

Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
Tuesday February 15, 2011  
5:30 p.m.  
**MINUTES**

Members Present: Mayor Roger McElroy, Aldermen: Scott Pauley, Saralyn Price, and Phil Aldridge  
Staff Present: Manager Tim Barth, Attorney Chuck Dickson, Planning Director Nathan Clark, Public Works Director Mike Mehaffey, Chief Scott Sutton, Festival Director Audrey Hagar, and Town Clerk Vickie Best  
Others Present: 24 people attended

1. **Meeting Called to Order.**

Mayor McElroy called the meeting to order at 5:30 p.m. in the Town Hall Boardroom.

2. **Consent Agenda**

- a. Year to Date Revenue and Expenditures.
- b. Ad Valorem Tax Recap.
- c. List of tax amounts due as of February 9, 2011.
- d. Correction and Approval of Minutes for the December 21, 2010, January 18, 2011 and January 27, 2011 meetings.

Alderman Price asked that Page 2 of the January 18, 2011 agenda item 7: show the motion passing. On page 3, item 9 should reflect that Alderman Price does oppose paying employees' overtime when it is not necessary. The Clerk will make the revisions.

**ALDERMAN PAULEY MADE A MOTION TO APPROVE THE CONSENT AGENDA WITH THE CORRECTIONS MADE TO THE JANUARY 18, 2011 MINUTES AS REQUESTED BY ALDERMEN PRICE.  
MOTION CARRIED UNANIMOUSLY.**

3. **Consideration of Resolution No. 11-1 approving financing terms for two police vehicles**

**Resolution No. 11-1**  
**Resolution Approving Financing Terms**

**WHEREAS:** The Town of Maggie Valley ("Town") has previously determined to undertake a project for two Dodge Chargers (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

**BE IT THEREFORE RESOLVED, as follows:**

1. The Town hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated January 27, 2011. The amount financed shall not exceed \$44,262.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.53%, and the financing term shall not exceed four (4) years from closing.

Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011  
MINUTES

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action, as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms, as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b) (3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

**ALDERMAN PRICE MADE A MOTION TO ADOPT RESOLUTION 11-1  
APPROVING FINANCING TERMS.  
MOTION CARRIED UNANIMOUSLY.**

**4. Consideration of a proposal to provide architectural services for the Town Hall roofing and the Parham Memorial Park pavilion and restrooms**

Architect Randy Cunningham provided the following quotes. The proposed cost to prepare specifications for roof replacement, inspections, and design of Town Hall entryway improvements is \$3,600. The proposed cost to prepare plans, drawings, and specifications for a pavilion and restrooms to be located at Parham Park is \$2,500.

Alderman Aldridge questioned spending \$3,600 to replace a roof and redesign the front of a building that is considered an icon in Maggie Valley. "The Town Hall/Ole Maggie Valley Elementary School has looked the same for a number of years. There is no need to change the appearance of the entryways because of the recently adopted Appearance Standards." Alderman Aldridge felt that due to the difficult economic times, it would be

Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011

MINUTES

foolish to spend money redoing the community center. Alderman Aldridge went on to say that later the Town should hold a referendum on the issue.

Mayor McElroy stated that Town Hall needs a new roof. Alderman Aldridge felt that an architect is not needed for a new roof.

Alderman Price agreed with Alderman Aldridge, the new entryways could be delayed. Alderman Pauley wanted more information on the issue before making a decision.

As for the second proposal for Parham Park, Alderman Price felt that donations and pledges have been made for the development of Parham Park and that the project should move forward as soon as possible.

Alderman Aldridge questioned if Mayor McElroy or some of the other contractors in Town could do the design work for Parham Park.

Mayor McElroy explained that grant funding is easier to obtain if a formal plan is in place. The park lies within the 100-year flood plain and must meet FEMA regulations as well as have an engineer's seal.

Mr. Jay Ring spoke from the floor explaining that he, as well as Mr. Ron DeSimone, can both design and build; an architect is not needed.

