

**TOWN OF ELON  
BOARD OF ALDERMEN  
AGENDA SESSION  
November 6, 2017**

**CALL TO ORDER**

The Town of Elon Board of Aldermen Agenda Session was convened on November 6, 2017, 6:00 p.m. in the Elon Municipal Building located at 104 S. Williamson Avenue. Mayor Jerry Tolley presided. Aldermen present included Mayor Pro Tem Ron Klepcyk, Davis Montgomery, John Peterson, and Steve Buff. Mark Greene was absent.

Staff present included Town Manager Richard White, Town Clerk DiAnne Enoch, Interim Town Planner Ashely Kale, Downtown Development Administrator Kathleen Patterson, Police Chief Cliff Parker, Assistant Police Chief James Perry, Finance Director Misty Hagood, Town Engineer Josh Johnson, and Town Attorney Joe Kalo.

Others present were Elon University Intro to Public Administration students; Nealon Planning, Meg Nealon, Benchmark; Urban Planning Consultant, Erin Burris, Christy Johnson, NC Solar Center, Tommy Cleveland, P.E., Kirkland Appraisals, LLC, Rich Kirkland, Jr. MAI, Ecoplexus, Pete Parkinson, Clint Cogburn, Tuggle Duggins Attorney at Law, Michael Fox, and *The Alamance News* reporter Ashley Ramey.

**MOTION TO APPROVE BY REFERENCE THE ITEMS LISTED WITHIN THE CONSENT AGENDA.**

**A. Minutes:**

1. October 2, 2017; Agenda Session
2. October 10, 2017; Regular Meeting

Mayor Tolley stated that the Minutes would remain on the Consent Agenda.

**PRESENTATION(S)**

**Comprehensive Land Use Plan – Meg Nealon, AICP, PLA - Nealon Planning, PLLC**

Mr. White informed the Board this year's budget contained funds for a Comprehensive Land Use Plan process. He stated that after requesting RFQ's, a selection committee narrowed down submittals to three firms and recommends Nealon Planning. Mr. White announced that Meg Nealon with Nealon Planning, would give an overview of the process. Ms. Nealon shared that her team was made up of multiple firms who would work on this project. She gave a PowerPoint presentation on the proposed Comprehensive Land Use Plan development process. Mayor Tolley opened the floor for questions from board members.

**PUBLIC COMMENTS**

Mayor Tolley asked if there were any citizens who wish to speak. There were none.

**PUBLIC HEARING(S)**

**Annexation Public Hearing – 911 and 925 N. Manning Avenue**

Mayor Tolley acknowledged that there were two public hearings.

Mr. White introduced Ashley Kale, interim town planner, and her colleague Erin Burris with Benchmark Planning who was present to assist with the public hearings. Town Attorney Joe Kalo was also present to guide the board through this process.

Mayor Tolley opened the annexation public hearing. There were no comments.

### **Special Use Permit Quasi-Judicial Public Hearing – Ecoplexus Solar Farm - 925 N. Manning Avenue**

Attorney Kalo informed the Board of the process regarding the quasi-judicial public hearing. Ms. Byrd reminded the Board that if any one wished to speak that they would need to be sworn in by the Town Clerk. Persons sworn-in by the Town Clerk were Ashley Kale, Erin Burris, Michael Fox, Pete Parkinson, Tom Cleveland, Rich Kirkland, and Josh Johnson. Ms. Burris informed everyone that the report summarizes the information that is in the application as well as what is being requested concerning zoning and relative things. She read the report and asked that it be entered into the records. Ms. Burris reported that this was a special use permit request for a solar farm by applicants Ecoplexus and Willie Ruth Spoon Johnson. She stated that the entire parcel was 67.43 acres and that it was 40.40 acres as far as the lease area goes. She stated that the applicant is requesting a special use permit to construct a 19,600-panel solar farm on the subject property located off N. Manning Avenue. She further stated that the property was currently located in the town's ETJ and is zoned Rural Residential (RR) and the property owner has separately submitted the petition for annexation into the town's limit. Ms. Burris stated that the property was currently used as forestland and agriculture. She commented that Solar Energy systems greater than 10 acres (level four) must take a special use permit and the additional conditions set forth in section 4.45.1 which is also attached in the packet must be met for this type of use.

