

TOWN OF WAYNESVILLE, NC

Board of Aldermen – Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786

Date: **April 24, 2012** Time: **7:00 p.m.**

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1. CALL TO ORDER

A. Welcome & Announcements

B. Recognitions

- Graduates of the Class of 2012 – Civilian Police Academy
- Fire Chief Joey Webb, Sr. – upon completion of 2011-12 Municipal Administration Certificate, UNC-CH School of Government

C. Adoption of Minutes

Motion: *To adopt the minutes of March 1, 2012 (Closed Session) and April 10, 2012 (Regular Session)*

2. PUBLIC HEARINGS

A. US 23B/South Main Street Corridor Plan – Development of Alternatives for the Transportation Corridor from Hyatt Creek Road to Ninevah Road

- Rodney Porter - LaQuatra Bonci Associates, Asheville, NC
- Brooks Engineering Associates, Asheville, NC
- J. M. Teague Engineering & Consulting, Waynesville, NC
- Paul Black, French Broad MPO

Motions:

1. *To open the public hearing regarding the South Main Street Corridor Plan.*
2. *To close the public hearing.*
3. *To adopt **Resolution #5-12**, adopting the US23B/South Main Street Corridor Plan as prepared and presented by LaQuatra Bonci Associates*

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3. NEW BUSINESS

- A. Ordinance to Amend Section 42-61 (Offenses and Miscellaneous Provisions) of the Code of Ordinances of the Town of Waynesville, regarding limits on the possession of weapons on town property

Motion: *To adopt Ordinance X-12, amending Section 42 of the Code of Ordinances of the Town of Waynesville by deleting and restating Section 42-61 as presented.*

- B. Appointment of Lee Galloway to represent the Town of Waynesville on the Lake Junaluska Municipal Study Task Force

Motion: *To appoint Lee Galloway to represent the Town of Waynesville on the Lake Junaluska Municipal Study Task Force*

- C. Endorsement of NC Law Enforcement Agencies Presidents' (NC-LEAP) Legislative Advocacy Program for Public Safety Issues

Motion: *To support the NC-LEAP Legislative Advocacy Program for Public Safety Issues as presented, and to authorize and encourage the mayor, aldermen and staff to actively communicate the Town's position with regard to these issues to our legislative representatives for action during the 2012 Session of General Assembly*

4. UNFINISHED BUSINESS

- A. Downtown Mini-Park Sign – Bid Award

Motion: *To award the bid, in the amount of \$5,571.60 for the manufacture, transport, and installation of the Downtown Mini-Park "Gateway to the Smokies" sign to the lowest responsible, responsive bidder, Moto-Fab Metal Works of Waynesville, NC*

- B. Street Closing-Cancellation of Prior Approval for 2012 Downtown Sidewalk Sales
(request of Downtown Waynesville Association)

Motion: *To rescind authorization for 2012 Downtown Waynesville Sidewalk Sales, originally scheduled for May 25-28, July 3-5 and August 31-September 3, as requested by Downtown Waynesville Association*

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5. COMMUNICATIONS FROM STAFF

A. Town Attorney – Woody Griffin

B. Town Manager - Marcy Onieal

- Budget Schedule
- Economic Incentive Agreement-Sonoco
- Service Notification Issues – Hazelwood
- Town Hall Remodel – Update
- Manager's Schedule
- Bank Authority Certifications
- Condolences

C. Management Consultant/Other Staff – Lee Galloway

6. COMMUNICATIONS FROM MAYOR AND BOARD OF ALDERMEN

7. CALL ON THE AUDIENCE

8. ADJOURNMENT



Marcia D. Onieal, Town Manager

TOWN OF WAYNESVILLE POLICE DEPARTMENT



2012 Civilian Police Academy Graduates

Steve Ariko
Carol Barton
Lowell Coffin
Lydia Dirscherl
Linda Dirscherl

Bob Herrmann
Sue Ellen Jackson
Marti Peithman
Hollis Prior
Pamela Starnes

Classes and Instructors:

Department Overview – Chief Bill Hollingsed
Communications/Dispatch - Sarah Mehaffey
Records Review - Kristie Holcombe
Officer Selections & Training - Diane Robinson
Personal Safety - Dick Campbell
Firearm Safety and Range - Brian Beck
Uniform Patrol Operations -Tyler Howell
D.A.R.E. - Tyler Howell
S.P.U. - Mike Davis
S.R.O. - Eddie Lowe
Canine - Heath Plemmons and Brandon Gilmore
Drug Abuse Education - Rob Skiver
DWI Detection - Rob Skiver
Domestic Violence - Scott Muse
Crime Scene Processing - Tamera Vander Molen
Criminal Investigations - Chris Chandler
Internal Investigations and Complaints - Blaine Jones

Civilian Police Academy Coordinator – Mary Ford

The Town of Waynesville extends its congratulations and thanks to the 2012 graduates and to all of the men and women of the Waynesville Police Department for exemplary service and for advancing awareness of public safety issues throughout our community.

REGULAR MEETING
TOWN OF WAYNESVILLE
BOARD OF ALDERMEN
TOWN HALL – 9 SOUTH MAIN STREET
APRIL 10, 2012
TUESDAY – 7:00 P.M.

The Board of Aldermen of the Town of Waynesville held a regular meeting on Tuesday, April 10, 2012. Members present were Mayor Gavin Brown, Aldermen Gary Caldwell, Julia Freeman, J. Wells Greeley and LeRoy Roberson. Also present were Town Manager Marcy Onieal, Assistant Town Manager Alison Melnikova, Management Advisor A. Lee Galloway, Town Clerk Phyllis McClure, Town Attorney Woodrow Griffin, Finance Director Eddie Caldwell and Purchasing Supervisor Julie Grasty. Mayor Brown called the meeting to order at 7:00 p.m.

Approval of Minutes of February 24, March 21 and March 27

Alderman Roberson moved, seconded by Alderman Greeley, to approve the minutes of the February 24, March 21 and March 27 meetings as presented. The motion carried unanimously.

ROTC Request for Funding 2012 -2013 Budget

The ROTC Chapter at Tuscola High School requested time on the agenda to make their annual presentation request to be considered for funding in the Town's 2012-2013 annual budget. Major David Thurman was present along with a group of ROTC members. The students made a Power Point Presentation for the Board.

C/Lieutenant Colonel Lacey Deaver, Group Commander of ROTC attended, along with C/Major Lindsay Kihnel, C/Major David Barker, and C/Major Brenda Zamudio. Several topics were discussed, including the Mission Station of ROTC, this year's goals for the Cadet Corps, School and Community. The ROTC Chapter of Tuscola High School participate in physical training, drill team, color guard, military ball, ribbon team, annual blood drive, Relay For Life and canned food drive activities.

A Veterans Day Luncheon is held each year to honor Veterans. For the past few years, the ROTC has requested help from the Town of Waynesville in funding this luncheon. Each table can be sponsored for \$800 per table. The Town of Waynesville sponsored two tables last year. Veterans are invited to attend at no cost. This is a time when Veterans can be shown how much they are appreciated.

Cole Brown, former ROTC student and grandson of Mayor Gavin Brown attended the meeting. Cole plans to join the Army. Mayor Brown said this program is beneficial to students and the community. Mayor Brown thanked the ROTC Group for attending the meeting, adding that their request would be considered during the budget process.

The Finance Director is currently accumulating the budget requests of each department and making revenue projections for the upcoming fiscal year. In early May, the Board will receive the proposed budget and the numbers will then be available for the Board to consider funding for the non-profit agencies. No action was necessary.

Request by the Waynesville Inn Golf Resort & Spa for Amendment to Code of Ordinances Regarding the Town's Noise Ordinance

At the meeting of the Town Board on March 27, Town Manager Galloway mentioned that Mr. Sammy Carver, co-owner of the Waynesville Inn Golf Resort & Spa, had been in touch with him regarding the Town's Noise Ordinance. Mr. Carver had asked Galloway about the possibility of a variance to the Noise Ordinance so that the Waynesville Inn could begin mowing the fairways earlier than 7:00 a.m. which is allowed in the ordinance. The Town Manager advised Mr. Carver that he did not have the authority to grant waivers on a continuing basis. The only alternative Mr. Galloway could suggest was for Mr. Carver to seek an actual amendment to the ordinance to change the time when mowing and landscaping work could begin.

Mr. Carver submitted a letter asking that the Town's Noise Ordinance be amended to allow lawn mowers, agricultural equipment and landscape maintenance equipment used in maintaining a golf course to be operated between the hours of 6:00 a.m. and 9:00 p.m.

At the meeting of March 27, the Town Manager pointed out that during the summer of 2011 there were complaints from one neighboring household about the noise from the work on the golf course. Galloway noted at that time that during his 17 years as Town Manager, he had only received one other complaint about mowing at the golf course. In the summer of 2011, the complaints were frequent, every few days, and always from the same resident who happened to live directly across the street from the building where the golf course stored their mowers and from where the mowing equipment started each morning.

Some of the Board members mentioned that Mr. Carver had been in touch with them and mentioned the need for some relief from the Town regulation which limited mowing prior to 7:00 a.m.

Mr. Carver attended the meeting to comment on his request and to answer questions the Board had. Mr. Carver said he has been co-owner of the Inn for six years and the Inn employs more than 100 employees. It is a very busy time during the spring and summer months with 27 holes to maintain. The areas in the center of the golf courses are mowed first, with the mowing continuing throughout the golf course and eventually to the areas near homes. The mowing season began earlier this spring. The area where the complaint was received is close to the maintenance sheds where the lawn mowers are started in the mornings.

Manager Marcy Onieal read the exception in the ordinance where lawn mowers are currently allowed between 7:00 a.m. and 9:00 p.m. Ms. Onieal said Mr. Carver is requesting that the amendment allow lawn mowers beginning at 6:00 a.m.

Alderman Caldwell said this is a commercial business, and he felt it is important that the Town adopt an amendment to allow this exception for golf courses, adding that Waynesville currently has two golf courses.

Alderman Greeley said he spoke with Bill Samuels, green supervisor at Biltmore Forest Country Club in Asheville and asked him what time they begin mowing. Mr. Samuels told him that if they did not begin at 6:00 a.m. they ran into a problem. He added that they try to be cognizant about what time they begin and where they begin mowing.

Sammy Carver said the first holes that are mowed are in the middle of the golf course. These are the ones that need to be mowed first. Mr. Carver added that this is the first complaint they have had during the past six years while he has been co-owner and the golf course has been there for 86 years.

Alderman Greeley said typically a golf course setting increases the value of your home. He understands the complaint, but realizes that Mr. Carver is trying to be a good neighbor. Mr. Carver added that all lawn mowers are less than three years old.

Alderman Roberson said once the mowers are started, they are moved over to the area to be mowed, adding that he felt it was important that the Board consider the proposed amendment.

Alderman Freeman said to have just one complaint in the past six years is an indication that the Waynesville Inn is trying to be a good neighbor.

Alderman Caldwell moved, seconded by Alderman Freeman, to amend Section 26-91(10) of the Code of Ordinances as requested by Waynesville Inn Golf Resort & Spa to allow golf courses to operate lawn mowers beginning at 6:00 a.m. The motion carried unanimously. (Ord. No. 8-12)

Munis Software Updates

Finance Director Eddie Caldwell and Assistant Manager Alison Melnikova have been in discussions with the Town's Information Technology Consultant Jon Feichter about the possibility of changing the storage of the Town's financial records. At present the records are stored within an on-site server and many businesses and governments now have their records stored off-site, sometimes at a server-farm located at another site.

Mr. Caldwell and Ms. Melnikova attended to explain the matter and answer any questions regarding this topic. Mr. Caldwell said \$27,000 was set aside in the 2010 budget for the utility conversion upgrade. When the upgrade was ready to be installed, Munis informed the Town that they needed to go to a new server. At some point in time, without a new server, after April 2012 no more updates could be given. Munis has several clients in the same situation, so that deadline has now been expanded until April 2013. In the current budget \$14,000 was included to upgrade to a sequel server. The current server is now seven years old, leaving town staff with two options: purchase a new server, or offload the information and convert to a new server and operate as we have in the past. Mr. Caldwell said it may be time to start thinking outside of the

box. Munis has an Application Service Provider, and this server basically has a number of advantages, the biggest advantage being a more reliable backup. Another advantage is during updates at the present time there is a short down time while Munis updates the software which usually takes 4 – 6 hours. If this is done through “the Clouds”, the update can be done at night and ready to go the next morning. This should be easier and less expensive because the data base will be on the server and they can manipulate the update at night rather than send someone to do the update on site. Waynesville will continue to need an IT provider since there are a lot of IT issues with the current update process. Haywood County is currently using this Application Service Provider and they have been doing so for about one and one half years. Hendersonville has also been using this service for more than five years.

Mr. Caldwell said the cost is similar, but the cost is being projected over a three year period. He felt that there will be better back up without being down for backup during the day. The major downside is if the internet goes down this would go down as well. They will test the internet connection and speed to make sure it is adequate. There was some discussion regarding fiber optics, but Mr. Caldwell said there was no clear answer on this at this time. One consideration is to have internet connections with Charter and Bell South, so if one is down the other would be a backup.

Mayor Brown asked the opinion of Town Manager Onieal. Ms. Onieal said it would be her recommendation to consider the change as presented by Mr. Caldwell. Waynesville is not large enough to require an IT person on site. This process would protect data off site no matter what happens in the building. These are farms that are serving huge clients and we will never run out of space. Mayor Brown said he appreciated the research that has been done.

Alderman Freeman said she felt that financially, this is the right move for the Town.

While it may not be required, Staff asked for the Town Board’s blessing to move to a situation where the information is housed at another site. It was the consensus of the Board to authorize Finance Director Eddie Caldwell to process with storing records off-site as presented.

Award of Bid Rear Loading Garbage Truck

At the meeting of February 28, representatives of the Land of Sky Regional Council of Governments presented the Solid Waste Study. This report originated from the decision by Haywood County to close the solid waste transfer station at Jones Cove Road and require that all garbage be transported to the White Oak Land Fill. This will add about 36 miles to each trip to dispose of garbage. This will require that the Town secure an additional rear loading residential garbage collection truck to maintain the level of service currently provided citizens. At that meeting, the Town Board gave town staff the authority to seek bids on a new rear loading garbage truck, and that has been done. Bids for that truck were opened on Tuesday, April 3, and the results are as follows:

Vendor	Truck/Model	Refuse Body Model	Price	Price w/Alternate
Amick	2013 Freightliner M2 106	New Way Viper 20	\$118,145.08	\$124,945.08
Equipment	2013 International 7400	New Way Viper 20	\$125,942.74	\$132,742.74
Cavalier	2013 International 440	E-Z Pack 20	\$122,377.00	\$130,052.00
Equip. Corp.		Yard Apollo		
	2013 Freightliner M2 106	E-Z Pack 20	\$119,217.00	\$126,892.00
		Yard Apollo		
CES	2011 International 7400	Heil PT 1000-20	\$128,128.00	\$133,818.00
Nu-Life	2013 International 7400	2012 Wayne Fury	\$125,883.00	\$134,728.00
Environmental	2013 Freightliner M2 106	2012 Wayne Fury	\$124,902.00	\$133,747.00
Inc.	2012 Peterbilt 337	2011 Wayne Fury	\$123,641.00	\$132,486.00
	2013 International 7400	2012 Wayne Fury	\$125,117.00	\$133,962.00
	2013 Freightliner 108SD	2012 Wayne Fury	\$127,515.00	\$136,360.00
Rush Int.	2013 International 7400	Heil PT 1000-20	\$124,409.00	\$130,099.00
	2013 International 7400	New Way Viper 20	\$117,789.00	\$123,639.00
		Differential Locks		\$ 600.00
				\$124,239.00
West Carolina	2013 Freightliner M2 106	Heil PT 1000-20	\$121,360.00	\$127,050.00
Freightliner				

The bids were quite competitive, with six firms submitting proposals for the Town to consider. Four of the six firms submitted multiple proposals, some with different truck cab and chassis and some with different garbage bodies. The various bids ranged from a low of \$124,239 to a high of \$136,360.

The Land of Sky report suggested that the Town should attempt to haul more weight per load on each trip to the transfer station. In doing so, Street Superintendent Daryl Hannah conferred with the Division of Motor Vehicles and found that the Town's garbage trucks will actually be overloaded at 7 tons of garbage. The way to manage that is to install a drop axle on each truck to be used on the highway to meet the allowable loads. The alternate bid on this truck includes the installation of the drop axle that will make the truck legal on trips to White Oak. The expenditure of approximately \$26,000 has been authorized for the installation of drop axles on the two other rear loaders as well as on the two front loading commercial trucks which also need the drop axle to meet weight limits. The additional axle would be needed whether the Town took the trash to White Oak, Brevard Road or even to Jones Cove Road.

Finance Director Caldwell said there may need to be a budget amendment to add the drop axles. He would like to package the purchase of the rear loading garbage truck with the Electric

Department bucket truck. The Town would contract with CES to install needed axles on the other trucks. The one on the new truck would be installed by Rush International.

After evaluating the bids, the recommendation is that the Town selects Rush International at a price of \$124,239 for a 2013 International 7400 with New Way Viper 20 garbage body. The delivery time on this unit is 120 to 150 days so town staff will have to make do with the trucks they have until the new truck is delivered.

Alderman Greeley moved, seconded by Alderman Caldwell, to award the bid to Rush International in the amount of \$124,239 for the 2013 International 7400 with New Way Viper 20 garbage body as recommended by town staff. The motion carried unanimously.

Second and Third Quarter Reports of Sales on Gov-Deals and Other Assets

Purchasing Supervisor Julie Grasty attended the meeting to make the report on the sale of surplus Town equipment and materials during the second and third quarters of the current fiscal year. This is as required under the terms of the Purchasing Manual for the Town.

Ms. Grasty said the assets sold on Gov Deals included two – 2004 Dodge Durangos from the Police Department and a utility trailer from the Recreation Department, for a total of \$9,616.00.

The report from the assets sold during the second and third quarter included material from the Water Department in the amount of \$3,845.10 and Electric Department in the amount of \$7,661.05 to Biltmore Iron and Fall Mulch Sale in the amount of \$600.

No action was needed. Mayor Brown thanked Ms. Grasty for her reports.

Comments by Town Manager Marcy Onieal

Town Manager Marcy Onieal thanked the Board and town staff for the wonderful job they have done in welcoming her and helping her begin her work as Town Manager. This past week has been spent meeting with Board Members, touring the Water Plant with a group of Girl Scouts, and participating in the opening of the Department of Social Services and Health Department building. Renovations and painting have been ongoing in the Municipal Building and will look wonderful when finished. Manager Onieal thanked the town crews that have been moving the employees to various locations throughout the building. One of the first messages received was a compliment to the Public Works Staff, that they did a wonderful job in clearing brush.

North Carolina League of Municipalities Legislative Update meeting was attended today by Manager Marcy Onieal and Assistant Manager Alison Melnikova. The NCLM staff encouraged officials to be in touch with their legislators. Several issues including annexation, capital project financing, water and sewer service issues, extraterritorial jurisdiction and other issues will be coming up.

Manager Onieal said there was good news that Waynesville is one of the finalists selected to receive the People's Choice Awards, sponsored by the American Planning Association, with votes being taken on line, allowing one vote per computer/person. She encouraged everyone to forward to their friends and neighbors to vote, adding that this is quite an honor.

Adjournment

With no further business, Alderman Caldwell moved, seconded by Alderman Greeley to adjourn the meeting at 8:06 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Gavin A. Brown
Mayor

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 24, 2011

SUBJECT: Public Hearing Regarding Development of Alternatives for the US 23B/South Main Street Corridor

AGENDA INFORMATION:

Agenda Location: Public Hearing
Item Number: 2-A
Department: Planning & Development Services
Contact: Paul Benson, Planning Director
Presenters: Rodney Porter – LaQuatra Bonci Associates, Asheville, NC
Paul Black – French Broad Metropolitan Planning Organization (FBRMPO)

BRIEF SUMMARY:

For over 10 years, the Town has requested as its highest transportation priority, that NCDOT “upgrade” the commercial section (Hyatt Creek Road to Ninevah Road) of South Main Street. As a result of this request, the project was placed on the State Transportation Improvement Plan (STIP) but only for a feasibility study. In 2002, a NCDOT feasibility study for this corridor recommended a 4-lane roadway with a center median within a 100’ right-of-way, at a projected cost of \$25 million. Unfortunately, in the years following development of the study the project remained unfunded and was eventually dropped from the STIP.

