

AGENDA
Regular Meeting of the Sawmills Town Council
Sawmills Town Hall
Tuesday, September 17, 2019
6:00 pm

- | | | |
|-----|---|----------------------|
| 1. | Call To Order | Mayor Johnnie Greene |
| 2. | Invocation | Pastor Steve Owen |
| 3. | Pledge of Allegiance | Mayor Johnnie Greene |
| 4. | Adopt Agenda | Mayor Johnnie Greene |
| 5. | Approve Meeting Minutes | |
| | A. August 20, 2019 Regular Meeting Minutes | Mayor Johnnie Greene |
| | B. August 28, 2019 Special Meeting Minutes | Mayor Johnnie Green |
| | C. August 28, 2019 Special Closed Session Meeting Minutes | Mayor Johnnie Greene |
| | D. August 29, 2019 Special Meeting Minutes | Mayor Johnnie Greene |
| | E. August 29, 2019 Special Closed Session Meeting Minutes | Mayor Johnnie Greene |
| 6. | Public Comment | Mayor Johnnie Greene |
| 7. | Recognitions: | |
| | A. Recycle Rewards | Mayor Johnnie Greene |
| 8. | Financial Matters: | |
| | A. Fire Department Donation | Mayor Johnnie Greene |
| 9. | Planning Matters: | |
| | A. Planning Board/Board of Adjustment Text Amendment | Mayor Johnnie Greene |
| | B. Appoint BOA Members | Mayor Johnnie Greene |
| | C. Appoint Planning Board Member | Mayor Jonnie Greene |
| 10. | Public Comment | Mayor Johnnie Greene |
| 11. | Updates: | |
| | A. Code Enforcement Report | Mayor Johnnie Greene |
| | B. Council Comment | Mayor Johnnie Greene |
| 12. | Closed Session: NCGS§ 143-318.11(a)(5) | Mayor Johnnie Greene |
| 13. | Adjourn | Mayor Johnnie Greene |

TUESDAY, AUGUST 20, 2019
TOWN OF SAWMILLS REGULAR COUNCIL MEETING
6:00 PM

COUNCIL PRESENT

Mayor Johnnie Greene
Keith Warren
Clay Wilson

STAFF PRESENT

Karen Clontz
Terry Taylor
Julie A Good

COUNCIL ABSENT

Rebecca Johnson

CALL TO ORDER: Mayor Johnnie Greene called the meeting to order at approximately 6:07pm.

INVOCATION: Reverend Frank Denny gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Johnnie Greene led the Pledge of Allegiance.

ADOPT AGENDA: Mayor Johnnie Greene asked for a motion to adopt the August 20, 2019 Agenda.

Clay Wilson made a motion, and Joe Norman seconded, to adopt the August 20, 2019 Agenda. All were in favor.

APPROVE JULY 16, 2019 REGULAR MEETING MINUTES: Mayor Johnnie Greene asked for a motion to approve the July 16, 2019 regular meeting minutes.

Joe Norman made a motion, and Keith Warren seconded, to approve the July 16, 2019 regular meeting minutes. All were in favor.

APPROVE JULY 29, 2019 SPECIAL MEETING MINUTES: Mayor Johnnie Greene asked for a motion to approve the July 29, 2019 special meeting minutes.

Joe Norman made a motion, and Keith Warren seconded, to approve the July 29, 2019 special meeting minutes. All were in favor.

APPROVE JULY 29, 2019 CLOSED SESSION MINUTES: Mayor Johnnie Greene asked for a motion to approve the July 29, 2019 closed session minutes.

Keith Warren made a motion, and Joe Norman seconded, to approve the July 29, 2019 closed session minutes. All were in favor.

PUBLIC COMMENT: Mayor Johnnie Greene asked if anyone had any questions or comments at this time.

No one wished to speak

RECOGNITIONS:

RECYCLE REWARDS WINNER: Mayor Johnnie Greene announced Mr. Adam Reese as the August Recycle Rewards winner. A credit of thirty-two dollars (\$32.00) will be added to his sanitation bill.

No Council action was required.

FINANCIAL MATTERS:

CALDWELL COUNTY SCHOOLS DONATION REQUEST: Mayor Johnnie Greene stated that the Caldwell County Schools had requested a donation in the amount of fourteen thousand dollars (\$14,000.00).

