

**The Town of Clayton
Regular Town Council Meeting Minutes
Monday, October 2, 2017 @ 6:30 PM
Council Chambers**

COUNCIL PRESENT:

Mayor Pro Tem Grannis
Council Member Satterfield
Council Member Lawter
Council Member Holder
Council Member Thompson

STAFF PRESENT:

Adam Lindsay, Town Manager
Nancy Medlin, Deputy Town Manager
Katherine Ross, Town Attorney
Kimberly Moffett, Town Clerk
David DeYoung, Planning Director
Jay McLeod, Senior Planner
Tim Simpson, Public Works Director
Rich Cappola, Town Engineer & Inspections
Director
Larry Bailey, Parks & Recreation Director
Lee Barbee, Fire Chief
Stacy Beard, Public Information Officer
John Hamlin, A/Public Information Officer

COUNCIL ABSENT:

Mayor McLeod

1 CALL TO ORDER

Pledge of Allegiance and Invocation

- a) Mayor Pro Tem Grannis called the meeting to order at 6:32 p.m. He asked everyone to join in a moment of silence to honor the lives lost in the mass shooting in Las Vegas. Following the moment of silence, he led everyone in the Pledge of Allegiance and offered the Invocation.

2 ADJUSTMENT OF THE AGENDA

- a) Addition of Closed Session

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
- September 5, 2017 - Regular
 - September 5, 2017 - Closed
- b) Warranty Acceptance
- Stallings Mill Apartments
 - RWAC Ravens Ridge 8D
 - RWAC Ravens Ridge 8D (Asphalt Pavement)

- Parkview Subdivision Phase 2A
 - Parkview Subdivision Phases 2B, 3, 5 & 7
 - Chandlers Ridge (Old Lyndale) Subdivision Phases 1 & 2 (Asphalt Pavement)
 - Chandlers Ridge (Old Lyndale) Subdivision Phases 2 & 3
- c) Recommendation for Appointment to the Clayton Planning Board
- d) Budget Amendment
- Ordinance 2017-10-01 Drug Seizure
 - Ordinance 2017-10-02 Water Barricades
- e) Water & Sewer Capacity Rate Changes - Ordinance #2017-10-03
- f) 2018 Holiday Schedule - Resolution #2017-28
- g) Proclamation - 2017 Constitution Week
- h) 2018 Town Council Meeting Schedule - Resolution #2017-29

ACTION: Adoption of Consent Agenda as Presented

Motion: Council Member Thompson
 Second: Council Member Lawter
 Vote: Unanimous

4 INTRODUCTIONS AND SPECIAL PRESENTATIONS

5 PUBLIC HEARINGS

- a) 2017-115-RZ - 3049 Barber Mill Road
Presenter: Planning Department

Mayor Pro Tem Grannis noted this as a Public Hearing and the hearing was opened at 6:35 p.m.

Mr. McLeod provided information regarding this proposed rezoning located at 3049 Barber Mill Road. Applicant is requesting rezoning from Neighborhood Business (B-2) to Residential Estate (R-E).

The request is compatible with Surrounding Land Uses and is consistent with the 2040 Comprehensive Plan. The applicant has addressed the rezoning criteria. Planning Board and staff recommend approval of the rezoning.

Mayor Pro Tem Grannis opened the floor for anyone wishing to comment. With no one coming forward, the hearing was closed and the item was turned over to council for their deliberation.

ACTION: Adoption of Ordinance #2017-10-04

Motion: Council Member Lawter
 Second: Council Member Satterfield
 Vote: Unanimous

- b) 2017-130-RZ - Bannister Property
Presenter: Planning Department

Mayor Pro Tem Grannis noted this as a Public Hearing and the hearing was opened at 6:37 p.m.

Mr. McLeod provided information regarding this proposed rezoning of the Bannister property located at 623 Ramblewood Drive. Applicant is requesting rezoning from Residential Estate (R-E) and Industrial-Heavy Special Use District (I-2 SUD) to Industrial-Light Special Use District (I-1 SUD).