**ALDERMAN PRICE MADE A MOTION TO GET TWO MORE BIDS FOR THE  
DESIGN AND SPECIFICATIONS FOR THE PARHAM PARK PROJECT.  
MOTION CARRIED UNANIMOUSLY.**

**5. Consideration of a proposal from Civil Design Concepts for survey and site development work at Parham Memorial Park**

Patrick Bradshaw, an Engineer with Civil Design Concepts, has submitted a proposal to do engineering work for Parham Park.

There are three parts to the proposal. Part 1 is to do a topographic and location survey in order to determine the contours, which will be necessary when building the restrooms since they will have to be elevated to one-foot above base flood elevation. The fee for Part 1 would be \$1,000.00.

Part 2 is development of a Site Development Plan /Specifications. This will include a grading/drainage plan, erosion control, placing of the pavilion and restrooms, adequate parking spaces, proposed walking trail, and necessary sidewalk and driveway connections. The fee for Part 2 is \$6,000.00.

Part 3 is an optional landscape plan for the park. The fee for Part 3 would be \$1,750.00.

Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011  
MINUTES

It is staff's recommendation that the Town consider Parts 1 & 2. There is adequate funding, in place, for the two parts. The landscaping plan can wait until NCDOT, who is doing a corridor beautification plan for the Town, submits their plan as part of the Town's beautification program.

The price was negotiated down from the original proposal. Mr. Bradshaw is familiar with the park and the flood plain issues. The State is going to assist the Town with the river decks at Parham Park as part of the Maggie Valley Beautification Program. The landscape portion can be accomplished through State assistance and guidance from Mr. Clayton Davis

**ALDERMAN ALDRIDGE MADE A MOTION TO ELIMINATE THE \$1,750 FOR THE LANDSCAPING PLAN AND TO PROCEED WITH THE TOPOGRAPHIC AND LOCATION SURVEY (Part 1) AND THE SITE DEVELOPMENT PLANS/SPECIFICATIONS (Part 2).  
MOTION CARRIED UNANIMOUSLY.**

**6. Consideration of certain engineering services for the levee project at the wastewater treatment plant**

Maggie Valley has entered into an agreement to build up the levee located at the Waste Water Treatment Plant in order to have a State certified levee. The Public Works Department has recently begun clearing brush/trees from the levee to prepare for the next phase. McGill Engineering has submitted a proposal for \$11,400.

In November 2010, McGill Engineering evaluated the existing levee to determine its compliance with NFIP requirements. The evaluation identified aspects of the levee, which do not meet the requirements. McGill Engineering quantified improvements to the levee, which must be made in order get the levee certified.

The next phase in the certification process is:

1. Assess the need for and establish flood warning system requirements.
2. Prepare a formal flood operations plan, which will recommend periodic testing and inspection of manual and automated devices within the system.
3. Prepare and recommend the adoption of a levee maintenance plan.
4. Formalize the preliminary drawings included in the previous evaluation and create a set of construction documents.

*See the minutes from September 13, 2010 and November 4, 2010 for previous discussions.*

Alderman Aldridge felt the proposal is high considering that the Town has already paid close to \$25,000 to have the levee analyzed to determine what improvements will be needed to get the certification.

Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011  
MINUTES

Formal engineering with a maintenance plan is the only method allowed to get FEMA/State certification.

**ALDERMAN PRICE MADE A MOTION TO MOVE FORWARD WITH MCGILL ENGINEERING FOR \$11,500 TO COMPLETE THE NEXT PHASE IN GETTING THE WASTE WATER TREATMENT PLANT LEVEE CERTIFIED. MOTION CARRIED UNANIMOUSLY.**

7. **Consideration of a requested tax release**

Town Manager Barth and Town Attorney Dickson have researched the facts pertaining to a letter received from Patsy Brison, an attorney with Roberts & Stevens Law Firm, representing Doncon, Inc. in requesting tax relief for years 2008 - 2010. The parcel identification number 7697-01-2630 as found in deed book 691 page 1878.

Attorney Brison's letter states that for the years of 2009 and 2010 the land was valued at \$2,305,100 based upon a clerical error of entering the property into the system as a subdivision, rather than a single tract of approximately 32-acres.

