

The Plymouth Town Council met in a regular meeting on Monday, December 13, 2010 at 7:00 p.m. 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 at the meeting:

Mayor Brian Roth
Councilmember Vicki Sawyer, Mayor pro-tempore
Councilmember James Arnold
Councilmember Edgar Barrow
Councilmember Mary Ann Byers
Councilmember Shelton McNair, Sr.
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

Councilmember Nixon requested the following additions to the agenda: 1) Old Business, number three, Discussion of Personnel Policy; and 2) New Business, number seven, Town Hall Hours of Operation.

Motion to approve the agenda with the said revisions was made by Councilmember Byers and seconded by Councilmember Nixon. Motion passed with a vote 6-0.

IV. PUBLIC HEARINGS

The Mayor opened the first public hearing.

1. Rezoning of 1215 Wilson St, as requested by property owner from R-20 Single Family Residential to Light Industry.

The Town Manager explained that Mr. Randy Snell is requesting that 19.2 acres of land located off of Pine Street be rezoned from R-20 to IL. He stated that the request was reviewed and approved by the Planning Board on November 15, 2010.

The Council received no comment from the public in attendance, and this public hearing was closed.

A motion to have Town staff draft a proposed ordinance and present at the January meeting was made by Councilmember Barrow and seconded by Councilmember Byers. Motion passed with a vote 6-0.

The Mayor opened the second public hearing.

2. Changes to R7 to increase density.

The Town Manager explained that a request was submitted by Bill Ramsey to increase the allowable density within the R-7 (Multi-Family) zoning district. He explained the request is to: 1) reduce the minimum lot dimensions for each additional unit from 4,000 square feet to 2,500 square feet and increase the maximum height of structures from 35 feet to 45 feet.

Ms. Ramsey explained that she and Mr. Ramsey have built 48-72 unit complexes in 60 communities. She indicated that the current ordinance only allows a complex that would justify a part-time manager and maintenance personnel due to current restrictions.

Councilmembers had specific questions about what the Ramseys had in mind with their possible development plans.

The Mayor reminded Council that the hearing and discussion would apply to all properties located in the R-7 zoning district, not just a specific property.

Stacey Johnston, Fire Department Chief, explained that the Fire Department is not equipped to handle a 3 story building fire with its truck having a thirty-five foot ladder.

Councilmember Arnold stated that he is not ready to purchase a ladder truck.

No one else spoke at this hearing and the Mayor closed this second public hearing.

The Town Manager recommended that this item be tabled to allow the Planner to research the zoning areas.

The Mayor stated that, if the citizens understood what could happen in their neighborhoods with this request, the room would be packed tonight.

The Town Attorney explained that this is not about the applicant, but the general R-7 zoning district. He stated that the Planning Board needs to be involved, and Council then review the zoning map.

A motion to have staff and the Town Planning Board to examine the proposal and its impact in all R-7 areas (downtown and historic district) and make their recommendations was made by Councilmember Barrow and seconded by Councilmember Sawyer. Motion passed with a vote 6-0.

Councilmember Sawyer requested a copy of the Planning Board minutes concerning the application.

V. PUBLIC COMMENT

No public comment was heard.

VI. DEPARTMENT REPORTS

1. Public Works Report- Bill Ehrenbeck

Bill Ehrenbeck was not present.

Councilmember Arnold inquired about the possibility of installing sidewalks along Wilson Street.

Councilmember Byers replied that it is noted in the November minutes that this request has been submitted to NCDOT annually.

The Mayor stated that he would like to have Monroe Street added to the proposed paving list due to the damage caused by the tractor trailer trucks near the Little Man business.

Councilmember Sawyer stated that the contractors need to be contacted about that street damage. She stated that they should be made to pay for the damage.

Councilmember McNair stated that the contractors are Grayson Barnes and Billy Corey. He stated that this is a temporary business situation and the logs are being shipped to South Carolina.

2. Police Department Report– Chief O’Neal

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

Councilmember McNair stated that he doesn’t know why the oldest car gets the most miles.

Chief responded that it is assigned to a patrol officer.

Councilmember Barrow questioned whether there was a Sergeant position open, how long the current Corporal had been in his position and how long does it generally take for a Corporal to be promoted to Sergeant.

