



## MINUTES

**Town of Weaverville  
State of North Carolina**

**Town Council Regular Meeting  
Monday, September 27, 2021**

The Town Council for the Town of Weaverville met for its regularly monthly meeting on Monday, September 27, 2021, at 7:00 p.m. in Council Chambers within Town Hall at 30 South Main Street, Weaverville, NC.

Councilmembers present were: Mayor Patrick Fitzsimmons, Vice Mayor Doug Jackson, and Councilmembers John Chase, Jeffrey McKenna, Andrew Nagle and Dottie Sherrill.

Staff members present were: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Clerk/Planning Director James Eller, Finance Officer Tonya Dozier, Police Chief Ron Davis, Fire Chief Ted Williams, Public Works Director Dale Pennell, and Water Superintendent Trent Duncan.

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

*Mayor Patrick Fitzsimmons called the meeting to order at 7:00 p.m.*

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

*Mayor Fitzsimmons noted the agenda approved with no objections.*

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

*Vice Mayor Jackson motioned to adopt the minutes as presented. Councilmember McKenna seconded and all voted in favor. Motion passed 5-0.*

### **4. Special Recognition of Steve Crawford**

Mayor Fitzsimmons spoke regarding Mr. Crawford's commitment to the community including coaching in youth baseball and basketball, church membership and manager of the local Ingles Market for nearly 40 years. Mayor Fitzsimmons read a proclamation reflective of Mr. Crawford's commitment to the community and which declared September 30, 2021 as Steve Crawford Day in the Town of Weaverville.

### **5. General Public Comment**

General public comments may be submitted either during the meeting or in writing in advance of the meeting. Normal rules of decorum apply to all comments. The general public comments section of the meeting will be limited to 20 minutes and priority will be given to those commenters in attendance. Individuals presenting comments during the meeting are generally limited to 3 minutes. Written comments that are timely received will be provided to Town Council, included as part of the minutes of the meeting, and read into the record during the 20-minute general public comment period as time allows. Written comments are limited to no more than 450 words and can be submitted as follows: (1) by emailing to [public-comment@weavervillenc.org](mailto:public-comment@weavervillenc.org) at least 6 hours prior to the meeting, (2) by

putting your written comment in a drop box at Town Hall (located at front entrance and back parking lot) at least 6 hours prior to the meeting, (3) by mailing your written comment (must be received not later than Monday's mail delivery) to: Town of Weaverville, PO Box 338, Weaverville, NC, 28787, Attn: Public Comments. For more information please call (828)645-7116.

James Heintl spoke to Council regarding his opposition to the Town expanding the water treatment plant located on the Ivy River.

Wayne Dow spoke to Council regarding his opposition to the Town expanding the water treatment plant located on the Ivy River.

Thomas Veasey spoke to Council regarding recent zoning ordinance text amendments.

Mr. Eller read a comment submitted in writing related to Jarrett Alexander having passed his eagle scout board review.

## 6. Consent Agenda

*Councilmember Sherril moved for the approval of the Consent Agenda. Councilmember McKenna seconded the motion. All voted in favor of the motion to approve all action requested in the Consent Agenda listed below. Motion passed 5-0.*

- A. Monthly Tax Report and Tax Collector's Settlement** – *Information only – submitted by Buncombe County Tax Department.*
- B. Budget Amendment – Police, Fire and Public Works** – *Budget amendment for reappropriations for the police department, fire department and Public Works.*
- C. Approval of the Amended Lease Agreement with the Dry Ridge Historical Museum** – *Change in Lease start date.*
- D. Board Appointments** – *Board of Adjustment, Planning Board and ABC Board.*

## 7. Town Manager's Report

Ms. Coffey presented her Manager's report to Council which included information related to the Saturday Summer Concert Series, a water plant expansion update, ongoing IT security efforts, comprehensive pay study update, election polling site relocation, US Cellular perpetual easement update, bike/ped plan update, COVID-19 vaccinations and weekly testing update, OSHA visits, 2021 Christmas Parade, and the sharing of gratitude to Council and others who offered kind words related to a death in her family.

## 8. Discussion and Action Items

### A. Greenway Project Update

Doug Dearth provided information related to the greenway project.

