

**TOWN OF ROLESVILLE
REGULAR MEETING OF THE
TOWN BOARD**

August 6, 2019

MINUTES

PRESENT:

Frank Eagles, Mayor	Ronnie Currin, Mayor Pro Tem
Jacky Wilson, Commissioner	Sheilah Sutton, Commissioner
Paul Vilga, Commissioner	Michelle Young-Medley, Commissioner
Amy Stevens, Finance Officer	J. G. Ferguson, Parks & Recreation Director
Danny Johnson, Planning Director	Mical McFarland, Econ. Development Manager
Orlando Soto, Police Chief	Kelly Arnold, Town Manager
David York, Town Attorney	Robin Peyton, Town Clerk

APPROVAL OF THE AGENDA

Mayor Frank Eagles called the Regular Meeting to order at 7:00 p.m. and led the pledge of allegiance.

INVOCATION

Commissioner Wilson gave the invocation.

APPROVAL OF THE AGENDA

Mayor Eagles called for the approval of the August 6, 2019 meeting agenda. Upon a motion by Commissioner Wilson and second by Commissioner Vilga, the August 6, 2019 meeting agenda was approved by unanimous vote.

BOARD LIAISON REPORTS

NONE

PUBLIC COMMENT

George Garcia, 524 Averette Road, Rolesville, NC

Mr. Garcia expressed his concern regarding a traffic study reportedly conducted for a subdivision that is proposed to be built. Mr. Garcia inquired as to when the data was collected, what kind of money was spent on it and queried why the study was to have been completed in October of 2018 yet he stated there was a meeting in December 2018 and July 2019 for which he alleged no signs were posted.

APPROVAL OF THE CONSENT AGENDA

Upon a motion by Mayor Pro Tem Currin and second by Commissioner Wilson, the August 6, 2018 consent agenda consisting of the following was approved by unanimous vote:

- Approval of the July 16, 2019 Town Board Regular Meeting minutes.
- Memorandum of Understanding with Community Gardeners of Rolesville.
- Resolution 2019-R-09: Engage in Electronic Payments.
- Reschedule Public Hearing: Barrington Development Agreement Amendment.
- Call for Public Hearings.

REGULAR AGENDA

Public Hearing (Quasi-judicial) on Case SUP18-09: The Point: PUD Special Use Permit Request

The request is for a Master Plan Amendment to Shearon Byrum Williams, MA19-02, proposed is 584 single-family homes and 324 townhomes on a total area of 316.38 acres, located either side of Louisburg Road (US 401 Bypass), south of East Young Street intersection. Wake County PINs

1768267208, 1768068057, 1768044257, and 1758930017.

Open Public Hearing

Mayor Eagles opened the public hearing on Case SUP18-09 at 7:05 p.m.

Town Attorney David York read the following statement: *Quasi-judicial hearings have characteristics similar to court proceedings. Quasi-judicial decisions must be based only on the evidence presented at the hearing and site visits by the board if any. Witnesses must testify under oath or affirmation. Parties have the right to cross examine the witnesses and there is a right to present rebuttal evidence. The evidence provided by the witnesses must be competent and material. North Carolina General Statute 160A-393 prohibits a person from giving opinions about scientific, technical or other specialized subjects, unless the person, from knowledge, skills, experience, training or education is in fact an expert on the subject. A person wanting to give an opinion as an expert must first state his or her qualifications to be an expert on the subject. North Carolina General Statute 160A-393 specifically prohibits opinions that "the use of property in a particular way would affect the value of other properties" or opinions that "the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety" unless the witness is an expert on the subject.*

Attorney York queried the board members as to their predisposition, prior discussion with opponents, or inability to make a decision based solely on evidence presented.

Hearing satisfactory answers from all board members, the Town Clerk swore in those persons wishing to provide testimony in the hearing.

