Town of Clayton
Regular Town Council Meeting Minutes
Monday, October 3, 2022 at 6:00 PM
111 E Second Street, Council Chambers

Council Present: Mayor Jody McLeod Mayor Pro Tem Jason Thompson Council Member Porter Casey Council Member Avery Everett Council Member Andria Archer Council Member Michael Sims **Council Absent:** None	**Staff Present:** Rich Cappola, Town Manager Jim Cauley, Town Attorney – CauleyPridgen Dolores Gill, Deputy Town Manager Lee Barbee, Fire Chief Heidi Holland, Town Clerk Robert McKie, Finance Director Greg Tart, Police Chief Joshua Baird, Engineering Director Nathanael Shelton, Communication Director Ben Howell, Planning Director Patrick Pierce, Economic Development Director Joy Garretson, Library Director

1. CALL TO ORDER

a. Call to Order

Mayor McLeod called the meeting to order at 6:01 p.m.

b. Pledge of Allegiance

Mayor McLeod led the Pledge of Allegiance.

c. Invocation

Mayor McLeod provided the Invocation.

2. ADJUSTMENT OF THE AGENDA

a. Adjustment of the Agenda

Mr. Cappola adjusted the agenda as follows:

Add Under Administrative Items
4a. Kerosene Spill
Presenter: Rich Cappola, Town Manager

Add Under Staff Reports
9d. Hurricane Ian Response Update
Presenter: Amy Shearin, Emergency Management Coordinator

Under Closed Session:
11a. The title indicates Economic Development, is actually a Legal Matter. The statute reference is correct and does indicate a legal matter.

Approve or Amend the Agenda

RESULT:	**CARRIED 5-0**
MOVER:	Avery Everett
SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

3. CONSENT AGENDA

a. Minutes
- September 19, 2022 Regular Session

Presenter: Heidi Holland, Town Clerk

b. Approval of Transfer of Mountains-to-Sea Greenway Easement from Wake County to Town of Clayton
Presenters: Scott Barnard, Parks and Recreation Director and Patrick Pierce, Economic Development Director

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c. Approval of the 2023 Holiday Schedule
Presenter: Heidi Holland, Town Clerk

d. Approval of the 2023 Council Meeting Schedule
Presenter: Heidi Holland, Town Clerk

e. Approval of Disposition of Records Resolution
Presenter: Heidi Holland, Town Clerk

f. Resolution 2022-65 Authorizing the Town Manager to Execute a Reimbursement Agreement with O'Neil Overlook, LLC for a Utility Infrastructure Improvements and Associated Pavement Repairs
Presenter: Jonathan K. Jacobs, PE, Assistant Town Engineer

Approve or Amend Consent Agenda as Presented

RESULT:	**CARRIED 5-0**
MOVER:	Avery Everett
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

4. ADMINISTRATIVE ITEMS

a. Kerosene Spill
Presenter: Rich Cappola, Town Manager

Mr. Cappola stated there was a kerosene release over the weekend. Clayton Fire Department investigated this Friday night as part of Hurricane Ian response, but was not able to locate anything due to the remnants of the storm. Saturday morning, they were able to identify a kerosene release occurring at the TR Lee Oil Company on Main Street. The company immediately initiated cleanup efforts and the required reporting. They brought in a company called Hepaco to perform the cleanup. The incident was reported to all appropriate local, State and federal agencies.

Out of an abundance of caution and speaking with the Dept. of Health and Human Services, a recommendation for recreational water advisory for the section of Little Creek between Main Street and US 70 Business beyond Lombard was issued. This is not a drinking water source which is why it is a recreational advisory only. Until the water is tested and declared safe, it was recommended to avoid swimming and skin contact.

