

Town of Maggie Valley
Regularly Scheduled Board of Aldermen Meeting
June 17, 2008
3:30 p.m.

MINUTES

Members Present: Mayor Roger McElroy, Aldermen: Colin Edwards, Saralyn Price, Phil Aldridge and Mark DeMeola
Staff Present: Manager Tim Barth, Chief Scott Sutton, Planning Director Nathan Clark, Attorney Chuck Dickson, and Town Clerk Vickie Best
Others Present: Approximately 20 people

1. **Meeting Called to Order.**

Mayor McElroy called the meeting to order at 5:37 p.m. in the Town Hall Boardroom.

2. **Consent Agenda**

- a. Certificate of Sufficiency: Carolyn Properties, #141 Campbell Mountain Estates, Parcel #7697-21-0461, (1.176 acres) and #140 Campbell Mountain Estates, Parcel #8607-02-5558, (1.247 acres), Resolution No. 08-25, Setting a date for a Public Hearing on July 1, 2008 at 3:30 p.m.
- b. Resolution 08-26 to verify the relationship between the Jonathan Creek Community Volunteer Fire Department, Inc. and the Town of Maggie Valley.
- c. Resolution 08-28, which is a Resolution of Consideration for Annexation (this must be done every year so that the Town can annex an area in the next year if it meets the criteria and if the Town Board desires to do so).
- d. Tax Refunds.
- e. Correction and Approval of Minutes for June 3, 2008.

Alderman DeMeola asked that the date on the agenda be corrected.

Manager Barth explained that Mr. Joe Maniscalco previously spoke to him about the minutes and made the request that the minutes include the interaction that he and Alderman Edwards had during the June 3, 2008 meeting.

ALDERMAN PRICE MADE A MOTION TO INCLUDE THE CONVERSATION BETWEEN MR. MANISCALCO AND ALDERMAN EDWARDS AS STATED ON THE TAPE.

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MOTION CARRIED UNANIMOUSLY.

**ALDERMAN EDWARDS MADE A MOTION TO ACCEPT THE CONSENT
AGENDA AS PRESENTED WITH THE CORRECTION NOTED.
MOTION CARRIED UNANIMOUSLY.**

3. Appearance of Joe Maniscalco regarding the Alderman's viewing of his property.

Mr. Maniscalco addressed the board stating that now that the Aldermen have been to his property they cannot deny that he has buildings on the lots that say vacant in the annexation study. Mr. Maniscalco could not understand why Council is not taking this into consideration.

Mr. Maniscalco insinuated that Council just showed up at his property without being invited.

This is untrue. Mr. Maniscalco asked Council and Planning Director Clark to come see what he had built on the three parcels. The clerk confirmed a conversation she was having with Mr. Maniscalco when Council arrived at his gate.

Alderman Price stated that after receiving the packet from Mr. Maniscalco today that she felt Council should not discuss anything with Mr. Maniscalco without an attorney. Mr. Maniscalco wrote a very threatening letter to all of the Board Members, the Planning Director, and the Town Manager.

Mr. Maniscalco questioned why Council was not willing to respond to what they saw when visiting his property. The properties are developed, his notification by first class mail was not postmarked, the maps are wrong to the point that the road is shown wrong, the advertisements were not published in accordance with the schedule, the population from 2000 census is incorrect. Even Mr. McHenry with Benchmark Inc. suggested not adjusting the boundary lines due to raising compliance issues on the question. Mr. Maniscalco stated that he has already paid over \$16,000 to bring sewer up to his home. He also felt that the Board was having secret meetings; no one was aware of the resolution of consideration. If so, he would have combined his lots before now.

Mr. Maniscalco stated that he was ready to go to Superior Court and the town would be spending more tax dollars trying to defend this error.

Alderman DeMeola questioned the impact of taking out Mr. Maniscalco properties on the required formula for annexation. By increasing the dwellings/structures, the formula is strengthened.

Mr. Maniscalco felt he was not properly notified.

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Alderman DeMeola questioned the opportunity to vote on an amendment to area B.

The area would still meet the required guidelines under the General Statutes.

4. **Consideration of a resolution to approve an amended Annexation Services Plan.**
 The amendment to the service plan was changing the effective date from June 30 to July 1, 2009.

**ALDERMAN EDWARDS MADE A MOTION TO APPROVE THE AMENDED
 ANNEXATION SERVICE PLAN.
 MOTION CARRIED UNANIMOUSLY.**

5. **Consideration of ordinances to annex several areas adjacent to Town.**
 Ordinance Number 634 annexing area A (Campbell Woods Subdivision).

