

**HIGHLIGHTS OF THE CLAYTON TOWN COUNCIL MEETING  
THURSDAY, FEBRUARY 19, 2015  
THE CLAYTON CENTER  
3:00 PM COUNCIL CHAMBERS**

- ❖ This meeting was rescheduled from Monday, February 16<sup>th</sup> due to inclement weather.

**PRESENT:** Mayor Jody L. McLeod, Mayor Pro Tem Michael Grannis, Councilman Art Holder, and Councilman R. S. “Butch” Lawter and Councilman Jason Thompson (Thompson joined the meeting during the presentation on Steeplechase)

**ABSENT:** Councilman Bob Satterfield

**CONSENT AGENDA:** Town Council voted unanimously to approve the draft minutes from January 20, 2015 Town Council meeting.

**INTRODUCTIONS AND SPECIAL PRESENTATIONS**

- **Rick Burton** – Building Enforcement Officer
- **Jennifer Proctor** – Sr. Administrative Support Specialist
- **Christy Anastasi** – Administrative Support Specialist/Deputy
- **Wanda Warren** - Assistant Public Information Officer

**ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA**

- **Water Reclamation Update** – In February of 2014, Town Council was presented the results of a nitrogen study of our wastewater treatment facility. It recommended some upgrades to optimize the plant based on our Town growth. At tonight’s meeting, Wastewater Treatment Plant Superintendent James Warren followed up on that study by recommending the Town Council approve a Reimbursement Resolution which would allow the Town to begin on those improvements to nitrogen removal at the plant. The improvements would be paid for with available reserves from development fees collected by the Town as well as with funds from a planned water/sewer bond. The Town would then use revenues collected from water and sewer fees for reimbursements (i.e. to pay that bond back). Town Council indicated they would move to approve this resolution on the Consent Agenda at the March 2<sup>nd</sup> meeting.
- **Arbor Day Proclamation** – Every year since 2006 the Town of Clayton has achieved Tree City USA status and has celebrated Arbor Day by planting or adding additional landscaping improvements to the community. This year the Town will celebrate Arbor Day on Friday, March 20<sup>th</sup> and will announce in the coming weeks the location of the tree planting/improvement project the Town will undertake in 2015! Town

Council indicated they would approve this proclamation on the Consent Agenda at the March 2<sup>nd</sup> meeting.

- **Lions Gate – Phases 7A, &B, 7C & 7D** – Planning Director Dave DeYoung walked Town Council through the Planned Subdivision Application 2014-145 – from DC Adams Engineering for new phases of the existing Lionsgate subdivision to build 82 new townhomes on about 10 acres off Amelia Church Road. A Public Hearing will be held on March 2<sup>nd</sup> at 6:30 PM prior to the vote of the Town Council at that same meeting.
- **Murdock Solar Farm** – Planning Director Dave DeYoung walked Town Council through the Special Use Permit 2014-143 in which Sunlight Partners LLC proposes to build a 21± acre solar farm on a 31.9 acre parcel at 2663 Guy Road. A solar farm is a low-impact industrial-type use where solar panels generate electricity that is sold into the grid through the local electricity provider, in this case Duke Energy. A Public hearing will be held on March 2<sup>nd</sup> at 6:30 PM prior to the vote of the Town Council at this same meeting.
- **SteepleChase Planned Development and Rezoning** – Planning Director Dave DeYoung walked Town Council through the most recent changes to these two requests, Planned Development Rezoning Request 2014-127 and Planned Subdivision Preliminary Plat/Master Plan Application PSD 2014-128. DeYoung presented both together although they will need two separate approvals from Town Council. Galaxy NC LLC (c/o Wakefield Development) is proposing a development on 631 acres along Covered Bridge Road. This same land had been rezoned in 2005 to R-8, R-10 and B-2 for another large development proposal that never materialized known as Biltmore. That land was annexed at the time and approved for 1,174 single family homes, 1,120 townhomes, 57,00SF of commercial development with 23 acres set aside for a school site. The economy turned and the proposal died. Now this new developer has come in proposing a similar mixed-use, medium density residential development. DeYoung explained that staff is requiring the developer to rezone to Planned Development so that the Town can require a master plan. This way the land can not be developed piece-meal and the developer can be held to traffic improvements. Planned Development, DeYoung explained, encourages comprehensive design, increases buffer requirements, requires additional recreation and open space and establishes the timing for traffic improvements.  
Of the 631 acres, the developer is proposing 445 acres of residential development with a maximum of 2,200 units (single-family homes, apartments, condos, townhomes), 10 acres with 75,000 SF of commercial development, 65 acres of recreational open space, and a 24 acre school site. The developer is proposing to build out the site in 36 phases starting on the south side of Covered Bridge Road. Roadway improvements would

