



## MINUTES

**Town of Weaverville  
State of North Carolina**

**Town Council Meeting  
Monday, January 27, 2020**

The Town Council for the Town of Weaverville met for its regular monthly meeting on Monday, January 27, 2020, at 7:00 p.m. in Council Chambers within Weaverville Town Hall at 30 South Main Street, Weaverville, North Carolina.

Council members present were: Mayor Al Root, Vice Mayor/Councilmember Doug Jackson and Councilmembers Dottie Sherrill, Jeffrey McKenna, and Andrew Nagle. Councilmember Patrick Fitzsimmons was absent.

Staff present was: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Finance Officer Tonya Dozier, Town Clerk Derek Huninghake, Town Planner James Eller, Fire Chief Ted Williams, Police Chief Ron Davis, Public Works Director Dale Pennell and Water Treatment Supervisor Trent Duncan.

### **1. Call to Order**

*Mayor Al Root called the meeting to order at 7:02 p.m.*

### **2. Approval/Adjustments to the Agenda**

Councilmember Nagle mentioned that he had some questions about Consent Agenda Item G, and asked if we should take it off or keep it on and discuss later. Mayor Root noted that we will keep it on the Consent Agenda and can move it if need.

*Councilmember Sherrill made a motion to approve the agenda as presented. Councilmember McKenna seconded and all voted in favor of the motion.*

### **3. Approval of Minutes**

*Vice Mayor Jackson made the motion to approve the minutes from the December 12, 2019 Joint Meeting of Town Council/Planning and Zoning Board and December 16, 2019 Town Council Regular Meeting. Councilmember McKenna seconded the motion and all voted in favor on the approval of the minutes.*

### **4. General Public Comment**

Laura Ayers, 300-1 Reems Creek Rd, commented that a heron that hung around Lake Louise had passed away at the Appalachian Wildlife Refuge recently. She expressed a concern that wildlife is being negatively affected by fishing and after speaking with Public Works Director Dale Pennell, Lieutenant Somer Oberlin, and Appalachian Wildlife Refuge individuals, thinks it would be beneficial to hang a contact list and proper fishing laws down at the lake, distribute handouts when individuals purchase their permits at the Town Hall, and have the police department check for proper permits at the lake.

### **5. Consent Agenda**

*Councilmember Sherrill moved for the approval of the Consent Agenda. Councilmember Nagle seconded the motion and all voted unanimously to approve all action requested in the Consent Agenda.*

- A. Tax Collector’s Monthly Report – Informational Only**
- B. Tax Releases & Refunds**– *Approved the tax release of business personal property owned by G C W Enterprises, Inc. DBA Firehouse Subs, valued at \$102,780, so that \$390.56 can be released from the 2019 levy*
- C. Arbor Day Resolution** – *Adopted Resolution recognizing Arbor Day on Friday, April 24, 2020*
- D. Adoption of FY 2020-2021 Budget Calendar** – *Adopted FY 2020-2021 Budget Calendar*
- E. Set Public Hearing on Code Amendments – Technical Review Committee for Land Development for February 24, 2020 at 6:45 pm** – *Scheduled Public Hearing for Monday, February 24, 2020 at 6:45pm*
- F. Lake Louise Public Fishing Access Project** – *Approved the Lake Louise Public Fishing Access project and authorized the Mayor and Town Clerk to execute the Memorandum of Agreement and deliver it to Wildlife Resources Commissions*
- G. Budget Amendment: Police Department Cops for Kids & Pink Patch Project** – *Approved Budget Amendment*

Councilmember Nagle wondered if the funds discussed in the budget amendment are being distributed to the police department or to each specific program to be used. Town Manager Coffey noted that the funds in question have been received throughout the year and then are distributed into the individual program where the funds are only to be used. Finance Officer Tonya Dozier mentioned that on the quarterly report, the budgeted amount is lower than the year to date amount, since the funds haven’t been distributed yet. Mrs. Dozier noted that she didn’t want to bother Town Council every month with a budget amendment when the funds were received. Mayor Root noted that since the funds are being used in the current year, then we should do these budget amendments as the funds come in.

