Jody 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
Interim Town Clerk Sherry Scoggins
Deputy Town Manager Dolores Gill
Interim Deputy Town Manager Lee Barbee
Finance Director Robert McKie
Communication Director Nathanael Shelton
Planning Director Ben Howell
Planner II Aaron Prichard
Customer Service Director Ann Game
Internal Technology Consultant Tommy Roy
Utilities Maint. Superintendent James Blalock
Parks & Recreation Director Scott Bernard
Electric System Superintendent Mack Keen
Electric Services Technician Ethan Poppe
Police Chief Greg Tart
Town Engineer Joshua Baird
Deputy Fire Chief Matt Sutphin

1 CALL TO ORDER

a) Pledge of Allegiance and Invocation

Mayor McLeod called the meeting to order at 6 p.m.

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

2 ADJUSTMENT OF THE AGENDA

a) Approval of the agenda as presented.

ACTION: Approval of the agenda as presented.

Motion: Mayor Pro Tem Thompson moved to approve the agenda as presented.
Second: 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) Acceptance of American Rescue Plan

- **Construction of Improvements to Little Creek Pump Station**

Presenter: **Robert McKie, Finance Director**

b) Resolution Supporting American Rescue Plan Act (ARPA) Study Grant Application

Presenter**: Joshua Baird, Engineering Director**

c) Resolution to Accept Streets into the Town of Clayton Street System for Maintenance - Ashcroft, Phase 4A & 4B

Presenter**: Jonathan Jacobs, Assistant Town Engineer**

d) Resolution to Accept Public Utilities into the Town of Clayton public Utility System for Maintenance - Ashcroft Phase 4A & 4B

Presenter**: Jonathan Jacobs, Assistant Town Engineer**

e) Resolution to Accept Streets into the Town of Clayton Street System for Maintenance - Riverwood Athletic Club (RWAC), Phase 1A - 1D

Presenter**: Jonathan Jacobs, Assistant Town Engineer**

ACTION: **Approval of the Consent Agenda as Presented.**

Motion: Council Member Everett moved to adopt the consent agenda as presented.
Second: Mayor Pro Tem Thompson
Vote: Unanimous

4 ADMINISTRATIVE ITEMS

No Administrative Items were presented.

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

a) Presentation of the 2021 Public Power Award of Excellence

Presenters: **Ann Game, Customer Service Supervisor and Roy Jones, Chief Executive Officer of ElectriCities of North Carolina presenting to the Customer Service, Internal Technology Consultant Tommy Roy and the Electric Department**

Customer Service Supervisor Ann Game provided an overview of the project that involved a number of departments. She introduced Chief Executive Officer of ElectriCities of North Carolina Roy Jones

Mr. Jones stated the Town of Clayton is one of 72 public power communities within North Carolina. He presented the Public Power Award for Excellence to the Town of Clayton.

b) Employee Introductions:

Presenter: James Blalock, Utilities Maintenance Superintendent

- Lance Thompson, Pump Technician

Presenter: Matt Lorion, Administration and Programs Superintendent and Scott Barnard, Parks & Recreation Director

- Jimmy Bradley, Parks Superintendent
- Joni Hubble-Zeneberg, Community Center Supervisor
- Evan Annese, Recreation Program Coordinator
- Sean Quigley, Recreation Program Coordinator

Presenter: Mack Keen, Electric System Superintendent

- Jairo Sanchez, Electric Line Tech 1; transferred from Public Works
- Sadarius Murphy, Electric Line Tech 1
- Logan Hart, Electric Line Tech 1

Employees were introduced to the Town Council.

c) National Lineman Appreciation Day Proclamation
Presenter: Mayor McLeod to the Electric Department

Mayor McLeod read the National Lineman Appreciation Day Proclamation into the record; attached to the minutes.

Mayor McLeod presented the proclamation to the Town of Clayton Electric Department.

d) Recognition of Electric Utility for Reliable Public Power Provider (RP3) Designation
Presenter: Ethan Poppe, Electric Services Technician and Mayor McLeod to present the plaque award to the Electric Department

Electric Services Technician Ethan Poppe provided an overview of the criteria for recognition as a Reliable Public Power Provider.

Mayor McLeod presented the Reliable Public Power Provider plaque to the Town of Clayton Electric Department.

