

## TOWN OF WEAVERVILLE

### TOWN COUNCIL Minutes - February 23, 2015

The regular meeting of the Town Council for the Town of Weaverville was held on February 23, 2015 at 7:00 P.M. in the Council Chambers at 30 South Main Street.

Present : Mayor Dottie Sherrill, Vice Mayor John Penley.  
Council Members Walt Currie, Doug Dearth, Doug Jackson, and Gene Knoefel.  
Attorney Patsy Brison, Interim Town Manager Mike Morgan.  
Staff: Courtney Banks, Greg Stephens, Tony Laughter, Terry Malone and Shelby Shields.

Visitors: Donna & Bill Bollinger, Kevin Kopp, Marvin Mercer, Kalyan Volpe, Aileen Fleming, Jill Britton, Joyce & Sam Tucker, Carolyn & Harlon Hensley, Rhonda & Jeff McKenna, Tina Jenkins, Terry & Barbara Dawson, Doug Theroux, Jim Lark, Andrew Nagle, Terry Yeager, Megan Taylor, Nancy Donahue, Jamie Penley,  
Ardell Forehand, Gail Smy, Jillian Ballard, Rebecca Rhinehart, Jacob Lions, Wayne Sewall, David Proffitt and Brent Wise, Boy Scout Leaders, Troop 15 with a group of Boy Scouts, and several other citizens of the Town.

Mayor Sherrill called the meeting to order, and took moments to express her deepest sympathy, and that of the Council, to the Kathy Young Family on her passing on February 20, 2015. Kathy was a dedicated Town Council Member, serving a number of years on the Council. Her funeral will be held on February 24, 2015, at West Funeral Home.

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

The motion was made by Council Member Currie to approve the Agenda as presented, and by Council Member Jackson, and unanimously approved.

#### **Public Comment:**

Donna Bollinger, 204 Kyfields - Asked why the UDO is not on the Agenda, when it was tabled until the February meeting? There are other tabled items to be heard at this meeting.

Terry Yeager, 107 Elk Lane - Thanked the Council for preparing the Ordinance to Amend Article I (Animals) that will exclude roosters.

Megan Taylor, 14 Al Dorf Drive - Addressed the private roads in Reems Creek Village, and the concerns of the POA about the roads and who will be paying for the upkeep of the private road, yet live on the public Town street.

Gail Smy, 88 Governor Thomson Terrace - Felt that with all the traffic in the area from Reems Creek Golf community, residents on Union Chapel, and residents of Reems Creek Village, including all the all the traffic that will be generated from the proposed lots, there should have a

traffic analysis, before anything else is done, because of the large number of cars that will use Union Chapel and Reems Creek Roads.

Tom McVay, 82 Governor Thomson Terrace - Addressed the private sewer lines that serve the houses on Penley Park Drive. The sewer line from his daughter's home, on Penley Park Drive, ruptured causing major problems. When contacting MSD, they were informed that the line is private, and the residences responsibility. The private sewer line, in question, will also serve several of the proposed lots in Greenwood Park. Mr. McVay requested that the Greenwood Park subdivision request go back to the Planning & Zoning Board for their review on this matter.

Mike Erwin, 97 Governor Thomson Terrace - Addressed a letter to Ms. Brison that referred to the procedure followed in changing the Buncombe County Property Identification Number (PIN) on the property currently proposed as The Hamlet.

### **Consent Agenda:**

Ms. Brison asked for the removal of item **d.** January 9, 2015 Council Special Meeting Minutes from the Consent Agenda. The motion was made by Vice Mayor Penley to approve the Consent Agenda, with the removal of Item **d.** January 9, 2015 Special Council Meeting Minutes:

- a. December 9, 2014 Council Workshop Minutes.
- b. January 5, 2015 Council Special Meeting Minutes.
- c. January 8, 2015 Council Special Meeting Minutes.
- e. January 13, 2015 Council Special Meeting Minutes.
- f. January 26, 2015 Regular Council Meeting Minutes.
- g. FY 2014-2015 Budget Transfer 2.

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

### **Old Business:**

#### **a. Discussion of Preliminary and Final Plat for Gulf Equities:**

At the January Council meeting, the motion was made to table the Discussion of the Preliminary and Final Plat approval for Gulf Equities, LLC. until discrepancies in the name on the plat and application were clarified, and the requirement that Gulf Equities, LLC., a Florida corporation is licensed with the NC Secretary of State to do business in North Carolina.