Keith Warren made a motion, and Joe Norman seconded, to give a donation in the amount of fourteen thousand dollars (\$14,000.00) to the Caldwell County Schools. All were in favor.

SURPLUS OF REFUSE TRUCKS: Mayor Johnnie Greene stated that for the next three (3) years, the Town of Sawmills has contracted with Republic Services to collect trash for the town.

The Town currently owns three (3) refuse trucks. During the fiscal year 2019/2020 budget meetings, Council agreed to sell two (2) trucks and keep one (1) truck for possible future use. Once Council determines which trucks to sell, staff will begin taking bids and present them to Council.

Any funds collected for the trucks can be placed in a Capital Reserve, for future trash collection expenditure, if the Town chose to start collecting trash after the contract with Republic Services expires.

Estimates have been given from the original vendor for each truck as follows:

2009 Mack/Heil	Approximately \$13,000.00
2013 Mack/Heil	Approximately \$30,000.00
2018 Mack/Heil	Approximately \$200,000.00

Keith Warren made a motion, and Joe Norman seconded, to start the bid process for the 2009 Mack/Heil truck and the 2018 Mack/Heil truck and any monies received are to be put in a Capital Reserve Fund. All were in favor.

SURPLUS OF BALLFIELD POLES/LIGHTS: Mayor Johnnie Greene stated that during fiscal year 2018/2019 the Town replaced the Baird Park ballfield lights and poles. The Town has received inquiries about purchasing the old ballfield poles and/or lights. There are nine (9) poles, that are approximately fifty-five (55) plus feet, sixty-three (63) lights and twenty-six (26) a-frames that can be sold, either together or separate.

Joe Norman made a motion, and Keith Warren seconded, to start the bid process for the poles and lights from Baird Park. All were in favor.

DISCUSSION:

TOWN CHARTER ADMENDMENT: Mayor Johnnie Greene stated that during the June 18, 2019 Council Meeting, a resolution was presented to Council, for consideration, to change the form of government from Mayor-Council to Council-Manager.

During the July 16, 2019 Council Meeting, a Public Hearing was held to allow the public input regarding the charter amendment.

Clay Wilson made a motion, and Joe Norman seconded, to amend the charter for the Town of Sawmills, changing the form of government from Mayor-Council to Council Manager. All were in favor.

AMI WATER METER SYSTEM REVIEW: Mayor Johnnie Greene stated that the Town has partnered with MeterSys to conduct a feasibility and business analysis of installing an Advanced Metering Infrastructure water metering system in the Town of Sawmills.

The following is a proposed timeline for the project:

- Bid packets are due September 13, 2019 at 3:00pm
- Vender evaluations should be completed by October 10, 2019-Staff will review with the Public Works Committee
- Vender Selection, Capital Improvement Project and Budget Amendment should be on the October 15, 2019 Council Agenda
- Contract should be awarded with notice to proceed by October 31, 2019.

If Council approves the proposed project, Staff would like to discuss how to finance the project. The proposed project could be funded out of the General Fund with a Fund Balance Appropriation, out of the Utility Fund with a Net Asset Appropriation, an Equipment Installment Lease purchase contract, or a combination thereof.

Clay Wilson made a motion, and Joe Norman seconded, to finance the proposed AMI Water Meter System project out of the General Fund (60%) and the Utility Fund (40%), additional financing may be considered by Council, if the bids come in over the estimated costs of the

proposed AMI Water System project. All were in favor.

PUBLIC COMMENT:

No one wished to speak

AUGUST CODE ENFORCEMENT REPORT: There are eight (8) code enforcement cases open:

- Chaney Carter, owner of 4361 Sawmills School Rd. Overgrown vegetation. Town Planner Hunter Nestor stated that a letter was sent on July 19, 2018, with a deadline of August 3, 2018. Town Planner Hunter Nestor stated that the nuisance was abated by the Town on August 10, 2018. Town Planner Hunter Nestor stated that a lien will be placed on the property for the cost of the mowing. Town Planner Hunter Nestor stated that a hearing was held on September 6, 2018, and Ms. Carter did not show so Town will proceed to demolish house. Town Planner Hunter Nestor stated that an asbestos test was performed on the property on July 25, 2019, and the test did find asbestos. Town Planner Hunter Nestor stated that DARI was contacted on August 8, 2019, to give the Town an estimate for abatement;
- Carolyn Bray/Robyn Brittan, 2570 Baker Circle. Abandoned mobile home. Town Planner Hunter Nestor states that he is working with Town Attorney Terry Taylor to abate. Town Planner Hunter Nestor stated that the Town can treat this as a junk and debris case and not minimum housing, and by doing so, can proceed after thirty (30) days with abatement;
- Horror Fields, Kiser-Sawmills, Helena St. Fence/buffer. Town Planner Hunter Nestor stated that a complaint was received on April 10, 2019. Town Planner Hunter Nestor stated that the property is not in compliance with the conditions set in CUP. Town Planner Hunter Nestor stated that a NOV letter was sent out on April 11, 2019, with a deadline of May 10, 2019. Town Planner Hunter Nestor stated that he made a site visit on May 30, 2019 and owner is working to get property in compliance but there are still some other areas that need to be addressed;
- Charles and Patsy Crofts, 4200 Crofts Mobile Home Park Dr. Overgrown vegetation. Town Planner Hunter Nestor received a written complaint on May 21, 2019. Town Planner Hunter Nestor sent a NOV letter with a deadline of June 3, 2019. Town Planner Hunter Nestor stated that the letter came back and was resent to updated address on May 28, 2019. Town Planner Hunter Nestor stated that he has not received a response and no progress has been made at the property as of August 13, 2019;
- Debra Baker, 4476 Rual Dr. Overgrown vegetation/garbage and rubbish. Town Planner Hunter Nestor received a written complaint on May 22, 2019. Town Planner Hunter Nestor sent a NOV letter with a deadline of June 11, 2019. Town Planner Hunter Nestor stated that he has received no response, but the property had been mowed as of August 13, 2019. Town Planner Hunter Nestor stated that the rest of the property is still not in compliance, but no other complaints have been made;

- Timberline Lumber Co, Inc, 4221 US Highway 321A. Overgrown Vegetation/Property Maintenance. Town Planner Hunter Nestor stated that he received a complaint on July 5, 2019 and sent a NOV letter on July 16, 2019. Town Planner Hunter Nestor stated that he has had no response as of August 8, 2019. Town Planner Hunter Nestor stated that he sent a second NOV letter on August 8, 2019, with a new deadline of August 20, 2019;
- Paul West, 2514 Crest Ln. Overgrown Vegetation/Garbage and Rubbish. Town Planner Hunter Nestor received a complaint on July 5, 2019. Town Planner Hunter Nestor stated a NOV letter was sent on July 5, 2019 with a deadline of July 29, 2019. Town Planner Hunter Nestor stated that the letter was returned and was unable to forward. Town Planner Hunter Nestor stated that he contacted the taxing office and received a different address for the owner. Town Planner Hunter Nestor stated that he sent an additional NOV letter on August 13, 2019 with a deadline of August 26, 2019;
- Brian Poarch, 4166 Duff Dr. Overgrown Vegetation/Property Maintenance. Town Planner Hunter Nestor stated that he received a complaint on August 7, 2019. Town Planner Hunter Nestor stated a NOV letter was sent on August 8, 2019 with a deadline of August 27, 2019.

No Council action was required.

COUNCIL COMMENT: Mayor Johnnie Greene asked if anyone on Council had any comments or questions at this time:

Clay Wilson stated that several people had called him about the homeless people at the farmer's market field again. Councilman Wilson stated that he had been asked if we can move the gazebo and lock the porta jons and handwashing stations so the homeless would not use them.

Keith Warren asked if Timberline had been sold and if not what our next step would be. Town Attorney Terry Taylor informed Council Timberline had not been sold and the Town could talk again about foreclosing on the property with a tax lien.

Interim Town Manager Karen Clontz stated that she had received information from Duke Energy that the walking trail at Veteran's Park should be started in 2021 and finished in 2022. Also, Interim Town Manager Karen Clontz stated that the new playground equipment at Baird Park should be delivered and set up by the end of September or the first of October.

August 20, 2019

COUNCIL ADJOURN: Mayor Johnnie Greene asked for a motion to adjourn.

Joe Norman made a motion, and Keith Warren seconded, to adjourn the meeting. All were in favor.

The meeting was adjourned at approximately 6:40pm.