In 2007, the Town became concerned that the proposed redevelopment of the vacant former Dayco Industries site into a major shopping center would create the potential for significant traffic congestion on the South Main corridor from both the shopping center and the anticipated spin-off redevelopment of surrounding properties. The Town requested a new feasibility study considering the impact of the redevelopment, which revived the project in the STIP but without any funding assigned for actual construction.

A public workshop was held in July of 2009 during which alternative designs were presented for comment. About this time the Town was completing the Russ Avenue Corridor Plan and determined to undertake its own corridor study to complement and refine the recommendations of the draft NCDOT feasibility study.

In 2010, the Town was informally notified by FBRMPO of the availability of grant funding for transportation planning and proceeded to engage the services of a consultant to conduct stakeholder workshops, and undertake research and design for the South Main Street Corridor, on the time-line indicated below, and culminating with the report before you tonight.

June 30, 2011 – Contract executed with LaQuatra Bonci for consulting services

July 28, 2011 – Kick-off meeting with area stakeholders

Sept 20, 2011 – All-day public workshop presenting alternative approaches

Jan17, 2012 -- Planning Board conducts public hearing

March, 2012 – Final draft of plan posted on town website and stakeholders notified

April 24, 2012 – Final public hearing & action by Board of Aldermen

MOTIONS FOR CONSIDERATION:

- 1) *To open the public hearing regarding development of alternatives for the Transportation Corridor along US 23B/South Main Street from Hyatt Creek Road to Ninevah Road.*
- 2) *To close the public hearing.*
- 3) *To adopt Resolution #5-12, adopting the US23B/South Main Street Corridor Plan as prepared and presented by LaQuatra Bonci Associates*

FUNDING SOURCE: N/A. Funding for the study was provided by an 80/20 grant from French Broad MPO. Costs for road and sidewalk improvements along the corridor are primarily the responsibility of NCDOT, with some anticipated cost-sharing by the Town, and possible participation of private or grant-funded sources for specific streetscape elements and/or land/ROW acquisition.

ATTACHMENTS:

- Resolution #5-12
- Comments from Citizen Philan Medford (*unable to attend public hearing*)
- South Main Street Corridor Report (*provided previously to Board, and available on Town website at www.townofwaynesville.org*)

MANAGER'S COMMENTS AND RECOMMENDATIONS: This plan, as presented, received unanimous support from the Planning Board, following a public hearing in January. The Board of Aldermen may take action to adopt, amend or reject the Corridor Plan following the close of the public hearing. Should additional time for public comment be desired, the public hearing may be continued to a date certain, however the manager recommends adoption as presented (or as amended) at the board's earliest convenience, in order for NCDOT to incorporate the Town's corridor study into its own final report and plan, which has been on hold awaiting the Town's endorsement and formal adoption of the recommendations contained in the plan presented tonight. Both steps must be completed before the project can move forward in priority placement or considered for funded project status in the STIP.

RESOLUTION NO. 5-12

RESOLUTION ADOPTING "DEVELOPMENT OF ALTERNATIVES FOR THE US 23B/SOUTH MAIN STREET CORRIDOR" (CORRIDOR PLAN)

WHEREAS, the Town of Waynesville comprehensive land development plan: Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, duly adopted in 2002, established a goal of creating a safe, efficient and environmentally sensitive multi-modal transportation system throughout the Waynesville community, and established a Program of Policy and Action Commitments that calls for improving South Main Street by creating a boulevard with bicycle and pedestrian amenities;

WHEREAS, the Town of Waynesville Pedestrian Plan, duly adopted in 2010, has established goals of enhancing the safety of pedestrians in the town and the connectivity and continuity of pedestrian facilities throughout the town, and calls for implementation of the plan with the construction of sidewalks along South Main Street;

WHEREAS, the Haywood County Bicycle Plan, duly adopted by the Haywood County Commissioners in 2011, calls for US 23B/South Main Street to be designated and signed as a bicycle route, and for the installation of bicycle lanes consistent with the NCDOT Complete Streets design guidelines;

WHEREAS, the draft feasibility study for improvements to US 23B/South Main Street, identified as State Transportation Improvement Program (STIP) project number U-4712, currently under development by NCDOT at the request of the Town of Waynesville, recognizes the need to improve the corridor to better accommodate projected traffic volumes and improve access in southwest Waynesville;

WHEREAS, the Town of Waynesville Planning Board, after holding a public hearing on the Corridor Plan at the regular meeting on January 17, 2012, voted unanimously to recommend adoption of the Corridor Plan;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF
THE TOWN OF WAYNESVILLE:**

That "Development of Alternatives for the 23B/South Main Street Corridor" presented herewith this day meets the visions, goals and objectives of the aforementioned plans and furthermore provides a desirable and appropriate plan for future public and private improvements to US 23B/South Main Street, and is hereby adopted.

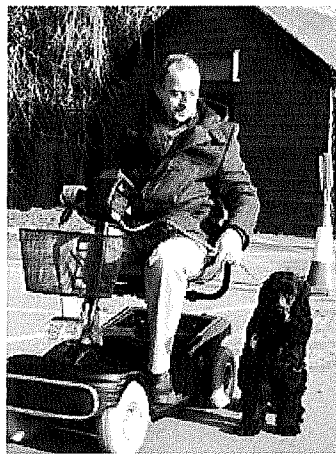
Adopted this the 24th day of April 2012.

TOWN OF WAYNESVILLE

Gavin A. Brown, Mayor

ATTEST:

Phyllis R. McClure, Town Clerk



Consultants have provided to us with a positive vision that provides great strides in an aesthetic vision for South Main that improves safety and infrastructure conditions, enhances mobility, and promotes a higher quality of life.

I appreciate the inclusion of roundabout at South Main/ Ninevah Road intersection.
Because:

1. Safer, no T bone crashes by physically altering driver behavior at roundabout intersections.
2. Provides pedestrian refuge in the splitter island
3. Facilitates u-turning traffic and commercial vehicles.

Existing local pedestrian refuge examples include roundabout and mid block crosswalk at N Main at Broadview Street. These locations allow pedestrians to cross halfway and concentrate on traffic approaching from one direction at a time.

But there are flaws and the plan is still deficient.

No other South Main Street intersection has pedestrian refuge or considers the neighborhoods and the ability to "age in place" and prevent costly accidents in all modes of transportation. It is after all a principle of *Complete Streets* that all ages and abilities must be able to safely move along and across a complete street.

There are no signals at George Drive, Hemlock St. but have cross walk without pedestrian refuge or any other safety design.

Also, in alternative intersections with storage lanes, the median is narrow, which gives no chance for pedestrian refuge and provides no safe place to pause especially for folks with limited mobility using wheel chairs or "scooters/power chair" to give them "Quality of Life". Combine that with the census report that indicates majority of our population growth will be the in over 50 age group and that these intersections are adjacent to neighborhoods.

In *Complete Streets* small scale improvements can make a difference in transportation safety w/ mobility options. *Complete Streets* make fiscal sense. Approaching a corridor redevelopment project where sidewalks, bike lanes, transit amenities and safe crossings are integrated into the initial design of a project spares the expense of retrofits later.

Remember, that everyone that enters a business is a pedestrian.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 24, 2011

SUBJECT: Ordinance to Amend Section 42-61 (Offenses and Miscellaneous Provisions) of the Code of Ordinances of the Town of Waynesville, regarding limits on the possession of weapons on town property

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 3-A
Department: Administrative Services/Parks & Recreation/Police
Contact: Phyllis McClure, Town Clerk
Presenters: Marcy Onieal, Town Manager
Woody Griffin, Town Attorney

BRIEF SUMMARY:

The 2011 NC General Assembly enacted HB650 (*Amending Various Gun Laws/Castle Doctrine*), concerning the rights of individuals to own, possess, or carry firearms, which affects a local government's authority to regulate firearms. The new law, which became effective December 1, 2011, prohibits local governments from adopting a blanket ban on carrying concealed weapons in public parks and recreational sites and facilities by narrowing the definition of recreational facilities and specifying precisely where concealed weapons may be prohibited.

The Board reviewed the provisions of the new law during its retreat on February 17, 2012, and referred the matter to the Recreation Commission, directing staff to propose amendment(s) to the Code of Ordinances which will bring the Town into compliance with state statutes. At their meeting on April 10, 2012, members of the Recreation Commission expressed dismay with the new law, and confirmed their unanimous support for prohibiting weapons of any kind in all recreational facilities, areas and parks. The commission and staff have nonetheless proposed an amendment to the Town's Code, in compliance with the new state statute, which specifies the recreational facilities at which the carrying of concealed weapons continues to be unlawful. Upon adoption, these sites will be posted with appropriate signage and enforced per state statute.

MOTIONS FOR CONSIDERATION: *To adopt Ordinance X-12, amending Section 42 of the Code of Ordinances of the Town of Waynesville by deleting and restating Section 42-61 as presented.*

FUNDING SOURCE/IMPACT: Negligible. Cost of signage will be covered within current adopted departmental budget.

ATTACHMENTS:

- Ordinance #X-12
- Memo from NC League of Municipalities dated August 4, 2011

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Ordinance X - 12

AMENDMENT TO AND RESTATEMENT OF SECTION 42-61 OF CODE OF ORDINANCES OF THE TOWN OF WAYNESVILLE

BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville, North Carolina that Section 42 is amended by deleting Section 42-61 in its entirety and replacing it with the following:

Section 42-61. Possession limited.

It shall be unlawful for any person to possess a firearm in municipal buildings, including, but not limited to, town hall, public works facilities, town garage, fire stations, police facilities, or other municipally owned buildings and their respective parking lots. This section does not apply to duly sworn law enforcement officers of the federal government, the state government, the county sheriff's department, or town police officers. This section specifically does not apply to town employees and members of their immediate families living on town property while in the confines of their residences.

Section 42-61(a). Possession limited at select recreational facilities.

It shall be unlawful for any person, with or without a permit, to carry a concealed handgun into the municipal recreation facilities specifically identified in this subsection. Persons with lawful concealed carry permits may secure a handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on a motor vehicle at the parking lots at the recreational facilities specifically identified in this subsection. The recreational facilities covered by this subsection are as follows:

1. Old Armory Recreation Center, including community garden, on Boundary Street
2. Waynesville Recreation Center, on Vance Street
3. Vance Street Park, including but not limited to the volleyball court, softball field, soccer fields, paved running track and public restrooms
4. Pepsi Dog Park, located on Vance Street
5. Recreation Park, located between Vance Street and East Marshall Street, including but not limited to tennis courts, softball fields, and playground
6. Waynesville Disc Golf Course, which routes through the Recreation Park and Vance Street Park
7. East Street Park, in the area north of the unnamed tributary of Shelton Branch
8. Dutch Fisher Park, located on Westwood Circle, including but not limited to the baseball field and playground

State law reference— Authority to adopt ordinances permitting the posting of a prohibition of carrying concealed handguns, G.S. 14-415.23.

Adopted this __ day of April, 2012.

ATTEST:

Phyllis R. McClure, Town Clerk

TOWN OF WAYNESVILLE

TOWN OF WAYNESVILLE

Gavin A. Brown, Mayor

APPROVED AS TO FORM:

Woodrow H. Griffin, Town Attorney

§ 14-415.23. Statewide uniformity.

It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c), on local government buildings and their appurtenant premises. A unit of local government may adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle. For purposes of this section, the term "recreational facilities" includes only the following: a playground, an athletic field, a swimming pool, and an athletic facility. (1995, c. 398, s. 1; 2011-268, s. 21(b).)

MEMORANDUM

To: Managers, Administrators, Clerks and Attorneys

From: John M. Phelps, II, Senior Assistant General Counsel

Date: August 4, 2011

Re: 2011 Firearms Legislation

The 2011 General Assembly considered a number of bills that concern the rights of individuals to own, possess, or carry firearms. One of those bills, *HB 650 – Amend Various Gun Laws/Castle Doctrine (SL 2011-268)*, contains several provisions of interest to local governments. Those provisions are the focus of this memo. Other items of general interest found in the bill are also summarized below. A short summary of a city's authority to regulate firearms as it will exist after the effective date of HB 650 is also included at the end of the memo. The effective date for the act is December 1, 2011.

I. Limitation on local government authority to post prohibitions on carrying of concealed weapons

Current law. The intent of the General Assembly to prescribe a uniform system for regulating the carrying of concealed handguns is specified in G.S. 14-415.23 [statewide uniformity of concealed handgun regulation]. To insure that uniformity, it further provides that local governments are prohibited from enacting ordinances and other rules concerning regulation of carrying concealed handguns. It has, however, authorized units of local government to adopt ordinances to permit the posting of a prohibition against carrying concealed handguns, in accordance with G.S. 14-415.11(c) (discussed below) on local government buildings, their appurtenant premises, and parks.

"Parks" deleted from posting authority. Under G.S. 14-415.23 as amended by HB 650, a unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c), on local government buildings and their appurtenant premises. This language deletes "parks" from the list of places where the posting may occur.

"Recreational facilities" now included in posting authority. The amended statute then provides that a unit of local government may adopt an ordinance to prohibit, by

posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. The statute defines the term "recreational facilities" to include only the following: a playground, an athletic field, a swimming pool, and an athletic facility. Consequently, a local government may not post a prohibition for park property in general, but can post in areas of parks that include a playground, swimming pool, or athletic fields or facilities.

Exception for storage of handgun. The amendments to G.S. 14-415.23 also provide that when a local government adopts a prohibition ordinance with regard to recreational facilities, the concealed handgun permittee may, nonetheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment within or on the vehicle.

II. Additional exceptions authorizing persons to carry concealed weapons

Current law. G.S. 14-269 [carrying concealed weapons] sets forth the general prohibition that it is unlawful for any person willfully and intentionally to carry concealed about his or her person any pistol or gun except in specified circumstances, such as when on the person's own premises or when the person has obtained a permit to carry a concealed handgun. Additionally, it provides a listing of groups of persons to whom the prohibition does not apply. Prior to the enactment of HB 650, the listing contained five groups.

New exceptions. As rewritten, there are now three additional groups of persons to whom the prohibition on carrying concealed handguns does not apply. Those groups are:

- Any person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney [district attorney personnel] who has a concealed handgun permit; provided that such person shall not carry a concealed weapon at any time while in a courtroom or while consuming alcohol or an unlawful controlled substance.
- Any person who is a qualified retired law enforcement officer as defined in G.S. 14-415.10 [definitions applicable to concealed handgun statutes], is a holder of a concealed handgun permit, and is certified by the North Carolina Criminal Justice Education and Training Standards Commission.
- Detention personnel or correctional officers employed by the state or a unit of local government who park a vehicle in a space that is authorized for their use in the course of their duties may transport a firearm to the parking space and store

that firearm in the vehicle parked in the parking space, provided that the firearm is secured.

III. Modifications to scope of concealed handgun permits

Current Law. Under G.S. 14-415.11, any person who has a permit to do so may carry a concealed handgun unless otherwise specifically prohibited by law. Subsection (c) of the statute lists (with one new exception discussed below) areas where a person, despite having a permit, may not carry a concealed handgun. Included on that list are places where a notice has been posted indicating that carrying a concealed handgun there is prohibited. It is through this statute that the authority of a local government to post concealed handgun prohibitions (as authorized in G.S. 14-415.23) is implemented.

Additional locations where concealed handguns may be carried. HB 650 adds several subsections to G.S. 14-415.11 clarifying several locations where concealed handguns may be carried. A person who has a concealed handgun permit may carry the concealed handgun on the grounds or waters of a park within the State Parks System. The legislation also allows a person to carry any firearm openly, or to carry a concealed handgun with a permit at any state-owned rest area, at any state-owned rest stop along the highways, and at any state-owned hunting and fishing reservation.

Expanded permit scope for District Attorneys. An amendment was made to the G.S. 14-415.11(c) list of areas where concealed handgun permittees may not carry concealed handguns, providing that the subsection does not apply to those individuals described in G.S. 14-415.27. G.S. 14-415.27, also enacted as a part of HB 650, authorizes any district attorney personnel who have a concealed handgun permit to carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal law. This means that in areas where a local government posts a prohibition on carrying concealed weapons, the prohibition will not apply to district attorney personnel.

IV. Other significant provisions of HB 650

Among the other provisions of HB 650, several new sections have been enacted that concern a person's use of defensive force. New G.S. 14-51.2 provides that the lawful occupant of a home, motor vehicle, or workplace may use deadly force against an intruder under circumstances described therein and provides that a person using such force is generally immune from civil or criminal liability. The person using the force does not have a duty to retreat from the intruder.

The bill also amends G.S. 14-409 [machine guns and other like weapons] to allow a person to possess or own such weapons under state law if the person possess or owns

the weapon in compliance with federal law. A similar amendment was made to G.S. 14-288.8 [weapons of mass destruction].

V. Summary of city authority to regulate firearms

Concealed firearms. Upon the effective date of HB 650, local governments may adopt ordinances to permit the posting of a prohibition against carrying concealed handguns on local government buildings, their appurtenant premises and on recreational facilities. After these postings, individuals may not carry a concealed weapon upon the properties named unless one or more of the exceptions described above apply.

Non-concealed firearms. G.S. 14-409.40 provides that the regulation of firearms is an issue of general, statewide concern and that the entire field of regulation of firearms is preempted from regulation by local governments except as provided in that section. Subsection (f) of that section states that nothing in the section prohibits municipalities from application of their authority under (among several statutes listed) G.S.160A-189 [firearms], G.S. 14-269 [carrying concealed weapons discussed above], 14-415.11 [scope of concealed handgun permits discussed above], and G.S. 14-415.23 [posting authority discussed above]. G.S. 160A-189 authorizes a city by ordinance to regulate, restrict, or prohibit the discharge of firearms at any time or place within the city except when used in defense of person or property or pursuant to the lawful directions of law enforcement officers. It further provides that a city may, by ordinance, regulate the display of firearms on the streets, sidewalks, alleys, or other public property. Under this authority, cities may still, for example, prohibit the discharge of firearms within the city limits and may prohibit a person from possessing or carrying a non-concealed firearm on streets and other public property.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 24, 2011

SUBJECT: Appointment of Lee Galloway to represent the Town of Waynesville on the Lake Junaluska Municipal Study Task Force

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 3-B
Department: Administrative Services
Contact: Marcy Onieal, Town Manager
Presenters: Gavin Brown, Mayor

BRIEF SUMMARY:

The Lake Junaluska Assembly Board of Directors has directed the establishment of a Municipal Study Task Force to further review the Preliminary Report on Municipal Status of Lake Junaluska, to collect public input and opinion, and to make recommendations to the Lake Junaluska Community Council as appropriate. The Committee will have 10 voting members representing the LJA Property Owners Association, the community of Lake Junaluska, and the United Methodist Church and three ex officio members, including one slot reserved for a representative of the Town of Waynesville. The mayor has proposed that retiring town manager Lee Galloway serve as the Town's representative on this Task Force.

The first meeting of the Task Force is scheduled for Thursday, April 26, 2012, at 7:30 PM at the Bethea Welcome Center in Lake Junaluska. The entire board, key town staff and members of the public are invited to attend.

MOTION FOR CONSIDERATION: *To appoint Lee Galloway to represent the Town of Waynesville on the Lake Junaluska Municipal Study Task Force*

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

- Letter to the Mayor from Lake Junaluska Assembly dated April 11, 2012
- Various Community Plans and Preliminary Report on the Municipal Status of Lake Junaluska, dated Fall 2011 (*previously provided to Board of Aldermen, and available on Lake Junaluska Conference & Retreat Center's website at <http://www.lakejunaluska.com/community-plans/>*)

MANAGER'S COMMENTS AND RECOMMENDATIONS: Approve as presented.



Lake Junaluska
Assembly Public Works

Post Office Box 339 - Lake Junaluska, NC 28745
828.452.5911 tel | 828.452.5912 fax
www.lakejunaluskacommunity.com

April 11, 2012

Mayor Gavin Brown
9 S. Main Street
Waynesville, NC 28786

Dear Mayor Brown,

At the Lake Junaluska Assembly Board of Directors meeting held in March, the Board directed the Junaluska Assembly Community Council to create a mechanism to collect community input on the Municipal Study that was discussed at the Waynesville Board of Alderman meeting on March 13. The Community Council met April 3 and developed a Municipal Study Task Force to hold meetings to gather public input and opinion.