The letter further states that Blue Ridge Enterprises then owned the property with an equitable interest owned by Doncon, Inc. Tim Childers did not own the property. Ms. Brison further states that the recording of the subdivision did not comply with conditions imposed by the Board of Aldermen on December 18, 2007.

In addition to the above statements made in Attorney Brison's letter, she and Mr. Condron, President of Doncon, Inc. feel that the 2008/2009/2010 taxes were levied for illegal purposes because no municipal services have been provided and the annexation was not done properly.

Attorney Dickson's findings concerning NC General Statue 105-381 entitled Taxpayer's remedies provides three reasons for giving a refund or release of taxes 1) A tax imposed through clerical error 2) An illegal tax 3) A tax levied for an illegal purpose. There have been no clerical errors. Property tax is a legal tax and there are no municipal services provided because it was and remains vacant land since the voluntary annexation in 2007. Mr. Tim Childers in his capacity for Blue Ridge Enterprises, LLC was shown on the plat. The subdivision and plat approval were requested by the landowner and had to go through the Maggie Valley Planning Board approval process. The request for tax relief has not been made to Haywood County Tax Office.

**ALDERMAN ALDRIDGE MADE A MOTION TO DENY THE REQUEST FOR TAX RELIEF BASED ON THE DETERMINATION THAT THE TAX PAYER DOES NOT HAVE A VALID REASON FOR RELIEF. MOTION CARRIED UNANIMOUSLY.**

Town of Maggie Valley  
 Regularly Scheduled Board of Aldermen Meeting  
 February 15, 2011  
 MINUTES

**8. Consideration of allowing overnight camping at the Festival Grounds for Spring Farm Fest event**

The Spring Farm Fest is a long-standing event at the Maggie Valley Festival Grounds. Many people attend the festival and the promoters have always complied with the rules and regulations. Ten to fifteen vendors would like to stay on the grounds overnight with their products. The promoters work well with the police department and the public works department.

**ALDERMAN PAULEY MADE A MOTION TO ALLOW OVERNIGHT  
 CAMPING ON JUNE 3 AND 4, 2011.  
 MOTION CARRIED UNANIMOUSLY.**

**9. Consideration of appointing Nathan Clark to the Haywood Greenway Advisory Council**

Joe Moody has served the Haywood County Greenways Advisory Committee on behalf of Maggie Valley for several years and wishes to resign his position. In Mr. Moody's resignation letter, he suggested appointing Maggie Valley Planning Director Nathan Clark. The Waynesville Town Planner chairs the committee.

**ALDERMAN PAULEY MADE A MOTION TO APPOINT THE MAGGIE  
 VALLEY PLANNING DIRECTOR TO THE HAYWOOD COUNTY  
 GREENWAYS ADVISORY COMMITTEE.  
 MOTION CARRIED UNANIMOUSLY.**

**10. Consideration of appointing a Board Member to the Municipal Planning Organization Technical Advisory Committee.**

The Maggie Valley seat on the Municipal Planning Organization (MPO) is now vacant after the resignation of Colin Edwards as an Alderman.

Alderman Aldridge suggested Alderman Pauley be appointed to the position due to the last council member holding the position was the Mayor Pro-tem.

Being Mayor Pro-tem is not a requirement for holding the position.

**ALDERMAN PRICE MADE A MOTION TO APPOINT ALDERMAN  
 ALDRIDGE TO THE MPO REPRESENTING MAGGIE VALLEY.  
 MOTION CARRIED UNANIMOUSLY.**

**11. Consideration of whether the ABC Board should be expanded to five (5) members**

Mayor McElroy and Aldermen: Pauley and Price are in favor of increasing the ABC Board membership to five members once the existing members become more familiar with ABC rules and regulations, and more about the operations of the Maggie Valley ABC Stores.

Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011  
MINUTES

Alderman Aldridge's stance on the situation was to move forward and appoint a five-member ABC Board so that everyone will have the opportunity to learn together. "Five heads are better than three. There is nothing to lose by having five members. It would make the ABC Board more accountable."

Alderman Aldridge stated that the Board of Aldermen are a dysfunctional board and the deadline for applying for the vacant alderman's seat should have never been extended another month. The democratic way would be to appoint the next highest vote getter.