be tied to the phasing. DeYoung stated that staff had asked the developer to review their traffic study and improvements and advised the Town Council that staff had also asked NCDOT to review their traffic study recommendations and that he had no firm estimate on how long it would take to get those changes back. He prepared Town Council members for possible delays, guessing that the March 2<sup>nd</sup> public hearing would need to be continued because of the traffic issues. He emphasized that traffic is, by far, the biggest outstanding concern for the project. All of the main streets in the project are NCDOT's responsibility – Covered Bridge, N. O'Neil, Brookhill, and City Road. The map on circulation within the development is ever changing. The proposed school site sits on corner of City Rd and Covered Bridge – 24 acres in size. DeYoung stated that he had spoken to representatives of the school district who indicated that the more appropriate size for a school site is 28-38 acres. He has made the developer aware and the developer is analyzing adding acreage to the school size at this site. DeYoung explained that on the site plan – the developer feels they are locked into the location of the apartments and condominiums (the areas in burnt orange), however, the developer believes he has flexibility in the locations of the townhomes and single-family homes (areas in yellow and tan). In each neighborhood meeting, residents expressed serious concerns about townhomes being directly adjacent to the established neighborhood of Smith Ridge estates. Staff is working with the developer to reconsider those townhome locations and staff is hopeful single-family could back up to single family with the same 20-foot buffer maintained. The developer needs to figure out where else the townhomes could be located and it's possible those locations could be revealed at the Planning Board meeting Monday night.

Smith Ridge and Ole Mill Stream only have one access point in and out. The communities appear adamant they do not want additional access points or connectivity. The Planning Director says that has been heard loud and clear. However, staff still believes some sort of fire/emergency access is needed on Smith Drive and Michael Way. The developer is recommending a design that uses pavers which allow grass to grow on top, thus giving the appearance to drivers that the area is not a road. The alternate is a gate that would be siren-activated. DeYoung says staff concerned that the pavers or the gate would become a maintenance issue and leave too much uncertainty as to who would repair or keep up. DeYoung said staff is efforting to have the developer install a greenway path down Brookhill Drive. He did confirm that the developer will not have any individual driveways emptying out onto Brookhill Drive. Again, DeYoung reiterated that traffic is and will continue to be the largest issue on this development and that staff will do all it can to address those traffic concerns as the process moves forward. NCDOT has agreed to put out roadway strips to get more accurate traffic counts on City Road and Covered Bridge Road.

Councilman Lawter took time to thank staff, the community and the

developer because “where we started 2 months ago is a long way from where we are now.” He acknowledged that in the end not everyone is going to be happy but said he is encouraged that the Town is working toward something that can work for the community. He stressed that he needs to have ALL the NCDOT and traffic information before he feels the Council can make an informed decision on this project.

