

Town of Maggie Valley
Regularly Scheduled Board of Aldermen Meeting
January 8, 2008
3:30 p.m.

MINUTES

Members Present: Mayor Roger McElroy, Aldermen: Colin Edwards, Saralyn Price, Mark DeMeola, and Phil Aldridge
Staff Present: Manager Tim Barth, Attorney Chuck Dickson, Planning Director Nathan Clark, Police Chief Scott Sutton, Public Works Director Mike Mehaffey, and Town Clerk Vickie Best
Others Present: approximately 30 people

1. Meeting Called to Order.

Mayor McElroy called the meeting to order at 3:33 pm in the Town Hall Boardroom.

2. Consent Agenda

- a. Certificate of Sufficiency: Paul Edwards, #22 Maggie Valley Estates, Parcel #7686-46-5446, (0.49 acres), Resolution No. 08-01, Public Hearing on January 22, 2008 at 5:30 p.m.
- b. Certificate of Sufficiency: Bruce Rouse, 8A Section D Prime Horseshoe Cove, Parcel #7697-21-0461, (0.6687 acres), Resolution No. 08-02, Public Hearing on January 22, 2008 at 5:30 p.m.
- c. Correction and Approval of Minutes for December 18, 2007.

Alderman Price made the following corrections to the December 18, 2007 minutes:
Page Two: Motion to appoint Burton Edwards and Robert Knoedler was made by Alderman Aldridge.

Page 5: Flossy White Room, under agenda item 9

Page 5: correct clerical error in the motion: change all to Allow.

**ALDERMAN PRICE MADE A MOTION TO APPROVE THE CONSENT AGENDA
WITH CORRECTIONS NOTED FOR THE MINUTES.
MOTION CARRIED UNANIMOUSLY.**

3. a. Public Hearing on rezoning certain properties in the Campbell Woods Subdivision..

b. Consideration of Ordinance No. 610 to zone Parcels #8606-18-7478, 8606-18-5409, 8606-18-2400, 8606-18-0334 Commercial (C-1).

Mayor McElroy opened the floor for public comment after entering letters that Mr. Clark read into the public record. **SEE ATTACHMENTS**

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John & Deb Schaefer of 14 Bellwood Drive addressed Council opposing the rezoning. They purchased their home eight years ago and were given a covenants that stated single-family homes with no rentals allowed.

Havvo Bundesen of 246 Henry Dingus Way addressed Council opposing the zoning change. Mr. Bundesen has owned his home for the past 12 years. Mr. Bundesen has never been invited to a Home Owner's Association meeting because they are held in Florida. Mr. Bundesen also criticized Mr. Paxton for going from \$100 to \$200 for association fees. Mr. Bundesen stated that he has received threatening letters from Mr. Paxton about the delinquent association fees.

John Miller, lot 11, #7 Hornet's Nest Road owns a lot that he later intends to build a retirement home. The thought of living in a condominium community does not make him happy about the future of Campbell Woods Estates.

It was brought out that a lawsuit is pending with one or more of the villa owners.

Thomas Benoit, 772 Henry Dingus Way, lot 30 explained why he opposes the rezoning. The homeowners are the majority. This issue should have been discussed prior to bringing the request to the Town for action. The villas are poorly constructed that are currently in place. Mr. Benoit purchased his property as a single-family development. Mr. Benoit realizes that the commercial parcels in the front are already zoned, but there should be a barrier between the commercial section and the residential section. The roads, sewer and water pressure are not adequate to serve what is currently built.

Stan Naplen, 532 Henry dingus Way, lot 35, strongly opposes both rezoning request. Mr. Naplen echoed what the previous property owners had stated adding that he has a pump in his basement to have enough water pressure, which uses additional electriciricity.

Letha Sigado, 646 Henry Dingus Way, has been a resident since 1999 was concerned about the topography. Ms. Sigado received a letter from Paxton prior to receiving a letter from Maggie Valley. Ms. Sigado questioned if the Town "just did this" and that the homeowners should have a voice. The same concerns were expressed, the inadequate roads, water, and sewer. There was raw sewage leaking onto the ground that had to be repaired. Multi-family housing will affect everyone. "People do not come to the mountains to see this." Ms. Sigado asked that Council help the residents.

Alderman Edwards agreed that it looked as though the initial covenants was changed without the homeowners being provided the amendments.

Bret Brubaker, 691 Henry Dingus Way, strongly opposed any rezoning for the reason previously mentioned.

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Debra Shafer, 14 Bellwood Drive read the letter she received from Mr. Paxton. She too opposed any change in zoning.

Due to the two rezoning request becoming meshed, Mr. Clark read the other letters he received opposing any rezoning.

4. a. Public Hearing on rezoning the remaining land in Campbell Woods Subdivision.
b. Consideration of Ordinance No. 609 to rezone the remaining tracts in Campbell Woods Subdivision to R-2

Mr. Clark explained the Planning Board's point of view. The planning board, based on the newly adopted land use plan, approved the rezoning requests. The intersection of US-19 and US- 276 has always been considered to be commercial as is the current zoning. The request to zone the parcels that lay to the back of the front 12 acres are needed to add additional footage to the front commercial area, as well as provide a buffer between the commercial and residential portions of the property. Mr. Paxton has found that any major grocery store wants 15-acres to consider a project. A better entrance will need to be developed to provide safe access.

