Town of Maggie Valley **Board of Aldermen Regularly Scheduled Meeting**

May 10, 2022 **MINUTES**

Members Present:

Mayor Mike Eveland, Aldermen: Tammy Wight, Jim Owens, Phillip Wight, and

John Hinton

Staff Present:

Manager Nathan Clark, Attorney Craig Justus, Public Works Director Mike Mehaffey, Chief Russ Gilliland, Planner Kaitland Finkle, and Clerk Vickie Best

Others Present:

Reporters Kathy Ross and Hannah McLeod and approximately 20 others

Meeting called to order

Mayor Eveland called the meeting to order at 6:29 pm on Tuesday May 10, 2022, in the Town Hall Boardroom.

Pledge of Allegiance

Approval of the Agenda

Clearview Non-Powell Bill Road Project for Clearview Drive will be added under other business.

Resolution of Appreciation: Maggie Valley Fire and Rescue

Reggie McCoy accepted the Resolution 22-12 on behalf of the Maggie Valley Fire and Rescue

Resolution of Lifetime Accomplishment: Alaska Presley

Jill and Ronnie McClure and Kevin Messer accepted Resolution 22-13 on behalf of the Presley Family.

Each September 23 will be recognized as Alaska Presley Day.

Proclamation Recognizing Public Works Week: May 14-21, 2022

Council honored Maggie Valley's Department of Public Works for their exceptional work throughout the Valley.

Proclamation Recognizing Police Week: May 11-17, 2022

Council honored the Maggie Valley Police Department for their outstanding service to the citizens and business owners within Maggie Valley's Corporate Limits and beyond, when aid is requested.

Consent Agenda

Minutes to be approved: March 8, March 24, and March 31, 2022

Budget to Actual

A/R Report

Tax Releases

Land Use Plan Update: Public Hearing: June 6, 2022, at 6:30pm

Unified Development Ordinance: Public Hearing: June 6, 2022, at 6:30pm

May 10, 2022 MINUTES

FY 22-23 Budget Hearing Call for a Public Hearing: June 14, 2022, at 6:30pm

Voluntary Annexation: Call for Public Hearing: June 14, 2022, at 6:30pm

Resolution 22-11 King PIN 7696-16-8244

Adoption of ARPA (America Rescue Plan Act)

Overview

The American Rescue Plan Act (commonly known as "ARPA" or "ARP") was signed into law on March 11, 2021, to provide additional financial relief in the wake of the COVID-19 pandemic. ARPA includes a significant amount of "Coronavirus State and Local Fiscal Recovery Funds" (SLFRF) for state and local governments to use over a period of several years. The local portion of these federal funds is referred to as the Coronavirus Local Fiscal Recovery Fund (LFRF).

The U.S. Treasury Department is distributing LFRF funds in two equal installments, or "tranches," with the first distribution occurring in mid-2021 and the second occurring in mid-2022. Counties and designated "metropolitan" cities receive their distributions directly from the U.S. Treasury Department ("Treasury"), while all other cities and towns – referred to as "non-entitlement units of local government" or "NEUs" – receive their distributions through the State of Washington.

Records Retention

Conflict of Interest

Nondiscrimination/Civil Rights

As a form of protest, Alderman P. Wight said that he would not vote for approval of the minutes until the audio of the meetings can be heard. "Citizens need to be able to listen to the meetings."

Alderman Owens made a motion to approve the consent agenda other than letter A, the minutes of March 8, 24, 31, 2022.

Public Comment

Allen Alsbrooks, 3376 Dellwood Road, addressed the board explaining how he wanted to be a part of the community and has served both on the Planning Board and the Zoning Board of Adjustments. Mr. Alsbrooks said that his time on the Zoning Board of Adjustment has been served honorably, faithfully, and to the letter of the law.

Mr. Alsbrooks said that he takes exception to Mr. Hinton saying he was not being impartial. "As a ZBOA member you must be impartial." Mr. Alsbrooks reminded Council to read the past minutes. "If someone appeals the ZBOA decision their next choice is going to court, not to Council. My interactions have always been fair!"

