

MINUTES
BOARD OF COMMISSIONERS MEETING
HOOD ROOM, MATTHEWS TOWN HALL
JULY 13, 2015 - 7:00 PM

PRESENT: Mayor James Taylor; Mayor Pro-Tem Joe Pata; Commissioners John Higdon; Chris Melton, Jeff Miller and Kress Query; Town Attorney Charles Buckley; Assistant Town Manager Jamie Justice; Town Clerk Lori Canapinno

ALSO PRESENT: Public Works Director CJ O'Neill; Planning Director Kathi Ingrish; Senior Planner Jay Camp; Planning Board members Chair Steve Lee, Vice Chair Rob Markiewitz, Members Barbara Dement, Mike Ham, Gary Turner and David Weiser

ABSENT: Commissioner John Ross; Town Manager Hazen Blodgett

REGULAR MEETING CALLED TO ORDER

Mayor Taylor called the meeting to order at 7:00 pm.

INVOCATION

Town Attorney Charles Buckley rendered an invocation.

PLEDGE OF ALLEGIANCE

Mayor Taylor led the audience in the pledge.

Mayor Taylor spoke of his visit with Anne Marie Celada, a resident of Matthews' Sister City, Sainte-Maxime, France. Ms. Celada delivered a gift of friendship and goodwill message from Sainte-Maxime Mayor Vincent Morrissette.

ITEMS TO BE ADDED TO THE AGENDA

None

PLANNING AND DEVELOPMENT BUSINESS

Planning Director Kathi Ingrish introduced members of the Planning Board in attendance: Chair Steve Lee, Vice Chair Rob Markiewitz, Members Barbara Dement, Mike Ham, Gary Turner and David Weiser

REPORT FROM PLANNING BOARD

Planning Board Chair Steve Lee gave a report on the Board's activities (Exhibit #1 hereby referenced and made a part of these minutes).

PLANNING AND ZONING-RELATED ACTIONS

Application 2015-630: to amend the text of the existing Unified Development Ordinance to establish and provide parking provisions specific to animal daycare kennels and commercial kennels.

Mayor Taylor noted that the Planning Board recommended denial of the application due to the language included at the time of the Planning Board meeting, but recommended changes which would improve the application. The applicant did agree to amend the text change request to match the Planning Board's recommended calculation of one parking space per 500 square feet of gross floor area.

Motion by Mr. Miller to approve application 2015-630 as revised by the applicant and in accordance with the Planning Board's recommendation as stated in the letter dated June 30, 2015, as it is reasonable and consistent with the Land Use Plan due to the compromise of parking and the improvements the applicants will make to the site. The motion was seconded by Mr. Pata and unanimously approved.

Site Plan Approval: Pet Paradise (former Technocom); 10714 Independence Pointe Parkway

Ms. Ingrish explained this would not change much of the building footprint. There would be a pool for dogs and an outdoor run added at the rear of the building and a covered entry area in the front. There would also be some refreshing of the front façade. There would be some changes to parking but all of the existing driveways would remain. This application meets the requirements of the text that was just approved with the previous application.

Motion by Mr. Miller to approve the site plan. The motion was seconded by Mr. Higdon and unanimously approved.

Public Improvement Variance – Streamside Subdivision

Ms. Ingrish explained that the Planning Board recommended approval of this variance. The original subdivision developer had agreed to pay the Town \$1,000 – approximately the value of the construction work for a section of sidewalk of equivalent area – as a sort of fee-in-lieu.

Mr. Miller disagreed with this, saying a thousand dollars wouldn't cover the cost of sidewalk installation when it includes grading. In addition, the lack of sidewalk is in violation of two of the Town's vision statements, one of which calls for a walkable and bikeable community and the other which calls for a firm and fair growth and development process. If a developer sells lots to a builder, the same conditions that the developer had should attach to those homes. Sidewalks should be built. The question before the Board is whether or not to approve a variance but Mr. Miller believes there is no need to entertain the question. This is an issue between the developers and the Town shouldn't accept this as a Town road until the issue is resolved.

Mr. Buckley agreed that is an option. Ms. Ingrish explained that the sidewalk dedication is depicted on the subdivision plat. The original subdivider sold these lots to the builder and at some point the sidewalks were not built but that wasn't noticed until after the fact. Mr. Buckley explained that the Town doesn't have legal authority to go onto the property and perform the required grading work without slope easements, etc. The rest of the streets

in the subdivision are up to Town standards and are ready for acceptance. Ms. Ingrish noted that prior to this situation, the County inspectors didn't have a sidewalk inspection as an item in their checklist, but they will going forward. The Town did receive something from two property owners stating that they do not want the sidewalk installed.

