

TOWN OF WEAVERVILLE

COUNCIL MEETING

Minutes

The regular meeting of the Town Council for the Town of Weaverville was held on Monday, April 18, 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 Larry Sprinkle, Greg Stephens, Jeff Hooper, Jim McMillan, and Shelby Shields.

Visitors: William Buie and several citizens of the community.

The meeting was called to order by Mayor Root.

Approval of Agenda:

The motion was made by Vice Mayor Sherrill and seconded by Council Member Currie to approve the Agenda with the removal of item 10. Website Redesign Proposal. The motion was approved unanimously.

Public Comment: There was no public comment.

Approval of Minutes:

The motion was made by Council Member Knoefel and seconded by Vice Mayor Sherrill to approve the minutes of March 17 and March 21, 2011 with the addition of the second law suit, Town of Weaverville vs Rabbit Ridge Properties, LLC added to the paragraph on Closed Sessions on page 5. The motion was unanimously approved.

Woodbriar Subdivision Final Plat Approval:

Mr. Boaz stated that the final plat has been before the Planning and Zoning Board, and was recommended for approval by them. There are 34 lots in the first phase of the Woodbriar Subdivision located on Pleasant Grove Road. The water system has been approved by Mr. Sprinkle and the \$7,500 certified check has been received as required by the Subdivision Ordinance. Mr. Boaz identified the plat as being dated 11/08/10 and drawing number G102763.

The roads in the subdivision are outside the Town and eventually will be dedicated to the NC DOT. The Subdivision Ordinance, Sec. 25-111(a), requires a road maintenance agreement with the final plat until the roads are added to the State highway system. The Attorney for Windsor Aughtry has addressed ROADWAYS in ARTICLE XI, Section 16 of the Covenants, Conditions and Restrictions.

There were questions on whether or not the *road maintenance agreement*, that is required in the Subdivision Ordinance, Sec. 25-111(a), would adequately protect the property owner(s) until the road are taken over by the NC DOT.

Mr. Will Buie, Engineer, Lapsley Associates, stated that he has worked on a number of projects

for the Windsor Aughtry throughout Buncombe and Henderson Counties and the standard they follow is typical in other cities. They establish on the face of the plat the roads will be dedicated to the public, either NC DOT or to the jurisdiction they are in. Mr. Buie stated that the roads are designed to NC DOT standards and constructed, to his knowledge, to those standards.

Ms. Brison stated that there is a dedication on the plat that the streets are public. In the discretionary provision in Sec. 16 of the CC&Rs, it appears that the homeowners association would maintain the roads until they meet the requirements of DOT for acceptance into the State road system.

Council Member Currie felt that the wording in Sec. 16 on Roadways didn't clearly define the responsibility of the roads until they are taken over by DOT. Mr. Currie asked Mr. Sprinkle if there would be a bond on the infrastructure.

Mr. Sprinkle stated that there is a warranty bond on the water system, but there is no bond on the road system since it is outside the Town. Mr. Sprinkle stated that there is a separate recorded right of way for the easement on the water lines. Also, official action will be needed to be taken by the Council to accept water system

Council Member Knoefel agreed with Council Member Currie that more appropriate language on road maintenance was needed and felt the homeowners should have more protection.

After further discussion on road maintenance agreements, Ms. Brison stated that the Council could continue this matter and ask for different language and restrictive covenants from the developer or the Council could approve the final plat and take action on the water system subject to the language in the restrictive covenants being changed. The Council could also consider asking the Planning and Zoning Board to look at modifying the language in the Subdivision Ordinance.

Council Member Dearth asked Ms. Brison if the Covenants, Conditions and Restrictions are appropriate in lieu of a separate declaration on the road maintenance agreement. Ms. Brison stated that it does not have to be a separate document, road maintenance agreements are often in restrictive covenants. She felt the specific language could be better worded. Ms. Brison suggested more specific language be required in this document before it is approved.

The motion was made by Council Member Dearth to continue the matter, to allow Ms. Brison and staff deal with their lawyers to find the language that satisfies the concerns expressed and get back to Council when it is ready. Mr. Dearth also requested that Ms. Brison and the Town Staff work with the Planning and Zoning Board to fix Sec. 25-111(a) to meet the Council's satisfaction. The motion was seconded by Council Member Knoefel and unanimously approved.

