Town of Waynesville, NC
Board of Aldermen – Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786
Date: **June 28, 2016** Time: **6:30 p.m.**

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A. CALL TO ORDER - *Mayor Gavin Brown*

1. Welcome/Calendar/Announcements

2. Adoption of Minutes

Motion: *To approve the minutes of the June 7, 2016 special called meeting and the minutes of the regular meeting on June 14, 2016, as presented [or as corrected].*

B. PUBLIC HEARING

3. Public Hearing to consider a resolution naming of a Town of Waynesville maintained road as "Wells Events Way"

Motion: *To approve a resolution naming a Town of Waynesville maintained road as "Wells Events Way", as presented.*

C. NEW BUSINESS

4. Street Closure Request – 12th Annual Boundary Street Block Party – Monday, July 4, 2016

Motion: *To approve the street closure of Boundary Street from Walnut Street to North Main on Monday, July 4, 2016 for the 12th Annual Boundary Street Block Party beginning at Noon until 9:00 p.m., as presented.*

5. Request Approval of Contract with CM-RED, LLC for Spillway Repairs at Waynesville Water Treatment property

Motion: *To authorize the Mayor and/or Town Manager to execute the contract with CM-RED, LLC for spillway repairs at the Waynesville Water Treatment property located at 341 Rocky Branch Road, as presented.*

6. Request Approval of Public Works Building Improvements Project Ordinance (O-03-16)

Motion: *To approve the Public Works Building Improvements Project Ordinance, as presented.*

D. **CALL FOR PUBLIC HEARING**

7. Call for Public Hearing to solicit input from the residents and property owners as to the needs of the Municipal Service District (MSD)

Motion: *To call for a public hearing to be held on Tuesday, July 12, 2016 at 6:30 p.m. or as soon thereafter as possible, in the Town Hall Board Room located at 9 South Main Street, Waynesville to consider and solicit input from the residents and property owners as to the needs of the Municipal Service District, as presented.*

Motion: *To extend the current "Service Agreement between the Town of Waynesville and the Downtown Waynesville Association, Inc." until July 31, 2016 or until such time a new contract or provider has been approved using the Municipal Service District bid process in accordance with NC General Statutes.*

Motion: *To authorize the Town Manager to solicit and accept proposals to administer the downtown Municipal Service District (MSD) for the Town of Waynesville*

E. CONTINUED BUSINESS

8. Consideration of a zoning text amendment of Chapter 4.6 of the Town Code regarding mobile food vendors as temporary uses

Two Motions Needed:

Motion: *To find that the subject Text Amendment is consistent with the 2020 Land Development Plan.*

Motion: *To amend Chapter 4.6 Temporary Uses to address Mobile Vending Units as presented (or as amended).*

F. COMMUNICATIONS FROM STAFF

9. Manager's Report – Interim Town Manager Mike Morgan

10. Attorney's Report – Town Attorney Woody Griffin

G. COMMUNICATIONS FROM THE MAYOR AND BOARD

11. Request approval of Mutual Agreement and Memorandum of Agreement for the West-Next Generation Network (WestNGN) – Alderman John Feichter

Motion: *To authorize the Mayor and/or Town Manager to execute the Mutal Agreement and Memorandum of Agreement with Land of Sky Regional Council for the West-Next Generation Network*

H. CALL ON THE AUDIENCE

I. ADJOURN

SPECIAL CALLED MEETING – THURSDAY, JULY 7, 2016 AT 4:00 P.M. AT THE MUNCIPAL BUILDING CONFERENCE ROOM FOR CLOSED SESSION FOR TOWN MANAGER CANDIDATE INTERVIEW

TOWN OF WAYNESVILLE

PO Box 100
16 South Main Street
Waynesville, NC 28786
Phone (828) 452-2491 • Fax (828) 456-2000
www.waynesvillenc.gov

CALENDAR
June 28, 2016

2016	
Mon, Jun 27 5:30 PM Location TBD	Haywood COG – Haywood County Hosting
Tue, Jun 28 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Fri, Jul 1 5:00 – 9:00 PM Downtown	Art After Dark – Waynesville Gallery Association
Mon, Jul 4	Independence Day Holiday Town Offices Closed
Mon, Jul 4 11:00 AM – 3:00 PM Downtown	Stars & Stripes Celebration – DWA
Thur, Jul 7 4:30 PM Municipal Building Conf Room	Board of Aldermen – Special Called Meeting for closed session to conduct an interview of Town Manager candidate
Fri, Jul 8 6:30 – 9:00 PM Historic Courthouse	Mountain Street Dance – DWA
Mon, Jul 11 10:00 AM Colonial Theater Annex	Press Conference – 110th Annual Labor Day Celebration Canton
Tue, Jul 12 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Thur, Jul 21 6:00 PM Maggie Valley	Folkmoot –VIP Gala Eagles Nest Entertainment Complex
Fri, Jul 22 6:30 – 9:00 PM Historic Courthouse	Mountain Street Dance – DWA
Fri, Jul 22 7:00 PM Stuart Auditorium - LJA	Folkmoot – Grand Opening
Sat, Jul 23 10:00 AM Main Street / Historic Courthouse	Folkmoot USA Parade of Nations Parade: Line-up at 9:30 AM from Blue Ridge Books/Academy Street

Tue, Jul 26 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Fri, Jul 29 6:30 PM Location TBD	Southwestern Commission Annual Dinner
Sat, Jul 30 10:00AM – 5:00 PM Main Street, Downtown	"Where the World Meets on Main Street" International Day Festival
Sun, Jul 31 10:00 AM Folkmoot Center	Folkmoot – Awards and Gifts Breakfast (Proclamations and gifts will be provided to participating groups)
Fri, Aug 5 5:00 – 9:00 PM Downtown	Art After Dark – Waynesville Gallery Association
Fri, Aug 5 6:30 – 9:00 PM Historic Courthouse	Mountain Street Dance – DWA
Sat, Aug 6 9:00 AM – 1:00 PM Courthouse Lawn	Sarge's Annual Downtown Dog Walk
Tue, Aug 9 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Mon, Aug 22 5:30 PM Location TBD	Haywood COG – Maggie Valley Hosting
Tue, Aug 23 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Fri, Aug 26 5:00 – 10:00 PM Main Street	Main Street Mile benefiting Shriner's Children's Hospital
Wed, Aug 31 6:00 PM Waynesville Inn Resort & Spa	Haywood Healthcare Foundation 2016 Annual Gala
Fri, Sep 2 5:00 – 9:00 PM Downtown	Art After Dark – Waynesville Gallery Association
Fr-Sa, Sep 2-3	47th Annual Smoky Mountain Folk Festival Lake Junaluska
Mon, Sep 5	Labor Day Holiday Town Offices Closed
Tue, Sep 13 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Sat, Sep 17 6:00 – 9:00 PM Downtown	Block Party - DWA
Mon, Sep 26 6:30 PM Location TBD	Southwestern Commission Board Meeting

Fri, Oct 7 5:00 – 9:00 PM Downtown	Art After Dark – Waynesville Gallery Association
Sat, Oct 8 10:00 AM – 5:00 PM Main Street, Downtown	33rd Annual Church Street Art & Craft Show
Tue, Oct 11 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Sat, Oct 15 10:00 AM – 5:00 PM Main Street, Downtown	28th Annual Apple Harvest Festival – Haywood Chamber of Commerce
Su-Tu, Oct 23-25	NCLM Annual Conference CityVision 2016 Raleigh, NC
Mon, Oct 24 5:30 PM Location TBD	Haywood COG – Waynesville Hosting
Tue, Oct 25 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Fri, Nov 4 5:00 – 9:00 PM Downtown	Art After Dark – Waynesville Gallery Association
Tue, Nov 8 6:30 AM – 7:30 PM All voting precincts	Election Day - General Election
Tue, Nov 8 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Fri, Nov 11	Veterans' Day Holiday Town Offices Closed
Th-Fr, Nov 24-25	Thanksgiving Holiday Town Offices Closed
Mon, Nov 28 6:30 PM Location TBD	Southwestern Commission Board Meeting
Fri, Dec 2 5:00 – 9:00 PM Downtown	Art After Dark – Waynesville Gallery Association
Fr-Mo, Dec 2-5	Holly Days Downtown – seasonal events downtown throughout the weekend
Mon, Dec 5 6:00 PM Main Street, Downtown	Waynesville Holiday Parade Line-up begins at 4:30 PM at Walnut and Main Parade begins at 6:00 PM
Sat, Dec 10 5:00 PM Fire Station #1	Waynesville Fire Department Annual Holiday Family Dinner (tent)
Sat, Dec 10 6:00 – 9:00 PM Main Street, Downtown	A Night Before Christmas / Bethlehem Market Place – DWA & First Baptist Church

Tue, Dec 13 6:30 PM Board Room, Town Hall	Board of Aldermen Regular Meeting
Fr-Tu, Dec 23, 26-27	Christmas Holiday Town Offices Closed
2017	
	New Year Holiday Town Offices Closed
	Martin Luther King Jr Holiday Town Offices Closed

Board and Commission Meetings – July 2016

ABC Board	ABC Office – 52 Dayco Drive	**July 19** 3rd Tuesdays 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	**July 5** 1st Tuesdays 5:30 PM
Downtown Waynesville Association	UCB Board Room – 165 North Main	**July 28** 4th Thursdays 12 Noon
Firefighters Relief Fund Board	Fire Station 1 – 1022 N. Main Street	**Meets as needed;** *No meeting currently scheduled*
Historic Preservation Commission	Town Hall – 9 S. Main Street	**July 6** 1st Wednesdays 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	**July 18** 3rd Mondays 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	**July 14** 2nd Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	**July 19** 3rd Wednesdays 5:30 PM
Waynesville Housing Authority	Waynesville Towers – 65 Church Street	**July 6** 1st Wednesdays 5:30 PM

BOARD/STAFF SCHEDULE

Th – Sa, Aug 4-6, 2016	Town Attorney	NC Association of Municipal Attorneys Summer Seminar Asheville, NC
Th – Sa, Aug 18-20, 2016	Admin Svc Dir & Deputy Clerk	NC Association of Municipal Clerks Summer Seminar Asheville, NC

Amie Owens

From:	Angie Schwab <angie@folkmoot.org>
Sent:	Tuesday, June 21, 2016 7:43 PM
To:	idove@haywoodnc.net; Amie Owens
Subject:	Official Folkmoot appearances for elected officials

Dear Amie and Ira -

Please notice the following summary of events for which we wish to host elected officials during Folkmoot. My hope is that your electeds will choose which events they are available for and maybe tag-team the schedule, so no one is over committed.

Thursday, July 21st, 9am - 9:30am - Director's Breakfast, 192 Church Street (drop in hello from the Commissioner's Chair and the Mayor, if possible)

Thursday, July 21st, Gala at the Eaglesnest, program starts at 6pm. - all elected officials will be acknowledged by the emcee.

Friday, July 22nd, Grand Opening, Lake Junaluska, Stuart Auditorium (welcome to audience and all elected officials will be acknowledged if in attendance - Need the Mayor or the Commissioner's Chair for short public address, 7pm - 7:30pm)

Saturday, July 23rd - Waynesville Parade of Nations, 10am (walk in the parade all electeds) / Photos with the groups on the courthouse steps will happen immediately as each group arrives at the courthouse. No public address at this event, just photos for the press, with each group and officials. photos from 10am - 12pm.

Sunday, July 31st - Awards and Gifts Breakfast at the Folkmoot Center, 10am - 11am (give and receive parting gifts with groups) All electeds are invited.

If the officials are interested in an opportunity to address any audiences, please let me know. I am operating under the impression that the photos are most important!

Ticket manager, Laura Shepherd will contact you and will take any requests for VIP tickets to any of the Folkmoot events!

Thanks! Your suggestions and feedback are welcome. Angie

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
SPECIAL CALLED MEETING
JUNE 7, 2016

THE WAYNESVILLE BOARD OF ALDERMEN held a special called meeting on Tuesday, June 7, 2016 at 6:30 p.m. in the Board Room of the Town Hall located at 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Gavin Brown called the meeting to order at 6:30 p.m. with the following members present:

Mayor Gavin Brown
Alderman Gary Caldwell
Alderman Jon Feichter
Alderman Julia Freeman
Alderman LeRoy Roberson

The following staff members were present:

Mike Morgan, Interim Town Manager
Amie Owens, Town Clerk
Eddie Caldwell, Finance Director
David Foster, Public Services Director
Joey Webb, Fire Chief

The following other individuals were present via conference call:

Mary Ann Enloe, the Mountaineer
Cory Vaillancourt, Smoky Mountain News

1. Welcome and Call to Order

Mayor Gavin Brown welcomed everyone to the meeting and thanked the Board and audience members for their attendance. He explained that the purpose of this meeting was to hold a public hearing on the proposed Fiscal Year 2016-2017 Budget.

2. Public Hearing – Proposed Fiscal Year 2016-2017 Budget

Interim Town Manager Mike Morgan and Finance Director Eddie Caldwell provided a presentation providing an overview of the budget for Fiscal Year 2016/2017. Manager Morgan

noted that the total budget across all funds was $29,748,270. This is a balanced budget in accordance state law for local governments.

Manager Morgan provided a summary of where the money goes by fund including:

General Fund	$14,561,140
Electric Fund	$ 9,342,560
Water Fund	$ 3,311,990
Sewer Fund	$ 2,532,580
Total	**$ 29,748,270**

Manager Morgan highlighted the biggest need met by this budget is the need for fire fighters. The proposed budget increases the number of fire fighters by 8 during the upcoming year. He explained that currently, there were 10 full-time fire fighters between the two fire stations which equivocates to one fire fighter on duty at all times. Manager Morgan noted that the additional 8 fire fighters would take the total to two fire fighters at each station at all times.

Manager Morgan reminded the Board that the total number of individuals that have to be on scene before entering an active fire is five. The need for additional fire fighters is to make it as safe as possible and to be able to protect the citizens and property values. He highlighted that the fire department protects close to $2 billion in properties. Manager Morgan did caution the board that the addition of the eight (8) fire fighters is not the total number needed, but that this is a good start. Manager Morgan explained that the proposed tax rate increase of $0.0475 was for the addition of fire fighters.

Manager Morgan continued noting that Water and Sewer rates are recommended to be increased by 5% in accordance with the town's rate study for small increase to keep up with capital projects and infrastructure needs.

Manager Morgan provided an illustration of what the proposed tax increase would look like for a home valued at $200,000. The increase would mean an extra $95.00 per year or $7.91 a month or $0.26 cents a day to double the number of fire fighters per shift.

Manager Morgan explained that there had been revenue losses based on legislation noting that in recent years, the North Carolina General Assembly has had a dramatic impact on cities from the loss of state shared revenues, loss of sweepstakes privilege license fees, loss of business privilege receipts, loss of sales tax revenue and loss the ability to annex. He noted added that municipalities have very limited means to raise additional revenues.

Alderman Feichter clarified that it was accurate to say that had the municipalities not been subject to the loss of such revenues this tax increase would not have been warranted. Finance Director Caldwell noted that the town is just now beginning to show revenues at the pre-2008 recession levels. Since 2008, nearly $300,000 from sweepstakes and business

privledge license taxes has been taken away and the Powell Bill funds for streets has steadily declined as it has been changed from formula driven (sales tax, milege and population) to an allocation by the General Assembly.

