

Town of Maggie Valley
Regularly Scheduled Board of Aldermen Meeting
June 13, 2016
MINUTES

Members Present: Mayor Saralyn Price, Aldermen: Janet Banks, Mike Eveland, and Clayton Davis
Members Absent: Alderman Phillip Wight
Staff Present: Manager Nathan Clark, Attorney Craig Justus, Planner Andrew Bowen, Finance Director Shayne Wheeler, Public Works Director Mike Mehaffey, Lt. Russ Gilliland and Town Clerk Vickie Best
Others Present: Approximately 60 people including people in the hall way.

1) Meeting Called to Order

Mayor Price called the meeting to order at 6:01 p.m. on Monday June 13, 2016 in the Flossie White Room of Town Hall.

2) Consent Agenda

- a. Minutes to be Approved: May 2, May 11, May 9, May 12 and May 23, 2016
- b. A/R Report
- c. Tax Release
- d. Budget to Actual
- e. Town Clerk Certification on Rezoning Newspaper Advertisement on May 30 and June 6, 2016
- f. Petition for Annexation: 81 Harrell Dr. 7698-98-8384 Direct Clerk to investigate the sufficiency of the petition

A petition for annexation was added to the consent agenda directing the Clerk to investigate the sufficiency of the petition. The reason for the petition for annexation was due to a failing septic tank and the need for Town sewer.

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

3) Public Comment

No public comment was presented.

4) Rezoning Request: The Meadows @ Campbell Mountain Est. (R-1 to R-2)

- a. Public Hearing

Mayor Price opened the Public Hearing at 6:04 p.m.

Pam Potter, 970 Campbell Mountain Drive, President of the Campbell Mountain Estates HOA, addressed Council providing a timeline of HOA Meetings and other discussions with Mr. Jim Blyth, Mr. Steve Foreman, Mr. Ron DeSimone and Attorney Gavin Brown. Ms. Potter explained her objections to the rezoning and how the residents of Campbell Mountain Estates were always told that when "The Meadows" developed it would be within the Campbell Mountain Estates HOA. All residents purchased and built their homes in good faith for what had been told to them many times. Ms. Potter stated that the rezoning decision must be made with the character of the neighborhood/district in mind.

Meadows - timeline of Meetings,
Plats, etc. Campbell Mountain
Estates

Date	Topic	Attendees	Comments
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2/26/2004	Plat Haywood County of the Meadows: 20 lots		Filed Plat
2/8/2005	Plat Haywood County of the Meadows: 20 lots		Filed Plat
Jul-06	Plan of Campbell Mtn Estates with 20 single family homes	prepared by CMEHOA lawyer	Untiled Plat
1/19/2007	Plat Haywood County of the Meadows: 19 lots		Filed Plat
12/30/2013	PUD plan with 27 single family homes; not filed		Untiled Plat
1/9/2014	Public Hearing and Approval for PUD (notice sent to adjacent property owner on 12/30/13)		Maggie Valley
1/20/2014	the Meadows and CMEHOA : services provided by MV;types of homes	Rom Desmone,Jim Blyth,3 members CMEHOA Board	Meeting
4/17/2014	Planning Board approved Final Plat Approval 27 single family between 1300 and 1700 sf	Jim Blyth, MV Planning Board, Members of CMEHOA Board	Maggie Valley
6/9/2014	Plat Haywood County of the Meadows: 1 large lot		Filed Plat
6/9/2014	Plat Haywood County of the Meadows: 7 lots		Filed Plat
8/6/2014	Fees to be paid by the Meadows for use of Campbell Mountain Drive; covenants of the Meadows	Steve Foreman,Jim Blyth, Ron Desimone, members of CMEHOA Board; email sent after meeting to attendees	Meeting
10/4/2014	CMEHOA Annual Meeting: Jim Blyth reported 1st house close in November, 27 lots available, houses 1,700.sf;	CMEHOA Board, CMEHOA members, Jim Blyth	Meeting
4/8/2015	expenses for Gate Entrance for a usage fee - email to Jim Blyth from Pam Potter	Jim Blyth, Pam Potter	Email
4/13/2015	Meeting on Gate Expenses, email sent to all attendees; CMEHOA requested Covenants, Draft Agreement on Fees	Pam Potter, David Farley, Jim Wiggins, Jim Blyth	Meeting
4/29/2015	Gate expenses, Agreement on fee, consider putting in a road from Fox Run	Pam Potter, David Farley, Jim Wiggins, Jim Blyth	Meeting
5/21/2015	Email to S. Foreman requesting that he put in a road from Fox Run, that the Meadows be part of CME, that the lots be maintained by each owner, covenants to be like King Horn Ridge and The Knolls	email from Pam Potter to Steve Foreman	Email
7/22/2015	email re not signing agreement on Right of Way and a meeting on Friday as to the Covenants of the Meadows		Email
8/6/2015	Meeting on Meadows status; will be part of Campbell Mountain Estates (similar to Knolls and King Horn Ridge): email published with follow-ups	Pam Potter, David Farley, Jim Wiggins, Steve Foreman, Gavin Brown	Meeting
9/ 21/2015	email from Pam Potter to Steve Foreman regarding the follow ups from meeting on August 6: status of Blyth/Desimone partnership; MV services, part of CME, review covenants (similar to King Horn Ridge and The Knolls), taking over Braeburn Way in the Knolls	Pam Potter, Steve Foreman, cc: David Farley, Jim Wiggins	Email
3/16/2016	email from Gavin Brown to meet and talk about taking over King Horn and Braeburn to Pam Potter; response email from Pam to wait until David gets into town	Gavin Brown, Pam Potter	Email
3/17/2016	email from Gavin Brown willing to wait until David gets into town	Gavin Brown, Pam Potter	Email
4/6/2016	email from Pam Potter to Gavin Brown asking for a meeting	Gavin Brown, Pam Potter	Email
4/11/2016	email from Pam Potter to Gavin Brown asking for a meeting	Gavin Brown, Pam Potter	Email
4/11/2016	Sunshine List email regarding Planning Meeting to be held on April 14, 2016 to discuss rezoning "The Meadows at Campbell Mountain Estates "		Maggie Valley
4/14/2016	Planning Board approved 2 to 1 rezoning from R1 to R2; preliminary plat showing 40 units		Maggie Valley
4/20/2016	email from Gavin Brown stating that discussion is now premature with zoning issue on the table	Gavin Brown, Pam Potter	Email
5/16/2016	Letter from Pam Potter, President, CMEHOA to Steve Foreman, Managing Partner, Carolyn Properties suggesting a meeting to see if they could reach some kind of understanding.	Gavin Brown, Pam Potter	Email
5/17/2016	10:07 AM: Email from Steve Foreman agreeing to meet	Gavin Brown, Pam Potter	Email
5/17/2016	2:25M: Email from Steve Foreman refusing to meet unless we open the gate	Gavin Brown, Pam Potter	Email

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Rez meadows
timeline.xlsx

5/30/2016

Mr. James Boston, 82 Sunflower Lane within the Misty Meadows Subdivision, addressed Council stating that a similar situation will happen here as did in Florida when his peace and quiet was taken by a motorsports track. There is a lot of traffic on Fox Run Road and these people, as he, have worked all their lives to have a beautiful home and enjoy peace and quiet. Mr. Boston asked that Council not allow the rezoning.

Mr. James Harden, 395 Cool August Heights, retiree from the Airforce, had been vacationing in Haywood County prior to Mount Lyn Lowry having a lighted cross. Mr. Harden purchased his home in 2002 because of the limited access. Campbell Mountain Estates was advertised as a gated community. The gate can be opened by remote or by key pad. If there is a siren, the gate automatically opens. The gate keeps door to door salesman out and unwanted visitors. The developer built the gate.

If this rezoning takes place all of the security is lost. Mr. Harden stated that his concerns were about having more traffic and more humans causing more problems with medium density.

Ron Cramm, 131 Eagle Gap Road, stated that he has known Steve Foreman for a long time. As a General Contractor, Mr. Cramm has talked with Mr. Foreman about building in The Meadows since 2008 when home construction took a "nose dive", while building materials continue to increase in cost. Before the building industry downfall, you could build a single family home for \$100 to \$125 per square foot; now it is costs over \$200 per square foot. There is not enough affordable housing in Haywood County and duplexes or multi-family homes do not mean low scale housing. Look at the multi-family homes at the Maggie Valley Country Club. New single family homes in today's market do not sale.