State law does not dictate how vacant seats should be filled other than by the appointment of the remaining members. In the past, the remaining council members have made appointments through applications and interviews.

**ALDERMAN PAULEY MADE A MOTION TO STAY WITH A THREE-MEMBER ABC BOARD UNTIL THE CURRENT MEMBERS ARE MORE ROOTED IN THEIR POSITIONS.**

**ALDERMAN PRICE VOTED IN THE AFFIRMATIVE.**

**MAYOR MCELROY VOTED IN THE AFFIRMATIVE.**

**ALDERMAN ALDRIDGE OPPOSED.**

**MOTION CARRIED BY MAJORITY.**

**12. Proposal to improve communications**

Alderman Pauley submitted a proposal to improve communications between the Board of Aldermen members, town manager, and staff.

The following points were submitted:

1. All requests must go through the Town Manager
2. Town Staff & Department Heads must receive instruction from the Town Manager and not board members.
3. Board members making request of the Town Manager must have communicated their concerns to at least one (1) additional board member, which must be verified by the Town Manager.
4. If approved, the Town Manager should provide a memo to staff explaining its purpose.

Alderman Pauley had the understanding that these bullet points would be formatted in a more formal method. After a brief discussion, it was determined that the intent of the informal suggestions concerned adding agenda items and following the chain of command.

When council members go directly to staff, it undermines the manager's authority. It is also disquieting when the agenda arrives on Friday afternoon and there are agenda items that the remaining Council members are not aware of nor have not participated in any

Town of Maggie Valley  
 Regularly Scheduled Board of Aldermen Meeting  
 February 15, 2011  
 MINUTES

discussions. The agenda has already been sent out to the sunshine list and posted in Town Hall, thus leaving some aldermen unaware of why certain items are on the agenda.

Alderman Aldridge felt that the people elected him and that he should not have to get another alderman's permission to discuss issues with the manager.

**ALDERMAN PRICE MADE A MOTION TO ACCEPT THE PROPOSAL FOR  
 BETTER COMMUNICATION.**

**ALDERMAN ALDRIDGE OPPOSED.**

**MAYOR MCELROY VOTED IN THE AFFIRMATIVE.**

**ALDERMAN PAULEY VOTED IN THE AFFIRMATIVE.**

**MOTION CARRIED BY MAJORITY.**

13. **Budget Amendments**

**Ordinance No 711**

**An Ordinance Amending the FY 2010/11 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 2010/11 is amended as follows:

General Fund – Sound System				
	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Reserve for Encumbrances 05-00-3993	\$0	\$4,379	\$4,379
Appropriations	Capital Outlay Equipment 05-40-4550	\$ 0	\$4,379	\$4,379

This amendment is to move the remainder of funds for the sound system to Capital Outlay,

**ALDERMAN PRICE MADE THE MOTION TO APPROVE ORDINANCE 711.  
 MOTION CARRIED UNANIMOUSLY.**

**Ordinance 712**

**An Ordinance Amending the FY 2010/11 Budget Ordinance**

Town of Maggie Valley  
 Regularly Scheduled Board of Aldermen Meeting  
 February 15, 2011  
 MINUTES

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 2010/11 is amended as follows:

General Fund – Beautification Plan				
	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Contribution & Donations 05-00-3840	\$0	\$3,000	\$3,000
Appropriations	Beautification Program 05-42-4354	\$ 0	\$6,000	\$6,000
	Contingency 05-99-4991	\$29,571	(\$3,000)	\$26,571

This budget amendment is to recognize the \$3,000 donation to the Maggie Valley Beautification Program initiated by Clayton Davis.

**ALDERMAN PRICE MADE A MOTION TO APPROVE ORDINANCE 712.  
 MOTION CARRIED UNANIMOUSLY.**

**14. Consideration of setting a date for a Town Board budget work session**

Council decided that a workshop should be held Wednesday March 4 from 9 until noon.

**15. Manager's Report.**

☞ The School of Government will conduct a webinar on March 16 regarding Citizen's Participating in the Budget Process.