The request is compatible with Surrounding Land Uses and is consistent with the 2040 Comprehensive Plan. The applicant has addressed the rezoning criteria. Planning Board and staff recommend approval of the rezoning.

Mayor Pro Tem Grannis opened the floor for anyone wishing to comment. Mr. Donnie Adams came forward and stated he was representing the applicant and stated he was available for any questions.

With no one further coming forward, the hearing was closed at 6:39 p.m. and the item turned over to council for deliberation.

ACTION: Adoption of Ordinance #2017-10-05

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

- c) 2017-137-SUP - Lofts @ Old Town Hall
Presenter: Planning Department

This item was continued to November 6, 2017. Mr. DeYoung stated it was agreed by all parties that it would be best to continue this item to the November 6, 2017 meeting, at which time the parking agreement final details would be complete. Additionally, the developers' agreement will be provided. Both of these agreements will be included in the packet for the October 16, 2017 work session.

ACTION: Continue to November 6, 2017

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

- d) 2017-100-SD - Avery Farm Major Subdivision
Presenter: Planning Department

Mr. McLeod provided information regarding this project that will consist 20 single family residential lots located in the ETJ. Project is located off of Guy Road and west of the Inglewood Subdivision. 1.07 dwellings per acres. Water

will be provided by Johnston County, sewer will be provided by private septic tanks and electric provider will be Duke Energy. The streets are intended for dedication to NCDOT.

The project is compatible with Surrounding Land Uses, is consistent with the 2040 Comprehensive Plan and Unified Development Code. The applicant has addressed all Findings of Facts. Applicant has requested waivers. Planning Board and Staff recommend approval of both waivers regarding provision of curb and gutter and sidewalks.

Staff is recommending approval with conditions as listed in staff report with the following amendments:

Condition #1 will read as follows:

Following Board approvals, three copies of the final Preliminary Subdivision Plan (Preliminary Plate) meeting the requirements of the Conditions of Approval shall be submitted to the Planning Department for final approval. The following items shall be recorded on the plans before they receive final approval from the Planning Department:

- a. All Conditions of Approval shall be recorded on the Preliminary Subdivision Plan Sheet.
- b. Streets shall be labeled based on the public entity to whom dedication is intended.
- c. A note/label shall be provided on the Preliminary Subdivision Plan sheet designated that portion of Huntsbridge Drive that will be paved.
- d. The Avery Farm Lane 50' access easement shall be shown in all places where it overlaps the property.

Attorney Ross provided information regarding Quasi-Judicial proceedings and the type of testimony that could be considered. Mayor Pro Tem Grannis asked those wishing to offer testimony to stand and be issued the oath. Affirmation of Oath was issued by the Town Clerk.

The applicant, Reid Smith was present. He addressed the council and offered his appreciation to both staff and the Planning Board. He stated he believes this project is a good one.

There were no questions for the applicant. With no one further coming forward the hearing was closed and turned over to council for deliberation.

ACTION: Approval of 2017-100-SD Avery Farm Major Subdivision

Motion: Council Member Lawter
Second: Council Member Thompson
Vote: Unanimous

- e) 2017-141-ANX - Grand Plaza LLC
Presenter: Planning Department

This item was not heard as the applicant contacted the town on Thursday, September 28, 2017 and advised they wished to withdraw their application. Mr. DeYoung provided additional information and stated this was the Lidl project. It is our understanding this was a corporate decision not a local decision. Mr. DeYoung stated owner of site was disappointed as well. He further stated there is another exciting possible use in line and ready to go for this location.