Phillip Reinertson stated that he has been friends with Steve Foreman for over 50-years and knows the quality of neighborhoods he develops both here in North Carolina and in Orlando. The property needs to be used properly and provide an available affordable neighborhood.

Jim Wiggins, 700 Cool August Heights, Vice-President of the Campbell Mountain Estates HOA, addressed Council discussing children and the negative impact this rezoning would be for the children that will move into the development. School buses will not run in gated communities. A bus stopping at the entrance to Campbell Mountain Estates on Fox Run Road would be in a bad location with limited visibility. It would be difficult for children to walk along the narrow berm to access a school bus on Fox Run Road. The developers have asked Jonathan Valley Elementary School about placing a bridge across Jonathan Creek for children to access the school. This would create another unsecured access to Campbell Mountain Estates.

Mr. Wiggins went on to say that the plan for The Meadows was for 20 units, then 24 units, then 27 units, and now 40 units. There is no way of holding the developers to any plan if the rezoning is approved. The rezoning would put children living in the neighborhood in danger.

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James Matthews, 10 Late September Way, stated that he was also told The Meadows would be for single family homes only. Mr. Matthews read a letter from Ann Eavenson, a residential Broker with Beverly-Hanks & Associates.

“These statements are in response to our recent conversation regarding the proposed Medium Density R-2 development adjacent to Campbell Mountain Estates.

Campbell Mountain Estates is a beautiful, well planned, and inviting restricted subdivision of mid to high end homes. The average size of each home site is .75 to 1 Acre for a single family residence. This gated community creates a relaxed, inviting and serene setting in harmony with the surrounding natural mountain setting.

The proposed medium density development adjacent to Campbell Mountain Estates is in sharp contrast to the personality and serenity of Campbell Mountain Estates. The results of the contrasting proposed development at the entrance to this gated community could have a negative effect on property values in Campbell Mountain Estates. Sharing the same gated entrance, the new development is the first thing you see after entering the gate, thus changing the perception of Campbell Mountain Estates. The proposed development does not enhance Campbell Mountain in anyway.”

Ann Eavenson

Charles Walker, 59 March Hillside Court, stated that the developer had approval for 27 homes; but that he was not in favor of the developer spending money for additional infrastructure. Mr. Walker complained that it took Mr. Blyth over six months to get the road in and the residents had to look at that (construction) mess. Mr. Walker went on to state that this would set a precedence for many years to come and the area will be over built and overcrowded. Mr. Walker had concerns about the increase in home invasions and that the rezoning request is unacceptable and there is no benefit to anyone other than a “monetary gain for a dishonest developer”.

Rose Asbell, 670 Campbell Mountain Drive stated that her home in Campbell Mountain Estates is her paradise. As with some other residents, she is a seasonal resident trying to get away from the hot summer months. Ms. Asbell had concerns about the uncontrolled access and the increased home invasions.

Bruce Oryson, 168 Braeburn Way, explained that the HOA dues are \$900 per year and then you add all of the cost of purchasing a new home and carrying insurance and such; how can these units be considered affordable housing? Due to the number of Planning Board Members present and one member having to recuse themselves the approval was only 40% of the board. The Planning Board was really troubled and did not want to pass up a positive recommendation.

Mike Finuccio, 83 October Scenic Drive, commented on the beauty of the area and how he has a beautiful view of the mountains. Mr. Finuccia flew up from South Florida to attend the hearing and greatly opposes the rezoning. If rezoned, buildings of height would be allowed. The overcrowding of buildings and extreme traffic is going to create the same mess as in South Florida and there is no return

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back to the beauty this area once held. "It is a classic: Be careful of what you wish for." Mr. Finuccia asked that Council not make the same mistake as in Florida and rezone this area.

Larue Allen, 595 Cool August Heights, informed Council that she has been a realtor for the last 34 years and has chaired the ethics and standards committee as well as the MLS Review Board. Ms. Allen provided a 2016 Haywood County Residential Market Report explaining that there is an inventory of homes in that price range. Allowing this rezoning will hurt the owners trying to sell their homes. (See attached)

Dennis Mehring, 5 Braeburn Way, addressed Council stating if this rezoning is approved, Council will be allowing changes that are way too broad. Although Maggie Valley is working on revising the zoning ordinance, Mr. Mehring understood that Council must work with the ordinances in place today. The Meadows should remain zoned Residential 1- low density to be compatible with the surrounding area. There will be issues with multi-family homes, mobile homes, etc. Residential 2 is incompatible with the homes in Campbell Mountain Estates and with the approval of the rezoning you are inviting law suits. Mr. Mehring stated that his home has numerous problems with the builder cutting corners. Days after purchasing his home, the covenants were changed. These same people asked him to sign a confidentiality agreement just to keep him quiet. Mr. Mehring did not have the financial resources to fight Mr. Foreman, but did not sign the confidentiality agreement.

Holly Cope, 20 Clover Place, in the Misty Meadows Subdivision, stated that real estate companies are not going to show some of these homes because the views will be ruined. Adding just 40 cars to the current traffic will be problematic. Ms. Cope asked that Council really give consideration to the impact of the surrounding area.

Joe Plazerine, 205 October Scenic Drive, provided Council a petition with 139 names opposing the rezoning.

Hank Jaeger, 45 Season Vista Drive, addressed Council providing examples on how community minded he is and how he has served the community (Rescue Squad, American Red Cross, etc.) since moving to Campbell Mountain Estates in 2001. Mr. Jaeger is always on-call and is very much a part of the community and the county. Due to personal issues, Mr. Jaeger and his wife have had to put their home up for sale just before the request for rezoning of The Meadows began to take place. Mr. Jaeger stated that he has had 11 people go through his home in the last 90-days which includes only 2 showings in the past 30-days since this rezoning issues began. Mr. Jaeger has had four offers, but once potential buyers see the zoning signs placed at The Meadows, potential buyers are starting to back out of pursuing the purchase. One person asked the realtor not to take them to Campbell Mountain Estates due to the zoning issues.

Lynn Mehring, 5 Braeburn Way, the secretary of the Campbell Mountain Estates HOA, provided a timeline of correspondences between the HOA and Steve Foreman, and Gavin Brown; without any substantial results other than Mr. Foreman saying that it was a private matter. The rezoning will have a significant negative impact on the residents, and Mr. Foreman should honor his agreement with the Campbell Mountain Estates HOA. "This is a serious ethical lapse for the neighborhood and Maggie Valley."

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Laurie Regish, 118 Burlington Avenue (lot 141 within the corporate limits of Maggie Valley) stated that Jim Blyth was her realtor and he told them there would be 19 single family homes in The Meadows, then it went to 27 homes and would be in-keeping with Campbell Mountain Estates. Ron DeSimone asked that Mr. and Mrs. Regish meet with him and Jim Blyth. The conversation was very clear that there would only be 27 single-family homes. Ms. Regish stated that she felt she and her family had been defrauded.

The Regish's had to pay \$875 to have their lawn repaired and purchase stone for the drive. Steve Foreman was supposed to maintain the road and repair the damage that was done to their lawn. Mr. Foreman was emailed about the expenses and was to refund the money. As of yet, the Regish's have not received payment. Ms. Regish went on to say that Mr. DeSimone would not have done this to them and that this was certainly no way to honor Mr. DeSimone.

Ms. Regish added that as for marketing to young people, where are kids going to play? The kids will be coming onto their (Regish) property and destroy their land and they (Regish) would be liable, not to mention the noise that comes with kids. The Regish's chose Maggie Valley for that charm and small town feel; now everyone's security is jeopardized and the view from their home is ruined. In summary, Ms. Regish stated that their harmony was gone, their home devalued, traffic and parking would become unbearable. Residential 2 is too broad a district. Mr. Foreman and Mr. Blyth have done the ole "bait and switch" and it is morally wrong.