Manager Morgan added that unfortunately, this is what all municipalities are facing. Alderman Feichter asked if there was anything that the town could have done to prevent an increase. Both Manager Morgan and Finance Director Caldwell answered no. The departments have monitored budgets closely and have kept expenditures to a minimum. It was just an unfortunate repercussion from the economy and the legislative decisions.

Manager Morgan highlighted the transfers that are required to keep the use of fund balance in check. He noted that without these interfund transfers, the tax rate would have to rise $0.22 in order to balance the budget.

Manager Morgan provided the General Fund allocations by department budget noting:

General Fund Administration:

• Governing Body	$92,140
• Administration	$393,470
• Finance	$352,320
	$837,930

General Fund Public Safety

• Police Department	$4,554,160
• Police Grants	$ 80,000
• Fire Department	$1,766,900
	$6,401,060

General Fund Public Works

• Streets and Sanitation	$2,704,310
• Powell Bill	$ 339,000
• Cemetery	$ 190,230
	$3,233,540

General Fund Development

• Planning and Code Enforcement	**$ 599,240**

General Fund Recreation

• Parks and Recreation	$2,532,160
• Rec. Special Projects	$ 40,000
	$2,572,160

General Fund Special Appropriations (including Economic Development and Non-proft funding)

- Special Appropriations **$302,790**

General Fund Debt Service

- Debt Service **$613,420**

Manager Morgan added that some of the debt service will be rolling off in Fiscal Year 2018 including the parking deck and recreation center; however, there are some additional capital project needs which will come forward within the next few months.

Manager Morgan provided a summary of future considerations related to funding for fire protection and fire fighter needs. Using the most current fire district map, Fire Chief Joey Webb helped illustrate areas where the Town of Waynesville is providing protection, but is not receiving fire district tax revenue. The Board of County Commissioners sets the fire district tax rates and can increase them up to $0.10. What this would mean for a $200,000 home is $120 annually for fire protection.

Alderman Feichter inquired if it was possible to go to the county commissioners and ask for an increase. Mayor Brown noted that the Board of County Commissioners are under a technical requirements that they have to have notice by November 1 for a July 1 start for such a change. However, he noted that the existing fire protection rates that are part of the fee schedule could be increased at any time as it was a fee, not a tax.

Manager Morgan added that if the County was agreeable and the fire district issue could be resolved prior to the next fiscal year, the increase to $0.10 could bring in approximately $700,000 and allow for the addition of the needed fire fighters without another tax increase.

Alderman Feichter noted that he wholeheartedly agreed with the perspective of the fire fighters providing a core service and even if the Board voted to do something in the short term such as pull from fund balance; this is a long term issue. He added that no one likes to raise taxes, but sometimes it is necessary.

Manager Morgan explained that in 1995 the tax rate was 43 cents now, 21 years later, it would be 48.57. The tax rates have not really moved to meet the cost of service provision.

Town Attorney Woody Griffin called the public hearing to order at 7:02 p.m. asking that individuals who wished to speak should raise their hand and be recognized and approach the podium, give their name and address for the record and limit comments to three minutes.

Sharon Earley, Waynesville addressed the board noting that she understood what has been said about the need for fire fighters but argued that the city is bearing the brunt of the tax increase, specifically those in the Municipal Service District who are already paying additional

taxes. She added that the county should have made the appropriate adjustment to the fire districts so that there would not be reason to raise taxes in the Town.

Attorney Griffin asked if anyone else wished to address the board; no one else addressed the board. **Attorney Griffin closed the public hearing at 7:04 p.m.**

Mayor Brown commented that the Board would make their decision related to budget approval at the next meeting. He encouraged the board members to consider comments from this meeting. He asked the board members to share any thoughts about the budget.

Alderman Freeman explained that no one on the Board works with first responders more than she does and has the utmost respect for public safety professionals. She added that this issue has been brought up for five years and while she understands the need to have additional fire fighters, she is concerned about raising taxes. Alderman Freeman noted that other municipalities are not raising taxes.

Alderman Roberson shared his appreciation for the work that Manager Morgan and Finance Director Caldwell have done on the budget. He commented that no one likes a tax increase and that addressing the fire districts in the future would help, but there are still those receiving services for free which has lead to this deficit. Alderman Roberson noted that he too did not like to raise taxes, he did not see any way around it for the upcoming year.

Manager Morgan explained that when we started the budget process all of the management team decided that the fire department needs came first this cycle. Everyone agreed; even though there were other departments who were requesting additional manpower or equipment – it was the fire department's turn. Manager Morgan rephrased to state that the overall budget was not increased, other departments were letting things go.

Alderman Feichter inquired if the fire protection fee were raised from $4.00 to another level, would this make enough impact to decrease a certain amount of the tax. Manager Morgan explained that even doubling the fire protection fee to $8.00 would only be a $51,000 increase; not enough to offset any tax increase. Mayor Brown added that as a fee, the Town can raise the fee outside of the budget process.

Alderman Feichter recommended raising the current fire protect fee in an effort to help with some cost offset and to appeal to the Board of Commissioners regarding the fire district changes for the upcoming year.

Mayor Brown asked the Board if they were agreeable to updating the fee schedule to $8.00 for fire protection to make it more equitable. Members agreed by consensus.

Fire Chief Webb showed the Board on a map the areas that are currently provided with service, but do not pay little to nothing to the Town for such protection. There are seven areas where protection is provided but are not contiguous to the town limits.

Finance Director Caldwell explained that if the County were to define these fire districts, revenues from the outside areas could be generated. Mayor Brown added that the Town is not being critical of the County, but agreed that the fire districts needed to more properly reflect the coverage area and support the fire fighters protecting them.

Mayor Brown asked if there was any further discussion about the budget at this time. There being none, Mayor Brown thanked Alderman Feichter for attending Town Hall Day in Raleigh to represent Waynesville in the receipt of the Main Street Award from the NC Association of Planners.

Mayor Brown thanked Manager Morgan, Finance Director Caldwell and the staff who were in attendance at the meeting.

2. ADJOURN

There being no further business to discuss, Alderman Feichter made a motion, seconded by Alderman Caldwell to adjourn the meeting at 7:28 p.m. The motion carried unanimously.

ATTEST

_____

Gavin A. Brown, Mayor

_____

Michael J. Morgan, Interim Town Manager

_____

Amanda W. Owens, Town Clerk

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: June 28, 2016

SUBJECT: Public Hearing to consider the naming of a Town of Waynesville maintained street as "Wells Events Way."

AGENDA INFORMATION:

Agenda Location: Call for Public Hearing
Item Number: **3-B**
Department: Administrative Services
Contact: Amie Owens, Administrative Services Director
Presenter: Mike Morgan, Interim Town Manager

BRIEF SUMMARY: The Town of Waynesville has maintained a 109 foot road as part of its street system that is just off North Main Street. Historically, this has been known as Wells' Alley, but formal naming has not occurred. Since the opening of the Wells Event Center, there has been difficulty in differentiating the address of Wells Funeral Home located on North Main Street and the Wells Event Center. With the proper naming of this street, the Wells Event Center can work with the Haywood County Addressing Office to have a permanent address that will allow individuals to more accurately find the facility and for proper mail and package delivery.

As this road has been open to the public and maintained by the Town of Waynesville, the following ordinance applies:

Sec. 46-66. - Road naming procedures for public roads.
The planning officer, in consultation with the emergency operations coordinator, fire departments, the county addressing office, and any other office or agency it deems necessary, is authorized to recommend new road names and name changes to the board of aldermen of the town for public roads inside the corporate limits of the town. The board of aldermen shall not name or rename a public road until they have held a public hearing on the matter. At least ten days before the day of the hearing, the board of aldermen shall cause notice of the time, place and subject matter of the hearing to be prominently posted at the town hall and the county courthouse, and shall publish a notice of hearing in at least one newspaper of general circulation published in the county.

MOTION FOR CONSIDERATION: To approve the resolution naming a Town of Waynesville maintained road as Wells Events Way.

ATTACHMENTS:
Resolution

FUNDING SOURCE/IMPACT: N/A – the Town of Waynesville already maintains this road as part of the streets system.

MANAGER'S COMMENTS AND RECOMMENDATIONS: Recommend Approval

RESOLUTION
Renaming a Town of Waynesville Maintained Road As Wells Events Way

WHEREAS, a particular unnamed public roadway lies within the corporate limits of the Town of Waynesville; and

WHEREAS, the public roadway will provide access to the Wells Event Center and access to Wall Street from North Main Street; and

WHEREAS, the public roadway must be named to comply with Haywood County Emergency 9-1-1 requirements; and

WHEREAS, the Town of Waynesville Public Services Department has been maintaining the 109 foot road identified in Powell Bill records as Wells Alley; and

WHEREAS, the Haywood County Addressing Office finds no conflicts with the proposed name, "Wells Events Way;" and

WHEREAS, the Town's Development Services Office and Administrative Services Office, with the concurrence of the Haywood County Addressing Office, recommends naming said roadway "Wells Events Way."

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Waynesville that the unnamed public roadway, shall be renamed "Wells Events Way" and that a copy of this Resolution shall be forwarded to the Haywood County Addressing Office as proof of such action taken by the Town of Waynesville Board of Aldermen.

Adopted this the 28th Day of June, 2016.

ATTEST:

_____

Gavin A. Brown, Mayor

_____

Amanda W. Owens, Town Clerk

5201 Old Poole Rd.
Suite 100
Raleigh, NC 27603
www.CM-RED.com
919.706.0717

Company:	Town of Waynesville				
Address:	129 Legion Dr.				
City :	Waynesville	**State:**	NC	**Zip**	28786
Attn:	Preston Gregg				
Phone:	828.456.3706	**Email:**	pgregg@waynesvillenc.gov		

Project Name:	Town of Waynesvile, NC Reservoir - Concrete Spillway Repairs		
Project Location:	341 Rocky Branch Rd., Waynesville, NC 28786		
Bid Date:	6/13/16	**Prepared By:**	Mike Balint

Structural Engineer	Drye-McGlamery Engineering, PLLC
Drawings:	Town of Waynesvile, NC Reservoir - Concrete Spillway Repairs
Specifications:	Plan Notes
Addendums:	Rev 1 - Sealant Revision
Plans Dated:	4/19/16

Scope of Work:

CM-RED LLC proposes to provide all labor, equipment and materials for the following scope of work:

Spillway Repair

-CM Red to complete spillway repair per Rev1 Structural Drawings and revised bid documents issued on 5/24/16

- Price per attached bid tabulation

Clarifications:

-Repairs to be completed per bid document quantities. Any change in quantity will be notified in writing to client and pricing will be revised and agreed upon prior to any additional work being completed.

- Unit prices on bid sheet account for construction costs only. Any additional work requiring an extension of the schedule to will require additional "mobilization fee" which includes bonding, travel/hotel and per diem.
- All permits/fees required by town to be paid by client.
- CM Red reserves the right to determine work hours as varying temperatures may require night work for product installation.

Schedule

- Anticipated work schedule is approximately three months (90 days). This does not include any delays for RFI answers from EOR, unforeseen conditions, inclement weather, etc.
- Any change in schedule to be notified in writing by CM Red to client
- No liquidated damages are associated with this project.

Unforeseen Conditions

- Changes to the work not clearly specified in bid documents will be notified in writing to client within FIVE days of discovery
- Unforeseen conditions to be priced and cost impact approved by client prior to beginning any additional work OR client to approve work change in writing and billed at T&M rates

Changes to the Work

- Any changes to the work will be at CM Red cost plus 10% Overhead and 10% profit

- Cost determined by either estimate lump sum or T&M Rates.
- Labor burden rate is 30% of Labor cost.

T&M (Time and Materials) Rates - Changes

- Repair Technician - $30 per hour plus burden
- Foreman - $40 per hour plus burden
- Equipment rental, subcontractors, materials, per diem, hotel, travel etc. to be billed at CM Red invoice cost plus markup
- Bonding rate is 2.5%

Payment

- No retainage to be held on the project
- Monthly invoices to be submitted on 30th day of the month using AIA document.
- Payment is due within 14 days of an approved invoice

Warranty

CM Red to provide written warranty covering any defects in workmanship for a period of ONE year from date of substantial completion.

Exclusions:

CM RED, LLC excludes the following items and any other items not specifically listed in the above mentioned scope of work:

- Professional Engineer design
- Permits and fees
- Testing and inspections
- Access for concrete trucks

Pricing:

CM RED, LLC proposes the following pricing for the above mentioned scope of work :

Lump Sum	**$ 368,221.33**

Acceptance of Proposal:

By signing below you are acknowledging acceptance of the above mentioned scope of work, exclusions, specific provisions, general provisions and pricing as stated in this contract

CM RED, LLC	**Client**
Signature: Mike Balint	Signature: _____
Title: Partner	Title: _____
Date 6/17/16	Date _____

CM Red, LLC **5201 Old Pool Rd., Suite 100, Raleigh, NC 27610**

BID TABULATION

Company Name: ***ENTER CONTRACTOR NAME*** Project No.: HAYWO-004

Project Name: Town of Waynesville Reservoir Spillway Repairs

Location: Waynesville, NC

Engineer: Drye- McGlamery Engineering, PLLC

Bid Due Date: 5/31/16

BID QUANTITIES					Engineer's Estimate	BID
Ref #	Bid Item #	Item Description	Unit Price	UNIT		
1	1.001	Mobilization	$48,500.00	LS	1	$ 48,500.00
2	1.002	Ogee Vertical Face Repairs (Material and Labor)	$171.37	SF	110	$ 18,850.70
3	1.003	"R1" Surface Repairs (Material and Labor)	$30.07	SF	2148	$ 64,590.36
4	1.004	"R2" Surface Repairs (Material and Labor)	$33.12	SF	2750	$ 91,080.00
5	1.005	"R3" Surface Repairs (Material and Labor)	$40.00	SF	630	$ 25,200.00
6	1.006	"R4" Surface Repairs (Material and Labor not including Concrete)	$27.41	SF	1475	$ 40,429.75
7	1.007	4000 PSI Concrete)for "R4" Surface Repairs	$150.00	CY	19	$ 2,850.00
8	1.008	"D" (Same as "R1") Surface Repairs (Material and Labor)	$35.00	SF	20	$ 700.00
9	1.009	Concrete Surface Sealant (Material and Labor)	$1.23	SF	20000	$ 24,600.00
10	1.010	Handrail Baluster Caulking (Material and Labor)	$65.00	EA	90	$ 5,850.00
11	1.011	Handrail Baluster Spalling Repair (Material and Labor)	$396.52	EA	11	$ 4,361.72
12	1.012	Spillway Joints (Material and Labor)	$56.00	LF	468	$ 26,208.00
13	1.013	Reinforcing Steel Replacement (Material and Labor)	$1.67	LF	240	$ 400.80
14	1.014	Crack Repair (Material and Labor)	$36.00	LF	250	$ 9,000.00
15	1.015	Cove Sealant Replacement (Material and Labor)	$7.00	LF	800	$ 5,600.00
		TOTAL BID AMOUNT	$ 368,221.33			

Note: All quantities referenced are for estimating purposes only.