### B. Code Amendment: Picketing, Protests & Demonstrations

Ms. Jackson presented a proposed ordinance reflective of Council's desire to consider regulations related to picketing, protests and demonstrations within the Town. Ms. Jackson described the ordinance which she had developed in conjunction with the Town Manager and Police Chief.

*Vice Mayor Jackson made a motion to approve the ordinance presented. Councilmember McKenna seconded and all voted in favor of the motion. Motion passed 5-0.*

### C. Update on Revisions to ABC Laws – Social Districts

Ms. Jackson presented Council with information related to the recently enacted legislation which allows local jurisdictions to adopt ordinances designating social districts in which people may consume alcoholic beverages sold by a premises with a valid ABC permit.

It became the consensus of Council to have staff gather additional information on the matter for further discussion at an upcoming Town Council workshop.

**D. Community Center Project Update**

Ms. Coffey presented Council with information related to the Community Center including an update on reservation software, updated fee recommendations, update on fundraising, usage of the community center and a budget amendment.

Ms. Coffey also sought Town Council's direction on a request from the Weaverville tailgate market to hold their market indoors rather than in the parking lot of the facility.

*Vice Mayor Jackson motioned to have the tailgate market remain outdoors on the community center property. Councilmember McKenna seconded.*

In further discussion related to the matter, it became the consensus of Council to have a representative of the tailgate market appear and speak to Council regarding their request to move indoors.

*Previous motion was withdrawn without objection.*

*Councilmember Nagle motioned to adopt the budget amendment presented for the Community Center. Councilmember McKenna seconded and all voted in favor. Motion passed 5-0.*

**E. Phase II Community Center Project**

Councilmember McKenna spoke regarding his desire to earmark funds collected from the cell tower permanent easement for usage toward the development of phase II of the community center. Ms. Coffey spoke regarding receiving public input on the matter which would also serve as an update and supplement for the 2018 Parks & Recreation Master Plan. It became the consensus of Council to receive public input on the matter at their November workshop meeting.

*Councilmember McKenna motioned to appropriate funds generated from the cell tower permanent easement toward Phase II of the Community Center project. Councilmember Nagle seconded and all voted in favor of the motion. Motion passed 5-0.*

**F. Proposal for Remote Access and Recording of Town Council Meetings**

Ms. Coffey presented information to Council related to remote access and recording of Town Council meetings which included a proposal from Fiber ConNext for the installation of certain equipment and an annual Zoom Room subscription. The total cost as proposed is \$12,570.

*Councilmember McKenna motioned to authorize the manager to execute the proposal and for a budget amendment to be created reflective of same. Vice Mayor Jackson seconded and all voted in favor of the motion. Motion passed 5-0.*

**G. American Rescue Plan Funds Update**

Ms. Dozier presented information related to American Rescue Plan funds reporting that \$641,697.31 had been received. The second half, for a total of \$1,283,394.62, is expected to be received around July 2022.

Catherine Cordell spoke to Council regarding her support for the possibility of Council spending funds from the American Rescue Plan on broadband infrastructure for downtown, the nature park and the community center at Lake Louise.

It became the consensus of Council to have staff send back out the ARP cheat sheet previously provided and to obtain additional information on broadband infrastructure eligible for ARP funds.

**H. Quarterly Report – Public Works and Water**

Mr. Pennell presented Town Council with the quarterly report for the Public Works and Water Departments.

**9. Closed Session.**

*Councilmember McKenna motioned to enter closed session as per NCGS Chapter 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. Councilmember Sherrill seconded and Councilmembers John Chase and Vice Mayor Jackson also voted in favor. Councilmember Nagle cast a dissenting vote to enter into closed session. Motion passed 4-1.*

*Councilmember Nagle motioned to exit closed session. Councilmember McKenna seconded and all voted in favor of the motion to exit closed session.*

**10. Adjournment.**

*Vice Mayor Jackson motioned to adjourn the meeting. Councilmember Chase seconded and all voted in favor. Meeting adjourned at 9:05 p.m.*

  
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**James Eller, Town Clerk**

**ORDINANCE AMENDING  
WEAVERVILLE TOWN CODE CHAPTER 16 CONCERNING  
PICKETING, PROTESTS, AND DEMONSTRATIONS**

**WHEREAS**, the Town of Weaverville recognizes the fundamental and constitutionally protected rights of free speech and assembly;