Ed Wolfe, 29 Sunflower Lane, addressed Council stating that he lives in Misty Meadows Subdivision, and that he opposes the rezoning.

b. Staff Report

Planner Bowen addressed Council explaining the Planning Board's positive recommendation and how it came about. There was an absent member, and one member that had to recuse themselves. The vote from the remaining members was a 2 to 1 in a positive recommendation. The reason was based on the Land Use Plan. As a Planner, Mr. Bowen's focus is on land use; if the property is flat and if the property is within the flood plain. In 2007 Benchmark CMR determined that the best designation was for the area to be zoned Residential 3 –high density. As earlier stated, the surrounding area consists of Campbell Mountain Estates, an Elementary School, and agricultural. The property was approved for a Planned Unit Development in January 2014. A Planned Unit Development (PUD) provides the highest yield of units, more flexibility, and open greenspace. As for the Residential 2 (R2), Class A mobile homes would be allowed. Residential 1 (R1) also allows Class A mobile homes. Residential 3 (R3) would be the only zoning designation that would allow single-wide mobile homes. Randy Herron Associates determined that 5.379 acres would be available for building after the rights-of-way and trout buffer are removed from the 8.953 acres. This would allow for 34 single units, and 125 multi-units.

As earlier stated, flat land not within the flood plain is an anomaly in Maggie Valley.

It would be economically feasible for higher density in this area, as well as provide homes for the younger worker and first-time home buyers. There are several examples of R2 and R3 subdivision such as The Preserves, Trinity Cove, and Master's Landing at the Maggie Valley Country Club. Each unit is required to have two off-street parking spaces and structures cannot be more than 45-feet high. These

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requirements continually “chip” away the building area. Multi-family homes must meet the design standards. The Town does not regulate single-family homes nor duplexes within the design standards.

Fox Run Road is a state road before turning onto Campbell Mountain Estates which is a private road.

Council took a break and came back into session at 7:31 p.m.

c. Applicant Presentation

Jim Blyth introduced his team: Attorney Andrew Parker, Kevin Norris with Custom Paving, Steve Foreman the developer, Attorney Gavin Brown, and Realtor Don Stevens.

Steve Foreman of 170 Eagle Ridge Drive, the General Manager of Carolyn Properties, a family owned business, explained that he was not making light of the situation. Mr. Foreman has been in real estate for over 40-years. In 1995 Mr. Foreman moved to Haywood County. Since moving to Haywood County Mr. Foreman has developed several properties that provide an example of the kind of developments he is involved with i.e. Antler Springs, eight units on Fie Top Road, and Sweet Water Farms. All the developments he has been involved with are of high quality. Mr. Foreman went on to say that he found Campbell Mountain Estates in 1999. The development of Campbell Mountain Estates is being done in phases. Mr. Foreman still owns property within the subdivision as well as The Knolls, and King Horn Ridge.

Mr. Foreman assured Ms. Regish that a check was mailed last Thursday. Mr. Foreman added that he was not widely known as a fraud as has been stated here tonight and assured Council that this would be a quality subdivision for Maggie Valley. Mr. Foreman added that he purchased and installed the gate in 2007 and that he never told a soul that there would be 19 lots in The Meadows. Mr. Foreman entered into an agreement with Jim Blyth and Ron DeSimone in 2014. As for the infrastructure, potential buyers were not looking at the one home built in The Meadows because of poor infrastructure. The subdivision will offer families a quality affordable home. Carolyn Properties put up a \$78,000 bond with the Town to assure a quality road would be installed. Thus the reason for installing the increased infrastructure to avoid having to tear up the road, if approved for the rezoning. This will be “party-wall” single-family units. The “party-walls” make the homes more affordable because the cost of construction is lowered. Mr. Foreman questioned why he would do a low-quality subdivision when Carolyn Properties still own 63 acres /56 lots in Campbell Mountain Estates.

Jim Blyth provided a Power-Point/ video and enlarged drawings of the area, the surrounding area, maps, Maggie Valley Corporate Limits, other Residential 2 and 3 subdivisions, Maggie Valley 2007 Land Use Map and a Campbell Mountain Estates map.

There were negative comments because the audience could not see the presentation. HOA President Pam Potter was given a seat to the front so that she could see the presentation. A member of Carolyn Properties’ team held up enlarged pictures so that the audience could follow along with Mr. Blyth’s presentation.

Mr. Blyth provided the history on the adoption of the 2007 Land Use Plan and how the Council at that time was concerned about accelerated development of property on slopes and how many areas within

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the Maggie Valley Community are subject to slides. There is a short supply of flat land not in the flood plain in the Maggie Valley area.

Mr. Blyth also provided a Market Report for home sales in 2015 showing that 79% of the homes sold were under \$249,000. Expensive homes do not sale. Mr. Blyth went on to say that it is fire fighters, police officers, school teachers and young professionals that are buying these homes.

Bryan Birch with NCDOT stated that Fox Run Road can handle 8,000 to 10,000 cars a day.

Alderman Eveland questioned how the drainage from the upper tier was handled to keep the storm water from draining onto The Meadows.

Mr. Blyth explained that all drainage issues were taken care of as the road was installed. Mr. Blyth also stated that this subdivision would add between \$8.5 and \$9-million dollars in value to the tax base.

As earlier stated, Mr. Foreman owns lots in Campbell Mountain Estates that he would like to sale. The Meadows at Campbell Mountain will use the same gate as Campbell Mountain Estates.

Alderman Eveland questioned when the gate was closed.

The closing of the gate began three to four weeks ago. The gates have always been closed at night. The HOA has had several people request the gate be closed. The HOA had begun to get complaints of people venturing into Campbell Mountain Estates. Someone even came in with a motorcycle speeding up and down the roads.

Mr. Blyth responded that he had contacted the Haywood County Sheriff's Department to inquire about the number of calls they responded to in Campbell Mountain Estates. In 2016 there were no calls to date. In 2015 a welfare check was made on one neighbor.

Mr. Blyth went on to inform Council that a number of realtors have tried to show properties in Campbell Mountain Estates and could not get into the gate, thus causing the loss of a showing.

There are 45 sewer and water taps installed; that number could go up to 75 taps without tearing up the road.

Mayor Price closed the hearing at 8:21 p.m. All handouts provided during the hearing will be attached to the permanent record (minutes).

Board Discussion and Consideration of Ordinance 829

Attorney Justus explained that there are two steps to handle the rezoning; adopt or reject the rezoning request. Step two would be to complete the Consistency and Reasonableness Statement.

Attorney Justus informed Council that the developers are not restricted to the plan presented. The developers may do whatever is permitted in Residential 2 zoning. Do not take the road into account, the

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road does not “drive the train” for what is the best use for the property. The Planning Board nor the Land Use Plan does not bind this Board.

Attorney Justus read a portion of the Consistency and Reasonableness Statement for Council’s consideration.

“When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. “

“The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.”

“Zoning regulations shall be designed to promote the public health, safety and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

Mayor Price felt the best interest of the Town would be Residential 2 zoning. This is not Residential 3 zoning as is consistent with the Land Use Plan. Again Maggie Valley does not have flat land where multi-family housing could be located. \$200,000 homes are not low rent housing. Residential 1 could have doublewide Class A homes, this is no different than Residential 2. Mayor Price stated that this rezoning is in the best interest of Maggie Valley.

Alderman Eveland questioned how many homes could see the development from the front porch of their homes.

Five out of twenty-nine homes can see the proposed development.

Alderman Eveland stated that this is the best location for Residential 2, especially being located across from an Elementary School. Alderman Eveland agreed that affordable housing is not \$200,000 homes. The 18-foot roads provide a safe passage for police and the fire department to access the area, and with the agricultural land the R2 zoning flows with the area. It is reasonable in keeping with the Land Use Plan.

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Alderman Banks stated that she has been struggling with this issue and has met with representatives from both sides. Alderman Banks completely understands retiring and coming to the mountains and sinking all your money into your dream home. Alderman Banks did have the perfect view from here home; now she looks over a porta-john and will soon be looking at the roof of a house. Development is going to come although the Campbell Mountain Estates' residents have given valid statements.

Attorney Justus stopped Alderman Banks short of making a comment about the Campbell Mountain Estates not being within the corporate limits. The Supreme Courts have made the decision that ultimately one factor cannot be taken into consideration and that is if someone is a resident or not.

Alderman Davis provided a story of his brother-in-law looking across a golf course and a pond then someone built a home in front of him, therefore blocking the view he had become accustomed too. Alderman Davis stated that he is conscious of the quality of living the residents in Campbell Mountain Estates have there. Brannon Forest is zoned Residential 2 and is a very nice subdivision. The Preserves on Jonathan Creek is zoned Residential 3, and is on a mountainside. Alderman Davis agreed with the rest of the Board, Residential 2 would be the proper zoning for The Meadows at Campbell Mountain. The land is not within the flood plain and not on mountainous topography.

