

## MEETING MINUTES

### Board Members Present

Mayor Jerry VeHaun  
Commissioner Jim Angel  
Commissioner Donald Hensley

Vice Mayor Debbie Giezentanner  
Commissioner Jackie Bryson  
Commissioner Ronnie Lunsford

### Board Members Absent

Commissioner Donald Honeycutt

### Town Staff Present

Eric Hardy, Town Administrator  
Adrienne Isenhower, Planning Director  
Michael Saunders, Code Enforcement

Michael Dykes, Chief of Police  
Sheri Powers, Finance Director  
Ryan Vinson, Town Clerk / HR Analyst

Mayor VeHaun called the meeting to order at 6:31 p.m. and asked Commissioner Bryson to lead the invocation.

- A. Mayors Recitation** – *In accordance with the Code of Ethics adopted by the Board, all town commissioners have a duty to obey all applicable laws regarding official actions; to uphold the integrity and independence of the office; to avoid impropriety in the exercise of official duties; to faithfully perform the duties of the office; and to conduct the affairs of the governing board in an open and public manner.*

*Is there any item on the agenda the outcome of which will have a direct, substantial, and readily identifiable financial impact for any Board member? Also, does any Board member have a financial interest in any public contract coming before this Board today?*

*There being none all Board members have a duty and obligation to vote.*

**B. Approval of the Agenda**

Mayor VeHaun informed the Board and those in attendance that former mayor Homer Honeycutt passed away and asked for a moment of silence.

Commissioner Lunsford made a motion to approve the meeting agenda. Commissioner Bryson seconded the motion, which passed unanimously, 5-0.

- C. Executive Session**- **The Board of Commissioners may adjourn to private chambers to discuss legal, personnel, contractual or similar matters protected by the NCGS § 143-318.11.**

Commissioner Lunsford made a motion to go into closed session. Commissioner Bryson seconded the motion, which passed unanimously, 5-0.

At 8:04 pm, the Board of Commissioners returned to open session.

Upon returning from Closed Session, the Town Attorney, Joe Ferikes read the following Legal Opinion:

“By law, if mandated procedures are not strictly followed, any action taken purporting to amend or adopt zoning ordinances is void ab initio, meaning that the ordinances amended or adopted never existed, and so had no effect from the moment of that action. It is my legal opinion that the adoption of new zoning ordinances at the May 18, 2021 Commissioners' meeting did not strictly follow required procedures that those purposed zoning ordinances are void ab initio, and that the previous ordinances remain in effect.

Chapter 160D requires that a local government must have adopted a comprehensive plan as a condition of exerting its zoning powers. When amending or adopting zoning ordinances, local governments with a previously-adopted comprehensive plan must also adopt a "consistency statement" that the ordinance action is consistent with the adopted comprehensive plan. While local governments currently without an adopted comprehensive plan are not required to adopt one until July 1, 2022, even the pre-160D statutes required that local governments without an adopted comprehensive plan provide some rationale for zoning ordinance actions.

At the May 18th hearing, a zoning ordinance was adopted and a consistency statement entered that the purported ordinances were consistent with what the Commissioners believed to be the Town's adopted comprehensive plan. Because they believed consistency with an adopted plan was sufficient, there was limited additional discussion prior to passing the motion to adopt new zoning ordinances. With the recent realization that the Town actually had not previously adopted a comprehensive plan, the consistency statement is ineffective, and the limited discussion prior to passing the motion for the ordinance change did not provide any alternative rationale for that zoning ordinance action. As a result, it is my legal opinion that the process to change the zoning ordinances on May 18th did not follow required procedures, and that those purported ordinances are void ab initio.”

Commissioner Hensley made a motion stating that based on The Town counsel's legal opinion that the May 18<sup>th</sup> adoption of new ordinances did not strictly follow mandated procedures, specifically including not being properly consistent with an adopted comprehensive plan, or to provide other rationale in absence of an adopted comprehensive plan, and that those ordinances are therefore void ab initio. I MOVE that the Town acknowledge that the ordinances adopted on May 18<sup>th</sup> are void ab initio, and that the ordinances in place prior to that purported adoption remain in full force and effect. Commissioner Angel seconded the motion, which passed unanimously, 5-0.