**WHEREAS**, Town Council wishes to enact reasonable time, place, and manner regulations to provide for the safe and orderly exercise of those rights within the Town;

**NOW, THEREFORE, BE IT ORDAINED** by Town Council of the Town of Weaverville, North Carolina, as follows:

1. Section 16-8 of the Weaverville Town Code of Ordinances is hereby enacted as follows:

**CHAPTER 16 – OFFENSES AND MISCELLANEOUS PROVISIONS**

**Sec. 16-8. Picketing, Protests, and Demonstrations.**

- (a) **Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Picketing, protests, and/or demonstrations* mean any public display or demonstration of sentiment for or against a person or cause and which may involve an effort to persuade or influence, including all expressive and symbolic conducts, whether active or passive, and which may include the distribution of leaflets or handbills, the display of signs and any oral communication or speech (sometimes collectively referred to as “picket” and/or “picketing”).

*Sidewalk* means the paved or concrete pedestrian lane within a public street right-of-way that provides people with space to travel by foot with separation from vehicular traffic and, for purposes of this section, also includes paved and unpaved walkways and paths within Town parks and greenways.

*Street* means the paved or unpaved route within a public street right-of-way which is maintained for vehicular traffic, including that portion that is known as the shoulder of the roadway and the curb.

- (b) **Notice of Intent to Picket.** No picketing, protest, or demonstration involving 10 or more people shall be conducted in the Town of Weaverville, and no person shall participate in the same, unless a notice of intent to picket has been given to the Weaverville Chief of Police or their designee at least 72 hours before the beginning of the picketing, protest, or demonstration. The notice of intent to picket can be submitted on the appropriate form generated by the Town, but does not have to be, and in any event shall include the following information:

- (1) The name, of any, of the organization or group sponsoring or proposing the picket, protest or demonstration;

- (2) The name of the person giving notice of intent to picket, if different from the organizer;
- (3) The name and contact information for the person(s) in charge of the picket, protest, or demonstrations;
- (4) The location where the picketing, protest, or demonstration is to take place;
- (5) The date and time when the picketing, protest, or demonstration is to occur, including the beginning and ending times;
- (6) The number of participants that are reasonably anticipated to participate;
- (7) Whether any participants are reasonably expected to be under the age of 18;
- (8) Whether literature is expected to be distributed.

Upon notice of intent to picket given in accordance with this section, the Chief of Police or their designee shall immediately issue a receipt of notice. One or more individual(s) identified in the notice as the person in charge shall be present during the entire event and is responsible for maintaining the receipt or a copy thereof and shall present it when so requested by any law enforcement officer or other Town official.

- (c) **Regulations.** The following regulations shall apply to all picketing, protests, and demonstrations in the Town of Weaverville:

- (1) Picketing, protests, and demonstrations may only be conducted on public sidewalks, on the lawn of the Town Clock parking lot, in the Main Street Nature Park, in the Lake Louise Park, or on any other Town-controlled park or other Town-owned areas normally used or reserved for pedestrian movement. Additional areas may be available for picketing with the issuance of a special event permit.
- (2) Picketing, protests, and demonstrations may not be conducted in any portion of a street used primarily for vehicular parking or moving traffic (unless a special event permit is obtained); on any median strip, or at any location directed, focused, or targeted at a particular private residence.
- (3) Picketing, protests, or demonstrations shall not disrupt, block, obstruct, or interfere with the following: pedestrian traffic; vehicular traffic; persons crossing streets or otherwise using a public way; the free passage of pedestrian or vehicular traffic into any driveway; or the pedestrian entrance or other access to buildings which abut the public sidewalks.
- (4) If streets, sidewalks, and/or public parking lots are to be closed or obstructed during the picketing, a special event permit must be issued.
- (5) Written or printed placards or signs, flags, or banners (hereinafter "sign") carried by individuals engaged in picketing, protests, or demonstrations, shall be of such a size and/or carried on the sidewalks or other Town-owned areas, as to allow safe and unobstructed passage of pedestrian and vehicular traffic. The staff or pole of the sign shall not be made of metal or metal alloy and shall not be longer than 36 inches. If made of wood the staff or pole shall be no greater than 0.75 inches in diameter at any point. The staff or pole shall be blunt on both ends.
- (6) If more than one group of picketers desire to picket, protest, or demonstrate at the same time and near the same location, law enforcement officers may, without regard to the purpose or content of the message, assign each group a place to

picket, which shall be a minimum of 25 feet apart from one another, in order to preserve the peace. In such event, members of one group shall not enter an area assigned to another group. Priority of location shall be based upon which group of picketers first received its receipt of notice of intent to picket.