**6. Town Manager’s Report**

Town Manager Coffey presented her Manager’s report to Council including 1) that the recent MLK Day Observance was very successful and had approximately 35 in attendance; 2) Our firework purchase has been confirmed for the 2020 July 4 Downtown and she has spoken with the Superintendent and Principal Chandler, who approved our use of the Weaverville Primary School baseball field for staging the fireworks this year. Also, based on input from last year, the fireworks display time has been adjusted to 9:45 pm and she has confirmed the band, Devils in Dust, for the event; 3) the Community Center Update will be discussed later in the action items; 4) Town Manager Coffey has confirmed bands for each of our 2<sup>nd</sup> Saturday Summer Series events this year. (Flyer attached) 5) The Request for Letters of Interest for planning on our greenway is public, with a deadline date of January 31, 2020, and Doug Dearth and her will continue to keep Council updated; 6) The Board of Elections will be using our community room from February 12-29 and they must secure the voting locations, so the February Town Council meeting has changed its location from the Town Hall to the Fire Department Training Room for this Council meeting; 7) and the first session of the 2020 Citizens Academy was held last week with 18 in attendance. She thanked Jan Lawrence for presenting the insightful history of Weaverville, Town Attorney Jennifer Jackson for presenting a legal overview of municipal government and Finance Director Tonya Dozier for presenting information on the Town’s finance. Town Manager Coffey presented Town leadership and the budget process. The next session is presented by Town Planner James Eller on Land Use and Code Enforcement, which will be February 20 at the Weaverville Fire Department.

Councilmember Nagle commented that he thinks the 2<sup>nd</sup> Saturday Summer Series flyer is great and thinks that we should try to get this in the breakrooms of AB Emblem and Thermo Fisher Scientific, instead of just the businesses up Main Street.

Town Manager Coffey noted that Public Works employee Kevin Childers has worked with the Town of Weaverville for 17 years and is retiring at the end of January 2020. The Public Works Department is holding a celebration for him on January 31, 2020 from 1 – 2 pm and the public is welcome.

**7. Discussion and Action Items**

**A. Community Center Project**

Town Manager Selena Coffey commented that the Town had a bid opening on January 22, 2020 for the Community Center project, where bids ranged from \$2,779,000 to \$3,577,000. The Town Manager and Legerton Architecture recommend awarding the bid to Goforth Builders, a local contractor who submitted a low bid of \$2,779,000. She

reminded Town Council that back at their July 15, 2019 meeting, they voted unanimously to provide a budget of approximately \$2.5 million for the construction cost of the Community Center (Phase 1) and an additional \$250,000 for outdoor recreational amenities (Phase 2). Town Manager Coffey recommends Town Council take action to 1) award the reconstruction bid to Goforth Builders and approve the execution of the Construction Documents for a negotiated amount not to exceed \$2,779,000; 2) direct staff and Goforth Builders to look at value engineering in an effort to identify cost reductions totaling 5% of the bid or greater and adjust the contract lump sum amount accordingly; and 3) adopt the Capital Project Ordinance.

John Legerton of Legerton Architecture noted that there were five good bids received and he recommends Town Council award the bid to Goforth Builders and set a 5% contingency for the construction project. Mr. Legerton mentioned that Goforth Builders is a local company with a good reputation that has been operating for a number of years in Fairview, NC. He did speak with Goforth Builders after the opening and they feel very confident with their bid amount and are excited to work with the Town of Weaverville.

Councilmember Nagle wondered if there was anything in place to make sure that the builder didn't go over the designated amount. Town Manager Coffey noted that the way the ordinance is written any contingency would have to go before Town Council for approval. Mayor Root also included that there is a performance bond and any change orders would have to be approved by Town Council. John Legerton added that any project will have change orders, but one of the advantages of this project is the site. The project site is a flat site that had a building on it previously, so we don't anticipate any site issues.

Vice Mayor Jackson commented that when you include in the additional inflation from the six month delay and the addition of the fire sprinkler system, this bid amount is remarkably close to the original amount they had determined.

Mayor Root thanked Thomas Veasey, Lou Accornero, and the Lake Louise Community Center committee for their hard work in getting through this process.

Councilmember McKenna asked if the phase 2 project would segway into the back of the building project phase 1. Town Manager Coffey noted that the goal is to hopefully mesh the end of the community center project into phase 2.

#### Public Comment

- 1) John Bowen, 50 N. College St., commented that he has noticed some extraordinary slow construction projects and wondered if there was anything in the contract that holds the contractor accountable to finishing the project in the next 14 months. Town Attorney Jackson mentioned that there is a liquidated damages provision if they go over the allowed time.
- 2) Laura Ayers, 300-1 Reems Creek Road, asked when the ground breaking ceremony would be held. Town Manager Coffey mentioned that they had not decided yet, since they were still trying to figure out a good time when the Mayor and all of Town Council could get together.