Mayor Pro Tem Grannis echoed the sentiments of Councilman Lawter. He agreed the most important thing to him is that the Town not rush to judgment on this. He said the Town has a real opportunity to do something for the community and while not everyone is going to be satisfied, they have an obligation to the public. He says he sees the give and take on the part of the developer, staff and citizens and he believed that is the way it will be able to work at the end of the day. He agreed he would be surprised if it actually comes to a vote on March 2<sup>nd</sup> and re-emphasized he does not want to rush. Concerned about compatibility with surrounding homes, Grannis asked staff about density and got assurances from staff that if density proposals changed (which can not exceed 4 units per acre) – that those proposals would come back to staff and they would ensure they did not exceed the maximum. Grannis inquired again about whether the developer was set on where the townhomes and apartments must go. Staff reiterated that the developer seems set on the location of the apartments and has them flanked with townhomes, but that staff has asked for the developer to take another look at what he is proposing next to Ole Mill Stream and Smith Ridge or consider supplemental buffers if those uses are going to be put next to each other. Staff says the developer maintains he must be flexible to the market at the time each phase is set to develop. Citizens that Grannis has talked to say the apartments seem out of character with the development. He stated that he also does not like the fit although he can perhaps tolerate the townhomes and the condos. In closing, he expressed to DeYoung that he felt his presentation was “just short of extraordinary.” Councilman Jason Thompson stated that he has an issue with adding connectivity and access road to the existing neighborhoods. He said he felt it was not consistent and that regardless of gates or grassy pavers, people who would like to cut through the areas will cut through. He stated that he would like to hear more from the residents of these neighboring communities about their wishes.

Councilman Lawter added that he had spoken to the Fire Chief who also expressed concerns about the proposed accesses and he emphasized that he would like to make sure staff gets the input and approval of the Fire Chief on the plan.

Mayor Jody McLeod stated that he was hearing that the greatest concerns from neighbors are traffic impact, accesses being added to the existing subdivisions, and townhomes adjacent to Smith Ridge and Old Mill Stream. The Mayor said he does not feel the density and intensity are appropriate for that area. He feels that there is indeed a market for estate

homes in Clayton and stated that if someone is going to invest this type of money in a development that they need to look at the competition and make sure they set themselves apart. The Mayor said he wants to make sure his Town Council has the answers they need, but at the same time, time is money and he does not want Clayton or minor technicalities to be the blame for unreasonable delays in this project moving forward. Staff stated that the developer was very well aware that significant delays are tied to the fact that half the roads in the project are in NCDOT jurisdiction and the developer is aware that the Town is trying to move forward as efficiently as we can. Mayor McLeod also expressed interest in seeing an analysis of how traffic funneling down Brookhill Drive might be distributed better from secondary access road.

Mayor Pro Tem Grannis stated that he is concerned that if we do not have connectivity between this development and the 2 adjacent neighborhoods that will mean school buses with children will have to in and out of each of these 3 developments 3 different times onto Covered Bridge Road to pick up children and that is an increased risk. Smith Ridge does not have through traffic now and they do not have sidewalks and they are concerned about their children.

This proposal is set to go to the Planning Board on Monday, February 23<sup>rd</sup> and then move on to the March 2<sup>nd</sup> Town Council meeting for a formal public hearing, however, that timing, as stated above, is in question due to the delay in traffic study reviews.

## **SPECIAL EVENTS**

- **15<sup>th</sup> annual Millstock Art & Music Festival** - Clayton Visual Arts is set to hold this popular event on Saturday June 6<sup>th</sup> from 10:00 AM to 5:00 PM. It is expanding this year along Main Street from Smith to Barbour, with 60-80 art-related vendor, food trucks and food vendors, in addition to the usual Saturday Community Farmers Market in Horne Square. The event is also adding beer and wine with the appropriate ABC permits. Mayor Pro Tem Grannis expressed his concern the street blockages would effect early evening traffic on that Saturday night. He also noted the proximity of the food trucks to at least 3 restaurants that serve dinner. The Mayor joined on that concern. Councilman Lawter suggested perhaps the food trucks be located along Lombard Street. Councilman Thompson echoed that he hears downtown businesses almost dread any events that call for shutting down of Main Street because of the detrimental effect they have on retail/restaurant business. The group has been asked to present a revised layout for possible approval on March 2<sup>nd</sup>.
- **Town Square Concert Series** – 8<sup>th</sup> annual series presented by the Downtown Development Association. The dates have been set for May 21, June 18, July 16, August 20, and Sept. 17<sup>th</sup>. These free concerts attract more than 1,000 people with live bands, food trucks, and vendors including local beer and wine sales. Music ends no later than 9:30. The

Town Council indicated they would approve these dates and Town Square closures on the Consent Agenda at their March 2<sup>nd</sup> meeting.

