

The Plymouth Town Council met in a regular meeting Monday, May 9, 2011 at 7:00 pm in the Plymouth Town Council Room at the Plymouth Police Department with Mayor Brian Roth presiding. The meeting was called to order. The following were present:

Mayor Brian Roth
Councilmember Vicki Sawyer, Mayor Pro-Tem
Councilmember Edgar Barrow
Councilmember James Arnold
Councilmember Mary Ann Byers
Councilmember Shelton McNair
Councilmember Mary Nixon

Kenneth Creque, Town Manager
Joanne Floyd, Town Clerk
Brantley Peck, Town Attorney

I. MEETING CALLED TO ORDER

II. OPENING PRAYER & PLEDGE OF ALLEGIANCE

The Mayor gave the opening prayer and led with the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion to approve the proposed agenda with the removal of Closed Session was made by Councilmember Byers and seconded by Councilmember Arnold. Motion passed with a vote 5-1. Member voting in opposition was Councilmember Nixon.

IV. PUBLIC HEARING

1. Zoning Change along US Hwy 64, East of Town of Plymouth

The Mayor opened the public hearing.

The Town Manager described the Planning Board's recommendation of the zoning change along US Hwy 64 East to the Town Council. He stated that the agenda package contains the list of property owners and a copy of the letter that was mailed to each and that letters to 1) Brock Harris; 2) Property Owner; and 3) Royster Clark Realty were returned undeliverable.

Ms. Ellen Respass, daughter of Edna Phelps, property owner of 2414 US Hwy 64 East, stated that her mother has lived there for over 60 years, and she was born and raised there. She stated that she supports Plymouth, but don't see the purpose of rezoning this area "commercial". She stated that four neighbors feel the same way and requests that Council preserve their homes. She thought the application for the home occupation was denied,

but there is an open/closed sign in the window of that property. She requested someone to inquire about it.

Mrs. Veolia Brickhouse stated that she is against the rezoning. She stated that she has been living there for 38 years and the house in question is next door to her. She stated that she is elderly and doesn't like the idea of the traffic going in and out and asked not to rezone the area.

Mr. Henry Freeman, Jr. stated that he owns four pieces of properties in that area and is in favor of the rezoning.

Ms. Jackie Garcia stated that she is in favor of the re-zoning and requests its approval.

Ms. Barbara Clifton stated that she has lived there for over 70 years and is not in favor of the rezoning.

Mr. AJ Respass stated that it takes a lifetime to build a home and is a big investment. He stated that businesses have a choice and recommends that they find another place. He requested that Council don't push the change over one homeowner. He stated that he is not in favor of this type of government.

With no further public comment, the Mayor closed the public hearing.

Councilmember Barrow questioned the Town Manager if he was aware of the business being opened and the type of business that was there.

The Town Manager replied that he was made aware of it late this afternoon and would be sending the Zoning Officer there tomorrow. He stated when this was presented to Council; the discussion was to allow for the creation of HWY 64 East area similar to the west end area.

Councilmember Byers questioned the number of properties that were located in the proposed area.

The Town Manager replied there are approximately 30 properties and 12 - 15 are homes. He stated that the rezoning will not change the current residential properties. He stated that area properties are not selling being zoned "residential", and if zoned "commercial" they might be more likely to sell.

Councilmember McNair questioned if someone could open an adult bookstore or massage parlor if the area is rezoned.

The Town Manager replied that those types of business are permitted uses in the commercial zoning district.

Councilmember McNair stated that the residents are on a shoe string budget and can't afford to move.

Councilmember Byers stated that we are supposed to be in a modern world, but residents should not have to put up with businesses moving in around them. She stated that people still call Plymouth home and she knows what happens when businesses are allowed to come into neighborhoods.

Motion to deny the resolution to rezone the properties located along the frontage of US Hwy 64 East from R-20 Residential to C2 Highway Business was made by Councilmember Byers and seconded by Councilmember Arnold. Motion passed with a vote 6-0.

2. Text Amendment Change to include Catering as a Home Occupation

The Town Manager explained that this is a request to add Catering to as a Home Occupation.

The Mayor opened the public hearing.

Mr. Melvin Brown stated that he has been a resident for 35 years. He stated that he and his wife put a barn next to their residence hoping to help the community with a non-profit soup kitchen.

With there being no further comments, the Mayor closed the public hearing.

Councilmember Barrow questioned whether the Brown's had everything they are required to have for this type of business.

Mr. Brown responded that they have 90%. He stated that the Health and Building Inspector has visited the property and told them what they need. He stated that they will cook food in the barn and some might be pick-up, but most will be delivered.

