Town of Clayton
Regular Town Council Meeting Minutes
Monday, February 1, 2021 @ 6:00 PM
Council Chambers

COUNCIL PRESENT:
Mayor McLeod
Mayor Pro Tem Thompson
Council Member Holder
Council Member Grannis
Council Member Bunn
Council Member Everett

STAFF PRESENT:
JD Solomon, Town Manager
Rich Cappola, D/Town Manager
Jim Cauley, Town Attorney
Francis Rasberry, Town Attorney
Kimberly Moffett, Town Clerk
Heidi Holland, Deputy Town Clerk
Samantha Wullenwaber, Planning Director
Matt Sutphin, Deputy Chief Fire Operations

COUNCIL ABSENT:

1 **CALL TO ORDER**
Pledge of Allegiance and Invocation

a) Mayor McLeod called the meeting to order at 6:00 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 **ADJUSTMENT OF THE AGENDA**

a) Addition of Item under Consent

It was requested that a Resolution for Hazard Mitigation Plan be placed on the Consent Agenda.

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) DRAFT Minutes
- December 21, 2020 - Closed Session
- January 4, 2021 - Regular Session

b) Warranty Acceptance
- Academy Point, Phase 4

c) Student Art Month Proclamation

d) Recognition of 150th Anniversary of First Missionary Baptist Church

e) 2020-142- ANX - Resolution Directing Clerk to Certify Sufficiency

f) Resolution Adopting Hazard Mitigation Plan

ACTION: Adoption of Consent Agenda as Presented

Motion: Mayor Pro Tem Thompson
Second: Council Member Everett
Vote: Unanimous

4 ADMINISTRATIVE ITEMS

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

a) Development Agreements Informational Update
Presenters: Chad Essick, Poyner Spruill & Russell Kileen, Parker Poe

Mr. Solomon stated there were two large development agreements that would come before council in the next couple months. In preparation for these, an informational update regarding Development Agreements was presented by both Poyner Spruill and Parker Poe Law Firms. Mr. Kileen discussed; when to avoid a Developers Agreement, goals for both the Town and the Developer and proper procedures. Mr. Kileen stated best practice is always to take the time needed to get the agreement right.

Mr. Essick presented and shared information regarding the nuts and bolts of the statutory requirements with regard to a Developer Agreement which include: legal description, term (usually length of full project), uses, public facilities, reservation/dedication of land, conditions, terms, restrictions, historic structures (if they need to relocated etc. all details would be outlined in the agreement), breach and cure and finally, development schedule.

Optional provisions include: commencement/competition deadlines, performance standards with annual reviews, impact mitigation features, financing conditions and cost-sharing agreements.

Discussed were Exhibits & Attachments to include:
•Referenced code/ordinances
•Site map(s)
•Deeds/legal descriptions
•Street networks
•Typical road sections
•Bike and pedestrian facility plans
•Traffic Impact Analysis (TIA)
•Environmental assessments
•Development application/permit forms
•Master plans
•Design guidelines
•Ancillary agreements

Prohibited Provisions:

•Taxes/impact fees (unless otherwise authorized)
•Added regulatory authority
•Developer commitments (unless otherwise authorized)
•Building/housing code exemptions (unless otherwise authorized)
•Zoning uses not currently allowed in ordinance.

Council Member Grannis asked Mr. Kileen if he could elaborate about innovative approaches and town ordinances. Mr. Kileen stated this has the effect of an ordinance, if the ordinance has a specific standard, you may have the ability to impose something different from ordinance as part of it. This gives the flexibility if the ordinance doesn't specifically meet the requirements. Council Member Grannis also asked about density bonus/flexibility. Mr. Killen provided an example on this subject.

Mr. Solomon shared information with reference to shared right of ways and roadways, access, etc., He discussed phasing and infrastructure might be included in upcoming development agreements.

Mayor McLeod offered his thanks for the updated information and stated there are so many changes that this was a great refresher.

6 PUBLIC HEARINGS

a) 2020-113-PDD - Ashcroft 2
Presenter: Planning Department

Ms. Wullenwaber was present and asked that this item be continued to the February 15, 2021 council meeting.

Mr. Solomon stated there were several reasons to include both the hearing presentation and the development agreement. He stated the planner previously working on this project had resigned and would be going to work for the developer. He stated he did not believe there were any conflicts but wanted to ensure there was time to absorb this project and allow for time if council had any follow up questions for the attorneys.