**ORDINANCE NUMBER 829
TOWN OF MAGGIE VALLEY
AN ORDINANCE AMENDING THE ZONING MAP TO REZONE PARCELS WITHIN THE MEADOWS AT
CAMPBELL MOUNTAIN
FROM RESIDENTIAL 1 TO RESIDENTIAL 2**

WHEREAS, The Town of Maggie Valley held a public hearing on the rezoning of certain parcels within the corporate limits on June 13, 2016; and

WHEREAS, Due notification by first class was sent to all abutting property owners on May 17, 2016; and

WHEREAS, A public notice was published on May 30, 2016 and June 6, 2016; and

NOW THEREFORE BE IT BE IT RESOLVED BY THE MAGGIE VALLEY BOARD OF ALDERMEN THAT:

1. All requirements were met in accordance with G.S. 160A-384 for zoning property.
2. That the following parcels located within the Town's Corporate Limits will be rezoned from Residential 1 to Residential 2.

The applicant: Jim Blyth on behalf of Carolyn Properties LLC
Parcel Numbers: 8607-03-6067, 8607-03-9786, 8607-13-0823, 8607-13-0970, 8607-13-19198607-14-1068, 8607-14-0124, 8607-04-9096, 8607-03-9976

ALDERMAN EVELAND MADE A MOTION TO APPROVE ORDINANCE 829 REZONING THE MEADOWS RESIDENTIAL 2. ALDERMAN DAVIS AND MAYOR PRICE VOTED IN THE AFFIRMATIVE. ALDERMAN BANKS OPPOSED. MOTION CARRIED.

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Attorney Justus asked for a motion to accept the Consistency and Reasonableness Statement.

ALDERMAN EVELAND MADE A MOTION TO APPROVE THE CONSISTENCY AND REASONABLENESS STATEMENT THAT IS CONSISTENT WITH THE LAND USE PLAN. MOTION CARRIED UNANIMOUSLY.

CONSISTENCY AND REASONABLENESS STATEMENT

Haywood County PINs: 8607-03-6067; 8607-03-9786; 8607-13-0823, 8607-13-0970; 8607-13-1919;8607-14-1068;8607-14-0124;8607-04-9096;8607-039976

Rezoning from Residential 1 (Low Density Residential) to Residential 2 District (Medium Density Residential)

WHEREAS, in accordance with N.C. Gen. Stat. § 160A-383, the following is stated:

Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city; and

WHEREAS, as directed above, Town Council must approve a Consistency and Reasonableness Statement with regard to each adoption or rejection of a zoning amendment request; and

WHEREAS, Residential 1 is the Town's low density residential district, while Residential 2 is the Town's medium density residential district; and

WHEREAS, after conducting a public hearing, the Planning Board of the Town of Maggie Valley determined that, although the Town's current Land Use Map from 2007 shows the above described property as high density residential, it is reasonable and in the public interest to grant the request for Medium Density Residential due to the reasons stated in the Board's June 13, 2016 written statement to the Board of Aldermen based upon their meeting held May 12, 2016.

NOW THEREFORE, based the record of the proceedings related to the rezoning request, **THE BOARD OF ALDERMEN OF THE TOWN OF MAGGIE VALLEY HEREBY STATES:**
Section 1: **The proposed zoning amendment is consistent with the Comprehensive Plan that has been adopted by the Town of Maggie Valley.**

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Section 2: **The proposed zoning amendment is reasonable and in the public interest; and therefore is approved. The decision was based on the approved 2007 Land Use Plan that indicated this area was suitable for high density residential development. Additionally this request seem suitable for medium density development based upon the tract's relatively flat topography which is located largely outside of the 100 year flood plain. Finally there was a shared belief by Board members that the uses allowed by R-2 are compatible with existing and future uses allowed by R-1.**

Attorney Justus asked for a motion that the proposed plan is reasonable in public interest.

ALDERMAN EVELAND MADE A MOTION THAT THE PLAN IS REASONABLE FOR PUBLIC INTEREST. MAYOR PRICE AND ALDERMAN DAVIS VOTED IN THE AFFIRMATIVE. ALDERMAN BANKS OPPOSED. MOTION CARRIED.

Council took a short break and convened at 8:56 p.m.

5) Town of Maggie Valley Fiscal Year 2016-2017 Budget

a. Public Hearing

Mayor Price opened the Public Hearing at 8:57 p.m.

Mayor Price closed the Public Hearing at 8:58 p.m. without any public comments from the floor.

b. Manager Comments

Manager Clark informed Council that the budget has remained unchanged since being presented to Council. The tax rate will remain the same as in the past several years; \$0.39 per \$100 value. A solid waste (garbage, recycling, white goods, and brush removal) fee of \$5 per month is proposed in the budget to offset the cost of the service. A slight increase of \$0.50 per 1,000 gallons over the 3,000 gallon minimum in monthly sewer user fees is also proposed.

The proposed budget places an emphasis on public parks and an additional employee in the Public Works Department as well as a new dump truck and a new snow removal truck.

As for technology, Maggie Valley will be implementing Code Red that will allow the Town and/or Police to alert people in certain areas or the entire Town; especially in the event of an emergency. The Clerk's Sunshine List will be moved to Code Red. The Town's website will be updated as well.

ALDERMAN DAVIS MADE A MOTION TO ADOPT THE 2016/2017 BUDGET AS PRESENTED. MOTION CARRIED UNANIMOUSLY.

Alderman Eveland thanked Manager Clark and the Department Heads for clearly representing the Board of Aldermen's focus without increasing the taxes.

c. Board Discussion and Consideration of Ordinance 828

**Town of Maggie Valley
Budget Ordinance Number 828**

BE IT ORDAINED by the Board of Alderman of the Town of Maggie Valley, North Carolina:

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Section 1: The following amounts are hereby appropriated in the General Fund for the operation of the town government and its activities for the fiscal year beginning July 1, 2016 and ending June 30, 2017, in accordance with the chart of accounts heretofore established for this Town:

Board of Alderman	57,664	
Administration	387,594	
Public Works	608,402	
Police	1,068,480	
Festival	96,162	
Recreation	211,285	
Debt Service	250.869	
Powell Bill	<u>47,324</u>	Total
<u>2,727,780</u>		

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Current year's property taxes	1,473,815
Motor Vehicle taxes	61,040
Prior year's property taxes	45,000
Tax Interest and penalties	12,450
Local Option Sales Tax	342,457
Franchise taxes	165,915
Local Video Programming	39,951
Beer & Wine Tax	5,893
Charges for services	109,550
TDA Funding	29,000
Investments Earnings	2,575
Powell Bill	36,177
Crime Control Grant	22,800
Proceeds from Lease	255,784
Sale of Assets	23,700
Special Assessment	24,037
Powell Bill Reserve	11,147
Festival Ground Fees	34,000
Recycling Grant	16,500
Other revenues	<u>15,989</u>
Total	<u>2,727,780</u>

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Section 3. The following amounts are hereby appropriated in the Sewer Fund for the operation of the sewer utilities for the fiscal year beginning July 1, 2016 and ending June 30, 2017, in accordance with the chart of accounts heretofore approved for the Town:

Administration	399,324
Operations	208,144
Debt Service	<u>213,140</u>
Total	<u>820,608</u>

Section 4. It is estimated that the following revenues will be available in the Sewer fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

User Fees	762,893
Tap Fees	40,625
Investment Earnings	2,500
Appropriated Fund Balance	<u>14,590</u>
Total	<u>820,608</u>

Section 5. There is hereby levied a tax as the rate of thirty nine (\$0.39) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2016, for the purpose of raising revenue listed "Current year's property taxes" in the General Fund in Section 2 of this ordinance. This rate is based on a total valuation of property for the purposes of taxation of \$397,790,921 and an estimated rate of collection of 95.00%.

The budget figures are based on fee schedules that are evaluated each year and from time to time adjusted by the Town Board of Aldermen. The Planning and Sewer rate schedules are attached and adopted as part of this budget.