This is an ongoing cleanup and could take a couple days. As of today, the section of Main Street from TR Lee down to Mitchell Street had been flushed and an environmentally friendly agent had been added to try to mitigate the odor. He stated tomorrow morning there would be another flushing down to behind the McDonald's on Amelia Church. A portion of Amelia Church Road would have to be shut down after the morning commute. Once the cleanup is completed, the Town would coordinate with Johnston County Emergency Management, they would fly a drone to make sure everything had been cleaned up. Any costs associated with this would be paid by the permit holder which is TR Lee. The release may be storm related and may be reimbursable to them in the future. The Town is tracking all expenditures to make sure costs will be recouped. Once it is clear, the recreational ban would be lifted.

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. Employee Introductions:
Presenter: Justin Pulley, Grounds Superintendent
- Justin Gause, Property Maintenance

Mr. Pulley was unavailable tonight, Dolores Gill introduced Justin Gause from the Grounds Department. Mr. Gause joined the Town two months ago with 12 years experience from RDU Airport. Ms. Gill stated they couldn't be happier to have him as part of staff. Mr. Gause thanked the Town for this opportunity. Mayor McLeod welcomed him.

b. Harbor Shelter Domestic Violence Awareness Month Proclamation
- Mayor McLeod to Read and Present the Proclamation

Presenter: Kay Johnson, Executive Director of Harbor Shelter

Kay Johnson, Executive Director of Harbor Shelter was present tonight as well as Ruth Anderson, Chair of Board of Directors. She provided an overview of Domestic

Violence Awareness Month. She thanked Council for bringing awareness to domestic violence by adopting this Proclamation. Mayor McLeod read the Proclamation into the record and presented this to Ms. Johnson and Ms. Anderson.

c. National Community Planning Month Proclamation
Presenter: Mayor McLeod to Read and Present the Proclamation

Mayor McLeod read the Proclamation into the record. Ben Howell, Planning Director, Planning board members and Board of Adjustment board members were present to receive this Proclamation presented by Mayor McLeod.

d. Clayton Award Presentation - Sculpture Trail
Presenter: Bynum Walter, AICP APA-NC Awards Co-Chair

Ms. Walter was present to discuss this award. She stated she is pleased to recognize the Clayton Sculpture Trail with an Honorable Mention Award for a great place for public art, she stated this is one of 15 awards recognized. She stated this is a great project and the scale of this exhibit is remarkable. The Awards Committee noted the annual change out of the sculptures and observed the community engagement with this sculpture. Ms. Walter presented this award to Mayor McLeod and Sara Perricone, Public Art Advisory Board chair. Mayor McLeod thanked Ms. Walter for the acknowledgement.

6. PUBLIC HEARINGS

7. OLD BUSINESS

a. Upset Bid for the R. Steven Biggs Regional Wastewater Pretreatment Facility
Presenter: Patrick Pierce, Economic Development Director

Attorney Cauley asked Town Clerk to verify no other bids have been received. Ms. Holland stated as of 5:00 p.m. today, no other bids have been received.

Mr. Pierce stated the piece of land under consideration is just over 22 acres that has been annexed into town limits. There is 8 acres of excess real property in the front of the facility and an ECIA pump station in the rear of the property. This is in close proximity to both of the Novo Nordisk facilities.

This facility opened on October 11, 2019 as part of Novo Nordisk's $2 billion API announcement. This was originally constructed as a regional facility to serve multiple different users. Currently, it is owned by the Town of Clayton and operated by a third party but is only utilized by a single user, Novo Nordisk. The Town did go through a system valuation in August 2022. The facility was valued at $32 million, the excess real property was valued between $1.25 million and $2.25 million. This is consistent with the Town's financial statements. This was originally built as a regional facility for multiple existing users in the RTZ. The scope of Novo Nordisk's operations in Clayton have changed since the facility's inception 5+ years ago.

Mr. Pierce discussed the upset bid process (160A-269). He stated the Town received an offer from Novo on September 16, 2022 for $34.25 million dollars. Town Council

authorized an advertising offer on September 19, 2022. The Town Clerk published the advertisement in the News & Observer on September 22, 2022

Other Offer Details

- Company will work with Town to grant necessary easements for ECIA pump station
- Deal will close on or before Dec 31, 2022
- Company will pay all fees and associated costs for the purchase of the Facility
- Grant funding agencies have concurred in the sale

Staff recommends approval.

