

MINUTES

**Town of Weaverville
State of North Carolina**

**Town Council Regular Meeting
Tuesday, June 24 2024**

The Town Council for the Town of Weaverville held its regular meeting on June 24, 2024, at 6:00 p.m. in Council Chambers within Town Hall at 30 South Main Street, Weaverville, NC.

Councilmembers present: Mayor Patrick Fitzsimmons, Vice Mayor John Chase and Council members Doug Jackson, Catherine Cordell, Michele Wood, Peter McGuire and Dee Lawrence.

Staff members present: Acting Town Manager Scottie Harris, Town Attorney Jennifer Jackson, Finance Director Tonya Dozier, Planning Director James Eller, Town Clerk Tamara Mercer, Police Chief Somer Oberlin, Assistant Fire Chief Michael Hunter, Public Works Director Dale Pennell, Water Plant Supervisor Randall Wilson, Recreation Coordinator Sarah Myers, and Zoom Room Coordinator Lauren Ward.

1. Call to Order – Mayor Fitzsimmons called the meeting to order at 6:00 pm.

2. Public Hearing – Sign Regulations - Chapter 20

Mayor Fitzsimmons opened the public hearing and recognized the Town Attorney. Attorney Jackson reviewed the proposed text amendments to Code Chapter 20 pertaining to sign regulations for legal compliance with recent U.S. Supreme Court cases. The Town can regulate time, place and manner of the placement of the signs but not content. The regulations drafted would comply with the federal law for content neutral signage. She reviewed a couple of minor revisions to the draft that staff is also recommending.

She noted that the Planning Board reviewed the text amendments at its meeting on May, 7, 2024 and voted unanimously to recommend the Code amendments as provided. The Public Hearing was duly advertised and is eligible to receive public input.

Mayor Fitzsimmons noted that no one signed up to speak and no one provided comments in writing prior to the meeting. Mayor Fitzsimmons closed the public hearing.

3. Approval/ Adjustments to Agenda

Councilmember Chase moved to approve and adopt the agenda as presented. The motion was approved unanimously. 7-0.

4. Conflict of Interests Statement

Mayor Fitzsimmons stated that it is the duty of the Mayor and every Town Councilmember to avoid both conflicts of interest and appearances of conflicts. No member had any known conflict of interest or appearance of conflict with respect to any matters on the agenda for tonight's Town Council meeting.

5. Consent Agenda

Town Attorney Jackson reviewed the Consent Agenda items. *Council member Jackson motioned to approve and adopt the consent agenda as presented. The motion was approved unanimously. 7-0.*

- A. May 14, 2024, Town Council Workshop Meeting Minutes – approved as presented*
- B. May 20, 2024, Town Council Regular Meeting Minutes – approved as presented*
- C. June 11, 2024, Town Council Special Called Meeting Minutes – approved as presented*
- D. Monthly Tax Report, Refunds/Releases, Appointment of Tax Collector and bond – approved as presented*
- E. Budget Amendment – Police – approved as presented*
- F. Dry Ridge Historical Museum Lease – approved as presented*
- G. ADA Transition Plan Update – approved as presented*
- H. Personnel Policy Amendments – Reclassifications/Amendments to Plans – approved as presented*
- I. Board Appointments – approved as presented*

7. Town Manager’s Report Acting Town Manager Harris

Acting Town Manager Harris provided Town Council with the projects report and program highlights for the following:

- Passive Recreation Lands Application for the Weaverville Watershed Trails
- Elevated Trail Design Overview for 127 & 15 Quarry Road- conclusion not feasible
- AdventHealth Updates
- Phase II of Tourism Product Development Fund Grant Process
- Metropolitan Sewerage District Rate Increase update
- Citizens Academy 2024 and 2025 update

8. General Public Comments

Mayor Fitzsimmons opened the general public comment portion of the meeting.

Ms. Darla Letourneau requested transparency of government with regards to developments with Council members and the Town Manager. She questioned the Council’s response to the recent developments and she requested answers.

Mr. Michael Stuart requests that the pickleball courts be relocated to a non-residential area due to noise and safety concerns. Mr. Stuart specifically complained about audio/hearing safety and adherence to the town noise ordinance.

Ms. Mari Fox said she has lived here 24 years and is opposed to pickleball courts in her neighborhood. Ms. Fox is concerned with additional traffic, outside walkers, noise and safety of residents.