The Engineer reserves the right to make, at any time during the progress of work , such alterations in the plans or in the details of construction as may be found necessary or desirable (to include the addion or deletion of bid items). Under no circumstances will an alteration involve work

BID TABULATION

Company Name: ***ENTER CONTRACTOR NAME*** Project No.: HAYWO-004

Project Name: Town of Waynesville Reservoir Spillway Repairs

Location: Waynesville, NC

Engineer: Drye- McGlamery Engineering, PLLC

Bid Due Date: 5/31/16

BID QUANTITIES					Engineer's Estimate	BID
Ref #	Bid Item #	Item Description	Unit Price	UNIT		

beyond the termini of the proposed construction except as may be necessary to satisfactorily complete the project. Such alterations shall not invalidate the contract nor release the Surety, and the Contractor agrees to perform the work as altered at his contract unit or lump sum prices the same as if it had been a part of the original contract. An adjustment in the affected contract unit or lump sum prices due to alterations in the plans or details of construction that materially change the character of the work and the cost of performing the work will be made by the Engineer.

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
CM Red, LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☑ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ S
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any) _____
Exemption from FATCA reporting code (if any) _____
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
5201 Old Poole Rd. Suite 100

Requester's name and address (optional)

6 City, state, and ZIP code
Raleigh, NC 27610

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
☐☐☐ – ☐☐ – ☐☐☐☐

or

Employer identification number
4 7 – 2 2 3 6 8 0 7

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here | **Signature of U.S. person ▶** Chris Ford | **Date ▶** 6/15/16

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: June 28, 2016

SUBJECT: Public Works Building Improvements Project Ordinance

AGENDA INFORMATION:

Agenda Location: **New Business**
Item Number: **6-C**
Department: Public Facilities-Inside (Public Works/Public Services Building)
Contact: Eddie Caldwell, Finance Director / Michael Morgan Town Manager
Presenter: Michael Morgan Town Manager

BRIEF SUMMARY: The facilities and needs study performed in 2002 identified a number of areas where space and improvements were needed thought out the Town departments. The last remaining part of that study not acted upon is the Public Works Facility. In the budget of FY15-16, the board allowed the staff to include funds to design and prepare the plans for the Public Works Building Improvements. Currently, the town is in the process of bidding those improvements out and seeking the necessary approval for financing from the Local Government Commission. The construction bids are expected to be opened July 6, 2016.The financing request for proposals are expected to be sent out in July. The application to the Local Government Commission (LGC) is expected to be sent in August which should allow the LGC to approve in September. Part of this process is the estibishment of a capital project budget ordinance. The Public Works Building Improvements Project Ordinance is based on the most recent estimates by our design firm Drye-McGlamery Engineering and town staff.

The revenues to pay for the improvements are as follows:

Transfer form Water, Sewer, and the electric fund	$152,281
Transfer form Public Building Projects Fund	$247,719
Total transfers	$400,000
Proceeds fro Capital Lease	$1,265,000
Total revenues	$1,665,000

Expenditures

Engineering, professional services and financing costs	$ 124,750
Furniture and Equipment	$ 130,000
Construction	$1,268,080
Contingency	$ 142,170
Total Expenditures	$1,665,000

MOTION FOR CONSIDERATION: 1) To *approve the Public Works Building Improvements Project Budget Ordinance*

FUNDING SOURCE/IMPACT: .

ATTACHMENTS:

- Public Works Building Improvements Project Ordinance

MANAGER'S COMMENTS AND RECOMMENDATIONS: Approve as presented.

Ordinance No. O-03-06

Public Works Building Improvements Project Ordinance

WHEREAS, the Board of Aldermen of the Town of Waynesville wishes to establish a capital projects fund to account for the Public Works Building Improvements.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville that the following project ordinance is hereby adopted:

Section 1. The following sources of resources are anticipated to be available to complete this project:

Other financing Sources		
Transfer from the Water Fund	233900-493961	$ 50,760
Transfer from the Sewer Fund	233900-493962	50,760
Transfer from the Electric Fund	233900-493963	50,761
Transfer from the Public Building Projects Fund	233900-493941	247,719
Proceeds from Capital Lease	233900-493990	1,265,000
Total Revenues		$1,665,000

Section 2. The following amounts are appropriated for expenditures of this project:

Expenditures		
Engineering, professional services and financing costs	234260-521990	$ 124,750
Furniture and Equipment	234260-545500	130,000
Construction	234260-545900	1,268,080
Contingency	234260-596200	142,170
Total Appropriations		$1,665,000

Section 3. Funds may be advanced from the General Fund for the purpose of making payments due. Reimbursements requests should be made to the lender agency in an orderly and timely manner.

Section 4. The budget officer may approve transfers of appropriations, including transfers from the contingency, without prior approval of the Board of Aldermen. Any transfers of appropriation will be reported by the budget officer to the Board of Aldermen at their next regular meeting.

Section 5. This Fund will be abolished when all obligations to contractors and vendors are completed. Any resources remaining will be transferred to the General Fund.

Adopted this 28th day of June 2016.

Town of Waynesville

_____

Gavin A. Brown, Mayor

Attest:

_____

Amanda W. Owens, Town Clerk

Approved As To Form:

_____

Woodrow H. Griffin, Town Attorney

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTES 160A-20

WHEREAS, Waynesville desires to finance Public Works building improvements; and

WHEREAS, Waynesville desires to finance this project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, Findings of Fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its Findings of Fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED by the Town Aldermen of Waynesville, North Carolina, meeting in regular session on June 28, 2016, that the said Aldermen makes the following FINDINGS OF FACT:

1. The proposed contract is for the purpose of financing $1,300,000, the estimated cost of the project less $250,000 Town equity contribution.

2. The proposed contract is preferable to a bond issue because: 1) the total costs of the financing are not sufficient to warrant the expenses involved in a General Obligation Bond issue; 2) the proposed project is too expensive to be funded through current revenues and/or fund balance, thus the installment contract method of financing proves to be the best alternative for Waynesville; and 3) the desired term of financing is fifteen or twenty years, thereby making bonds a less desirable alternative.

3. The sum to fall due under the contract will be adequate and not excessive for the proposed purpose and the rate of interest will be approximately the same or lower than that of a general obligation bond issue, when considering total costs involved in a referendum, legal expenses, insurance etc.

4. Waynesville's debt management procedures and policies are acceptable. The Town adheres to its Budget Ordinance, has a history of timely debt obligation payments, and maintains an acceptable level of unappropriated fund balance. The Town Manager and Finance Director constantly monitor the Town's fiscal structure and periodically report the financial condition to the Town Aldermen.

5. Waynesville is not in default in meeting its debt service obligations.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Manager is hereby authorized to act on behalf of Waynesville in filing an application with the North Carolina Local Government Commission for approval of the Financing and other actions not inconsistent with this resolution.

BE IT FURTHER RESOLVED that a Public Hearing be held to hear public input on the financing of this project by the use of an installment financing contract as allowed for under N.C.G.S 160A-20 for the said financing on August 9, 2016 at 6:30 pm in the Aldermen Chambers of Town Hall in Waynesville, NC, and that the Clerk to the Board is hereby authorized and directed to cause to be published, a notice of the said meeting as by law required.

This Resolution is effective upon its adoption this 28th day of June, 2016.

The motion to adopt this resolution was made by Aldermen member_____, seconded by Aldermen member _____, and passed unanimously by the Town Aldermen of Waynesville, North Carolina.

_____

Mayor

_____

(Attest)

RFP Contacts

Louis Loyd
Stealthlt1@aol.com

Ms. Alison Peeler
BB&T
5130 Parkway Plaza Blvd
Charlotte, NC 28217-1964
704-954-1700
Fax 704-954-1799
apeeler@bbandt.com

Jeremy E. Fisher
VP, Relationship Manager
East Region
Government & Institutional Banking
Regions Bank
6805 Morrison Blvd., Suite 250
Charlotte, NC 28211
(O) 704.362.3590
(F) 704.770.3651
(C) 828-729-3105
jeremy.fisher@regions.com

Mr. Ross Sloan
TD Bank
200 College St
Asheville, NC 28801
828-243-2385
Fax 828-692-0774
Ross.sloan@td.com

Ms. Traci Wilson
HomeTrust Bank
PO Box 10
10 Woodfin Street
Asheville, NC 28802
828-254-8144
Fax 828-258-8503
Traci.wilson@hometrustbanking.com

Mr. Wes Wright
Vice President
SunTrust Bank
Commercial/Institutional & Government Banking
820 Executive Park
Asheville, NC 28801
828-225-7920
Fax 828-259-3106
Wes.wright@suntrust.com

Richard (Rick) T. Brown
Senior Vice President
Public Sector Banking
Bank of America, N.A.
3100 Tower Blvd., Suite 910
Durham, NC 27707
(O) 919-433-5641
(F) 919-433-5616
Email: rick.brown@baml.com

Ms. Anna Smathers
Vice President
First Citizens Bank
PO Box 2220
108 Patton Avenue
Asheville, NC 28802
828-257-5751
Fax 828-257-5735

Mr. Mark Stone
First Citizens Bank
PO Box 749
Hendersonville, NC 28793
Mark.stone@firstcitizens.com

Mr. Peter Skilton
Wells Fargo Bank
301 South College St / 5th Floor
Charlotte, NC 28202
Peter.skilton@wellsfargo.com

Ms. Joanne Hall
Bank of the Ozarks
1225 Gastonia Hwy
Bessemer City, NC 28016
(704) 629-3906
jjhall@bankozarks.com

Mr. Earl B. Searcy, III
Newbridge Bank
216 Collett St
Morganton, NC 28655
828-433-6825
earl.searcy@newbridgebank.com

Mr. Josh Owens
Entegra Bank
50 W Main St
Franklin, NC 28734
828-524-7000
jowens@entegrabank.com

Mr. Stewart Holmes, Sr. VP
Commercial Team Lead
First Tennessee Bank
2000 W. First Street, Suite 100
Winston-Salem, NC 27104
Phone: (336) 725-3147
Cell: (336) 918-5038
Fax: (336) 703-9784
sdholmes@firsttennessee.com

Mr. Timothy J. McKeon
U.S. Bank
461 Fifth Av – 15th floor
New York, NY 10017
917-256-2843
timothy.mckeon@usbank.com

Jim Graham, Sr. VP
Bank of North Carolina
3980 Premier Drive / Suite 210
High Point, NC 27265-8411
JGraham@bankofnc.com

Jacqueline Bretz
Vice President
Capital One Public Funding, LLC
7644 Fallsburg Rd
Newark, OH 43055
866.617.2337 office
631.457.9582 cell
866.617.2330 fax
jaci.bretz@capitalone.com

Mr. John Engel, Sr. VP
Carter Bank and Trust
1300 Kings Mountain Rd.
Martinsville, VA 24112
John.engel@carterbankandtrust.com

Mr. Marcus Smith
PNC Capital Markets
301 Fayetteville St
Raleigh, NC 27601
marcus.smith@pnc.com

Ms. Suzanne Burrows
Southern Bank
116 East Main Street
Mount Olive, NC 28365
suzanne.burrows@southernbank.com

Mr. Cord King
Raymond James Capital Funding
880 Carillon Parkway
St. Petersburg, FL 33716
Cord.king@raymondjames.com

Blair Swain
Pinnacle Public Finance, Inc.
8377 E. Hartford Drive, Suite 115
Scottsdale, AZ 85255
Ph: (480) 419-3634
Cell: (480) 619-9181
Bswain@ppf-inc.com

Changes to Municipal Service District (MSD) Authority

About the author

Kara Millonzi

Kara Millonzi is a School of Government faculty member.

This entry was posted on November 10th, 2015 and is filed under Downtown & Main Street, Financing Development.

In the state budget bill, **S.L. 2015-241**, the legislature made a few changes to municipal service district (MSD) authority. An MSD is a defined area within a municipality in which the unit's governing board levies an additional property tax in order to provide projects or extra services that benefit the properties in the district. (Counties have similar authority, referred to as county service districts.) A service district is not a separate government. It is simply a mechanism whereby a local government may raise money to pay for services or projects from those property owners that most directly benefit from the services or projects. (Click **here** for more information on MSDs.)

Under general law, a municipality may define one or more service districts for any of the following functions:

- Beach erosion control and flood and hurricane protection works
- Downtown revitalization projects
- Urban revitalization projects
- Transit-oriented development projects
- Drainage projects
- Sewage collection and disposal systems
- Off-street parking facilities
- Watershed improvement, drainage, and water resources development projects

(There are a few additional authorized purposes for certain municipalities. *See* **G.S. 160A-536**.)

The most common municipal service districts are established for downtown or urban area revitalization. A municipality may establish one or more downtown revitalization districts in its central downtown area. It may form an urban area revitalization district in an area that meets any one of these criteria: (1) it is the central business district of the municipality; (2) it consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or other significant employment-generating uses; (3) it is located in or along a major transportation corridor (with certain restrictions); or (4) it is centered or focused around a major concentration of public or institutional uses.

Downtown and urban area revitalization districts are commonly referred to as business improvement districts or BIDs. Establishing a BID allows a municipality to levy an additional property tax on real and personal properties within its central downtown, or other commercial area, to fund a variety of downtown projects and services, such as street and sidewalk improvements, promotional and marketing efforts, increased security, additional trash collection, and building façade improvements. (Click **here** for more information on BIDs.)

Section 15.16B of S.L. 2015-241 (state budget) imposes limitations on a municipal board's authority to levy an MSD tax for any of the authorized purposes. It also mandates that a municipality follow certain procedures before entering into a contract with a private entity to provide services within certain types of MSDs—namely those established for downtown or urban area revitalization. Finally, the new law designates a study commission to look at the feasibility of allowing property owners to opt out of an MSD.

New Tax Rate Limitations

Before establishing an MSD, a municipality's governing board must determine that the proposed district is in need of one or more of the authorized projects or services "to a demonstrably greater extent" than other areas in the municipality. **G.S. 160A-536(a)**. The board then must follow a statutory process to establish the district. (Click here for more information on the process requirements.) Generally, a new district must take effect at the beginning of a fiscal year. **G.S. 160A-537(d).**

After an MSD is established, the unit's governing board may levy an MSD tax each fiscal year against all taxable property in the district (real and personal). There is one exception—the personal property of public service corporations is exempted from the MSD tax.

Effective with the adoption of the FY2016-2017 annual budget ordinance, a municipal board is limited to setting a tax rate such that there is "no accumulation of excess funds beyond that necessary to meet current needs, fund long-range plans and goals, and maintain a reasonable fund balance." The new limitation does not prohibit a municipality from carrying over MSD tax proceeds from year-to-year, but it does force the municipal board to determine the specific needs of the district and be mindful not to set the MSD tax rate to high so as to produce excess revenue beyond what is estimated to meet the current and future needs of the district. The intent of the new provision is to limit a unit's ability to impose an MSD tax without a clear sense of the need or purpose for the tax proceeds.