The Town Manager responded that a catering business is a "cook on site" and "serve off site" business.

Councilmember Byers stated that parking could become an issue with pick-up. She stated that this issue came up nine years ago and was told that the state law prohibits catering in a home, when she inquired with the Health Department.

The Town Attorney stated that “in-home” catering could be allowed based on conditions. He stated that it is not impossible to meet state codes, but most homes are not built with commercial appliances to accommodate a catering business. He also said that the retail sales prohibition could be inconsistent with catering because the other allowable occupations are primarily service-related, not product sales.

Mr. Brown stated that he doesn't understand why everything around him is zoned for what he wants to do, but the current zoning doesn't allow it for his property.

Councilmember Barrow questioned the difference between the Brown's situation and William's Café.

The Town Manager replied that William's Café was grandfathered in and the Brown's property is zoned residential. He explained that Home Occupations are conditional uses in the R7, R20, and R10 zoning districts. He stated that the proposed text amendment includes a “home-occupation” definition.

The Mayor stated that the paperwork presented does not allow for a “home occupation” to be performed in an exterior building.

The Town Manager explained if the text amendment is approved, then the Browns would still have to go before the Board of Adjustment for approval of their intended use, since it is a conditional use. He stated that the Browns needed to apply for a conditional use for the catering business and a variance for use of the exterior building.

The Mayor stated that businesses grow. He stated that this approval would include little catering businesses and commercial businesses like Captain Bob's. He stated the neighbors would not be happy if six (6) catering trucks were parked in the backyards.

Motion to table was made by Councilmember Sawyer and seconded by Councilmember Byers. Motion failed with a vote 2-4. Members voting opposition were Nixon, Barrow, McNair, and Arnold.

Motion to approve the proposed text amendment present to Council was made by Councilmember McNair and seconded by Councilmember Arnold. Motion passed with a vote 4-2. Members voting in opposition were Byers and Sawyer.

V. PUBLIC COMMENT

Mr. Willie Drye stated that the Small Town Main Street Committee is applying for a 501(c) (3) non-profit status, and the filing fee is \$500.00. He stated that they have collected \$80.00 in donation a jar, received a donation approval from the DDA, and are awaiting approval from the Historical Society to cover the filing fee.

Mr. Drye He questioned whether Council has scheduled a community clean up day and said that he spoke to the Chief about having the officers keep their eye on the Armistead House since it is getting more publicity.

VI. PRESENTATIONS TO COUNCIL

1. Washington County Chamber of Commerce.

Mrs. Gail Spiewak, Chamber President, presented a written request for \$1,500.00 for the Chamber to be considered in the budget.

VII. DEPARTMENT REPORTS

1. Public Works Report- Bill Ehrenbeck

Mr. Bill Ehrenbeck presented the monthly report that was part of Council's agenda package.

The Mayor questioned the low water loss percentage (4.6% loss compared to 30% loss last month).

Mr. Ehrenbeck stated that he discovered that the Utility Billing Clerk was only providing him with the usage total for active accounts. He stated that in order to calculate the true water loss, the percentages for all usage accounts need to be included in the calculation.

2. Police Department Report– Chief O’Neal

Chief O’Neal presented the monthly report that was part of Council’s agenda package.

3. General Services –Mike Wright

Mike Wright presented the monthly report that was part of Council’s agenda package.

Councilmember Sawyer questioned why there was a large number of street lights out on Wilson Street.

Mr. Wright replied that he checks street lights once a month.

VIII. CONSENT AGENDA

The Town Clerk explained the following changes to the March 3, 2011 minutes:

1. addition of the word “the” on page one, under Delete Streets from the RFP, first paragraph, fourth sentence; and
2. addition of “with Council” on page one, under Delete Streets from the RFP first paragraph, eighth sentence.

The Town Clerk explained that following changes to the April 21, 2011 minutes:

1. change the word “regular” to “special” on page one, first paragraph, first sentence;
2. removal of “Joanne Floyd, Town Clerk and Brantley Peck, Town Attorney” from the list of members present on page one (1);
3. addition of: a) “The Town Attorney was not required to attend this special meeting.” b) “Regina Armond attended the meeting for Joanne Floyd” to be inserted on page one above Meeting Called to Order;
4. addition of the word “plans” on page one, under Health Plans Comparisons, fourth paragraph, seventh sentence;
5. addition of “his investigation in” on page four, under Public Works Discussion, second paragraph, ninth sentence;
6. remove the word “to” on page four, under Public Works Discussion, second paragraph, ninth sentence; and
7. replace the word “the” with “these” on page four, under Public Works Discussion, second paragraph, ninth sentence.

