

Town of Maggie Valley
Regularly Scheduled Board of Aldermen Meeting
March 16, 2010
5:30 p.m.
MINUTES

Members Present: Mayor Roger McElroy, Aldermen: Colin Edwards, Scott Pauley, and Saralyn Price
Members Absent: Alderman Phil Aldridge
Staff Present: Manager Tim Barth, Attorney Chuck Dickson, Chief Scott Sutton, Public Works Director Mike Mehaffey, and Festival Director Audrey Hagar, and Town Clerk Vickie Best
Others Present: Four people

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 Revenues and Expenditures.
- b. FY 2009-2010 Schedule of Ad Valorem Taxes Receivable.
- c. Tax Releases and Refund.
- d. Correction and Approval of Minutes for the February 16, 2010 meeting.

**ALDERMAN EDWARDS MADE A MOTION TO APPROVE THE CONSENT AGENDA AS PRESENTED.
MOTION CARRIED UNANIMOUSLY.**

3. **Appearance of Dick Woody on behalf of the Haywood County Veteran's Council**

Mr. Woody provided a presentation soliciting funds on behalf of the Haywood County Veteran's Council. The memorials cost \$35 to \$40 per memorial. There have been 253 veterans pass away from Haywood County and one soldier recently in Iraq. Tuscola and Pisgah High School students will be helping with the project. The memorials will be maintained for eternity.

The Haywood County Veteran's Council is asking each municipality and the county for a \$1,000 donation toward this project. Anyone wishing to purchase a memorial on their own may do so for \$60 with the veteran's name, dates, and the war that they served.

Council will make their decision next month based on their review of the budget. Manager Barth will contact Mr. Woody after the April 20th Board of Aldermen meeting with Council's decision.

4. **Consideration of Resolution No. 10-4 supporting local control of ABC Boards**

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A RESOLUTION 10-4
SUPPORTING LOCAL CONTROL OF LOCAL BOARDS AND OPPOSING
FORCED MERGERS OF LOCAL ABC BOARDS

WHEREAS, the citizens of the Town of Maggie Valley, NC voted to Permit the sale of spirituous liquor through the establishment of the ABC Board, which is a part of the North Carolina's state control system ;**AND**

WHEREAS, SB 839/HB 768—Modernization of the ABC System would require all ABC boards in a county to merge, allow the state ABC Commission to merge county-wide boards into regional boards, require the ABC Commission to develop performance standards, allow the ABC Commission to close or merge ABC Boards, close ABC stores with low profitability, contract directly with agency stores for the sale of spirits where ABC stores are authorized but not in operation, and require an ABC board to contract with an agency store ;**AND**

WHEREAS, it is a local decision to establish and operate an ABC store, and any decision to merge an ABC Board should be made by the local government based on local circumstances, and not by the State. ;**AND**

WHEREAS, A local government balances control, profits and availability of spirits in operating ABC stores ;**AND**

WHEREAS, the decision by a local government to operate with a low profit margin does not reduce the amount of liquor excise tax received by the state, so the state does not have a financial interest in the profitability of ABC stores ;**AND**

WHEREAS, an "agency store" is a private retail seller, and the citizens of the Town of Maggie Valley, when voting to permit the operation of ABC stores, did not vote to allow liquor to be sold in such private off-premise establishments ;**AND**

WHEREAS, sales of liquor may not be well-regulated in agency stores, thereby potentially creating law enforcement and other problems, the Town of Maggie Valley desires to retain North Carolina's control system over the sales of spirits and to continue to make spirits available to its citizens only through its ABC store

NOW THEREFORE, BE IT RESOLVED by the Mayor and Board of Alderman of the Town of Maggie Valley that the establishment and operation of the Maggie Valley ABC stores through the control system should be a local decision and that the Town of Maggie Valley's Board opposes any state mandate to merge ABC Boards, mandate

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the merger or closing of ABC stores and opposes the establishment of agency stores.

Manager Barth will set up a meeting with the local legislators to discuss the pending session on ABC Stores.

**ALDERMAN PRICE MADE A MOTION TO ADOPT RESOLUTION 10-4
SUPPORTING LOCAL CONTROL OF ABC STORES.
MOTION CARRIED UNANIMOUSLY.**

5. **Consideration of propane bids**

**ALDERMAN PRICE MADE A MOTION TO USE BLOSSMAN PROPANE DUE
TO COST AND SERVICE.
MOTION CARRIED UNANIMOUSLY.**

6. **Consideration of an ordinance setting the business license fee for electronic gaming devices (Tab 5).**

ORDINANCE NO. 685

**AN ORDINANCE AMENDING THE
PRIVILEGE LICENSE TAXATION
SCHEDULE OF
THE TOWN OF MAGGIE VALLEY**

THAT WHEREAS, Ordinance 334 of the Code of Ordinances of the Town of Maggie Valley of, the Board of Aldermen of the Town of Maggie Valley heretofore adopted a Privilege License Taxation Schedule; and

WHEREAS, the aforesaid Privilege License Taxation Schedule sets forth privilege license taxes for various businesses operating within the corporate boundaries of the Town; and

WHEREAS, the Board of Aldermen now desires to amend said Privilege License Taxation Schedule to provide privilege license taxes for one (1) new category of businesses operating within the corporate boundaries of the Town;

NOW, THEREFORE, be it ordained by the Board of Aldermen of the Town of Maggie Valley.

