

TOWN OF SILER CITY

The Siler City Board of Commissioners met in Regular Session on **Monday, December 7, 2020** at 6:30pm in City Hall Courtroom with Mayor Pro Tem Bray presiding. Commissioner Brown gave the invocation with the recitation of the Pledge of Allegiance following. Commissioner Fadely recited the Town of Siler City Mission Statement and Commissioner Haiges recited the Town of Siler City Vision Statement.

ELECTED TOWN OFFICIALS PRESENT: Cindy Bray, Norma Boone, Curtis Brown, Bill Haiges, Thomas "Chip" Price, and Tony Siler, Zoom: Lewis Fadely

TOWN STAFF PRESENT: Town Manager Roy Lynch, Attorney William Morgan, Finance Director Tina Stroupe, Planning Director Jack Meadows, Public Works Director Chris McCorquodale, Police Chief Mike Wagner, Human Resources Director Nancy Darden and Town Clerk Jenifer Johnson, Zoom: Parks and Recreation Director Jack Clelland

AGENDA ADJUSTMENTS/APPROVAL OF AGENDA

A motion to approve the agenda as presented was made by Commissioner Brown, seconded by Commissioner Haiges and unanimously approved.

CONSENT

A motion to approve the consent agenda which includes the November 16, 2020 Minutes (Incorporation by reference as if fully set forth herein Schedule A), Redistricting Contract with Tharrington Smith Andrews (Incorporation by reference as if fully set forth herein Schedule B), Municode Contract – Code of Ordinance (Incorporation by reference as if fully set forth herein Schedule C), GovOffice Contract – Website Update (Incorporation by reference as if fully set forth herein Schedule D), Capital Project Ordinance Amendment 2021.6 - Airport (Incorporation by reference as if fully set forth herein Schedule R) was made by Commissioner Haiges, seconded by Commissioner Siler and unanimously approved.

ORGANIZATIONAL ITEMS

Mayor Vacancy Discussion

(Incorporation by reference as if fully set forth herein Schedule F)

Attorney Morgan shared the options available to the Board regarding the vacancy in the office of Mayor brought about by the untimely death of Mayor Grimes.

NCGS 160A-63 (Vacancies) states: "A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council." The statute also sets forth when the successor's term expires based on the date of the next election for the vacated office. There is some debate regarding whether the statute mandates that the position be filled. Some interpret it as requiring the city council to fill the vacancy and others opine that if it is to be filled, it is the council that shall fill the vacancy by appointment. This is because there is no deadline by which the council must act, nor any methods or procedures mandated. Moreover, there is no North Carolina case law interpreting the statute. The County version of the statute, while remarkably similar, mandates that vacancies be filled within 60 days of the vacancy. Therefore, given the rules of statutory construction, one could easily argue that the General Assembly could have easily made appointment mandatory by including a similar deadline in NCGS 160A-63, had that been its intention.

NCGS 160A-70 (Mayor pro tempore; disability of mayor) states: "At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the pleasure of the council.

A councilman serving as mayor pro tempore shall be entitled to vote on all matters and shall be considered a councilman for all purposes, including determination of whether a quorum is present. During the absence of the mayor, the council may confer upon the mayor pro tempore any of the powers and duties of the mayor. If the Mayor should become physically or mentally incapable of performing the duties of his office, the council may by unanimous vote declare that he is incapacitated and confer any of his powers and duties on the mayor pro tempore."

The two statutes, taken together present the Board three options to consider:

1. Appoint a resident of the city, other than a current member of the Board, to serve as mayor for the remainder of the existing term (which runs until the organizational meeting of the Council following the election next November).
2. Appoint the mayor pro tempore or another member of the Board to serve as the mayor for the remainder of the existing term. This would require the mayor pro tempore to give up his or her seat on the Board. The Board could then fill that vacancy pursuant to 160A-63 or choose to leave it open due to the ambiguity discussed above.
3. By unanimous vote, the council could confer all the powers and duties of the mayor on the mayor pro tempore. Since 160A-70 states that "a councilman serving as mayor pro tempore shall be entitled to vote on all issues and shall be considered a councilman for all purposes," the effect of this third alternative is that the mayor pro tempore would preside over the meetings but would still be able to participate in debates and to vote just like any other council member.

Morgan stated if the third alternative is preferable, the election for mayor would be held in November 2021. If the mayor pro tempore could not attend the meeting the General Statutes states if a quorum is present, the Board would appoint a member of the Town Board to preside over that one meeting.