Johnnie Greene, Mayor

Julie A. Good, Town Clerk

WEDNESDAY, AUGUST 28, 2019
TOWN OF SAWMILLS SPECIAL COUNCIL MEETING
5:00 PM

COUNCIL PRESENT

Mayor Johnnie Greene
Keith Warren
Clay Wilson
Joe Norman
Rebecca Johnson

CALL TO ORDER: Mayor Johnnie Greene called the meeting to order at approximately 5:00 pm.

CLOSED SESSION FOR NCGS 143-318.11(a)(6) CONSIDER THE QUALIFICATIONS, COMPETENCE, PERFORMANCE, CONDITION OF APPOINTMENT OF A PUBLIC OFFICER OR EMPLOYEE OR PROSPECTIVE PUBLIC OFFICER OR EMPLOYEE: Mayor Johnnie Greene asked for a motion to go into closed session.

Keith Warren made a motion, and Joe Norman seconded, for Council to go into closed session under NCGS 143-318.11(a)(6) consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee. All were in favor.

Clay Wilson made a motion and Rebecca Johnson seconded, to return to open session and then to recess this special meeting until 5:00pm on Thursday, August 29, 2019, at the Western Piedmont Council of Governments office. All were in favor.

This Special Meeting was recessed until August 29, 2019, at 5:00pm at the Western Piedmont Council of Governments Office, located at 1880 2nd Avenue NW, Hickory, NC 28601.

The meeting was recessed at approximately 7:44pm.

Johnnie Greene, Mayor

Julie A Good, Town Clerk

THURSDAY, AUGUST 29, 2019
TOWN OF SAWMILLS SPECIAL COUNCIL MEETING
5:00 PM

COUNCIL PRESENT

Mayor Johnnie Greene
Keith Warren
Clay Wilson
Joe Norman
Rebecca Johnson

CALL TO ORDER: Mayor Johnnie Greene called the meeting to order at approximately 5:00 pm.

CLOSED SESSION FOR NCGS 143-318.11(a)(6) CONSIDER THE QUALIFICATIONS, COMPETENCE, PERFORMANCE, CONDITION OF APPOINTMENT OF A PUBLIC OFFICER OR EMPLOYEE OR PROSPECTIVE PUBLIC OFFICER OR EMPLOYEE: Mayor Johnnie Greene asked for a motion to go into closed session.

Rebecca Johnson made a motion, and Joe Norman seconded, for Council to go into closed session under NCGS 143-318.11(a)(6) consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee. All were in favor.

Rebecca Johnson made a motion and Clay Wilson seconded, to return to open session. All were in favor.

Joe Norman made a motion, and Rebecca Johnson seconded, to adjourn the meeting. All were in favor.

The meeting was recessed at approximately 8:25pm.

Johnnie Greene, Mayor

Julie A Good, Town Clerk

AGENDA ITEM 7A

MEMO

DATE:

September 17, 2019

SUBJECT:

Recognition:
Recycle Rewards
Program

Discussion:

The Town of Sawmills would like to congratulate Mr. Joseph Phillips on winning the Recycle Rewards Program for the month of September. Mayor Johnnie Greene will present him with a Certificate of Appreciation. A thirty-two dollar (\$32.00) credit will be added to the current sanitation bill.

Recommendation:

No Council action is required.

AGENDA ITEM 8A

MEMO

DATE:

September 17, 2019

SUBJECT:

Financial Matters:
Sawmills VFD Donation

Discussion:

During Council's May 17, 2016 meeting, a resolution was passed to set aside a week in September as Sawmills Fire and Rescue Appreciation Week. To continue to show the Town's support, a donation is recommended for the Sawmills Volunteer Fire Department.

Recommendation:

Staff recommends Council determine the amount to be donated.



MAYOR
Johnnie Greene

INTERIM TOWN MANAGER
Karen Clontz

**TOWN
COUNCIL**

Clay Wilson, Mayor Pro-Tem
Keith Warren
Joe Norman
Rebecca Johnson

COUNCIL MEETING
September 17, 2019
6:00 PM

Agenda Item #9A

PLANNER'S STAFF REPORT

**PROPOSED PLANNING BOARD AND BOARD OF ADJUSTMENTS
COMBINATION ORDINANCE TEXT AMENDMENT**

Background: Currently, Sawmills' has separate Board of Adjustments and Planning Boards. Planning Board consist of 5 members (3 in town limits and 2 representing the ETJ) and Board of Adjustments consist of 5 members and Council may appoint 2 alternate members. However, staff is having trouble finding people who would like to serve on one of the Boards. Currently we have 4 on the Planning Board and 4 on Board of Adjustments.