- All proceeds, except reimbursement of general fund for land costs, will be used for the Sam's Branch Wastewater Reclamation Facility, closing the funding gap
- Town will incur less debt, helping to contain future borrow costs and rate increases
- Appropriate for a single-user facility to be owned and operated by the user
- Important infrastructure for Novo Nordisk's continued operation and growth in Clayton.

Next Steps (if approved)

- Staff will work with Company to transfer facility and property, with necessary easements, by end of calendar year
- Company's first priority is to make necessary upgrades and expand the wastewater pretreatment facility

Accept Offer from Novo Nordisk, to include Adoption of Resolution #2022-76

RESULT:	**CARRIED 5-0**
MOVER:	Andria Archer
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

8. NEW BUSINESS

a. Budget Amendment: Nonrecurring State Aid to Libraries
Presenter: Joy Garretson, Library Director & Robert McKie, Finance Director

Ms. Garretson stated she is here to ask acceptance for the library to accept a budget amendment for non-occurring State Aid from the State Library. She stated earlier this spring the State Library contacted the library to let them know they had received extra funds from the State and would be dispersing to libraries. In July, early August, the State Library contacted the library to let them know they would be giving lump sums in the form of non-recurring state aid. The amount to be given to Hocutt is $47,277. These funds have slightly different rules than normal, some of this money could be spent on furniture, carpeting, a few different things.

Ms. Garretson said they have not decided yet how the money would be spent but would do their best to be wise with it. She stated those funds would not have to be

encumbered until December 31, 2024 and they would not have to be spent until December 31, 2026. Mr. McKie stated the funds were received September 29, 2022. This budget amendment is to appropriate the revenue

Mayor Pro Tem Thompson stated the State recognizes a good library, he stated he is shocked with this amount and is happy they have faith this money will be put to good use.

Approve, Deny or Amend Ordinance #2022-10-01

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

9. STAFF REPORTS

a. Town Attorney

b. Town Manager

Mr. Cappola stated yesterday was National Custodian Appreciation Day, he stated we have a great team and want to recognize them. Also, a reminder that it is Public Power Week, the Town does have several appreciation events planned for all the staff associated with delivering electric to our customers.

October 4, 2022 2:00 p.m. is officially the bid opening for Wastewater Reclamation Facility project. He stated a report would be brought back on this once the received bids have been opened and verified.

c. Town Clerk

d. Other Staff

Stormwater Program Audit Update
Presenter: Joshua Baird, Engineering Director

LAPP Projects
Presenter: Patrick Pierce, Economic Development Director & Joshua Baird, Engineering Director

Hurricane Ian Response Update
Presenter: Amy Shearin, Emergency Management Coordinator

Stormwater Program Audit Update
Presenter: Joshua Baird, Engineering Director

Mr. Baird stated several months back the program was going under an MS4 (Municipal Separate Storm Sewer System) audit through the National Pollutant Discharge Elimination System. The program went under an audit in March of 2022 and in September the reports were received. The audit coincides with the permit cycle which are five-year cycles, our permit is up for renewal in January and the audit falls on the heels of that and then feedback is received of any deficiencies and then goes into the renewal of the new permit.

In March 2022 the auditors from DEQ went over 3 of the minimum measures. The measures focused on were the illicit discharge detection and elimination, construction stormwater and pollution prevention and good housekeeping and as an overall they looked also at the program implementation in terms of how the Town is record keeping and what documents are on file. As part of the pollution prevention and good housekeeping, DEQ did request to visit the operations center to see it is managed. Mr. Baird stated the final report was received on September 30, 2022, a copy was emailed to all of Council today. A notice of deficiency was received, it is one of the three outcomes that could come from it. The State will issue either a notice of compliance, a notice of deficiency or notice of violation. He discussed a few key things mentioned in the report.

He stated the notice of deficiency does call out several items that the Town does have to respond to in writing within 30 days to state it was received and it is being worked on. Also required is a self-evaluation of public education and outreach, public involvement and participation and post-construction site runoff controls. The third thing required is to develop a stormwater management plan. He stated a draft is already completed and has been sent to the State for comments. Also are supposed to submit an application for the next permit cycle, this has been submitted.