Section 6. The Budget Officer is hereby authorized to transfer appropriations as contained herein under the following conditions:

- A. He/she may transfer amounts between line item expenditures within a department without limitation and without a report being required. These changes should not result in increased in recurring obligations such as salaries.
- B. He/she may transfer amounts up to \$1,000 between departments, including contingency appropriations, within the same fund. He must make an official report on such transfers at the next regular meeting of the Governing Board.
- C. He/she may not transfer any amounts between funds, except as approved by the Governing Board in the Budget Ordinance as amended.

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Section 7. The Budget Officer may make cash advances between funds for periods not to exceed 60 days without reporting to the Governing Board. Any advances that extend beyond 60 days must be approved by the Board. All advances that will be outstanding at the end of the fiscal year must be approved by the Board.

Section 8. Copies of this Budget Ordinance shall be furnished to the Clerk, to the Governing Board and to the Budget Officer and Finance Officer to be kept on file by them for their direction in the disbursement of funds.

6) Town of Maggie Valley Solid Waste Ordinance 830

**ORDINANCE NO. 830
AN ORDINANCE CREATING RULES AND REGULATIONS
FOR SOLID WASTE AND RECYCLING**

CHAPTER 51: SOLID WASTE

Section

- [51.01](#) Definitions
- [51.02](#) General regulations
- [51.03](#) Charge for town collection
- [51.04](#) Residential collection required
- [51.05](#) Regulations for town customers
- [51.06](#) Collection of recyclables
- [51.07](#) Collection of bulky items, appliances, and white goods
- [51.08](#) Collection of yard waste
- [51.09](#) Use of Public Receptacles
- [51.10](#) Removal of debris resulting from construction, demolition or repair of buildings
- [51.11](#) Removal of dead animals, ashes, contagious disease material, hypodermic instruments and hazardous waste
- [51.12](#) Violations and enforcement
- [51.13](#) Notice of violations and civil penalties

§ 51.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING MATERIAL (ALSO CALLED CONSTRUCTION AND DEMOLITION MATERIAL). Brick, stone, carpet, plumbing materials, plaster, concrete, asphalt, roofing, floor coverings, gutters or other material or substances accumulated as a result of construction, repairs, or additions to existing structures or accessory structures or demolition of such.

BULK CONTAINER (ALSO CALLED "DUMPSTER"). A metal container of not less than two cubic yards nor larger than eight cubic yards, made of watertight construction with doors opening on two sides and the top and constructed so that it can be emptied

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mechanically by specialty equipped trucks.

BULKY ITEMS. Means, but is not limited to, items such as household furnishings, household appliances, mattresses, box springs, lawn equipment (such as sidewalk vacuums, rototillers, wheelbarrows, and other similar household items) and children's toys.

BUSINESS TRASH. Any accumulation of incidental waste products and garbage, other than household trash, which is associated with the operation of stores, offices, and commercial establishments.

COLLECTION. The act of removing solid waste from a point of generation to an approved disposal site.

CONTAINER. Any bulk container, detachable container, recyclables container or rollout container as defined herein.

ELECTRONIC WASTE (E-WASTE). Includes computers, cell phones, radios, televisions, and the like

FOUL ODORS. Any offensive odor emanating from, but not limited to, garbage, trash or waste.

GARBAGE. A by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking, and consumption of food or other matter which is subject to decomposition, decay, and/or the generation of noxious or offensive gases or odors, or which during and/or after decay may serve as breeding or feeding material for flies, insects, and/or animals.

HAZARDOUS WASTE. Potentially dangerous by-products which cannot be handled, treated, or disposed of without special precautions. **HAZARDOUS WASTE** includes ignitable, corrosive, reactive, and toxic wastes such as acetone, gasoline, industrial metal, alkaline cleaners, acids, batteries, cyanide, chlorine, arsenic, pesticide wastes, paint, caustics, infected materials, offal, fecal matter (human and animal), and explosives.

HOUSEHOLD TRASH. Accumulation of sweepings, rags, or other material of any kind, other than garbage and recyclables, which is usually attendant to housekeeping

INDUSTRIAL WASTE. All waste (except hazardous waste), including solids, semi-solids, sludge, and liquids created by factories, processing plants or other manufacturing enterprises, (sometimes referred to as special waste, as it requires

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special handling).

JUNK/BULKY ITEMS. Any item creating a littered condition, including but not limited to household or office furnishings, household appliances, mattresses, box springs, lawn equipment or other similar items (see definition of **BULKY ITEMS** above) which are either in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition.

RECYCLABLES. Newspapers and accompanying inserts, magazines, junk mail, cardboard, glass, food and beverage containers, plastic soft drink and liquor bottles, spiral paper cans, aluminum, bimetal cans, steel and tin cans, and other items determined by the Solid Waste Coordinator to be recyclable.

RECYCLABLES CONTAINER. A container designed and authorized by the town solely for the purpose of collecting recyclables. It shall be subject to the collection regulations pertaining to recyclables.

ROLLOUT CONTAINER. The authorized wheeled garbage disposal container approved by the town for use by garbage collection services.

SOLID WASTE. Accumulations consisting of any combination of business trash, garbage, household trash, bulky items, yard waste, industrial waste, recyclables and junk.

SOLID WASTE COORDINATOR. An employee; most likely to be the Public Works Director, appointed by the Town Manager who is responsible for managing, monitoring, and enforcing the town's solid waste program, including the provisions of this chapter.

TOWN. The Town of Maggie Valley, North Carolina, or its agents or contractors.

TOWN MANAGER. The person or persons designated by the Town Board of Alderman to perform duties and responsibilities as chief executive officer for the Town of Maggie Valley.

WHITE GOODS. Inoperative and discarded residential, metal refrigerators, ranges, water heaters, freezers and other similar domestic large appliances.

YARD WASTE. Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar materials which are generated in the maintenance of yards and gardens, which are separate from other solid waste materials. Yard waste shall not include trees, tree limbs, brush and other material resulting from commercial tree trimmers and/or commercial lawn care services.

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§ 51.02 GENERAL REGULATIONS.

The Town Manager may promulgate such rules and regulations not inconsistent with this chapter as he or she deems advisable to safeguard the health and welfare of the citizens of the town in the disposal of garbage, recyclables, yard waste and other refuse. The collection, removal and disposition of all solid waste from within the town shall be under the jurisdiction and enforcement of the solid waste coordinator and his or her authorized agents, except otherwise provided by the ordinances of the town.

(A) It shall be unlawful for any person to endanger the public health, safety and welfare through the neglect of property by causing or allowing unsightly garbage, weeds and grass, yard waste, foul odor, dead animals, junk, unsecured appliances or potentially dangerous devices to remain on or emanate from property, or to discard or abandon or cause such on public property, private property, vacant lots or any pond, stream or body of water or banks thereof within the town limits.

(B) It shall be unlawful for any person to violate any provision of this chapter.

(C) It shall be unlawful to dispose of or discard any solid waste on private or public property, unless such disposal occurs with the owner's permission and conforms to all applicable local, state, and federal regulations.

(D) It shall be unlawful for any person to put, place or throw any garbage, trash, yard waste, or bulky items on any sidewalk or in a public street, public alley or other public place in the town. Such materials shall be disposed of legally as specified in this chapter.

(E) No person shall interfere with the contents of any receptacle or container set out for removal by the town and/or its contractor unless by express written permission of the town.

(F) It shall be unlawful to interfere with or hinder town collection personnel and/or the town's authorized contractor in the performance of collection duties.

(G) It shall be unlawful for any construction and/or demolition contractor or property owner to fail to provide onsite containers for loose debris, material waste, scrap, building materials, and other trash produced by those working on the site.

(H) The town shall have the authority to require additional containers if necessary to provide property containerization of solid waste.

(I) Ninety-five gallon rollout containers furnished by the town and/or its contractor shall be used solely for the storage of garbage and recycling only. The town shall provide each residence with one ninety-five gallon container (i.e. brown) for garbage and one ninety-five gallon container (i.e. blue) for recycling

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§ 51.03 CHARGE FOR TOWN COLLECTION.

Agreements and contracts for solid waste services, including rate schedules, replacement cost and service regulations set forth by the Board of Alderman are recorded in the Town Schedule of Fees and Charges on file in the Town Clerk's office.

§ 51.04 RESIDENTIAL COLLECTION REQUIRED.