Motion to approve the proposed March 3, April 11, and April 21, 2011 minutes with said revisions was made by Byers and seconded by Councilmember Sawyer. Motion passed with a vote 6-0.

IX. OLD BUSINESS

1. Proposed Fire Fighter Equipment Grant Resolution

The Town Manager explained that the Fire Department has requested the Town to apply for a grant for funds through the North Carolina Department of Insurance Office of the State Fire Marshal to purchase a fire engine with a match requirement of five percent. The proposed resolution also includes the authorization for the Town Manager to hire a consultant, not exceeding \$3,000, to complete the grant application and if the grant application is approved, then the Town Council must approve the purchase of the vehicle.

Motion to approve the proposed resolution supporting the Plymouth Fire Department to apply for grant funds through the North Carolina Department of Insurance Office of the State Fire Marshal FY 2011/2012 was made by Councilmember Byers and seconded by Councilmember Nixon. Motion passed with a vote 6-0.

2. Health Insurance Options

Motion to authorize the Town Manager to negotiate with Triangle Planning and obtain various health care options was made by Councilmember Arnold and seconded by Councilmember McNair. Motion passed with a vote 5-1. Member of voting in opposition was Nixon.

3. Public Works Contract Discussion

The Town Manager reviewed the information that was part of Council's agenda package concerning the meeting that was held with Enviro-Tech on May 5, 2011 at the Town Attorney's office. He explained that Enviro-Tech has agreed in principle to the Town's requested amendments of terms in the Operation, Maintenance and System Improvement Agreement (attachment A) and that provisions (a), (b), and (c) under Performance Measures will be deleted from the proposed agreement. He reviewed Enviro-Tech's Emergency Response Plan that was part of Council's agenda package (attachment B). (The Council was mostly concerned with a regional disaster response.)

Motion to table Enviro-Tech's contract and direct the Town Manager to negotiate with Veolia Water was made by Councilmember Byers and seconded by Councilmember Barrow. Motion passed with the Mayor voting in the affirmative (4-3) to break the 3-3 vote. Members voting in opposition were Councilmembers Nixon, McNair, and Arnold.

X. NEW BUSINESS

1. Pre-Budget

The Town Manager explained that the Agenda Package includes three draft General Fund budgets for consideration with a \$.58, \$.59, and \$.75 tax rate and a proposed Enterprise Funds budget with no increases.

2. IT Contracts

The Town Manager explained that he received IT proposals from 1) VC3 in the amount of \$58,000 and 2) SoundSide Group in the amount of \$29,000. He stated that VC3's contract provides that the company owns all equipment and software as well as provides support and SoundSide Group's contract provides only support. He stated that he recommends Council to approve the contract with SoundSide.

Motion to approve the IT contract with the SoundSide Group in the amount of \$29,000 was made by Councilmember McNair and seconded by Councilmember Arnold. Motion passed with a vote 6-0.

XI. TOWN MANAGER'S REPORT

The Town Manager reviewed the following items that were part of Council's agenda package:

1. Finance

The Town Manager requested that Council schedule two budget workshops. He explained that the budget message and proposed budget must be presented to Council by June 1st. He stated that he will advertise the public hearing for the budget to be held on June 13, 2011.

2. Permits and Zoning

3. Project List

- a) Roanoke Avenue Drainage Project – At NCDOT;
- b) West Avenue Drainage Project – At NCDOT;
- c) Marina Project – No change;
- d) Wilson Street Park Expansion – Working to get in contact with all heirs on deed;
- e) Police Station Repair – No change;
- f) Planning Board Attendance Draft Proposals – be presented June 2011;
- g) Rental Ordinance Draft Proposal – be presented June 2011; and
- h) Park Ordinance Draft Proposal – be presented June 2011.

XII. TOWN ATTORNEY'S REPORT

The Town Attorney updated Council on tax delinquency notice 104 Linden Street.

XIII. ANNOUNCEMENTS FROM COUNCIL

The Mayor announced that the Antique Show will be held on May 21 and 22, 2011, and reminded Councilmembers of the need to complete the Town Manager's evaluation form for future consideration.

Councilmember McNair stated that Representative Tim Spear has talked to him about complaints that he has received about the loitering in the mini park and wanted to know if the Town could or was planning to do anything about the issue.

XV. ADJOURNMENT

Motion to adjourn was made by Councilmember McNair and seconded by Councilmember Nixon. Motion passed with a vote 6-0.

Town Clerk

Mayor

June 13, 2011
Adopted