6 PUBLIC HEARINGS

a) Ordinance Amendment 2022-51-OA Temporary Use for Public Facilities
Presenter: Aaron Prichard, Planner II

Planner II Aaron Prichard provided an overview of Ordinance Amendment 2022-51-OA for temporary use for public facilities to give the Town the flexibility. He stated the Loop Road site is proposed for soccer fields and the text amendment would allow use on the Town-owned property. He stated the proposal is to regulate through staff-level approved permit for a one-year period. The Planning Board reviewed the text amendment and recommended approval of 7 to 2 with a caveat of one permit renewal. The Planning Board also requested the Town Council consider the impacts of treating private development from public owned property. He stated a consistency statement is included in the agenda packet for the Council's consideration. He clarified the text amendment request is for PF zoning only.

Mayor McLeod opened the public hearing at 6:25 p.m. As no one came forward to speak, Mayor McLeod closed the public hearing.

Council Member Archer agreed with the Planning Board for a time limitation for requests. She saw in the agenda for up to two staff renewals for a request for up to three years. If it's beyond three years that the Town is facing, then the Council could review and amend the ordinance if needed. She likes the flexibility to renew. She stated there is a need for this type of ordinance for Town-owned lands as a municipality is not like a corporation.

Planner II Prichard stated staff would review this item further with the Unified Development Code update project.

Council Member Casey stated the Town is growing at a rapid pace. He concurs with the three year window. He would be in favor of the renewal coming back to the Council instead of the Planning Department. He stated these are temporary structures and when removed that the property be put back as it was originally.

Mayor McLeod stated he is concerned that this is one way for the Town and one-way for everyone else.

ACTION: Approve, Deny or Send Back to the Planning Board for Additional Consideration.

Motion: Council Member Archer moved to approve Ordinance Amendment 2022-51-OA with the following conditions: (1) maximum time period of three years (2) come back to Council for renewal and (3) that when no longer used the property returned to its original condition
Second: Mayor Pro Tem Thompson
Vote: Unanimous

b) Ordinance Amendment 2022-52-OA Electronic Gaming Operations Text Amendment
Presenter: Ben Howell, Planning Director

Planning Director Ben Howell provided an overview of Ordinance Amendment 2022-52-OA for Electronic Gaming Operations. He stated this prohibits electronic gaming operations within the Town planning jurisdiction as well as define electronic gaming operations. If the ordinance amendment is approved, Council is requested to adopt the consistency statement that is included in the agenda packet.

Mayor McLeod opened the public hearing at 6:36 p.m. As no one came forward to speak, Mayor McLeod closed the public hearing.

<u>ACTION:</u> **Approve, Deny or Send Back to the Planning Board for Additional Consideration.**

Motion: Council Member Casey moved to approve Ordinance Amendment 2022-52-OA as presented.
Second: Council Member Sims
Vote: Unanimous

c) Clayton Transportation Plan
***Presenter*: Ben Howell, Planning Director**

Planning Director Ben Howell stated the purpose of the resolution is to designate existing adopted transportation plans for use. He stated the Unified Development Code, UDC, makes mention of a transportation plan.

Mayor Pro Tem Thompson opened the public hearing at 6:38 p.m. As no one came forward to speak, Mayor Pro Tem Thompson closed the public hearing.

Council Member Archer stated the UDC specifically references a transportation plan. The UDC also states that it is the responsibility of the applicant or someone proposing development to take future roadways of the Town and NCDOT into account. The resolution is an attempt to put the plans together in a way to help the Town get to where it needs to be.

Planning Director Howell stated the Town has been using the Johnston County Transportation.

Council Member Archer stated she is ok with the Johnston County Transportation document referenced in the resolution as it is used by the Town. She is ok with the map being in the resolution. She questioned the bicycle plan due to its age. She added the pedestrian plan is included and would be available for use this summer.

Mayor Pro Tem Thompson stated whatever we adopt, he wants it to be clear for the end-user.

Council Member Sims stated he would like to see one easy plan.

Planning Director Howell stated staff can work toward one document for the development community.

Council Member Casey questioned the time frame for a Town transportation plan.

Planning Director Howell stated a transportation plan can take between 18 and 24 months from start to finish.

Council Member Casey questioned when transportation discussed.

Planning Director Howell stated transportation is discussed during the pre-application meeting.

Council Member Casey stated he looked at the Pedestrian Plan and noticed bicycle elements.

Planning Director Howell stated there are recommended shared use paths that can accommodate both bicyclists and pedestrians.

Council Member Archer stated her concern is the bicycle plan due to its date.