Mr. Alsbrooks always left the dais when excused and came sat in the audience until after deliberations. "Mr. Eveland you threw Rob Edwards off the HCTDA Board in a deceitful manner. I may just run for Mayor!"

Dave Angel of 3732 Soco Road, on behalf of what Mr. Alsbrooks just stated, I have concerns about a Planning Board Member and the Pioneer Village Property because the member has property across the street. "That person never disclosed that fact. The Planning Board had to vote against the member because of concerns of favoritism. Mr. Alsbrooks has done an outstanding job on the ZBOA. Put him back on the board so that he can serve and serve us well."

Consideration of Text Amendment: Food Trucks

Public Hearing:

Mayor Eveland opened the Public Hearing at 6:54pm.

Copies for the Food Trucks Text Amendment were available for the public's review. The proposed text amendment was approved by staff and reviewed by the Planning Board.

Mobile Food Vending

The purpose of these standards is to promote the general health, safety, and welfare of the citizens of the Town by establishing reasonable standards to allow the retail sale of food and food products via mobile vendors, including food trucks, provided herein, and shall not apply to itinerant merchants.

- A. Permission. Nothing herein shall be construed to grant any right or license to mobile food vending operators to operate on private or public property without permission. Mobile food vending operators shall be required to have the express written permission of the property owner in order to operate on private property.
- B. Location Standards. Mobile food vendors shall only be located in nonresidential zoning districts within the jurisdiction of the Town including the ETJ, or as a special event approved by the Town Board of Aldermen herein as follows:
- a. Principal Use. Mobile food vendors shall only be located on developed property that is occupied by a nonresidential use in operation. No mobile food vendor may sell food to the general public within the Town unless a business, nonprofit, or similar organization, with a physical location, has given signed written approval as part of an application submitted to the Town.
- b. Maximum Number. Maximum of one (1) mobile food vendor per individual private lot, except where a special event has been approved by the Town.
- c. Safety. Mobile food vendors shall not be located in a manner that impedes, endangers, or interferes with pedestrian or vehicular traffic and shall not impede safe ingress and egress at all entrances and are prohibited on public sidewalks.
- d. Separation. Mobile food vendors shall be located a minimum of 15 feet from the main building entrance, the edge of any driveway, intersection, handicap ramp, sidewalk, fire hydrant, or access for emergency services.
- e. Parking. Mobile food vendors shall not occupy parking spaces required to fulfill the minimum requirements of the principal use unless the hours of operation of the principal use do not coincide with

those of the mobile food vendor. No mobile food vendor shall occupy or interfere with any handicapped parking. Mobile food vendors shall only be located at the host site one (1) night immediately prior to operating for set up, operating hours, and one (1) night immediately following operating for break down. Mobile food vending units are only allowed to remain at the host site overnight with the express written permission of the property owner.

- C. Operation Standards.
- a. Outdoor Seating. Outdoor seating may not be provided by the mobile food vendor but may be utilized if existing at the host location.
- b. Equipment. All equipment required for the operation of the mobile food vendor shall be located on or within the mobile food vending unit. Accessory items such as a waste receptacle or table for condiments is permitted outside of the unit during operating hours.
- c. Signs. Signage on the mobile food vending unit shall be permitted. One (1) freestanding sandwich board sign shall be permitted in association with the mobile food vendor. No other freestanding or off-premises signs are permitted.
- d. Hours of Operation. Open hours are permitted between 7:00 AM and 11:00 PM.
- e. Designated Person Present. The mobile food vending operator or a designated person knowledgeable of the operation and regulations pertaining to a mobile food unit shall be present at all times except in the case of an emergency.
- D. Health & Sanitation Standards.
- a. Permits & Licenses. All equipment required for the operation, all food preparation, storage, and sales/distribution shall be in compliance with all applicable County, State, and Federal sanitary regulations. Each operator/vendor shall be responsible for obtaining food preparation and handling permit(s) by a County Health Department or other such regulating agency. The operator/vendor shall have obtained all other proper licenses from the County, State, and local agencies and shall be clearly and visibly displayed with the mobile food vendor. A copy of the signed application and Town of Maggie Valley Mobile Food Vending Permit shall be on site for review by Town personnel. If any necessary licenses are revoked or suspended from the County, State, or local agencies, the issued Town permit will be revoked or suspended accordingly.
- b. Operator(s) shall be Responsible: Operator(s) of a mobile food vending unit shall be responsible for the following standards:
- i. Waste & Trash Disposal. Waste receptacles are to be provided by the mobile food vendor or by the host site. Operators shall be held responsible for removing all waste and trash from their location at the end of each day or more often as needed to maintain public health and safety.
- ii. Liquid Waste or Grease. No liquid waste or grease shall be disposed in storm drains, onto sidewalks, streets, or any other public space, or into the Town's sanitary sewer system. If at any time

