



Town of Clayton
Regular Town Council Meeting Minutes
Wednesday, February 10, 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
Kimberly Moffett, Town Clerk
Joshua Baird, Town Engineer
Samantha Wullenwaber, Planning Director
Cathy Marraccini, Public Information Officer
Jim Cauley, Town Attorney
Francis Rasberry, Town Attorney
Heidi Holland, Deputy Town Clerk

COUNCIL ABSENT:

1 CALL TO ORDER

Pledge of Allegiance and Invocation

- a) Mayor McLeod called the meeting to order at 6:03 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 ADJUSTMENT OF THE AGENDA

3 OLD BUSINESS

- a) Chapter 160D
Presenters: JD Solomon, Town Manager & Chad Sary and Jay McLeod, Stewart Engineering

This item is slated for a Public Hearing at the February 15, 2021 Clayton Town Council meeting.

Mr. Solomon provided an overview of the need for 160D. He explained several options available and stated we chose to do a hybrid version rather than just 160D or rewriting the entire ordinance. He shared the percentage breakdown regarding the types of items that were suggested for amendment. He stated the Planning Board reviewed the draft and there were no questions. When this item went to council there were several questions and additional time was required for staff and council to review. He stated we do have until July to get this adopted. He stated it was hoped that after the workshop this evening that staff would have an updated version to council by Friday and then be able to have this item on the agenda for February 15, 2021. Mr. Solomon stated it is possible that we will need to revisit some sections again in 6 months.

Mr. Solomon went over each of the following Articles 1, 2, 3, 4, 5, 6, & 7 and addressed the proposed changes.

Attorney Rasberry stated both he and Attorney Cauley went over all the

documents and shared their opinions regarding items that were of concern. He stated the 160D revisions were generally driven by residents and developers to make decisions clearer and more predictable as well as allowing for a more defined process. He shared details regarding requirement for quasi-judicial proceeding for decisions where standards are required to be met. It is the opinion the town attorney that the municipality should not have waivers. He stated that with reference to access points this is the one place that a waiver could be used, though it would be preferred to use a modification or deviation. There was discussion regarding quasi-judicial proceedings and it is possible that the town may need to have experts to represent the town should we not have an expert on staff. This would mean additional cost to the town.

Council Member Grannis confirmed his understanding regarding waivers. He asked if there was a state statute banning waivers. Mr. Solomon stated no there was not but rather case law. Council Member Grannis confirmed that when waivers were approved for access points last year that was probably not the most appropriate decision. Stated changes to now include Board of Adjustment rather than Planning Board serving as the Board of Adjustment. Discussed change to Article 3 Section B2 and decisions of Planning Director and appeals. There was brief discussion regarding outdoor dining and outdoor dining in public right of way. Attorney Rasberry stated the town has inherent power over town property and public right of way. Mr. Solomon stated he felt decision needed to remain with the town.

Discussion took place regarding 155.400 (E) Access to Residential Subdivisions and use of the word waiver. Council Member Grannis stated he felt it could not be a waiver but perhaps Conditional Use, however deferred to counsel on appropriate usage. He questioned whether Conditional Use would come before council. Mr. Solomon stated there was previous lengthy discussion and Attorney Rasberry stated there were several ways to accomplish this; including Conditional Use Permit. Attorney Cauley reminded that quasi-judicial proceedings are very different from legislative hearings. He stated his personal preference is that all quasi-judicial items are sent to the Board of Adjustment. Mayor stated he felt the council was very educated on quasi-judicial proceedings, however, he also understood that future councils may not be as well educated on the process or as comfortable at "taking off their legislative hat and putting on their quasi-judicial hat". Next item discussed was cross access connections and removal of stubbed "to the property line". There was discussion regarding on-street parking and that it may count toward meeting off-street requirements. Some language regarding shared parking was added to allow the planning director to authorize up to 20% reduction in parking spaces. Also discussed removal of language in 155.403 regarding high quality sign type. Council Member Grannis stated he had concerns about paragraph addressing copy may change once every 6 minutes. Mayor McLeod shared his recollection regarding why decision was made regarding this issue approximately a year ago. After brief discussion it was agreed by all to leave as is. Ms. Wullenwaber stated she would like to see a percentage assigned to Planning Director discretion regarding signage.

Council took a brief break at 7:25 p.m. and returned at 7:32 p.m.

There was discussion regarding curb and gutter and changes to this can only be approved via Master Plan.

There was discussion regarding Article 7 and the re-establishment of the Board of Adjustment, modified membership of the Technical Review Committee, Table 7.1, minor and major medication approval, waivers, modification to approval of Special Use Permits as well as minor and substantial deviations.

Mr. Solomon thanked staff for all the dedication and hard work that went into this project.

There were no questions. Mr. Solomon stated it would be plan to get this item added to the February 15 agenda unless it was desire of council to push this off to the March 1, 2021 meeting. It was consensus of council to have this on the February 15, 2021 council agenda.

4 CLOSED SESSION

- a) Closed Session Pursuant to NCGS 143-318.11.(a)(6)

ACTION: Motion to Go Into Closed Session at 7:53 p.m.

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

5 ADJOURNMENT

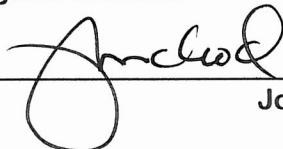
- a) Adjourn the Meeting

With there being nothing further, the meeting was adjourned at 8:55 p.m.

ACTION: Motion to Adjourn

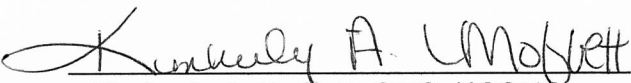
Motion: Council Member Bunn
Second: Council Member Everett
Vote: Unanimous

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