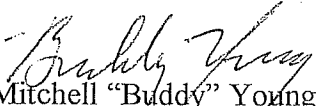
The mission of the Municipal Study Task Force will be (a) to receive community input; (b) to educate; (c) to listen; (d) to report its findings to the Junaluska Assembly Community Council; (e) to make recommendations to the Community Council if appropriate.

The committee will have three representatives from the Community Council, three for the Lake Junaluska Assembly Property Owners Organization, three members from the community and one member representing the United Methodist Church. In addition to these members, the Community Council recommended that three ex-officio members join the committee; the CEO and Executive Director of Lake Junaluska, the Director of Assembly Public Works and one member from the Town of Waynesville.

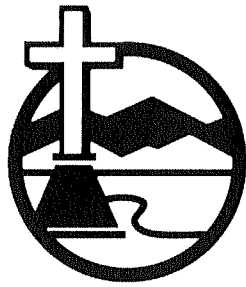
Therefore we would like to request you to select and appoint a member of your choice to be part of our committee. Further we would like to invite you, the Alderman, and any of your staff to participate by attending the meetings that will be well publicized and open to the public. The first meeting is scheduled for April 26 at 7:30 PM at the Bethea Welcome Center.

Thank you for your consideration and also for the continued partnership that Lake Junaluska and the Town of Waynesville have enjoyed over the last century.

Sincerely,


Mitchell "Buddy" Young
Director of Assembly Public Works

cc: Board of Aldermen
marcy Ornel
Lee Galloway
Alison Melnikova



Lake Junaluska

Assembly Public Works

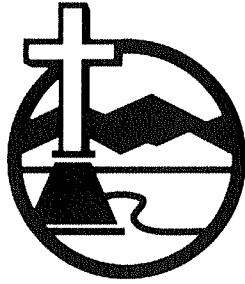
Lake Junaluska Assembly Public Works Preliminary Report on the Municipal Status of Lake Junaluska Fall 2011

By Andrew d'Adesky
Assisted by Buddy Young and the UNC School of Government

DISCLAIMER: The information expressed herein represents the opinions and analysis of the author based on his personal research and analysis. This draft document does not reflect the official view of LJA governing bodies, the Town of Waynesville, Haywood County or any other entity.

Executive Summary:

The purpose of this report is to provide an assessment of the options available to Lake Junaluska in regards to municipal status and the provision of services for the property owners of the Lake Junaluska community. All feasible options are discussed in relation to their potential advantages, disadvantages and the basic requirements necessary to proceed with these options. **This document is intended to be an informative, planning document and does not indicate that Lake Junaluska will take any specific action. This document is for planning ONLY.**



Lake Junaluska

Assembly Public Works

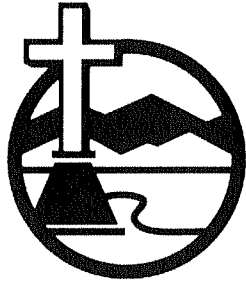
Lake Junaluska Assembly Public Works
Preliminary Report on the Municipal Status of Lake Junaluska
Fall 2011

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Lake Junaluska

Assembly Public Works

Lake Junaluska Assembly Public Works
Preliminary Report on the Municipal Status of Lake Junaluska
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Background:

The community of Lake Junaluska is an unincorporated census-designated place with a population of approximately 2,700 as of the latest census data, with high seasonal fluctuation peaking in the summer months of July and August. The Conference and Retreat Center at Lake Junaluska, also historically known as the Lake Junaluska Assembly or the Southern Methodist Assembly, has been the center of the community and the catalyst for the construction of a community surrounding the Lake.

Despite being unincorporated, Lake Junaluska functions in a many ways similar to a municipality. This can be seen in the provision of certain services through Lake Junaluska Public Works, such as trash collection, water and sewer service, street maintenance, street lighting, and police protection (through contract). To pay for these services, Lake Junaluska Public Works levies an annual assessment commonly referred to as Service Charges, which are based on the property value established by the Haywood County Tax Assessor, similar to the fashion in which municipalities in North Carolina collect property tax. Monthly utility bills are primarily based on consumption. This method of collecting Service Charges to pay for services in the Lake Junaluska community was validated by the North Carolina Supreme Court in 2009, affirming a long-established practice. The monthly Assembly Public Works utility rates and policies were approved by and exempted from control of the North Carolina Utility Commission in 2011.

The idea to draft this report was born in light of recent legislative changes, court and regulatory decisions, as well as strategic planning efforts that are underway for the entire Lake Junaluska business model with consideration to serious measures to strengthen the community. When brainstorming over the challenges of the past, the efficacy of current practices and long-term infrastructure costs, it became clear that no plan in recent history has addressed these issues comprehensively. One possible remedy is through examining Lake Junaluska's municipal status.

It benefits Lake Junaluska to evaluate all options for providing services to the community in an efficient and effective manner, including a change to Lake Junaluska's municipal status. This document discusses four feasible options for service provision at Lake Junaluska and evaluates each in terms of advantages, disadvantages, and process required to move forward.

The most feasible options available to the Lake Junaluska Community are:

- 1. Incorporation (creating a formally recognized town or village)**
- 2. Annexation**
- 3. Transferring control of the water and sewer infrastructure**
- 4. Remaining unincorporated (no change in municipal status)**

This document does not intend to issue a judgment on which is the correct or best option. Actual costs comparisons are intentionally not discussed in this report because of the detail involved and uncertainties of the details that will require due diligence by the parties involved.

Assessment of Options

Option #1: Incorporation

Incorporation of Lake Junaluska into a municipality is one of the options available to the community. Incorporation is the process through which a previously unincorporated area becomes a village, town or city (in North Carolina, a municipality chooses the title of village, town or city, although most new communities have chosen town). A municipality collects a tax of a minimum of 5 cents per \$100 of property valuation (ad-valorem tax) and must provide a mechanism for enforcing building code, even if they contract this service out. Municipalities commonly provide services such as street maintenance, street lighting, solid waste pick-up, water and sewer services, police, and fire protection, but are not legally bound to do so.

Advantages

Communities often incorporate because they desire municipal services, such as police and fire, trash pick-up and/or street maintenance. However, in the Lake Junaluska community, the majority of municipal services are already provided by the Lake Junaluska Assembly Public Works Department or through contract with Waynesville.

A second advantage of incorporation is the town's ability to regulate citizens and property through ordinance-making power; this includes ordinances for zoning property, traffic laws, controlling pets, limiting commercial solicitation, and restricting the use of firearms. Additionally, incorporation protects a community from being annexed by an existing city or town as no municipality may annex territory that is within another municipality.

Incorporation also allows for an array of funding opportunities, both in terms of immediate additional revenues and the availability to qualify for various government funding sources. These funding opportunities include certain federal and state grants or loans that are not available to unincorporated communities, along with government purchasing pools that allow municipalities to combine their purchasing power. These additional sources of support greatly reduce the cost of purchasing equipment and maintaining infrastructure.

Examples of additional sources of funding include tax revenue on motor vehicles licensed in the area, local sales tax revenue shared by the county and Powell Bill funding, which can be used for street maintenance and repair or street lighting. Powell Bill funding for municipalities the size of Lake Junaluska range from \$30,000 to \$80,000 per year. The current estimated cost of a 10 year plan to repave Lake Junaluska's damaged roads, as stated in the Strategic Pavement Study, is approximately \$46,000 per year over 10 years. This additional source of municipal revenue alone would cover most, if not all of these costs, even by a conservative estimate. In addition to Powell Bill funding, the local sales and use tax shared by the county is approximately 2%, which would be significant additional revenue for a community the size of Lake Junaluska.

Compared with other unincorporated areas, the transition to a municipality would be relatively smooth because Lake Junaluska has already purchased public works equipment, has initial start-up capital, thanks to a consistent revenue stream brought in through the yearly Service Charge assessment, and has clearly defined boundaries and control over the necessary infrastructure, such as water and sewer.

It is important to note that incorporation **would not impact the restrictive covenants** of the Lake Junaluska community. These covenants remain enforced and the Lake Junaluska could continue to enforce covenant rules and assess service charges even after incorporation.

Another advantage for residents of Lake Junaluska is that they would be able to deduct their local property tax from their federal income tax. Currently, the service charge assessed by Lake Junaluska Public Works is a non-deductible expense but under the scenarios of incorporation or annexation, this expense would become deductible.

Incorporation would not prevent Lake Junaluska from merging with another municipality in the future. The process of merging of two municipalities is much more of an internal process than the annexation of an unincorporated area, and does not involve the NC General Assembly. A simple majority vote by the governing councils of both towns and a referendum passed by the majority of voters is enough to merge two municipalities, leaving this option open for the future. As a municipality, Lake Junaluska could still contract services out to Waynesville, if it so desired.

Disadvantages

Municipalities are held to different standards than private organizations in terms of the need for transparency and standardization. Accounting standards differ for municipalities, and they are required to report finances regularly in an accessible fashion. All information, including emails and meetings of the governing board, are subject to public records statutes, open meetings law, and Freedom of Information requests. A municipality is subject to governmental procurement and contracting requirements and conflict-of-interest prohibitions. These requirements are so significant that a town attorney must be contracted to help the town comply, which would be an additional cost for Lake Junaluska upon incorporation.

Even if Lake Junaluska contracted out some municipal services, there would be a higher tax rate upon incorporating, as compared to the current service charges. Significant costs would be required to be incurred for increased administrative support. For a municipality of a similar size and level of service provision as Lake Junaluska, there would probably need to be an administrative core consisting of at least a town manager, a town clerk, a finance officer, a police chief, a director of public works, a director of planning, and an administrative assistant.

This is the model followed by Lake Junaluska's neighbor, Maggie Valley, for example, which has 7 full-time administrative staff. Currently, Lake Junaluska only employs a Director of Public Works, a Police Chief, and an Office Manager, with some services provided by Lake Junaluska

Assembly for administrative services such as accounting and IT Services. The fee for these services in 2011 was \$21,000. This arrangement would be inappropriate for a municipality, as a municipality must completely control its own budgeting and finances.

Furthermore, a more distinct separation would need to be made between the community of Lake Junaluska and the Lake Junaluska Conference and Retreat Center. While Lake Junaluska Assembly Public Works currently enjoys a large measure of practical independence from the rest of the Conference Center, Public Works still serves under the umbrella of the Lake Junaluska Assembly, Inc. Board of Directors. The Director of Assembly Public Works is one of the senior staff reporting to the Executive Director of Lake Junaluska Assembly and within the jurisdiction of this hierarchy and the authority of the Lake Junaluska Board of Directors. This chain of command would need to be abolished and the Lake Junaluska Board of Directors and Executive Director of the Conference and Retreat Center would no longer hold any legal control over municipal services if Lake Junaluska were incorporated. They would remain, however, primary constituents for the municipality and they could remain in an advisory role to the community.

Upon incorporation, a governing council would need to be established, with members compensated at a rate ranging between \$500 and \$7,500 per member per year. While Lake Junaluska currently has an unpaid, volunteer body that functions in a similar fashion, the Junaluska Assembly Community Council (also referred to as JACC or the "Community Council"), it serves only in an advisory capacity at the pleasure of the LJA Board of Directors. The Community Council and the Board of Directors have no authority to issue legally-binding ordinances. The Board does have the authority to approve budgets and the Board may enforce the covenants in the deeds through the courts just as any other property owner may.

One significant disadvantage of incorporation would be the increase in the relative tax burden on residents of the Lake Junaluska Assembly. Currently, the Lake Junaluska Conference and Retreat Center, a non-profit entity, accounts for approximately 20% of the total service charge revenue collected by the Lake Junaluska Assembly Public Works. However, non-profit entities are exempt from paying property tax; if Lake Junaluska were incorporated, the Assembly would only pay taxes on the property that is held for development or classified as "For Profit" and not on the majority of the property which is listed as "Not For Profit".

When comparing incorporation with the option of merging with a neighboring municipality, this would limit Lake Junaluska's ability to improve its level of service provision in an efficient and effective manner. If Lake Junaluska incorporated, it would still remain a relatively small community with the same number of tax payers contributing to the system. If Lake Junaluska merged with Waynesville, Waynesville's base of tax payers would grow widely and the cost of services per-taxpayer would drop, an effect known as "economies-of-scale".

A comparative disadvantage of incorporation is that several elements would need to be built from the ground up, as Lake Junaluska lacks several key components of a municipality. For example, while the ability to enforce zoning and building codes is an advantage of

incorporation, Lake Junaluska currently does not have the authority to enforce any such codes. The new elected body, in conjunction with an expanded administration, would need to research and adopt codes while creating a mechanism for the enforcement of such codes. The enforcement of such codes and ordinances would also open the new municipality up to legal challenges, as properties that are non-compliant seek exemption. When comparing the burden of creating these policies and mechanisms for enforcement to the ease of integrating with the established and tested systems of the Town of Waynesville, it can be considered a comparative disadvantage to incorporate as opposed to merging with Waynesville.

This broader tax and fee base is extremely significant when one considers the investment necessary in Lake Junaluska's infrastructure. For example, the water and sewer system of Lake Junaluska will require a significant investment in the future. The total water and sewer budget comprises approximately 40% of the Public Works expenditures at \$500,000 per year; by comparison security is 23% of total expenditures, streets 15%, solid waste 12%, and administration 11%. Of the approximately \$500,000 for water and sewer approximately 75 % is pass through payments to Waynesville for the cost of water and sewer. Maintenance and improvements to the infrastructure over the years of 2009, 2010 and 2011 has depleted reserves of over \$100,000. To make the major improvements necessary to our system in the upcoming years will require major rate increases. The community will need to decide whether they would like to bear that burden alone, or as part of a larger group.

Incorporation might also face political pushback from the neighboring communities or county if they perceive the new municipality as reducing their share of the tax revenue. Neighboring communities may not desire more competition for future annexation of upscale neighborhoods that surround the Assembly. Incorporation requires a broad base of political consent, which could potentially fail to materialize. The topic of incorporation would most likely draw focused media scrutiny on the community.

The demographics of the Lake Junaluska community may provide a barrier to the establishment of an independent, year-round governing body. Given that the Lake Junaluska community has a significant population of transient, seasonal residents, there is a very small pool of potential members for a governing council. Many residents do not utilize their Lake Junaluska residence as their registered voting address, indicating that there might be difficulties running a local election.

The Process

The incorporation process is initiated through contacting the North Carolina Joint Legislative Commission on Municipal Incorporations (referred to as the "Joint Commission"). The Joint Commission was established by the North Carolina General Assembly to provide advice on whether or not a community should be incorporated. The Joint Commission issues a favorable or unfavorable recommendation to the General Assembly, which then votes on whether or not to incorporate the community. If the community is within 1 mile of a city with a population of

5,000 or more or within 3 miles of a city of 10,000 or more, the General Assembly requires a three-fifths supermajority of votes to pass the incorporation.

For the Joint Commission to review a proposed incorporation, it must receive, at least sixty days before the legislative session, a petition signed by at least 15% of the registered voters in the area proposing incorporation. The Joint Commission considers the proposed municipality's population, proximity to existing cities or towns, the degree of development within the proposed town, and whether it will be able to provide those services at a reasonable tax rate. After considering the factors, they issue a positive or negative recommendation; however, they cannot issue a positive recommendation unless the following requirements are met:

1. Each existing city or town close enough to the proposed town to require a three-fifths supermajority vote has expressly approved the incorporation.
2. The proposed town has a permanent population of at least 100 and a permanent or seasonal population density of at least 250 persons per square mile.
3. At least 40 percent of the area of the proposed town is in urban development.
4. The proposal submitted has a plan to levy a tax rate of at least 5 cents per \$100 valuation and, by the third year of incorporation, to provide at least four of the following eight municipal services, even if by contract. (Police protection, fire protection, solid waste collection or disposal, water distribution, street maintenance, street lighting, street construction, and zoning).
5. The proposed town will be able to provide the services requested in the petition by levying a reasonable tax rate.

Even if the Joint Commission does not make a positive recommendation, the General Assembly is still free to incorporate a community. Although not often, the General Assembly has incorporated communities with a negative recommendation.

Considering the requirements of a potential incorporation effort, the community already meets most of the standards required for a favorable recommendation. Lake Junaluska has a sufficient population and density, is adequately developed and already levies a reasonable rate to provide services, although this would need to be increased.

The only impediment to a favorable recommendation for Lake Junaluska would be the approval of the Town of Waynesville's governing body. Lake Junaluska is within 3 miles of Waynesville, which has a population of over 10,000 according to the latest census data. Lake Junaluska would be required to receive explicit approval from Waynesville for incorporation. One method to accomplish this would be to have the property owners at Lake Junaluska sign a petition to the Waynesville governing body requesting approval for incorporation.

Lake Junaluska enjoys a positive and collaborative relationship with the Town of Waynesville. In any effort to change Lake Junaluska's municipal status, Lake Junaluska would seek the opinions and advice of the Town of Waynesville. It should be noted that Waynesville is currently contracted to provide fire protection for Lake Junaluska in addition to supplying water and sewage treatment to Lake Junaluska through a water and sewer purchasing contract. This relationship is critical to Lake Junaluska moving forward.

Ultimately, the decision to approve incorporation is a political one. This choice will be significantly influenced by the two representatives of Lake Junaluska to the North Carolina General Assembly. In voting on municipal incorporation, if the two representatives agree, then the rest of the legislators in the General Assembly will generally vote in approval. Securing the approval of these representatives would be essential to any successful effort. However, to expect our representatives' support of our incorporation without Waynesville's support would be unrealistic due to the relative size of each community's voting base.

Option #2: Annexation by a neighboring municipality

Merging with a neighboring municipality is done by extension of the municipality's corporate limits. This is also referred to as "annexation". The extension of limits is a vital method for the provision of services in an effective manner. Laws tend to favor expansion of existing municipalities over the incorporation of new ones.

There are four methods by which a town or city may annex a nearby area:

1. Voluntary Annexation of Areas Contiguous to the Municipality
2. Voluntary Annexation of Areas Non-Contiguous to the Municipality
3. Extension of Corporate Limits by Municipal Initiative
4. Extension of Corporate Limits by Legislative Act

Most annexations are through one of the two voluntary procedures (Options 1 and 2), but nearly all of these annexations are of relatively small areas, usually only consisting of a very few properties. The largest amount of property is annexed under the municipally initiated process (Option 3).

Voluntary Annexation of Contiguous Areas

The procedure for the voluntary annexation of contiguous areas is relatively simple. The General Statutes permit a municipality to annex any area contiguous to its borders on receipt of a petition signed by all owners of property within the area. Once a petition is received and certified by the town clerk, the council holds a public hearing on whether or not the statutory requirements have been met, such as the signatures of all owners of property. If the council

determines that the requirements have been met, it may adopt an ordinance annexing the property. This method is especially suited to annexations of small areas with a very limited number of property owners.

There are two pivotal points to this process. The first is that the petition must contain the signature of all the owners, to include both partners in a married couple. If property changes hands before the ordinance is adopted, the new owner's signature must be obtained. Secondly, any property owner may choose to withdraw their signature before the ordinance is adopted and effectively halt the effort. This process is most often employed with one or two properties at a time or with sub-divisions before the lots are sold as it is difficult to secure all signatures once more parties are involved.

Voluntary Annexation of Non-Contiguous Areas

The procedure for the voluntary annexation of non-contiguous areas is almost identical to the voluntary process for contiguous areas. A petition for annexation is given to the town clerk; the council holds a public hearing and then adopts an ordinance annexing the area. The petition must be signed by all property owners and signatures may be withdrawn at any time prior to the ordinance's adoption. There are, however, four standards the property must meet:

1. The nearest point on the proposed satellite area must be no more than three miles from the city's primary limits
2. No point within the proposed satellite area may be closer to another city than to the annexing city.
3. The city must be able to provide the full range of city services to the satellite area.
4. The total satellite area may not exceed 10 percent of the area of the city within its primary limits. (More than seventy-five cities have obtained local legislation from the General Assembly waiving this standard.)

Extension of Corporate Limits by Municipal Initiative

North Carolina General Statute G.S. 160A-33 to 56 outlines this method of extension, which balances the interest in the expansion of municipal boundaries with property owners' concern with fair service provision. This statute allows a municipality to annex an area if they can provide services to the area on the same basis as it provides services within the municipality. For an area to be annexed by municipal initiative, it must meet the following conditions:

1. It must be contiguous to the existing city. Satellite annexations are not permitted under this procedure.
2. One-eighth of the external boundary of the area must coincide with the existing city boundary. This requirement attempts to avoid "balloon" expansions, where the municipality is only connected by a narrow string of land, such as a right-of-way.