Substance Abuse Policy:

Mr. Boaz gave a broad overview of the current Substance Abuse Policy. The current policy only requires random testing of those employees who have a CDL license. The proposed updated policy is to follow Federal and State case law and more broadly define what a safety sensitive position is and all applicants. The proposed policy would allow the Town to test all applicants, all employees in a safety sensitive position, as well as any employee who drives a Town vehicle on a regular basis, or that the management determines that there is reasonable suspicion that they are under the influence of drugs or alcohol. Ms. Brison stated that Chapter 95, Article 20 of the N. C. General Statutes, Controlled Substance Examination Regulations, sets forth a procedure that has to be followed when the testing is done for other than the statutory requirements for CDL

drivers license. Ms. Brison explained other procedures that are required to comply with the State and Federal laws.

Mr. Boaz stated that the reasons for changing the policy are not because he feels that are any employees that currently work who would fall in this category, but feels that it is important for the Town to show that it is drug free, and to be proactive.

Council Members Dearth and Knoefel felt it was a good policy. Council Member Knoefel made the motion, seconded by Council Member Dearth, to adopt the Substance Abuse Policy with amendments as stated by Ms. Brison. Council Member Currie stated that he could not vote for the policy because it is so substantially flawed and stated several reasons, specifically alcohol testing. Ms. Brison further explained various sections of the proposed policy. After a lengthy discussion, Council Members Knoefel and Dearth withdrew their motion and second. Council Member Dearth made the motion to refer the Substance Abuse Policy back to staff and Town Attorney to address Mr. Currie's concerns and bring it back for consideration. The motion was seconded by Council Member Knoefel and unanimously approved.

Tree Board:

Mayor Root stated the Ordinance to Amend Chapter 32 Article II of the Code of Ordinance to Change the Configuration of the Town's Tree Board is to allow the addition of two members to the Board and remove the Town residency to allow citizens outside the town limits to serve on the Board. The motion was made by Vice Mayor Sherrill and seconded by Council Member Doug Jackson to adopt the amendments to Chapter 32, Article 32 Tree Board. The motion was unanimously approved.

Appointments:

Land of Sky Regional Council: The appointment was delayed for two months.

Tree Board: Mayor Root recommended Barbara Svenson, 92 Hamburg Mountain Road and Scott Kraft, 3 Shadowbrook Lane to serve as the two additional Tree Board members. The motion was made by Vice Mayor Sherrill, seconded by Council Member Jackson and approved unanimously to accept the recommendation of Ms. Svenson and Mr. Kraft to the Town of Weaverville Tree Board.

Nuisance Ordinance:

Mr. Boaz stated that the Nuisance Ordinance would create a new chapter in the Town's Code dealing solely with nuisances. Several items, including overgrown grass, junked cars, etc. are in the existing Code in Solid Waste Management are included in the proposed ordinance.

Abandoned, junked cars

will be required to be screened from view of persons from public roads, schools or residents.

Mr. Boaz explained the other sections of the proposed Ordinance.

Mayor Root asked what the remedy would be if someone felt they were being treated unfairly.

Ms. Brison stated that there are some notice provisions prior to the vehicle being removed or towed, and one could respond to that notice.

Mayor Root asked what the appeal remedy would be for the same. Ms. Brison stated that a written notice would be received from the Town Manager, then the offender could respond to the Town Manager and, if the Manager insists on proceeding, go to Town Council. The offense

would be a civil penalty and they could go to small claims court to defend it.

Council Member Knoefel made the motion to refer the proposed nuisance ordinance back to staff and Council Member Currie to work with staff to get the wording he wants. The motion was seconded by Council Member Dearth and unanimously approved.

Manager's Report:

Mr. Boaz reported that the Town has once again received the Distinguished Budget Presentation Award from the GFOA. This is the fourteen consecutive year of having received this award.

Mr. Boaz stated that the Tree Board has scheduled the Arbor Day Celebration on May 15, 2011 at 3:00 P.M. in the Main Street Nature Park, weather permitting, otherwise in the Community Room at 30 South Main Street. Mayor Root will sign the Proclamation declaring Arbor Day in the Town of Weaverville.

Mr. Boaz reported that the low bidder on the Highland Street sidewalk project was APAC with the low bid of \$141,257., well within the budgeted amount. Mr. Sprinkle has held the pre-construction meeting and APAC will begin work next week, starting at Salem Road. The contract is for 60 days, ending on June 24, 2011.

Mr. Boaz is still working on the medicare supplements and it will be discussed at a later meeting.

Department Reports:

Police Department - Police Stephens gave the monthly report. Council members have a quarterly report. Chief Stephens introduced the newest police officer, Stephanie Morgan.

Fire Department - Fire Chief Hooper reported on the department activities.

Public Works Department - Larry Sprinkle gave the monthly public works report.

Zoning Department - Shelby Shields reported on the zoning activities.

Tax Report - Mr. Boaz gave the tax report.

There being no further business, the motion was made, seconded and approved to adjourn.

Shelby Shields,

Town Clerk