The intent of the zoning district that is in the Land Development Ordinance (LDO) is listed on the staff report. The district is provided to preserve the rural appearance of the productive agriculture uses found in outlining areas of the town's jurisdiction by clustering development and retaining important natural rural heritage features development of compact neighborhoods and clustering of rural uses is strongly encouraged to set aside sufficient nature area distance and landscape features for permanent conservation. The intent of this district is to reduce the loss of farmland and space in rural areas by discouraging segregated single use resident development. Properties surrounding this site is zoned and used as follows; north is Alamance County zoning and the land use is vacant and forested; to the east it is zoned Elon Neighborhood Residential which is forested and has some single family residential; to the south it is zoned Office and Institutional and used for religious institution; and to the west there are three different zoning destinations including Neighborhood Residential, Neighborhood Center and Alamance County zoning as well, single family residential and forested land use is there. She stated that the LDO requires for special use permits that is set forth in Section 6.7 of the LDO it requires that requests be accompanied by a site plan which has been provided and is included in the agenda packet. She stated that the plan must meet Section 6.7 regarding major developments and the plan has been reviewed by the Technical Review Committee. She stated that the approval requirement is that the Board review the special use request set forth in Section 6.7 of the LDO and that the evaluation is based on the sworn testimony as it is presented at this hearing for the Board to make findings of fact.

She stated that the finding of facts is listed in the LDO to determine whether the special use permit may be granted that the Board must decide whether each of the findings have been met.

If all the findings have been met, then the special use permit shall be approved. If all findings of fact are not met, then the special use permit shall be denied. She stated what the findings of facts are

In order to determine whether a Special Use Permit may be granted, the Board must decide that each of the findings has been met:

- a) The use meets all required principles and specifications of the Land Development Ordinance and,
  - **Property is currently located within the town's extraterritorial jurisdiction and is zoned RR (Rural Residential).**
  - **The proposed Level 4 facility will sit on a leasing area of 40.40 acres and operate 19,600 solar panels.**
  - **A special-use permit is required for Level 4 (greater than 10 acres) solar energy facilities located within the RR zoning district.**
  - **TRC (Technical Review Committee) approval was granted on August 8, 2017.**
- b) The use, if developed according to the plan submitted and approved, will be visually and functionally compatible with the surrounding area; and
  - **The facility will be recessed from Manning Avenue and will utilize landscaping and natural vegetative buffering to limit visibility of the site from adjoining and neighboring uses.**
  - **The proposed vegetative and structural buffering meet the landscaping regulations set forth in section 5.8 of the Elon Land Development Ordinance.**
  - **According to the testimony provided by appraiser Rich Kirkland at the public hearing held on November 6, 2017, the panels stand less than 12 feet in height and are a passive use of the land that is considered in keeping with a rural/residential area.**
  - **No external lighting will be installed. If lighting is to be installed at a later date, it must abide by the requirements of Elon's Land Development Ordinance.**
- c) The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where and how it is proposed.
  - **According to the testimony provided by Tommy Cleveland P.E. during the public hearing on November 6, 2017, the materials used in the development of the panels poses a low fire risk, and if a fire were to breakout it would be**

contained to the single array. Mr. Cleveland also reported that solar facilities produce no site emissions.

- **According to the testimony provided by the appraiser Rich Kirkland at the public hearing held on November 6, 2017, multiple site studies of other existing solar farms with similar adjoining land uses have seen no adverse impacts on home sales. Mr. Kirkland also followed that solar farms present no hazardous materials or odors, produce low noise levels, generate minimal additional traffic, and have little associated stigma.**
- **The panels will be located behind a chain link fence to limit access to the site.**

Ms. Burris stated that the Board may attach fair and reasonable conditions with any approval as long as the applicant agrees to them. She stated that the burden of proof in these proceedings will be on the applicant. Alderman Davis Montgomery asked if the plan was to rezone the northern part of the property Rural Residential (RR) and that the southeastern part would remain the same? Ms. Burris replied that this property had been rezoned effective February 2017 and that the entire property zoned RR. Mayor Tolley invited others to speak.