evidence of improper disposal of liquid waste or grease is discovered, the Town permit for the mobile food vending unit shall be forfeited and required to cease operation immediately.

- E. Special Events. Mobile food vendors may request approval by Town Board of Aldermen to operate outside of the standard requirements outlined above by following applicable procedures:
- a. Operating Hours. The sponsored event shall take place during normal business hours or extended hours as long as the host site that has invited a mobile food vendor to participate is open to the public. The operation of the mobile food vending unit shall cease upon the business or nonprofit closing its operation for the sponsored event.
- b. Support Documentation. The special event application shall specify how a mobile food vendor supports a planned promotional, holiday, fundraising, or similar event in support of the applicant's business or organization.
- c. Duration of the Event. For the purpose of this Section, special events shall be classified as a one (1) day event, except as otherwise approved by the Town Board of Aldermen.
- F. Exceptions. Mobile food vendors may operate outside of the standard requirements when in compliance with the following applicable procedures:
- a. Mobile food vendors are permitted at Town Sanctioned Events, including those hosted on the Festival Grounds
- b. Mobile food vendors are permitted on commonly owned property within a residential development in order to serve residents and guests at a neighborhood activity or function.
- c. Private catering services in which the principal use is the preparation of food and meals off premises and where such food and meals are delivered to another location for consumption as a private event and is not sold directly to the general public is not subject to the standards of mobile food vending. Similarly, a mobile food vendor may operate as a catering service without a special event permit, provided the mobile food vendor is serving the participants of such private event only and not selling food to the general public.
- G. Violations. Notice of the violation will be given by means of a certified letter by the Town of Maggie Valley official to the host site and, where appropriate, the operator. If the violation is not remedied within ten (10) days, the permit will be revoked. The Town may take civil action against an operator or host site based on the type and seriousness of the violation of the above standards per Section 154.999 of the Zoning Ordinance.

Without public comments being presented, Mayor Eveland closed the Public Hearing at 6:58pm.

Consideration of Approval: Ordinance 986.

Alderman P. Wight thanked Council for considering allowing Food Trucks and a special thanks goes to Aldermen Tammy Wight and Jim Owens for their concerted efforts to create the document.

This document, like other such ordinances, is a living breathing document that can be amended at any time Council sees the need.

The fee for food trucks will be included in the Fee Schedule. The fee will be \$50 annually for the host site (property owner) and \$100 annually for the food truck. This fee is good for one-year and allows the host site to have any permitted food truck come to their property and the food truck can move around to any host permitted site. These fees are annual like the ABC Permits.

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE ORDINANCE 986. MOTION CARRIED UNANIMOUSLY.

Planning Board Recommendation and Consistency Statement for Mobile Food Vending Text Amendment

Plan Consistency Statement for staff-initiated text amendment to The Town of Maggie Valley Zoning Ordinance.

The proposal is to add Mobile Food Vending as an allowed use in the Table of Permitted Uses with standards. The purpose of these standards is to promote the general health, safety, and welfare of the citizens of the Town by establishing reasonable standards to allow the retail sale of food and food products via mobile restaurants, commonly referred to as mobile food trucks. Proposed changes are in accordance with draft proposals in the UDO update, current development pressure, and foreseeable trends. This text amendment is consistent with the Town's Future Land Use Plan which states that the Ordinance is in need of revisions and that it is necessary to bring the Ordinance up to date to make it more meaningful.

As part of the Board of Aldermen's changing the text of the Zoning Ordinance is the required adoption of a plan consistency statement.