Morgan stated that he has witnessed all three of the above options play out during my career, including a hybrid of the second and third options. Following the death of the mayor, a town chose to leave the position vacant and conferred upon the mayor pro tem all of the powers of the mayor; however, following the close of the filing period, there being only one candidate who filed to run for mayor, the council then appointed that person to fill the term vacated by the previous mayor's death. In that case, the period of the vacancy was approximately half what it otherwise would have been. The council felt that had there been more than one candidate for the office of mayor, it would have been unfair to appoint one of them to fill the vacancy. Likewise, it seemed ill-advised to them to put a non-candidate with no mayoral or governing experience into the role of mayor for such a short time period when an experienced mayor pro tem was available and willing to fulfill the powers and duties of the mayor's office.

Morgan stated, in his legal opinion, all of the options are reasonable given the status of the law. In light of the fact that the statute does not require action within a given time period, the Board has all the time it wishes to carefully consider each of the options and the implications of each on the functioning of the Board and more broadly, on the Town itself.

The Board of Commissioners discussed the vacancy and decided not to make an appointment at this time.

Elect Mayor Pro Tempore and Oath of Office for Mayor Pro Tempore

(Incorporation by reference as if fully set forth herein Schedule G)

Lynch shared the following NC General Statute with the Board of Commissioners:

§ 160A-70. Mayor pro tempore; disability of mayor.

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the pleasure of the council. A councilman serving as mayor pro tempore shall be entitled to vote on all matters and shall be considered a councilman for all purposes, including the determination of whether a quorum is present. During the absence of the mayor, the council may confer upon the mayor pro tempore any of the powers and duties of the mayor. If the mayor should become physically or mentally incapable of performing the duties of his office, the council may by unanimous vote declare that he is incapacitated and confer any of his powers and duties on the mayor pro tempore. Upon the mayor's declaration that he is no longer incapacitated, and with the concurrence of a majority of the council, the mayor shall resume the exercise of his powers and duties. In the event both the mayor and the mayor pro tempore are absent from a meeting, the council may elect from its members a temporary chairman to preside in such absence. (1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 4.)

A motion to appoint Commissioner Cindy Bray as Mayor Pro Tem was made by Commissioner Siler, seconded by Commissioner Brown and unanimously approved.

Public Comment Policy Revision

Lynch stated in 2005, the North Carolina General Assembly, through the passage of NCGS 160A-81.1, required that each municipality in North Carolina provide a period for public comment at least once per month at a regular meeting of the Board of Commissioners. The General Assembly gave board of commissioners the authority to adopt rules governing the conduct of the public comment period. (Incorporation by reference as if fully set forth herein Schedule H)

Lynch stated that the Town of Siler City recognizes the importance of receiving comments from the public. The purpose of the public comment period is to give the public an opportunity to express their views, comments or opinions to the Board of Commissioners. It is a time for the Board of Commissioners to listen to the public. Lynch shared rules have been established to maintain order and decorum during the public comment period. Furthermore, these rules are designed to ensure fairness to each speaker by establishing rules in advance that will be applied equally to each speaker.

Lynch stated after the Board of Commissioners changed their meeting time from 7:00pm to 6:30pm, Staff discovered that the time was listed in the current policy, therefore, the attached proposed policy is being presented to the Board of Commissioners along with the current policy for your review and direction.

A motion to approve the 2020 Public Comment Policy as presented was made by Commissioner Haiges, seconded by Commissioner Siler and unanimously approved.

2021 Calendars

Lynch shared the following calendars with the Board of Commissioners: Holiday Calendar, Board of Commissioners Regular Meetings, Board of Commissioners Budget Meetings, Planning Board, Parks and

Recreation Advisory Committee, Airport Authority, Downtown Advisory Committee (Incorporation by reference as if fully set forth herein Schedule I)

A motion to approve the 2021 Calendars as presented was made by Commissioner Fadely, seconded by Commissioner Brown and unanimously approved.

Legislative Agenda

Lynch shared the North Carolina League of Municipal (NCLM) Member legislative priorities for the 2019-20 legislative biennium, with several of those priorities focused on the significant revenue challenges facing municipalities. (Incorporation by reference as if fully set forth herein Schedule J)

The goals marked the culmination of more than six months of work by the League's four policy committees, which individually are made up of dozens of municipal officials from around the state, as well as the League's Board of Directors and general membership.