Michael Fox introduced himself as the attorney who represented the applicant and the landowner. As Mr. Fox gave the board members information he had prepared he reminded them, as noted earlier this was not the first time that they had heard about this project. Mr. Fox recapped that there had been the rezoning process to get the property zoned appropriately. He informed the Board that several persons present with him would give sworn testimonies. Mr. Fox introduced Pete Parkinson with Ecoplexus and stated that he would answer any questions concerning the site plan setbacks. Mr. Fox introduced Tommy Cleveland and the engineer who was an expert in solar energy. He stated that Mr. Cleveland would talk about how solar works and what this project would be. He further stated that Mr. Cleveland would give his opinion that there is no help or safety issues to this particular solar project. Mr. Fox introduced Rich Kirkland who is a North Carolina licensed MAI appraisal. He stated that Mr. Kirkland had done a study which concludes that this project would not harm any of the adjoining property values and that this project would also be visually and functionally compatible with the surrounding areas. Mr. Fox referenced the three criteria that Ms. Burris had stated that would need to be met. He told the Board that as for number one, he always like to say that they would not be standing before them if it was not met because he knows that the planning staff, the attorney, and Town Manager would not have let them bring it before them if it did not meet the requirements of the ordinances. Mr. Fox stated that what they would focus on tonight was the visually and functionally compatible and it would not endanger the public health or safety and would not substantially injure the value of adjoining property. Mr. Fox stated that he knew that the Board has heard solar before since they have already approved another project. He said that they could be as brief or lengthy as they would like but that he would start with a high-level summary. Mr. Fox also stated that he would like to submit the booklet that he was giving them into evidence so that they would have everything. Mr. Fox stated that tab one gave the overview of Ecoplexus the company and some of their information and some photos of some typical solar projects which are like this request.

He further stated that tab two contains the site plans as well as the annexation map. He stated that tab three was Tommy Cleveland's resume and information on how solar works and how a particular site is put together. Mr. Fox reported that tab four was Rich Kirkland's analysis that he had done. Mr. Fox stated that if it is permissible he wanted to offer this into evidence.

Mr. Fox asked Mr. Cleveland to come forward and introduce himself and just very briefly tell a little about solar and give his opinion on the safety of it. Mr. Cleveland thanked the Board for the opportunity to speak with them tonight. He said that he first wanted to point out that his resume in the book was a little outdated. He said that he does still work for NC State University and now work at Advance Energy, but he was present tonight as a private engineer. Mr. Cleveland stated that he wanted to make that correct because it was outdated. He commented that he had some images to show what solar farm construction looks like. He further stated that it sounds as if the Board was fairly familiar with solar. Mr. Cleveland referenced the inverter in the photo was larger inverter than the one that would be use for this project. He said that there would be several dozen smaller inverters that would hook to the back of the framework that holds up the panels. Mr. Cleveland commented that in conclusion technology and the industry that he has worked in for more than a dozen years and has looked closely at the health and safety impacts in his personal opinion is that this project is built the way it is designed there is no material endangerment to public health or public safety.

Alderman John Peterson stated that he had read about some type of flaring that disturbed satellite signals and asked was there anything to that or what. Mr. Cleveland answered that there was a solar flare that impacted earlier devices but that it doesn't impact solar if there are it would momentarily increase the solar energy that can happen on the edge of clouds, but the system is designed to handle this. Alderman Peterson made the comment and asked if there is nothing from the system would impact satellite tv. Mr. Cleveland replied that FCC regulations has in place that if there is something that could cause interference they would have to be certified that they pass that test that they do not cause any type of interference. Alderman Montgomery asked when it comes to an emergency response what types of things have happened in the past that would require fire or police to respond. He further commented so sort of failure of a piece of equipment mostly electrical things you see day in day out large transformers etc. Mr. Cleveland responded and said that there are various things that can happen some of which can cause fires. He said that there are very little flammable materials in the panels that there are some plastic layers in the panels that are flammable. He reported that they can burn but that there is not enough material there to risk catching anything else on fire other that the panel itself or the insulation on the wires. He further said so there is nothing there that is a large enough fuel source that it could cause a fire to spread beyond, that it is very much localized.

Alderman Montgomery commented that his point is there is nothing that our fire department isn't already equipped to handle. Mr. Cleveland replied correct. He might add that a fence would enclose the solar farm to keep trespassers out so that no one will damage the solar panels and or hurt themselves. Mr. Rich Kirkland introduced himself as a certified general appraiser in North Carolina for over 20 years now and the he was MAI with the appraiser institute. He stated that he had be looking at the request of solar farms for the last six years. He said that he had looked at over 300 solar farms across the state and about a dozen other states as well. He commented that in that time period he has looked at every one of those 350 or so. He said he has identified the adjoining property, looked to see what was next to it and just do a break down. He said that he checks to see what uses are around solar farms and how close nearby homes are.