Evidence from Staff

Planning Director Danny Johnson provided detailed information on the request to rezone the 316.38 acres near Louisburg Road. Mr. Johnson then took questions from the Town Board following his introduction of Case SUP18-09.

Speaking in Favor

NONE

There were no questions asked of staff by the applicant. Attorney York then asked if any opponents or members of the public had any questions of staff:

Speaking in Opposition

Heather Swisher, 521 Genovesa Drive, Rolesville, NC

Ms. Swisher stated her intent to have a civil engineer present but was unable to.

Objections were raised by opposing council Beth Trahos stating evidentiary standards do not allow hearsay therefore expressed concern regarding the questions being posed and opinions offered being that of someone not present to testify. Ms. Swisher limited her comments to the following questions raised by Civil Engineer David Blevins of Bass, Nixon and Kennedy in Raleigh, NC. Questions which are pertinent to the north side of the proposed The Point subdivision:

1. What is the maximum number of dwellings units the Town allows to access a local residential street that is 22' wide. (Ms. Swisher stated her inability to find it in the ordinances)? The Point presently proposes 98 lots and nine lots are already on Genovesa so that is 107 lots accessing a

local residential street and the traffic count is a product of the number of bedrooms that is proposed for that.

2. UDO section 15.44: Subdivision Design mentions block lengths of 1800' max. When you leave Virginia Water Drive and come past the houses on Genovesa and then circle past the first internal street, that length is over 2,600'. Is a 2,600' long block allowed per Rolesville guidelines?
3. There are nine (9) existing homes with driveway connections to Genovesa. What specific traffic control measures are proposed to provide safety for children and all existing residents?
4. When the Mitchell property behind us (which is another lot next to Cedar Lakes) is developed, will the town require interconnectivity from Genovesa to Montserrat and Marbella?
5. Why didn't the Town require a stub from Radford Place Drive to The Point property to provide better connectivity?
6. Is the water line in Genovesa large enough to provide adequate fire protection when it is extended as a dead end main?
7. Is the existing City of Raleigh sewer main located to the west of The Point property large enough to accommodate the new lots in the future developments of the Mitchell property?
8. The Point property is surrounded by creeks that require Neuse River buffers. Assuming the site will be clear cut and mass graded, what erosion control measures will protect the water quality of the existing streams?

Mr. Danny Johnson responded to the first question stating that no maximum number of dwelling units allowed to access a residential street currently exists in the Unified Development Ordinance. When asked about collector streets, Mr. Johnson explained collector streets are based upon the number of streets feeding in to the collector street and also do not have specific standards.

Further Mr. Johnson explained that the block length is an element of the subdivision ordinance and does make an exception when there are topographic features such as in this case there is a stream crossing to get from Genovesa over to the other site.

Evidence from Applicant

Attorney Beth Trahos of Nelson, Mullins, Riley & Scarborough LLP

Attorney Trahos, representing the applicant Ashton Woods Homes, spoke requesting support on The Point subdivision. Ms. Trahos reminded board members of the true purpose and nature of the quasi-judicial hearing, the importance of only considering information presented that is relevant to discussion of the seven findings of fact and that conclusions must be supported by substantial, competent and material evidence. Stating the applicant's objective in the hearing as to prepare a record, Ms. Trahos officially requested that property impact study, fiscal benefit and absorption study, traffic impact analysis and site plan along with the staff report and other materials that are part of the application with the Town be entered in to the record. Following no objection from the board, the Property Impact Study, Fiscal Benefit and Absorption Study, and Traffic Impact Analysis incorporated herein by reference.