Alderman Aldridge stated that annexation was a sad necessity. It is either annex or raise taxes. Alderman Aldridge stated that he has struggled with the issue since being elected into office. Anyone receiving a majority of town benefits by being adjacent to a municipality should expect to be annexed at any given time. Everyone should pay the same for the same services. Alderman Aldridge went on to say he did not take threats kindly (from Mr. Maniscalco).

Mayor McElroy added that the board members were committed to talking with the developer of Campbell Woods Subdivision to see if there can be a compromise pertaining to the road maintenance and the gate. Arrangements will be made to meet with Jim Paxton.

<u>Ordinance No</u>	<u>Area</u>	<u>Description of Area</u>
Ordinance 634	Area A	Campbell Woods Subdivision
Ordinance 635	Area B	Evergreen Heights Subdivision
Ordinance 636	Area C	Nottingham, Spring Lake, Reuben Branch roads
Ordinance 637	Area D	Wheels Through Time Museum
Ordinance 638	Area E	Right side of Evans Cove Road, Red Ox Circle
Ordinance 639	Area F	Timberline Drive
Ordinance 640	Area G	Horseshoe Cove Subdivision

**ALDERMAN DEMEOLA MADE A MOTION THAT DUE TO THE AMOUNT
 OF DUE DILIGENCE AND THE FACT THAT IT WAS NOT A SECRET, WHICH
 WAY THE BOARD WAS HEADING, HE MOVED TO ADOPT ORDINANCE
 634.
 MOTION CARRIED UNANIMOUSLY.**

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Ordinance 635 annexing Area B (Ever Green Heights)

Alderman DeMeola stated that based on the information presented that an amendment to the area should be considered. Mr. Maniscalco is the only person that has come before the board with a passable complaint.

Manager Barth informed Alderman DeMeola that Benchmark would need to draft the amended ordinance due to metes and bounds being altered.

Alderman Aldridge reminded Council that Mr. Maniscalco had agreed to come into town if the errors he described were addressed.

Alderman Edwards felt it would not be fair to the other residents in other areas if this one area was eliminated when it does meet the criteria for annexation.

**ALDERMAN EDWARDS MADE A MOTION TO ADOPT ORDINANCE 635
ANNEXING AREA B.
MAYOR MCELROY VOTED IN THE AFFIRMATIVE.
ALDERMEN: PRICE AND ALDRIDGE VOTED IN THE AFFIRMATIVE.
ALDERMAN DEMEOLA OPPOSED.
MOTION CARRIED BY 4/5 VOTE.**

Ordinance 636 annexing Area C

**ALDERMAN ALDRIDGE MADE A MOTION TO ANNEX AREA C THROUGH
ORDINANCE 636.
MOTION CARRIED UNANIMOUSLY.**

Ordinance 637 Annexing Wheel Through Time Motorcycle Museum.

**ALDERMAN ALDRIDGE MADE A MOTION TO EXCUSE ALDERMAN
DEMEOLA FROM THE VOTE DUE TO HIS BEING EMPLOYED AT WHEELS
THROUGH TIME.
MOTION CARRIED UNANIMOUSLY.**

Mr. Walkers came into the boardroom after public comment just prior to the official vote. He stated that he wanted to look at the Aldermen in the eye when they made their motion; especially after all he has done for the community in the last seven years with the time and investments that he has made. Mr. Walksler stated that his museum had brought in over a half million people. Everyone has benefited from his investment including Mayor McElroy's motel business.

**ALDERMAN EDWARDS MADE A MOTION TO ADOPT ORDINANCE 637
ANNEXING WHEELS THROUGH TIME MUSEUM.**

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Alderman Aldridge agreed that the town will suffer with the loss of the museum but even though it is a hard decision, all personal feelings must be removed from the equation.

MOTION CARRIED UNANIMOUSLY.

Ordinance 638 Annexing area E

ALDERMAN PRICE MADE A MOTION TO ADOPT ORDINANCE 638.

MOTION CARRIED UNANIMOUSLY.

Due to Mayor McElroy having property within area E the following motion was made.

**ALDERMAN ALDRIDGE MADE A MOTION TO EXCUSE MAYOR MCELROY
FROM THE VOTE.**

MOTION CARRIED UNANIMOUSLY.

**ALDERMAN DEMEOLA MADE A MOTION TO ADOPT ORDINANCE 639
ANNEXING AREA F.**

MOTION CARRIED UNANIMOUSLY.

**ALDERMAN EDWARDS MADE A MOTION TO ANNEX AREA G THROUGH
ORDINANCE 640.**

MOTION CARRIED UNANIMOUSLY.

Council took a brief break from 6:57 to 7:05 p.m.