Mr. Joe Wheeler said he is speaking against the Maple Trace annexation request unless the HOA fully complies with Public Works Director’s recommendations concerning the streets as the roadway reports demonstrate that they have failed the Town’s tests. He was concerned with future growth of Weaverville, and that should include neighborhoods that have fully complied with current town street standards.

Mr. John Philips states he is a mechanical engineer and agrees with the Public Works Director, who is also an engineer, and his recommendations concerning Maple Trace Subdivision. It is his opinion that Maple Trace subdivision should comply with the specifications of the Town’s standards which are more stringent than the State roadway standards.

Mr. Earl Booze said he has lived in the Town of Weaverville five years and lives next to a short-term rental at Lake Louise. Mr. Booze is opposed to whole-house STRs in his neighborhood. He is in favor of short-term rental regulations.

Mr. Bo Platt addressed the Maple Trace annexation request, stating he generally supports annexation but opposes the annexation of Maple Trace since the streets don't meet the Town's minimum standards. The Town has higher street standards and his own Town Street has lasted 30 years. He said the taxpayers will have to subsidize the repairs due to the developer's substandard construction methods and sets a bad precedent. He hopes that the HOA will upgrade their streets.

Ms. Catherine Haynes is opposed to the annexation of Maple Trace subdivision as the deteriorating roadways which are only a few years old mean they are substandard. Ms. Haynes also pointed to the Public Works Director's request for stormwater assessments which were not completed by the Maple Trace HOA. Other neighborhoods and adjacent areas have requested annexation and because they did not adhere to the Town's standards and requirements, and were not annexed into the Town. She expressed appreciation for Town staff and their recommendation and urged Town Council not to rely on self-interested information.

Mr. Matt Allen stated he is a non-resident but represents a local realtors association and short-term rental operators. He has attended the Town's information gathering process on the topic of short-term rentals. He pointed out the independent report by the Land of Sky Regional Council report and its findings. He is in favor of allowing STRs. He suggested the current short-term rentals are addressed with the town's ordinances and he questioned how regulations would address the issues of affordable housing. He expressed interest in a STR citizen task force and middle ground regulation.

Ms. Julie Nelson spoke in-favor of allowing short-term rentals. Ms. Nelson suggested delaying implementation of any STR regulation for 18 months and volunteered to serve on a short-term rental task force that could address problems more directly. Ms. Nelson also cited the Land of Sky Regional Council report and AirDNA rental data and statistics.

Attorney Jackson stated there were written comments submitted to Town Council via email:

Ms. Teresa Schuele was in opposition to the Maple Trace annexation request citing that Amblers Chase roadways were not accepted into the town due to the town's stricter roadway standards.

Mr. GW Weber owner of short-term rentals in Weaverville, was in favor of the current regulations that allow STRs. Mr. Weber listed four positive economic reasons in favor of STRs.

Attorney Jackson added that Mr. Michael Stuart was in attendance and had addressed Town Council personally with his concerns regarding the pickleball courts at the Recreation Complex.

8. Discussion & Action Items

A. Short-Term Rental Project

Attorney Jackson reviewed the history of the short-term rental project wherein she noted this topic was given a high priority by Council in order to study impacts to the town and consider regulation of short-term rentals. She reviewed the phases of gathering public input, the sessions held throughout the year of 2023, and the final report and presentation provided by mediator Kayla DiCristina with Land of Sky Regional Council to the Planning Board and her follow-up with Town Council.

The draft regulations were developed by staff as guided by the Planning Board and include comments and concerns from the Planning Board members with a 3 to 2 majority vote by the Planning Board to adopt the proposed regulations of short-term rentals. Attorney Jackson added there is limited guidance from the state legislatures and limited legal guidance from state law. We have case law based on the authority to zoning. Selective code enforcement is a risk to consider if the town chooses to regulate short-term rentals.

Planning Director Eller noted that departmental problems or issues concerning STRs were very few in number. There have been no problems with the Public Works Department. There was one garbage complaint addressed by code enforcement. Out of 5,000 calls received by the Police Department, only 4 calls were directly related to short-term rentals. Based on this information he noted that STRs do not seem to present a problem in Weaverville. He was also concerned that code enforcement of short-term rentals should not be complaint driven as that may be perceived as selective enforcement.

Attorney Jackson added that we cannot legislate ownership. The Land of Sky Regional Council short-term rental report regarding housing stock and available market demand noted those concerns are speculative and may not be directly tied to affordable housing.