☞ Phillips and Jordan LLC are now completing the Ghost Town retaining wall tie-in and clean up, and then the Rich Cove Land Slide Project will be finished.

**16. Other Business.**

Alderman Aldridge stated that he has served on the Board of Aldermen for seven years and has taken ethic classes and has never lied. Alderman Aldridge stated that he receives many telephone calls from town's people that are upset about the economy, and the hackling that Maggie Valley must endure. Alderman Aldridge felt that all of the council members are to blame.

Alderman Aldridge got upset over the town manager moving the date for receiving applications for the vacant alderman seat. "There were enough applicants to move

10  
Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011  
MINUTES

forward.” Alderman Aldridge suggested Council look at Manager Barth’s contract and severance pay and begin a search for a new manager.

**17. Public comment.**

Mandy Hartline addressed Council asking why if she had a comment to make to one of the Aldermen that he or she would have to get a second alderman on board before he/she could speak to the manager about an issue.

Alderman Pauley explained that was not the intent of drafting better communication points; Alderman Aldridge can go to the manager any time he desires.

Ms. Hartline went on to question what was going on at the ABC Store and why are the ABC Stores losing money.

Alderman Price explained that the funds from one store, was making/ or helping to make the payments on the Dellwood Store. The auditors, as well as the attorney, have assured Council that everything is on the “up and up”.

Ms. Hartline questioned if money had been taken from the ABC Store’s general fund to pay someone in order to avoid a lawsuit.

Alderman Price responded that it was a personnel matter and could not be discussed.

Ms. Hartline expressed her concerns about closed-door meetings and felt that citizens deserve to know what is going on in town.

There have not been any lawsuits involving the ABC Store since the current ABC Board has been in place.

Ms. Sonja Michels addressed Council stating that she is speaking in defense of Alderman Aldridge. The third bullet in the better communication document does not sound right. “Now it has been voted on and adopted as written.”

Mayor McElroy explained that a second is not required per the changes made during another administration; the document does need to be rewritten to better clarify the intent. As for the personnel issue at the ABC Store, a gag order has been placed on the subject.

Alderman Price asked that Manager Barth rewrite the communication policy and bring it before Council at the March Board meeting.

Philip Wight addressed Council asking that the public have the opportunity to comment on each agenda item before action is taken. When public comment is at the end of the meeting, it is too late to consider what the public has to say. Mr. Wight was against tax dollars going to pay an architect to put a new roof on Town Hall and has always been

11  
Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011  
MINUTES

against the adoption of the appearance ordinance. As for the appointment to the vacant alderman's seat, Mr. Wight reminded Council that he was the next highest vote getter and for Council to consider this his interview.

Alderman Pauley explained that precedence has been set by how previous vacant alderman seats have been filled.

Ron DeSimone addressed Council stating that it is obvious that there is controversy among the council members. Mr. DeSimone felt that in light of the controversy, why it would hurt to increase the ABC Board members to five. Increasing the board members would not hamper the ABC Board and would provide more accountability. Mr. DeSimone also agreed that having the public comment at the end of the meeting does send a bad message; Council needs to hear what the public has to say before taking a vote. In reference to filling the vacant alderman seat, Mr. Wight did get the next highest number of votes; by conducting interviews, it makes it appear that the current board members are being selective.

James Carver addressed Council and the audience stating that not everything in Maggie Valley is bad. As for the ABC Stores losing money, if the Board of Aldermen had not moved on opening the Dellwood ABC Store, Waynesville would now have a second ABC Store and would be receiving those revenues. As for the chain of command, that is how the Town should operate.

Alderman Pauley asked that public comment be placed on the March agenda.

Mayor McElroy reiterated that he does consider public comment.

18. **Meeting Adjourned**

**ON MOTION OF ALDERMAN PRICE, WITH ALL IN FAVOR THE MEETING  
ADJOURNED AT 7:00 P.M.**

---

Mayor Roger McElroy

ATTEST:

---

Vickie Best, CMC, Town Clerk

12  
Town of Maggie Valley  
Regularly Scheduled Board of Aldermen Meeting  
February 15, 2011  
MINUTES