- (7) No person participating in the picketing, protest, or demonstration shall make any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace.
- (8) If marching, picketers must march in single file and not abreast, except when passing one another, so that pedestrian passage of non-participants can be maintained.
- (9) Picketing, protests, and demonstrations shall be subject to all applicable local, state, and federal laws including, but not limited to, the following:
  - i. N.C.G.S. § 14-225.1 (obstruction of justice);
  - ii. N.C.G.S. § 14-277.2 (weapons);
  - iii. N.C.G.S. § 14-277.4 (obstruction of health care facilities);
  - iv. N.C.G.S. § 14-277.4A (targeted picketing);
  - v. N.C.G.S. § 14-288.2 (riots; inciting riots);
  - vi. N.C.G.S. § 14-288.3 (disorderly conduct);
  - vii. Town Code § 9-401 (unlawful noise);
  - viii. Town Code § 22-6 (littering); and
  - ix. Town Code § 16-6 (special event permits).
- (10) No person observing, engaging in, or assisting in picketing activities, shall bring to or allow to remain in the immediate area of the picketing, any vicious or dangerous animal or dangerous weapon.
- (11) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in accordance with N.C.G.S. § 14-288.5 in the event of a riot or disorderly conduct by an assemblage of three or more people.

(d) **Interference with Picketing.**

It shall be unlawful for any person to physically interfere with any picketing, protest, or demonstration, or to make any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace.

In the event that an assemblage of persons in such numbers as to tend to intimidate picketers pursuing their lawful objective, either through numbers alone or through use of abusive language, utterances, gestures, or displays, or possession of dangerous weapons, are interfering with lawful picketing, protest, or demonstration, law enforcement officers may direct the dispersal of persons so assembled and may arrest any person who fails to leave the place of assemblage when so directed by a law enforcement officer.

Whenever the free passage of any street or sidewalk in the Town shall be so obstructed by a crowd in connection with picketing, the persons composing such crowd shall disperse or move on when directed to do so by law enforcement.

- (e) **Dispersal.** Nothing contained herein shall prohibit a law enforcement officer from issuing a command to disperse in accordance with N.C.G.S. § 14-288.5 in the event of a riot or

disorderly conduct by an assemblage of three or more people. It shall be unlawful for any person to refuse to disperse or move on when so directed by a law enforcement officer.

- (f) **Vandalism, Property Damage, and/or Personal Injury.** All participants and spectators shall be personally responsible for their actions and nothing contained herein shall relieve anyone of criminal and/or civil liability resulting from vandalism, property damage, personal injury or death.
- (f) **Penalties.** Notwithstanding any other provision of Town Code, as allowed by N.C.G.S. § 14-4, it shall be unlawful for any person to violate any provision of this section and violations are punishable as a Class 3 misdemeanor and a fine which is not to exceed \$250.00. In lieu of the criminal penalty stated above, violations of this section may be subject to penalties as allowed by N.C.G.S. § 160A-175, including that the violation may subject the offender to a civil penalty to be recovered by the Town in a civil action.

2. It is the intention of Town Council that the sections and paragraphs of this Ordinance are severable and if any section or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining paragraphs or sections of this Ordinance, since they would have been enacted by Town Council without the incorporation in this Ordinance of any such unconstitutional or invalid section or paragraph.

3. These amendments shall be effective immediately upon adoption and immediately codified.

**ADOPTED THIS** the 27th day of September 2021, by a vote of 5 in favor and 0 against.

  
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**PATRICK FITZSIMMONS**, Mayor

**ATTESTED BY:**

  
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**JAMES ELLER**, Town Clerk

**APPROVED AS TO FORM:**

  
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**JENNIFER O. JACKSON**, Town Attorney