The new draft language combines/enables the Planning Board to also serve as the Board of Adjustments. The current draft, states the Board will consist of 6 members (4 in town and 2 from ETJ to remain proportional) and 2 alternates (1 in Town and 1 from ETJ). This will help trying to find people to serve on the board, as well as giving the new combined Board more duties for more frequent meetings. With having 8 people on both boards, staff has decided to have 6 full-time members instead of the current 5 for each board. The draft language also allows for 2 alternates to be appointed in case a regular member cannot attend a meeting. There will be one alternate from within Town and one from the ETJ. New language is underlined, deleted text is struck through. Highlighted text are points for discussion to be clarified for final proposal during the October Meeting.

See attached proposed text, as amended, under Section 151.08 "Compensation, Qualifications, Appointments, Terms, Vacancies, and Reappointments." and Section 153.205 "Establishment of Board of Adjustments."

Points for Discussion:

Board Configuration- With having 8 people on both boards, Staff has decided to have 6 instead of the current 5 for each board. Out of the total 8 that have already committed to serve 6 are with in Town Limits and 2 are from the ETJ. By General Statutes of North Carolina we must have the ETJ represented but I need to get clarification if it needs to be equal/proportional on representation. This could affect the composition on the Board and we may need to stick with 5 (3 in Town and 2 ETJ) and 2 alternates. Staff will have more information during the Council Meeting.

Compensation - Currently, according to ordinance neither board is compensated for their time served but Planning Board has been paid in the past. In my experience some combined boards are and some are not. Staff will provide more information during Council Meeting but would like clarification from Council on how it should be worded in the Ordinance.

Term Lengths – The last point to consider is term lengths. I have highlighted the difference in the terms in the current ordinance. Staff will also provide some more information during the Council Meeting.

Action Needed:

CALL FOR PUBLIC HEARING for October 15, 2019 at 6:00

Please feel free to contact me with any questions or concerns regarding this text amendment or any other business at hunter.nestor@wpcog.org or 828-485-4287.

151.07 PLANNING BOARD, SPECIFIC AUTHORITY POWERS.

- (A) The Planning Board shall seek to promote, enhance and preserve the character and general welfare of the town.
- (B) The Town Planning Board is authorized and empowered to undertake any action reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter and GS §160A-361, including and not limited to the following:
- (1) Make studies of the area within its jurisdiction and surrounding areas;
 - (2) Determine objectives to be sought in the development of the study area;
 - (3) Prepare and adopt plans for achieving these objectives;
 - (4) Development and recommend policies, ordinances, administrative procedures and other means of carrying out plans in a coordinated and efficient manner;
 - (5) Advise the Council concerning the use and amendment of means for carrying out plans;
 - (6) Exercise any function in the administration and enforcement of various means for carrying out plans that the Council may direct; and
 - (7) Perform any other related duties that the Council may direct.
- (1991 Code, §91.07)(Ord., passed 11-22-1988)

§151.08 COMPOSITION, QUALIFICATIONS, APPOINTMENTS, TERMS, VACANCIES AND REAPPOINTMENTS.

- (A) The Planning Board shall be composed of ~~five members~~ six (6) regular members and two (2) alternate members and shall have proportional representation from within the corporate limits and the Extraterritorial Jurisdiction; three Four (4) who shall be residents of the town and shall be appointed by the Town Council and two (2) who shall be residents of the extraterritorial jurisdiction and shall be appointed by the County Board of Commissioners. All members appointed to the Planning Board shall serve for two-year terms.
- (B) A vacancy occurring in the membership of the Planning Board shall be filled for the unexpired term by the Town Council or County Board of Commissioners, as it appropriate. Any member shall be eligible for reappointment.
- (1991 Code, §91.08)(Ord., passed 11-22-1988; Ord. passed 6-4-1996)

§151.09 OFFICERS, COMMITTEES AND COMPENSATION.

- (A) The Planning Board shall elect from its membership a Chairperson, Vice-Chairperson and Secretary. The term of Chairperson shall be for a period of time as determined by the Planning Board, but in no event shall the term for which the member is appointed to the Planning Board.