Chief responded that the Sergeant's position is not currently funded, the current Sergeant has been in his position for 10 years and a Corporal might not be promoted to Sergeant.

Councilmember Barrow questioned whether the 44 speeding citations were given in Town and written on Town citations.

Chief responded that all citations were given in Town.

The Town Manager explained that he is waiting on a meeting with the District Attorney to make sure all the mechanics are correct with issuing Town citations.

3. General Services –Mike Wright

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

The Mayor questioned how the Fall leaf pick-up was going.

Mr. Wright responded the leaf pick up was under control, and that his department has been getting help from the Street Department.

VII. CONSENT AGENDA

The Town Clerk addressed Council about the proposed October 12, 2010 special meeting minutes and the November 8, 2010 regular meeting minutes. She explained that the draft personnel policy with recommended changes from Robin Davis and the North Caroling League of Municipalities were attached to the proposed October 12, 2010 minutes, since Council approved the proposed, draft (marked up) personnel policy that night without having the corrected final draft to review.

A motion to approve the proposed October 12, 2010 and November 8, 2010 minutes as presented was made by Councilmember Byers and seconded by Councilmember Nixon. Motion passed with a vote 6-0.

VIII. OLD BUSINESS

1. Discussion and Re-Consideration of the proposed Farm Animals Resolution in the Town of Plymouth ETJ

The Town Manager explained that Councilmember Arnold requested this item to be placed on the agenda as a follow-up from several months ago and the Council at that time had requested that staff present a revised document at this meeting. Staff presented its proposed Resolution.

There were multiple questions with the proposed language by the Mayor, Councilmembers and some members of the public.

The Mayor suggested that the animals in question should be referred to as domestic animals to ensure all are included.

A motion was made to send this back to the Planning Board and have the Town Manager investigate a more inclusive ordinance by Councilmember Sawyer and seconded by Councilmember Byers. Motion passed with a vote 6-0.

2. Veolia Water Contract, (Extend/Renew/Terminate Issues)

The Town Manager presented Council with a requested timeline for the RFP process, consultant costs, in-house costs and Veolia's contract by power point presentation.

The Town Manager expressed concerns that he had for the Town with the contract expiration, which included:

- The need to recruit qualified personal.
- Employee and system certification issues.
- Transitional costs to be estimated by engineers.
- If current Veolia employees are not hired, then the Town would lose valuable experience and familiarity with the system.

He stated that since 1988, the contract had cost the Town approximately \$7,690,011.00, with the 2011 costs projected to be around \$714,732.00. He indicated that, if Councilmembers were comparing possible costs (if its inclination was to bring all of these services "in-house"), then the Street Department costs could be included along with Building and Grounds.

When asked, the Town attorney responded that there was a 190 day notice requirement to terminate the contract or it would be automatically renewed for five years. The Town attorney stated that the original contract was set to expire in March of 2011, but had been modified to extend the original term to October of 2011. He recommended that, if Council wanted to give its notice to not renew the contract, that it should do so no later than after the May 2011 Council meeting to make sure that there was sufficient time to comply.

The Mayor recommended staff to put out an RFP and calculate the cost of bringing it in house. He stated that a decision needs to be made within the next two to three months.

Councilmember Arnold stated that he knew people with these certifications and believes that they might be interested in these positions, if brought "in-house".

A motion to instruct staff to send out RFPs and investigate bringing these services "in house" was made by Councilmember Barrow and seconded by Councilmember Byers. Motion passed with a vote 5-1, with Councilmember McNair in opposition.

2. Discussion of Personnel Policy

Councilmember Nixon requested that this item to be placed on the agenda. She stated that she does not feel comfortable with the personnel policy approval process due to the Council's vote on the personnel policy before finishing its review of the recommended revisions and not having a final draft. She stated that she compared that final draft presented by the Town Manager at the November 8, 2010 meeting against the drafts presented by Town Manager at the October 12, 2010 Special Meeting. Revisions had been made and sections were not included in the approved policy that were voted on when compared to the October 12, 2010 version of the policy. She asked for an explanation from the Town Manager. She gave examples of: 1) the Town Manager's job description had been deleted and 2) the sick and vacation accrual time each month had been reduced from 8 hours per month to 4 hours.