**D. Consent Agenda**

- 1. Approval of the July 20, 2021, Regular Meeting Minutes**
- 2. Resolution approving the sale of surplus Public Works vehicles**
- 3. Resolution approving a new purchasing card program**

Commissioner Lunsford made a motion to approve the consent agenda items. Commissioner Bryson seconded the motion, which passed unanimously, 5-0.

- E. Public Forum – The public is invited to attend this meeting in person or view this meeting on Facebook Live: <https://www.facebook.com/townofwoodfin>. All documents related to agenda items not published on**

the website may be viewed in advance of the meetings in person at Town Hall, 90 Elk Mountain Rd, Woodfin.

*Citizens may address the Board concerning various topics after being recognized by the Mayo and are limited to 3 (three) minutes speaking time.*

Colin Willis – Why are we going back to 2 boards? I don't know. I encourage residents to read 106D. It says that to be able to regulate zoning, you must have and maintain a comprehensive plan. Town did not meet deadline of 7/1 for ordinances changes. Do we have a comprehensive plan? Why forcing 5 meetings in such a quick time? Have Town Hall to explain decisions and process.

Hazel Thornton – I don't understand the timelines for PZBOA with 5 meetings in a month. That is not enough time to do everything that needs to be done.

Nancy Lynn Sharpless - Why is the Town taking on more responsibility instead of taking care of what's already here. What about all of the abandoned houses and junk cars?

Galen Wilcox – It was not slight error that led to this one action being found unlawful. The Town has not had a valid comprehensive plan since 2009. Therefore, every single PZBOA action taken had no basis in law? The schedule of meeting seems to minimize public input - especially under these circumstances. One ordinance had 16 procedural errors in it along with factual errors. Questions the competency of Board to run Town and all they expect to do within 5 weeks? How do we trust it will be done right when it hasn't been done correctly before? You should seek public input, it's good government and the public need to supervise what's going on.

Ellen Brown – I started coming to the meetings a few months ago, as I have been an alternate on the Planning Board. I was excited about being on Planning Board, to engage with public and Board of Commissioners and personal contact. I was not given chance to get to know other Planning Board members, so it was awkward. How can citizens talk more informally with Board of Commissioners? The webpage is much better - elicit comments and essays and participation.

Nathan Mueller - Feeling deja vu and I am trying to become more involved. It's sad there is no comprehensive plan in place for smart development and only touching property owners get notified about new developments. As such, looking at development, how did it get approved? How with no plan? How do pieces of developments that have been approved fit together? Be smart with what we have, take time on large decisions – smart, sensible development.

Robert McGee – I commend the new webpage. I imagine it took more time than anticipated as there were probably glitches, changes, etc. Things take longer than anticipated, slow down the process, get ordinances right. There is a perception of zoning illiteracy - a lot of stuff happening too quickly. Let's get this right, take your time, and slow down.

Traci DiBlasio - People were upset with what was going on and yet you've gotten people involved and informed. We are looking and watching, looking for transparency and a voice in process. We'll make you start over if you don't get it right. Remember, there are 8 people running for 3 seats.

F. **Public Comment** – General public comments received by email will no longer be read into the record. As in person meetings have resumed, all public comments will be received by those in person during the public forum.

G. **New Business**

1. **ABC Board (Presenter: Tager)**

a. JaneAnne Tager was caught up with the weather and unable to make the meeting. She will deliver both July & August reports at the September meeting.