Mike Reynolds, Division President with Ashton Woods Homes

Mr. Reynolds provided his qualifications to speak and, calling it a great addition to Rolesville, provided an overview of the project including a description of the variety of home types being offered, dog parks, playgrounds, pools, walking trails and additional amenities. Mr. Reynolds elaborated on

changes made as a result of requests captured during three neighborhood meetings held. The biggest change made based on the feedback from the neighborhood meetings was on the north side of US401 the home type was changed from the townhomes previously approved on the 2009 plan to single family thereby reducing the density from 211 units to 98. When queried by Mayor Pro Tem Currin, Mr. Reynolds projected the buildout of between five to ten years, and, in response to Commissioner Vilga, gave low 200s as the anticipated price point for the townhomes/starter homes with a high end of mid to upper 400s on some single family homes. It was noted that crawl spaces were not included due to the price point of the project and slabs being widely accepted or demand of the market. Mayor Pro Tem Currin expressed the board's consistent desire over the past years to have stem wall construction instead of slab on the larger homes.

Addressing Mr. Reynolds, Heather Swisher of 521 Genovesa Drive, asked Mr. Reynolds what the home size, lot size and price point of the units on the north side of 401. Mr. Reynolds replied that the lot sizes would be similar to those in the Villages at approximately 5000 square feet and the price point would be upper 200s to lower 300s. The size of the homes would be roughly 1800 to 2600 square feet.

Shayne Leathers, Professional Engineer with Withers Ravenel

Mr. Leathers gave his qualifications for consideration as an expert witness in his capacity as Engineer and Project Manager for The Point project. Mr. Leathers recapped the Master Plan previously approved in 2009 and having the following approved characteristics:

- Having 900 homes with 211 town homes in the area accessed by Genovesa Drive north of the bypass.
- The approved Master Plan went through the same process in 2009 as the current proposed amendment is going through.
- The Rolesville Comprehensive Plan designates the site as a mixed-use neighborhood and encourages a mix of uses.
- The 2009 Master Plan was the initial plan shown prior to the neighborhood meetings and had 211 townhomes north of 401, and 425 single family homes to the south, 420 townhomes and 12.28 acres of commercial to the adjusted and current proposed plan with a total of 216.4 total acres with 905 homes (581 single family, 98 on the north side, 483 on the south side, 324 townhomes on the south side), 12.28 acres of commercial, 144 acres or 45.5% of open space versus 81 acres 25.7% of open space. Applicant intends to preserve the two ponds adjacent to Young Street. Building setback reduction to minimum of 25' for both front and rear to allow for greater flexibility of housing styles is also included in the proposal.

The following questions and concerns were voiced in the hearing:

Mark Mylum, 401 Molina Court (Cedar Lakes Subdivision), Rolesville, NC

Mr. Mylum asked, of the 905 properties, how many is the applicant going to ask for an adjustment on the setback requirements. Mr. Mylum also requested clarification on the length of the stub out on Genovesa (1800 foot limit). Lastly, Mr. Molina wanted to know the plans, requirements and accommodations for any neighbors for any possible blasting on the project.

The following responses were given to Mr. Molina's questions:

1. The block length was worked on internally prior to known environmental constraints. The applicant is limited by what it can do in the large buffer and topographical characteristics.
2. The applicant is in the initial stages for the project, but will abide by Wake County Fire

Marshal's requirements for blasting (notification, time, size of blast, etc.) when the time comes. Pre-blast surveys are to be conducted. Applicant stated they can make post-blast surveys a condition as well.

3. As this is a more urban development with a commercial component, those homes in the R-1 and R-2 zoning districts, which account for a large portion of the project, will require a variance to the setback.

Heather Swisher, 21 Genovesa Drive, Rolesville, NC

Ms. Swisher asked the applicant if they concur that, with the 27' setback it is assumed the driveways will be shorter therefore, more parking on the street will occur, to which the applicant stated not necessarily as the allotted setbacks will allow for the vehicles to park in the driveway. Ms. Swisher also asked if the applicant had accounted for the safety of the single access for 98 homes should a large rainfall occur, possibly causing flooding. The applicant recalled Ms. Swisher bringing the same concern up at the neighborhood meeting and assured her that all design standards required by the experts would be followed.