The following four committees consider the broad spectrum of municipal issues:

- Planning & Environment Legislative Action Committee
- General Government Legislative Action Committee
- Tax & Finance Legislative Action Committee
- Regulatory Action Committee

Lynch stated that the North Carolina League of Municipal is currently working on the biennium legislative priorities, below is the Policy Development Timeline 2020-2021:

- September 2020 -Select policy focus areas: NCLM Board of Directors
- September - October 2020 - Gather ideas: NCLM Membership
- October - November 2020 - Refine ideas: Legislative Policy Committee
- December 2020 - Recommended ideas: NCLM Board of Directors
- January 2021 - Finalize ideas: NCLM Membership Vote
- February 2021 - Unite behind ideas: NCLM Members & Legislators

Lynch stated during its organizational meeting last year, the Siler City Board of Commissioners agreed that an annual review of the NCLM legislative agenda was appropriate, and that this would be conducted during the Town Board's annual organizational meeting. In addition, the Board agreed that this review would offer an opportunity for the Board to discuss any other legislative public policy issues that are relevant to Siler City interests and to direct what type, if any, advocacy efforts are to be engaged in support of the same.

Lynch stated that the NCLM has requested that the Town appoint a voting delegate, which can be a Board member or the Town Manager. No other action is required unless the Board wishes to direct Staff to engage advocacy efforts on one or more of the NCLM legislative issues, or if the Board has any other legislative items desiring to be pursued.

A motion to appoint Mayor Pro Tem Bray as the Town's voting delegate to the NCLM for the legislative goals was made by Commissioner Haiges, seconded by Commissioner Fadely and unanimously approved.

Training Opportunities

Lynch stated that UNC School of Government and the North Carolina League of Municipalities offer training opportunities for Local Elected Officials. Below are a few of the opportunities (Incorporation by reference as if fully set forth herein Schedule K):

Local Elected Leaders Academy (LELA)
Budgeting and Financial Basics for Local Elected Officials
Essentials of Municipal Government
Ethics for Local Government Officials
Legal Competency for Local Elected Officials

Lynch stated if any member is interested in any training, please contact the Town Clerk.

Board Appointments

Lynch stated that Board members serve on the following organizations: Chatham Chamber of Commerce, Chatham County Affordable Housing, Siler City Development Organization, Triangle J Council of Governments, NCDOT Transportation Advisory Committee. (Incorporation by reference as if fully set forth herein Schedule L) Each year the Town is asked to approve the member and alternate to the organizations.

- Chatham Chamber of Commerce: Member is Commissioner Brown.
- Chatham County Affordable Housing Committee: Member is Commissioner Price and Alternate Member is Roy Lynch.
- Siler City Development Organization (SCDO): Member is Commissioner Brown.
- Triangle J Council of Governments (TJCOG): Delegate is Commissioner Haiges and Alternate Delegate is Fadely.
- North Carolina Department of Transportation Division 8 Triangle Area Rural Planning Organization (TARPO) – Transportation Advisory Committee (TAC): Member is Commissioner Brown.

A motion to appoint the following member and alternates: Chatham Chamber of Commerce: Member is Commissioner Brown, Chatham County Affordable Housing Committee: Member is Commissioner Price and Alternate Member is Roy Lynch, Siler City Development Organization (SCDO): Member is Commissioner Brown, Triangle J Council of Governments (TJCOG): Delegate is Commissioner Haiges and Alternate Delegate is Fadely, North Carolina Department of Transportation Division 8 Triangle Area Rural Planning Organization (TARPO) – Transportation Advisory Committee (TAC): Member is Commissioner Brown was made by Commissioner Haiges, seconded by Commissioner Siler and unanimously approved.

2020 Fire Department Officers

Lynch stated that the Fire Department held its annual election of officers on November 30, 2020. Accordingly, the Department request that the Board of Commissioners approval the following appointments (Incorporation by reference as if fully set forth herein Schedule M):

1st Assistant Chief: Billy Scott, 2nd Assistant Chief: Eddie Dixon, Captains: Daniel Murphy, Jeff Griffin, Mike Powers, Todd Williams, Wes Cockman, Safety Officers: Jerry Ward and Mitch Vann, Secretary: Mike Smith, Assistant Secretary: Charlie McLaurin.

A motion a appoint the 2021 Fire Department Officers as presented was made by Commissioners Brown, seconded by Commissioner Haiges and unanimously approved.