Attorney Jack Kersten informed the Board that the parcel was zoned commercial long before the Town began exercising Extra Territorial Jurisdiction. The best proposition would be a grocery store, for both the development and the Town of Maggie Valley. It would make it difficult for Mr. Paxton to sell the remaining lots if something unattractive were located on the commercial frontage. Mr. Paxton will agree to a 35-foot vegetative buffer separating the zoning districts. NCDOT will have a part in engineering a suitable entrance and the town will oversee the site plan.

Mr. James Paxton addressed the board stating that he has passed on several offers because the plans did not meet what he feels would be an asset to the area. When an anchor store develops, Mr. Paxton wants to be involved in the planning.

Again, Mr. Paxton stated that he would agree to leave a 35-foot buffer. The town ordinance requires a certain amount of landscaping and buffering.

Council discussed different options, as well as the need for a grocery store in Maggie Valley. Now that the land use plan is in effect, having commercial, such as a grocery store and pharmacy in that area, could be a win-win for everyone.

Mr. Paxton explained that the residential area would be secured at no cost to the HOA.

Due to the appearance of mistrust between the homeowners and Mr. Paxton, some members felt it best to delay action until more thought can be provided to the issue. Mayor McElroy explained that the intent is to go by the suggestions made in the land use plan but it often becomes a delicate balance. The Planning Board serves as an advisory board to the Aldermen.

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Alderman Price stated that she had rather see a grocery store located in the area than another bar.

The Public Hearing portion of the meeting closed at 5:00 p.m.

The Board members and Legal Council discussed Mr. Paxton's offer to have the 35-foot setback between the commercial district and the residential district incorporated into the plat and deed.

There appeared to be a consensus about the front parcels being rezoned to Commercial 1, but the rezoning from Residential 1 to Residential 2 needed more consideration.

Council recessed for five minutes arriving back in the council room at 5:20 pm.

There was a brief discussion regarding contract zoning being illegal without provisions made through the land use plan for conditional use permits. The process to get conditional use permits in place would take approximately three months to complete.

Council did not want Mr. Paxton to loose a buyer that would place a grocery store in the area.

**ALDERMAN PRICE MADE A MOTION TO TABLE THE ZONING OF LOTS 13,1,
14, 15 TO COMMERCIAL 1 UNTIL THE NEXT ALDERMEN MEETING IN TWO
WEEKS. MR. PAXTON HAS AGREED TO HAVE THE 35-FOOT BUFFERING
DOCUMENTED.
MOTION CARRIED UNANIMOUSLY.**

As for the residential rezoning, Mr. Clark again gave a brief description of how this issue came about. In 1989, the development was started under Haywood County Guidelines. There is no zoning in the County. In 1997, the villas were built under the County's jurisdiction. In 2003 the Town of Maggie Valley extended the Extra Territorial Jurisdiction to include Campbell Woods. The parcels located along Soco Road were zoned commercial while parcels further back from US-19 were zoned Residential 1. The 2007 adopted Land Use Plan calls for the front to be commercial and the remaining area to be medium density. The Planning Board recommended residential 2 due to the land use plan and based on the current neighborhood profile. This same theory applied to Trinity Cove and Brannon Forest Subdivisions. Trinity Cove has some clustering of homes while Brannon Forest is single family on small lots.

Attorney Kersten responded that the original document states that more units could be built. The Town imposed the zoning through the ETJ without taking into consideration the current covenants. The clustering of homes should be lower on the land. Attorney Kersten reminded Council that if they develop by the current zoning the lots could be divided into smaller lots and more single family homes constructed. This will be the last town home units constructed. This was Mr. Paxton's intentions all a long. Property values will not be affected.

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The Board had concerns about inadequate roads, water, and sewer. Council felt more details needed to be provided. Alderman DeMeola felt that it would be to Mr. Paxton's benefit to have a HOA meeting to discuss these issues.

**ALDERMAN ALDRIDGE MADE A MOTION TO TABLE THE ISSUE UNTIL
MORE DETAILS CAN BE PROVIDED.
MOTION CARRIED UNANIMOUSLY.**

Mr. Paxton or Attorney Kersten will contact the town when more documented details are available for Council review.