- (B) The Planning Board may establish and the Chairperson shall appoint committees from its membership as the Board may from time to time deem best.
 - (C) All members regardless of their place of residence shall have equal rights, privileges and duties regarding all matters coming before the Board.
 - (D) Members of the Board shall serve without compensation, except that members shall be reimbursed from funds appropriated by the town for necessary travel expenses outside the planning area while engaged in the work of the Planning Board.
- (1991 Code, §91.09)(Ord., passed 11-22-1988)

§151.10 FISCAL AFFAIRS.

- (A) Appropriation of funds for the Planning Board for its work anywhere within the planning area shall be made annually and the budget ordinance in the town in amounts as the Town Council may from time to time deem best. Funds from any source may be appropriated to the Planning Board. Any disbursement of funds to the Planning Board shall be made in the same manner as any other funds of the town that are disbursed.
 - (B) The Planning Board may accept any gift, grants in aid or other funds made available to it by the federal, state, county or municipal government or from any other public or private source. All funds received by the Board shall be deposited with the Town Clerk.
 - (C) The Planning Board shall not purchase any supplies, materials or equipment, enter into a new contract for service or incur any debt whatsoever unless funds for those purposes are available and have been appropriated for use by the Planning Board in accordance with this section.
- (1991 Code, §91.10)(Ord., passed 11-22-1988)

§151.11 STAFF AND CONSULTANTS.

- (A) The Planning Board may recommend to the Town Council the professional and clerical staff needed to perform the work of the Planning Board. All staff authorized for the Planning Board, either part-time or full-time employees, shall be appointed by the Town Council and shall be subject to the same rules and regulations as other employees of the town.
 - (B) The Planning Board may, after due consideration, enter into contracts with planning consultants, engineers or other persons for planning services, provided all the requirements of the above section are complied with.
- (1991 Code §91.11)(Ord., passed 11-22-1988)

§151.12 GENERAL PLANNING AUTHORITY.

The Planning Board shall have authority to make comprehensive studies of the present and future needs of the planning area which includes the town and the one-mile extraterritorial jurisdiction. The studies may include but may be limited to studies of the physical, social, economic and governmental

conditions with trends within the planning area for the purpose of preparing a plan which will provide for the sound growth and orderly development of the planning area in a manner that will best promote the health, safety, convenience, prosperity and general welfare of its citizens.

(1991 Code, §91.12)

§151.13 COORDINATION OF PLANNING ACTIVITIES.

In the conduct of its studies and the preparation of its plans, the Planning Board shall have the duty to coordinate its planning activities with the planning activities of the counties, the municipalities and other agencies, both public and private, which are located within the planning area.

(1991 Code §91.13)

BOARD OF ADJUSTMENT

§153.205 ESTABLISHMENT OF BOARD OF ADJUSTMENT.

(A) A Board of Adjustment is hereby created as provided in G.S. §160A-388. The Planning Board shall function as the Board of Adjustment as provided in G.S. §160A-388. ~~Said Board shall consist of five members to be appointed by the Town Council for the overlapping terms of three years. Initial terms of office shall be as follows:~~ one member appointed for a term of one year; two members appointed for terms of two years; and two members appointed for terms of three years. Upon completion of the initial term of office for each member, all additional appointments to vacancies on the Board shall be for three year terms. ~~The members of the Board of Adjustment shall be residents of the county.~~ Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.

(B) The Town Council may, in its discretion, appoint not more than two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. This alternate member or members shall be appointed in the same manner as regular members and at the regular times for appointment. The alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent.

(Ord. §130A, passed 2-19-2008)

§153.206 DECISIONS OF THE BOARD OF ADJUSTMENT.

(A) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer pertaining to the town or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Code or to effect any variation of such code in the town.

(B) On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and shall decide the same within a reasonable time. The Board shall inform all parties involved of its decision in writing, stating the reasons therefore.

(Ord. §130B, passed 2-19-2008)

§153.207 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall elect a chairman and vice-chairman from its members, each of whom shall serve for one year or until re-elected or until their successors are elected and qualify. This year shall run from July 1 to June 30. The Board shall adopt rules and bylaws in accordance with the provisions of this chapter and G.S. Ch. 160A, Art. 19. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his or her absence the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall keep a record of all proceedings of meetings but shall not have a vote unless he or she is also a regular or alternate member of the Board.
(Ord. §130C, passed 2-19-2008)

§153.208 APPEALS, HEARINGS AND NOTICE.