LAPP Projects
Presenter: Patrick Pierce, Economic Development Director & Joshua Baird, Engineering Director

Mr. Pierce stated every year before submitting LAPP projects just want to inform council of what staff is submitting. Mr. Pierce stated every year before submitting LAPP projects just want to inform council of what staff is submitting. The Federal Fiscal Year 2024, there are two projects up for consideration

- Robertson & W Main Streets Sidewalk Connector
- Shotwell Rd/US HWY 70 BUS Intersection Improvements

Details were shared for the Robertson & W. Main Sidewalk Connector project:

- Robertson St - Cross Clayton Pedestrian Connector to W Main
- W Main St – Robertson St to Atkinson St
- Sidewalk on both sides of each street (where feasible)
- Applying for Design and Right-of-Way
- $1,000,000 grant requested

- Requires a $250,000 Town match FY 23-24 budget (20% match)

Details were shared for the Shotwell Rd/US HWY 70 BUS Intersection Improvements

- Originally a NCDOT project, permanently delayed due to funding
- Applying for Construction Only
- Second left turn lane:
  - NB Shotwell to BUS 70
  - EB BUS 70 to Shotwell Rd
- Second NB lane on Shotwell from BUS 70
- $4.6 million grant requested
- All matching fund provided by NCDOT

Mr. Baird stated two quick items, on the Robertson & Main Street project, in looking to submit for the preliminary engineering and design as well as the right-of-way, if we do go for that and receive funding, there is a commitment that the Town does look to construct within 10 years of the project. He stated this project could be upwards of $3-$3.5 million and there would be a minimum 20% match. He stated what makes Shotwell and US 70 a great project is DOT has acquired the needed easements.

Council Member Archer stated these are both great projects. Mayor McLeod shared his concerns on the back up on Hwy 70 by Bojangles, he asked if there is any way to help with that, should the turning lane going into Bojangles be extended 20 feet or so? Mr. Baird stated he would go back to the designers and look into that.

Hurricane Ian Response Update
Presenter: Amy Shearin, Emergency Management Coordinator

Ms. Shearin stated the Fire Department responded to 35 weather related calls and the Police Department responded to numerous calls. She stated at the height of the storm, 4100 customers were without power but all had power restored by 10:00 p.m. Friday night. The Water Department was on site Friday and Saturday morning repairing a water main break at Moore and Atkinson Street, the crew from the Sewer Department we're checking pump stations all evening, the Streets Department spent numerous hours before the storm clearing storm drains and cleaning debris from the roadway after the storm and Property Maintenance dealt with leaks.

She thanked Heather Probst and Penny Adams for taking calls from residents well into the evening, she stated it was a great team effort. She thanked the other departments involved in this situation. Mayor McLeod thanked everyone for all the excellent service provided to our citizens. He stated our rates may be a little higher, but our service is remarkable. Mayor Pro Tem stated with all the different departments involved, this was an all hands-on deck. He stated he appreciated everyone.

10. OTHER BUSINESS

a. Informal Discussion & Public Comment

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

b. Council Comments

Council Member Sims stated he wants to thank Amy Shearin and her team for the employee breakfast, her team prepared everything, he stated the response was amazing from the employees.

11. CLOSED SESSION

a. Closed Session to Discuss Legal Matter in accordance with NC GS 143.318-11 (a) (3).

Move to Go into Closed Session at 7:10 p.m.

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Move to Return to Open Session at 7:54 p.m.

RESULT:	**CARRIED 5-0**
MOVER:	Porter Casey
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

12. ADJOURNMENT

a. Adjourn

Motion to Adjourn at 7:54 p.m.

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Duly adopted by the Town Council this 17th of October, 2022 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi L. Holland

Heidi L. Holland, CMC, NCCMC
Town Clerk

TOWN OF CLAYTON
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APRIL 1869
CLAYTON, N.C.