Councilmember Byers agreed with Councilmember Nixon and reminded Council that at the October 12, 2010 Special Meeting, Council had stopped reviewing the proposed personnel policy draft on page 51 when she had begun to express her concerns about the language in the Town Manager's section of the policy. She expressed her opinion that even though she did not necessarily agree with the proposed language in the Town Manager's section, the Town Manager's section should not have been removed from the draft presented at the November 8, 2010 regular meeting, since it had been previously approved by the vote during the October 12, 2010 special meeting.

Councilmember Barrow then questioned the Town Manager about whether sections and/or pages had been removed when one compared the approved October 12, 2010 draft with the approved final draft that was presented November 8, 2010 regular meeting.

The Town Manager responded that no changes had been made after the November 8, 2010 resolution vote.

Upon further inquiry, it was confirmed that the Town Manager had removed the Town Manager's job description from the drafts presented at the October 12, 2010 special meeting.

Various Councilmembers expressed their dismay concerning the Town Manager's decision to do this without Council's approval. When asked for an explanation for this, (which had not been approved by Council,) the Town Manager indicated that he had done so, because Councilmember Byers had expressed her concerns about certain provisions in the Town Manager's portion of the policy during the October 12, 2010 special meeting.

Councilmember Byers stated that the Manager was not told to remove the Town Manager's job description.

Councilmember Arnold stated that we should instruct the Town Manager to put the policy back like it was when Council approved it on October 12, 2010.

Councilmember Barrow the questioned the Town Manager whether he had removed this job description only because Councilmember Byers had expressed her concerns during the October 12, 2010 Special Meeting.

The Town Manager responded affirmatively. He had deleted the Town Manager's position from the personnel policy after the October 12, 2010 Special Meeting vote.

Councilmember Byers questioned the Town Manager when he was going to tell the Council that Town Manager's job description had been removed from the Personnel Policy.

Councilmember Nixon stated that the new job descriptions do not reflect what the position currently does. She stated that they need to be fine tuned.

The Mayor questioned whether the Town Manager was trying to restructure the Town staff.

Town Manager responded affirmatively so that the Town Administration could run more effectively.

Councilmember Nixon stated that the current salary descriptions are less than what the person is currently making.

The Town Manager explained the all employees fall within their pay scale.

Councilmember Byers stated that this was one of her concerns during the October 12, 2010 Special Meeting and also said that if Council had had a chance to discuss the policy more thoroughly, she would have inquired about the 30 day termination notice in the Town Manager's job description and if that provision was contrary to the Town Manager's "at will" employment status and North Carolina law. She directed this inquiry to the Town Attorney.

The Town Attorney responded that an "at will" employee could have termination notices set forth in his job description that may not necessarily be incompatible with his or her at-will employee status. No legal opinion was given if that was advisable.

Motion was made by Councilmember Byers and seconded by Councilmember Arnold that the Town Manager reinsert the Town Manager's job description into the policy and make any other revisions necessary so that the November 8, 2010 "final" personnel policy matched the approved October 12, 2010 revised drafts of the personnel policy. Motion passed with a 6-0 vote.

Upon inquiry by Council, Councilmember Nixon agreed to meet with the Town Manager to discuss her job description concerns and personnel policy and report back to Council.

IX. NEW BUSINESS

1. Resolution Supporting a Regional Agricultural High School in Washington County

Motion to approve the proposed Resolution Supporting a Regional Agricultural High School in Washington County was made by Councilmember Nixon and seconded by Councilmember Barrow. Motion passed with a vote 6-0.

2. Vacancy Board of Adjustments

Motion to appointment Mr. Larry Jones as a primary member and Mr. Justin Merrit as an alternate member to the Board of Adjustments was made by Councilmember Arnold and seconded by Councilmember Byers. Motion passed with a vote 6-0.

4. Consideration to Changes to Town Ordinance 94.21, Trash Cans.

The Town Manager reviewed the proposed amendment to the Town Ordinance 94.21, Trash Cans. This proposed amendment would allow for a citation to be given in the amount of \$25.00 per occurrence if: 1) trash cans, household trash, garbage or refuse are placed by the street sooner than noon preceding scheduled pickup; and 2) trash cans and refuse containers are not removed by 7:00pm on the day following scheduled pickup.