3. The area may not be part of an existing, active city
4. The city must be able to provide “major” services to the area, defined as police protection, fire protection, street maintenance, solid waste collection, water distribution and sewer treatment. The city must extend police, fire, solid waste and street maintenance services immediately upon extension.

When a municipality proposes to extend its boundaries in this fashion, a report is prepared detailing the area to be included and its plan for financing and extending major services to the area. The municipality then notifies residents and property owners of the area before holding a public information meeting on the proposal, at which questions may be asked about the plan. If the statutory standards are met, the city can annex the area by ordinance. The municipality performing the annexation bears the cost of holding the public hearings and sending out the public notification to each property owner.

New legislation in the General Assembly gives the property owners the right to veto the annexation process if 60% of the property owners to be annexed, measured by the number of parcels, petition against the measure. The county board of elections is charged with overseeing the petition process and distributing petitions for denial. If 60% petition against annexation, the process is cancelled and annexation is banned for 36 months. It is therefore critical to have support of the community for this option. This new legislation also mandates that the municipality pay for the infrastructure to connect water and sewer service to any non-integrated properties within the area to be annexed.

Extension of Corporate Limits by Legislative Act

The North Carolina General Assembly may choose to enlarge the corporate limits of a municipality by local act. This approach is the original method for expansion and annexation and was the only method available before 1947. There are no limits on how the General Assembly executes an annexation, which is particularly helpful for areas that need to be annexed but cannot be annexed under any of the other procedures.

In practice, the General Assembly will never extend municipalities boundaries except at the specific request of the city or town involved. This method, while bearing no legal requirements, does require the political support of the representatives to the General Assembly. As with incorporation, lacking political support from these representatives would eliminate this option.

Of the four methods by which a town or city may annex a nearby area: the fourth option; Extension of Corporate Limits by Legislative Act is the most feasible. It is unrealistic to assume that ALL property owners would sign a petition in support as needed in the Voluntary Annexation of Contiguous or Non-Contiguous Areas. The third option discussed, Extension of Corporate Limits by Municipal Initiative, would require annexing areas that are not currently in Waynesville’s city limits or part of the Assembly.

Advantages

Merging the area of Lake Junaluska with the neighboring municipality of Waynesville would give the Assembly access to quality municipal services provided at a reasonable tax rate. Many of Lake Junaluska's current municipal services are by way of Waynesville. Although the Assembly maintains our own water distribution and sewage collection systems, our water processing and sewer treatment is provided by the Town of Waynesville as well as our fire protection. Merging would prove beneficial for Waynesville, as they would gain a broader tax base, while beneficial for Lake Junaluska as it provides direct access to Waynesville's vast municipal resources and their increased purchasing power. In this situation, both entities will have a net benefit.

Waynesville already has a well-established, successful, and relatively progressive governance structure. Registered voters in Lake Junaluska would be eligible to vote in council elections in Waynesville. The administrative structure of Waynesville is already established, with a city manager, assistant city manager, finance director, planning officers and utility department heads already in place. They have established a culture of efficient, effective, and professional administration that has not yet been created at Lake Junaluska.

Waynesville would be able to easily and efficiently assume the current responsibilities of Lake Junaluska Public Works. Much of the equipment used by LJA Public Works is through purchase from the Town of Waynesville and the Town also provides water and sewer service to LJA through a water purchasing contract. In terms of zoning and building codes, Waynesville uses a progressive, community centric zoning system that would be able to adapt to the specific needs of Lake Junaluska. In fact, the area adjacent to LJA along Dellwood road and the part of the Assembly on the south side of Highway 19 are already included within Waynesville zoning plan. The various community organizations could remain in existence as advisory to the Waynesville administration and governing council and could assist greatly as Waynesville adapts policies to fit Lake Junaluska's needs.

Waynesville is better resourced to address the needs of the Lake Junaluska community, such as replacing the water and sewer infrastructure, the capital equipment of Lake Junaluska and paving the roadways. They are eligible for state and federal loans and grants and have employees capable of procuring those funds. These opportunities could improve police protection, fire protection, water and sewer quality and the general quality of life, whereas Lake Junaluska is currently ineligible for such funds. Waynesville and Lake Junaluska could also deepen their partnership in terms of hosting events and celebrations, enhancing the recreational and extracurricular options for citizens.

As noted earlier in this report, annexation would not impact the restrictive covenants of the Lake Junaluska community. These types of covenants are common for subdivisions added to cities and the Lake Junaluska covenant has been verified in the Supreme Court as legitimate. The restriction on alcohol and the right to repurchase would remain in effect and the covenants

would remain enforced. The Lake Junaluska community would be responsible for enforcing covenant rules.

If Lake Junaluska so desired, they could potentially use the service charge as a mechanism to improve the community, much as it was originally intended. This would function in a similar fashion to which Waynesville collects funds from properties in its downtown historic district to enhance that specific district. Lake Junaluska would be able to spend more on beautification, because the service charge funding is now poured into municipal services. On top of Waynesville police protection, Lake Junaluska would likely desire to employ additional security, which could be funded through the service charge, fee for service, through direct conference center funding or a combination of these options; depending on the role of the additional security. However, the decision may also be made by the community to forego all service charges in the future.

Lake Junaluska would still retain its strong community identity and culture. Our boundaries are well established and the covenants have been validated. The adopted ordinances of Waynesville confirm the sentiment that restrictive covenants are to be protected, stating in Chapter 1.9 of the Land Development Standards that, "...regulations shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easement, covenants, or other agreements between parties." But it is important to note that Lake Junaluska will remain responsible for the enforcement of these covenant restrictions.

Another advantage for residents of Lake Junaluska is that they would be able to deduct the Waynesville property tax rate from their federal income tax. Currently, the service charge assessed by Lake Junaluska Public Works is a non-deductible expense but under the scenarios of incorporation or annexation, this expense would become deductible.

While the non-profit status of the Lake Junaluska Conference Center is a disadvantage for the incorporation option, this does not impact the annexation option. Under incorporation, the tax base of Lake Junaluska would actually shrink, rather than expand, because the new municipality would not be able to tax the non-profit Conference and Retreat Center. While Waynesville would not be able to tax the Conference Center either under annexation, they would still be expanding their tax base as they would be adding the residents of Lake Junaluska to the fold. This can be viewed as an advantage when compared with the option of incorporation.

Disadvantages

In the short term, property owners at Lake Junaluska would see a tax increase to match the current millage rate of Waynesville, which is higher than that of Lake Junaluska. While this comes with the increased quality of the Waynesville administration, it would still constitute an increase. It is also possible that water and sewer rates might increase marginally to pay for investment in Lake Junaluska's infrastructure, but by a smaller rate than if Lake Junaluska needed to bear these costs alone. Also it should be noted that Waynesville's current water and sewer rates are much lower than the Assembly's rates.

Once Lake Junaluska is included in the Waynesville community, it would be very difficult, if not impossible to regain independence in terms of providing municipal services. For example, while Lake Junaluska could still assess a service charge, they could not choose to reclaim control over solid waste disposal or street paving. It is nearly impossible to de-annex an area as this can only be done through legislation in the General Assembly and has rarely occurred historically.

The Waynesville governing council and town administration also does not answer directly to the Lake Junaluska Conference and Retreat Center or the Lake Junaluska Board of Directors in the same way that Lake Junaluska Assembly Public Works currently does. Any comments or decisions made by the Board or any Lake Junaluska body would be purely advisory to Waynesville. Just as in the incorporation model, the current relationship between the Conference Center and the community would be inappropriate and altered permanently.

The topic of annexation in general is politically sensitive and would most likely generate a great deal of media attention on both Waynesville and Lake Junaluska. There is currently a strong opposition to annexation by ordinance in the NC General Assembly, due to the political climate.

It is possible that Waynesville may not desire to take over the infrastructure. It is important to note that if Lake Junaluska is annexed by Waynesville, the town may not legally charge Lake Junaluska residents a higher utility rate than other Waynesville customers, even if the infrastructure of Lake Junaluska specifically needs improving. If they raise the rate, they must charge an increased rate to all utility customers across the board.

The Process

The annexation process differs based on which option is decided upon. However, despite the route, the first steps by Lake Junaluska would be to acquire public consent for this option and to bring it to the Board of Directors. The next step would be to approach Waynesville with the proposal. It would be beneficial, despite the process chosen, to acquire the approval of the General Assembly representatives for Lake Junaluska and Waynesville.

In the short term, only three of the options are viable for Lake Junaluska: voluntary annexation of a non-contiguous areas, annexation by act of legislation, or annexation by municipal initiative.

Under voluntary annexation, it would require all property owners (including the Conference and Retreat Center) to sign a petition to become annexed by Waynesville. This would require an intense amount of effort to incorporate the entire community as spouses must sign as well and any one objection could cause the process to restart. However, if the community were properly motivated, it might be possible to have a significant number of property owners' sign onto this plan and submit it to Waynesville. Waynesville would then verify this petition through a public hearing and formally extend its borders to include the properties at Lake Junaluska.

Under the legislative option, Lake Junaluska would team up with Waynesville and approach the representatives to convince them to pass an act of local legislation to extend Waynesville's corporate limits. While feasible, this requires diplomacy, the support of Waynesville and the general support of the Lake Junaluska community. It would be helpful if the majority of Lake Junaluska property owners, over 50%, signed a petition accepting this option.

It is possible for Waynesville to annex Lake Junaluska through a municipal ordinance passed by their governing board. Waynesville would need to annex a bridge of land between Lake Junaluska and Waynesville, in order to connect the two communities. Then Waynesville would need to develop a plan for providing services to Lake Junaluska, pay for public notification of each property owner, oversee a public hearing and allow a time for petition. If these statutes were met, then annexation is carried out as planned.

Option #3: Transferring control of water & sewer

Merging water and sewer systems is a fairly common occurrence in North Carolina and has risen in popularity in the past decades. Whether through formal merging agreements or through forming water and sewer authorities, these partnerships benefit all parties involved because large capital costs are shared and the overall costs are reduced.

Some of the most successful examples of this include the six municipalities merging into the Raleigh system, the consolidation of the Charlotte and Mecklenburg systems and the merger between Cary and Morrisville. In the case of Cary and Morrisville, the town of Cary took over the Morrisville system, providing water for customers in Morrisville and addressing line maintenance issues. In this specific case, customers in Morrisville paid a slightly higher rate than Cary customers for a short period to pay for updating the water infrastructure in Morrisville. But the rates have since balanced out for both Cary and Morrisville.

Lake Junaluska currently receives its water and sewer treatment services through contract with Waynesville. Given that Lake Junaluska only has the distribution and collection systems and does not possess the capacity to provide its own water processing and sewer treatment, this dependent relationship is likely to continue into the future. In fact, some of Lake Junaluska's equipment, such as our sewer pump, comes secondhand from Waynesville, linking the two communities even more closely than it seems. The Junaluska Sanitary District also receives its water and sewage treatment from Waynesville in the same manner as the Assembly and could be approached as an alternative authority.

Advantages

This is a largely administrative agreement that does not require consent from any outside elements, such as in the incorporation and annexation options. The negotiations would occur between the administration of Lake Junaluska and the administration of a neighboring water and sewer authority. It would take the shape of a legal contract or agreement stating the

duties of the authority to Lake Junaluska, the initial rate structure and any other pertinent specifics.

The water and sewer infrastructure is the costliest element of the Lake Junaluska community's current infrastructure. By allowing an authority to take control of this element, costs could be lowered for both Lake Junaluska and the authority. The authority receives the additional revenue from expansion, while Lake Junaluska benefits through additional experience, materials and capital that are available to a larger district.

Choosing to merge water and sewer infrastructure does not eliminate the possibility for either incorporation or annexation. It may, however, cause Waynesville to reassess its future with our community and seek to annex Lake Junaluska because of investment in infrastructure.

The two alternatives, Waynesville and the Junaluska Sanitary District have access to many Clean Water grants and other resources that are inaccessible to Lake Junaluska. They also have access to advantageous government loan programs for capital improvement, at rates unavailable to Lake Junaluska. This option might be preferable for Waynesville because they could assess a temporarily higher fee to Lake Junaluska specifically for the improvement of the water and sewer infrastructure, while they could not do this under an annexation option. This would allow Lake Junaluska Public Works to sell or transfer its current water and sewer equipment for a small, one-time cash gain.

Disadvantages

Lake Junaluska would lose control over improvements to its water and sewer system and lose control over any possible extensions of water lines. Residents would need to go through Waynesville, rather than Lake Junaluska, with requests relating to water and sewer. The Conference and Retreat Center would also need to consult with Waynesville if they desired to expand or require larger capacity to their facilities.

Neighboring authorities may not be interested in investing in Lake Junaluska's system in the first place or require such a high utility increase on Lake Junaluska customers that it would be undesirable for the community. While this option would generate less media scrutiny than the incorporation or annexation option, it could face opposition from elements within both communities.

This option ignores other issues facing Lake Junaluska, such as the inability to enforce ordinances, establish zoning codes or collect federal and state revenue. It would lighten the burden on LJA Public Works, but not remove the responsibility for service provision. LJA Public Works would need to continue levying a service charge assessment to pay for most municipal services, which would remain a non-income tax deductible expense.

The Process

To move forward with this particular option, the administration of Lake Junaluska would contact the administration of the neighboring authorities and gauge their interest for this measure. If there is interest in potentially moving forward with this measure, then a series of terms for the agreement with Lake Junaluska Assembly Public Works would be worked out. There would be a public hearing to notify the public and solicit comments on this option before the terms would be brought before the Board of Directors of Lake Junaluska for final approval.

Of all the options for change, this one is the most internal and administrative, requiring little outside assistance other than the opinions of a licensed attorney for drafting the agreement. While the community stakeholders should be educated and aware of this option, they would not need to take any particular actions, such as voting or petitioning, which are often required under the annexation and incorporation options.

Option #4: Remaining unincorporated (no change)

The operations of Lake Junaluska have remained generally the same since the creation of the Southern Assembly in 1913. The behavior of the municipal services at Lake Junaluska has also changed minimally, until the adjustments of the past fifteen years. Modern government regulations, such as those regarding the Lake Dam, have put increased pressure on the Lake Junaluska administration. In some cases, Lake Junaluska unintentionally violated government regulations. For example, Public Works received water from Waynesville for a significant period without an explicit water purchasing contract, and provided water to Lake Junaluska without approval of the Utility Commission. While this sort of behavior might have been common place in the 1920's, it is not appropriate or possible today.

Recently, Lake Junaluska Assembly Public Works (formally Residential Services) has undergone some changes that have given it a more professional behavior and brought the department closer to the style of a municipality. These include registration with the Utility Commission, validation of assessments by the North Carolina Supreme Court, establishing the Junaluska Assembly Community Council (with elected representatives, similar to a town council), and by looking at their equipment and infrastructure in a strategic manner; considerate of long term expenditures. However, even these steps place the Lake Junaluska community behind a true municipality.

The functioning of Lake Junaluska still is based around the popular "company town" model that flourished in the late 19th and early 20th century, where one company (in this case the Lake Junaluska Assembly Inc.) owns approximately 20% of the property value on the Assembly grounds and the LJA Board of Directors appoints, rather than elects, those in charge of the community. In an incorporated town, the town manager would be responsible to the governing council, the administration and his professional associations. The governing council, in turn, is responsible to the citizens of the community and at the mercy of the ballot.

In the Lake Junaluska format, the Director of Public Works answers to the Executive Director of Lake Junaluska Assembly, Inc. and the Board of Directors. Although the Board of Directors may be comprised of some resident constituents, it is not a body of elected representatives from the community.

Advantages

The current model of administration at Lake Junaluska has functioned for almost a century. It has managed to pull Lake Junaluska through some difficult periods and the service charge assessment has been validated in the North Carolina Supreme Court. While costs may rise for the community, this model could theoretically continue to function, even if functioning inefficiently and at a high cost to residents.

It could be possible to strengthen the Lake Junaluska Assembly Public Works department and steps could be taken to make the current advisory organizations stronger. For example, the Public Works department could become more independent of the conference center, with completely independent staff performing all budgeting, finance and administrative tasks currently performed by Business Office staff. While this would require a significant increase in the assessment rate in order to fund such a robust administration, it is theoretically feasible. Members of the Community Council could receive monetary compensation and have more direct oversight of the department, such as requiring their majority approval of the yearly budget. In this way, the Community Council would begin to become more like an official governing body, while still lacking ordinance making power. Any changes to the current Community Council structure would be totally at the discretion of the LJA Board of Directors.

Thus far, there have been no major situations in which the Conference and Retreat Center or Lake Junaluska Board of Directors has caused a conflict of interest that is opposed to the interests of the Lake Junaluska Community. The Lake Junaluska community, due to its generally collaborative Christian nature, has remained relatively peaceful as compared to other communities. The relationship between the Board of Directors and the community is also extremely positive, as this organizational body is much more representative of the community than the previous SEJAC governing body.

No major political opposition is anticipated if the current system remains in place, either from inside of Lake Junaluska or from the neighboring municipalities, such as Waynesville. This option avoids any media scrutiny on Lake Junaluska and potentially inflammatory divisions. Lake Junaluska residents through the current relationship between the Community Council and the Board of Directors maintain some control over issues pertaining to municipal services.

The Lake Junaluska Assembly Public Works department has taken major steps in the past 15 years and should be proud of the accomplishments that they have made thus far towards professionalism. The efforts of the last 5 years in particular have placed the Public Works department further on track for success than it has ever been before, particularly in regards to validating the service charge, separating out water and sewer funding, and in creating several

strategic plans that lay out priorities for the community going into the future. The reception of the community has been extremely positive to the changes made in the Public Works department.

Disadvantages

Maintaining the current structure ignores the potential benefits of the three other options. Remaining the same may be to Lake Junaluska's detriment over the long-term. The costs for maintaining equipment and infrastructure for Lake Junaluska are guaranteed to rise over time and the cost will be fall solely upon the property owners of Lake Junaluska, without assistance from the government grants, loans, additional revenue sources or a broader tax base. The most significant property owner, Lake Junaluska Assembly, Inc, would bear the largest portion of these costs, which will reduce their ability to operate profitably.

Without the ability to establish ordinances or codes, our police are not able to apply rules and regulations enforceable in the court system. Interest has been expressed on placing certain physical restrictions on new construction and creating standards for the maintenance and improvement of existing facilities. Currently, there is no possible mechanism by which to establish zoning codes for the Assembly, and thus no restrictions can be placed on new construction, improvements or maintenance. The only scenarios that would address this would be either annexation or incorporation.

This model leads to underinvestment in the community. Currently, the responsibilities of 6 senior administrators in a similar sized community fall upon the Director of Public Works and the Office Manager, with some assistance from the staff of the Business Office of the Conference Center. The administration has no access to most forms of state and federal funding and a weak ability to recruit professional, trained staff to accommodate the needs of the community.

Under the current structure, Lake Junaluska will find it difficult to recruit and retain individuals who are highly qualified for the position of Director of Public Works. While Lake Junaluska has recruited qualified individuals in the past, they do not serve the same length of tenure as the average town administrator. It would be risky to employ under-qualified individuals, as the complexities of the position leave open the possibility for serious mistakes, due to simple inexperience. When comparing with the option of annexation, one can see that the Town of Waynesville has had no trouble recruiting and retaining highly experienced employees

Even if structural changes made Public Works slightly more independent of the Conference Center, failure to change the municipal status through annexation or incorporation leaves the community heavily dependent on the future of Lake Junaluska Assembly, Inc. If the conference center were to fail, it may endanger the community. However, if Lake Junaluska incorporated or joined with Waynesville, the future of the community would be secured independent of the business operations of Lake Junaluska Assembly, Inc.

Public Works would need to continue levying a service charge to pay for services, which would remain a non- tax deductible expense. Compared to annexation or incorporation, this is a clear disadvantage because municipal property tax is deductible from an individual's income tax.

Conclusions and Recommendations

Any decision regarding the future of the Lake Junaluska community is very important and should be considered first and foremost with the question in mind, **"What is best for the community over the long term?"**

Whether incorporation, annexation, transferring control of water and sewer or remaining under the same system, these important decisions will require the input of the entire community. All of the options presented can be highly political and divisive, but no matter the choice, it is absolutely required that the community be in support of whichever option is chosen. Without this form of broad citizen support, any effort to change is likely to fail.