2. **Recommendations from the Parks & Greenways Advisory Committee (Presenter: Walt Brewer)**

a. Riverside Parks & Greenway Design Designs - Equinox looking for decisions from board for plans/ideas

i. Recommend that the final design reflect the balance between open and developed spaces that has been set out in the Master Plan.

ii. Recommend designing and building a greenway that is 14-foot wide in areas that should be anticipated as heavily used and 12-foot wide in constrained or less used areas.

iii. Recommend separate restrooms and changing facilities with provisions for outdoor shower / foot wash stations.

iv. Additional amenities – recommend the following:

1. Education, beach area water play for kids, nature play / playground, night lights / lighting, train platform, seating near the wave, grills, bike racks

v. Needs further discussion: parking, pump track, body weight workout stations

vi. Policies or business practices that require further thoughts:

1. Parking agreements with neighboring properties, outfitter fees for the wave, boat rental company agreements, rental lockers

b. Existing Parks – Immediate need

i. Geneva Maney Park

1. Secure chain link fence which does not enclose the playground

2. Slide is disconnected at the top and on side supports but remains sturdy.

3. Graffiti removal

ii. Riverside Park

1. Signage needed for restrooms

2. Increase regular maintenance, / janitorial services

iii. Roy Pope Memorial Park

1. Increase regular maintenance, / janitorial services

2. Cracked step on slide need inspection

iv. Community Center Basketball Court

1. Add 1 hoop and new nets

c. AB-Tech Collaboration

i. Need for consistent park signage and logo

ii. PGAC reached out to the computer technology department at AB Tech. One advanced student was recommended by instructor as this could be their semester project, which is due by 12/18/21. PGAC recommends that the student given small honorarium of \$200 for her work. However, PGAC knows any amount is at discretion of the board.

1. Commissioner Bryson made a motion to provide the \$200 honorarium to the student at the completion of their work. Vice Mayor Giezentanner seconded the motion, which passed unanimously, 5-0.

- iii. Course also entails building a website, so we need hosting site for Woodfin parks webpage (<http://woodfinparks.com/>) and fee is \$12 for the 1<sup>st</sup> year, \$20 thereafter. Recommend the Board authorizes the \$12 expenditure.

1. Commissioner Bryson made a motion to authorize the \$12 expenditure. Vice Mayor Giezentanner seconded the motion, which passed unanimously, 5-0

### **3. American Rescue Plan (ARP) Grant Project Budget Ordinance (Presenter: Powers)**

- a. Finance Director Powers said that the Town must establish budget ordinance before you can spend ARP Act funds. The budget is not set in stone and can be amended as needed as funds are spent
- b. Commissioner Hensley made a motion to approve the ARP Grant Project Budget Ordinance. Vice Mayor Giezentanner seconded the motion, which passed unanimously, 5-0.

### **4. Budget Amendment: Project & Facilities Manager Position (Presenter: Powers)**

- a. Finance Director Powers said budget funds needed to be reappropriated to cover salary and benefits for the new Project & Facilities Manager position, many removing funding from professional services, and an appropriation of APR funds which increase general fund \$28,000, and no new funding from the fund balance is needed.
- b. Vice Mayor Giezentanner made a motion to approve the ARP Grant Project Budget Ordinance. Commissioner Hensley seconded the motion, which passed unanimously, 5-0.

### **5. Appointments to Planning & Zoning Board of Adjustment (Presenter: Isenhower)**

- a. Town Administrator Hardy recommended the appointment to the Planning & Zoning Board of Adjustment:
  - i. Patrizia Hoffman, Chairperson\*, Theresa Stoker, Member\*, Jay Grimmett, Member\*, Barbara Lamb, Member, Jeff Angel, Member, Dylan Dechant, Member, Jim McAllister, Member, Susannah Carver, Alternate, Glenda Overbeck, Alternate
  - ii. \*Term has not expired from when the PZBOA was split into two boards in May 2021.
- b. Commissioner Angel made a motion to approve the appointments to the Planning & Zoning Board of Adjustment. Vice Mayor Giezentanner seconded the motion, which passed unanimously, 5-0.
- c. Vice Mayor Giezentanner made a motion to appoint Patrizia Hoffman as Chairperson of the Planning & Zoning Board of Adjustment. Commissioner Hensley seconded the motion, which passed unanimously, 5-0.