Wayne Sewall, owner of Gulf Equities, LLC, stated that he has already submitted those papers, but is waiting on one document from Florida. He further stated that he has a home in Weaverville, and a child in North Buncombe High School. He asked if it would still be necessary to proceed with registering his business in North Carolina, and could the plat be approved at this meeting. Ms. Brison stated that it would necessary to proceed with registering the LLC in North Carolina, but if he wanted approval at this meeting, and the Council was willing to accept a document signed by Mr. Sewell, on behalf of the LLC until which time the registered document is received from the NC Sec. Of State. After a brief discussion, the motion was made by Council Member Currie to approve the preliminary and final plat for Wayne Sewall, Gulf Equities, LLC, and authorize the Interim Town Manager to sign the plat at such time as Mr. Sewell receives a certificate that Gulf Equities LLC is authorized to do business in the State of N.C. The motion was seconded by Vice Mayor Penley, and unanimously approved.

#### **b. Preliminary Subdivision Plat for Greenwood Park:**

Doug Theroux, Chairman of the Planning and Zoning Board, asked to address both requests for preliminary subdivisions of Greenwood Park and The Hamlet, since his remarks are the same for both plats. He stated that the Greenwood Park and The Hamlet major subdivision requests were tabled at the January 26, 2105 Council meeting, since all the corrections had not been done, as requested by the P&Z Board. At their January meeting, the Planning and Zoning Board had recommended approval of the both plats, subject to corrections being made, and Mr. Theroux's review and final approval. Since the January 26, 2015 Council meeting, those corrections have been made to the both plats. Mr. Theroux has reviewed and given his approval on the Greenwood Park plat, dated February 9, 2015 and signed by Robert K. Brady, Land Surveyor. He, also, has reviewed and given his approval to The Hamlet plat, dated February 2, 2015, and signed by Robert K. Brady, Land Surveyor.

Council Member Knoefel asked if the sewer problems on the private line could be an issue with either proposed development.

Mr. Theroux stated that the sewer line in question is shown and noted on the Greenwood plat, but there is no easement shown. The P & Z Board and Town staff, in their review doesn't question that since the sewer line is shown, and signed off by the engineer and surveyor. He felt that the residents should take that up with the developer and MSD.

Council Member Knoefel asked Mr. Mercer to address the issue.

Mr. Mercer stated that there are two issues; first the plans for Greenwood Park and The Hamlet both show the MSD easement that is in place at this time. All the proposed sewer lines, that are shown on both proposed plans, will have to be reviewed, and have final approval of MSD before anything is done. Any lines that are beyond the clean-out at the end of a MSD easement would be private lines, and the responsibility of the owner(s), and those are not shown on the plat.

Council Member Knoefel asked Mr. Mercer to explain the traffic impact study.

Mr. Mercer stated that he does not do traffic impact studies, but calls in a traffic study engineer to do the actual study, after the study is done by the engineer, he can analyze the information. He explained the process.

Kalyan Volpe, representative of Reems Creek Village, responded to the traffic study. He stated, not as a traffic expert, but as a resident that drives Union Chapel Road daily particularly between 8:00 and 9:00 A.M., a peak hour, and he has never experienced any traffic problems. He further stated that Reems Creek Golf community has a second entrance/exit on Pink Fox Road, and Reems Creek Village has the second entrance/exit on Hamburg Mountain Road.

Mr. Volpe further stated that the private sewer line from the houses on Penley Park and Al Dorf Drives, to the MSD connection, was put in accordance with MSD, was approved and permitted by MSD. The property owners were given the option of pumping up to the sewer lines on Al Dorf, or a private line down to the sewer easement, and they choose running down to the easement since it was cheaper.

Megan Taylor, 14 Al Dorf Drive, gave an overview of the problems she has experienced with her home, and the sewer. She further stated that neither she or MSD had any record of her sewer line other than she paid \$2,500 to tap on to line. The maintenance of the sewer line will be a disaster.

Tom McVay - 82 Governor Thomson Terrace, described what would be required in distance and ground condition to maintain the line. There is no clean out on their property.

There was a discussion on ownership and maintenance of the sewer lines. Mr. Theroux stated that typically the clean out is on the owner's property, if not, there should be a maintenance agreement or easement, because someone has to maintain that line from the owner's property line to the MSD line. The developer should have the sewer tap at the owner's property. That is something that should be worked out with the developer, the property owner(s) and MSD.