New Contracting Rules

General Contracting Authority

Once a unit levies an MSD tax, it must "provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district." **G.S. 160A-540**. In addition to MSD tax proceeds (and in some cases in lieu of MSD tax proceeds) a unit may appropriate any other unrestricted revenues to the district to fund the services or projects undertaken in the district. **G.S. 160A-542**.

A municipality has broad authority to "provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof." **G.S. 160A-536(d)**. Any time a municipality enters into a contract to provide services, facilities, functions, or promotional and developmental activities in an MSD, whether it be with a management company or any other governmental or private entity, the contract must:

- specify the purposes for which municipal funds will be used; and
- require an appropriate accounting of the moneys paid out under the contract at the end of the fiscal year (or other appropriate period of time). *See* **G.S. 160A-536(d)**.

These requirements facilitate a municipal board's ability to engage in proper management and oversight over the expenditure of public funds by the contracting party.

Most units contract with outside entities for major construction projects in an MSD. And some units contract for the provision of certain services within an MSD. Larger municipalities, in particular, often utilize private organizations to manage their downtown or urban area revitalization districts (management companies). The management company serves as a liaison between the downtown property owners and the municipality. It works with the property owners in the district to identify needs, prioritize projects, and manage initiatives. It also may engage in branding and marketing efforts on the part of the downtown. And, in some instances, the management company raises private monies to fund downtown initiatives.

New Contracting Requirements for Downtown Revitalization and Urban Area Revitalization Districts

As of October 1, 2015, municipalities are subject to additional requirements when contracting with private entities to provide services, facilities, functions, or promotional and developmental activities in certain types of MSDs. The additional requirements only apply to contracts entered into with private entities relating to MSDs for downtown or urban area revitalization. (They also apply to the

few jurisdictions that have MSDs for certain projects in an historic district. *See* **G.S. 160A-536(a)(1a)**.) The apparent intent of the legislation was to target general service provision contracts with management companies.

Specifically, the new law amends G.S. 160A-536 to require that a municipality do all of the following before entering into a contract with the private entity to "provide services, facilities, functions, or promotional and developmental activities in a service district:"

Solicit input from the residents and property owners as to the needs of the service district. The statute leaves it up to the municipality to determine the best way to obtain meaningful input from both property owners and residents. A unit could hold one or more public hearings, but this process is not necessary and may not be sufficient in some cases. A unit might also conduct written surveys or hold focus group discussions with affected residents and property owners. In some municipalities, the governing board may be able to simply request comments from those who live or own property in the district. A unit may have to use different information gathering methods for property owners, who likely are more actively engaged in the district, than for residents.

Use a bid process to select the private entity that is contracting to provide services or undertake projects in the MSD. Generally, a local government must use an authorized bid process for purchase and construction and repair contracts over a certain dollar amount. (Click **here** for information on bid thresholds and requirements.) A local unit is not required to bid service contracts, though, unless the unit itself has an internal policy requiring it to do so. The new law now requires a municipality to use a bid process to select a private entity to provide services, facilities, functions, or promotional and developmental activities in a downtown or urban area revitalization MSD, regardless of the amount or nature of the contract. The requirement applies to new contracts and to renewals of existing contracts. Thus, if a municipality enters into yearly contracts with a management company, it will need to undertake a bid process each year to select the company.

What is a bid process? The new law states that the municipality "shall determine criteria for selection of the private agency and shall select a private agency in accordance with those criteria." I consulted with my colleagues, Norma Houston and Frayda Bluestein, who both have expertise in purchasing and contracting, and they concur that the law does not require that the municipality use one of the competitive bid processes prescribed by Article 8 of Chapter 143 of the General Statutes. A unit may use one of these processes, but it also free to create its own bid process.

The following sets out the basic process a unit should follow in creating and implementing the bid process (thanks to Norma for this framework!):

1. Identify criteria for selecting a private entity to perform the needed services in the downtown or urban area MSD. The unit's governing board is free to select whatever criteria it deems appropriate given the particular needs of the MSD. The unit likely should identify the criteria after obtaining input from residents and property owners about the needs of the district.
2. Publicize that unit is soliciting proposals from private entities to perform the specified services in the downtown or urban area MSD. The announcement or advertisement should specify the criteria that the unit will use to select the winning bid. (Formal bid advertising is not specifically required, but inherent in a bid process is some form of public notice that the unit is seeking proposals.) The unit likely will want to set a deadline for receiving proposals.

3. Evaluate the proposals received. The proposals must be judged based on the criteria established in Step 1 and publicized in Step 2.
4. Select the private entity whose proposal "is best suited to achieve the needs of the service district." This is a very broad standard of award. The unit may take into consideration cost, but it is not required to make its contract award decision on that basis. Instead, the unit must determine which entity satisfies the criteria specified in Step 1 and is best suited to meet the needs of the district.

Hold a public hearing before entering into the contract. The governing board must hold the public hearing in the district, and it must publish notice of the public hearing in a newspaper of general circulation for at least two consecutive weeks before the date of the public hearing. The exact timing of the hearing is unclear, though. It is possible that if the unit chooses to hold one or more public hearings to initially solicit input from residents and property owners that this specific "public hearing" requirement also will be satisfied. The statute lists the requirements separately, though. In fact, it lists the public hearing requirement after that for a bid process. It seems likely that the legislature intended for a unit to hold the public hearing after it has identified a contracting entity but before the contract is actually executed. If a unit holds the public hearing earlier in the process, it should, at a minimum, outline the basic contract parameters at or before the hearing.

Require the contracting entity to report annually to the municipality. The report must be in writing to the municipal board and must identify the "needs of the service district, completed projects, and pending projects" Before submitting the report; the contracting entity must seek input from property owners and residents in the district about the district's needs for the upcoming year. A municipality may request that the private entity document its efforts to obtain and consider this input.

Specify the scope of the services to be provided by the private entity in the contract. It will no longer be sufficient to enter into an open-ended management contract with a private entity. Instead, the unit must contract for the private entity to perform specific projects and services in the district. The municipal board must approve any amendments to the scope of the services.

Limit the contract to five years or less. A municipality may enter into a multi-year contract with a private entity to provide services or projects in a downtown or urban area MSD. The contract period may not exceed five years.

Legislative Study Commission

Section 15.16B of S.L. 2015-241 also directs the Legislative Research Commission to study the "feasibility of authorizing property owners within a municipal service district to petition for removal" from the district. The Commission must report its findings and recommendations to the 2016 Regular Session of the 2015 General Assembly. So stay tuned, there may be further modifications to the MSD statutes in the coming years.

Kara Millonzi (11 Posts)

Kara Millonzi is a School of Government faculty member.

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4 Responses to *Changes to Municipal Service District (MSD) Authority*

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- Analyzing the Benefits and Costs of Economic Development Projects
- Building Assets for the Rural Future: A Guide to Promising Asset-Building Programs
- Economic Development Handbook
- Economic Development Incentives & NC Local Governments (NC Law Review)
- Economic Development Law for NC Local Govts
- Housing Codes for Repair and Maintenance
- Inclusionary Zoning Guide
- Introduction to Local Government Finance, 2d Ed.
- Regulating Vacant or Abandoned Dwellings in North Carolina (Campbell Law Review)
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Town of Waynesville

Municipal Service District Private Agency Solicitation

Request for Proposals

Introduction

The Town of Waynesville is accepting proposals to administer the downtown Municipal Service District (MSD). The purpose of this Request for Proposals (RFP) is to provide a fair evaluation for all candidates and to provide the candidates with the evaluation criteria against which they will be chosen.

Project Description and Requested Services

The Town of Waynesville has a Municipal Service District (MSD) as an overlay of its downtown or part thereof. Pursuant to State of North Carolina General Statute 160A Article 23, the Town may collect an additional tax on property within this district with the proceeds being used exclusively on projects, programs and additional services within this district. The Town is therefore seeking a private or non-profit agency to enter into a contract to administer and manage the projects, programs and services within this MSD.

Subject to approval by Waynesville Board of Commissioners and subject to the availability of funding, the Town expects to negotiate a contract for services with the selected agency during the spring of 2016.

Proposal Guidelines and Requirements

This is an open and competitive process. Proposals received after 4:00pm, Thursday, July 14, 2016, will not be considered and will be returned unopened. The proposal must contain the signature of a duly authorized officer or agent of the agency submitting the proposal. Three (3) bound copies and one electronic copy (PDF format) of the Proposal shall be sent or hand delivered to:

Town Manager
Town of Waynesville
PO Box 100
Waynesville, NC 28786

Packages should be clearly marked as Response to Town Municipal Service District RFP.

Contact Information

Questions concerning this application process should be addressed to Waynesville Interim Town Manager at MMorgan@WaynesvilleNC.gov or AOwens@WaynesvilleNC.gov.

Scope of Work

The private or non-profit agency selected to administer the MSD shall be responsible for the following:

- Administer the City's/Town's Downtown Program (or Main Street Program if so designated)
- Develop and manage business retention and recruitment efforts downtown

- Establish partnerships with town staff, county staff, area non-profits and others as needed to advance downtown plans
- Work with property owners to identify development opportunities including upper floor use
- Work with the NC Main Street Program, financial institutions, town staff and others to identify additional funding opportunities for downtown development
- Oversee (or plan, manage, organize) downtown promotions
- Prepare and present to Board of Commissioners an annual report of needs of the service district, completed projects, and pending projects
- Carry out any other activities that may be determined during the contract negotiations between the city/town and the private/non-profit agency

The Town of Waynesville is a designated North Carolina Main Street community, the following requirements also shall apply:

- Participate in all services provided to the local community by the N.C. Main Street Center.
- Employ a full-time - 40 hours/week paid professional Main Street Manager as required, that is dedicated to downtown and that will coordinate and facilitate the work of the program. Communities with a population of 5,001- 9,999 MAY employ two or more persons that equal one or more full-time equivalent position(s), as long as one position is a designated manager. Communities with a population of 5,000 or less MAY employ a part-time - 20+ hours/week position paid professional Main Street Manager.
- Obtain a 501(c) 3, 4, or 6 nonprofit designation OR be designated as a department of the local municipal government.
- Establish broad-based support for the commercial district revitalization process, with strong support from both the public and private sectors.
- Establish and maintain an active Board of Directors and Committees using the Main Street Four-Point Approach® and develop a comprehensive Main Street Work Plan using the Main Street Four-Point Approach®.
- Establish an annual work plan/planning process for downtown.
- Adopt and exhibit a Historic Preservation Ethic and design management program.
- Demonstrate an established vision for downtown and a mission that defines the role of the organization that will manage the downtown initiative.
- Have the Main Street Manager attend New Main Street Manager Orientation, held each month in Raleigh, within three months of start date (if not previously attended).
- Have the Main Street Manager attend Main Street Basic Training each time there is a change in management (if not previously attended).
- Fund the local Main Street program through both public and private partnerships at a level allowing for full implementation of the program based on the Four-Point Approach® and the adopted annual work plan.
- Have the Main Street Manager attend Main Street Managers' Meetings held once a year in August.
- Have the Main Street Manager attend Two of Three Tri-annual Regional Meetings each year. (Held in January, July and October.)
- Have the Main Street Manager and a minimum of one volunteer attend the annual N.C. Main Street Conference - (NCMS provides each designated MS community with two complimentary registrations).

- Submit annual Statistical data in July and Budget & Salary information and Program Assessment Survey in January as requested to the NCMS Center.
- Maintain an annual membership with the National Main Street Center at a $350 designated level.
- Reimburse the NCMS Center's staff travel expenses when they are traveling to the local community at the IRS state rate plus meals at the state per diem rate and lodging.

Selection Criteria

Selection of a private/non-profit agency will be made after thorough review of the Proposal by the Town of Waynesville staff. Interviews of qualified applicants may be conducted if desired by the Town staff. The primary considerations for selection are:

1. The agency's recent experience, knowledge, and familiarity with downtown development generally and the Town of Waynesville specifically.
2. Qualifications to perform the work.
3. Past record of performance.
4. Ability and expertise of the agency's personnel.
5. Proposed approach to administering/managing the MSD.
6. Quality and completeness of the proposal.

This request does not create any obligation on the part of the Town to award any contract or to proceed with the project. In addition, the Town, if it determines it necessary to achieve the objectives of the Town of Waynesville, may waive requirements of the RFP, refine the criteria for selection of an agency, seek additional information from responders, and reject any or all proposals submitted.

Submission Requirements

Interested private/non-profit agencies shall submit the following information:

- A cover letter, signed by a manager or director in the agency, including his or her title that he or she has authority to submit the proposal on behalf of the agency;
- Agency's contact information;
- Narrative explaining the agency's qualifications for the project;
- Summary of the agency's recent experience in similar projects;
- Name and experience of key personnel;
- A description of the agency's organizational structure;
- Narrative explaining the proposed approach to completing the proposed scope of work;
- References: names and contact information of at least three people who can speak to the agency's qualifications to carry out this scope of work;
- Proposed budget for single year or if a multi-year contract will be requested, proposed budgets for multiple years.

Contract Terms

The Town of Waynesville will negotiate contract terms upon selection. All contracts are subject to review by Town of Waynesville legal counsel, and a project will be awarded upon signing of an agreement or contract, which outlines terms, scope, budget and other necessary items.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 24, 2016

SUBJECT: Public Hearing to consider a text amendment initiated by the Town of Waynesville Planning Board to Board to expand Chapter 4.6 Temporary Uses to clarify and allow more flexibility in permitting Mobile Food vendors within the Town of Waynesville.

AGENDA INFORMATION:

Agenda Location: **New Business**
Item Number: **5-D**
Department: Development Services
Contact: Elizabeth Teague, Development Services Director
Presenter: Elizabeth Teague, Development Services Director

BRIEF SUMMARY: The Town has seen increased interest in mobile food vendors and there is a need to ensure that mobile vendors operating within Town limits are compliant with health department requirements and with the permission of property owners, or at the invitation of nearby businesses who have requested this use in an identified public space. Also it is important that mobile food vendors are located in a manner that allows workers access to bathrooms and that assures compliance with applicable building and fire safety codes. In the course of this discussion, two individual cases influenced the Planning Board recommendations. The first was a request for a hot dog stand on Main Street, and the Board determined that use of public space or sidewalk within the downtown services district (and supported by DWA) was not appropriate, but that use of public space could be appropriate in other parts of Town. The second was a request by Glenna Young of Ma's Food Kitchen, to allow a mobile food trailer to be permanently placed on the Mad Anthony's lot on a permanent basis. The Planning Board felt like this could be accommodated but with the condition that the mobile vending unit was on the same private property as its commissary and that it was kept in good condition. Staff recommends that additional language be added to treat mobile units allowed to stay permanently, with similar regulations as an accessory building.

MOTION FOR CONSIDERATION:

1. Motion to find that the subject Text Amendment is consistent with the 2020 Land Development Plan.

2. Motion to amend Chapter 4.6 Temporary Uses to address Mobile Vending Units as presented (or as amended).

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

1. Planning Board Minutes and Staff Report
2. Draft Ordinance

MANAGER'S COMMENTS AND RECOMMENDATIONS: Recommend approval per Planning Board Recommendations.