ACTION: Continued to February 15, 2021 Council Meeting

Motion: Mayor Pro Tem Thompson
Second: Council Member Everett
Vote: Unanimous

b) 2020-114-SD - Ashcroft 2
Presenter: Planning Department

ACTION: Continued to February 15, 2021 Council Meeting

Motion: Mayor Pro Tem Thompson
Second: Council Member Everett
Vote: Unanimous

c) Development Agreement - Ashcroft 2
Presenter: Planning Department

ACTION: Continued to February 15, 2021 Council Meeting

Motion: Mayor Pro Tem Thompson
Second: Council Member Everett
Vote: Unanimous

d) 2021-07-OA - Chapter 160D
Presenter: Planning Department

Mr. Solomon stated that some additional time would be needed for this item.

He stated he would like to include discussion regarding the re-establishment of the Board of Adjustment. He also stated he wanted council to have a clear understanding of items that are required and those that are optional in 160D. Finally, there would also be discussion regarding waiver versus variance.

After tonight Mr. Solomon would like I to make a list of changes and modifications that would be brought to council at a future meeting. He stated he would be asking for a special meeting to discuss these changes as there is quite a bit of discussion that needed to take place.

It was discussed with staff whether his would need to go back to Planning Board, Mr. Solomon did not believe it would need to go back to the Planning Board.

A consultant was present and provided a summary of the presentation regarding 160D. He stated this is mandatory in the State with a deadline for compliance July 1, 2021. This is a consolidation of both county and municipality regulations.

He stated these changes create three buckets, administrative process (staff), legislative (policy driven) and quasi-judicial (based on evidence). He shared slides on additional changes on this item.

Council Member Bunn stated he was concerned about the Planning Board and the need to re-establish Board of Adjustment. He felt strongly we needed to allow for a different board to hear appeal process.

Council Member Grannis offered thanks to Ms. Wullenwaber for all the work that had gone into this project. He stated he understood there was a good portion that was mandated. One of his concerns was related to ordinance changes and what they meant. He stated he did meet with Ms. Wullenwaber today and following that meeting had a better understanding. He was concerned about some of the verbiage and was looking forward to receiving a line item change and felt that was necessary. He also stated he didn't feel any need to rush this and added we needed to re-evaluate the establishment of the Board of Adjustment as a standalone board.

ACTION: Re-Establish the Board of Adjustment & Guidelines

Motion: Council Member Holder
Second: Council Member Bunn
Vote: Unanimous

Council Member Bunn stated he would also like to see amendments included it that were not mandated by 160D. Council Member Grannis agreed this would be beneficial for everyone.

ACTION: Continued to February 15, 2021 Council Meeting w/possibility of holding a Special Meeting.

Motion: Council Member Bunn
Second: Council Member Grannis
Vote: Unanimous

e) Update to Comprehensive List of Fees & Charges - Planning Dept.
Presenter: Samantha Wullenwaber, Planning Director

ACTION: Continued to February 15, 2021Motion: Council Member Holder
Second: Council Member Grannis
Vote: Unanimous

7 OLD BUSINESS

a) Creation of Position of Assistant Town Engineer
Presenter: Rich Cappola, Deputy Town Manager

Mr. Cappola was present and stated this item was previously discussed during budget conversations. Based on upcoming projects, he would like to fill this position at this time.

ACTION: Approval of Position Creation

Motion: Council Member Grannis
Second: Council Member Holder
Vote: Unanimous

b) **Wastewater Allocation Update**
Presenter: Rich Cappola, Deputy Town Manager

Mr. Cappola provided an update regarding Wastewater Allocation. He stated we are down about 100,000 gallons from the last report in July 2020. Currently we have approximately 600,000 gallons per day of allocation available.

He discussed upcoming large developments and stated we have been looking at their demands and phasing process and making sure we are only allocating what they need based on phasing rather than all upfront.

Council Member Bunn asked if rain affects numbers. Mr. Cappola stated it could increase it by 10-20% based on amount of rainfall. One or two months of heavy rainfall would not skew overall numbers.

Council Member Grannis asked if any approved developments have gone beyond any statute of limitations as far as wastewater commitments. Mr. Cappola stated none lately have gone beyond their vested rights at this time.

c) **Wastewater Reclamation Facility Program Update**
Presenter: JD Solomon, Town Manager

Mr. Solomon provided an update and presented a PowerPoint. He discussed facts about Clayton's geographic location and went into detail on the RTZ (Research & Training Zone). The town is responsible for providing water, wastewater, planning, building inspections, and other support services. The RTZ provides challenges to water and sewer infrastructure. The legislation (enabled in 2003), protects the RTZ from annexation by the town. Companies in the RTZ are great partners with the town and two companies, Grifols and Novo Nordisk, both have invested over $2B in each of their campuses. Grifols and Novo make up about 30% of our wastewater flows and in the next 10 years it's estimated they could take up to 50%.