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE THE CONSISTENCY STATEMENT. MOTION CARRIED UNANIMOUSLY.

Consideration of Voluntary Annexation: PINS 8607-36-8571/8607-36-9299

These parcels will have access to municipal sewer but are located outside the Town of Maggie Valley's service district. Therefore, it is recommended that the parcels not be annexed into the Town but receive sewer service at the outside rate.

Public Hearing

Mayor Eveland opened the Public Hearing at 7:05pm and closed the hearing at 7:06pm without comment.

ALDERMAN OWENS MADE A MOTION TO NOT APPROVE ORDINANCE 987; MOTION CARRIED UNANIMOUSLY.

Because the annexation was not approved, there is no need for zoning the property.

Consideration of Voluntary Annexation: PIN 8607-24-3974

The parcel belongs to William West C/TR and Eagle Inter Vivos Trust and is located at 1105 Jonathan Creek Road. The parcel is flat and within the service district of Maggie Valley. This home needed municipal sewer.

Public Hearing

Mayor Eveland opened the Public Hearing at 7:07pm and without public comment closed the hearing at 7:08pm.

ALDERMAN OWENS MADE A MOTION TO APPROVE ORDINANCE 989 ANNEXING 1105 JONATHAN CREEK ROAD INTO THE CORPORATE LIMITS. MOTION CARRIED UNANIMOUSLY.

Consideration for Approval: Ordinance 990 Zoning the parcel R3 High Density

This parcel has one single family 1300 square foot home located on the property. There is room for three additional homes to be constructed on the property.

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE THE R3 ZONING FOR PARCEL 8607-24-3974. MOTION CARRIED UNANIMOUSLY.

Consideration of Consistency Statement

ALDERMAN T. WIGHT MADE A MOTION TO APPROVE THE CONSISTENCY STATEMENT. MOTION CARRIED UNANIMOUSLY.

Façade Grant Awards:

The owner of Eagle Plaza has requested Façade Grant Funding for a sign replacement. The bid was awarded to George Giles Signs at a cost of \$4,884.16 making the Town's part through grant funding \$2442.08.

Before awarding grant funding, Council discussed structural design and the existing sign frame remaining as is. The sign will only have the content changed. Although the sign is non-conforming because of the height (as measured from the ground, not the sidewalk) no structural aspects of the sign will be changed. The request could be denied, but Eagle Plaza and the Scottish Inn are both in similar situations. Eagle Plaza is on a hill and the Scottish Inn is literally in a hole over the bank from Soco Road.

Planner Finkle asked if there should be a reasonable time of completion? Materials and labor are currently more difficult to get. If a sign permit is issued the permit is valid for one year.

The Scottish Inn property owner would like a new sign and new guttering. The owner would like to replace the sign panel and rename the Inn. Three sign companies were contacted. George Giles could not do a sign such as this. Moss Sign Company was the only company that could do the replacement. A to Z Signs referred the owner to Moss Sign Company. The price given is \$7,036.88.

ALDERMAN HINTON MADE A MOTION TO DENY THE REQUEST FOR GUTTERING, BUT TO APPROVE THE SIGN. MOTION CARRIED UNANIMOUSLY.

Alderman T. Wight said that she did not want to approve grant funding just for a name change, but for the overall look.

Manager Clark asked that Council tease out the conversation. The Scottish Inn owner has bigger plans overall, not just a name change. This is the opportunity to change the name to a local inn rather than a brand. He is trying to reinvent the property because it is separate from the rest of Maggie Valley and the Festival Grounds.

ALDERMAN HINTON MADE A MOTION TO APPROVE THE SCOTTISH INN SIGN FOR \$3518.44 BUT NO GUTTERING IS INCLUDED IN THE GRANT FUNDING. MOTION CARRIED UNANIMOUSLY.

Consideration of Construction: Veterans Park

Council agreed the front yard of Town Hall would be the location of the Veterans Park. Public Works will do the demolition of the area in June. Kenny Arrington will do the concrete work in August, and Jeremiah Rich will then do the rock work. The benches will be ordered. The ballpark cost is \$50,000 this year and possibly another \$50,000 next year, depending on the plaques and flags and flag poles.