Planning Board Staff Report
Consideration for initiation of a text amendment to the town's Temporary Use regulations concerning mobile food vendors
May 24, 2016

Agenda Item: Text Amendment Request of the Planning Board to expand Chapter 4.6 Temporary Uses to allow Mobile Food vendors.

Background:

The Town staff currently managed mobile vending units in the same way we do other temporary vendors, following Chapter 4.6 Temporary Uses. This proposed ordinance expands that Chapter to address mobile food vendors specifically and in a way that is in cooperation with our County Health Department and local businesses and property owners. The recommended text amendment is based on Planning Board comments, staff's opinions, inputs from the public and an alternate text amendment request submitted by hand at the March Planning Board meeting by David Young of Mad Anthony's.

The Town already has a successful record of having mobile food vendors as part of special events and festivals. This ordinance does not cover those temporary uses associated with special events, but rather grants an exemption for them. The thinking is that the organizer (such as DWA, Folkmoot, or the library as examples) is responsible for who they invite and allow to participate. This ordinance is not intended to change how special events are managed or to create a new permitting process for mobile food vendors that are already part of a special event permit.

Instead, this ordinance addresses those food vendors that are not associated with events and are operating independently for extended periods of time, particularly those that are in the same location longer than 21 days and considered temporary by the State. The goals of these proposed regulations are to ensure that mobile vendors operating within Town limits:

- are compliant with health department requirements and are duly permitted,
- do not disrupt the character of any zoning district or diminish the appeal of any neighborhood,
- are present within the Town at the permission of property owners, or at the invitation of nearby businesses who have requested this use in an identified public space, and
- that they do not create trash, a hazard for traffic, or other safety issue to the public or to the workers that staff them.

Mobile vending units are regulated by Section 15A NCAC 18A of the North Carolina Administrative Code. There are specific requirements for pushcarts (Section .2671) and specific requirements for mobile food units (Section .2672), and any pushcart or food truck or food trailer that are regulated by the Health Department as mobile units must have approved "commissaries" to provide servicing areas and support for that unit and are defined by the State of North Carolina (15A NCAC 18A.2651 Definitions, excerpts):

"Commissary means a food establishment that services a mobile food unit or pushcart."

"Food establishment is an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location and where consumption is on or off premises."

"Mobile Food unit means a food establishment or pushcart designed to be readily moved and vend food."

"Pushcart means a mobile piece of equipment or vehicle used to vend food."

"Temporary food establishment means a food establishment that operates for a period of time not to exceed 21 days in one location, affiliated with and endorsed by a transitory fair, carnival, circus, festival, or public exhibition."

A food truck or trailer is further licensed by the NCDMV as a vehicle or trailer for roadway travel and commercial use.

Consistency with 2020 Land Development Plan:

The 2020 Development Plan provides an economic vitality goal to "strengthen a broad-based economy in Waynesville comprised of vibrant and expanding manufacturing, retail, agricultural, services, governmental and construction services" (4-19). Creating opportunities for food service that can support existing commercial properties and efforts, and enhance business districts, can certainly be considered supportive of that goal. At the same time, the Town Plan also provides a land use goal to "promote orderly growth, development and enhanced land values by preserving and improving Waynesville's existing neighborhoods, creating more attractive commercial centers, maintaining a strong downtown area, taking steps to reduce urban sprawl and protecting the natural beauty of the community" (4-2).

The Plan called for the Town to "provide design guidelines to control development in appropriate areas and incorporate design criteria into the Town's development ordinances" (4-6). The Town has implemented such design guidelines and worked with local property and business owners to promote attractive commercial areas and to protect community character successfully. Therefore regulation of how and where food vendors can set up and how the area is maintained (litter control, signage, smell, noise, traffic and parking, safety, look) are also important. Mobile food vendors, whether in the form of a food truck, trailer or cart should enhance the local business economy and be suitable to its surroundings, and should not detract or create a negative impact.

As long as the Town can manage these types of uses with balance for positive economic impact, safety and sensitivity to a location's surroundings, then the accommodation of mobile food vendors as temporary uses is consistent with the 2020 Plan.

Staff Recommendation:

Mobile vendors can add diversity and interest to commercial areas as well as convenience, and service to nearby business. Therefore expanding the Temporary Use Chapter to allow them to operate for extended periods of time makes sense, as long as they are there at the invitation of the underlying property owners and are not detrimental to other existing businesses.

As proposed to the Planning Board in March, the ordinance accommodated all of the food vendors that the Town has already permitted except for Ma's Kitchen at Mad Anthony's, in that they wanted to be allowed to operate their mobile food unit on an on-going basis, without time limit, on the Mad Anthony's property. At the April meeting, the owners of Mad Anthony's and Ma's kitchen asked that paragraph D3 be added to the proposed ordinance to allow them to maintain a mobile food trailer on the Mad Anthony's property on a permanent basis and the Planning Board supported their request. Their goal is to provide food service to their customers without having to build a permanent commercial kitchen.

This raised the question for staff as to when something that was "mobile" became permanent under the Town's building codes or zoning ordinance, and the accompanying design guidelines, landscaping, setbacks, parking and other regulations that are part of developing permanent structures. In seeking clarification on how to manage this request under building codes from the NC Department of Insurance, staff was informed by Chief Building Code Consultant Mike Hamm, P.E. of the Manufactures Building Division that:

> "There are no HUD or Modular Building Codes that regulate Mobile Food Units or Mobile Kitchens. These units would be regulated by the NCDMV and the local Health Department. The Manufactured Building division would only be involved if an approved modular manufacturer built a permanent structure for use as a modular food or kitchen unit that was 3rd party inspected in the manufacturing plant and labeled with a NC modular validating stamp. An existing mobile food or kitchen unit that is converted to a permanent structure would be regulated by the NC Building Codes subject to local inspection and approval." (April 8, 2016).

The placement of a food truck or trailer permanently at a location would require that the truck or trailer be converted into a permanent structure, and this could happen with some creative engineering and structural enhancements that bring it into compliance with Health Department requirements and state building codes. In that case, the resulting structure would also have to comply with all of the Town development regulations as much as any building or addition would, including setbacks, landscaping, signage, and other rules that may apply. They would also have to be de-licensed from the NCDMV.

Mobile food units and pushcarts are fabricated and regulated to be mobile. They are not designed or built to be permanent and do not comply with state and local building and safety codes as permanent structures. Staff therefore believes that we can not consider them as anything other than temporary uses under our ordinances and must be able to be "readily moved" or, if desired to be permanent than they must convert to a permanent structure and comply with building and zoning codes.

If a mobile unit is to become a permanent feature on a location by default -- administratively allowing a temporary permit to be renewed again and again or to simply do-away with a time constraint -- then there has to be some requirements in place that bring the unit into the same rules as permanent structures . A mobile food unit must be physically moved periodically or should be required to comply with building, zoning, floodplain and other codes that may apply at any given location. I would also be concerned with allowing food trucks to operate on extended time frames that are much longer than other temporary uses, raising questions of both precedence and equity.

Mobile vending units can enrich the Town by allowing them the full extent of the existing temporary use period and to operate at the invitation of the underlying property owner (private or public) outside of special events. Staff recommends the attached ordinance be considered for adoption to the Town Board of Aldermen. As zoning and building code officials, we are uncomfortable with paragraph D3 and would recommend striking this from the ordinance, but will work with it in its proposed form if so directed.

Requested Actions:

1. Motion to find/not find the attached text amendment consistent with the 2020 Land Development Plan.

2. Motion to recommend to the Board of Aldermen approval of the draft text amendment as presented (or amended).

Text Amendment to Replace Chapter 4.6 Temporary Uses with amended language (in italics) as follows:

4.6 - Temporary Uses.

4.6.1 General Standards/Permits Requirement.

A. All permitted temporary uses listed in this section require a temporary use permit that shall be reviewed and issued by the Administrator.

B. Temporary use permits shall be issued for no more than one hundred and eighty (180) days within a calendar year on any individual lot *unless otherwise specified within this section.*

C. ~~*Reserved.*~~ *Exemptions. Temporary uses associated with special events approved by the Town Manager, seasonal farmer's markets approved by the Town Manager and produce stands in conjunction with crop production.*

D. The property on which a temporary use is proposed must contain sufficient space to support the temporary use.

E. No temporary use shall be located closer than ~~*two hundred (200)*~~ *fifty (50)* feet to a dwelling unit. Yard sales are excluded from this requirement.

F. Parking must be adequate to support the proposed temporary use.

G. Restroom facilities, if needed, must be provided.

H. Plans for security and safety must be provided.

I. All associated approvals inspections and permits required by the building code, fire marshal, *county health department or Town Manager* must be received prior to issuance of the temporary permit.

J. Temporary uses must manage waste, trash, recycling or other debris created by the use.

4.6.2 Temporary Uses Allowed in All Districts.

A. Permitted Temporary Uses: Civic/cultural events, and yard sales are allowed in all Districts.

B. Time Limit: Civic/cultural events - thirty (30) days; yard sales - four (4) days.

4.6.3 Temporary Uses Allowed in ~~*All*~~ Nonresidential Districts.

A. ~~*Permitted Temporary Uses*~~: Permitted Temporary uses allowed in all Districts except for the residential districts include: circuses, carnivals, fairs, religious services and similar types of events; the sale of agricultural products including Christmas trees; and tent sales.

B. Time Limit: Such events shall be allowed for no more than thirty (30) days *but may be renewed by the Administrator*.

4.6.4 Temporary Uses with Specific Requirements.

A. Contractor's Office and Equipment/Storage Sheds.

1. Contractor's office and/or equipment/storage sheds may be placed in any District temporarily on the site of construction of a development for which a certificate of land development standards compliance has been issued.

2. Time Limit: Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one (1) year as and if approved by the Administrator.
All temporary construction buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of a certificate of occupancy or completion of the project, whichever comes first.

B. Real Estate Office in a Construction Trailer or Temporary Modular Unit.

1. One (1) temporary structure, such as a construction trailer or temporary modular unit may be used as a real estate sales office in any new construction project in any District. Such a temporary structure shall be used for the sale of units within that project only.

2. Time Limit: Temporary real estate offices in construction trailers or temporary modular units may remain on the site for no more than one (1) year or until one-half (½) of the units for the project are completed, whichever occurs first.

C. Real Estate Office in a Model Home: A model dwelling may be used as a real estate sales office in a new residential development in any District. Such a model home/sales office may be used for the sale of units within that project only.

D. Mobile Food Vendors

1. Mobile food vendor, including food trucks, trailers and pushcarts may be placed in any commercial-industrial, regional center or business district. A permit is only valid for one location. Vendors wanting to serve at multiple locations need individual permits for each site. It shall be unlawful for any vendor to sell or offer to for sale any food or beverage without first obtaining a permit pursuant to this section.

2. Time Limit: Such uses shall be allowed for 90 days and may be renewed by the Administrator on a one time basis for up to one hundred and eighty (180) days on any specific site. Allowable days do not have to be contiguous if an alternate schedule is approved by the Administrator and accompanies the permit. Special events do not count toward this limit.

3. A mobile food unit operating on the private property of its commissary shall be exempt from the time limit, provided that the mobile food unit is kept in good repair at all times,

in the rear or side yard of the property, and does not exceed the allowable signage for the business on the lot (staff recommendation in red).

4. *A mobile Food Vendor must present written documentation of the property owners' permission and a copy of its Health Department Permit at the time of application.*

5. *Permission to utilize public parking or sidewalk areas must be approved by the Town Manager and at the request of a sponsoring business owner adjacent to the proposed location. Within the Main Street Public Services District, vendors are permitted on private property only. The Town may require a lease agreement and fees in certain cases.*

6. *No mobile food vendor shall:*

    a) *Leave a mobile food unit or pushcart unattended, or store, park or leave a mobile food unit or pushcart overnight within any public right-of-way or public property.*

    b) *Leave any location without removing and disposing of all trash or refuse.*

    c) *Pour waste products (including hot water or drainage from coolers) down a storm drain.*

    d) *Operate within 50' of an existing restaurant during the restaurant's business hours.*

3. *Property owners or sponsoring adjacent businesses must make their restroom facility available for mobile food vendor staff.*

4. *All food service operations must obtain an approved mobile food service permit from the Haywood County Health Department or concurrence from the Haywood County Health Department that the vendor has met the equivalent requirements from another county. Permits must be posted on the mobile food vendor vehicle so that they are visible to the public.*

6. *Signage associated with mobile food vendors must abide by the sign regulations as specified in ordinance 11.5.14(H), and shall not be lit or have more than one (1) sign per street frontage. Vehicular signs do not count toward this limit.*

8. *Exhaust outlets shall be located not less than 10 feet from any structure or building.*

17.33 – Definitions, Use Type.

Mobile Food Vendor. *A mobile food vendor is a person or organization that sells food out of a portable vehicle, cart, or trailer. Examples include food trucks, food trailers and food pushcarts.*

Adjustment to the Town Fee Schedule:

Temporary Use Permits	*$50 application fee*

TOWN OF WAYNESVILLE
Planning Board

9 South Main Street
Waynesville, NC 28786
Phone (828) 456-8647 • Fax (828) 452-1492
www.waynesvillenc.gov

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Phillip Gibbs
H.P. Dykes, Jr.
Shell Isenberg
L. Brooks Hale

Development Services Director
Elizabeth Teague

MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD
Regular Meeting
Town Hall – 9 South Main St., Waynesville, NC 28786
April 18, 2016

THE WAYNESVILLE PLANNING BOARD held a regular meeting on April 18, 2016 at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

1. Welcome/Calendar/Announcements

Chairman Patrick McDowell welcomed everyone and called the meeting to order at 5:30 p.m.

The following members were present:
- Danny Wingate
- Bucky Dykes
- Anthony Sutton
- Phillip Gibbs
- Marty Prevost
- Shell Isenberg
- Robert Herrmann
- Patrick McDowell
- Brooks Hale

The following staff members were present:
- Elizabeth Teague, Development Services Director
- Eddie Ward, Deputy Town Clerk
- Tom Maguire, Senior Code Enforcement Official
- Ron Sneed, Attorney to the Planning Board

2. Adoption of Minutes

A motion was made by Board Member Robert Herrmann, seconded by Board Member Danny Wingate, to approve the minutes of the March 21, 2016 regular meeting as presented. The motion passed unanimously.

B. OLD BUSINESS

1. Discussion and feedback on Community Meeting regarding land use along Howell Mill Road Corridor

Ms. Elizabeth Teague, Development Services Director, said several members of the Board had attended the Community Meeting regarding land use along Howell Mill Road Corridor. She wanted to give them an opportunity to discuss and give feedback from that meeting.

Chairman McDowell said he was pleased that there had been a good turnout from the community for the meeting. He said there were strong sentiments from residents about keeping the zoning the same, and concerns about traffic problems. There were also good comments about what they would like to see in the future, and how to maintain the rural feel of the area. Chairman McDowell thanked the staff for a well run meeting.

2. Continuation of Public Hearing to consider zoning map amendment requests for 333 Howell Mill Road, 11 Palmer Hill Road and an unnamed lot on Calhoun Road to be rezoned from Howell Mill Medium Density Residential to Russ Avenue Regional Center Commercial.