5. Consideration of Resolution No. 08-04 that would allow the Town to purchase de-icing salt from the NCDOT.

**ALDERMAN PRICE MADE A MOTION TO ADOPT RESOLUTION 08-04 TO
ALLOW THE TOWN TO PURCHASE DE-ICING SALT FROM NCDOT AT A THE
SAME COST NCDOT PAID.
MOTION CARRIED UNANIMOUSLY.**

6. Budget Amendments.

Ordinance 603

An Ordinance Amending the FY 2007/06 Budget Ordinance

Be It Hereby Ordained by the Town Board of Aldermen of the Town of Maggie Valley, North Carolina, that the Budget Ordinance for the year 2007/06 is amended as follows:

		General Fund		
	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	2006 Ad Valorem 05-00-3215	\$2,000	\$ 765	\$2,765
Appropriations	Directional Signs 05-42-4570	\$ 500	\$ 765	\$1,265

**ALDERMAN EDWARDS MADE A MOTION TO APPROVE THE BUDGET
AMENDMENT THROUGH ORDINANCE 603.
MOTION CARRIED UNANIMOUSLY.**

Ordinance 604

Revising

Ordinance 589

An Ordinance Amending the FY 2007/08 Budget Ordinance

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Be It Hereby Ordained by the Town Board of Aldermen of the Town of Maggie Valley, North Carolina, that the Budget Ordinance for the year 2006/07 is amended as follows:

General Fund – Rural Center Building Reuse & Restoration Grant

	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Rural Center 05-00-3611	\$ 0.00	\$150,000	\$150,000
	Appropriated Fund Bal. 05-00-3991	\$85,057	15,000	100,057
Appropriations	Blg. Reuse & Restoration 05-40-4690	\$0.00	\$165,000	\$165,000

**ALDERMAN PRICE MADE A MOTION TO APPROVE BUDGET ORDINANCE 604.
 MOTION CARRIED UNANIMOUSLY.**

Ordinance 605

An Ordinance Amending the FY 2007/08 Budget Ordinance

Be It Hereby Ordained by the Town Board of Aldermen of the Town of Maggie Valley, North Carolina, that the Budget Ordinance for the year 2007/08 is amended as follows:

Sewer Fund

	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Misc. Revenue 04-00-3839	\$2,000	\$10,000	\$12,000
Appropriations	Capital Outlay Line Ext 04-72-4571	\$40,000	\$10,000	\$50,000

**ALDERMAN EDWARDS MADE A MOTION TO APPROVE
 ORDINANCE 605.
 MOTION CARRIED UNANIMOUSLY.**

Ordinance 606

An Ordinance Amending the FY 2007/06 Budget Ordinance

Be It Hereby Ordained by the Town Board of Aldermen of the Town of Maggie Valley, North Carolina, that the Budget Ordinance for the year 2007/06 is amended as follows: General Fund

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	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	2005 Ad Valorem 05-00-3214	\$ 600	\$ 335	\$ 935
Appropriations	T-21 05-62-4612	\$ 0	\$ 335	\$ 335

**ALDERMAN DEMEOLA MADE A MOTION TO ADOPT ORDINANCE NUMBER
606.
MOTION CARRIED UNANIMOUSLY.**

Ordinance 607

An Ordinance Amending the FY 2007/08 Budget Ordinance

Be It Hereby Ordained by the Town Board of Aldermen of the Town of Maggie Valley, North Carolina, that the Budget Ordinance for the year 2007/08 is amended as follows:

General Fund

	<u>Description</u>	Previous	Increase (Decrease)	Amended
Appropriations	2008 Vehicles (05-97-4760)	\$ 0.00	\$6,868	\$6,868
	Debt Service Interest (05-97-4800)	\$56,956	\$ 994	\$57,950
Appropriations	Capital Outlay Vehicle (05-43-4540)	\$ 12,000	(\$7,862)	\$4,138

**ALDERMAN ALDRIDGE MADE A MOTION TO APPROVE THE BUDGET
AMENDMENT.
MOTION CARRIED UNANIMOUSLY.**

Ordinance 608

An Ordinance Amending the FY 2007/08 Budget Ordinance

Be It Hereby Ordained by the Town Board of Aldermen of the Town of Maggie Valley, North Carolina, that the Budget Ordinance for the year 2007/08 is amended as follows:

General Fund - 2008 Police Vehicles

	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Proceeds from Lease	\$0	\$50,124	\$54,124

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Appropriations	Capital Outlay	\$4,138	\$50,124	\$54,262
	Vehicle 05-43-4540			

**ALDERMAN PRICE MADE A MOTION TO APPROVE ORDINANCE 608.
MOTION CARRIED UNANIMOUSLY.**

7. Manager's Report.

Manager Barth distributed the January calendar and the financial Reports for the month.

The Chamber of Commerce will hold their meeting at the Creekside Lodge on January 10 at 3:00 pm. Mr. Clark will be providing a presentation on Parham Park.

The boardroom will be moved to the Flossy White Room until the Town Hall renovations are complete.

A goal setting session for the Aldermen is scheduled for January 15, 2008 beginning at 9:00 am in the Police Department Conference room. These should be long and short-term goals for the town.

8. Other Business.

Alderman Aldridge asked that all attempts should be made to get as many applications as possible for the festival director's position.

9. Meeting Adjourned.

**ON MOTION OF ALDERMAN DEMEOLA, WITH ALL IN FAVOR THE MEETING
ADJOURNED AT 6:18 PM.**

Mayor Roger McElroy

Town Clerk Vickie Best, CMC