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1. The Privilege License Taxation Schedule set forth in Ordinance 334 of the Town of Maggie Valley is hereby amended to include the following additional privilege license taxes for “*Electronic Gaming Operations.*” operating within the corporate boundaries of the Town:

Electronic Gaming Operations: For the purposes of this ordinance, the following definition shall apply unless the context clearly indicates or requires a different meaning.

A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic Gaming Operations do not include operations associated with the official North Carolina Lottery.

The operator of each Electronic Gaming Operation shall provide to the Business License Clerk of the Town the serial number of each and every electronic gaming terminal in the establishment and shall pay the applicable privilege license tax thereon prior to any use of the same. Electronic gaming terminals that are removed from the establishment shall be reported (with applicable serial number) to the Business License Clerk. Any replacement terminal (with applicable serial number) shall likewise be reported to the Business License and the applicable privilege license tax thereon paid prior to any use of the same.

Town Business Privilege Fee Rate: Businesses that utilize up to four terminals shall pay \$2,500.00. Business utilizing more than four machines shall pay \$750.00 per terminal.

This Town Business Privilege Fee does not apply to any game or process prohibited by N.C.G.S. §§ 14-304 through 14-309; provided, however, once the tax is paid, determination that the game or process for which the tax was paid was or is prohibited by N.C.G.S. §§ 14-304 through 14-309 shall not entitle the establishment to a refund of the tax paid, and the tax paid shall be forfeited.

Establishments legally operating with appropriate privilege license at the time of the adoption of this ordinance shall not be required to pay the applicable privilege license tax for Computer Gaming Establishments for the fiscal year July 1, 2009, through June 30, 2010, but shall be required to pay the tax in full for the fiscal year July 1, 2010, through June 30, 2011, and thereafter.

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**ALDERMAN EDWARDS MADE A MOTION TO ADOPT ORDINANCE 685
 SETTING A FEE FOR SWEEPSTAKE MACHINES.
 MOTION CARRIED UNANIMOUSLY.**

7. Consideration of amending the Personnel Policy in regard to Leave without Pay (Tab 6).

An amendment to Section 19 entitled Leave without Pay of the Maggie Valley Personnel Policy:

Section 19. Leave without Pay

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Board of Aldermen. The leave shall be used for reasons of personal disability after both sick leave and vacation have been exhausted, sickness or disability of immediate family members, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Manager.

The employee shall apply in writing to the supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

No leave without pay shall be granted on a temporary (day to day) basis until all paid leave (compensation time, vacation, and sick time) has been exhausted and the Town Manager has provided written permission.

**ALDERMAN EDWARDS MADE A MOTION TO APPROVE THE PERSONNEL
 POLICY AMENDMENT.
 MOTION CARRIED UNANIMOUSLY.**

8. Budget Amendments (Tab 7).

General Fund – FEMA Trailer

	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Sale of Fixed Assets 05-00-3835	\$8,000	\$1,000	\$9,000
Appropriations	Miscellaneous Police 05-43-4499	\$3,100	\$1,000	\$4,100

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The fully equipped FEMA trailer was purchased last summer. The Town paid \$1,000 and must keep it for 18 months before it can be sold.

**ALDERMAN EDWARDS MADE A MOTION TO APPROVE ORDINANCE 683
 AMENDING THE BUDGET.
 MOTION CARRIED UNANIMOUSLY.**

General Fund – Contract Janitorial Service

	<u>Description</u>	Previous	Increase (Decrease)	Amended
Appropriations	Salary & Wages PT 05-42-4126	\$ 15,588	(\$7,200)	\$8,388
Appropriations	Contract Services Admin 05-40-4440	\$10,700	\$3,200	\$13,900
	Contract Services Police 05-43-4440	\$11,000	\$3,200	\$44,200

**ALDERMAN PRICE MADE A MOTION TO APPROVE ORDINANCE 684 AS
 PRESENTED.
 MOTION CARRIED UNANIMOUSLY.**

9. Consideration of an alternate date for the April Town Board meeting (Tab 8).
 Council will be attending a N.C. League of Municipalities Legislative Update session in Asheville from 4 until 6 p.m. on April 20; the day of the regularly scheduled Council meeting.

**MAYOR MCELROY MADE A MOTION TO HOLD THE NEXT REGULARLY
 SCHEDULED BOARD OF ALDERMEN MEETING ON MONDAY APRIL 19,
 2010 AT 5:30 P.M.
 MOTION CARRIED UNANIMOUSLY.**

10. Manager's Report.
 The second meeting for discussion on the Jonathan Creek Park will be held March 25, 2010 beginning at 6 p.m. at the MARC Center. Alderman Edwards encouraged everyone to attend including Council. The County will be applying for grant funding after a plan is selected.

The Region A meeting will be held in Cherokee on March 22 at 6:30 p.m.

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Fleming Bell with the School of Government will hold a May 4 seminar on Procedures for small local governments. Council should notify the manager if they can attend.

The Council of Government quarterly meeting will be held March 29, 2010 in the Community Pavilion.

11. **Other Business.**

There have been meetings with NCDOT trying to get brown signs for Wheels Through Time Motorcycle Museum. A letter making the request has also been sent to Joel Setzer with NCDOT.

12. **Public Comment.**

Festival Director Hagar invited everyone to attend the first Audubon Society. The meetings will be held the second Tuesday of each month at 5:30 p.m. in the Pavilion.

13. **Meeting Adjourned**

**ON MOTION OF ALDERMAN EDWARDS, WITH ALL IN FAVOR THE
MEETING ADJOURNED AT 6:00 P.M.**

Mayor Roger McElroy

Vickie Best, CMC, Town Clerk