Chairman McDowell asked for a motion to resume the Public Hearing from the March 21, 2016 Planning Board meeting.

A motion was made by Board Member Danny Wingate, seconded by Board Member Robert Herrmann, to resume the Public Hearing from March 21, 2016 concerning consideration of zoning map amendment requests for 333 Howell Mill Road, 11 Palmer Hill Road, and an unnamed lot on Calhoun Road to be rezoned from Howell Mill Medium Density Residential to Russ Avenue Regional Center Commercial. The motion passed unanimously.

Ms. Teague stated that after the initial Planning Board Meeting on March 21, 2016, the Tim Shook family, the Tom Moody family, and Ms. Roumalda Mcrorie said they would be open to looking towards a more residentially focused zoning, Urban Residential District, rather than the Russ Avenue Regional Center Commercial. The Urban Residential District is primarily residential but allows more dense residential development. Currently there are two designated Urban Residential Districts in The Town of Waynesville, East Waynesville Urban Residential District (EW-UR), and Hazelwood Urban Residential District (H-UR). Urban Residential allows multi-family developments, bed and breakfasts, adult and child day care, professional services, general commercial less than 100,000 square feet (Hazelwood UR only), cultural and community facility, recreation facility, riding stables, and cemetery. She told the Board that the Hazelwood Urban Residential District does allow small retail under a hundred thousand square feet, whereas the East Waynesville Urban Residential District does

not. She asked for the Board's input as to whether retail is something that might be considered as being appropriate for this district.

The area of Howell Mill Road is convenient to Town and to the Town's recreation Center. A zoning designation of Urban Residential would maintain the residential character of the area but would allow for increased density to take advantage of the area's convenience and pedestrian amenities that are now available as part of the corridor. This could help promote residential development which is walkable to shopping and would connect a sidewalk that leads to the Recreation Center. Ms. Teague said staff felt this district would be consistent with the 2020 Land Use Plan. At the community meeting, several citizens pointed out that the rural and residential nature of the area was identified in the Town's Comprehensive Plan. Also it was abundantly clear that while the upgrade of the roadway will promote increased traffic and development pressure, the overall feeling of the citizens is to maintain the residential nature of the area.

The purpose of this request is to allow the property owners to more easily sell their property given the industrial and commercial structures that are next to them on two sides. The proposed area for rezoning is adjacent to the recently expanded Ingles, and across the road is the DC Plus LLC Packaging warehouse. With these properties, Ms. Teague suggested an Urban Residential Zoning to allow professional offices such as healthcare and business services which can be developed at a residential scale style with only 1 – 2 stories. This would allow greater flexibility while maintaining the residential scale and character of the area.

Ms. Teague brought the Board's attention to a written verification from Mr. Tim Shook and Mr. Thomas Moody that they are agreeable to amending their initial request for consideration to Urban Residential. Also a hand written letter was received from Ms. Mcrorie requesting to amend her request to Urban Residential as well.

Requested Actions:

1. Motion to find/not find the request consistent with the 2020 Land Development Plan by meeting the needs of the residential needs of the community and promoting infill and improving an existing neighborhood area.

2. Motion to recommend approval of the applicants' request for rezoning the property at Howell Mill, Calhoun, and Palmer Hill to (Russ Avenue Regional Center District or) to (Urban Residential District).

Chairman McDowell asked if any of the applicants would like to speak.

Tim Shook
333 Howell Mill Road
Waynesville, NC 28786

Mr. Shook thanked the Board for the opportunity to be able to speak to them about his property and he gave a brief history of his family and property. He stated the property had been zoned commercial in 1993 when his parents owned the property. After he inherited the property, he tried to sell the property several different times. During this time Mr. Shook only had inquiries about purchasing his property as commercial, not residential. He would like to sell for the best use, and for the highest value of the land. Mr. Shook stated that each realtor he had dealt with had advised him that the property needed to be zoned commercial.

Thomas Moody
248 Fairway Hills Dr.
Waynesville, NC 28786

Mr. Moody stated he and Mr. Shook are in a situation where in the past they would not have wanted their property to be zoned commercial any more than anyone else, but things change, and that change has been beyond their control. He said everyone has to adapt to change. Mr. Moody said his property has been on the market as residential for eight years with no success. He asked the Board for their help in granting rezoning of his property so it can be sold.

Pat Shook
333 Howell Mill Road
Waynesville, NC 28786

Ms. Shook gave a brief history of living at the address of 333 Howell Mill Road. She stated that when her in-laws owned the property, no one asked them if they objected to Sonoco or Ingles locating their commercial businesses adjacent and across from their property. She gave many examples of how their property could be used for the Town's benefit if the Board approves the request, and the property is sold.

With no further applicants wishing to speak, Chairman McDowell opened the Public hearing to supporting witnesses.

Karen Hollingsed (Beverly Hanks)
74 North Main Street
Waynesville, NC 28786

Ms. Hollingsed stated she was the real estate agent working with Mr. and Mrs. Shook. She stated the only call she had received about the Shook property was concerning commercial purposes. Being zoned as residential will be very difficult to find a buyer because there are no buffers between the Shook property and Sonoco, Ingles, or the Town's sub station. Ms. Hollingsed said she also represents Ms. Mcrorie with the exclusive right to sell her property. She encouraged the Board to grant the rezoning request.

John Keith (Beverly Hanks)
94 North Main Street
Waynesville, NC 28786

Mr. Keith said he is employed by Beverly Hanks Real Estate, and he is one of two agents in the downtown Waynesville office that is authorized to sell commercial property. Mr. Keith said this wasn't just about someone trying to get the best price for a piece of property and he felt the Shook's had been harmed by not being allowed to rezone their property. Three of the four sides have commercial businesses located on the property. He reminded the Board that being zoned commercial does not mean having a convenience store or drive thru restaurant on the property, it just means that usually it is for multi-family units. Mr. Keith said there had been articles in the newspaper about the

severe housing shortage in Haywood County. He explained that most of the rentals in the community are vacation rentals, not something young people or nurses who move here to work would be interested in. Also, there is a need for progressive living arrangements here in the area instead of having to move to Asheville later in life. He asked the Board to consider the rezoning request for Urban Residential. He feels this is the best compromise for these properties.

Joe Bob Rogers
263 Calhoun Road
Waynesville, NC 28786

Mr. Rogers said this rezoning will affect about one third or more of Calhoun Road if granted. He said the road would need improvements if there are businesses that are developed along Howell Mill with access to Calhoun. Mr. Rogers said he recognized what a hard job the Planning Board members have making decisions like this one. Chairman McDowell thanked Mr. Rogers for his comment.

Ricky Gregory
61 Radio Tower Road
Waynesville, NC 28786

Mr. Gregory asked the Board what else could go there besides the things that had been discussed. He asked specifically about trailer parks, and also about comments made that the Town was under pressure to rezone Howell Mill Road. Mr. Gregory would like to know where the pressure was coming from.

Chairman McDowell explained that this question came up at the Community Meeting and the word pressure was changed to opportunity. The word pressure was used to describe interest in the rezoning along Howell Mill Road.

Ms. Teague relayed other permitted uses that could be allowed in Chapter 2.5.3 of the Land Use Standards if the Urban Residential District rezoning is approved:

1. Business Support Services
2. Adult and child daycare homes
3. Government Services
4. Personal Services
5. Professional Services

It was noted that manufactured homes and manufactured housing is not allowed in Urban Residential Districts.

Ginger Hain
267 Calhoun Road
Waynesville, NC 28786

Ms. Hain said Calhoun Road was a very quiet, pastoral area, and the proposed zoning of Mr. Shook's property would change the nature of the neighborhood. She had a question concerning a Special Use Permit, and how it would help protect the backside of Calhoun Road. Ms. Teague explained that a Special Use Permit (SUP) is a type of permit that is issued by the Planning Board that

will allow the Board to specify special conditions. This could be related to traffic, buffering, additional bicycle and pedestrian facilities, or whatever would create a safer type of development for that particular location. Adjacent property owners would be notified, advertisements would be placed in the newspaper, and the property would be posted so residents would have an opportunity to be present at a Public Hearing. Ms. Hain said she felt that this could be something that could meet the resident's needs.

John Balentine
274 Calhoun Road
Waynesville, NC 28786

Mr. Balentine said there were issues on Calhoun Road concerning the ditches and right of ways on the sides of the road. Ms. Teague said that if there were higher density residential, that might prompt an annexation of the area for water and sewer purposes. But that cannot be determined until there is development in the new district.

Steve Leonard
365 Calhoun Rd
Waynesville, NC 28786

Mr. Leonard stated he is concerned about the access, right of ways, and the impact of traffic on Calhoun Road. Another concern of Mr. Leonard is the width of the road. He stated that because of the curves in the road, he is worried that Calhoun Road cannot accommodate more traffic.

A motion was made by Board Member Robert Herrmann, seconded by Board Member Danny Wingate to close the Public Hearing. The motion passed unanimously.

A motion was made by Board Member Shell Isenberg, seconded by Board Member Bucky Dykes, to approve the applicants' requests for rezoning the property at Howell Mill, Calhoun, and Palmer Road to Urban Residential District. The motion passed unanimously.

Ms. Teague explained to the Board the process of proceeding to establish the Howell Mill Urban Residential District. She noted that because this would create a new zoning district, "Howell Mill Road Urban Residential District," that ordinance text would have to be developed that reflected the unique nature of the area and specified uses allowed, and incorporated the new District into the Ordinance. She stated that she would bring draft text back to the Planning Board at their next meeting for their review.

3. Public Hearing on a text amendment to Chapter 4.6 of the Town Code of Ordinances Temporary Uses to clarify regulations pertaining to Mobile Food Vendors.

Chairman McDowell asked Ms. Teague to give background on this text amendment. Ms. Teague said the subject of Food Trucks and Vendors and how they are allowed in the Town's jurisdiction has been discussed at the last two Planning Board meetings. These discussions have been

in response to several requests recently for permission to operate Food Trucks and Carts inside the Town. Ms. Teague is presenting a text amendment recommendation to the Town's Code of Ordinances based on Planning Board comments and staff's opinion.

Ms. Teague stated that as previously noted, mobile vendors must be in compliance with health department requirements and they must have permission of property owners, or by invitation of nearby businesses who have requested this use in an identified public space. They must be located in a manner that allows workers access to bathrooms and must be in compliance with applicable building and fire codes.

Ms. Teague told the Board that staff felt that the accommodation of mobile food vendors as temporary uses is consistent with the 2020 Plan as long as the Town can manage regulation of how and where food vendors can set up and how the area is maintained as far as litter control, signage, smell, noise, traffic and parking, safety, and look. Mobile food vendors will enhance local business economy and not detract or create a negative impact.

There has been much concern that mobile food vendors could set up on a location indefinitely. Mobile vending units are regulated by the North Carolina Administrative Code, with specific requirements for push carts, and mobile food units. Push carts or food truck or trailer are regulated by the health department, and mobile units must have approved commissaries to provide servicing areas and support for that unit. Also, a food truck or trailer is licensed by the NCDMV. A permanently placed food truck or trailer would require that the truck be converted to a permanent structure, abiding by Town development standards such as setbacks, landscaping, signage and would have to be de-licensed from the NCDMV. A mobile food unit must be physically moved periodically, and must be considered a temporary use.

Ms. Teague discussed the amended language in Chapter 4.6 Temporary Uses. Her staff recommendation is that she believes that mobile vending units can enrich the Town of Waynesville, and can be successful in Waynesville by being mobile.

The Board had several questions for Ms. Teague concerning time frames for Temporary Use Permits.

Requested Actions:

1. Motion to find/not find the attached text amendment consistent with the 2020 Land Development Plan.

2. Motion to recommend to the Board of Aldermen approval of the draft text amendment as presented (or amended).

A motion was made by Board Member Marty Prevost, Seconded by Board Member Anthony Sutton to open the Public Hearing. The motion passed unanimously.

Glenna Young
677 Mountain Lake Drive
Waynesville, NC 28786

Ms. Young, co-owner of MA's kitchen, thanked the Board Members, and Town staff who have visited her at her business to see what they are trying to accomplish. Ms. Young said she had paid all

required fees such as taxes, permit fees and insurance for her trailer and equipment. She gave a brief description of her business and its operations. She asked the Board to consider the amendment because she says her business is unique. Ms. Young spoke to how all businesses do not look alike, and how her business does not fit into Main Street. She said she felt her business was not a detriment to the Town in any way.

David Young
384 Thomas Park Drive
Waynesville, NC 28786

Mr. Young thanked everyone for hearing him again. Mr. Young said he had only moved forward with the food truck after conversations with the Development Services office. It was after they had already started with the food truck that the difficulties came up. If he had known he was going to come before the Board three times discussing the same issue, he would not have gone forward with the project. He addressed the definition of mobile food truck in the NC Administrative Code as *A food establishment or push cart designed to be readily moved and vending food.* He said the Code does not say it has to be moved at any time. He said that Branner Avenue where his business is located has many vacant and abandoned houses. He does not consider his food truck a detriment to the area. Mr. Young wants to keep his truck in his parking lot and not move it. He said he is faced with leaving Waynesville to another location where he can make more money.

A motion was made by Board Member Shell Isenberg, seconded by Board Member Danny Wingate to close the Public Hearing. The motion passed unanimously.

There was much discussion among the Board about the pros and cons of making the Food Truck at Mad Anthony's becoming permanent and making exceptions for them in the amendment.

Tom Maguire (Chief Building Inspector)
9 South Main Street
Waynesville, NC 28786

Mr. Maguire explained some of the Building Code violations that were associated with Mad Anthony's that did not apply to the Food Truck itself.

Anthony Sutton asked if the Board would adjust the text to include the provision that food trucks be at least 50' from an existing restaurant during operational hours. Phillip Gibbs added that he thought this was a good idea for the Town's brick and mortar restaurants. Bob Hermann also brought up the time frame of 180 days to ask the Board to consider reducing the requirement for renewing permits for those food trucks on the same property their commissary as in the Mad Anthony request. There was additional discussion among the Board members.

A motion was made by Anthony Sutton, and seconded by Phillip Gibbs to add the requirement that mobile food vendors be at least 50'away from restaurants in operation. The motion passed unanimously.

A motion was made by Bob Hermann, and seconded by Brooks Hale, to eliminate the time limit for mobile vending units on the same lot as their commissary. The motion passed unanimously.

D. ADJOURN

With no further business, the consensus of the Board was to adjourn at 7:10 p.m.

Patrick McDowell, Chairman

Eddie Ward, Deputy Clerk

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR MEETING
May 24, 2016

THE WAYNESVILLE BOARD OF ALDERMEN held a regular meeting on Tuesday, May 24, 2016 at 6:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Pro Tem Gary Caldwell called the meeting to order at 6:30 p.m. with the following members present:

Mayor Pro Tem Gary Caldwell
Alderman Jon Feichter
Alderman LeRoy Roberson
Alderman Julia Freeman

Mayor Gavin Brown was absent due to a health issue.