6. Consideration of allowing Dellwood Baptist Church to connect to the Town's sewer system.

**ALDERMAN EDWARDS MADE A MOTION TO PROVIDE DELLWOOD
BAPTIST CHURCH MUNICIPAL SEWER.**

MOTION CARRIED UNANIMOUSLY.

7. Consideration of charging sewer only customers that the Town bills a late fee.

The Maggie Valley Sanitary District charges a late fee for all customers. The Town will be billing Brannon Forest until the pending lawsuit is resolved. In order for all customers to be billed in the same manner, staff is requesting that a 10% late fee be applied.

**ALDERMAN PRICE MADE A MOTION TO ADOPT A 10% LATE FEE ON ALL
SEWER CUSTOMERS.**

MOTION CARRIED UNANIMOUSLY.

The sewer customers being billed by the town will be notified of the new policy. A late fee will begin being imposed on the July billing cycle for Brannon Forest customers

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8. Consideration of awarding a contract for engineering services to design a sidewalk on Moody Farm Road.

Council and staff have discussed installing a sidewalk along Moody Farm Road for several years now. The opportunity for financial assistance could be a possibility if the engineering is complete. Mattern & Craig Inc., an engineering firm, has agreed to do the engineering and design for \$23,000, which is a very good price. The engineer has done work for Maggie Valley when he was with McGill Associates. The engineering will be completed by the end of August.

NCDOT requires curb and guttering, which increases the cost tremendously. The proposed sidewalk will run along the State right-of-way on the Jonathan Creek side of Moody Farm Road.

Council agreed that the residents along Moody Farm Road desperately need a safe place to walk.

**ALDERMAN PRICE MADE A MOTION TO APPROVE THE CONTRACT FOR
 ENGINEERING SERVICES FOR SIDEWALKS ALONG MOODY FARM ROAD.
 MOTION CARRIED UNANIMOUSLY.**

9. Consideration of a policy regarding vendors during the Town's Christmas Parade.

The following policy was proposed.

Town of Maggie Valley: Christmas Parade Policy

Advertising

Any business or group with an entry should certainly receive recognition for their participation. However, the Town does not want commercial aspects to dominate the atmosphere. It's simple. Don't let your business/group name take up more space than your Christmas theme.

Alcohol

Please save your partying for after the parade. We do not want participants drinking alcohol at all during the parade. Have fun, but ABSOLUTELY NO ALCOHOL IN THE PARADE

Amplified Music

Please use discretion not to drown out the other participants.

Candy & Novelties

Kids love having candy tossed to them during the parade, but this seemingly innocent act is potentially very dangerous. The kids focus on the candy, and not on the oncoming horse or the next float in the process traveling toward them. In a split second, there could be a tragedy. In order to eliminate the danger while keeping the fun persons may

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be designated to walk along the curb & distribute items by hand. For safety reasons, these individuals must encourage children to stay out of the street and parade route. Do not distribute items to children who are in the street.

Content

This is a Christmas Parade. Each year the Town Parade Committee selects a particular theme. Participants need make their best effort to incorporate the selected theme with their entry. If this is not possible please use traditional Christmas Colors (red and green) and traditional Christmas Imagery/Decorations.

Entry Application

All parade participants must successfully complete a Christmas Parade Entry Application to participate in the parade. Information specific to that year's parade will be found on the application.

Vendors

In order to bolster a more festive holiday environment and atmosphere the Town will allow mobile vendors along the parade route. Vendors will be allowed to sell only traditional Christmas Parade novelty items and must register with the Town at least five (5) business days before the parade. Vendors will be able to begin selling novelty items thirty (30) minutes before the parade begins, during the parade and until thirty (30) minutes after the parade ends.

**ALDERMAN ALDRIDGE MADE A MOTION TO APPROVE THE POLICY AS PRESENTED.
MOTION CARRIED UNANIMOUSLY.**

10. Budget Amendments.

Ordinance No. 629 is an amendment recognizing the financing for the Town Hall Renovation and Expansion project. The Local Government Commission approved the financing arrangement at their June 3 meeting. It recognizes the \$395,000.00 on the revenue side and the expenditure side.

**ALDERMAN PRICE MADE A MOTION TO APPROVE ORDINANCE 629.
MOTION CARRIED UNANIMOUSLY.**

Ordinance No. 630 is an amendment to add additional funds to the Professional Services line item in the Administration Department. The additional funds come from additional revenue the Town received in Tax Penalties above the amount budgeted.

**ALDERMAN EDWARDS MADE A MOTION TO APPROVE ORDINANCE 630.
MOTION CARRIED UNANIMOUSLY.**

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Ordinance No. 631 is an amendment to provide for additional funds in the street lighting account to cover the increased cost of the street lights the Town took over when it took over maintenance of the roads in the Brannon Forest and Crockett's Meadow subdivisions.