There was further question-and-answer period with Chief Oberlin and Mr. Eller regarding STRs and code enforcement. Eller indicated that Town staff would have to enter into Town residences in order to adequately enforce the regulations. He described the procedure to administer a search warrant by staff if a homeowner does not voluntarily allow an administrative search in the home. Permitting versus registration process and what is allowed based on the City of Wilmington case law was explained by Attorney Jackson. She indicated that she is concerned with complaint driven enforcement which is selective code enforcement. She added that we have no expectations that the state legislature will address this issue this session.

Vice Mayor Chase agreed the topic is not defined in the Land Use plan nor an established use and Council needs more consideration and he agreed with staff's hesitancy to implement these regulations. The Town could delay it until Buncombe County addresses it or Council could revisit this in a year.

Council member Wood requested a Town Council workshop on short-term rentals. Council member Jackson was in favor of delay, whereas Council member Cordell said the workshops were conducted by the Land of Sky Regional Council. Council member McGuire stated that while his personal experience with a neighborhood STR was negative, he agreed to the delay as the regulations set forth do not tailor the topic, since the town has no enforcement capability. Complaint driven code enforcement is arbitrary and open to a lawsuit. He is open to a Council workshop, as a hot button topic, it appears the majority of the citizens wish not to regulate short-term rentals.

Council Member Lawrence was in favor of delay as the topic is difficult to understand with respect to clear code enforcement on the issue.

Mayor Fitzsimmons stated there was general consensus from Town Council to delay action on short-term rental regulation but to put the topic on the August 20, 2024, workshop which is a joint meeting with the Planning Board.

B. Maple Trace Subdivision Annexation

Attorney Jackson provided a summary of the annexation request for Maple Trace Subdivision. She reviewed the timeline, staff report, and negotiations with the HOA representative David King. The package of services provided by the town to the area to be annexed. Town staff, including specifically the Public Works Director, continues to have concerns that the Maple Trace streets do not meet the minimum Town street standards and that the stormwater system has not been assessed. Attorney Jackson noted her concern that the substandard street conditions might set a precedent for other subdivisions if deficiencies to the Town's standards are not met.

The Public Works Department recommended 62 core drillings at specific locations, although only 16 core drillings were performed by the HOA, and 43% of the tests were sub-standard. He is requesting the additional core sample testing at specific locations. Maple Trace HOA engineer suggested that they perform their own repairs that would include spot repairs and a 2" asphalt cap, noted Attorney Jackson.

Public Works Director Pennell pointed out that his engineer's report included the stormwater drainage system evaluation, which includes approximately 5,000-feet of pipe, 75 catch basins, inlets, etc. The HOA claimed it would cost \$25,000 but Mr. Pennell found a quote from a stormwater engineer to perform the scope of the work for stormwater and water lines is less than \$9,000.00. The stormwater system is not yet evaluated nor completed.

Council member Jackson questioned why the HOA's engineer report specifically stated to continue evaluation testing without town oversight.

Mr. Jeff Kniffen, Maple Trace HOA President, stated since the development of the subdivision he has been involved with the engineers and builders and that their roads are built to NCDOT standards. Mr. Kniffen agreed the entryway road is patched with repairs due to high volume travel. He said that he thought all drains were inspected and cleaned. He also said that the stormwater is certified by the County and reports of those approvals were provided to staff.

Attorney Jackson noted that the Buncombe County stormwater permitting was for the stormwater ponds and not for the stormwater drainage piping system within the roadways.

In response to Council member Jackson's question in the report which states repaving will be conducted without Town oversight, Mr. Kniffen stated that the Town can inspect the road when they contract for the repairs and repaving of Water Leaf Drive.

Mr. Pennell explained the future costs to the town to meet the removal and complete replacement of the roadways in Maple Trace subdivision at current prices, the Town's standards, and the State minimum standard requirements. Mr. Pennell added this first Maple Trace road failed within 7 years of installation, and it should have lasted 20 to 25 years. He noted that Town roads can last as long as 30 years.

There was further discussion of the failures at the main entrance, street borings tested and the depth of testing the core samples and repair costs. The HOA did not propose any monetary amount for repairs.

In response to Council member Cordell's question regarding paying for repair costs, Mr. David King, Vice President of the HOA said they hired Mr. Buie, WGLA Engineer to provide the Town with the last report. He added they will hire Mr. Buie's firm WGLA Engineering to manage the Maple Trace contract to assess the roadway testing and measuring. He said they would not pay to have the storm drains inspected as they have field reports from when the basins were being installed. The catch basins are precast concrete and drainpipes are of high density and have a 100-year life. Mr. King disagreed with the Public Works Director's requests, and he asked Council to annex the subdivision into town for unified development up Reems Creek valley to become part of Weaverville.