Dustin Swisher, 21 Genovesa Drive, Rolesville, NC

Mr. Swisher asked, since the presented analysis showed a straight road for the emergency vehicle access assessment, if the curve on Genovesa had been taken into account to which the applicant replied to the affirmative based on 26' front to front of curve on Genovesa.

Gilbert Collins, Genovesa Drive and Virginia Water Drive

Hearing that sewer approval would have to be sought from the City of Raleigh, Mr. Collins asked where potential upgrade would be located to which the applicant stated south of the project.

Kevin Dean, Traffic Engineer with Kimley-Horn & Associates, 421 Fayetteville Street, Raleigh, NC

Mr. Dean provided his qualifications as an expert witness Mr. Dean described the process of working with NC DOT to assess eleven relevant intersections, traffic counts, etc. to ensure traffic safety following completion of the project.

Barbara Mercer, 504 Genovesa Drive, Rolesville, NC

Ms. Mercer asked how long the buildout on the north side would be including the infrastructure as well as asking if the applicant had studied the impact of construction vehicles traversing the existing Genovesa road. Buildout of the north side is estimated to be about three years and the applicant stated the ability of the existing Genovesa Drive to accommodate construction traffic.

Heather Swisher, 21 Genovesa Drive, Rolesville, NC

Ms. Swisher asked, in January when the traffic study was done, were all the houses on Genovesa Drive completed and occupied. Mr. Dean, Traffic Engineer for the project replied that the analyses included accounting for future population. The current peak hour volume of traffic on Genovesa Drive is six AM peak hour exiting and three trips entering with the PM showing nine exiting and six entering. Projected volumes are 62 exiting and 21 entering for AM and 46 exiting and 69 entering for PM.

Janine Barry, 6805 Rising Sun Court, Rolesville, NC

Ms. Barry asked how many driveways would be exiting onto the road on the south side to which the applicant stated three exits and five separate stub outs on the south side. When asked how long the south side buildout would be, the applicant reiterated that estimates predict the total buildout to be

within the five to ten year range.

Elizabeth Abercrombie, 5121 Cristoval Street,

Ms. Abercrombie inquired regarding the possibility of a service road on the north side to accommodate construction traffic. The applicant replied that NC DOT has been firm in not allowing additional access to 401 other than what has been planned and approved to date. The traffic engineer explained study results of traffic on Virginia Water Drive following another of Ms. Abercrombie's questions.

Jeff Daugherty, 924 Virginia Water Drive, Rolesville, NC

Mr. Daugherty asked, if the Town petitioned for a service road to be built on the north side of the development would it be done. The project's traffic engineer stated that analysis shows it is not necessary. It was noted that it would be up to NC DOT as well.

Daniel Faircloth, Wood Crossing off Rolesville Road

Mr. Faircloth asked if NC DOT has been consulted about the possibility of widening Rolesville Road from Mitchell Mill Road to the traffic circle to which was answered no. Mr. Faircloth asked if the school board had been consulted regarding the impact the project will have on schools to which Attorney Trahos responded that it is not a requirement on the project.

Tom Hester

Mr. Hester, witness for the applicant, provided his qualifications to testify and spoke to the real estate impacts or lack thereof for the project.

Jessica Rossi, 200 South Tryon Street, Charlotte, NC

Ms. Rossi provided her qualifications to speak as the last witness for the applicant. Ms. Rossi works for Kimley-Horn and reported on real estate market and economic development analysis as it relates to the project.

Moved by Commissioner Wilson to continue the Public Hearing on Case: SUP18-09 to 6:00 PM on August 20, 2019; seconded by Commissioner Medley. Motion carried by unanimous vote and the public hearing was continued at 9:38 PM.

The Board engaged in a brief recess in order to allow public hearing attendees to clear the room, after which the board returned to session at 9:52 PM.

Public Hearing (Legislative) on Case MA18-04: Rezoning from R-1 and R2-SUD to R&PUD

Open Public Hearing

Mayor Eagles opened the public hearing on Case MA18-04 at 9:53 p.m.