- **Right-of-Way Encroachment Ordinance** - Town Manager Steve Biggs explained to Town Council that when our Public Works department needs to encroach on NCDOT property, the Town must get an NCDOT encroachment/right-of way agreement before doing any work. The Town maintains more than 70 miles of roadways, sidewalks, and utility easements in the public right of way, yet we have no parallel approval/agreement process similar to NCDOT. Periodically other utilities will come into our Town to do work in our public right-of-ways, but there is currently no notification or approval process. This ordinance would set up the proper management and protection of the Town's right-of-way or streets by spelling out this process. This ordinance will move to the Consent Agenda for approval at the March 2<sup>nd</sup> meeting.

#### **ITEMS CONTINGENT FOR THE REGULAR MEETING :**

Warranty and Dedication Acceptances will move to the March 2<sup>nd</sup> Consent Agenda:

- Asphalt pavement subject to one year warranty period.
  - Chandler's Ridge (Old Lyndale), Phases 1 & 2
- **FINAL Asphalt.** Upon approval, Town will assume all maintenance duties:
  - Spring Branch, Phase 1
  - Glen Laurel East, Phases 2A & 2B
- **FINAL Public Water, Sewer, Associated Storm Drainage Utilities, All Pertinent Easements.** Upon approval, Town will assume all operation and maintenance duties.
  - Spring Branch Commercial Subdivision, Phase 1
  - Spring Branch Medical & Commercial Park, Phase 2
  - South Tech Park/Harvest Mill Lane

#### **ITEMS FOR DISCUSSION:**

- **Watershed Protection Overlay** – Town Council had asked for an update on the entire Town's special intensity allocations within the Watershed Protection Area. The law allows Clayton to designate 10% of it's Watershed Protection Overlay area for up to 70% impervious surface development, provided that certain stormwater control measures are implemented. Staff has now created a comprehensive list of parcel. The Town has 6,908 acres in the Watershed Protection Overlay including in the ETJ. The acreage available for Special Intensity Allocation is 690. So far the Town has used about 532 acres, so about 157 acres remain. Caterpillar's recent large allocation is included in that calculation. Planning Director Dave DeYoung recommended the Town go back to developments that already have this allocation to review exactly how

much they actually did develop impervious. The Town could perhaps recapture some of that allocation based on those results.

- **Legislative Agenda** – Town Manager Steve Biggs said he would postpone his legislative update to Town Council until the March 2<sup>nd</sup> meeting sensing he would have more updated information to share at that time.
- **ABC Referendum** – Town Attorney Katherine Ross gave Town Council some background on the Town’s malt liquor/beer regulations. Clayton voters passed a referendum in 1997 to allow on-premise consumption at hotel/motels or restaurants. In the 17 years since the passing of that referendum, the area has seen growing interest in establishments like breweries and bottle shops. The Town Attorney and Town Manager suggested that Town Council may want to re-examine this issue to ensure that current ordinance is not becoming outdated. Raleigh, Apex and Wake County have amended their ordinances to allow such establishment. Mayor Pro Tem Grannis inquired whether Deep River, the local brewery, was in violation of our current ordinance and the Town Attorney stated that the brewery and its attorneys have indicated the brewery is covered until a separate statute that allows them to have a tasting/service area.
- **Budget Calendar** - The Town is entering the budget process leading up to the end of the fiscal year in June. Each department is presenting their proposals to a budget review team to include the Mayor and staff March 26<sup>th</sup> through April 6<sup>th</sup>. Town Council agreed to set the work session in which the budget will be presented to the full Town Council on May 13th at 6 PM . Council would then get comments back to the Town Manager by May 18<sup>th</sup>

#### **STAFF REPORTS:**

- Town Manager Steve Biggs updated Town Council that he had spoken to the developer of Riverwood and they indicated that they would be finishing the final layer of paving in the community in April.

