

# TOWN OF WEAVERVILLE

## TOWN COUNCIL

### Minutes

The regular meeting of the Town Council for the Town of Weaverville was held on August 15, 2011 at 7:00 P.M. in the Council Chambers at 30 South Main Street.

Present: Mayor Al Root, Vice Mayor Dottie Sherrill, Council Members Walt Currie, Doug Dearth, Doug Jackson, and Gene Knoefel. Attorney Patsy Brison, Town Manager Michael Boaz, Town employees Jeff Hooper, Tony Laughter, Greg Stephens, Terry Malone and Shelby Shields.

Visitors: Lou Accornero, Ron Sussex, Robert Shepard, Alan Shepard, Janet Buckner, Andrew Nagel and several other citizens of the Town.

#### **Approval of Agenda:**

Mayor Root stated that the general consensus is to go forward with the regular scheduled Council Meeting and suggested that item # 8. Reschedule September Council Meeting be removed from the agenda. Council Member Knoefel asked for the addition of an update on the status of the Junked Car Ordinance to be added. Mr. Boaz will address this matter in his Manager's Report. The motion was made to approve the Agenda as amended by Council Member Knoefel, seconded by Vice Mayor Sherrill and unanimously approved.

#### **Public Comment:**

Lou Accornero, 50 Highland Pointe Drive - announced that the Penny Farthing Cycling and Cafe will be opening the weekend of August 27, 2011 at 10-C South Main Street, the third retail service/ business to open on South Main Street in the last year. He goal is to try to get three or more businesses next year. Mr. Accornero complimented the Police Department on the apprehension of the three juveniles who were spray painting buildings in Town.

Robert Shepard, 120 North Main Street - shared a picture published in the Marshall newspaper of the towns in the area celebrating the Fourth of July. Mr. Shepard stated his concerns with the smoke and dust from the Weaver Village construction site. He shared pictures of the smoke and dust which is still visible at his home a week later.

Alan Shepard, Central Avenue - briefly commented on the fire at the Weaver Village construction site. Mr. Shepard requested that the Council consider allowing public comments on each item on the agenda to be voted on.

Mayor Root stated that he noticed on the County's website, and that rules allow public comment on an issue prior to a vote, provided that there is no public hearing on the matter and Commissioners have had the opportunity to make comment. Mayor Root felt that this could be done. Council Member Knoefel stated that since being on Council he has always thought it was a good idea and has no problem with hearing comments before a vote. Council Member Dearth also felt it was a good idea.

**Approval of Minutes:**

The motion was made by Vice Mayor Sherrill to approve the minutes of the July 18, 2011 meeting, seconded by Council Member Currie and unanimously approved.

**Honors and Awards:**

Mayor Root recognized the Fire Department for their efforts in assisting the City of Asheville Fire Department during the recent fire at 445 Biltmore Ave and the loss of Captain Jeff Bowen. The Weaverville Fire Department, along with other fire departments in the area maned the Asheville stations during this time. Mayor Root presented Chief Hooper with the Award.

**Weaver Village Document Approval:**

Mr. Boaz stated that the Council will be accepting the deed for the non-development easement surrounding Weaver Village, and if the Council chooses, the separate lot across the Boulevard from Weaverville Partners, as a charitable contribution to the Town. Also, a part of the acceptance is the right-of-way at the end of Reagan Lane t-turnaround; the easement area off Moore Street for the turn around, and Laura Richard will get the easement for her property; also as a requirement, to quitclaim their interest in the portion of Reagan Street that lies south of their property towards Moore Street.

Mayor Root asked for a report on the fire at Weaver Village. Mr. Boaz stated that the developers were issued a burning permit from the WNC Division of Air Quality to have a burn pit on site to dispose of the brush and trees. Mr. Boaz further stated that he understood that the folks from Air Quality were on site, at/or near the end of the day and all procedures were followed per State law as far a covering the burn pit and shutting down the operations for the day. The cause of the fire is undetermined at this time.

Fire Chief Hooper and Fire Marshal Terry Malone explained the situation with the fire more in depth.

Council Member Dearth stated that he was at the fire and had no criticism of the Departments' actions. However, Mr. Dearth suggested that in the future, burn pits should not allowed to happen.

Mayor Root asked Mr. Boaz if further ordinances are needed to be able to regulate this activity. Mr. Boaz stated that it would, the State Air Quality standards are being used by the Town.

Chief Hooper explained the Air Quality burning regulations that effect the Town. Council Member Dearth suggested that the Town proceed with more stringent requirements as possible. A draft of the open burning ordinance has been forwarded to the Town Manager and will come up at a later meeting.

Mayor Root asked Ms. Brison if the tax form that is included in the package from the Weaverville Partners is to certify the donation of the lot to the Town, but does not certify the value of the property Ms. Brison stated that the acknowledgment does not represent agreement with the claimed fair market value.