After further discussion on the sewer line, Mr. Morgan stated that, both plats are only the preliminary plans of Greenwood Park and The Hamlet. The developer has 6 months, and can request an extension, if necessary, to get his final plans into the Town for approval. At which time, the developer will have to have the water, sewer and street plans approved, by the respective agencies, before he can move forward, and sell any lot.

Council Member Dearth stated that the issues of the sewer line and the traffic are matters between the property owners and the developer, and that the Town requires the streets, even though they are private, to be built to Town standards prior to final approval.

Mr. Theroux confirmed Council Member Dearth's statement, and specified that not only does the private streets have to meet the Town of Weaverville's specifications, but the road maintenance agreement must be in place prior to the approval of the final plat.

Vice Mayor Penley and Council Member Knoefel expressed their sympathy to the home owners on the problems they are experiencing.

Council Member Currie stated that based on the recommendation from the Planning and Zoning Board and staff, that the plat is in compliance with the Subdivision Ordinance, he would, reluctantly, make the motion to approve the preliminary subdivision plat for Greenwood Park. The motion was seconded by Council Member Jackson, and approved by a vote of 4 to 1. Council Member Knoefel cast the opposing vote.

**c. Preliminary Plat for the Re-Subdivision for The Hamlet:**

Mr. Morgan stated that Mr. Theroux addressed The Hamlet at the same time as Greenwood Park, the developer has six (6) months, plus an extension, if requested, to get his final plans in for approval, at which time all the plans for water, sewer, streets, even though private, and road maintenance agreement must all be approved by the respective agencies, before any lot can be sold.

Council Member Currie asked Ms. Brison if a determination has been made on the proper removal of what was defined as 'Common Area' in Reems Creek Village, and what is now The Hamlet. Ms. Brison stated that it hasn't, the Common Area is defined in the Declaration of Covenants and Restrictions, and that would be a private matter between those property owners and the developer. It was determined that The Hamlet was a part of the Reems Creek Village subdivision, and that is why the plat wasn't approved at the January Council meeting. The notes that were on The Hamlet plat were inaccurate, and they were asked to change the notes to refer to The Hamlet as a Re-subdivision of Reems Creek Village, LLC.

There was a brief discussion on the ownership of a subdivision. Ms. Brison stated that a title search isn't done to confirm the ownership of a subdivision.

Council Member Knoefel asked if the Town normally signed off on a plat when a PIN is changed. Ms. Brison responded that is a determination that is made by Buncombe County in changing PINs.

There was further discussion on the ownership of the property. Ms. Brison stated that the final plat of a subdivision must include a certification of ownership on the plat before it is recorded. She read the requirements of the certification.

Council Member Currie made the motion to approve the preliminary plat for re-subdivision of Reems Creek Village for The Hamlet. There was not a second to the motion.

Mr. Volpe asked the Council for written statement giving the reason why the preliminary plat for the re-subdivision of Reems Creek Village for The Hamlet was not approved.

Ms. Brison reviewed Sec. 25 - 81(f) Action by Town Council, followed by further discussion.

Virginia Erwin, 97 Governor Thomson Terrace, gave an overview of meetings with the previous Planner and engineer last August and September, and the changes made to the PINs on the proposed Hamlet property. Since that time, the Planner is no longer with the Town, the developer has changed engineers, and there are still no answers to the change in the PIN.

After further discussion, Council Member Currie renewed his motion to approve the preliminary plat for the re-subdivision of Reems Creek Village, LLC. for The Hamlet. The motion was seconded by Council Member Jackson, and approved by a vote of 4 - 1. Council Member Knoefel cast the opposing vote.

**d. Discussion of Granting to Public Service Company of N. C. the Right to Use and Occupy the Public Ways of the Town of Weaverville:**

Mr. Morgan stated that Ordinance Granting the Gas Franchise to Public Service Company of North Carolina was discussed at the January Council meeting. The Council had several questions on the revisions and additions that were new to the previous document. They asked Ms. Brison to take the document back, and work with the staff of Public Service Company on the items in question.

Mr. Morgan stated that the Ordinance is basically the same as the Ordinance that has been approved by the Town every ten (10) years, for at least the last thirty years. There is one exception to Section 14. Effective Date, Term, Adoption, and Ratification, (a) the addition of a clause that follows the period of 10 years hereafter, *and continue in force year to year thereafter until cancelled upon written notice of either part at lease one year in advance.*

Mr. Morgan further stated that Mr. Laughter has reviewed the document, and is satisfied with the section that addresses street and sidewalk cuts.