Discussion ensued regarding the acceptance of the roads for maintenance and what could happen if they, or a portion of one of them, are not accepted. Mr. Query said it would be troubling to penalize the rest of the homeowners by not accepting the streets for maintenance. Mr. Melton noted that there are not sidewalks all throughout the neighborhood and Public Works Director CJ O'Neill noted that portions of the neighborhood preexisted the sidewalk requirements. Mr. Pata suggested accepting all the of the streets except for the portion in front of these homes but the question was raised on the legality of such an option. Mayor Taylor proposed allowing staff time to research the question and consider options.

Motion by Mr. Melton to defer to August 10, 2015. The motion was seconded by Mr. Query and unanimously approved.

Review and Approval of Subdivision Name - Fullwood Station

Motion by Mr. Higdon to approve the use of the name Fullwood Station as requested. The motion was seconded by Mr. Query and unanimously approved.

PUBLIC COMMENT

George Young, 407 Vinecrest Drive, Matthews spoke about the annual contract for the Town Attorney. Noting a clause which allows the Town Attorney to handle the Town's litigation, he said it is a conflict of interest since litigation leads to an increase in billable hours. He said litigation should be handled by an outside firm. He also spoke of previous court cases and said the Town should seek a new attorney.

REPORTS FROM BOARDS AND COMMITTEES

Minutes from the Environmental Advisory Committee were submitted. Mr. Miller noted there has been discussion of yard waste and how bags are not supposed to be used to contain it. Bags are occasionally used and Republic workers sometimes tear open the bags and leave them behind on people's lawns. A possible solution is to ask Republic to ensure that their workers take the bags with them. Another is to start using rollout containers for yard waste rather than bags.

Mr. Query noted that the bags are torn open when people use dark bags, which they are not supposed to do. He has always seen workers take the bags with them, not leave them behind, and he thinks they are going above and beyond by taking the yard waste when they're not in the proper bags to begin with. Mr. Higdon said he's concerned that the Town would essentially be telling Republic and citizens to not re-use bags, which is very wasteful. He would prefer alternatives rather than a ban on reusing bags. Mayor Taylor noted that Republic Services does a great job – in fact, goes above and beyond what the contract requires – and he thanked them and said it's important for the community to be aware of that. Republic and the Town have built a good relationship over the years and he knows they're trying to do the right thing.

CONSENT AGENDA

- A. Approve Minutes of the May 11 & June 22, 2015 Board of Commissioner Meetings
- B. Approve Preliminary Plat - Fullwood Station Subdivision; South Trade Street
- C. Accept Zoning Applications 2015-632, Matthews Parkway Corporate Center/Primrose School, 720 Park Center Drive, from I-1 to O(CD) for a Child Day Care Facility; and ~~2015-633, Multiple Office Condo Owners of Windsor Professional Center, 9700 Block Northeast Parkway, from Conditional to O(CD), to Bring Site into a Contemporary Zoning Classification and Allow Some Revisions~~, and Set a Public Hearing Date of September 14, 2015
- D. Approve Disposal of Surplus Property
- E. ~~Approve Town Attorney's Annual Contract~~
- F. Approve Budget Ordinance Amendments to:
 - 1) Recognize a Governors' Crime Commission Grant for the Purchase of Replacement Tasers for the Police Department in the amount of \$14,686.32
 - 2) Roll forward Fund Balance in Order to Accommodate Appropriations for Both Required and Committed Purposes

Mayor Taylor noted the need to pull a zoning application from the consent agenda and discuss it, due to a Commissioner's conflict. Mr. Higdon requested that the Town Attorney's contract be pulled for further discussion.

Motion by Mr. Miller to pull item C2 (acceptance of zoning application 2015-633) and item E (approval of Town Attorney's annual contract) place them as new business items D and E, and approve the remaining items. The motion was seconded by Mr. Higdon and unanimously approved.

NEW BUSINESS

APPROVE RIGHT-OF-WAY ACQUISITION AT PLEASANT PLAINS ROAD AND MCKEE ROAD

Mayor Taylor explained that right of way has to be acquired to accommodate the widening project. The town would pay for the acquisition but would essentially be repaid with the \$3 million in funds that are one of the conditions of the project's approval.

Motion by Mr. Miller to allow the Town Manager or his designee to contract and negotiate with the parties necessary to acquire the right of way and temporary construction easements necessary for Erickson to make roadway improvements to the intersection of McKee Road and Pleasant Plains Road for a total amount not to exceed \$25,000. The motion was seconded by Mr. Pata and unanimously approved.

CONSIDER EMPLOYEE PAY & CLASSIFICATION EVALUATION

Mayor Taylor noted the Board has had a number of conversations about this. Mr. Justice explained that any implementation costs would be deferred to January 2016 and changes with no associated implementation costs would be made immediately. Mayor Taylor noted he requested that staff review the recommendation for an automatic 5% increase when moving to a higher classification level.

Motion by Mr. Melton to approve the pay and classification evaluation recommended changes and authorize the Manager to implement the associated costs in January 2016 at the Manager's discretion. The motion was seconded by Mr. Pata.