The Town Manager explained that these enforcement provisions, if approved, would come under Code Enforcement, (Mike Wright).

Councilmember Arnold stated that the trash is not always picked up as scheduled. He queried that, if he puts his trash cart out on his scheduled day, Thursday, but the trash is not picked up until Friday, would he be in violation of the proposed ordinance.

A motion to table this until the January meeting was made by Councilmember Barrow and seconded by Councilmember Nixon. Motion passed with a vote 5-1. Councilmember voting in opposition was Byers.

5. Consideration of Changes to Town Ordinance relating to Utility Billing adjustments.

- a. Waiver of late fees and penalties in the discretion of Town Manager, (with a limit not to exceed \$180.00 for the life of the account.)

The Town Manager explained there is no provision in the current ordinances that allows penalties to be waived. He proposes the ordinance be amended to allow the Town Manager to have the discretionary authority to waive late fees and penalties not to exceed \$180 for the life of the account. (Late fees and penalties are not planned or budgeted revenue amounts per Town Manager).

- b. Water Billing adjustments on billed amounts to be made in discretion of Town Council.

The Town Manager explained that his office receives numerous requests for billing adjustments. He stated that he proposes that the adjustment requests be presented to the Town Council by the account holder making the request.

A motion was made to table these two proposals to a later date by Councilmember Byers and seconded by Councilmember Nixon. Motion passed with a vote 5-1. Councilmember McNair voted in opposition.

6. Wilson St. Park Expansion

The Mayor explained that Lawrence McNair has been formally requesting the Town to acquire the property located at the Wilson Street Ball Park. He explained that the house is owned by numerous heirs while Mr. McNair has been mowing the grass (but is getting too old) and paying the taxes.

The Town Manager explained that while the tax value of the property is \$29,500, it has a collapsed roof and ceilings. He stated that the property could be used for expansion of the ball park and parking, if acquired by the Town.

A Motion to have staff make further investigations was made by Councilmember Barrow and seconded by Councilmember Byers. Motion passed with a vote 6-0.

7. Town Hall Hours of Operation

Councilmember Nixon stated that she has received a number of complaints from the citizens about the office closing at 4:30pm and had responded that there is a drop box out front for utility payments to be made when the office is closed.

The Town Manager explained that while the employees' office hours are 8:00am to 5:00pm, the office doors open at 8:30am and close at 4:30pm. He stated that he changed the closing hours to 4:30pm due to a statute requirement that a deposit must be made daily at the bank. He also explained that it would require the employees to stay after 5:00pm (accruing overtime) in order to reconcile the books on a daily basis.

Councilmember Nixon questioned how the payments and penalties are posted. She stated that Ann Barber had explained to her that the computer software generates the penalties on past due accounts. She questioned, if someone puts their payment in the drop box out front after 5:00pm, would penalties be assessed on the account?

The Finance Officer explained that Mary Bratts checks the drop box every morning, and if a payment has been deposited, then the account will not be penalized.

X. TOWN MANAGER'S REPORT

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

1. Finance Report;
2. Zoning Applications; and
3. Roanoke Avenue Storm Water Line Repair/Replacement Work.

XI. TOWN ATTORNEY'S REPORT

None.

XII. ANNOUNCEMENTS FROM COUNCIL

The Mayor presented a handout about the Advocacy Goals Conference on Thursday, January 20, 2011, from 9:30am to 5:00pm at the Raleigh Convention Center.

XIII. CLOSED SESSION

A Motion to go into closed session under 1) N.C.G.S §143-318.11(a) (6) to consider the qualifications, competence, performance, character, fitness or conditions of initial employment of an employee of the Town and 2) N.C.G.S §143-318.11(a) (1), to prevent the disclosure of confidential information under§ 143-318.10(e) was made by Councilmember Byers and seconded by Councilmember Barrow with a 6-0 vote.

XIV. ADJOURNMENT

After coming out of closed session, a motion to adjourn was made by Councilmember Arnold and seconded by Councilmember Nixon. Motion passed with a vote 6-0.

Town Clerk

Mayor

January 10, 2011
Adopted