The primary step in deciding between these different possible options is to circulate these different scenarios to the community, through presentations at the Community Council, Board of Directors and other public meetings. Educating property owners with accurate, impartial information is critical to success. A summarization of this report should be given by Lake Junaluska publications, as well as access to the entirety of this document via the Internet.

Communication lines with Waynesville must be established early on. There is no way for Lake Junaluska to avoid the special relationship that it has with Waynesville. Therefore, the communication between the two must remain constant and clear throughout this process, from planning to any future implementation. Many options are available through a merger with Waynesville, and these options must be explored and determined before detailed plans can be presented for either community's approval. The governing board, administration and citizens of Waynesville should be given an opportunity to express their opinions on the matter of Lake Junaluska's municipal status, as their refusal to consider any one option would effectively eliminate that option from consideration.

With these steps in place, under the incorporation or annexation models, it would be important to have the support of the representatives to the North Carolina General Assembly. Under either model, incorporation or annexation is made much easier with the support of these representatives. Both processes are intrinsically political and failure to obtain this support would eliminate either incorporation or annexation as an option.

It is important to finish with the note that readers should carefully consider each option as viable, especially the options for change, such as annexation, incorporation or merging water and sewer systems. There is often bias against change and often individuals draw negative associations with the process of incorporation or annexation. These options should be considered impartially, as they may bear a great benefit for the Lake Junaluska community,

while allowing the Conference Center to continue accomplishing the goal that it set out on in 1913. It is crucial to understand that these four options are presented impartially to truly set a brighter future for the community as the first and foremost priority.

Appendixes

Acknowledgements

I'd like to acknowledge Buddy Young for providing constant oversight, assistance, and proof-reading the document. I'd also like to thank him for providing housing accommodations.

A special thanks goes to the faculty and staff at the University of North Carolina School of Government for providing the assistance and resources necessary to complete this research, in particular I would like to acknowledge Professor David Ammons, Kara Millonzi and Frayda Bluestein.

I'd also like to thank those at the Town of Waynesville who share information to allow a better understanding of the systems in place in that community.

Citations

I would like to cite the following published resources used for this study:

Incorporation of a North Carolina Town, David Lawrence and Kara Millonzi, Third Edition, 2007, Chapel Hill, NC, UNC School of Government.

Incorporation, Abolition and Annexation by David Lawrence, Article 2, 2007, Chapel Hill, NC, UNC School of Government.

Annexation Reform: A Summary of New Law, Coates Canons: NC Local Government Law Blog, July, 15, 2011, Chapel Hill, NC, <http://sogweb.sog.unc.edu/blogs/localgovt/?p=4494>

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 24, 2011

SUBJECT: Endorsement of NC Law Enforcement Association Presidents' (NC-LEAP) Legislative Advocacy Program for Public Safety Issues

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 3-C
Department: Police Department/Administrative Services
Contact: Bill Hollingsed/Alison Melnikova/Marcy Onieal
Presenters: Bill Hollingsed, Police Chief

BRIEF SUMMARY: NC LEAP is comprised of members from 19 different professional law enforcement organizations across the state ranging from the NC Police Chiefs Association, the NC Sheriffs Association, the NC Police Executives Association, the NC Association of Police Attorneys, the NC Law Enforcement Women's Association, NC Chapter of FBI National Academy, etc. LEAP meets yearly to address law enforcement concerns and to prioritize those concerns for the Attorney General to present to the NC General Assembly for legislative consideration. As Past President of the NC Police Executives Association, Chief Hollingsed attended the most recent LEAP legislative forum and has returned with a summary of legislative initiatives which law enforcement professionals across the state would like to see enacted as a means to improving public safety. LEAP membership voted to make the four items top priority for the coming short session of General Assembly which convenes May 8, 2012: 1)State Crime Lab Expansion, 2)Prescription Drug Issues, 3)Meth Lab Issues, 4)Sovereign Citizen Legislation. The Board is being asked to endorse LEAP's positions on these four items in particular and to actively communicate/educate/advocate for these interests with our representatives in General Assembly. Chief Hollingsed will present a brief summary of the attached materials and answer any questions the board may have.

MOTION FOR CONSIDERATION: *To support the NC-LEAP Legislative Advocacy Program for Public Safety Issues as presented, and to authorize and encourage the mayor, aldermen and staff to actively communicate the Town's position with regard to these issues to our legislative representatives for action during the 2012 Session of General Assembly.*

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

- Summary of Priority Issues
- NC State Crime Lab Report dated April 17, 2012
- Proposed Amendments to NC General Statutes regarding Prescription Diversion

MANAGER'S COMMENTS AND RECOMMENDATIONS: Staff is seeking board direction with regard to legislative advocacy. If the board wishes to engage in legislative advocacy and is in agreement with LEAP's advocacy position, then approve as presented. A formal resolution to be shared with LEAP agencies and members of General Assembly would lend strength to a supportive position, if that is the board's desire. If it is the policy or practice of this board to avoid engaging in legislative advocacy, then no action is needed.

Summary of LEAP Legislative Advocacy Positions 2012

Chief Hollingsed attended the North Carolina Law Enforcement Associations' Presidents (LEAP) Meeting on April 17, hosted by the NC Attorney General. Presentations were made by Roy Cooper (Attorney General), Greg McLeod (SBI Director), Judge Joe John (State Crime Lab Director), Hal Askins (Assistant to NCAG), David Adinolfi (Assistant to NCAG), Donnie Varnell (SBI Diversion Agents Supervisor), Van Shaw (SBI Meth Response Coordinator), and John Aldridge (Assistant to NCAG). Topics discussed included issues surrounding the State Crime Laboratory, a Video Poker Update, Prescription Drug Abuse, Meth Lab Clean-Up and Enforcement, Synthetic Drugs, and Sovereign Citizens. After much discussion, the following priorities were set by the organization and will be forwarded to the Attorney General (who had to leave before the priorities were set) and the Speaker of the House of Representatives.

These priorities are as follows:

State Crime Laboratory

The State Crime Lab is grossly "overworked" due to increasing cases being submitted and the implications surrounding the Melendez-Diaz Decision in the US Supreme Court, which made it mandatory that lab test results are not admissible in evidence absent the live testimony of the lab analyst. Lab staffing levels, unchanged for several years, have been predicated upon the use of affidavit rather than live testimony which is now required. Between the increased case loads and the travel and court requirements by the analysts, the backloads keep growing at the lab. The Attorney General and the Crime Lab Director are requesting to expand the Crime Lab's services in the Triad and the Western Labs. They are requesting that the Legislature fund and staff a Forensic Biology Unit (DNA) at the Triad Regional Lab. In addition, they would like the Legislature to fund and staff a Western Regional Lab Toxicology Unit. Currently, 35% of all Toxicology case submissions are originating in the western counties. Not only would this expansion of the Western Lab relieve some of the caseload of the other Toxicology Units, but it would greatly reduce the travel time for analysts having to appear in court in the western court districts. I have attached Judge John's report on the Crime Lab requests. This report will provide you with the cost specifics and increased workload numbers for the State Crime Lab(s).

The LEAP members have made this expansion of the lab services a priority item with the Legislature in the upcoming session.

Prescription Drug Diversion

Prescription Drug Abuse is the fastest growing drug problem in our state (and across the country). The SBI Drug Diversion Unit is asking that some changes be made to existing law (GS 90-108 (A)(10), (13), and (14) from a Class I Felony to a Class H Felony. I have attached the details of this particular statute from a report that was provided by Agent Varnell, Supervisor

for the SBI Rx Drug Diversion Unit. Agent Varnell also proposed a new statute which would assist law enforcement with cases in which medical personnel tamper with, dilute, substitute, or alter a patient's medication. Agent Varnell is also requesting 4 additional Diversion Agents (there are currently only 11 agents state-wide) and 2 additional lab technicians to assist with Rx Drug Diversion cases.

The LEAP members also made this a priority item with the Legislature.

Meth Lab Clean-Up and Enforcement

The number of Meth Labs continue to rise across the state, although the labs seen now are generally the smaller ("one pot") labs. The Meth Response Team currently has only 4 agents assigned. Agent Shaw has requested additional agents to assist with the growing needs involved with the investigation and clean-up of these labs.

The LEAP members agreed to make this a priority item with the Legislature.

Sovereign Citizen Issues

Sovereign Citizen groups are growing rapidly across the state. One of the tactics being utilized by members of various Sovereign Citizen groups is to inundate law enforcement officials with law suits and fraudulent liens. This is commonly referred to as "paper terrorism". These law suits and liens often cause credit issues and other problems with the law enforcement officers who are served with these suits. Currently, all federal law enforcement officers are given immunity from these frivolous suits by Federal Statute. However, state and local officers do not have statutory protection. The Attorney General's Office is working to draft legislation that will give state and local officers (and LE Agency civilian employees) immunity for actions that are carried out as an official part of the job.

The LEAP members also made this a priority item with the Legislature.

Other Items Discussed:

Video Poker Law – The recent NC Court of Appeals decision made all video sweepstakes poker legal in the State of North Carolina. The AG's Office stressed that the old machines (Pot of Gold, Lucky Seven, etc.) are still illegal and may be enforced. HOWEVER, the AG's Office stressed that the local District Attorney should be contacted before enforcement is done to ensure that they are willing to prosecute these cases. The Court of Appeals decision IS being appealed by the Attorney General's Office. The judges who ruled that the Video Poker Law was a violation of the Free Speech clause cited a ruling that was made in regards to violent video games, which in the AG's opinion has NOTHING to do with video poker. A dog fighting case (State v. Arnold) was also cited as a precedent case involving a free speech issue, but the plaintiff LOST that case and it was NOT deemed to be a free speech issue. Some members of the Legislature were meeting

yesterday afternoon to discuss the possibility of drafting new legislation to address the issue once again as well. David Adinolfi advised that he has been getting reports of Video Poker parlors or cafes not giving the winnings to patrons on the big pay-outs. These large pay-outs are generally in the \$2400 range. The clerks are telling the patrons that only the owners can give out the large pay-outs and that the owners are currently not available. The patrons never see their winnings. Adinolfi is advising agencies to charge the establishment owners or operators with "Obtaining by False Pretense". The case of *IMT v. City of Lumberton* addressed the individual municipalities charging the gaming companies with a registration fee. The court decided that Lumberton could charge whatever they wanted to license and/or register these machines. (Lumberton charged \$5000 per establishment for licensing and \$2500 registration fee per machine). The AG's Office does not expect the Appeals Case on the overall Video Poker Law to be heard within the next year.

Synthetic Drugs – Senate Bill 7, which went into effect on June 01, 2011, amended GS 90-89(5) to criminalize the synthetic drugs commonly known as K-2, Spice, Bath Salts, etc. However, many of the manufacturers of these synthetic drugs changed the chemical combinations to formulate a substance that is not on the banned list of chemicals. The Crime Labs have been testing different synthetics that have been re-packaged and given different names. However, some of these re-named or re-packaged products are actually testing positive for the banned substances. We have asked that all three of the labs coordinate with each other and send out lists of the products that are testing positive and those that are not. Although whatever synthetic is bought, it still must be tested individually just like any other drug purchase. However, by providing the names of the individual products that have tested positive (or negative), it will let law enforcement know which products to target in their local convenience stores, music stores, etc.

City of Fayetteville Consent to Search Ban – The Attorney General's Office advised that they are opposed to any municipality or county government trying to legislate ordinances that attempt to "throw out" established and tested law. There is currently a lawsuit against the City of Fayetteville addressing this ordinance.

"Run and You're Done Law" – The Attorney General inquired about any existing problems with the forfeiture portion of this law. However, Sheriff Webster (NC Sheriff's Association) and Eddie Caldwell advised that they have not heard of any additional problems with the statute or the procedure regarding the forfeiture of vehicles. If anyone has problems with the forfeiture procedures enacted in the law, please contact John Aldridge with the Attorney General's Office.

Law Enforcement Pay – Attorney General Cooper advised that although violent crime continues to fall statistically, the number of law enforcement officers being killed or seriously assaulted continues to increase each year. He stated that law enforcement officers in North Carolina are highly underpaid. The SBI and State Crime Labs are having trouble keeping agents and lab technicians due to salary issues. He is asking the Legislature to increase the pay structures for agents and lab technicians. He advised that he is also meeting, whenever he has the

opportunity, to address this issue on the local level with county and municipal leaders. Mr. Cooper is requesting our support in this request to the Legislature.

The members of LEAP voted to make the four listed items (State Crime Lab Expansion, Prescription Drug Issues, Meth Lab Issues, and Sovereign Citizen Legislation) the priority items for the Legislature in the coming year. We can support these priority items as an organization and as individuals. Please contact the Legislators in your region and offer your support in the areas that you feel are important.

William H. Hollingsed

Chief of Police

Waynesville Police Department

9 South Main Street

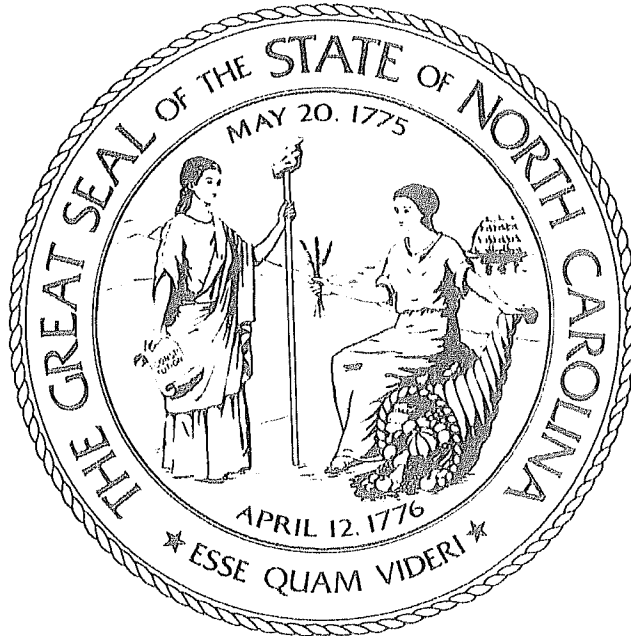
Waynesville, NC 28786

828-456-5363

www.waynesvillepd.com



North Carolina State Crime Laboratory



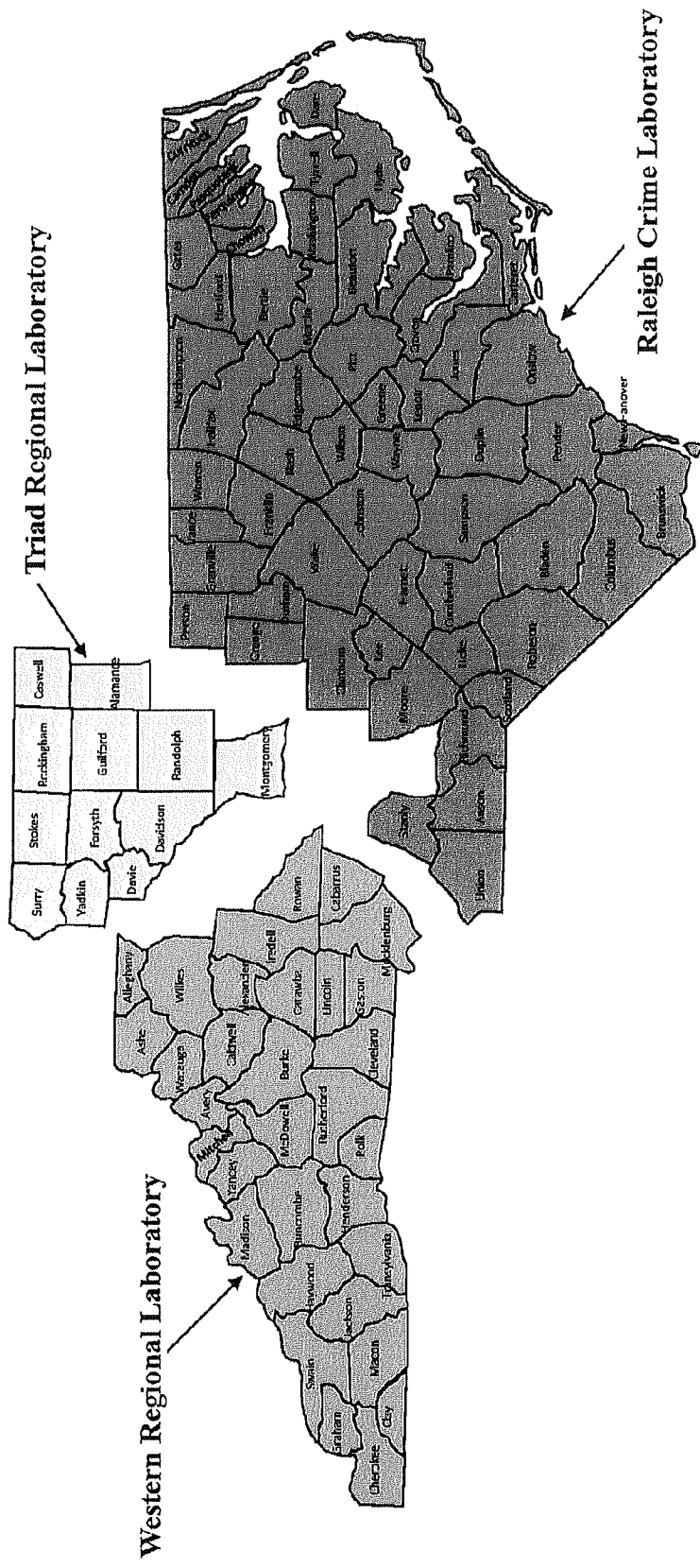
*"If the law has made you a witness,
Remain a creature of science.
You have no victim to avenge,
No guilty or innocent person to convict or save --
You must bear testimony within the limits of science."*

Dr. P.C.H. Brouardel
19th Century French Medico-legalist

April 17, 2012

Joseph R. John, Sr., Laboratory Director

North Carolina State Crime Laboratory



Raleigh Laboratory (statewide service)

Digital/Latent Evidence:

- Examination of computers and digital media & audio and video evidence.
- Examination of evidence for the presence of latent fingerprints, palm prints, bare footprints, footwear and tire impressions.

Drug Chemistry/Toxicology:

- Analysis of evidence for identification and quantification of controlled substances; on site participation in clandestine laboratory investigations.
- Analysis of blood/urine for the presence of controlled substances, including drugs and alcohol.

Firearm & Tool Mark:

- Examination of weapons and ammunition.
- Examination of marks to determine if made by an identified tool.

Forensic Biology:

- Analysis of blood and body fluids; DNA testing; maintenance of State DNA database.

Trace Evidence:

- Analysis and comparison of trace items of evidence, including hair, fiber, glass, paint, headlight filament, gunshot residue, explosives & fire debris.