Mayor Pro Tem Thompson questioned what happens when plans are in conflict.

Planning Director Howell stated the 2045 map would be the first document. If it is an NCDOT roadway, there would be discussions between NCDOT and the Town.

ACTION: Approval of the Clayton Transportation Plan.

Motion: Council Member Everett moved to approve the resolution with the exclusion of the bicycle plan.
Second: Council Member Archer
Vote: Unanimous

d) 2022-16-SUP - Cerberus Gaming *(Quasi-Judicial)*
Presenter: Aaron Prichard, Planner II

At the April 4, 2022, Council meeting, Planner II Aaron Prichard stated the applicant requested this item be opened and continued to the Monday, April 18, 2022, Town Council meeting.

At the April 4, 2022, Council meeting, Mayor McLeod opened the public hearing at 6:32 p.m. Council voted to continue the evidentiary hearing to the April 18, 2022, Council meeting.

Town Attorney Jim Cauley provided an overview of the procedures followed by the Town Council during an evidentiary hearing. The Town Council sits like a court of law, Council receives sworn testimony from persons and the Council must make findings of fact from the provided testimony.

Town Clerk Sherry Scoggins administered the oath to the following persons: Hunter Diefes, Allen Tew, Caleb Vigil, Christian Felan, Tyler Bataan, Aaron Prichard and Rich Cappola.

Planner II Aaron Prichard provided a staff report on Special Use Permit 2022-16-SUP for Cerberus Gaming.

Council Casey the questioned where is the entrance. Planner II Prichard stated there is an entrance on Main Street.

Council Member Sims questioned is there an age range. Planner II Prichard stated he did not see one in the application.

Hunter Diefes stated he works for the land owner and applicant. He stated the proprietors are in attendance. He stated this is a youth-oriented after school program. The business is 2,600 square feet with an occupancy between 20 and 25 persons. Headphones would be required for games with audio.

Council Member Sims questioned how the number of persons would be controlled when at capacity. Mr. Diefes stated there would be signage and staff on site.

Council Member Sims questioned if there is a cost and the amount of time a person may be on the game. Mr. Diefes stated there will be employees on hand to monitor what is happening in the business.

Mr. Allen Tew spoke in opposition to the request. He stated this is not an adult oriented business with hours of operation from 12 p.m. to 10 p.m. A concern is the controls for the persons in the business and monitoring of language. He added the restaurants below sell alcohol. He added the games have aggressive features and leads to problems. He requested the application be denied.

Mr. Diefes stated that is not a daycare or child care center. The number of staff present is an operations procedure. The goal is to not disrupt neighbors.

Mr. Tew stated the first criteria pertains to public health and safety with children exposed to persons coming in and out of the business who are under the influence of alcohol. He added alcohol has the potential for conflict. He questioned if this is sound use planning. He stated this is mixing the proximity of children to alcohol. He stated it is a detriment to other properties. This sets a precedent of the policies of the Town and has an adverse impact.

Christian Felan stated he is a teacher at Corinth Holders and Triple S High Schools. His students hang out in the parking lot of Harris Teeter because there is no where to go. He noticed one of the games is Mario Cart which is driving. He supports this request as a place for kids to go.

Tyler Bataan spoke in support of the request. He added he would be an employee of Cerebus Gaming and this would be a place for teens to hang out.

Mayor McLeod called the Council into deliberation at 7:43 p.m.

Council Member Casey noted the site has two entrances.

Council Member Sims stated he is pro-gaming. He questioned the demographics for 7 a.m. to 2 p.m. Monday through Friday.

Mayor McLeod questioned if Council may limit age and hours.

Town Attorney Cauley stated yes for the use of property. Conditions proposed would have to be accepted or rejected by the applicant.

Council Member Archer stated the findings of fact are available on the Town's website. She read the findings of fact and believes the applicant meets the criteria.

Mayor Pro Tem Thompson concurs with Council Member Archer. He stated the Council is weighing its decision on the evidence presented.

ACTION: Approve, Deny, or Send Back to the Technical Review Committee for Additional Consideration.

Motion: Council Member Archer moved to approve 2022-16-SUP with the conditions noted in the staff report.
Second: Mayor Pro Tem Thompson
Vote: Unanimous

7 OLD BUSINESS

a) Clayton Clovers Agreement
Presenter: Scott Bernard, Director of Parks and Recreation

Director of Parks and Recreation Scott Bernard provided an overview of the agreement. Opening day is May 30 and the season wraps up end of July as the players return to school.