The motion was made by Council Member Knoefel to amend the Ordinance Granting a Gas Franchise to Public Service Company of NC, Inc. to add the language clarifying in Section 14, with the addition of the addition of the clause to continue in force year to year after the period of 10 years. The motion was seconded by Vice Mayor Penley, and unanimously approved.

### **New Business:**

#### **a. Discussion of an Ordinance Amending Article 1 (Animals) of the Code of Ordinance of the Town of Weaverville:**

Sam Tucker, 22 Alexander Road - Asked the Council to amend the Ordinance to allow sidewalks on dead-end streets while they are amending ordinances.

Mr. Morgan explained that the purpose of amending Article I of Chapter 4 (Animals) was to expressly prohibit roosters in the Town of Weaverville, unless confined on a bona fide farm as described in N.C. Gen. Stat. § 153A-340. The proposed ordinance addresses the enclosure specifications, the number of chickens, the location of the coops on the property. Mr. Morgan further stated the Legal Counsel has a number of concerns and changes that should be made, but the ordinance could be approved at this meeting with Counsel's concerns addressed and corrected. Council Member Currie was opposed to the amendments as written, and felt that it would prohibit chickens all together in the Town, and that the Town was over reacting to a minor problem.

Rhonda McKenna stated that she lives in that neighborhood, and agreed with Council Member Currie. She asked if a rooster situation could not be handled like a barking dog, have the police go talk to the owner(s). After a further discussion, the consensus of Council was just to prohibit roosters from the Town. The motion was made by Council Member Dearth to adopt the Ordinance, Amending Article I of Chapter 4 (Animals), as amended by Counsel, to exclude roosters from the Town of Weaverville, unless they are kept on a bona fide farm. The motion was seconded by Vice Mayor Penley, and unanimously approved.

#### **b. Resolution Authorizing the Weaverville Tax Collection to Advertise Unpaid Taxes:**

Mr. Morgan stated that the Resolution authorizing the Tax Collector to advertise unpaid taxes is required by N. C. Gen. Stat. 150-369 for FY 2014-2015.

The motion was made by Council Member Jackson to adopt the Resolution Authorizing the Tax Collector to Advertise Unpaid Taxes. The motion was seconded by Vice Mayor Penley, and unanimously approved.

#### **c. Discussion of the Creation of the Weaverville Conservation Board:**

Mayor Sherrill stated that the proposed Conservation Board would combine all the small Boards, Tree Board, Main Street Nature Park Board, and Invasive Plant Board. There is a draft of

Weaverville Conservation Board that would incorporate all the boards and create the one board. Mr. Morgan asked the Council to review the draft, and give him any recommendations for additions or corrections before next month's Council meeting. A final draft would be prepared for review at that time.

**d. Discussion of 2015-2016 Budget Schedule:**

The following dates and times were set for the preparation for the 2015-2016 Budget.

- March 23, 2015 - Council and Staff Goal Setting - 4:00 PM
- March 30, 2015 - Department Budget Request Due to Town Manager
- April 10, 2015 - Draft Budget Sent to Council
- April 16, 2015 - Council Budget Workshop - 4:00 PM
- May 15, 2015 - Final Budget Set to Council
- May 27, 2015 - Advertising of the Public Hearing
- June 9, 2015 - Public Hearing -7:00 PM
- June 15, 2015 - Council Meeting - 7:00 PM

**Staff Reports:**

**a. Town Manager's Report:**

Mr. Morgan reported that the Town has received the GFOA award for excellence in financial reporting. The Town has received this award annually for over 20 years. The Town has also received the 2014 Tree City award. This is the 24<sup>th</sup> year, in a row, that the Town has received the Tree City award.

**Department Reports:**

All Department reports were included in the Agenda Package, and were not given verbally by the Department Heads. The reports were available on the table at the meeting.

**Closed Session:**

The motion was made by Council Member Knoefel to go into Closed Session pursuant to N.C. Gen. Stat. 143-318.11 (a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body which privilege is hereby acknowledged. And (6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee. The motion was seconded by Council Member Currie, and unanimously approved.

Upon return to open session, the motion was made by Council Member Currie to continue the Council meeting to March 12, 2015, at 6:00 P.M., seconded by Vice Mayor Penley, and unanimously approved to adjourn the meeting.

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Shelby Shields

Town Clerk