Mr. Kirkland stated that the uses that are higher is agriculture which is consistent across the state. He stated that 90% of the adjoining uses that are higher is going to be the residential agricultural put together. He commented that if he looks at the adjoining acres the most commonly adjoined use is agricultural. He further stated that if he looked at this by the number of parcels it is going to be residential. Mr. Kirkland reported that this is a very typical site across the state. He reported that there are about eight different solar farms across the state of North Carolina.

He reported the solar farm in Goldsboro had a sub-division being built there as well. He said that a solar farm was approved next door to the sub-division. Mr. Kirkland reported that the sell and resale remain positive with the solar farm in place. He further stated that this one solar farms indicates that this would not have an impact on the property values that join it. Mr. Kirkland reported on a location in Gastonia which has a church that adjoins a solar farm. He commented that this solar farm is actually owned by the church which would reserve the land for about 20 years for future expansion. Mr. Kirkland said that solar farms are very consistent with residential, agricultural, churches etc... He further said the one of the reason he could not find any impact for his study because basically there is none on property values. Mr. Kirkland stated that there is no odor, noise, traffic, stigma that appearance would be the only one area. He stated that most solar farms would have screens where they would not be seen. Alderman Montgomery asked the question as to how wide is the vegetative buffer is it wider than normal? He asked if this would be a combination of middle size trees and low growing shrubs? Ecoplexus, Pete Parkinson introduced himself to answer this question. He stated that there is a lot of vegetation already there and that they would leave it as best as they can to keep that buffer there.

Mayor Pro Tem Klepcyk commented that in the middle of the summer there is a pretty good buffer but in the middle of fall when the leaves fall off the trees he was concerned about the sightline as to what he sees or would be able to see. Mr. Parkinson stated that the way that the project is set back in the design you will have Ms. Johnson house to block quite a bit from Manning Avenue and then as it moves up you will be looking at several hundreds of feet plants before you see those trees and then the fence. Mr. Parkinson referred to a picture in the presentation that was given earlier during the meeting. Mayor Pro Tem Klepcyk asked if it would be filled in where it is sparse. Mr. Parkinson responded by saying that they would not be cutting anything that there would be a big buffer just in trees then there are a few spots that are thin which is where they would add the vegetation to fill in. Mayor Tolley asked for a motion to close the public hearing. Mayor Pro Tem Klepcyk made the motion to close the public hearing. Alderman Montgomery seconded the motion. The motion carried 4-0.

## **RESOLUTION(S) AND ORDINANCE(S)**

### **Budget Amendment – Comprehensive Land Use Plan and South Antioch Avenue Waterline Replacement Project**

Mr. White informed the Board that the Comprehensive Land Use Plan was approved and funded in the FY18 budget but when the responses came back through the RFQ process it was not enough. He said that the additional amount would be provided from the fund balance. Mr. White explained that the other budget amendment would take care of the S. Antioch Avenue Waterline replacement contract. Mayor Tolley asked that this remain on the Regular Agenda for next week's meeting.

### **Annexation – 911 and 925 N. Manning Avenue**

This item was discussed during the public hearing. Mayor Tolley asked that this be placed on the Regular Meeting agenda for the next week.

### **Special Use Permit Findings of Fact – Ecoplexus Solar Farm - 925 N. Manning Avenue**

This item was discussed during the public hearing. Mayor Tolley asked that this be placed on the Regular Meeting agenda for the next week.

### **Ordinance Granting a Special Use Permit – Ecoplexus Solar Farm - 925 N. Manning Avenue**

This item was discussed during the public hearing. Mayor Tolley asked that this be placed on the Regular Meeting agenda for the next week.

### **NEW BUSINESS**

#### **Certification of Sufficiency - Annexation Request: 911 and 925 N. Manning Avenue**

Mr. White informed the Board that the Town Clerk would need to certify that proper vetting has been met. Alderman Peterson made the motion to recuse Alderman Montgomery from actions regarding the requests at 911 and 925 N. Manning Avenue. Mayor Pro Tem Klepcyk seconded the motion. The motion carried 3-0. Mayor Pro Tem Klepcyk moved to direct the Town Clerk to certify the petition's sufficiency. Alderman Buff seconded the motion. The motion carried 3-0.