Introduction by Staff

Planning Director Danny Johnson provided information germane to Case MA18-04 request for rezoning.

Speaking in Favor

Mac MacIntyre, engineer for the applicant, stated his availability to answer any questions on behalf of the applicant, Mr. Jones.

Whitney Phillips 948 Flash Drive, Averette Ridge

Ms. Phillips voiced her concern regarding changes to the plan resulting in confusing as to what is coming. Ms. Phillips has invested in a custom home across the street from the proposed project and does not wish to see duplexes and apartments. Ms. Phillips also wanted to know how the Town proposes upgrading infrastructure and stated traffic is a concern as well as impact to water/sewer and first responders.

George Garcia, 524 Averette Road, Rolesville, NC

When was the traffic study conducted and what resources were used for it. Why were they not informed as the study was conducted in 2018. Mr. Johnson responded that letters were sent out according to requirements and signs go out ahead of public hearings.

Betty Freeman, 524 Averette Road, Rolesville, NC

Ms. Freeman voiced concern about getting out of her driveway due to increased traffic.

Ellen Holding, 2402 Chalk Road, Rolesville, NC

Why rezone if it is already zoned residential and is it comparable with the existing zoning. Ms. Holding also expressed concern about future trespassing on her property.

Kathleen Patterson, 6208 Daybreak Drive, Wake Forest, NC

Ms. Patterson spoke to the concern about the one traffic light at Averette Road and the traffic impact potential to Jones Dairy.

Close Public Hearing

There being no one remaining to speak, Mayor Eagles closed the public hearing on Case MA18-04 at 10:18 p.m.

Following discussion by the Board it was moved by Commissioner Wilson to approve the rezoning request to R&PUD in Case MA18-04.

The motion died for lack of a second.

Mayor Eagles reopened the public hearing on Case MA18-04.

Moved by Commissioner Sutton to continue Case MA18-04 until September 17th at 7:00 pm; seconded by Commissioner Medley. Motion carried by unanimous vote.

Mayor Eagles opened public hearing Case: SUP18-05.

Moved by Commissioner Sutton to continue Case SUP18-05 to September 17th at 7:00 pm; seconded by Commissioner Medley. Motion carried by unanimous vote.

Public Hearings on Cases SUP18-06 and SUP18-07

Open Public Hearings

Mayor Eagles opened the public hearings on Case SUP18-06 and SUP18-07 at 10:35 pm.

Town Attorney David York read the following statement: *Quasi-judicial hearings have characteristics similar to court proceedings. Quasi-judicial decisions must be based only on the evidence presented at the hearing and site visits by the board if any. Witnesses must testify under oath or affirmation. Parties have the right to cross examine the witnesses and there is a right to present rebuttal evidence. The evidence provided by the witnesses must be competent and material. North Carolina General Statute 160A-393 prohibits a person from giving opinions about scientific, technical or other specialized subjects, unless the person, from knowledge, skills, experience, training or education is in fact an expert on the subject. A person wanting to give an opinion as an expert must first state his or her qualifications to be an expert on the subject. North Carolina General Statute 160A-393 specifically prohibits opinions that “the use of property in a particular way would affect the value of other properties” or opinions that “the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety” unless the witness is an expert on the subject.*

Attorney York queried the board members as to their predisposition, prior discussion with opponents, or inability to make a decision based solely on evidence presented.

Hearing satisfactory answers from all board members, the Town Clerk swore in those persons wishing to provide testimony in the hearing.

Evidence from Staff

Planning Director Danny Johnson provided detailed information

Evidence from the Applicant

Thurston Debnam, Attorney for the applicant introduced witnesses present on behalf of the applicant.

Mac MacIntyre, engineer for the project, spoke to the density of the project and adherence to the Town’s Unified Development Ordinance. Mr. MacIntyre testified to the layout being consistent to the rules and regulations of the Town of Rolesville.