OLD BUSINESS

2020-2021 Budget Recommendations

Lynch stated during the Budget Workshops in April and May, the Board of Commissioners asked Staff to work the Comp Study and the Pay for Performance into the FY2020-2021 Budget if possible. After revenue projection discussions during the process, the apprehension of potential COVID-19 impacts made the funding of both uncertain. (Incorporation by reference as if fully set forth herein Schedule O)

Lynch stated after reviewing revenues for FY2020-2021 to date and recognizing how we are performing better than anticipated in both funds, Town Staff has presented both the Comp Study and the Pay for Performance numbers for eligible employees. At this point, we feel confident the trends will continue as they have over the last five months and the numbers have performed to the level necessary to cover the anticipated costs associated with funding these increases. Lynch shared the total impact to the budget, including taxes and retirement benefits.

Lynch shared the revenues through November and the impact of the compensation study and pay for performance:

General Fund \$119,831 or 4.6% Over Budget
 Enterprise W/S \$232,147 or 9.0% Over Budget

Compensation Study	Starting July 2020	Starting January 2021
General Fund	\$29,796	\$14,899
Enterprise W/S	\$ 3,071	\$ 1,535
Total	\$32,867	\$16,434
Pay for Performance		
General Fund	\$37,485	\$18,742
Enterprise W/S	\$18,388	\$ 9,196
Total	\$55,873	\$27,938
Total Impact to the Fiscal Year Budget		
General Fund	\$67,281	\$33,641
Enterprise W/S	\$21,459	\$10,731
Total	\$88,740	\$44,372

The Board of Commissioners discussed the compensation study and the pay for performance.

A motion to approve the compensation study and the pay for performance and retroactive it to the beginning of the 2020/2021 Fiscal Year was made by Commissioner Haiges, seconded by Commissioner Fadely and unanimously approved.

Performance Evaluation Form

Darden stated at the direction of the Board, the revised Performance Evaluation Form adds back the rating of Outstanding and provides more detail to the descriptions of each rating. It also changes Part 2: Strengths and Weaknesses to Part 2: Strengths and Areas of Improvement. The revised form includes a

statement that Pay for Performance increases, if given, are determined by the Board of Commissioners based on the budget and availability of funds and may vary from year to year. (Incorporation by reference as if fully set forth herein Schedule N)

Darden stated that the revised evaluation form offers the following four ratings:

- 4 = Outstanding
- 3 = Exceeds Expectations
- 2 = Meets Expectations
- 1 = Does Not Meet Expectations

Darden stated that the evaluation period has been changed to the calendar year rather than the previous March through February evaluation period. This will provide pertinent information earlier in the year that is needed for budget preparation for the next fiscal year.

The consensus of the Board of Commissioners was to move forward with the form as presented.

UDO Amendment - §41 Definitions (minor subdivision, subdivision), §66 Minor Subdivision Approval (certificates), §137 Use of the Designations P,S,C in Table of Permissible Uses (residential, nonresidential), and §147 Table of Permissible Uses (multi-family residences)

Meadows stated that Town of Siler City proposes text amendments to §41 Definitions (minor subdivision, subdivision), §66 Minor Subdivision Approval (certificates), §137 Use of the Designations P,S,C in Table of Permissible Uses (residential, nonresidential), and §147 Table of Permissible Uses (multi-family residences) of the UDO. (Incorporation by reference as if fully set forth herein Schedule P)

Meadows shared the following documents:

1. draft ordinance amending Article 4 & 10
2. final ordinance amending Article 4 & 10
3. Minor subdivision trigger in other jurisdictions
4. Number of dwelling units that require administrative or Board approval in other jurisdictions
5. References to 12 or 13 in the Town's UDO
6. worksheet

Meadows stated that these amendments were first discussed during the Planning Boards review of the proposed 160D revisions. The Planning Board initiated the proposed amendments at the October 2020 meeting.

Meadows shared the compatibility with the existing Comprehensive Land Development Plan:

1. Amend ordinances as needed to accommodate uses or situations that arise and are not clearly covered by existing ordinances.
2. Amend ordinances as needed to address changes in physical, social, or environmental circumstances that make existing regulations unnecessary, outdated, or obsolete.
3. Modify the development ordinances to be more user-friendly where possible.

Meadows shared the Planning Board recommendations from the November 9, 2020 meeting:

The amendments are approved and consistent with the adopted LDP and any other officially adopted plan because the LDP recommends:

1. Amend ordinances as needed to accommodate uses or situations that arise and are not clearly covered by existing ordinances.
2. Amend ordinances as needed to address changes in physical, social, or environmental circumstances that make existing regulations unnecessary, outdated, or obsolete.
3. Modify the development ordinances to be more user-friendly where possible.