(A) All residences of the town shall be provided solid waste collection services as set forth in this chapter and shall be subject to solid waste collection fees as adopted by Board of Alderman regardless of whether such services are accepted by the owner or occupant of the residence. Each separate residential entity shall be billed monthly and shall be payable with the town's sewer billing statement. In some rare instances a residence may not be served with sewer therefore would not receive a sewer bill but would receive a monthly solid waste collection fee bill. The charges, if unpaid, shall be a lien upon the property involved and may be collected as provided in § [51.12](#).

(B) Garbage, recycling, white goods and yard waste set out for collection as provided in this chapter shall be collected by the town and/or its designated agent.

(C) The town and /or its designated agent shall only provide curbside collection of garbage, recycling, white goods and yard waste to single family detached homes, duplexes and multifamily complexes not within single property ownership. The town shall not provide curbside collection services to apartment complexes, campgrounds, extended stay motels and the like. Residences receiving Town of Maggie Valley Curbside Collection as of July 1, 2016 shall continue to receive service past adoption date.

(D) Residential structures within gated communities may receive solid waste collection services from the town and/or its designated agent given that on designated solid waste collection dates, the gates of the community remain open to allow free and easy access to neighborhood within the business day.

§ 51.05 REGULATIONS FOR TOWN CUSTOMERS.

(A) *General.*

(1) All residential customers shall be provided receptacles for garbage, trash, and recyclables for collection by the town and/or its agent.

(2) Containers and their surrounding areas shall be kept in a sanitary condition by the property owner, resident, and/or tenant.

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(3) The town shall retain ownership of rollout containers which are initially provided for solid waste and recycling collection service. The container shall not be removed from the original premises. Repair or replacement of containers for any reason, excluding normal wear and tear, shall be the responsibility of the customer unless the damage necessitating such repair or replacement is determined to be a direct result of the negligence by the town and/or its contractor. The town and/or its designated contractor shall be notified by the property owner of the need to replace a receptacle. Containers which require replacement as a result of user abuse and/or negligence (i.e. lost or stolen) will result in the user being charged a replacement fee as set forth in the solid waste fee schedule. The property owner shall be notified of the cost of the receptacle and the requirement for payment before service shall be rendered.

(4) It shall be unlawful for any person to bring construction debris, business trash, garbage, household refuse, household trash, industrial waste, litter, refuse, solid waste, yard waste or any other kind of trash or rubbish into the Town of Maggie Valley from a point outside the town for the purpose of the materials to become subject to pick up by the town.

(5) It shall be unlawful for any person knowingly to permit the use of his or her receptacles or any other portion of his or her property by any other person for the disposal of any construction debris, business trash, garbage, hazardous refuse, household trash, industrial waste, litter, refuse, solid waste, yard waste, or any other kind of trash or rubbish brought into the town from a point outside the town for the purpose of disposing of the materials to become subject to pick up by the town.

(B) *Collection schedule.*

(1) The town provides for pickup of garbage and recyclables on a schedule set by the town. The town on an as-needed appointment basis, shall provide White Goods and Yard Waste services.

(2) Collection schedules shall be established by the town and shall be subject to variations required by weather, legal holidays, or other special circumstances.

(3) The town shall reserve the right to discontinue or deny garbage, recycling or bulky collection service to any resident of the town who violates any provision of this chapter.

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(C) *Placement of receptacles.*

(1) It shall be the responsibility of each resident and/or property owners to see that all garbage and recycling containers are set out at curbside by 7:00 a.m. on the fixed collection date. Containers may not be placed on the curb before 5:00 p.m. on the day prior to the scheduled collection date and shall be removed by midnight on the day of collection.

(2) Containers are prohibited from being stored in front of the home or residence and shall be stored in the side or rear of the home or residence. Front storage may be approved by the Solid Waste Coordinator on a limited case by case basis.

(3) All garbage and recycling carts' wheels must be facing the house and placed within three feet of curb to provide safe and easy access for collection.

(4) The garbage and recycling cart requires a two foot space between each cart and between obstructions like mailboxes, parked cars, utility poles, and the like.

(5) Containers shall not be placed on public sidewalks or streets or in such a manner as to obstruct the vision of motorists or the free flow of traffic or drainage along any public street.

(6) Containers are not to be removed from the premises to which they are assigned except by the town and/or its contractor.

(D) *Contents.*

(1) All garbage must be bagged and fit inside the cart with the lid fully closed.

(2) Garbage shall be drained of all free liquids.

(3) It shall be unlawful to place yard waste, rocks, dirt, heavy metals, automobile parts, tires, concrete, construction waste, hazardous waste, or medical waste in the containers for collection by the town and/or contractor. Yard waste and bulky items shall be placed at the curb for collection as specified in other sections of this chapter.

(4) All recyclables must be placed in the container loose, not bagged. All recyclables can be placed in the container unsorted.

(F) *Exception for backyard collection.* The town may provide solid waste and recycling backyard services to persons with disabilities provided no one in the residence or employed by the household is physically capable of moving the container from the

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backyard to curbside. A doctor's statement of disability will be required to substantiate existence of disability. Backyard solid waste service will consist of only one pickup per week (one garbage, one recycling) as established by the town. The town shall reserve the right to verify the need for extending special services and to periodically reassess the need for such services. Civil penalty. A civil penalty in the amount of \$25 may be issued to any person in violation of this section.

§ 51.06 COLLECTION OF RECYCLABLES.

The town has a goal to reduce the amount of waste going into the landfill by recycling as many items as possible.

- (A) The town provides recycling collection to residents, per schedule determined annually, in a 95 gallon rollout container.
- (B) Recyclables can be co-mingled into the cart.
- (C) All food, drink and other residues shall be rinsed from the recyclable items.
- (D) Recycling items include the following:
 - (1) Empty aerosol cans (no paint cans);
 - (2) All Plastics 1-7 (no Styrofoam, bags, or wrap);
 - (3) Wide-mouth plastic containers and lids and rigid plastic containers and small hard plastic toys;
 - (4) Milk and juice cartons and boxes;
 - (5) Shredded paper (placed in clear plastic bags);
 - (6) Aluminum and metal food cans and lids;
 - (7) Glass bottles and jars;
 - (8) Cereal and food boxes and cardboard boxes flattened;
 - (9) Mixed paper, newspapers with inserts, and junk mail;
 - (10) Paperback books;
 - (11) Magazines and phonebooks; and
 - (12) Spiral paper cans (with plastic lids detached).
- (E) Items that cannot be recycled include the following:
 - (1) Pizza boxes;
 - (2) Paint cans;
 - (3) Styrofoam; and
 - (4) Plastic bags.
- (F) The town provides electronic waste (e-waste) recycling that will be picked up curbside by appointment only.
- (G) All recyclables shall be placed in the town issued recyclables container

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(H) Recyclables containers shall not be placed at the curb earlier than 5:00 p.m. the day before the scheduled collection date and shall be removed by midnight on the collection day.

§ 51.07 COLLECTION OF BULKY ITEMS AND WHITE GOODS.

(A) It shall be unlawful for any person to place or leave bulky items or junk at curbside for collection by the town except in accordance with the requirements of this section.

(B) Residents may place discarded white goods on the front corner of their premises nearest to the public street for collection. This service is provided to residential solid waste customers within the town's corporate limits who are paying the monthly solid waste fee. White Goods shall be collected on a call in (on demand) basis. To schedule a pick up for white goods contact Town Hall at 828.926.0866.

(C) Commercial businesses are required to make private arrangements to dispose of their bulky items. There will be no collection of such items by the town or its contractor. Commercial business bulky items are prohibited from staying on the curb more than two (2) business days.

(D) Items from business establishments operated from a residential unit will not be collected by the town's solid waste provider.

(E) The town shall not provide pick up, haul off or dispose of bulky items from residential properties.

(F) The town will not be responsible for the removal of automobile parts, including but not limited to tires and batteries. The proper disposal of these items will be the responsibility of the property owner.

(G) No materials such as trees, shrubbery or underbrush resulting from land clearing will be picked up by the town or its contractor.

(H) Commercial businesses are required to make private arrangements to dispose of their yard waste. There will be no collection of yard waste by the town or its contractor. Commercial yard waste is prohibited from staying on the curb more than two (2) business days.

§ 51.08 COLLECTION OF YARD WASTE.