*Vice Mayor Jackson made a motion to 1) award the construction bid to Goforth Builders and approve the execution of the Construction Documents for a negotiated amount not to exceed \$2,779,000; 2) direct staff and Goforth Builders to look at value engineering in an effort to identify cost reductions totaling 5% of the bid or greater and adjust the contract lump sum amount accordingly; and 3) adopt the Capital Project Ordinance. Councilmember Sherrill seconded the motion. The motion passed by a majority vote of Council. Motion carries 4-0*

#### **B. Waterline Extension Project**

Town Manager Selena Coffey commented that on January 15, 2020, the Town held bid openings for the Waterline Extension project and the six bids received ranged from \$1,954,143 to \$2,577,395.68. Staff and the engineering firm of Withers Ravenel have reviewed the bids and recommend awarding the bid to Hyatt Pipeline, LLC, the lowest responsive bidder with a bid amount of \$1,954,143, and approval of the construction contract consistent with the bid. As Town Council is aware, this project is contingent upon approval of interim financing and issuance of USDA

revenue bonds by the Local Government Commission (LGC). The next step for Town Council will be the consideration of and action to approve the interim financing and the later issuance of the revenue bonds which should occur at the Town Council meeting on February 24, 2020. One item that must be presented to the LGC is a final project budget, so if this bid is accepted then the Capital Project Ordinance must be updated to reflect the actual cost of construction to serve as the final project budget. Town Manager Coffey asks Town Council to adopt the amended and restated capital project ordinance.

Councilmember Nagle asked for a simple map showing what Town Council is approving and where the waterlines are connecting into the existing system.

*Councilmember Nagle made a motion to 1) award the construction bid to Hyatt Pipeline, LLC, in the amount of \$1,954,143, and approve the construction contract and its execution, all contingent upon LGC approval of the interim financing and later issuance of the USDA revenue bonds, and 2) adopt the Amended and Restated Capital Project Ordinance. Vice Mayor Jackson seconded the motion. The motion passed by a majority vote of Council. Motion carries 4-0*

### **C. Policies Regarding Acceptance of Private Streets**

Mayor Root noted that any blanket ban on the acceptance of existing streets would not affect any ongoing applications that the Town has received from subdivisions like Creekside Village and Fox Lair Crossing.

Town Attorney Jennifer Jackson discussed the working draft Town policy that was based on conversations at the last Council meeting, since Town Council didn't have any questions about the map and street lists provided. She noted that what we anticipate is a new Article V would need to be added to Chapter 24 entitled "Street Standards and Acceptance of Private Streets and Related Infrastructure into Public Street System." Town Council would need to confirm and make everyone aware that it is still up to their discretion if they want to bring a street into the Town and what standards they would be applying. She also mentioned that staff tried to model the same process according to our water allocation process for new a public street commitment process.

Councilmember Nagle asked how Section 24-85 would pair with our zoning ordinance, or how we are defining these properties? Town Attorney Jackson mentioned that if we proceed with the Article V, there will need to be changes made in the Chapter 25 Subdivision ordinance and Chapter 36 Zoning ordinance to make it consistent.

Mayor Root wondered when Town Council issues a commitment letter, is it a true commitment or will it be coming back before them again? Also, in regard to private streets, what is the current policy and does anyone inspect these roads? Lastly, Mayor Root asked if there was any mechanism setup for maintaining roads through HOAs or subdivision ordinances? Town Attorney Jackson commented that it is her understanding that it would be a true commitment, but Council always has the right at the end of the project to not honor it. As for private streets, there is an inconsistency between Town Standards and DOT standards, but nothing can be built to less than DOT standards and the Town doesn't inspect any unless they are called. Also, the subdivision regulations require the homeowner to show that they are abutting a public road, a private road with a recorded easement. For private roads the developer must include road maintenance provisions in their restrictive covenants.

Next, Town Attorney Jennifer Jackson covered all the alternative options for existing private streets and asked for feedback from Council.

Mayor Root asked for clarification about Option 2 and Town Attorney Jackson said there were some streets that had been inspected by Public Works but they haven't asked to be taken in yet. Town Attorney Jackson mentioned that Declan Drive, Lillie Farm Lane, Critter Trail, and Yarrow Meadow Drive, all apart of the affordable housing development by Mountain Housing Opportunities have been inspected to town standards and have just recently asked to have those roads brought into the Town.

Councilmember McKenna noted that he likes that we are mirroring our water allocation process and getting developers to declare up front, instead of leaving it open ended. He believes if we take Option 4 as it is laid out, then we should add a date and have owners notify the Town if they want to be considered. He would like to see this date be fairly soon like the end of June 2020 or beginning of July 1, then we would publicize it and set another date for when all the testing and steps would have to be completed. He also would like to add from Option 3 that unless such acceptance would, in town council's discretion, further a significant public interest.

Vice Mayor Jackson asked for clarification under Option 4(a), why it says may be eligible for acceptance into Town's street system, instead of will be? Town Attorney Jackson noted that it can say will be, it just depends on the conditions that are decided by Town Council.

Councilmember Nagle noted that first off, he likes that we included new, since it can become an existing street. He preferred Option 1 but thinks that Councilmember McKenna's comments on Option 4 would be great with an end date. The only thing he doesn't want to do is mislead people, so if the testing is done and passes, then they should be allowed into the Town. It shouldn't go back and forth.