Triad Regional Laboratory (12 counties)

- **Drug Chemistry/Toxicology**
- **Digital/Latent Evidence**

Western Regional Laboratory (36 counties)

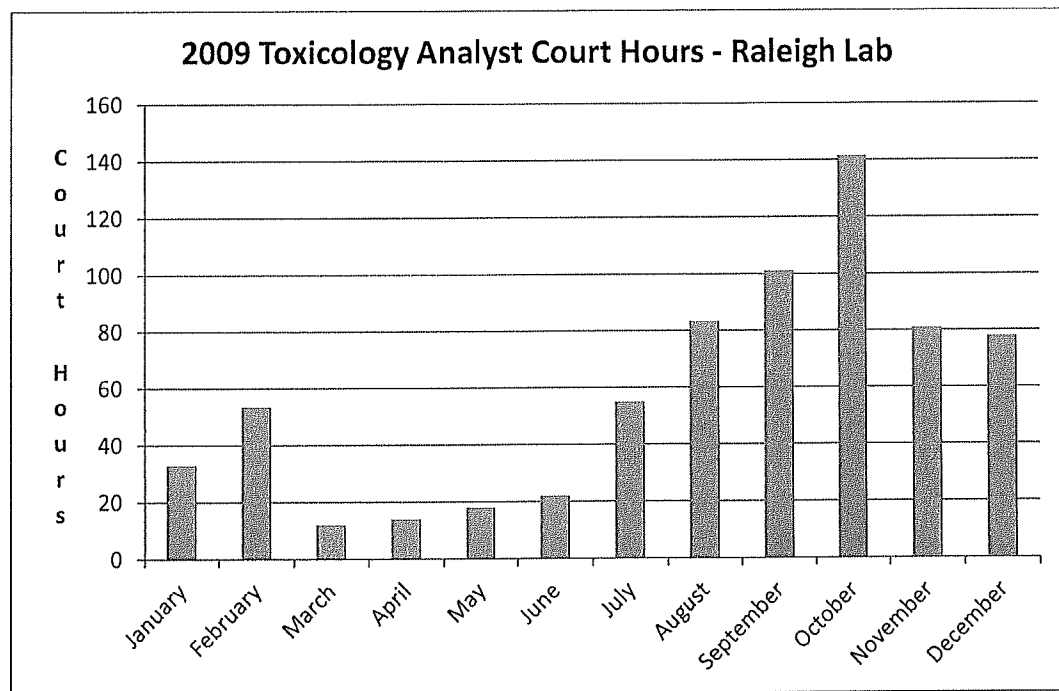
- **Drug Chemistry**
- **Firearm & Tool Mark**
- **Latent Evidence**
- **Trace Evidence (fire debris only)**

1. Update:

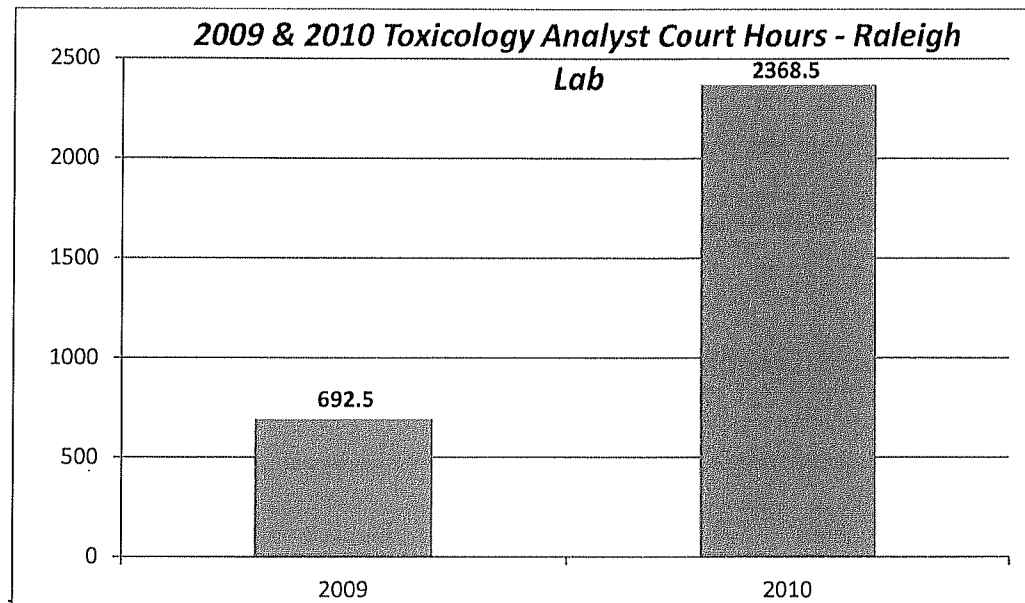
- ISO 17025--DOJ Web Site Posting/Lab Scientist Training on new ISO 17025 procedures target: 60-90 days; operational implementation target: Summer, 2012.
- Certification--over 50% of eligible Laboratory Scientists are already certified in their individual disciplines; remaining eligible scientists (except Firearms) will be tested in (or before) June, 2012.
- Forensic Science Advisory Board—1st meeting conducted March 22-23, 2012.

2. Impact of Melendez-Diaz US Supreme Court Decision :

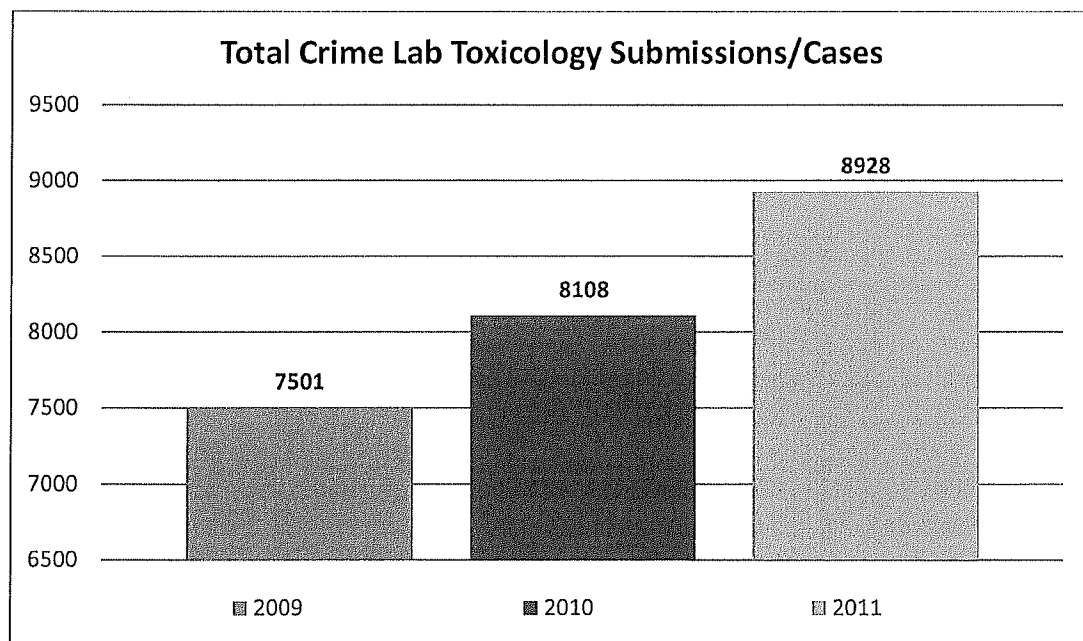
- FY 2009/10 Total submissions (submissions include CODIS & arrestee DNA samples as well as cases (one case may include several items)): 54,134 (Raleigh-41,835; Triad-6,586; Western-5,713).
FY 2010/11 Total submissions: 62,331 (Raleigh-49,145; Triad-7,249; Western-5,937) --15% increase.
- *Melendez-Diaz v. Massachusetts*—June 25, 2009: Under US Constitution Confrontation Clause, laboratory analyst affidavits reciting test results are not admissible in evidence absent live testimony of the analyst. Lab staffing levels, unchanged for several years, have been predicated upon use of affidavit rather than live testimony.
- Consequences to the Crime Lab have been dramatic, particularly in the Forensic Biology (DNA) and toxicology (analysis of blood/urine for presence of controlled substances, incl. alcohol, drugs) areas (example--blood test results of DWI defendants must be presented in person by the testing Lab scientist in *both* district and superior courts):



- Total court hours for Raleigh Lab toxicology analysts (12 positions) following *Melendez-Diaz*:



- Similarly, Forensic Biology (DNA) court hours increased from 400 in 2009 to 806 in 2011.
- Volume of toxicology cases increased by 19% between 2009 and 2011:

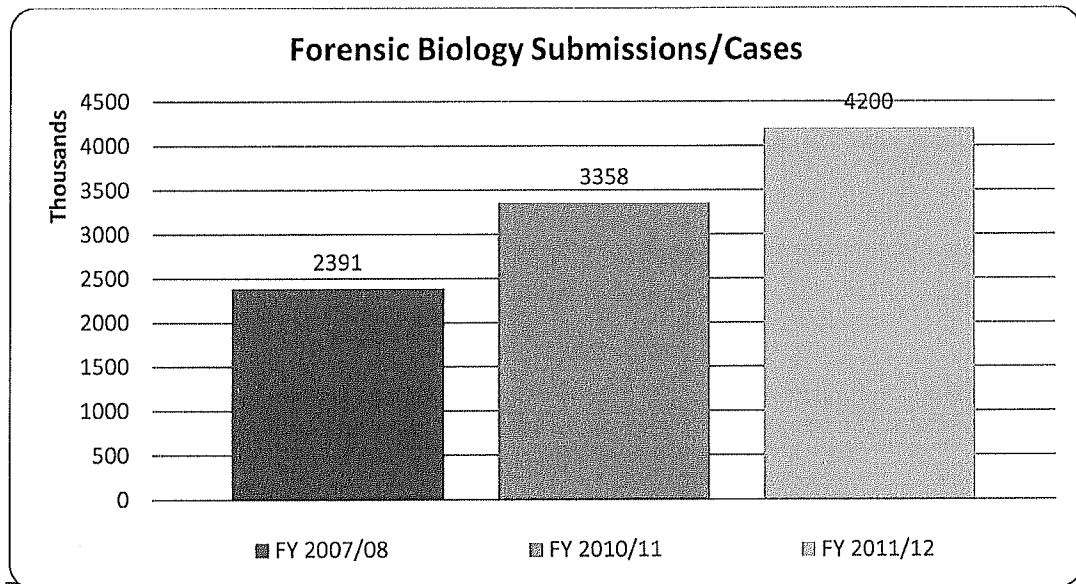


- Increased number of DWI toxicology cases requiring more complex (and time consuming) testing for both alcohol and drugs:

Toxicology DWI Submissions by Exam Type		
	2010	2011
Alcohol only*	3494	3578
Alcohol/Drug or Drug only^	4505	5221

*Approximately two hours analytical time. ^At least four hours analytical time.

- Increased analysis time is also required in newly developing complex areas such as bath salts and related isomers, synthetic marijuana and related isomers, and touch DNA.
- Based on Feb. 1, 2012, data, Forensic Biology case (DNA) submissions for FY 2011/12 will total 4200, a 75% increase since FY 2007/08 and a 25% increase over FY 2010/11:



3. Crime Laboratory *Melendez-Diaz* investigation:

- Studied other states; visited the Virginia Department of Forensic Science Laboratory (special session of Virginia legislature addressed *Melendez-Diaz* issues, resulting in statutory changes as well as new toxicology positions).
- Met with experts from NCSU and RTI (Research Triangle Institute) International.
- Consulted with legal experts at UNC School of Government.

4. Approaches Reviewed:

A. Notice and Demand Statutes—approved in *Melendez-Diaz*.

NCGA enacted S.L. 2009-473, effective Oct. 1, 2009, amending G.S. 8-58.20, G.S. 20-139.1 (c1), (c3) and (e1), and G.S. 90-95 (g) (1) (2) to provide that testing analysts' reports and chain of custody statements, following the required notice to the defendant or counsel of record and the defendant's subsequent failure to object, "may" be admitted into evidence without the personal appearance of the analyst/evidence custodian signatories. (Only G.S. 20-139 (e1), applying to the use of a chemical analyst's affidavit in district court, provides that the failure to file an objection "shall" be deemed a waiver of the right to object to the admissibility of the affidavit).

B. "Substitute/Surrogate Witnesses." Crime Lab utilizes "peer review" in every case, thereby creating a potential alternate witness. However, recent federal and NC court decisions have rejected "substitute/surrogate witnesses" except under extremely limited circumstances (must be "independent" decision). In addition, use of a "substitute witness" fails to address the fundamental problem of analyst time out of the Lab and simply transfers it to another analyst.

* * C. Remote testimony-videoconferencing—constitutionally suspect according to Prof. Jessica Smith, UNC School of Government ("Two-Way Remote Testimony: Will It Pass Muster? Parts I-III"; February 10, 2011), www.sogweb.sog.unc.edu/blogs/ncclaw?tag=confrontation-clause); NC judges rely on the School of Government and Prof. Smith in particular, thus creating the risk of jeopardizing cases to an uncertain judicial fate if remote testimony is offered. Interestingly, Smith suggests "regional laboratories" as an "administrative option."

D. Mandatory overtime—in effect for at least one year; has helped some, but many hours are consumed in long distance travel assignments to far western or northeastern counties.

E. "Rush" case program—can be used effectively only if not abused. If *every* case is a "rush," then *no* case can be completed as a "rush."

5. Projected Solutions:

A. Fund and staff a ***Western Regional Lab Toxicology Unit***.

- Toxicology services offered only at Raleigh and Triad Labs.
- Thirty-five per cent (35%) of toxicology submissions originate in counties served by Western Lab.

Estimated Costs for Western Lab Toxicology Unit

Personnel	Min. Salary (ea.)	W/benefits	Total
Six (6) Forensic Scientists	\$49,000	\$77,879	\$467,274
Equipment			\$900,000
Annual Operating Supplies			\$ 90,000

Costs t/b/d: Laboratory Space which would be acquired either as a capital construction project or through a competitive lease process (Western Lab facility has previously been expanded and site cannot accommodate additional expansion).

Other costs not specified above include maintenance agreements, waste disposal, calibration, certification and accreditation costs.

B. Fund and staff a ***Triad Regional Lab Forensic Biology Unit.***

- Forensic Biology Services offered only at Raleigh Laboratory.
- Twenty per cent (20 %) of Forensic Biology submissions originate in counties serviced by Triad Lab, including the number one and four of the top ten counties statewide for DNA submissions for FY 09/10.

Estimated Costs for Triad Lab Forensic Biology Unit

Personnel	Min. Salary (ea.)	W/benefits	Total
Twelve (12) Forensic Scientists	\$49,000	\$77,879	\$ 934,548
Equipment			\$1,020,621
Annual Operating Supplies			\$ 225,000

Costs t/b/d: Laboratory Space which would be acquired through a competitive lease process (annual estimated lease expense--\$201,852).

Other costs not specified above include maintenance agreements, waste disposal, calibration, certification and accreditation costs.

5. Other Matters:

- Equipment replacement schedule—Crime Lab currently maintains a \$13,746,870 equipment inventory of approximately 3000 pieces, generally with a useful life of 5 yrs. To maintain an industry standard/best business practice replacement schedule of 5 yrs., Crime Lab would require annual funding support of \$2,749,374, exclusive of federal grants and related sources, in contrast with last year's recurring budget equipment allocation of \$26,000.
- N.C.G.S. § 15A-266.3A (k)—mandates expunction of an arrestee DNA sample from Data Base within "30 days" of receipt of the requisite verification form, currently received from approximately ten counties. Effective June 1, 2012, under (i), *each* prosecuting attorney is required to initiate the procedure with an exceptional increase in volume anticipated. A more extended time period and an additional number of Data Base technicians are required.
- N.C.G.S. § 15A-266.3A (f) (6)—Crime Lab's law enforcement customers question why the section's list of offenses eligible for arrestee DNA sampling does not include "GS. 14-54 (a), Felonious Breaking or Entering a Building" as a qualifying offense for obtaining DNA upon arrest. *See St. v. Watkins*, NC Court of Appeals, January 17, 2012 (breaking residence window with butt of a shotgun, but not entering dwelling, insufficient to constitute entering for purposes of 1st^o burglary if the breaking "was accomplished only by an instrument inserted simultaneously during the course of the break." "[T]he defendant must either physically enter the residence, however slight, or commit the burglary by virtue of the instrument."
- N.C.G.S. § 15A-266.3A (h) (1) (c)—Crime Lab's law enforcement customers question why the section's expunction eligible actions include "conviction of a lesser-included misdemeanor offense."

1

§ 90-108. Prohibited acts; penalties.

(a) It shall be unlawful for any person:

(10) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(13) To obtain controlled substances through the use of legal prescriptions which have been obtained by the knowing and willful misrepresentation to or by the intentional withholding of information from one or more practitioners;

(14) Who is an employee of a registrant or practitioner and who is authorized to possess controlled substances or has access to controlled substances by virtue of his employment, to embezzle or fraudulently or knowingly and willfully misapply or divert to his own use or other unauthorized or illegal use or to take, make away with or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or divert to his own use or other unauthorized or illegal use any controlled substance which shall have come into his possession or under his care.

(b) Any person who violates this section shall be guilty of a Class 1 misdemeanor. Provided, that if the criminal pleading alleges that the violation was committed intentionally, and upon trial it is specifically found that the violation was committed intentionally, such violations shall be a Class I felony. A person who violates subdivision (7) of subsection (a) of this section and also fortifies the structure, with the intent to impede law enforcement entry, (by barricading windows and doors) shall be punished as a Class I felon. (1971, c. 919, s. 1; 1973, c. 1358, s. 11; 1979, c

FIGURE A

Effective for Offenses Committed on or after 12/1/95

FELONY PUNISHMENT CHART

PRIOR RECORD LEVEL

1A

OFFENSE CLASS

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Death or Life Without Parole						
B1	A 240-300	A 288-360	A 336-420	A 384-480	A Life Without Parole	A Life Without Parole	DISPOSITION Aggravated Range
	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE RANGE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated Range
B2	A 157-196	A 189-237	A 220-276	A 251-313	A 282-353	A 313-392	
	125-157	151-189	176-220	201-251	225-282	251-313	
	94-125	114-151	132-176	151-201	169-225	188-251	
C	A 73-92	A 100-125	A 116-145	A 133-167	A 151-188	A 168-210	
	58-73	80-100	93-116	107-133	121-151	135-168	
	44-58	60-80	70-93	80-107	90-121	101-135	
D	A 64-80	A 77-95	A 103-129	A 117-146	A 133-167	A 146-183	
	51-64	61-77	82-103	94-117	107-133	117-146	
	38-51	46-61	61-82	71-94	80-107	88-117	
E	I/A 25-31	I/A 29-36	A 34-42	A 46-58	A 53-66	A 59-74	
	20-25	23-29	27-34	37-46	42-53	47-59	
	15-20	17-23	20-27	28-37	32-42	35-47	
F	I/A 16-20	I/A 19-24	I/A 21-26	A 25-31	A 34-42	A 39-49	
	13-16	15-19	17-21	20-25	27-34	31-39	
	10-13	11-15	13-17	15-20	20-27	23-31	
G	I/A 13-16	I/A 15-19	I/A 16-20	I/A 20-25	A 21-26	A 29-36	
	10-13	12-15	13-16	16-20	17-21	23-29	
	8-10	9-12	10-13	12-16	13-17	17-23	
H	C/I/A 6-8	I/A 8-10	I/A 10-12	I/A 11-14	I/A 15-19	A 20-25	
	5-6	6-8	8-10	9-11	12-15	16-20	
	4-5	4-6	6-8	7-9	9-12	12-16	
I	C 6-8	C/I 6-8	I 6-8	I/A 8-10	I/A 9-11	I/A 10-12	
	4-6	4-6	5-6	6-8	7-9	8-10	
	3-4	3-4	4-5	4-6	5-7	6-8	

Note: A - Active Punishment, I - Intermediate Punishment, C - Community Punishment
 *Numbers shown are in months and represent the range of minimum sentences.

Revised: 08-04-95

(2)

§ 106-133. Drugs deemed to be adulterated.

A drug or device shall be deemed to be adulterated:

- (1)
 - a. If it consists in whole or in part of any filthy, putrid or decomposed substance; or
 - b. If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or
 - c. If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
 - d. If
 1. It is a drug and it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of G.S. 106-132, or
 2. If it is a color additive, the intended use of which in or on drugs is for purposes of coloring only, and is unsafe within the meaning of G.S. 106-132;
 - e. If it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Article as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.
- (2) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those so prescribed under authority of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this subdivision because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.
- (3) If it is not subject to the provisions of subdivision (2) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.
- (4) If it is a drug and any substance has been
 - a. Mixed or packed therewith so as to reduce its quality or strength; or
 - b. Substituted wholly or in part therefor. (1939, c. 320, s. 14; 1975, c. 614, ss. 22-24.)

§ 14-32.2. Patient abuse and neglect; punishments.

(a) It shall be unlawful for any person to physically abuse a patient of a health care facility or a resident of a residential care facility, when the abuse results in death or bodily injury.

(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment:

(1) A violation of subsection (a) above is a Class C felony where intentional conduct proximately causes the death of the patient or resident;

(2) A violation of subsection (a) above is a Class E felony where culpably negligent conduct proximately causes the death of the patient or resident;

(3) A violation of subsection (a) above is a Class F felony where such conduct is willful or culpably negligent and proximately causes serious bodily injury to the patient or resident;

(4) A violation of subsection (a) is a Class H felony where such conduct evinces a pattern of conduct and the conduct is willful or culpably negligent and proximately causes bodily injury to a patient or resident.

(c) "Health Care Facility" shall include hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care related facility whether publicly or privately owned.

(c1) "Residential Care Facility" shall include adult care homes and any other residential care related facility whether publicly or privately owned.

(d) "Person" shall include any natural person, association, corporation, partnership, or other individual or entity.

(e) "Culpably negligent" shall mean conduct of a willful, gross and flagrant character, evincing reckless disregard of human life.

(e1) "Abuse" means the willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident.