An appeal from the decision of the Zoning Enforcement Officer may be taken by any person aggrieved or affected by such decision to the Board of Adjustment. Such appeal shall be taken within 45 days by filing with the Zoning Enforcement Officer and with the Secretary of the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Enforcement Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
(Ord. §130D, passed 2-19-2008)

§153.209 STAY OF PROCEEDINGS.

An appeal stays in all legal proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer certified to the Board of Adjustment after the notice of appeal has been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record, upon appropriate application, on notice to the Zoning Enforcement Officer and on due cause shown.
(Ord. §130E, passed 2-19-2008)

§153.210 DECISION OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment may reverse or reaffirm, wholly or in part, or may modify any order, requirements, decision or determination and to that end shall have the powers of the administrative official from whom the appeal is taken.
(Ord. §130F, passed 2-19-2008)

§153.211 DUTIES OF THE ZONING ENFORCEMENT OFFICER, BOARD OF ADJUSTMENT, COURTS AND TOWN COUNCIL ON MATTERS OF APPEAL.

It is the intention of this chapter that all questions arising in connection with the enforcement of this chapter shall be presented to the Zoning Enforcement Officer and that such questions shall be presented to the Board of Adjustment only on appeal from the Zoning Enforcement Officer, and that from the decision of the Board of Adjustment recourse shall be had to courts as prescribed by law. It is further the intention of this chapter that the duties of the Town Council in connection with the chapter shall not include the hearing and passing upon disputed question that may arise in connection with the enforcement thereof. The duties of the Town Council in connection with this chapter shall be only the duty of considering and passing upon any proposed amendments or repeal of this chapter.
(Ord. §130I, passed 2-19-2008)

- (A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement of this chapter.
- (B) *Conditional uses; conditions governing application.* To grant in particular cases and subject to appropriate conditions and safeguards, permits for conditional uses under the various use districts, the Board of Adjustment shall not grant a conditional use permit unless and until:
 - (1) A written application for a conditional use permit is submitted indicating the section of this chapter under which the conditional use permit is sought;
 - (2) A quasi-judicial public hearing is held. A notice of the public hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days nor more than 25 days before the date fixed for this hearing (G.S. §160A-364). Any petition may be withdrawn at any time by written notice to the Town Clerk. All property owners within 100 feet of the property in question shall be notified of this hearing by first class mail; and
 - (3) The Board of Adjustment finds that in the particular case, the use for which the conditional use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will conform to the requirements and spirit of this chapter.
- (C) *Compliance with other codes.* Granting a conditional use permit does not exempt the applicant from complying with all of the requirements of building codes or other ordinances.
- (D) *Revocation.* If at any time after a conditional use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a conditional use permit, the permit shall be terminated and the operation of such use discontinued. If a conditional use permit is terminated for any reason, it may be reinstated only after a public hearing is held.
- (E) *Expiration.*
 - (1) In any case where a conditional use permit has not been exercised within the time limit set by the Board of Adjustment, or within one year if no specific time limit has been set, then without further action the permit shall be null and void.
 - (2) **EXERCISED** as set forth in this division shall mean that binding contracts for the construction of the main building shall have been let; or in the absence of contracts, that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, and the like). When construction is not a part of the use, **EXERCISED** shall mean that the use is in operation in compliance with the conditions set forth in the permit.

- (F) *Careful record.* A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the zoning enforcement officer.
- (G) *Variances.* Any application for a Variance shall be filed with the Town Clerk at least 20 days prior to the date on which it is to be introduced to the Board of Adjustment. The Town Clerk or designated staff member shall be responsible for presenting the application to the Board of Adjustment. Each variance application shall be accompanied by a fee (as adopted by the Town Council) to help defray the costs of advertising the public hearing required by G.S. §160A-364.19.
- (H) *Variance application requirements.* A Variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating that:
- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district;
 - (2) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
 - (3) The circumstances do not result from the action of the applicant;
 - (4) Granting the variance requested will not confer upon the applicant any special privileges that are denied by this chapter to other lands, structures, or buildings in the same district;
 - (5) No nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.
- (I) *Hearing.* Notice of a public hearing shall be given as set forth in division (A)(2). At the quasi-judicial public hearing, any party may appear in person or by agent or attorney.
- (J) *Findings, general.* The Board of Adjustment shall make findings that the requirements of division (G) shall have been met for a variance.
- (K) *Findings, specific.* The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance is the minimum one that will make possible the reasonable use of the land, building or structure.
- (L) *Findings, environment.* The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (M) *Conditions attached.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under §153.134.
- (N) *Prohibition.* Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.