Manager Clark explained that Mr. Bill Banks (ZBOA Chairman) a Veteran, discussed the importance of displaying flags for Veterans regardless of the branch of service they served. The flags would be at a height to draw people's attention that there is a Veterans Park here at Town Hall.

There would need to be a greater distance between each flag so that they don't blow into the next flag. The flags could be lined alone the walkway coming from the sidewalk. Additional electric would be required to light the flags. Inclement weather is hard-hitting for flags. The Town replaces the flags currently in front of Town Hall, at least twice a year.

Alderman P. Wight, a longtime proponent of a Veterans Park, stated that he wanted something simple recognizing the Veterans, but is also low maintenance.

ALDERMAN P. WIGHT MADE A MOTION TO APPROVE THE CONSTRUCTION OF THE VETERANS PARK. MOTION CARRIED UNANIMOUSLY.

Consideration of ZBOA Appointment

The applicants that were interviewed in February for a Planning Board replacement were contacted and they are still interested in serving on a board. After a brief discussion, Alderman Owens stated that he prefers Kirk Noonan because of his knowledge of code enforcement.

Alderman T. Wight stated that a process needs to be implemented for when a member is removed or resigns. "It seems disingenuous, appointing someone new to the board rather than an alternate member."

The alternates on the Zoning Board of Adjustment are newly appointed and Mr. Noonan has sixteen years of experience as a Code Enforcement Officer. Ms. Tinker Moody was an alternate that moved into a full position on the ZBOA after the term ended for Evans Duncan.

ALDERMAN OWENS MADE A MOTION TO APPOINT KIRK NOONAN TO THE ZBOA. ALDERMAN HINTON AND MAYOR EVELAND VOTED IN THE AFFIRMATIVE. ALDERMEN TAMMY AND PHILLIP WIGHT OPPOSED. MOTION CARRIED BY MAJORITY.

Consideration of Planning Board By-Laws Change

The Planning Board has been updating their by-laws. The proposed changes how individuals are chosen and removed for attendance, lessens the number of absences allowed, and specifies excusable absences. The first term is for one-year and then the next term is for three-years. This will stagger the years of appointments and clarifies Conflict of Interest. At the beginning of each meeting everyone will be asked if there is a conflict of interest.

The updated by-laws will help the Planning Board. There is a general level of respect in the outlines for the Rules of Procedure.

The Zoning Board and the Planning Board need ETJ members. Staff has gone to great extents to recruit ETJ members by sending out postcards to all ETJ residents.

Planner Finkle will review the rules of procedures for the Zoning Board of Adjustments because those terms need to be staggered as well.

ORDINANCE 991

AN ORDINANCE BY THE TOWN OF MAGGIE VALLEY ESTABLISHING UPDATING BYLAWS FOR THE MAGGIE VALLEY PLANNING BOARD

1. Establishment of the Board; Qualifications.

A planning board, consisting of seven (7) members, is hereby established. Five (5) members, appointed by the Town Board of Alderman, shall be citizens and reside within the town limits of Maggie Valley. Two (2) members shall reside within the town's extraterritorial planning jurisdiction and shall be appointed by the Haywood County Board of Commissioners; however, shall the county board fail to make such appointments within 90 days following receipt of a resolution from the Town Board of Aldermen requesting such appointments, the town board may make such appointments. The members of the board representing the extraterritorial jurisdiction shall have equal rights, duties and privileges with other members of the board. Members shall serve without compensation but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the board.

II. Tenure

Members of the board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

III. Officers

Following annual appointments, the board shall elect one (1) member to serve as chair and preside over its meetings and shall elect one (1) vice chair to perform the duties of the chair when the chair is unable. The term of the chair and vice chair shall be one (1) year, with eligibility for reelection to a second term.

IV. Meetings

The board shall establish a regular meeting schedule and shall meet at least monthly and more often as it shall determine and require. All meetings of the board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes. The board shall keep a record of its meetings, including attendance of its members, its resolutions, findings, recommendations, and actions. In the case of a divided vote on any question on which the board is required to act, the record shall include the vote of each member.