It is unlawful for any person to place yard waste at curbside for collection by the town except as follows:

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- (A) The town shall attempt to collect tree limbs, cuttings, shrubbery and the like from each residence of the Town on an as-needed/as-called basis; however, during leaf season, this service will likely be curtailed to allow the collection of leaves.
- (B) This service shall be limited to the amount of tree limbs, cuttings, shrubbery and the like that a typical resident shall produce in normal yard work and is not a service provided to a landscaping firm or to a private tree trimming/removal company or to individuals who are paid to trim trees, redo landscaping or perform major yard work. Such debris produced by these firms and individuals shall not be collected by the Town, and the property owner or tenant shall be responsible for the cost of removal and disposal of such material.
- (C) Volumes of more than one truckload or volumes which will take more than thirty (30) minutes to load will not be collected without a charge to the customer. Excess volumes or time shall be billed at the rates prescribed and changed from time to time by the Board of Aldermen and kept on file at the Town Clerk's office.
- (D) In any case, such limbs, cuttings, shrubbery and the like shall not be greater than twelve (12) feet in length, nor more than four (4) inches in diameter, nor of such a weight that it cannot be handled by one person. This debris is to be placed along the edge of the owner's or tenant's property nearest the street right-of-way, with cut ends facing the street, and shall not block any sidewalk or be in the street where vehicles might be prohibited from safe passage.
- (E) Tree limbs and yard trimmings shall be free of trash, dirt, wire and anything that could damage the chipping equipment. Lawn trimmings and leaves shall be placed in bags for pickup and the weight of a single bag shall not exceed thirty (30) pounds. Machine piled material, logs, stumps or any limbs greater than four (4) inches in diameter shall not be collected. Material addressed in this section shall not be placed in the street or in gutters or drainage ways so as to inhibit storm drainage or so that the material might wash into or block catch basins.
- (F) The Town shall at no time remove or assist in the removal of stumps or trees of any kind.
- (G) In situations where there is danger for Town employees or concern for the safety of the motoring public, the Director of Public Works, at his discretion, may authorize the collection of any permitted material from a point off the street right-of-way and out of the path of vehicular traffic.

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- (H) Commercial businesses are required to make private arrangements to dispose of yard waste. There will be no collection of such items by the town or its contractor. Commercial business yard waste is prohibited from staying on the curb more than two (2) business days.

§ 51.09 USE OF PUBLIC RECEPTACLES

(A) It is the declared policy of the town that public receptacles are there for the convenience of the public who use the Town of Maggie Valley's Sidewalk and Park System so that they may deposit items of garbage therein rather than litter. The public receptacles are not for the purpose of dumping large quantities of garbage.

(B) It shall be unlawful for any person residing outside the corporate limits of the town to bring quantities of garbage, accumulated outside of the town and deposit them in any receptacle to be collected by the town along the streets or elsewhere within the corporate limits of the town.

§ 51.10 REMOVAL OF DEBRIS RESULTING FROM CONSTRUCTION, DEMOLITION OR REPAIR OF BUILDINGS.

(A) It shall be the duty of the property owner to dispose of debris resulting from the construction, demolition, or repair of buildings. These items include but are not limited to, brick, stone, plumbing materials, plaster, concrete, asphalt, roofing, floor coverings, gutters and shingles.

§ 51.11 REMOVAL OF DEAD ANIMALS, ASHES, CONTAGIOUS DISEASE MATERIAL, HYPODERMIC INSTRUMENTS AND HAZARDOUS WASTE.

(A) *Dead animals.* The town will collect small dead animals and wildlife from the publicly maintained (NCDOT; Town) rights-of-way.

(B) *Ashes.* It shall be unlawful to place live (hot) or dead (cold) coals in any containers.

(C) *Contagious disease material.* It shall be unlawful to remove or discard clothing, bedding, mattresses, springs, or other solid waste from homes or other places where highly infectious diseases have occurred. Such solid waste shall not be placed in rollout containers or at curbside for collection and disposal by the town and/or its contractor.

(D) *Hypodermic instruments.* It shall be unlawful for any person to dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse without safeguarding the

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disposal thereof by placing in a secure container so as to avoid the possibility of causing injury to the collection personnel.

(E) *Hazardous waste*. It shall be unlawful to place hazardous waste in any container for disposal except as follows:

(1) Paint cans shall have lids removed and contain no wet paint. Kitty litter or sand may be added to solidify material for collection.

(2) Soiled kitty litter shall be enclosed in double plastic bags and securely tied prior to placing the bag in rollout cart at curbside for disposal.

§ 51.12 VIOLATIONS AND ENFORCEMENT.

It shall be unlawful to violate any provision of this chapter. Any one or more of the following enforcement actions may be taken for any violation of this chapter:

(A) The Town Manager or his or her designee may assess a civil penalty in the amount established in the specific provisions against the person responsible for the violation.

(1) A written notice of assessment shall be mailed or hand delivered to the responsible person at the address listed in the county property tax records. Service of notice is complete by depositing the notice with the United States Postal Service, first class mail, postage prepaid, or by serving the notice by hand delivery.

(2) The penalty shall be due and payable to the town no later than 30 days after the notice of assessment has been served. Failure to pay the civil penalty or file an appeal within the 30 days of service of the notice assessment shall result in an additional penalty of \$50. The Finance Department may collect civil penalties in a civil action in the nature of a debt.

(C) The Town Attorney or his or her designee may apply to the appropriate court for an injunction and order of abatement which would require that a violator correct any unlawful condition relating to this chapter existing on the property.

(D) The Town Manager or his or her designee may hire a contractor to correct any condition existing upon real property in violation of any provisions of this chapter.

(1) The costs resulting therefrom, including the code enforcement division's administrative costs, may be assessed as a civil penalty in the manner outlined within this chapter, to the person responsible for the violation. The code enforcement division may pay the contractor for the services performed and send the contractor's original invoice to the Finance Department.

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(2) If the civil penalty is not paid, the Finance Department shall levy a lien against the property in the amount equal to the civil penalty. The Finance Department shall provide notice, by regular mail, to the property owner within five days of levying a lien on the property.

(3) The Finance Department shall be authorized to cancel any lien filed pursuant to this chapter that has been satisfied or was placed against the property in error. A property owner can challenge the filing of a lien by a written appeal to the Finance Department, within 60 days of the date the notice of lien filing was made by the Finance Department, indicating that a lien has been placed against the property.

§ 51.13 NOTICE OF VIOLATIONS AND CIVIL PENALTIES.

(A) Except as provided in subsection (C) of this section, the Town Manager or his or her designee shall notify the person responsible for a violation of any provision of this chapter and give the responsible person a specified time to correct the violation. If the violation is not corrected within the time specified, the Town Manager or his or her designee shall initiate enforcement proceedings as described in § [51.12](#).

(1) Civil penalty. A civil penalty in the amount of \$50 may be issued to any person in violation of this section, subsection of this entire chapter.

(B) Notice of a violation shall be given in writing and mailed or hand delivered to the address listed for the responsible person in the county property tax records. Service of any written notice is complete by hand delivering the notice or by depositing the notice in first class mail.

(C) *Exceptions.*

(1) No written notice will be given to persons placing solid waste and/or containers at curbside prior to the day preceding the scheduled curbside collection date or not removing solid waste and/or containers from curbside by midnight on the day of collection.

(2) No written notice will be given to persons placing bulky waste materials at curbside prior to the day preceding the scheduled curbside collection date or not removing bulky waste from curbside by midnight on the day of collection.

(3) No written notice will be given when the Town Manager or his or her designee has the authority to summarily remove, abate, or remedy a violation of this chapter.

(4) When a person has failed to comply with a notice of violation as described

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above, the code enforcement division shall not be required to provide further notices of violation to that person with regard to the same property before taking any of the enforcement actions authorized by § [51.12](#).

a. Public Hearing

Mayor Price opened the Public Hearing at 9:00 p.m.
Without comment from the floor, Mayor Price closed the hearing at 9:00 p.m.

b. Manager Comments

This will be the first time that the Town of Maggie Valley has collected solid waste fees on a monthly basis for garbage collection, recycling, brush and white goods pickup and now e-waste (electronics). A formalized set of internal policies are now in place for both residents and staff. If adopted the Ordinance 830 will replace Ordinance 481. As for the codified ordinances, this ordinance will be Chapter 50 Heading 51.

c. Board Discussion and Consideration of Ordinance 830

Council has discussed solid waste in depth over the past month. \$5 per month is lower than any other municipality in Haywood County. Maggie Valley has a good working relationship with the solid waste contractors (CWS) and the system in place works well most of the time. On “garbage day” Maggie Valley doesn’t look shabby with all kinds of debris laying alongside the roadways.