AGENDA ITEM 9B

MEMO

DATE:

September 17, 2019

SUBJECT:

Planning Matters:
Board of Adjustment
Reappointments

Discussion:

There are four (4) seats on the Board of Adjustment Committee that expired in June of this year along with a vacant ETJ seat and a vacant alternate seat. Reed Lingerfelt, a regular Board of Adjustment member, has agreed to serve another term. Jack Keller, a regular Board of Adjustment member, has agreed to serve another term. Dino DiBernardi, a regular ETJ Board of Adjustment member, has agreed to serve. Walter Moore, an alternate ETJ member, has agreed to serve another term.

Recommendation:

Staff recommends Council reappoint Reed Lingertfelt, Dino DeBernardi and Walter Moore to serve another term on the Board of Adjustment and recommend a regular ETJ Board of Adjustment member and an alternate Board of Adjustment member.

AGENDA ITEM 9C

MEMO

DATE:

September 17, 2019

SUBJECT:

Planning Matters:
Re-Appoint
Planning Board
Member

Discussion:

The term of appointment for Planning Board Member Kelly Price expired on September 1, 2019.

Town Planner Hunter Nestor contacted Mr. Price and he is willing to serve another term.

Recommendation:

Staff recommends Council re-appoint Kelly Price to the Planning Board.

AGENDA ITEM 11A

MEMO

DATE:

September 17, 2019

SUBJECT:

Updates:
Code Enforcement
Monthly Report

Discussion:

The attached report shows the progress that Planner Hunter Nestor continues to make throughout the town.

Recommendation:

No Council action required.

Code Enforcement Report			
Property Address	Property Owner	Issue	Notes
4361 Sawmills School Rd	Cheray Carter	Overgrown lot	Letter sent 7/19. Deadline 8/3. Nuisance abated by town on 8/10. Lien placed on property for cost of mowing. Hearing held on 9/6. Ms. Carter did not show so town will proceed to demolish house. Asbestos test was performed on 7/25. Test did find asbestos. DARI was contacted on 8/8 to give town a cost estimate for abatement. Cost of abatement is \$17,900. Staff can proceed to demolish and abate the property.
2570 Baker Circle, Granite Falls, NC 28630	Carolyn Bray/ Robyn Brittan	Abandoned Mobile Home/Garbage and Rubbish	Working with attorney to abate. Going to try and treat as Junk and Debris and not minimum housing. If so the town can proceed to abate after 30 days of notice. Staff plan to abate this budget year.
Horror Fields (4276 Helena St, Hudson, NC 2	KISER-SAWMILLS INC	Fence/Buffer	Complaint made on 4/10. Property is not in compliance with conditions set but CUP. Letter sent out on 4/11. Site visit on 5/30 and owner is working to get property in compliance but still some other areas that need to be addressed.
4476 Rural DR	Deborah Barker	Overgrown Vegetation/Garbage and Rubbish	Complaint made on 5/22. Deadline 6/11. additional letter was sent 6/20. No response and property has been mowed as of 8/13 but rest of property is still not in compliance (Garbage and Rubbish) but no other complaints have been made.
4221 US HWY 321A	Timberline Lumber CO INC	Overgrown Vegetation/Property Maintenance	Complaint Received 7/2. Original letter was sent 7/16 and no response or no progress as of 8/8. Second warning letter was sent on 8/8 with new deadline of 8/20. Some progress has been made.
2514 Crest Lane	Paul West	Overgrown Vegetation/Garbage and Rubbish	Complaint Received 7/5. Letter was sent on 7/9. Letter was returned and was unable to forward. Contacted Taxing office to see if owner has a different address for notice. Additional letter was mailed/posted on 8/13 with new deadline of 8/26. Checked on 8/29 and Property was mowed and cleaned up.
4166 Duff DR	Brian Poarch	Overgrown Vegetation/Property Maintenance	Complaint Received 8/7. Letter was sent on 8/8 with deadline of 8/27. Property was cleaned up. Property owner called to ask if there was anything else he needed to do but staff deemed the property in compliance.