He discussed information he shared with the LGC regarding COVID tragedies at the Fire Department and issues at the Police Department. He also shared facts about the town; sales tax revenues are up 15%-20% over the last year, potable water use is up 5% to 15% over the last year, wastewater capacity allocations are dwindling, bulky waste is up 15% to 20% over the last year, building permits and inspections are up over the last year, industrial base continues to grow, Project Goodwill and Project Life Dust, NC 42 and Ranch Road widening, 3 major mixed-use developments are on schedule, and in-fill development is booming.

He also discussed updated water and wastewater projections, aggressive utility collections which started in September 2020, General Fund CIP forecasts have been updated, and the detailed mid-review of the current budget. Finally he discussed the plan to minimize cost to rate payers.

Council offered their thanks for the presentation and update.

8 NEW BUSINESS

a) Special Rescue Operations Partnership with Archer Lodge Fire Department and Cleveland Fire Department
Presenter: Deputy Chief Matthew Sutphin, Fire Department

Deputy Chief Sutphin provided information regarding a potential partnership for a Special Rescue Operation with both Archer Lodge and Cleveland Fire Departments. This large team could provide better services to everyone. Right now a ground phase committee has been set up and includes members from each department. He stated he would like to get council approval to move forward. This could open up possibilities for future training the department may not normally have access to and may also create possibilities for funding. A future goal would be to be a part of the State Rescue Operations. He stated as they move forward they would bring back additional information.

Mayor Pro Tem Thompson stated he believed regionalization is very important and serves everyone in the best possible way. He further stated it is also being a good steward of tax payer money with ability to combine resources and equipment.

Council Member Grannis stated he believed this was a great idea and a great benefit to everyone.

9 STAFF REPORTS

a) Town Manager

Mr. Solomon discussed the issue regarding a man hole on Main Street. He gave recognition to the following staff from Public Works for their work on this project; Steven Norris, Christian Holder, Brandon Carroll, Donnie Baker, and James Blalock, Perez Sanchez, Chris Snead, Rusty Clawson with his crew, Robbie Russell, Mark Brannen, Russell Yolland, Ray Rhode, Joey Faison and Kenny Hales. Personnel from the Police Department included; Tim Marquis and Tim Mims. He stated James Blalock made the statement, "different uniform but, one team".

Council Member asked what the plan was to correct this man hole. Mr. Solomon spoke about the issue and stated it is a 100 year old system and runs 600' down the hill. He stated most modern manholes are 400' apart. He stated we will have to install a new man hole. This is still being studied for best fix/repair. Several options will be brought back to council at a future meeting.

He thanked Matt Sutphin and Lee Barbee for their work on hiring the new Emergency Response Coordinator. He stated Acting Police Chief Greg Tart is making good progress at the Police Department.

He discussed the Sculpture Trail selections and stated there are really great sculptures that were selected for this year.

Council Member Holder questioned the steel plate on Front Street and asked how long will that would be there. Mr. Solomon stated he would report back. Mr. Cappola stated more of an in-depth repair is required for that issue.

b) Town Attorney

Mr. Cauley stated referring back to 160D, which is one of several very large projects underway. He stated Mr. Rasberry would be working with staff more on this project.

He discussed other projects they have been working on such as development projects, property acquisitions, Police Department investigation, wastewater reclamation project, real estate, easements, financing and contracts, He stated Clayton is on a fast moving train. He stated he really appreciated the warm welcome and getting to know staff. Mr. Solomon stated currently 5 out of 7 of the firm's staff are on board with the town's projects.

c) Town Clerk

d) Other Staff

10 OTHER BUSINESS

a) Informal Discussion & Public Comment

b) Council Comments

Council Member Bunn spoke about nuisance issues in ETJ.

Council Member Everett provided details about sculpture selection. The Public Art Advisory Board will present the 2021 Sculpture Trail selections at the February 15, 2021 council meeting.

11 ADJOURNMENT

a) Adjourn the Meeting

With there being nothing further, the meeting was adjourned at 7:25 p.m.

ACTION: Motion to Adjourn

Motion: Council Member Bunn
Second: Council Member Everett
Vote: Unanimous

Duly adopted this the 1st day of March, 2021 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

TOWN OF CLAYTON
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CLAYTON, N.C.