**ALDERMAN PRICE MADE A MOTION TO APPROVE ORDINANCE 631
MOTION CARRIED UNANIMOUSLY.**

Ordinance No. 632 is an amendment that recognizes the funds for the purchase of the backhoe, which the Town Board agreed to purchase at its May 20 meeting. The \$32,000.00 price is recognized on the revenue side through Ad Valorem Taxes that were received above the amount that was budgeted and on the expenditure side in the Capital Outlay line item in the Public Works Department. The backhoe is being purchased outright because there is little to no advantage in financing.

**ALDERMAN ALDRIDGE MADE A MOTION TO APPROVE ORDINANCE 632.
MOTION CARRIED UNANIMOUSLY.**

Ordinance No. 633 is an amendment to cover the Tax Refund that was approved under the Consent Agenda. This refund was based on an audit that found much of the personal property for the ski resort that was thought to be in the Town limits, was actually not in the Town limits. This goes back for a period of five years. Like Ordinance No. 632 the \$27,424 is recognized on the revenue side through Ad Valorem Taxes that were received above the amount that was budgeted and is reflected as a negative revenue under the General Fund Revenues.

**ALDERMAN PRICE MADE A MOTION TO APPROVE ORDINANCE 633.
MOTION CARRIED UNANIMOUSLY.**

Mayor McElroy asked that Council receive a map of Cataloochee.

11. **Manager's Report.**

- A Council of Government meeting will be held June 30, 2008 at 7:00 p.m. at the Town of Clyde's Town Hall. All members are encouraged to attend.
- The Trout Festival will be held this weekend from 9:00 until 6:00 p.m. Council members were encouraged to attend.
- Replacement sheets for the adopted budget are available if Council will bring their budget packet into Town Hall.

12. **Other Business.**

Prior to the meeting, Council interviewed Tom Benoit and agreed to discuss the issue under other business.

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**ALDERMAN ALDRIDGE MADE A MOTION TO APPOINT MR. BENOIT TO
THE PLANNING BOARD.
MOTION CARRIED UNANIMOUSLY.**

13. Public Comment

With full approval of the Board, Mayor McElroy moved public comment to the second item on the agenda in order for the people wishing to speak from Happy Valley Campground could do so without having to stay for what could be a lengthy meeting.

Betsy Freeman, owner of Happy Valley Campground, addressed Council stating that she purchased the campground in 2002. At that time, the club across the creek was called the Springhouse and was owned and operated by different owners. The noise and littering was not as bad as it is now that the business has changed owners. The club is open seven nights a week and the music is blasting all the residents staying within the campground. Each morning beer cans must be picked from his [club owner] customers littering. There have been incidents where people have left the club and gone to the Chamber of Commerce parking lot (adjacent to Happy Valley Campground) to have sex. The club is destroying the campground's business. People do not want to be disturbed seven nights a week until 2:00 a.m.

Several calls have been made to the Police Department and they have come out and checked the noise with the sound meter. The readings from the property line do not exceed the noise ordinance until after 11 p.m. In addition, when there are fights in the parking lot the police are not there to take sound readings.

Ms. Freeman stated that people are already packing up and leaving the valley due to the noise.

Council asked that Ms. Freeman document her complaints in writing as well as encouraging other concerned residents to do the same. Chief Sutton will schedule a meeting with the concerned parties to discuss their options. The Town has enacted a nuisance ordinance that may take care of the matter. Written documentation helps to build a case against the establishment.

Frank Wade spoke from the floor stating that he has been coming to Maggie Valley for the last fifty-years and that since the new owners have taken over the business, you sometimes think the base drum is going rattle the house down. He too felt something has to be done for the sake of everyone in the valley.

Judy Howard watches the RV Park in Ms. Freeman's absence stated that there were approximately 50-people in the parking lot fighting one night and she knew that there was only one police officer on duty. It is dangerous and her fear is that one day an officer will be hurt. The following day Ms. Howard made a police report stating what she had

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witnessed. There have also been gunshots coming from the club, which scares people to death not knowing if a stray bullet will hit an innocent person.

Alderman Edwards assured the people that they should always call the police department. The officers have back up support from Haywood County.

The Board of Aldermen promised Ms. Freeman that everything possible would be done to help her situation.

14. **Meeting Adjourned.**

**ON MOTION OF ALDERMAN EDWARDS, WITH ALL IN FAVOR, THE
MEETING ADJOURNED AT 7:30 P.M.**

Mayor Roger McElroy

Vickie Best, CMC, Town Clerk