Mr. Query said he opposed the issue of automatic increases for classification changes, saying it could result in a poor worker getting an increase. He also said it is inappropriate to do things in this manner when a 3% pool increase was included in the budget just passed. Mr. Miller said one reason for the study is because staff and the Board have a desire to retain talent and not lose it due to better pay elsewhere. He believes it is up to the Town Manager, like any manager, to make sure employees are rewarded for good behavior and adjust for others. He does not want to micromanage the management of the town. He does agree with the mayor about possibly eliminating the automatic 5% increase. Mr. Higdon noted that it is also at the Manager's discretion to demote people if they're not working properly.

Mr. Buckley cautioned that this is about job classifications, not the individuals filling those positions. It is up to the Manager to manage the person. Job classification issues deal with pay ranges of the positions, not the people in them. Mayor Taylor said he does agree with promotions to reward good production but not automatic increases for class changes. Mr. Pata said he agreed that the Town Manager can make the necessary decisions. Mr. Pata does not believe the number of classifications is right and that the automatic 5% increase isn't good either. Mr. Miller said part of the intent was to see if Matthews is competitive with other municipalities in the region. There were some years in during the recent economic downturn in which employees received minimal or no raises and there were healthcare cost increases at the same time. Mr. Melton noted that the Board agreed they weren't Human Resources experts and hired Ms. Manning because she is, and it would be a step back to not take her professional advice into consideration. Mr. Query said that he will vote in favor of the motion because of the study, but in the future he wants to see a study on positions that are overpaid as well.

The motion was unanimously approved.

APPROVE PUBLIC WORKS POSITION CHANGES

Motion by Mr. Miller to remove the Parts Clerk/Assistant Equipment Mechanic position and replace with one Maintenance Worker position on the position inventory and classification list. The motion was seconded by Mr. Melton and unanimously approved.

ACCEPT ZONING APPLICATION 2015-633, MULTIPLE OFFICE CONDO OWNERS OF WINDSOR PROFESSIONAL CENTER, 9700 BLOCK NORTHEAST PARKWAY, FROM CONDITIONAL TO O(CD), TO BRING SITE INTO A CONTEMPORARY ZONING CLASSIFICATION AND ALLOW SOME REVISIONS, AND SET A PUBLIC HEARING DATE OF SEPTEMBER 14, 2015 (REMOVED FROM CONSENT AGENDA)

Mayor Taylor explained that Commissioner Query is one of the applicants on this and needs to be excused from the proceedings.

Motion by Mr. Miller to excuse Commissioner Query from all proceedings regarding zoning application 2015-633 due to his personal involvement with the application. The motion was seconded by Mr. Melton and unanimously approved. Mr. Query was excused.

Motion by Mr. Miller to accept zoning application 2015-633 and set a public hearing date of September 14, 2015. The motion was seconded by Mayor Taylor and unanimously approved.

Motion by Mr. Higdon to allow Commissioner Query to resume activities. The motion was seconded by Mr. Pata and unanimously approved. Mr. Query resumed his role on the Board.

APPROVE TOWN ATTORNEY'S ANNUAL CONTRACT (REMOVED FROM CONSENT AGENDA)

Mr. Higdon explained that he asked for this to be pulled for discussion because he wanted to address some of the comments made by Mr. Young. He noted that the Town does not use only Mr. Buckley for all legal cases, including the Wright case, and nothing in the Town Attorney's contract excludes the use of other attorneys. Mayor Taylor agreed and said specialists have been called in when necessary. Mr. Melton said Mr. Buckley encouraged the Board to look for outside representation when necessary.

Mr. Query said he believes Mr. Buckley to be one of the best municipal attorneys in the state, and he has never let Matthews or the Board down on anything he has done. His fees are very low, too, and Mr. Query appreciates everything Mr. Buckley has done for the town. Mr. Pata said Mr. Buckley has done an excellent job for the town and has guided the Board appropriately to look for other counsel when necessary.

Motion by Mr. Melton to approve the Town Attorney's annual contract. The motion was seconded by Mr. Query.

Mayor Taylor said he has worked with Mr. Buckley for a number of years. In addition to the legal advice there has been a great buildup of trust. The town has been directed to do the right things over the years and the Mayor has no doubt regarding the quality of Mr. Buckley's guidance.

The motion was unanimously approved.

MAYOR'S REPORT

Mayor Taylor reminded everyone that the second July meeting was cancelled, so the next meeting will be on August 10.

ATTORNEY'S REPORT

Mr. Buckley said he was privileged to work on his 38th contract with the Town of Matthews and he expressed his appreciation for the Board's words of confidence.

TOWN MANAGER'S REPORT

None

ADJOURNMENT

Motion by Mr. Melton to adjourn. The motion was seconded by Mr. Pata and unanimously approved. The meeting adjourned at 8:13 pm.

Respectfully submitted,

Lori Canapinno
Town Clerk