V. Attendance at Meetings

Any member of the board who misses more than three (3) consecutive regular meetings, or more than half four (4) of the regular meetings in a calendar year, shall lose his or her status as a member of the board, and shall be replaced or re-appointed by the Town Board of Aldermen or Haywood County Commissioners, as appropriate. Absence due to a sickness, death, or other emergencies of like nature shall be recognized as excused absences and shall not affect the member's status on the board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced by the Town Board of Aldermen or Haywood County Commissioners, as appropriate.

VI. Quorum and Voting

A quorum of the board, necessary to take any official action, shall consist of a majority of the voting members. A majority is more than half (50%). A member who has withdrawn or been excused from an agenda item shall be counted as present for the purpose of determining whether or not a quorum is present provided that more than one third (1/3) of the voting members must be present and voting for there to be a quorum. A quorum must be present before any business is transacted. Social

gatherings shall not be deemed as official meetings so long as there is no

discussion of public business. four (4) members. The concurring vote of a simple majority of those members present shall be necessary to take any official action.

VII. Powers of the Board

The powers and duties of the planning board are as follows:

- (1) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.
- (2) Prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the physical development of the area. The comprehensive plan shall be the planning board's recommendations to the town council for the development of the town including, among other things, the general location, character and extent of streets, bridges, playgrounds, parks, and other public ways,

grounds and open space; the general location and extent of public utilities; whether publicly or privately owned or operated, the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, and the most desirable pattern of land use within the area.

- (3) Prepare and recommend ordinances promoting orderly development of the area in accordance with the adopted land use plan including a zoning ordinance and subdivision regulations. The planning board may initiate, from time to time, proposals for amendment of the zoning ordinance and of subdivision regulations based upon its studies. In addition, it shall review and make recommendations to the town council concerning all proposed amendments to the zoning ordinance and subdivision regulations.
- (4) Determine whether specific proposed development conforms to the principles and requirements of the comprehensive plan of the area and to make recommendations concerning them.
- (5) Issues preliminary and final plat approval or as stated in the Subdivision Ordinance
- (6) Keep the town council and general public informed and advised as to these matters.
- (7) Make other recommendations which it sees fit for improving the development of the area.
- (8) To exercise such other powers and to perform such other duties as are authorized or required elsewhere in this appendix, the N.C. General Statutes, or by the Board of Aldermen.

VIII. Effective Date.

This Ordinance shall be in full force and in effect from and after January 17, 2006, most recently updated May 10, 2022.

ALDERMAN HINTON MADE A MOTION TO APPROVE ORDINANCE 991 UPDATING THE PLANNING BOARD BY-LAWS. MOTION CARRIED UNANIMOUSLY.

Other Business

The Non-Powell Bill Funds that were set aside for the Town's part of the Rocky Top Road Project will not be used because the Rocky Top Road Project is currently postponed for an indefinite amount of time.

Clearview Drive will remain private, but the residents have collected quotes to rebuild/repave the road. Custom Paving came in with the lowest quote.

The Town could pay the standard 30% for Non-Powell Bill Roads and have Public Works inspect the road project as it moves forward.

ALDERMAN TAMMY WIGHT MADE A MOTION TO APPROVE PAYING THE TOWN'S SHARE OF THE CLEARVIEW DRIVE-ROAD PROJECT WITH CUSTOM PAVING. MOTION CARRIED UNANIMOUSLY.

ALDERMAN TAMMY WIGHT MADE A MOTION TO ENTER CLOSED SESSION FOR THE PURPOSE OF DISCUSSING REAL ESTATE AND PERSONNEL AT 7:51PM

NCGS 143.318.11(A)(5) AND (A)(6)

ALDERMAN TAMMY WIGHT MADE A MOTION TO COME OUT OF CLOSED SESSION AT 8:23PM WITH ALL IN FAVOR.

Adjournment

ALDERMAN TAMMY WIGHT MADE A MOTION TO ADJOURN AT 8:23PM. MOTION CARRIED UNANIMOUSLY.

Mayor Mike Eveland

Vickie Best, Town Clerk, CMC