Councilmember McKenna mentioned that he wants it to be a little more restricted like the public street commitment should be applied for by July 1, if not then they aren't eligible. Next, they would have to have the testing and steps done within six months, so by the end of the calendar year they would know where they stand on private roads.

Public Works Director Dale Pennell noted that six months is a gracious amount of time for testing, however if there are any deficiencies detected then they would have to be fixed before Town Council brings into the Town, and if it is near the end of the year, then it wouldn't be a good time to work on roads.

Councilmember Nagle discussed that the commitment letter application deadline could be three months like May 1, 2020, the testing period could be three months and then if there are any deficiencies, they have 6 months to fix it. Councilmember McKenna agrees with this, since it add dates and urgency.

Mayor Root mentioned that he believes this is very fair and appropriate. Owners can apply for a commitment letter and then after this they would have to clarify that they are coming into Town at the beginning of the development process.

#### Public Comment

John Bowen, 50 N. College St., doesn't live on a private road, but he doesn't understand why there must be a deadline for the commitment letter application. Things will change and new homeowners will come in and they might want to come into the Town, so he doesn't see why it should only be allowed for the six months.

Thomas Veasey, 69 Lakeshore Drive, commented about a development going in and the requirements that were met for the width of the street. He believes that streets should be wide enough to maintain a fire truck and allow for parking on one side of the street, so there aren't any issues like Lake Louise.

Judith Craggs, 34 Rabbit Ridge Drive, commented that she isn't hearing a recourse for the older private roads that are not in a development and have a limited amount of people. She says realtors do not tell them that it is private road and retirees can't afford to fix the roads that are deteriorating, so what is Town Council going to do when the fire trucks and garbage trucks can't access these homes that pay Town taxes?

Doug Theroux, 73 Hillcrest Drive, commented that he doesn't see a reason for the application deadline and that staff should mail directly to all residents that face this issue. He also believes that with this deadline, all the applications are going to come in at once and Council won't have the time to address each one individually. Plus, the testing part isn't going to be the expensive part, it will be having to replace the road when most of them don't meet standards.

Councilmember Nagle noted that the reason for the deadline is because he would prefer the deadline as of today, but they are compromising in making the policy to make sure that everyone is able to join. The big misconception is that by default it is a private road, not a public road. Plus it doesn't matter what the developer puts on the plat, since state law says that only a majority vote of Town Council can adopt it. He believes Town Council is trying to get this behind them, so they don't have to consider it every year.

*Vice Mayor Jackson made a motion to adopt as a policy what has been drafted as Article V of Chapter 24 with Option 4 included for existing streets with applications due not later than May 1, 2020, a testing period of not longer than three months, and a repair period of not longer than six months from completion of testing, with the understanding that existing streets that do not apply before May 1, 2020, will not be eligible for acceptance into the Town's public street system; and 2) to direct staff to draft appropriate Code Amendments consistent with Option 1 of the policy and bring them back to Town Council for review and possible adoption with an effective date of May 1, 2020.*

*Councilmember Nagle seconded the motion. The motion passed by a unanimous vote of Council. Motion passed 4-0.*

#### **D. Quarterly Report: Planning**

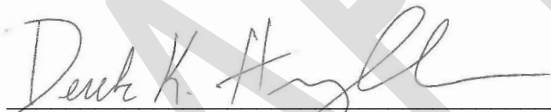
Town Planner James Eller presented the Planning Department Quarterly Report from October – December 2019 and noted that 32 Zoning Permits, including 2 Institutional Permits for the Weaverville Community Center and Lake Louise Fishing Pier had been issued during this period. Mr. Eller also gave a review of the Planning and Zoning Board activity during these months that included in October, the board working on a possible high density single family residential zoning district called for by the Comprehensive Land Use Plan and in December, they received the updated regulations from the 2019 NC legislation and held a joint meeting with Town Council. The Zoning Board of Adjustment activity included the board holding a public hearing regarding a variance application for property commonly known as 120 South Main Street in October 2019.

#### **E. Quarterly Report: Finance**

Finance Officer Tonya Dozier presented the Quarterly Finance Report from October 2019 – December 2019 with charts summarizing Revenues and Expenditures that provide comparisons from previous years. Some highlights were that the first column of Ad Valorem Tax Revenue is as of December 31, 2019, most of the variances from expenditures are from the timing of capital purchases, and the Cops for Kids revenues and expenditures show when money was received and reason for amendment. Finance Officer Dozier also discussed the updated Capital Project Fund established for the Waterline Extension Project that lists the revenues and expenditures.

#### **8. Adjournment**

*Vice Mayor Jackson made the motion to adjourn; Councilmember Nagle seconded and all voted to adjourn the Council's meeting at 8:57 p.m.*



**Derek K. Huninghake, Town Clerk**