Council Member Knoefel asked if the Town has to accept the lot. Ms. Brison quoted item 20. of the Conditions of the CZD which states that the Weaverville Partners shall convey to the Town by gift deed the .93 acres at the corner of Weaver Boulevard and Clinton Street. However, Ms. Brison felt that the condition does not mean the Town must accept the conveyance.

Council Member Knoefel suggested that Council consider not accepting the lot. Mayor Root felt that it best the Town own the property. There was further discussion on the pros and cons of owning the property.

Council Member Currie stated that number 6. of the Covenant and Quitclaim stated that “While the Town is not a party hereto, the Town is intended to be and is a third party beneficiary hereof.” Mr. Currie referred to number 3. which stated the Partners quitclaim and releases the Town any and all the quitclaim areas, the same as described on the attached Exhibit A. Council Member Currie doesn’t see how there can be a quitclaim without the Town being a party to the document and felt that it should be a party to the document. There is no separate granting clause other than that provision in paragraph 3. He felt that the Town was very much a part of the document.

Ms. Brison explained that the initial reason for the Town to be a third party beneficiary is to be able to enforce the non-development area. Initially, it was described as a non-development easement and the proposal was to create a covenant that it would be a non-development area. In order to enforce that, when just that provision was there, the Town had to be identified as a third party beneficiary and there could be no changes, without the Town consenting. Otherwise, it being a covenant it could have been changed. The quit claim area was added at the very end and she agreed it would be better to have it conveyed in a separate deed and that can be a requirement.

After discussion, it was felt that a separate document was best. Ms. Brison recommended a separate non-warranty deed.

Council Member Dearth asked why it was necessary for the Town to authorize the IRS form 8283. Ms. Brison explained the purpose of the IRS form.

After further discussion, there was no action taken on the Weaverville Partners matter.

### **Appointments:**

#### **Firemen’s Relief Fund:**

Mayor Root stated that the Town Council appoints two members to the Local Firemen’s Relief Fund and recommended that Vice Mayor Dottie Sherrill serve thru January 2013 and Town Manager Michael Boaz serve thru January 2012. The motion was made to appoint Vice Mayor Sherrill and Town Manager Boaz to serve on the Local Firemen’s Relief Fund. The motion was Council Member Dearth and unanimously approved.

#### **Tree Board:**

Mayor Root recommended the re-appointment of Wilma Penland and Karen Parr to the Tree

Board for a term of three (3) years. The motion was made to re-appointment Wilma Penland and Karen Parr to the Tree Board for a three year term. The motion was seconded by Council Member Jackson and unanimously approved.

3

**Manager's Report:**

**Junked Car Report:**

Mr. Boaz reported that he has sent out the first round of letters to owners of junked cars. They have fifteen (15) days to remove the cars. If they don't, the Town will give notice that the vehicle(s) will be towed, give them an opportunity for a hearing and after that the cars can be removed. There are thirty (30) total properties, they have been divided into three groups, ten letters are going out at a time.

Mr. Boaz stated that anyone can request a hearing, in front of the Town Manager, before it is removed, to argue that the car doesn't meet the test of the Ordinance as a junked car. The car must have a valid plate and in running condition.

Council Member Jackson asked about the nuisance ordinance. Mr. Boaz stated that it would be discussed at the Workshop later in the month.

Mr. Boaz announced that two Workshops are scheduled, Wednesday, August 24, 2011 and August 31, 2011, both from 9:00 A.M. until 3:00 P.M. in the Council Chambers.

Mr. Boaz reported the bids for the High Bluff/High Meadow and High Meadow Cove paving project. The low bid was \$103,350.10 from APAC. The Council advised Mr. Boaz to proceed with the project.

Mr. Boaz requested a Budget Amendment for the re-appropriation of unspent funds for FY ending June 30, 2011. The motion was made by Council Member Currie to adopt the Budget Amendments to re-appropriate the unspent funds for FY 2011, seconded by Council Member Knoefel and unanimously approved.

The website is an on going project, The rough draft has been sent to the designer, when that is finished, the content will be added. Once that is added, it will be available for Council review.

**Department Reports:**

Police Department - Police Chief Stephens gave the police report for the month.

Fire Department - Fire Chief Hooper reported the fire activities.

Public Works Department - Tony Laughter gave the report for the Public Works Department.

Zoning Department - Shelby Shields gave the zoning report.

Tax Report - Mr. Boaz gave the report for the Tax Department.

The motion was made by Vice Mayor Sherrill to go into Closed Session pursuant to N.C.G.S. 143-318-11(a)(2) to preserve the premature disclosure of honorary degree, scholarship, prize or

similar award. The motion was seconded by Council Member Knoefel and unanimously approved.

The motion was made, seconded and approved to return to Regular Session. There being no further business to come before the Council, the motion was made to adjourn the meeting by Council Member Currie, seconded by Council Member Knoefel and unanimously approved.

---

Shelby Shields

Town Clerk