Council member Jackson asked Director Pennell to explain the discrepancies again and Mr. Pennell reviewed what he requested, and the samples provided by the HOA. The core measurement and samples provided were not sufficient and the cores in the supply of testing proved to be below Town standards. The standards were not met at 43%.

Mr. Pennell said that Buncombe County Inspection Department does not inspect roads nor storm drain piping. Buncombe County inspects the stormwater control measures. So, the ponds are regulated and require inspection once every 3 years. The Town is concerned that the stormwater piping under the roads may fail. He said he is concerned with the piping and the catch basins under the pavement and under curb and gutter. Director Pennell concluded that the Town does not know if this is properly joined together at approximately 70 drainage points, so an inspection tells us if it is built properly in order to prepare the Town for future infrastructure costs.

Council member Lawrence moved to set public hearings for July 22, 2024, at 6:00 pm on the Maple Trace Subdivision annexation and zoning requests.

There was further discussion about previous actions by Town Council, including the Resolution adopted by Town Council in July of 2023 which directed the Clerk to investigate and certify the sufficiency of the petition requesting annexation.

After further discussion and deliberations, Mayor Fitzsimmons called the vote. The motion was restated as setting the public hearings for annexation and zoning for Maple Trace subdivision and was approved with a 6-1 vote, with Mayor Patrick Fitzsimmons, Vice Mayor John Chase and Council members Doug Jackson, Michele Wood, Peter McGuire and Dee Lawrence who voted 'aye', and Catherine Cordell who voted 'nay'.

C. Code Amendments – Chapter 20 – Sign Regulations

Planning Director Eller said the Planning Board provided Town Council with a positive recommendation on the proposed Code amendments related to sign regulations and noted that the public hearing was held earlier in the meeting.

Council member McGuire moved to adopt the Ordinance Amending Weaverville Town Code Chapter 20 concerning sign regulations as presented. The motion was approved unanimously. 7-0.

D. Code Amendments – Chapter 16 & 18 – Recreation Complex/Playground

Attorney Jackson reviewed the proposed Code amendments that would convert the temporary rules that the Recreation Complex has been operating under since February 3, 2024. The proposed Code amendments incorporate the existing temporary rules with some slight modifications to address issues that have arisen recently, and other standing rules within the Lake Louise Park. As proposed, the Town Manager is provided some authority to adopt some specific rules for the use of the sports courts such as specific hours of operation and whether play is first come, first serve. She is also given the latitude to temporarily close the courts for good reason. Code amendments also include a modification of Code Sec. 16-1 to update the list of Town facilities in which firearms are prohibited and to include the Lake Louise Recreation Complex and Lake Louise Playground on that list as allowed by N.C. Gen. Stat. §14-415.23. Attorney Jackson added that this ordinance does not require a public hearing prior to adoption.

Council member Jackson moved to adopt the Ordinance Amending Weaverville Town Code Chapters 16 & 18 Concerning Parks and Recreation as presented. The motion was approved unanimously. 7-0.

E. Waterline Acceptance – 9 Pleasant Grove Road

Director Pennell requested acceptance of the waterline located at 9 Pleasant Grove Road. He said the developer corrected all outstanding items, that he has inspected the work and Public Works has deemed the lines sufficient. He requested that Town Council set the 3-year repair guaranty amount at \$5,000.00.

Council member Cordell moved to accept the waterline extension and related improvements for Pleasant Grove Townhomes into the Town's water system subject to staff level approval by the Town Manager, Town Attorney and Public Works Director, and set the repair guaranty amount at \$5,000.00. The motion was approved unanimously. 7-0.

F. Quarterly Report – Public Works and Water

Director Pennell provided the Public Works and Water Division quarterly report from March through May. He reviewed the waterline and utility service calls, tipping fees and garbage tonnage and costs. The report included the growth report and Mr. Pennell discussed the radio-read meters problems with lack of availability of replacement parts and new meters even though most units are still within the 10-year warranty period. The company is indicating that a new type of meter will need to be purchased. This is an ongoing project and these costs and/ or a replacement system will be studied by staff to provide a report to Town Council on possible solutions. It may cost approximately \$330,000 to \$1 million dollars to replace the system.

10. Adjournment

There being no action taken and no further business and without objection, Mayor Fitzsimmons motioned to adjourn the meeting at 8.22 p.m. The motion was approved unanimously. 7-0.

ATTEST:



Tamara Mercer, Town Clerk