ACTION: None - Application Withdrawn

Motion: Council Member
Second: Council Member
Vote: Unanimous

- f) Code of Ordinances Chapter 98 Amendment - Noise
Presenter: David DeYoung, Planning & Development Director

Mr. DeYoung provided information and stated last time this section had been updated was 1994. Staff looked at adjacent towns to include, Garner, Wake Forest, Apex, and Holly Springs. We compared sections line by line and added purpose, exemptions for government utility issues, safety, updated prohibited activities. These suggested amendments will modify our ordinance to be consistent with surrounding municipalities.

Council Member Lawter asked about enforcement. Mr. DeYoung stated that the adjustment of hours brought our code into line with other codes and further stated that should two folks can complain about a noise issue it would then be a valid complaint and enforceable. We would have authority to issue citations. If there were a complaint about a citation it could be handled via the Board of Adjustment. There was discussion regarding enforcement and Mr. Lindsay stated that the thought behind enforcement is related to folks who don't follow rules. We of course would ensure that residents were made aware of code. Council Member Holder concern about gray area for law enforcement (discretion) regarding loud music, etc. Council Member Holder would like to see some guidelines. Mr. DeYoung believes it would be a policy type decision. Ms. Ross stated that the police department could create policy about how officers are trained and enforcement. Council Member Holder wanted to know if policy should be created prior to passing ordinance. Ms. Ross stated that if council requested specificity that could be added to ordinance though that would not be required. Mr. DeYoung provided additional information. Mr. Lindsay stated that by nature noise ordinances are difficult and believes the proposed changes help to give Police additional guidance. Overall it really is about neighbors being neighborly. It is very difficult to make it specific and in trying to do that could possibly make it unenforceable. The intent is to create clarity and simplicity. Mr. DeYoung stated the ordinance would now be consistent with surrounding areas.

Council Member Lawter suggested that a specific map be referenced in the ordinance to indicate the downtown core.

Mayor Pro Tem Grannis stated he had concern that this is becoming very subjective and had difficulty understanding how it would be reasonably enforced. Mr. DeYoung stated that there must be multiple complaints. He also provided additional details regarding Apex and the multiple issues they experience with using decibel meter readings. He further stated this was added to Apex to specifically target trains that were left running downtown. Mr. DeYoung also stated that we don't get a huge amount of noise complaints and that when we do our police officers currently go out and try to rectify the issue.

Mayor Pro Tem Grannis stated he polled 119 folks from downtown and stated out of those 119 polled, 93 stated there was virtually no issue. He stated another concern was the change from 9:00 p.m. to 10:00 p.m. Mr. DeYoung stated this would be consistent with neighboring municipalities. He spoke about newer downtown businesses and that 9:00 p.m. could inhibit some of those businesses.

Council Member Holder addressed about many of the high school activities that go past 9:00 p.m. Mr. DeYoung stated there are events that will go past 9:00 p.m., so he felt that 10:00 p.m. was a fair time.

Mayor Pro Tem Grannis opened the public hearing for comments at 7:09 p.m.

A citizen who lives across from First Street Tavern stated he has lived there for 30 years. He further stated he has had many problems since the opening of First Street Tavern. He stated families in the area are being bothered by the noise and feels that 10:00 p.m. is too late.

With no one else coming forward to speak, the hearing was closed and turned over to council for deliberation.

Council Member Lawter stated feels we are heading in the right direction.

Mayor Pro Tem Grannis stated he felt he did his due diligence in completing a poll of citizens. He stated that there are times when the council has to make tough decisions and this was one of those times for him.

ACTION: Adoption of Ordinance #2017-10-06

Motion: Council Member Lawter

Second: Council Member Holder

Vote: Unanimous

OLD BUSINESS

- a) **Central Lift Station Abandonment Easement Acquisition - Resolution Authorizing Condemnation**

Presenter: Katherine Ross, Town Attorney

Ms. Ross provided information regarding the sewer line and abandonment of the Central Lift Station. She provided additional details regarding the proposed resolutions that would allow the town to move forward with condemnations. She further stated that the town has been in discussion and will continue those discussions. At this time we will proceed with the condemnation of the Walden HOA due to the timeframe regarding requirement of 2/3 of the owners' signatures prior to October 10, 2017.