Rynal Stephenson with Ramey-Kemp, 5808 Farrington Place, Raleigh, NC

Ms. Stephenson spoke regarding the traffic study completed on the project in accordance with requirements. Mr. Stephenson provided specifics to improvements made to specific intersections.

Kevin Crow, 1121 Averette Road, Rolesville, NC

Mr. Crow asked for clarification on placement of turn lanes and signals.

George Garcia, 524 Averette Road, Rolesville, NC

Voiced his concern that the current infrastructure is not capable of handling the proposed project.

Whitney Phillips, 948 Flash Drive, Averette Ridge

Ms. Phillips contrasted the current public hearing to that of The Point stating that the current project presentation seems convoluted and lacking in detail/plans. Attorney David York provided Ms. Phillips with a better understanding of the public hearing and proposed land use project.

Tom Fishow, 1321 Jones Dairy Road, Rolesville, NC

Mr. Fishow spoke to officially lodge his opposition to having “low income” homes and/or townhouses near his property and anticipates his difficulty in selling his home in future due to the project.

Kathleen Patterson, 6208 Daybreak Drive, Wake Forest, NC
Ms. Patterson asked about the site plan approval process.

Close Public Hearing

There being no one remaining to speak, Mayor Eagles closed the public hearing on Case SUP18-06 and SUP18-07.

Moved by Commissioner Sutton to approve Case SUP18-06 special use permit with the additional condition that each element of the Master Plan has to come back through the site plan approval process for townhomes and single family homes; seconded by Commissioner Medley. Motion carried by unanimous vote.

Moved by Commissioner Sutton to approve Case SUP18-07 Special use permit with the additional condition that each element of the Master Plan has to come back through the site plan approval process for townhomes and single family homes; seconded by Commissioner Medley, Motion carried by unanimous vote.

Public Hearing Case UDO TA19-03 (Legislative) – Unified Development Ordinance Text Amendment Dealing with Sign Standards

Open Public Hearing

Mayor Eagles opened the public hearing on UDO TA19-03 at 10:53 p.m.

Introduction by Staff

Planning Director Danny Johnson provided information on the case before the Board.

Close Public Hearing

There being no one present to speak, Mayor Eagles closed the Public Hearing on Case UDO TA19-03 at 11:55 p.m.

Moved by Commissioner Sutton to approve the text amendment and consistency statement included in Case TA19-03; seconded by Commissioner Vilga. Motion carried by unanimous vote.

CLOSED SESSION

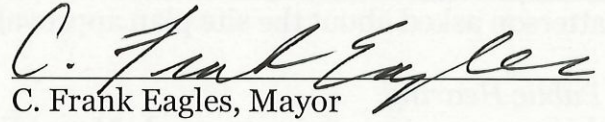
Moved by Commissioner Vilga to enter into closed executive session pursuant to N.C.G.S. 143-318.11(a)(3) to consult with the Town Attorney in order to preserve the attorney-client privilege and to give instruction to the Town Attorney concerning the handling of future claim or claims. The motion was seconded by Commissioner Wilson and carried by unanimous vote. The board entered closed session at 11:56 p.m.

RETURN TO OPEN SESSION

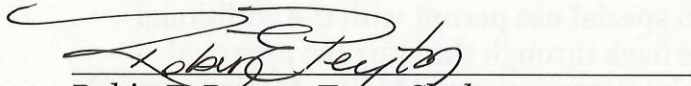
Moved by Commissioner Wilson to return to open session; seconded by Commissioner Sutton. Motion carried by unanimous vote.

ADJOURN

Moved by Commissioner Sutton to adjourn; seconded by Commissioner Wilson. Motion carried by unanimous vote. Meeting adjourned at 12:09 p.m.


C. Frank Eagles, Mayor

ATTEST:


Robin E. Peyton, Town Clerk