Meadows stated that the public hearing was held on November 16, 2020. No comments were received within 24 hours following the close of the public hearing.

A motion that the text amendment to §41 Definitions (minor subdivision, subdivision), §66 Minor Subdivision Approval (certificates), §137 Use of the Designations P,S,C in Table of Permissible Uses (residential, nonresidential), and §147 Table of Permissible Uses (multi-family residences) of the UDO is approved and consistent with the adopted land development plan and any other officially adopted plan because the land development plan recommends amending ordinances as needed to accommodate uses or situations that arise and are not clearly covered by existing ordinances and amend ordinances as needed to address changes in physical, social, or environmental circumstances that make existing regulations unnecessary, outdated, or obsolete and the action taken is reasonable in the public interest because it modifies the development ordinances to be more user-friendly where possible was made by Commissioner Haiges, seconded by Commissioner Price and unanimously approved.

NEW BUSINESS

Balance of Watershed Special Intensity Allocation Request – Vivian Betty Place

Meadows stated that Kim R. Bauman, representing North Chatham Center Company request that the Town consider a Balance of Watershed Special Intensity Allocation (SIA) of 34.97 acres. The owner of the property specifically requests 17.17 acres for Parcel # 78654 and 17.8 acres for Parcel # 78655. Meadows shared the request letter. (Incorporation by reference as if fully set forth herein Schedule Q)

Meadows shared Appendix H Watershed Protection Ordinance - Development Regulations - H-3(2)(b) of the Town's UDO reads as follows:

“WS-III Watershed Areas - Balance of Watershed (WS-III-BW). In order to maintain a low to moderate land use intensity pattern, single family detached uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed a maximum of twenty-four percent (24%) built-upon area.

In addition, new development and expansions to existing development may occupy ten percent (10%) of the watershed with a seventy percent (70%) built-upon area when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Non-discharging landfills and sludge application sites are allowed. NOTE: Ten percent is based on Town's jurisdiction of Watershed as of July 1, 1993. The ten percent does not increase due to annexations or expansion of the extraterritorial jurisdiction.

New development and expansions to existing development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed for uses to seventy percent (70%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.”

Meadows stated that the balance of watershed (see attached maps) totals 1,808.62 acres within the Town's ETJ. Ten percent of that total equals 180.62 acres. To date the only developments that have been approved for a SIA are:

NC Recycling (former 84 Lumber) which includes 21.49 acres; and
Chatham-Siler City Advanced Manufacturing (CAM) Site which includes 124.16 acres.

Meadows stated the remaining SIA balance is currently 34.97 acres. The Board of Commissioners discussed the balance of the watershed.

A motion to approve the Balance of Watershed Special Intensity Allocation request of 17.17 acres for Parcel # 78654 and 17.8 acres for Parcel # 78655 located off of Vivian Betty Place was made by Commissioner Fadely, seconded by Commissioner Haiges and unanimously approved.

MANAGER'S REPORT

Lynch shared the following with the Board of Commissioners:

- CDBG-Neighborhood Revitalization Grant
- Thank you letters from non-profits
- Employee food drive
- Employee Christmas ham
- Christmas virtual employee lunch

TOWN ATTORNEY INFORMATION

none

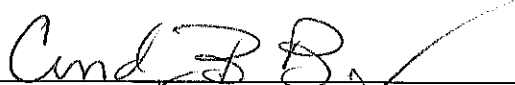
GOVERNING BODY COMMENTS

Commissioner Boone shared concerns she had received about N 5th Avenue and E 11th Street (highway 64 where the Habitat for Humanity has built houses. Residents are parking in the street, and it makes it difficult to travel. They also have work trucks blocking the streets and there is a sink hole on N 5th Avenue. The Board of Commissioners discussed the parking and road blocking.

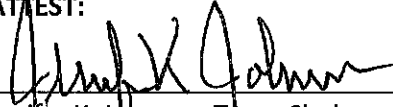
Commissioner Boone asked when the 25-mile speed limits signs would be installed. On Hill Street, since the paving has been complete, in the curve a yellow line needs to be painted to help people stay on their side

ADJOURNMENT

With no further business the Board of Commissioners adjourned at 7:38pm.


Cindy B. Bray, Mayor Pro Tempore

ATTEST:


Jenifer K. Johnson, Town Clerk