## **H. Departmental and Administrator's Reports**

### **1. Police**

- a. Officers are keeping an eye on road conditions throughout night, be careful driving, don't drive on flooded street
  - i. Flooded streets could affect response times
- b. Citations up for July, but crash reports trending down
- c. Have noticed increased speeding, not only the amount, but the speed at which they're driving
- d. Catalytic converter thefts, still no leads, but they are high in buncombe county
- e. Evidence technician – conducted 9 interviews, invited 5 to apply for position, then proceed with the next steps in the process
- f. Officer Clint Teague resigned effective 8/25/21, and is going back to school

### **2. Planning and Zoning**



- a. No report this month

### 3. Finance

- a. Finance Director Powers updated the Commissioners on the unaudited budget numbers from FY 2020-2021:
  - i. Revenues: +258,669.11 (budget: \$5,074,326, actual: \$5,332,995.11)
  - ii. Expenditures: -(\$753,315.80) (budget: \$5,074,326, actual: \$4,321,010.20)
  - iii. Total: -(1,0101,984.91) returned to the general fund
- b. Finance Director Powers updated the Commissioners on the FY 2021-2022 budget
  - i. FY 2022 Budget: \$6,202,340
  - ii. Expenditures to date: \$866,606 (includes encumbrances)
  - iii. Available budget: \$5,335,734

### 4. Administration

- a. Increased parks cleaning: Tuesdays & Fridays
- b. Covid case spike and mandate
  - i. Mask mandate effective immediately through September 30<sup>th</sup>
- c. Preliminary 2020 Census
  - i. Right under 8,000 residents, up 29.6% from 2010
- d. Project Manager search
  - i. Position closed on July 28<sup>th</sup>, interviews conducted August 17-20, Conditional job offer on August 23, New hire onboarding in September
- e. Housing Relief Program
  - i. Buncombe County Commissioners approved a new initiative aimed at helping qualified homeowners with up to a \$300 Homeowner Grant Program. The funds can be used from property tax bill, housing costs, taxes, mortgage, or insurance. Eligible Woodfin residents can receive up to an additional \$200.
- f. Contracts
  - i. Craig Law Firm: \$21,440 – land use and zoning counsel
  - ii. Responder Support Services: NTE \$25,000 – law enforcement well-being
  - iii. Land of Sky Regional Council: \$2,500 – Stormwater Management Plan, \$1,288 – Stormwater mapping (grant match)
  - iv. TSA Choice: \$16,182 – server replacement and installation

### 5. Public Works

- a. New trucks will be purchased to replace the two that were surplus

### 6. Greenway & Blueway

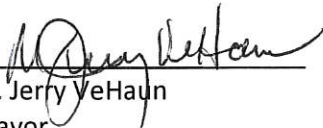
- a. General Update
  - i. Project Manager process
  - ii. Riverlink staff transition: Executive Director and fundraising
- b. Silver-Line Park
  - i. Pending decisions
    - 1. Cofferdam solution for riverbank work
    - 2. Change order for pirate ship design changes
    - 3. Park signage
    - 4. Public building design
  - ii. Riverside Park + Whitewater Wave
    - 1. Advisory Committee recommendation (presented under New Business #2)
    - 2. Onsite for design team at rock quarry on August 18<sup>th</sup>
  - iii. Greenways
    - 1. Potential ARP Act funding and EDA grant (Buncombe County)

2. County looking to shorten timeline
3. Property owner discussion ongoing
- iv. Work continues on closing the funding gap of \$3,693,370

**I. Adjournment**

Commissioner Lunsford made a motion to adjourn the meeting. Vice Mayor Giezentanner seconded the motion, which passed unanimously, 5-0.

Mayor VeHaun adjourned the meeting at 9:42 p.m.

  
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M. Jerry VeHaun  
Mayor

Attest:   
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Ryan Vinson  
Town Clerk