#### **OTHER BUSINESS/PUBLIC COMMENT:**

- Lesia Mills, a resident of Smith Ridge estates, a subdivision bordering the Steeplechase proposal, stated that her community adamantly opposes a cut-through access. She said her neighborhood has existed since the 80’s and that while residents appreciate the concern from Town staff for their safety, they do not need a cut-through. Currently, they are able to tell who lives in their community and who does not belong and they recognized and know the children of their community. They will lose this if their community becomes a cut-through to large development. Mills stated she would like to see the Earp property stay the way it is, or developed as a

green space for the general public. She had hope the Town could join with Johnston County to purchase the land to development into a destination park. The closest place offering views like that property is the Blue Ridge parkway and she hates to think of it covered in houses and pavement. She lamented that Clayton was going to lose a jewel. She stressed that Town Council had the power to disapprove of this mixed-use development and to force a condition that it must be developed as estate homes. This would reduce the traffic impact. The land, views and rural feel are why she and her neighbors moved to Clayton and new development going in around her are not supposed to be a detriment to her property or neighborhood – yet she claims it will be. She would like to see commercial areas concentrated to the US 70 corridor and not spread throughout Town. She fears Clayton will simply become an appendage of Raleigh, like Cary. She stated she would not like to see Town Council approve this development unless it is an estate community.

- Garret Morgan, a resident of Smith Ridge, stated that he moved here in 2007 because of the beautiful area. He said he has known about the potential for development around his home and he fully accepted that Clayton was growing. He did not, however, expect that this property would be rezoned for mixed-use. He said he was aware development was coming, but had hoped it would be compatible with his neighborhood. Mixed-use is not compatible. He questioned what would prevent a gas station from popping up in this development with underground tanks that could threaten the well water that so many of the existing residents use. He stated that he is concerned about the Neuse River and the challenging topography of Steeplechase. He says he has seen no plans at all to mitigate run-off or how the developer plans to safeguard streams. He knows riparian buffers are very expensive especially when they are required along a road. He reminded the Town Council members of their goal of making Clayton a premiere destination and challenged them to stick to that goal and not allow this area to become like Cary, or to be like Riverwood. He challenged them to make Clayton a place that people say, “That’s where I want to live – that’s beautiful.”
- Thomas Connell of Smith Ridge Estates thanked the Town Council members for their dedication and for asking pointed questions of concern for this community and its growth. He stated that he had met Ms. Earp at the last neighborhood meeting and questioned her as to whether this was what he father had dreamed of and she stated that she could not answer but that the residents would be happy about this. He emphasized that this land is one of the best properties in Clayton and once you let it go, it’s gone. His son lives in Riverwood and does not like the high-density living that leaves only 10 feet between you and your neighbor. He feels this community will be too dense as well. He asked Town Council to look into HOA rules and what will be done with dues. He claimed property values

are dropping and that it is difficult to sell in Riverwood. Connell feared this developer will not have a comprehensive vision for the property, but instead will sell it to different builders who may take 20 years to build out the community. He encouraged Town Council to look what was going on in the market. He challenged them to take a step similar to Cary which called for a moratorium on development because of overcrowding in schools and traffic concerns. He did not want the Town Council to make to approve this and degrade the community.

- Jean Woodley of Smith Ridge estates spoke to Council Jason Thompson's question as to whether the residents really wanted a connection or access road through the community. She stated emphatically that they did not.
- Mark Altman, the HOA Chair of Ole Mill Stream, stated that he felt the process was working and that he was excited about the changes and revisions he saw happening to the plan. He said he did feel like concerns were being hear. He said while many are opposed to a cut-through, he would rather see buffers between the communities expanded. He challenged Town Council to help create something in Clayton we haven't seen before. Don't rush this, he said. If the traffic study comment are back next week, do not turn them around in one week and vote. He expressed his hope that staff and elected officials would take longer to consider such important matter. He also stated that this process has perhaps revealed gaps in the Town's ordinance that could help to guide and better control future developments and he implored the Town Council to tackle them now. He stated that Clayton can do better, for example, strengthening buffer requirements, and the time to do that was now. He would like to be part of that process.

Town Council voted unanimously to adjourn at 5:11 PM.