#### **South Antioch Avenue Water Line Replacement Contract Award**

Town Engineer Josh Johnson shared with the Board about the letter of recommendation for the South Antioch Avenue Water Line Replacement project. Mr. Johnson further shared the location and details of the project. He reported that the line was set to be replaced last spring as part of a Memorandum of Understanding (MOU) with Elon University. He stated that the University project needed increased fire flow to build the new Phoenix Activities and Recreation Center 2. Mr. Johnson reported that Thomas Stanley Grading & Hauling, Inc. submitted the low bid and negotiations with them reduced the construction cost of the project to \$190,735. He further reported that there was an addendum to the MOU that the University and the Town would split the overage as agreed if the cost exceeded the initial cost estimate. Mr. Johnson proposed that the project would start mid to late November and that this was an 80 to 90-day contract. Alderman Buff asked how the Town outside of the University would benefit from this project. Mr. Johnson commented that there would be increased fire flow in the areas outside of the University and would not be limited when the fire department uses the hydrants. Alderman Peterson confirmed that the fire flow was currently acceptable, and the answer was yes. Mr. Johnson confirmed that the entire line needed replacing and that typically slip lining would apply to sewer lines. Mayor Tolley asked that this item remain on the Regular Agenda for next week.

#### **Request to Connect to the Wastewater System – 225 Westview Drive**

Mr. White reported that earlier in the summer, Mr. Joe Parker had approach town staff with an interest in building a home at 225 Westview Drive. He further reported that there is no water in this area and that most of the homes are on septic systems. Mr. White stated that Mr. Parker approached the Town for sewer only service. He said that the Board did approve a policy in 2002 which was the Water and Wastewater System Extension and Connection Policy which states that the Board would approve extensions. He further stated that this is on the agenda for discussion to let the Board know that this request has been made but ultimately the Board would need to make the decision. Mr. White informed the Board that staff has discussed this request and do not recommend approval because the Town has about 34 accounts that are sewer only and a few of them are delinquent. He reported that one account has a balance of about \$5,000. Mr. White stated that he recommends that this request be turned down and that the Town does not continue to allow sewer only connections. He further stated that a resident does have the right to appeal to the Board which is why this is before them.

Mr. White told the Board that if they were to approve this request, the resident would have to approach the City of Burlington also for their approval to extend the line to the property.

Mr. White pointed out in the packet the two options provided to them for consideration of how the line could be extended. Mayor Tolley asked staff to research when the last time was that the Board/Town had approved a sewer only connection. Mayor Tolley also asked Mr. White and Mr. Johnson to work on a new policy that would govern sewer only connections. The Board was informed that the sewer only accounts are charged a flat monthly fee and that there is no way to meter usage without a water account. Mr. White informed the Board that this request would be before again next week for board action.

#### **Comprehensive Land Use Contract Award**

Mr. White informed the Board that he was negotiating with Ms. Nealon. He said that the Board would have the information next week.

#### **Employee Position Classification List Amendment**

Mr. White explained that when the current budget was approved, the job specification had not been prepared and reviewed by the Piedmont Triad Regional Council. He further reported that the position had been reviewed and assigned a Grade 24. The position needs to be added to the Employee Position Classification List. Mayor Tolley asked that this be placed on the Regular Meeting agenda.

#### **Downtown Associate Community Program Work Plan**

Downtown Development Administrator Kathleen Patterson mentioned that the work plan is included the Board packets. She stated that this is the plan required by N.C. Main Street Program and it needs Board approval.

#### **Recreation and Parks Commission Re-appointment - Phil Owens**

Mayor Tolley asked the Town Clerk to find out if Dr. Owens would attend the meeting next week.

#### **Town Manager Report**

Mr. White stated that he wanted to thank the Public Works Department staff with regard to the Hazardous Household Waste Event coordinated by them. He stated that the event was held later in the year since it was a joint effort with Alamance County.

Mr. White requested to confirm November 27<sup>th</sup> for a special work session to review and discuss the Code of Ordinances revisions. He commented that Alderman Montgomery would be unable to attend.

#### **Mayor and Board of Aldermen Report**

Mayor Tolley encouraged board members to vote tomorrow.

#### **ADJOURNMENT**

With no further business, Mayor Tolley asked for a motion to adjourn. Alderman Montgomery made the motion to adjourn. The motion was seconded by Mayor Pro Tem Klepcyk. The motion carried 4 - 0.

Adopted this the 12<sup>th</sup> day of December 2017.

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Jerry R. Tolley, Mayor

Attest:

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DiAnne C. Enoch, Town Clerk