(f) Any defense which may arise under G.S. 90-321(h) or G.S. 90-322(d) pursuant to compliance with Article 23 of Chapter 90 shall be fully applicable to any prosecution initiated under this section.

(g) Criminal process for a violation of this section may be issued only upon the request of a District Attorney.

(h) The provisions of this section shall not supersede any other applicable statutory or common law offenses. (1987, c. 527, s. 1; 1993, c. 539, s. 1140; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 24, 2011

SUBJECT: Downtown Mini-park “Gateway to the Smokies” Sign – Bid Award

AGENDA INFORMATION:

Agenda Location: Unfinished Business
Item Number: 4-A
Department: Administrative Services
Contact: Alison Melnikova, Assistant Town Manager
Presenters: Waynesville Public Art Commission –
Jan Griffin, Chair
Bill King, Vice-Chair

BRIEF SUMMARY: The Waynesville Public Art Commission issued a Request for Quotation (RFQ) for the manufacture, transport, and installation of a new arched metal sign for the Downtown Mini-park based on design and specifications prepared by Ed Kelley and engineering by Sutton-Kennerly. Two qualified bids were received by the deadline of April 5, 2012:

\$5,571.60 by Moto-Fab Metal Works, Inc, Waynesville, NC
\$9,785.05 by Joe’s Welding Service, Waynesville, NC

MOTION FOR CONSIDERATION: *To award the bid, in the amount of \$5,571.60 for the manufacture, transport, and installation of the Downtown Mini-Park “Gateway to the Smokies” sign to the lowest responsible, responsive bidder, Moto-Fab Metal Works of Waynesville, NC*

FUNDING SOURCE/IMPACT: General Fund; \$5,571.60 in private donations reserved for acquisition/commission of public art.

ATTACHMENTS:

- Bid Submittals
- Design specs and rendering
- Artwork for Cover of Recipe Book – next PAC fund-raising project

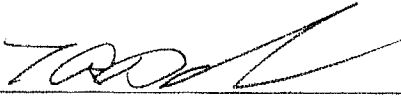
MANAGER’S COMMENTS AND RECOMMENDATIONS: On April 12, 2012, the Public Art Commission voted unanimously to recommend award of bid to Moto-Fab as the lowest responsible, responsive bidder. Due to the wide range in price of submitted bids, the Art Commission sought additional information from the low bidder and is satisfied that the bid does, in fact, meet all specifications and quality standards as required by the RFQ. Manager recommends award of low bid as presented.

On April 12, 2012 the Waynesville Public Art Commission voted to recommend that the bid for the Arch Sign project be awarded to Moto-Fab Metal Works, conditional upon the company providing additional information to assure that the quality of materials included in the quote are the same as requested in the RFQ. The bid documents did not require a breakdown of materials to be used, but there was some discussion at the Commission meeting as to whether or not the bid submitted by Moto-Fab did include the quality of materials from the specifications, and the installation of the sign.

In addition, the WPAC would like to be notified of key stages in the fabrication of the sign, so that it can be inspected at the shop prior to completion and transport to the Mini-Park.

If Ted Dake with Moto-Fab provides such information that is satisfactory to Commission Member Dave Blevins, then the bid will be submitted to the Town Board of Aldermen for their approval on April 24th.

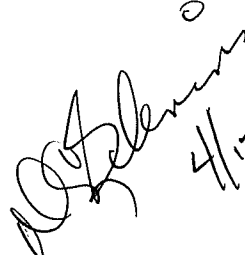
By signing below, Ted Dake is affirming that his quote of \$5,571.60 for the Arch sign is price that will allow him to fabricate and install the sign as required in the RFQ.


Ted Dake, Moto-Fab Metal Works, Inc.

4-17-12
Date

*Quoted price does not include sales tax (if applicable).
Deposit of approx. half of quoted price required.*

Ted Dake 


4/17/12



Mini-Park Sign
REQUEST FOR QUOTATION

Waynesville, North Carolina

SEALED Bids are due Thursday, April 5, 2012 at 2:00 pm
Envelope must indicate materials are for the Public Art Commission

Date: 4-4-12

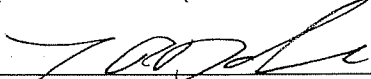
Sign Cost, per Specifications *With sandblast & primer* \$ 5,571.60
w/o primer \$5,171.60

By signing and submitting this Proposal, the undersigned declares that they have examined the complete requirements of this request for Quotation and, if awarded, will furnish and deliver to the Town of Waynesville all equipment and services listed in the Town's Specifications and all Bidder-supplied Documentation including, but not limited to specifications/exception/schematics, and complete installation by Wednesday, July 18, 2012.

Bidding Company:

Moto-Fab Metal Works, Inc.
3288 Crabtree Road
Waynesville, N.C. 28785
828-627-2666

Authorized Representative (Printed Name): Ted Dake

Signature: 

Complete Address: _____

Phone: _____ Fax: 627-2666 (call first)

Email Address: parts@moto-fab.com

Mail to: **Waynesville Public Art Commission**
P.O. Box 100
Waynesville, NC 28786

Hand deliver to: **Town of Waynesville Municipal Building**
16 South Main Street
Waynesville, NC 28786



4/4/2012

Ted Dake
Moto-Fab Metal Works, Inc.
3288 Crabtree Rd
Waynesville, NC 28785

Jan and Ed,

Per my discussion with Ed Kelly I have furnished my bid with and w/o primer on the steel parts. Sandblasting is not called out in specs but I have included it in my bid as it is critical to the adhesion and longevity of the finish. Powder coat to be textured black.

I'd also like to mention that it is critical that the piers and their bolt locations are installed accurately to insure a problem-free installation.

Thank you for allowing me to bid this job. Ted

Moto-Fab Metal Works, Inc.



Waynesville, North Carolina

Mini-Park Sign REQUEST FOR QUOTATION

SEALED Bids are due Thursday, April 5, 2012 at 2:00 pm
Envelope must indicate materials are for the Public Art Commission

Date: 4-2-12

Sign Cost, per Specifications \$ 97.85 .05

By signing and submitting this Proposal, the undersigned declares that they have examined the complete requirements of this request for Quotation and, if awarded, will furnish and deliver to the Town of Waynesville all equipment and services listed in the Town's Specifications and all Bidder-supplied Documentation including, but not limited to specifications/exception/schematics, and complete installation by Wednesday, July 18, 2012.

Bidding Company: Joe's Welding Service

Authorized Representative (Printed Name): Mike MILNER

Signature: Mike Milner

Complete Address: 719 Dellwood Road, Waynesville N.C. 28786

Phone: Shop - 828-456-7115
cell 828-734-6313 Fax: 828-456-8380

Email Address: Joeswelding@Bellsouth.net

Mail to: **Waynesville Public Art Commission**
P.O. Box 100
Waynesville, NC 28786

Hand deliver to: **Town of Waynesville Municipal Building**
16 South Main Street
Waynesville, NC 28786

JOE'S WELDING SERVICE

Post Office Box 12

Waynesville, North Carolina 28786

(704) 456-7115 • (704) 456-8380 Fax

PROPOSAL

PROPOSAL NO.

SHEET NO.

DATE

PROPOSAL SUBMITTED TO:

NAME	Waynesville Public Arts Commission
ADDRESS	
CITY, STATE	
PHONE NO.	

WORK TO BE PERFORMED AT:

ADDRESS	
CITY, STATE	
DATE OF PLANS	
ARCHITECT	

We hereby propose to furnish the materials and perform the labor necessary for the completion of

① Fabricate Arch. For Waynesville Mini Park - 6240⁰⁰

6x6x1/4 square tubing	475 ⁰⁰
1/4" steel plate - A & A -	492 ⁰⁰
1/4" Aluminum Plate - B -	580 ⁰⁰
3/4" steel plate Base Plates - Flanger -	240 ⁰⁰
3/8 stainless steel bolts - nuts - washers	71 ⁰⁰
1/4 x 4 steel plate C & E	77 ⁰⁰
Powder Coating. crinkle black - steel -	
Clear on brushed Aluminum. -	640 ⁰⁰
8 - 1" stainless J Bolts. 70 ⁰⁰ each =	560 ⁰⁰
32 - 1" stainless nuts & washers	220 ⁰⁰
Tax -	190.05
Total -	9785.05
Free Delivery to Job site -	
Price does not include Installation.	

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of

Dollars (\$ 9785.05)

with payments to be made as follows

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted

Mike Milner

Per

Note - This proposal may be withdrawn by us if not accepted within days

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature



Mini-Park Sign

REQUEST FOR QUOTATION

Waynesville, North Carolina

BIDS ARE DUE THURSDAY, APRIL 5, 2012 AT 2:00 PM

Project Requirements

The Public Art Commission of Waynesville, North Carolina seeks a professional company to manufacture, transport, and install a commemorative sign built to the provided specifications. The sign must be installed and accepted by a Town representative no later than **Wednesday, July 18, 2012**. An earlier installation is acceptable.

The award process is managed by the Public Art Commission of Waynesville, NC, a non-profit commission of appointed citizens working under the Waynesville Board of Aldermen. The Public Art Commission will review the bids received and make a recommendation to the Board of Aldermen for award at their meeting on April 24th. The successful bidder will be notified on Wednesday, April 25, 2012.

Deadline: All materials must be delivered by **2:00 p.m. on April 5, 2012**.
Envelope must indicate materials are for the Public Art Commission.

Mail to: Waynesville Public Art Commission
P.O. Box 100
Waynesville, NC 28786

Hand deliver to: Waynesville Public Art Commission
Town of Waynesville Municipal Building
16 South Main Street
Waynesville, NC 28786

Questions regarding the details of this Request for Quotations should be directed to Jan Griffin, Chairman of the Public Art Commission at (828) 246-8188.

Waynesville Purchasing General Conditions

1. All bids and proposals shall be for furnishing apparatus, supplies, materials, and equipment in accordance with the applicable specifications prescribed by the Town of Waynesville.
2. The Town of Waynesville and the Public Art Commission reserves the right to accept or reject any or all bids and proposals and further specifically reserves the right to make the award or awards in the best interest of the Town of Waynesville.
3. Bid Evaluation and Selection of Bids - The evaluation of bids shall center on the match between the stated specification requirements in the bid request and the vendor's proposal, including the selection of the lowest responsible/responsive bidder, with consideration of past performance, service record, and reliability.

The statutory provision in controlling purchasing by local governments, in N.C G.S. 143 includes selection standards for use in making awards. The provision reads, "All contracts shall be awarded to the lowest responsible bidder, taking into consideration quality, performance and the time specified in the bids for performance of the contract."

Bids will be awarded on a per item basis unless otherwise indicated, taking into consideration all requirements of the bid.

4. If mail or delivery by any other means is delayed beyond the date and hour set for the bid submittal deadline, the affected proposal will not be considered.



Waynesville, North Carolina

Mini-Park Sign REQUEST FOR QUOTATION

SEALED Bids are due Thursday, April 5, 2012 at 2:00 pm
Envelope must indicate materials are for the Public Art Commission

Date: _____

Sign Cost, per Specifications \$_____.

By signing and submitting this Proposal, the undersigned declares that they have examined the complete requirements of this request for Quotation and, if awarded, will furnish and deliver to the Town of Waynesville all equipment and services listed in the Town's Specifications and all Bidder-supplied Documentation including, but not limited to specifications/exception/schematics, and complete installation by Wednesday, July 18, 2012.

Bidding Company: _____

Authorized Representative (Printed Name): _____

Signature: _____

Complete Address: _____

Phone: _____ **Fax:** _____

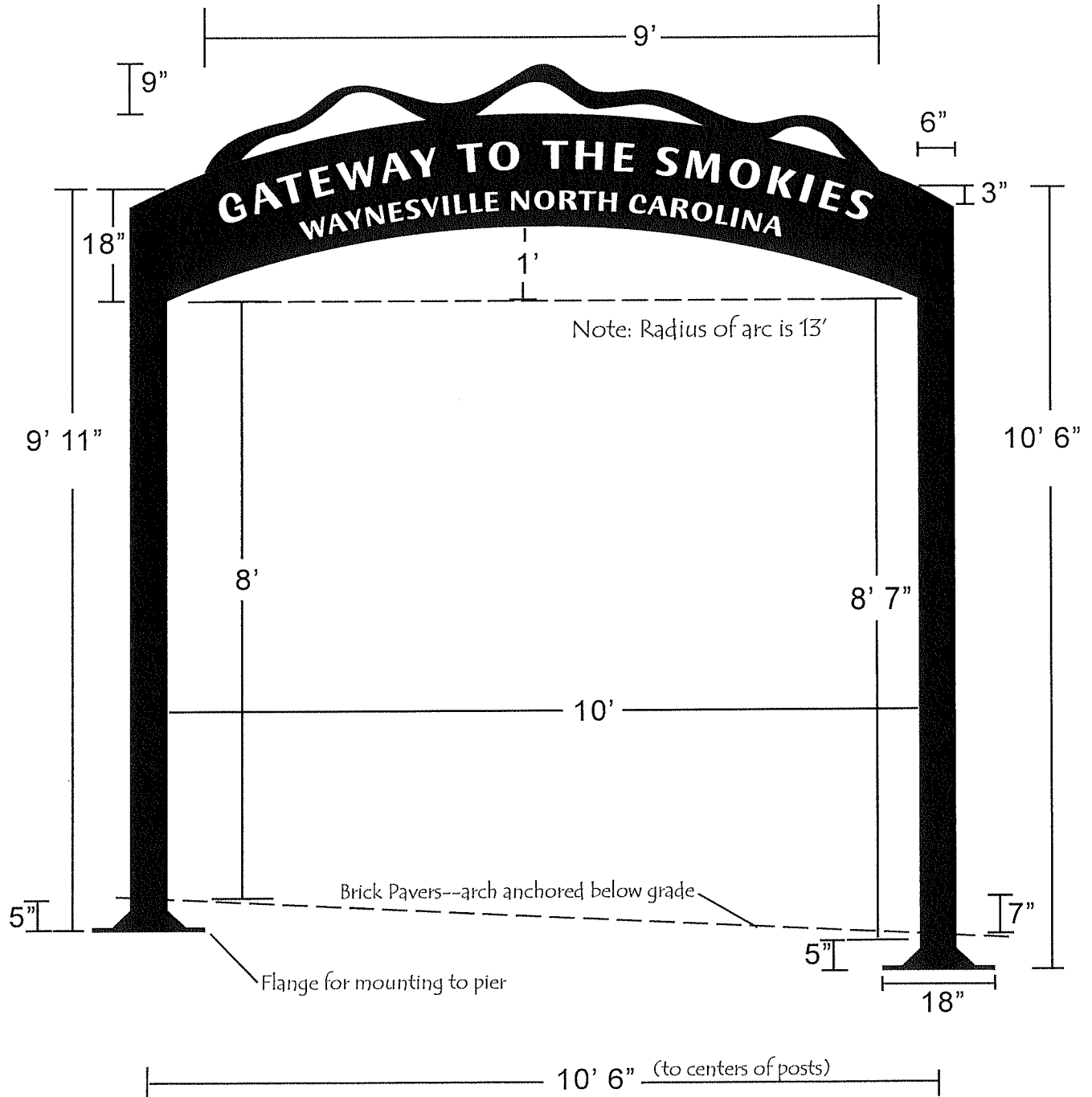
Email Address: _____

Mail to: **Waynesville Public Art Commission**
P.O. Box 100
Waynesville, NC 28786

Hand deliver to: **Town of Waynesville Municipal Building**
16 South Main Street
Waynesville, NC 28786

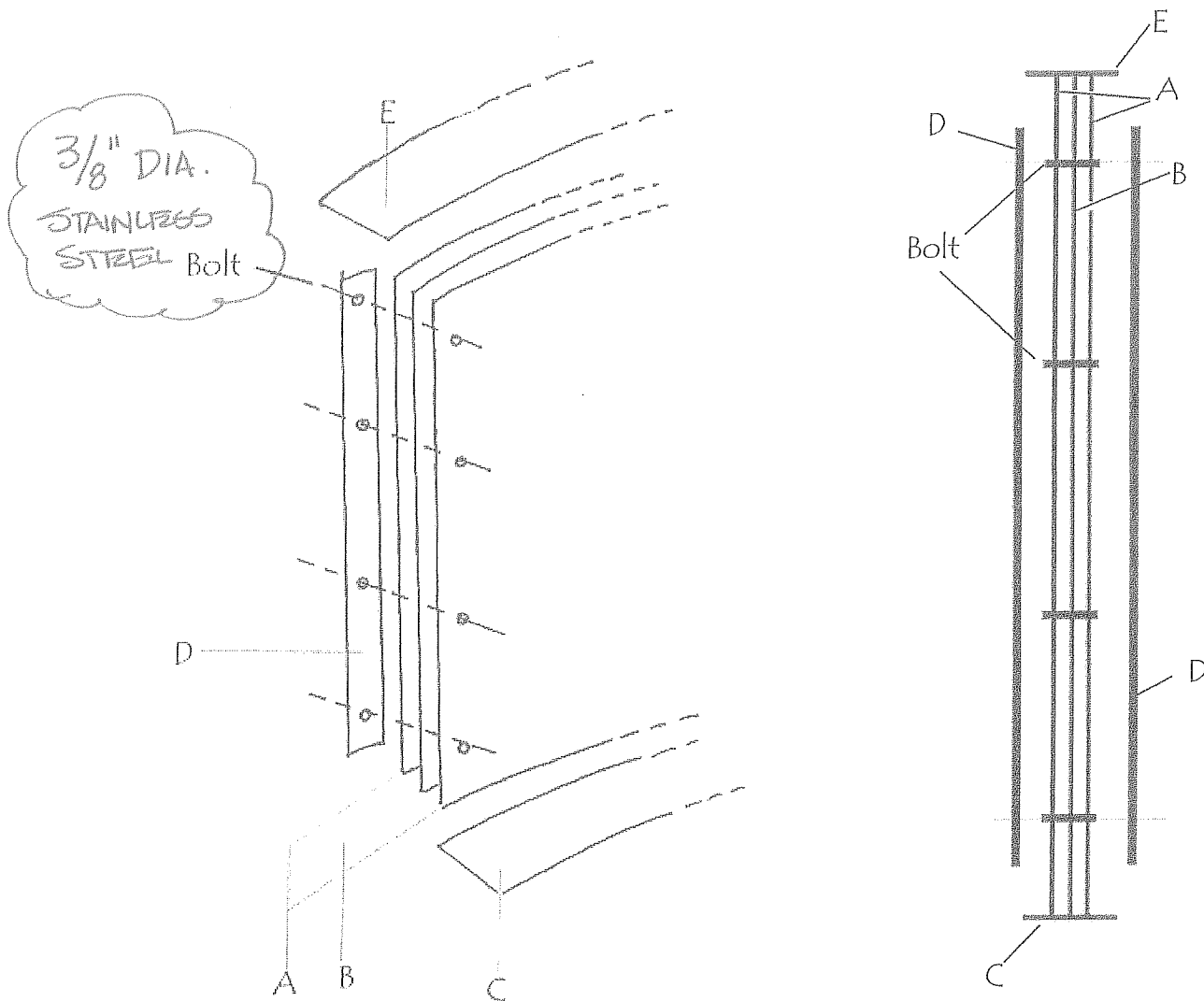
Waynesville Public Art Commision

Design for Commemorative Arch for Waynesville Mini Park



Prepared and drawn to scale by Ed Kelley for WPAC
ed@theridgerunner.com
828-226-1062
Waynesville, North Carolina

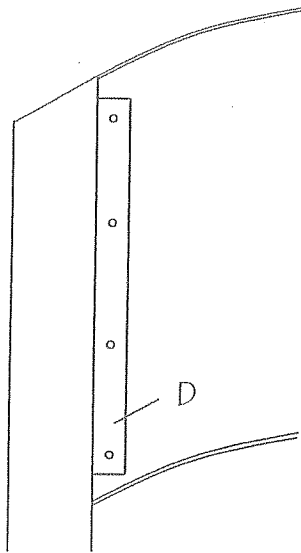
Diagram II, Detail of Arch Construction, Main Panels



- A. Identical panels, front & back. To include laser cut lettering as specified. 1/4" steel, powder coated. Panels should be assembled as single unit (Parts A, B, C, E) separate from posts. Only "D" should be permanently welded to posts. Finished project will consist of 2 identical posts and the assembled arch.
- B. Center panel of brushed aluminum, clear powder coat for corrosion resistance
- C. Bottom rib, 1/4" steel, powder coated. 4" wide, follow same arc as panels (13' radius)
- D. Mounting bracket/flange welded on post, 1/2" steel powder coated. Approximately 3" wide--(see diagram III)
- E. Top rib, 1/4" steel, powder coated. 4" wide, follows same radius arc as panels (13' radius)

Important note: 1/4" spacing between A-B-A for drainage. Bottom rib should be constructed with appropriately placed weep holes to accommodate drainage. All bolts, spacers, or other connectors will be rust and corrosion resistant.