Attorney Ross reminded that Council Member Satterfield is not a member of the Walden HOA Easement Acquisition Committee. Council Member Satterfield recused himself from the vote.

ACTION: Adoption of Resolution #2017-30 by Walden Homeowners Easement Acquisition Committee

Motion: Council Member Holder

Second: Council Member Thompson

Vote: Unanimous

- b) **Lease Portions of Property located at 3798 Powhatan Road to YMCA and Novo Nordisk**

Presenter: Nancy Medlin, Deputy Town Manager

Ms. Medlin provided information regarding the property leases to Novo and YMCA. She provided a review of the Novo Nordisk project. Prior to public announcement of expansion, there were discussions regarding wastewater and ability to provide same. Numerous sites were considered and it was agreed that the YMCA Powhatan Road site was the best location for the wastewater facility. Negotiations began with the YMCA regarding obtaining of property. This culminated with land swap. Agreement was completed and signed with Novo last week. Novo will construct the facility and upon completion of construction the facility, Novo will turn the facility over to the town.

There are two leases. One lease is for the back portion of the YMCA Powhatan property will be the location for wastewater facility and the second lease is for the front portion which will be used by the YMCA to continue use as soccer fields. Additionally it was stated that the cost to acquire the Powhatan property will be recovered through user rates for the facility and will not be paid by taxpayers dollars or water/sewer system users.

Mayor Pro Tem Grannis asked if it were fair to say that land swap was fair and of no detriment to the town. Nancy affirmed that the land swap was in no way detrimental to the town or tax payers.

ACTION: Place on October 16, 2017 Consent Agenda

7 NEW BUSINESS

8 STAFF REPORTS

- a) Town Manager
- b) Town Attorney
- c) Town Clerk
- d) Other Staff

Mr. Capolla provided an update on the bridge that was damaged during Hurricane Matthew. He stated a total of eight bids were received. The low bidder contract is currently being negotiated and it hoped to have that completed within 30 days. He stated there is approximately a 120 day construction time period for the project with a completion either late winter or early spring.

Mayor Pro Tem Grannis asked about FEMA funding and asked when we applied for assistance. Mr. Lindsay stated application was completed a few months following the hurricane. He stated that discussion began with FEMA in approximately January. FEMA encouraged that we get design together and also it is best not to rush so you don't miss a step and be told that the project does not fit criteria for reimbursement. Mr. Lindsay stated that all requirements were followed and the process is time consuming.

9 OTHER BUSINESS

- a) Informal Discussion & Public Comment
- b) Council Comments

10 CLOSED SESSION

- a) At 7:28 p.m. Council went into Closed Session pursuant to NCGS 143-318.11(a)(3) regarding the attorney-client privilege and potential law suit.

ACTION: Closed Session pursuant to NCGS 143-318.11(a)(3)

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

11 ADJOURNMENT

- a) With there being nothing further, the meeting was adjourned at 7:47 p.m.

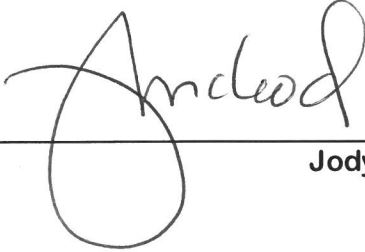
ACTION: Adjourn the Meeting

Motion: Council Member Satterfield

Second: Council Member Thompson

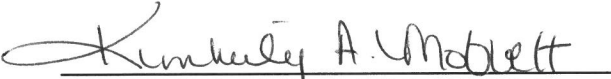
Vote: Unanimous

Duly adopted this the 6th day of November, 2017 while in regular session.



Jody L. McLeod
Mayor

ATTEST:



Kimberly A. Moffett, CMC, NCCMC
Town Clerk