The following staff members were present:

Mike Morgan, Interim Town Manager
Amie Owens, Town Clerk
Woody Griffin, Town Attorney
Elizabeth Teague, Development Services Director
Joey Webb, Fire Chief
Shannon Morgan, Assistant Fire Chief

The following media representatives were present:

Mary Ann Enloe, the Mountaineer
Becky Johnson, Smoky Mountain News

1. Welcome /Calendar/Announcements

Mayor Pro Tem Gary Caldwell welcomed everyone to the meeting and asked Town Clerk Amie Owens to highlight additions to the calendar including:

- May 25 - Groundbreaking Ceremony tomorrow at the Haywood County EMS/Emergency Management Base – 4:00 p.m.
- May 31 – Special Called Meeting to go into closed session for second screening of applicants at 4:00 p.m. in the Municipal Building
- June 4th – Haywood Pathways Open House from 1:00 p.m. to 5:00 p.m. with dedication ceremony at 3:00 p.m.

2. Adoption of Minutes

Alderman Roberson made a motion, seconded by Alderman Feichter, to approve the minutes of the May 10, 2016 regular meeting, the minutes of the May 17, 2016 special called meeting, and the closed session minutes from the May 17, 2016 special called meeting, as presented. The motion carried unanimously.

B. CALL FOR PUBLIC HEARING

3. Call for Public Hearing to consider a zoning map and text amendment request to reclassify an area as the Howell Mill Road Urban Residential District

Elizabeth Teague, Development Services Director explained that the call for public hearing at the next regular meeting would be to consider a zoning map and text amendment request to reclassify an area as the Howell Mill Road Urban Residential District. Ms. Teague presented a graphic of the three properties in question, noting that they are immediately behind the Ingle's on Howell Mill Road.

Alderman Roberson asked how much of an impact would be felt by those residents on Calhoun Road. Ms. Teague explained that a community meeting was held at the Waynesville Recreation Center to discuss the future of Howell Mill Road. Original rezoning was for commercial, but after the meeting property owners have worked with staff to develop an urban residential district to allow professional offices but would keep the residential character in terms of architecture. Ms. Teague noted that it was a positive meeting which lead to this compromise.

Alderman Roberson made a motion, seconded by Alderman Freeman to call for a public hearing to be held on Tuesday, June 14, 2016 at 6:30 p.m. or as closely thereafter as possible, in the Town Hall Board Room located at 9 South Main Street, Waynesville, to consider a zoning map amendment request to reclassify an area as the Howell Mill Road Urban Residential District. The motion carried unanimously.

C. NEW BUSINESS

4. Street Closure Request – Main Street Mile

Interim Town Manager Mike Morgan noted that a request had been received for a street Closure for the Main Street Mile to benefit Shriners Hospital in Greenville SC. This is the 7th Annual event. The closure of Main Street would be on Friday, August 26th from 5:00 p.m. until 10:00 p.m. There are no conflicts between this event and others and is on the Downtown Waynesville Association calendar.

Alderman Roberson made a motion, seconded by Alderman Freeman to approve the closing of Main Street on Friday, August 26, 2016 from 5:00 p.m. until 10:00 p.m. for the Main Street Mile footrace and related fundraising activities associated with the annual "Run for the Children", benefitting Shriners Hospital in Greenville, SC. The motion carried unanimously.

D. PUBLIC HEARING

5. Public Hearing to consider a zoning text amendment of Chapter 4.6 of the Town Code regarding mobile food vendors as temporary uses

Ms. Teague provided an overview of the question that had come before the Planning Board and their actions related how to best manage food trucks, monitor compliance with health department standards and work in harmony with existing restaurants. She noted that this proposed change did not impact special events and festivals; there is already a process in place that is working well for one-time events.

Ms. Teague explained that the proposed text amendment would address the food vendors not associated with events (i.e. those operating for extended periods of time). She noted that there are four goals for the proposed amendment to ensure that mobile vendors operating within town limits:

- Are compliant with health department requirements and are duly permitted;
- Do not disrupt the character of any zoning district or diminish the appeal of any neighborhood;
- Are present within the Town at the permission of property owners, or at the invitation of nearby businesses who have requested this use in an identified public space; and
- That they do not create trash, a hazard for traffic, or other safety issue to the public or workers that staff them.

Ms. Teague continued to explain that mobile vending units are regulated by Section 15A of the North Carolina Administrative Code. She noted that there are specific requirements of mobile food units and pushcarts under this code including that "*any pushcart or food truck or food trailer that are regulated by the Health Department as mobile units must have approved "commissaries" to provide servicing areas and support for that unit".*

Ms. Teague provided the definitions of commissary, food establishment, mobile food unit, pushcart and temporary food establishment. She noted that a food truck or trailer is licensed by the DMV as a vehicle or trailer for roadway travel and commercial use.

As with any change to text, the information must be found consistent with the 2020 Land Development Plan. Ms. Teague noted that the plan called for the town to "provide design guidelines to control development in appropriate areas and incorporate design criteria into the Town's development ordinances." She explained that regulation of how and where food vendors can set up and how the area is maintained (i.e. litter control, signage, smell, noise, traffic, safety and appearance) are also important. Provided that the town can manage these types of uses with the balance for positive economic impact, safety and sensitivity to a location's surroundings, then the accommodation of mobile food vendors as temporary uses is consistent with the 2020 Plan.

Ms. Teague provided the staff recommendation that mobile food vendors could add diversity and interest to commercial areas as well as convenience, and service to nearby businesses. Therefore, expanding the Temporary Use Chapter to allow mobile food trucks to operate for extended periods of time makes sense and as long as they are there at the invitation of the underlying property owners and are not detrimental to other existing businesses.

Ms. Teague read through the proposed text amendment highlighting the various new sections and calling specific attention to section D3. From her staff report she noted, the Planning Board reviewed in March, and determined that the ordinance accommodated all of the food vendors that the Town has already permitted except for Ma's Kitchen at Mad Anthony's. This particular owner wanted to be allowed to operate their mobile food unit on an on-going basis, without time limit, on the Mad Anthony's property. At the April meeting, the owners of Mad Anthony's and Ma's kitchen asked that paragraph D3 be added to the proposed ordinance to allow them to maintain a mobile food trailer on the Mad Anthony's property on a permanent basis and the Planning Board supported their request.

This raised the question for staff as to when something that was "mobile" became permanent under the Town's building codes or zoning ordinance, and the accompanying design guidelines, landscaping, setbacks, parking and other regulations that are part of developing permanent structures. In seeking clarification on how to manage this request under building codes from the NC Department of Insurance, staff was informed by Chief Building Code Consultant Mike Hamm, P.E. of the Manufactures Building Division that:

"There are no HUD or Modular Building Codes that regulate Mobile Food Units or Mobile Kitchens. These units would be regulated by the NCDMV and the local Health Department. The Manufactured Building division would only be involved if an approved modular manufacturer built a permanent structure for use as a modular food or kitchen unit that was 3rd party inspected in the manufacturing plant and labeled with a NC modular validating stamp. An existing mobile food or kitchen unit that is converted to a permanent structure would be regulated by the NC Building Codes subject to local inspection and approval." (April 8, 2016).

The placement of a food truck or trailer permanently at a location would require that the truck or trailer be converted into a permanent structure, and this could happen with some creative engineering and structural enhancements that bring it into compliance with Health Department requirements and state building codes. In that case, the resulting structure would also have to comply with all of the Town development regulations as much as any building or addition would, including setbacks, landscaping, signage, and other rules that may apply. They would also have to be de-licensed from the NCDMV. The Chief Building Inspector, Tom Maguire, had done additional research on how to convert food trucks to a permanent structure. This information was provided to the board members.

Ms. Teague concluded her report by noting her appreciation for the staff at Mad Anthony's and their willingness to work with the Development Services staff as they were a valued asset and business in the community. Ms. Teague opened the floor to questions from the board.

Alderman Feichter asked if the $50.00 application fee was for mobile food vendors at special events. Ms. Teague answered that only those that were independent mobile food vendors would be subject to the fee. Those who would be part of a special event would have to follow the current process already in place.

Alderman Roberson inquired if a mobile food vendor was over the 180 days that could be approved for a temporary permit, would it then have to meet the permanent state building codes. If not, then it seemed to be creating a temporary structure that would not comply. Ms. Teague answered that Mr. Maguire's research on converting something like this could allow work within the temporary structure and allow them as much flexibility as possible.

Ms. Teague addressed the 180 day rule for the temporary use timeframe. She noted that the intent was for the mobile food units to be seasonal. Looking at half of the year is a fairly good rubric for a temporary threshold. She explained that if a vendor were to only use their truck on Friday and Saturday nights, then the 180 days would suffice for one year since that only equates to 104 days.

Alderman Feichter asked if the total days was 180 or 270. Ms. Teague explained that it was an initial 90 day period with a one-time renewal of 90 days. This is done for the calendar year and is specific to a location. For example if someone had multiple food trucks, a permit would be required for each. Ms. Teague added that the permit is not transferrable to another location. The example provided was that if someone was permitted for Frog Level, they could not set up in Hazelwood with the same truck.

Mayor Pro Tem Caldwell commended Ms. Teague and the Planning Board for their very thoughtful review of this issue and for their diligence.

Town Attorney Woody Griffin **called the public hearing to order at 7:08 p.m.** and reminded those who wished to speak to provide their full name and address for the minutes and to limit comments to three minutes.

David Young, 384 Thomas Park Drive, Waynesville addressed the board and explained that as co-owner of Mad Anthony's, he was frustrated as this issue is going into fourth month and this should be a big city problem, not one for Waynesville. He alluded to seeing mobile food vendors in Franklin, Sylva, Boone, Canton, Brevard and Asheville that were not moved for months at a time. He added that this is not an unsolvable problem – there is a compromise. Mr. Young noted that the concerns seem to be about having a permanent structure. He explained that there are any number of ordinances that can be enforced related to cleanliness, dangerous structure, etc… He commented that what Mad Anthony's is asking for is to allow the food truck to serve as the kitchen and prevent the moving of the vehicle from one side of the property to the other to be in compliance.

Alderman Roberson asked about those mobile food trucks in the other areas and the lack of movement; shouldn't they have to adhere to building codes? Mr. Young answered that none of them have moved since being put there. Alderman Roberson argued that if they are not moving at all then they are not mobile and should have to comply with building codes.

Mr. Young noted that powers already exist related to monitoring and compliance. Alderman Feichter attended the Planning Board meetings and read something that the Beer Garden experience is what people are doing these days. He inquired if Mr. Young had a timeframe of how to do food service in the long term, say five years. Did he plan on keeping this mobile unit forever? Mr. Young answered that he could not project five years in the future and that there were limitations on creating a commercial kitchen due to the fact that certain modifications are not allowed in his historical building.

Alderman Feichter asked if the information that the building inspector has presented to the Board related to conversion was plausible. Mr. Young answered that it was not part of the future plan at this time since, at this point, converting the trailer into a permanent structure would be an onerous and insurmountable task for them.

Jon Catton, 420 Killian Street, Waynesville wished to have a hotdog cart in downtown Waynesville. He explained that it would have been a service to the community and visitors and that he wanted to be able to do this. He acknowledged concerns about blocking the walkways and wanted to start his hot dog cart at the mini-park across from the courthouse. Instead he located in Sylva where he said they were open to positive growth. Mr. Catton added that the Downtown District has become "too unique" and Waynesville splitting hairs about permanent structures is disheartening. Mr. Catton concluded by noting that he hoped that the board will seriously consider everything that he has said and to make it possible to have unique businesses like his here.

Glenna Young, 670 Mountain Lake Drive, Waynesville, co-owner of Ma's Kitchen addressed the board and echoed the sentiment of Mr. Catton in the hopes that the Board will allow this change. She explained that her husband works about 12 hours a day to keep the food truck running and there is too much invested in it to only work 180 days a year. She noted that the food truck is still readily movable and will keep under the DMV rules. On Branner Avenue where there are nice residential and professional buildings, she and Mr. Young have made the trailer color match to the building and made it as pleasing to the eye as possible. Ms. Young referenced a letter that was sent to the Board when she was having issues getting the permit renewed and outlined in that letter every objection that the zoning and codes and presented a solution to each one. Ms. Young likened the food truck to an RV park, it takes time to unhook, provide for storage, etc… just as it takes time to get their mobile unit mobile, but is still mobile when you are ready to go. Ms. Young noted that the Town has to have rules and regulations, but that there should be room for creativity, diversity and innovation as well. She acknowledged that the plan is if the ordinance is approved, then they could fence around the food truck and put plantings around it to make it even nicer.

Town Attorney Griffin asked if anyone else would like to address the Board. With no other individuals coming forward, **Attorney Griffin closed the public hearing at 7:27 p.m.**

Mayor Pro Tem Caldwell asked the Board if they had any further questions or comments.

Alderman Freeman commented that Waynesville is a unique community and business owners are trying to utilize old structures for alternate uses. If the unit is in the rear and very non-descript, it is reasonable to be more flexible with what could be done with these structures.

Alderman Roberson asked about the permanency of the structure – where did the Young's see the business in five years. Mr. Young answered that at this point they were not sure what would happen in five years.

Alderman Feichter asked Ms. Teague if there were staff concerns about section D3. Ms. Teague reiterated that she had been in touch with the NC Department of Insurance related to how to handle mobile food trucks such as the one at Mad Anthony's under existing building codes. She added that it again is dependent upon whether or not the unit will be under DMV guidelines or those for related to structures. Ms. Teague explained that the Land Development Standards and design guidelines for any new development or addition of a building are another consideration. She provided an example of Shining Rock Academy and the restriction of mobile homes and trailers to certain parts of town.

Alderman Feichter clarified that the mobile food truck does not meet modular codes. Ms. Teague confirmed and reminded the Board of the email from Mike Hamm from the NC DOI. Alderman Feichter added that he would be interested in working with Mad Anthony's for permanency.

Attorney Griffin interjected that as a first reading of an ordinance, a 2/3 vote would be required for passage. Three votes would only constitute 60% and would not be sufficient for carrying the approval. If the ordinance change were to pass, it would require a unanimous vote.

Alderman Roberson made a motion, seconded by Alderman Freeman to table a vote on this issue until the full Board is present. The motion carried unanimously.

E. COMMUNICATIONS FROM STAFF

9. Manager's Report - Interim Town Manager Mike Morgan

Town Manager Search

Manager Morgan noted that the special called meeting on May 31 at 4:00 p.m. would be for the purpose of closed session for additional review of candidates for the Town Manager position.

FY 16/17 Budget

Manager Morgan reminded the Board that the revised budget documents would be available online Friday, May 27th. The public hearing for the proposed FY 16/17 budget will be on June 7th.

Public Services Building Renovation

Manager Morgan reported that the ads for bids for the Public Works facility will be posted tomorrow and Manager Morgan has entered into a contract with Martin McGill for $6,000 to assist with development of the financing package for the facility.

10. Attorney's Report - Town Attorney Woody Griffin

Town Attorney Woody Griffin had nothing to report.