Town Attorney Cauley stated this is a joint use agreement instead of a lease agreement.

ACTION: Adoption of Agreement

Motion: Mayor Pro Tem Thompson moved to approve the agreement with the Clayton Clovers.
Second: Council Member Archer
Vote: Unanimous

b) Review of Request for Proposal (RFP) for Old Town Hall
Presenters: Rich Cappola, Town Manager and Jim Cauley, Town Attorney

Interim Town Manager Rich Cappola stated this is a follow up from the April 4 work session meeting. The Request for Proposal, RFP, was drafted by the Town Attorney and reviewed by several staff members.

Council Member Archer stated the RFP seems detailed.

Council Member Casey stated the introduction and history hit home. He would like to treat the RFP as a resume. He would like to see this space as a destination. He would like to see the financial section moved to the due diligence section.

Mayor Pro Tem Thompson stated he wants the building to remain with the Town. He added he does not have a problem with the RFP.

Town Attorney Cauley stated the Town is requesting persons to make a proposal. Developers submitting a proposal would do so with some concept of the cost of the proposal.

Mayor McLeod stated with the rising costs, he sees a private - public partnership for this project.

Council Member Archer stated number five may deter some applicants. She stated it is general enough that interested persons can address.

ACTION: Adoption of the Request for Proposal (RFP)

Motion: Council Member Archer moved to accept the Request for Proposal for old town hall.
Second: Council Member Sims
Vote: Unanimous

8 NEW BUSINESS

No New Business was presented.

9 STAFF REPORTS

a) Town Manager

Interim Town Manager Rich Cappola provided an update on the Capital Improvements Project (CIP) impacts and planning. Due to rising costs and delayed scheduling, the town may have to delay or scale back projects.

b) Town Attorney

No report.

c) Town Clerk

No report.

d) Other Staff

Planning Director Ben Howell stated staff has been working with the developer for the Meadowview buffer.

Trevor Dalton of Dan Ryan Builders stated the buffer line caused a concern with the neighbors in the adjoining neighborhood. He has gone on site and there is a class A 10 foot buffer. There is about five extra feet in which to plant additional shrubs so the neighbors are not looking at the back of the town homes.

Council expressed appreciation to the developer for working with the existing neighborhood.

Mr. Dalton stated said as soon as the alley is paved, the next step is plantings in the buffer line. He added there will not be fencing, just landscaping.

Planning Director Ben Howell provided an overview of the Unified Development Code:

- Project name: "Codify Clayton"
- Currently in the initiation phase through the end of this month
- May through July the consultant will prepare a diagnosis report
- October the consultant will present an annotated outline
- October the consultant to discuss the annotated outline
- Continue drafting through next spring
- First meeting of the steering committee is slated for May 23
- At the June 27 meeting, the steering committee will review and comment on the diagnosis report
- In September the steering committee will review the annotated outline
- Two Open Houses will be held
    - June 28
    - September 29
    - Both Open Houses will be in the Council Chambers
    - Morning Session - 11:30 a.m. to 1:30 p.m.
    - Afternoon Session - 4:30 p.m. to 7:30 p.m.
    - Following each open house will be a two week public comment period
- Will schedule stakeholder meetings with the Council members over the next two to three weeks

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.

The following persons addressed the Council:

- Timpla Stewart and Ashley Graham of the GFWC Clayton Junior Woman's Club shared information about the club. Council is invited to a fund raiser on Saturday, April 24 from 5 p.m. to 9 p.m. at Revival called Cocktails and Culprit. Ticket are $45 each. This is an interactive murder mystery event. A portion of the proceeds will be shared with Harbor Inc.

- **Mike Starks of Bent Branch Loop stated he called Thursday and left a message about the construction beside the post office. He received call today and thanked staff for the follow up.**

b) Council Comments

Council Member Archer stated at the March 7 meeting Council received an update on the Unified Development Code, UDC, process. Council briefly discussed options for a steering committee. The steering committee will consist of the Planning Board and the following four members of the Board of Adjustment: Jim Perricone, Marty Bizzell, Thomas Antoine, and Rebecca Berry. Meetings will be scheduled during the Planning Board meetings.

11 ADJOURNMENT

a) Adjournment

Motion: Mayor Pro Tem Thompson moved to adjourn at 8:40 p.m.
Second: Council Member Everett
Vote: Unanimous

Jody L. McLeod
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Interim Town Clerk