ALDERMAN BANKS MADE A MOTION TO ADOPT THE TOWN OF MAGGIE VALLEY SOLID WASTE ORDINANCE 830. MOTION CARRIED UNANIMOUSLY.

7) Town of Maggie Valley Elimination of Festival Fund Ordinance 831

As called for in the recently adopted FY 16-17 Budget, the Town of Maggie Valley Festival Fund (an underperforming enterprise fund) has been eliminated. The Festival Grounds will now be a department within the General Fund. This accounting move is in reaction to an October 2014 letter from the Local Government Commission expressing grave concern over the General Fund transfers to help subsidize the Festival Grounds. This concern will be immediately resolved by adopting Ordinance 831.

Ordinance 831

An Ordinance Amending the FY 2015/16 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 2015/16 is amended as follows:

Festival Fund – To Close Festival Fund				
	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Appropriated Fund Balance 06-00-3991	\$0.00	\$800,000	\$800,000

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Appropriations	Transfer to General Fund	\$0.00	\$800,000	\$800,000
	06-99-9810			

ALDERMAN EVELAND MADE A MOTION TO ACCEPT ORDINANCE 831. MOTION CARRIED UNANIMOUSLY.

8) Town of Maggie Valley Budget Amendment Ordinance 825 (Creekside Drive Road Project)

This budget amendment illustrates the general accounting practices used in the Creekside Drive Road Improvement Project and its subsequent Special Assessment.

Ordinance 825

An Ordinance Amending the FY 2015/16 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 2015/16 is amended as follows:

General Fund – Road Assessment				
	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	05-98-4591 Capital	\$14,181	\$105,120	\$119,301
	Outlay Road Paving			
	05-00-3920 Proceeds	\$286,500	\$292,403	\$578,903
	From Lease			
Appropriations	05-99-0003 Transfer	\$0	\$397,523	\$397,523
	General Fund Capital Project			

ALDERMAN EVELAND MADE A MOTION TO APPROVE ORDINANCE NUMBER 825. MOTION CARRIED UNANIMOUSLY.

9) Town of Maggie Valley Budget Amendment Ordinance 826 (Town Hall Board Room Renovation)

This budget amendment shows the accounting moves required to transfer monetary resources from appropriated fund balance to general fund to pay for the Boardroom Renovation project which is currently underway before the close of the FY 2015/2016.

Ordinance 826

An Ordinance Amending the FY 2015/16 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 2015/16 is amended as follows:

General Fund – Transfer funds to CIP – Board Room Renovations				
	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	Appropriated Fund Balance 05-00-3991	\$124,379	\$192,763	\$317,142
Appropriations	Transfer to General Fund Capital Project 05-99-3991	\$397,523	\$192,763	\$590,286

ALDERMAN DAVIS MADE A MOTION TO APPROVE ORDINANCE NUMBER 826. MOTION CARRIED UNANIMOUSLY.

10) Town of Maggie Valley Capital Project Ordinance 827 (Town Hall Board Room Renovation)

This ordinance creates a Capital Improvement Budget that reflects funds spent on the Town Hall Boardroom Renovation.

**ORDINANCE NO. 827
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED BY THE GOVERNING BOARD OF THE TOWN OF MAGGIE VALLEY, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is make renovations to board room and to be financed by Town funds.

Section 2. The officers of this unit are hereby directed to precede with the capital project within the terms grant documents, and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Construction Administration	\$ 1,400
Construction	\$148,200
Technology upgrades	\$ 15,000
HVAC upgrades	\$ 5,875
Administration	\$ 288
Seating enhancements	\$ 4,500
Contingency	\$ 17,500

Section 4. The following revenues are anticipated to be available to complete this project:

Town Funds	\$192,763
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Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and the federal regulations. The terms of the bond resolution also shall be met.

Section 6. Funds will be advanced from the General Fund for the purpose of making payments as due.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 9. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

ALDERMAN DAVIS MADE A MOTION TO APPROVE ORDINANCE NUMBER 827. MOTION CARRIED UNANIMOUSLY.

11) Approval of Town Attorney Contract for FY2016-2017

Van-Winkle Law Firm has not increased the attorney fees for FY 2016/2017. The flat fee is \$1,500 per month.

ALDERMAN BANKS MADE A MOTION TO APPROVE THE 2016/2017 CONTRACT FOR SERVICES WITH THE VAN WINKLE FIRM.

Alderman Banks added that Attorney Justus does an incredible job advising the board. Alderman Eveland concurred, adding that Attorney Justus has been instrumental in making the changes this Board has made. Alderman Davis went on to say that the Van Winkle Law Firm has a representation of being one of the most respected law firms in the southeast.

MOTION CARRIED UNANIMOUSLY.

12) Festival Grounds Event Approvals

- a. Southeast Mini Truckin' Nationals: April 21-23 2017
- b. Slingshot in the Smokies: May 30-June 6 2017
- c. 3 v 3 Soccer Shootout: August 6, 2016

ALDERMAN EVELAND MADE A MOTION TO APPROVE ALL THREE EVENTS. MOTION CARRIED UNANIMOUSLY.

Alderman Banks reminded Council that the Slingshot event is the first seven day event Maggie Valley has had.

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13) Non Powell Bill Request: Preserve at Jonathan Creek

The streets in the Preserve at Jonathan Creek Subdivision are private streets due to the roads being too steep in grade. The Town has a line item for Non-Powell Bill Streets to assist those homeowners at a 15% match of total cost. If the 15% match is approved, the Public Works Department will oversee the project to assure the road work is up to Town standards. The cost of the repairs will be \$1,515 and there is \$2400 remaining under that line item.

ALDERMAN EVELAND MADE A MOTION TO APPROVE THE 15% MATCH FOR STREET REPAIRS IN THE PRESERVES AT JONATHAN CREEK. MOTION CARRIED UNANIMOUSLY.

14) Parham Park Enhancement

The enhanced area with a bench will cost approximately \$4,800. If approved, those funds will be used from the FY 2015/2016 budget. Alderman Davis commented on how many people walk Moody Farm Road and use/enjoy Parham Park.

Ordinance 832

An Ordinance Amending the FY 2015/16 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 2015/16 is amended as follows:

General Fund – Parham Park Enhancements				
	<u>Description</u>	Previous	Increase (Decrease)	Amended
Revenues	2015 Ad Valorem Taxes 05-00-3224	\$1,449,828	\$4,800	\$1,454,628
Appropriations	Parham Park Enhancements 05-61-4243	\$ 0.00	\$4,800	\$4,800

ALDERMAN DAVIS MADE A MOTION TO APPROVE THE PARHAM PARK ENHANCEMENT PROJECT. MOTION CARRIED UNANIMOUSLY.

15) Other Business

The sewer flow during the Memorial Day weekend was up leading management to believe tourism was up throughout the valley.

Manager Clark informed Council that Mountain Projects would be having their annual event at the pavilion and will be incorporating Flag Day into their program to include a 21-gun salute.

This will be the last Board of Aldermen Meeting before the 4th of July celebration; Manager Clark encouraged everyone to come out for Maggie’s Backyard 4th of July Fireworks Show (over 1100 shells). The Maggie Valley Police Association will be selling soft drinks, hot dogs, and chips this year.

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At the July 11 Board of Aldermen meeting, Council will make an appointment to the Maggie Valley Tourism Development 1% Subcommittee. The Town will accept Applications for Nomination until July 1. The applicants are required to live within the 28751 zip code.

16) Department Head Reports

- a. Andrew Bowen, Town Planner
- b. Mike Mehaffey, Public Works Director
- c. Scott Sutton, Chief of Police
- d. Nathan Clark, Town Manager

Due to the late hour, Council decided the Department Head Reports were unnecessary at this meeting.

17) Adjournment

ALDERMAN EVELAND MADE A MOTION TO ADJOURN AT 9:16 P.M. MOTION CARRIED UNANIMOUSLY.

Mayor Saralyn Price

Vickie Best, CMC, Town Clerk

Please see attachments

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