F. COMMUNICATION FROM THE MAYOR AND BOARD

Alderman Feichter explained that he has been representing the Town on the West Next Generation Steering Committee which was formed to improve the fiber gigabit accessibility. The committee is modeling Greensboro and seeks to partner with telecommunications providers by leveraging municipalities including pole build out. Part of the consideration is the Dig Once which entails placing conduit in the ground anytime there is work done. This will make running fiber cheaper in the future. Alderman Feichter noted that he would like to explore the feasibility of implementing the plan in Waynesville which would require procedures and land use regulations.

Manager Morgan asked if he could meet with Ms. Teague and David Foster, Public Services Director and bring any comments/recommendations back at the next meeting.

G. CALL ON THE AUDIENCE

No one addressed the Board.

H. Fire Fighter Promotion Ceremony

Fire Chief Joey Webb explained that four individuals were being promoted to Captain. He thanked the Board for allowing the ceremony to be part of this meeting. Chief Webb explained that historically, there were no ranking officers within the Fire Department other than the Chief and Assistant Chief. With the inception of Career Track, there is now that opportunity to have a captain on each shift. An assessment center was held which included a fire scenario where the individual was in command, a role play exercise and an interview process. The assessors were brought in from various regional fire departments large and small including Asheville, Shelby and Dana. Chief Webb added that the assessors commented about the closeness of the fire fighters who were competing when each was asked what makes you the best person for the job, the responses were that all were capable of doing the job.

Chief Webb asked each of the captains to come forward and be pinned by their family members. The four fire fighters are: Darrell Calhoun, Demetrius Massey, Ricky Mehaffey and Allen Stewart. Also, each of the fire fighters were presented with their new helmets. Chief Webb explained that the color of the helmet identified the position – black for firefighters; red for captains and white for chiefs.

Chief Webb thanked the fire fighters and their families and the volunteer fire fighters who help to provide service to the citizens of Waynesville.

Mayor Pro Tem Caldwell invited the audience to attend a reception following the meeting. He addressed the Boy Scouts from Troop 370 and said that he hoped they learned something from this meeting, and thanked the Waynesville police and fire fighters for being shining examples for them.

G. ADJOURN

There being no further business to discuss, Alderman Feichter made a motion, seconded by Alderman Roberson to adjourn the meeting at 7:54 p.m. The motion carried unanimously.

ATTEST

_____

Gavin A. Brown, Mayor

_____

Michael J. Morgan, Interim Town Manager

_____

Amanda W. Owens, Town Clerk

MEMORANDUM

TO: Mayor and Board of Aldermen

FROM: Jon Feichter

DATE: June 20, 2016

SUBJECT: Approval of MOA and Mutual Agreement for West – Next Generation Network (WestNGN)

For your review and Board approval are two documents relating to the Town of Waynesville's participation in the West – Next Generation Network (WestNGN) project. If you'll recall, WestNGN is an initiative that includes the municipalities of Asheville, Biltmore Forest, Fletcher, Hendersonville, Laurel Park and Waynesville as well as UNC Asheville participating in a consortium focusing on expanding high-speed, gigabit broadband service to this region. I have been participating as Waynesville's representative on a steering committee that's coordinating this process.

The first document is the Mutual Agreement with the Land of Sky Regional Council, which details the work of the steering committee and the overall goal of this initiative.

The second is a Memorandum of Agreement with the Land of Sky to provide technical and other assistance with implementation of the initiative. Specifically, Land of Sky will contract with a project manager (individual or firm) to provide the following services:

1. Project Management
    - Convening the steering committee
    - Compiling data and information for an RFP
    - Drafting and writing the RFP
    - Gathering information for the community sections and compiling those into the RFP and bundling the document
    - Data analysis for the region
    - Communications with the group and other partners
    - Administering the RPF release and response process

The Town's shared portion of the costs for these services is included with the MOA.

Please let me know if you have any questions in regards to this item prior to our meeting.

JDF/jdf

Attachments

How Fast is Fiber Optic Internet?

Length and type of media	Approximate size	Download speed					
		Broadband				Fiber	
		1Mbps	5Mbps	10Mbps	20Mbps	100Mbps	1000Mbps (Gigabit)
4-minute song	4 MB	30s	5s	3s	1.5s	0.3s	0.03s
5-minute video	30 MB	3m	40s	26s	13s	2.5s	0.2s
9-hour audiobook	110 MB	10m	2m	1.5m	46s	9.2s	0.9s
45-minute TV show	200 MB	20m	5m	3m	1.5m	16s	1.7s
45-minute HDTV show	600 MB	1h	15m	8.5m	4m	50s	5s
2-hour movie	1.0-1.5 GB	2h	24m	21.5m	10.5m	1.5m	8s
2-hour HD movie	3.0-4.5 GB	6h	72m	60m	32m	4.5m	25s
Misc. Archive	10 GB	Forget it	Nope	Too long	Slow	Better	1m 20s

Mutual Agreement

West – Next Generation Networks (WestNGN)
STEERING COMMITTEE

PURPOSE

The goal of this agreement is to expand high-speed, gigabit service in the region. This is Phase I of a multi-phased project.

MISSION

The WestNGN Steering Committee will serve as the primary and sustaining group among WestNGN stakeholders. The Steering Committee will serve as the conduit to the governing boards of participating municipalities and universities. They will also create subcommittees and appoint members, review recommendations from subcommittees, approve vendors for negotiation, coordinate management of the final network, and make decisions on adding or removing Committee members. The initial focus of the Steering Committee is in support of the WestNGN RFP process with the goal to expand gigabit service in the region. It is expected that a review of governance needs will be undertaken to oversee management of the final network and that the Committee charter will be reviewed and adjusted as needed at that time.

DECISION DOMAINS

Steering Committee members will be responsible for technical, legal, operational, and financial issues that may need to be researched in order to help the municipalities stay abreast of project developments and ongoing operations. When those issues require changes to current strategy, the Steering Committee will determine whether decisions can be made at the committee level or must be sent back to the municipalities. All committee members represent their communities.

The Steering Committee will also author new policies, such as the incorporation of new member communities, as they deem appropriate.

AREAS OF FOCUS

Initially, discussions and recommendations will cover at a minimum:

- Membership and assignments for subcommittees
- Preferred qualities and conditions in vendors and their proposals
- Processes for moving from proposals to contracts
- Coordinated efforts among participating municipalities on how to best utilize the new network(s)
- Monitoring the efficacy of network and business operations
- Inclusion and timing of adding new municipalities into the coalition
- Communications

MEMBERSHIP

Each WestNGN community and university will appoint a single voting representative who is authorized to make decisions for the municipality/university. Committee appointments persist until a municipality/university changes its voting representative. At the discretion of the Steering Committee, up to two at-large, non-voting members may be invited to participate based on functional needs determined by the committee, such as coordination of municipal and/or state governments or other functions. Committee membership will be reviewed periodically and adjusted as appropriate.

Entities with voting members on the Steering Committee along with their initial appointments (or their designee) are as follows:

1. **City of Asheville:** City Manager, Gary Jackson
2. **Town of Biltmore Forest**: Town Administrator, Jonathan Kanipe
3. **Town of Fletcher**: Town Manager, Mark Biberdorf
4. **City of Hendersonville**: City Manager, John Connet
5. **Town of Laurel Park**: Town Manager, Alison Melnikova
6. **Town of Waynesville**: Town Alderman, Jon Feichter
7. **UNC-Asheville**: Associate Provost, Ed Katz

TERM OF EXISTENCE

Upon completion of this phase of the project, this Steering Committee will be dissolved.

PROCEDURES

- Committee activities – Support for the activities of the Committee will be provided by one of the municipalities, university, or regional council

- Meeting structure – The chairperson or a designee will collect agenda items and circulate agendas in advance of each meeting to ensure informed discussions of scheduled topics.

- Meeting frequency – biweekly during proposal reviews and contract negotiations. The committee will determine modifications to the schedule as needs change.

- Reporting – Each representative will be responsible for reporting back to their governing body.

- Documentation of proceedings – All meetings shall have notes of discussions, recommendations and action items.

- Voting - Decisions will be made by majority vote of the voting membership. Quorum shall consist of a majority of voting Committee members.

The Committee will modify the above procedures or establish additional procedures as appropriate.

SUBCOMMITTEES

The Steering Committee will establish or review the need for subcommittees and create or sunset as they deem appropriate. Initially, two subcommittees will be created:

Technical Evaluation/Advisory Group (TEAG)
Subcommittee Charge: The Technical Evaluation/Advisory Group (TEAG) will serve as the primary work group in support of the Steering Committee. The TEAG will review all vendor proposals as well as the feedback from each of the municipalities' reviews of these documents and provide comparisons across the proposals. They will also recommend vendors to the Steering Committee for negotiation. As negotiations proceed, the TEAG will provide input and guidance to the Vendor Interfacing and Negotiation Group.

The TEAG Subcommittee shall consist of one member from each Steering Committee member entity and any additional members if the Steering Committee determines there is need for specialized expertise. Subcommittee lifetime is anticipated to be 6-18 months, beginning in April 2016.

Vendor Interfacing and Negotiation Group (VING)
Subcommittee Charge: The Vendor Interfacing and Negotiation Group (VING) will provide a single, common interface to vendors through which all communications occur. Furthermore, the VING will negotiate common agreement language, services, coverage areas, and more with selected vendors. They will also recommend contract language to the governing boards and other decision makers with the understanding that certain specific terms and conditions required for local municipal contracts may need to be incorporated separately.

This VING Subcommittee shall consist of up to four (4) members selected by the Steering Committee as needs and expertise dictate, including experience in municipal government management; experience operating large, complex local area networks such as those at research universities; and substantial experience negotiating fiber leases and/or building regional networks. Subcommittee lifetime is anticipated to be 4-6 months beginning in April 2016.

SPECIALIZED EXPERTISE AND OTHER SUPPORT FUNCTIONS

The Steering Committee will review the need for specialized expertise and engage such expertise as deemed appropriate. This expertise could take the form of a working group to provide legal review, engaging one or more individuals who have experience in building gigabit fiber networks, communications expertise, or otherwise. Such specialized expertise is likely to be relevant to specific activities in the project, and so it is anticipated that it will be convened on an ad hoc basis. Likewise, the Steering Committee may determine the need for interim or ongoing assistance in areas such as Project Management, and will incorporate such expertise at the time and in the form it determines.

SIGNATORIES

Date: _____

_____ **City of Asheville**

_____ **Town of Biltmore Forest**

_____ **Town of Fletcher**

_____ **City of Hendersonville**

_____ **Town of Laurel Park**

_____ **Town of Waynesville**

_____ **UNC - Asheville**

MOA No. _____

WestNGN Project – Town of Waynesville, NC

Memorandum of Agreement

Broadband WestNGN Project Coordination

THIS AGREEMENT, made _____ by and between Land of Sky Regional Council, hereinafter called the "Council", and the Town of Waynesville, NC, hereinafter called the "Town."

W I T N E S S E T H

WHEREAS, the Council operates to provide planning and technical assistance to local governments and for region-wide projects in Region B as empowered by the North Carolina General Statutes and by resolution passed by the Planning Agency on April 17, 1972.; and

WHEREAS, the Town requests that the Council provide such technical assistance, as detailed in the following Scope of Work; and

NOW, THEREFORE, the Council and the Town mutually agree to the following:

1. **Employment and Scope of Work**

The Town hereby agrees to engage the Council and the Council agrees to perform in a satisfactory and proper manner the work below:

A. Project Management for expansion of the West - Next Generation Network (WestNGN)
   a. Convene the steering committee
   b. Conduct data analysis for the region
   c. Compile data and information for the RFP
   d. Draft and write the RFP
   e. Gather the community sections and compile them into the RFP format
   f. Facilitate communications with the Steering Committee and supporters
   g. Administer the RFP release and response process

2. **Length of Contract**

The Council shall ensure that all services required herein shall be provided during the period beginning on June 1, 2016 and ending June 30, 2017.

3. **Assignability**

The Council shall not assign any interest in this MOA, and shall not transfer any interest in the same whether by assignment or substitution, without the prior written consent of the Town or unless specifically contained in the Scope of Services attached hereto.

4. **Compensation and Method of Payment**

The Town will pay the Council for the services provided hereunder as stipulated in the Scope of Work attached hereto. Inclusive in this amount are associated travel costs and expenses directly related to the project. The total cost of this agreement is $ 4,877.

Payment will be made in a lump sum within three months from the start of the contract.

5. **Termination of MOA for Cause**

If, for any cause, the Council shall fail to fulfill in a timely and proper manner its obligations under this MOA, or if the Council shall violate any of the covenants, agreements, or stipulations of this MOA, the Town shall thereupon have the right to terminate this MOA by giving written notice to the Council of such termination thirty days before such effective date. During the thirty-day notification period, the Council shall have the opportunity to remedy any failures or violations to avoid termination of the MOA. If termination occurs, the Council shall be entitled to receive just and equitable compensation for all satisfactory work completed.

6. **Changes**

The Town may request changes in the Scope of Services to be performed by the Council hereunder. Such changes which are mutually agreed upon by and between The Town and Council, shall be incorporated as written amendments to this MOA.

7. **Records**

The Council shall maintain financial records pertaining to this MOA for three years after final settlement or until cleared by audit.

8. **Access to Records**

The Council shall have access to appropriate records on file at the Town which are necessary for Council staff to fulfill the terms of this MOA.

9. **Interest of Contractor**

The Council covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOA. The Council further covenants that in the performance of this MOA no person having any such interest shall knowingly be employed.

10. **Findings Confidential**

Any reports, information, data, etc., given to or prepared or assembled by the Council under this MOA which the Town requests to be kept confidential shall not be made available to any individual or organization other than the Town, except as required by law.

11. **Complete Agreement**

This MOA contains the complete agreement of the Parties and may not be modified in any respect except by written amendment hereto.

12. **Applicable Laws**

The Parties agree that this document is to be governed, construed, and enforced in accordance with all of the laws of the State of North Carolina.

13. **Indemnification**

a. To the extent allowed by law, the Council agrees to indemnify, hold harmless and defend the Town as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of the Council or its employees or agents in performing or failing to perform any of its obligations under this Agreement.

b. To the extent allowed by law, the Town agrees to indemnify, hold harmless and defend the Council as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of The Town or its employees or agents in performing or failing to perform any of its obligations under this Agreement.

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on the day and year first above written.

Town of Waynesville	**Land of Sky Regional Council**
By: _____	By: _____ Justin Hembree
Title: _____	Title: Executive Director

Attachment A: Budget

	WestNGN - Gigabit Broadband Project					
	Community	**Population per US Census 2014**	**Flat Fee**	**Population %**	**Fee per Population**	**Total $ per Local Government**
1	Asheville	87,882	$ 4,000	72%	$ 7,893	**$ 11,893**
2	Hendersonville	13,650	$ 4,000	11%	$ 1,226	**$ 5,226**
3	Waynesville	9,761	$ 4,000	8%	$ 877	**$ 4,877**
4	Fletcher	7,487	$ 4,000	6%	$ 672	**$ 4,672**
5	Biltmore Forest	1,422	$ 4,000	1%	$ 128	**$ 4,128**
6	Laurel Park	2,278	$ 4,000	2%	$ 205	**$ 4,205**
	Totals	122,480	$ 24,000	100%	$ 11,000	**$ 35,000**