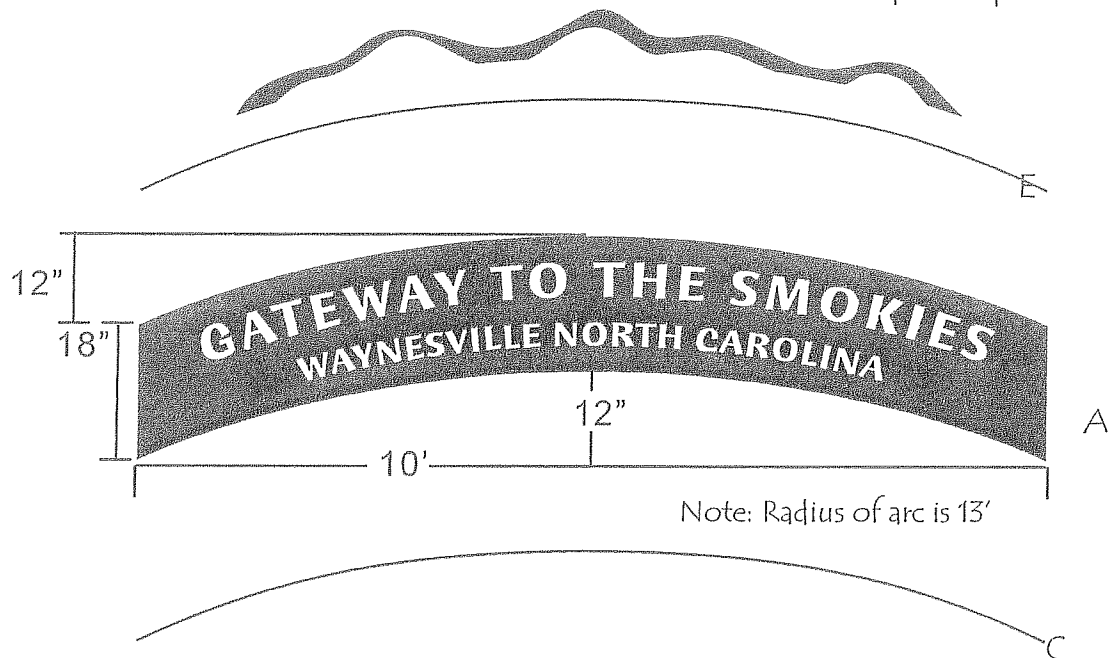
Diagram III, Detail of Arch Construction, Main Panels Front View



All exposed steel will be powercoated for outdoor use, with proper rust-proof priming, in crinkle black.
All bolts and connectors must be of rust and corrosion resistant materials.

Fonts and lettering used must be approved by the Waynesville Public Art Commission before the lettering is cut into the metal.
(Humana Sans ITC Bold shown)

Full-size diagram of mountain silhouette for top of arch is available in file format (PDF, Adobe Illustrator, EPS, etc.) upon request



- A. Identical panels, front & back. To include laser cut lettering as specified. 1/4" steel, powder coated. Panels should be assembled as single unit (Parts A, B, C, E) separate from posts. Only "D" should be permanently welded to posts. Finished project will consist of 2 identical posts and the assembled arch.
- C. Bottom rib, 1/4" steel, powder coated. 4" wide, follow same arc as panels (13' radius)
- D. Mounting bracket/flange welded on post, 1/2" steel, powder coated. Approximately 3" wide---(see diagram III)
- E. Top rib, 1/4" steel, powder coated. 4" wide, follows same radius arc as panels (13' radius)

Diagram IV, Detail of Arch Construction, Main Panels

Horizontal Cross-Section for Panel Mounts

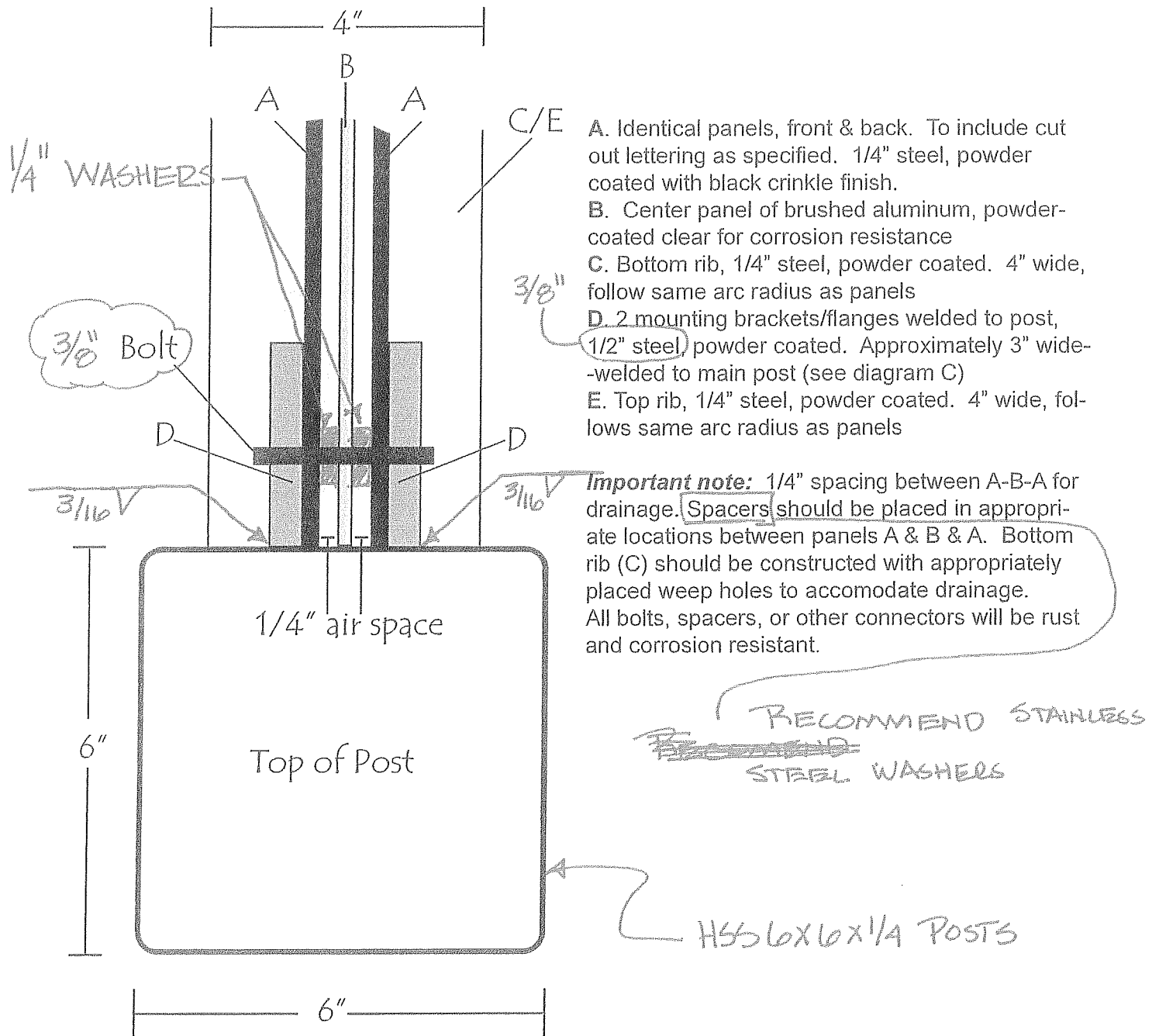


Diagram V, Detail of Arch Construction, Base Flange

Horizontal Cross-Section, See Diagram V for Side View

RECOMMEND: ANCHOR RODS,
NUTS, AND WASHER TO BE
STAINLESS STEEL. IF NOT FEASIBLE
THEN HOT DIPPED GALVANIZED

Mounting Flange,
18" Diameter

4 Triangular
Support Braces,
3/4" plate,
See Diagram V for
complete dimensions.

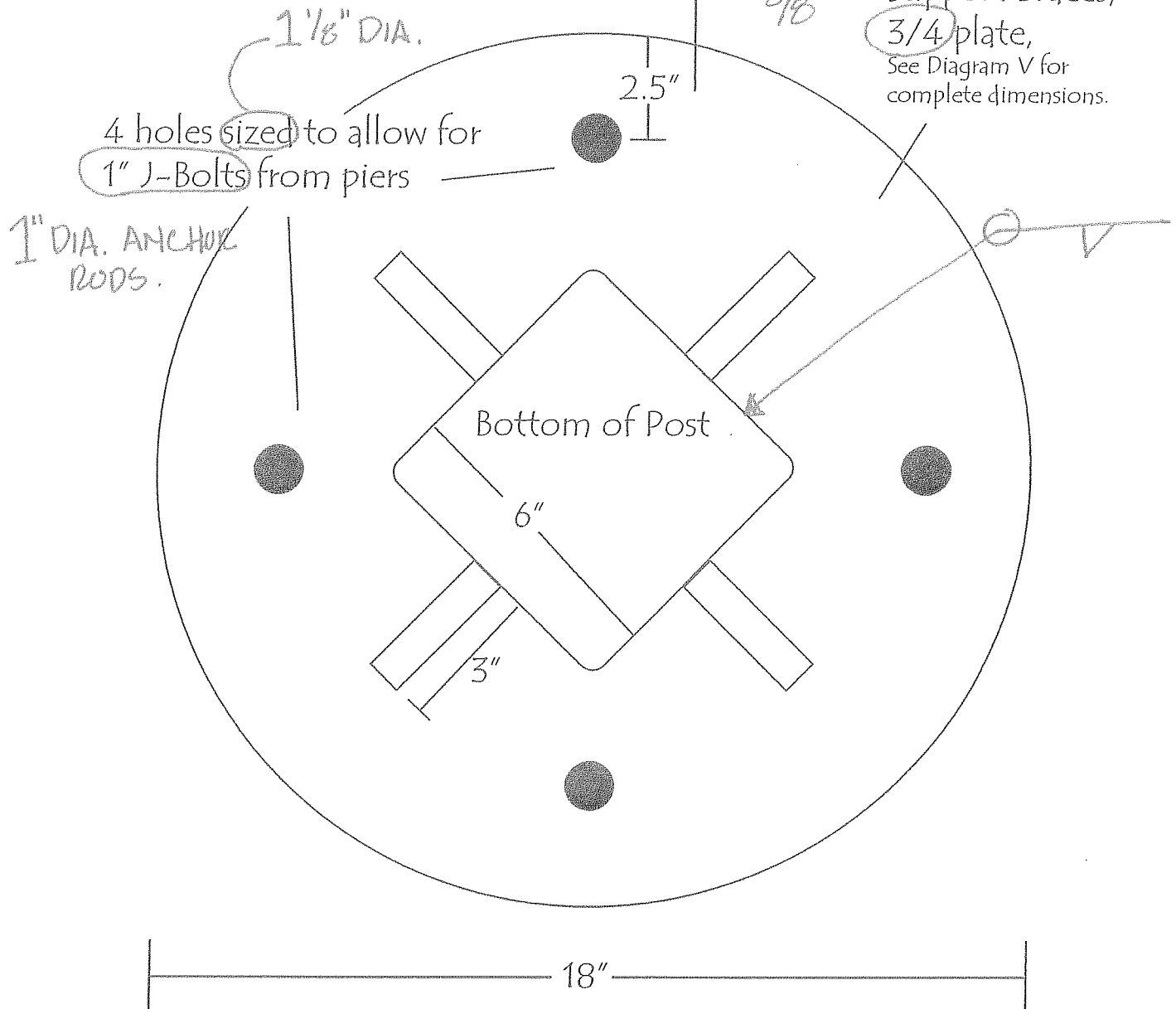
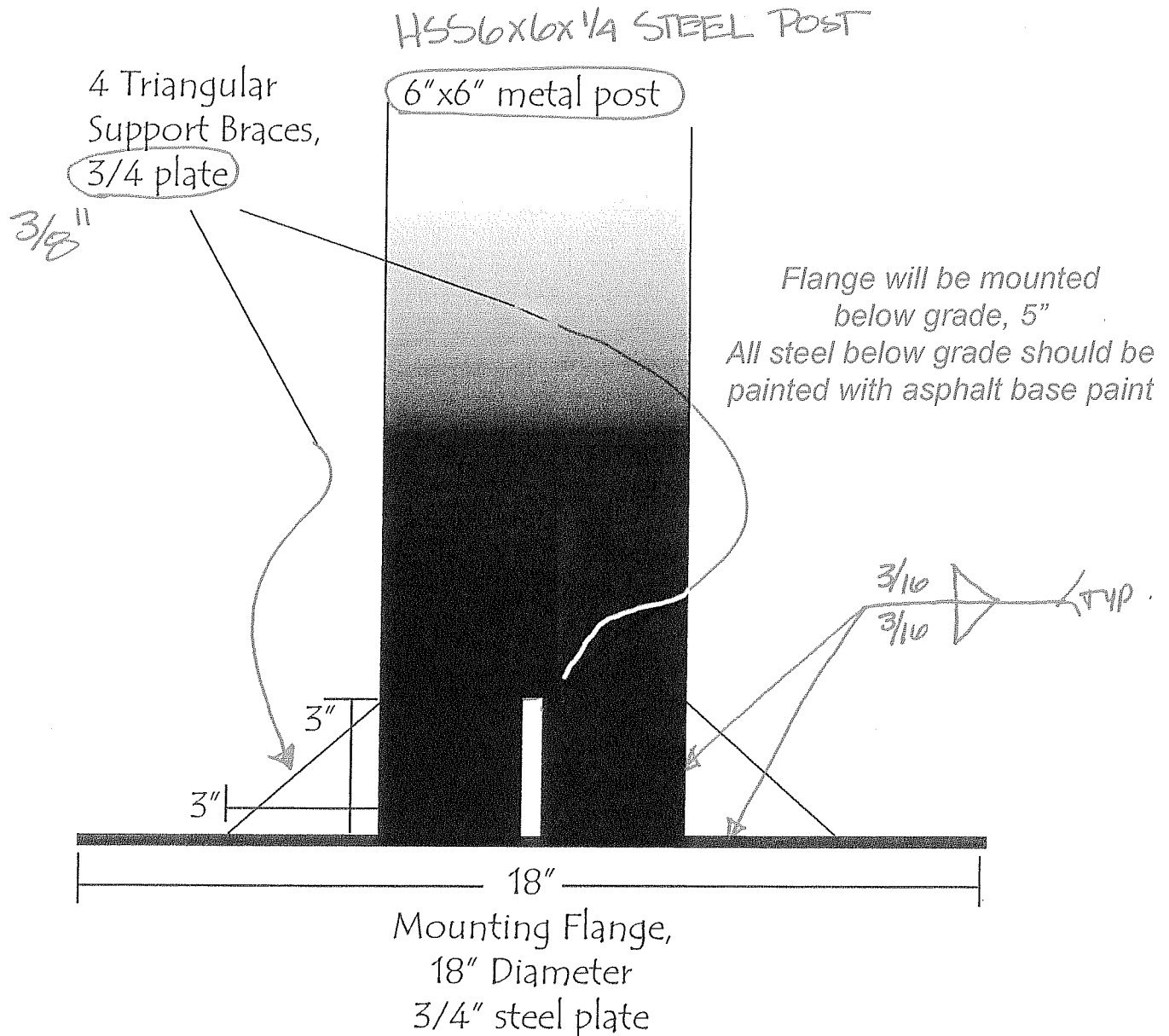


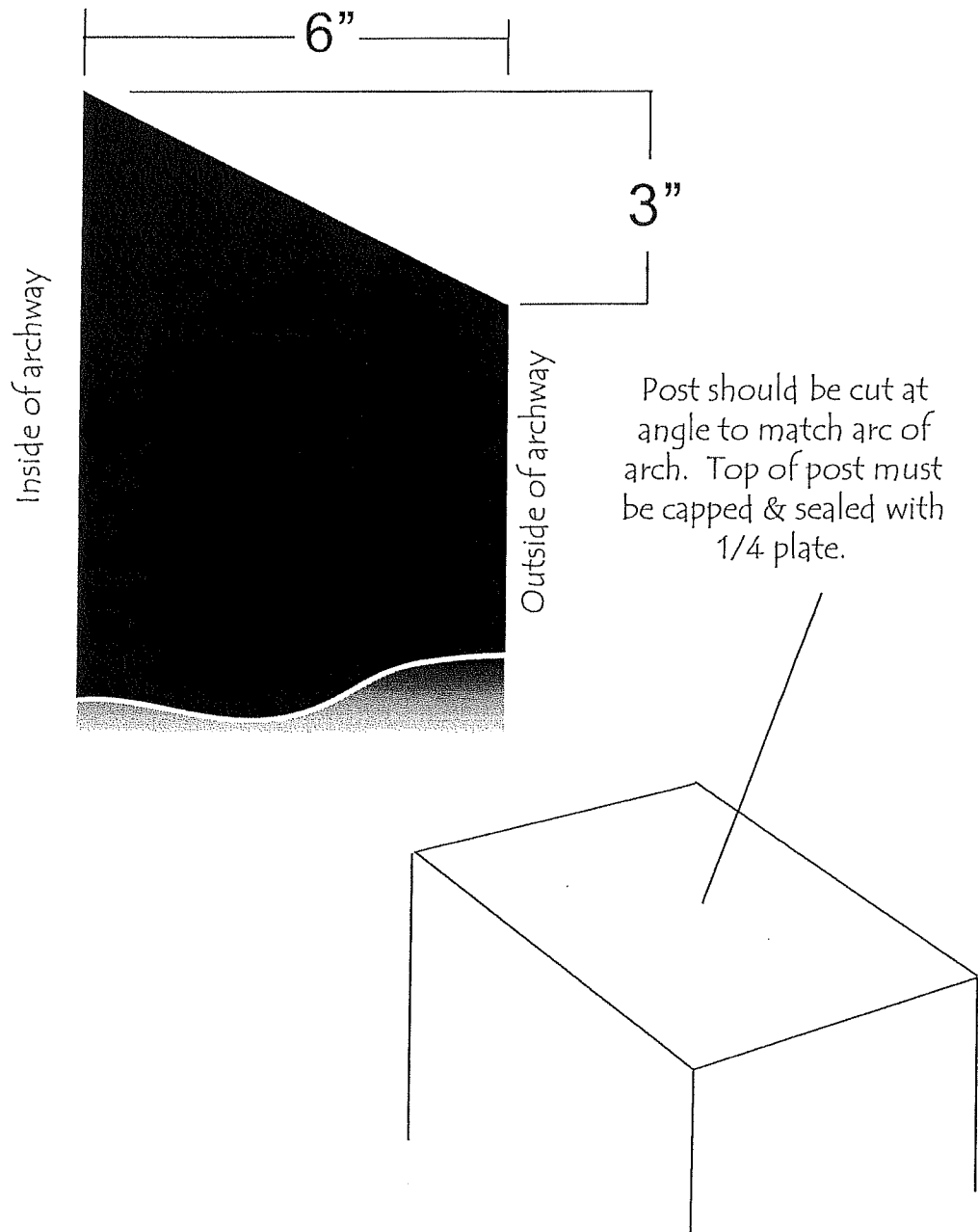
Diagram VI, Detail of Arch Construction, Base Flange

Side View, See Diagram V for Cross Sectional View



- HSS POSTS SHALL CONFORM TO ASTM A500 GRADE B, $F_y = 46 \text{ ksi}$
- PLATES SHALL CONFORM TO ASTM A36, $F_y = 36 \text{ ksi}$
- REINFORCING STEEL (REBAR) SHALL CONFORM TO ASTM A615, GRADE 60
- CONCRETE SHALL BE NORMAL WEIGHT w/ 28 DAY COMPRESSIVE STRENGTH OF 3000 PSI

Diagram VII, Detail of Arch Construction, Top of Post



SUTTON-KENNERLY & ASSOCIATES, INC.



Project Name: T.O.W. NEW ARCH

Project No: _____

Subject: FOUNDATION

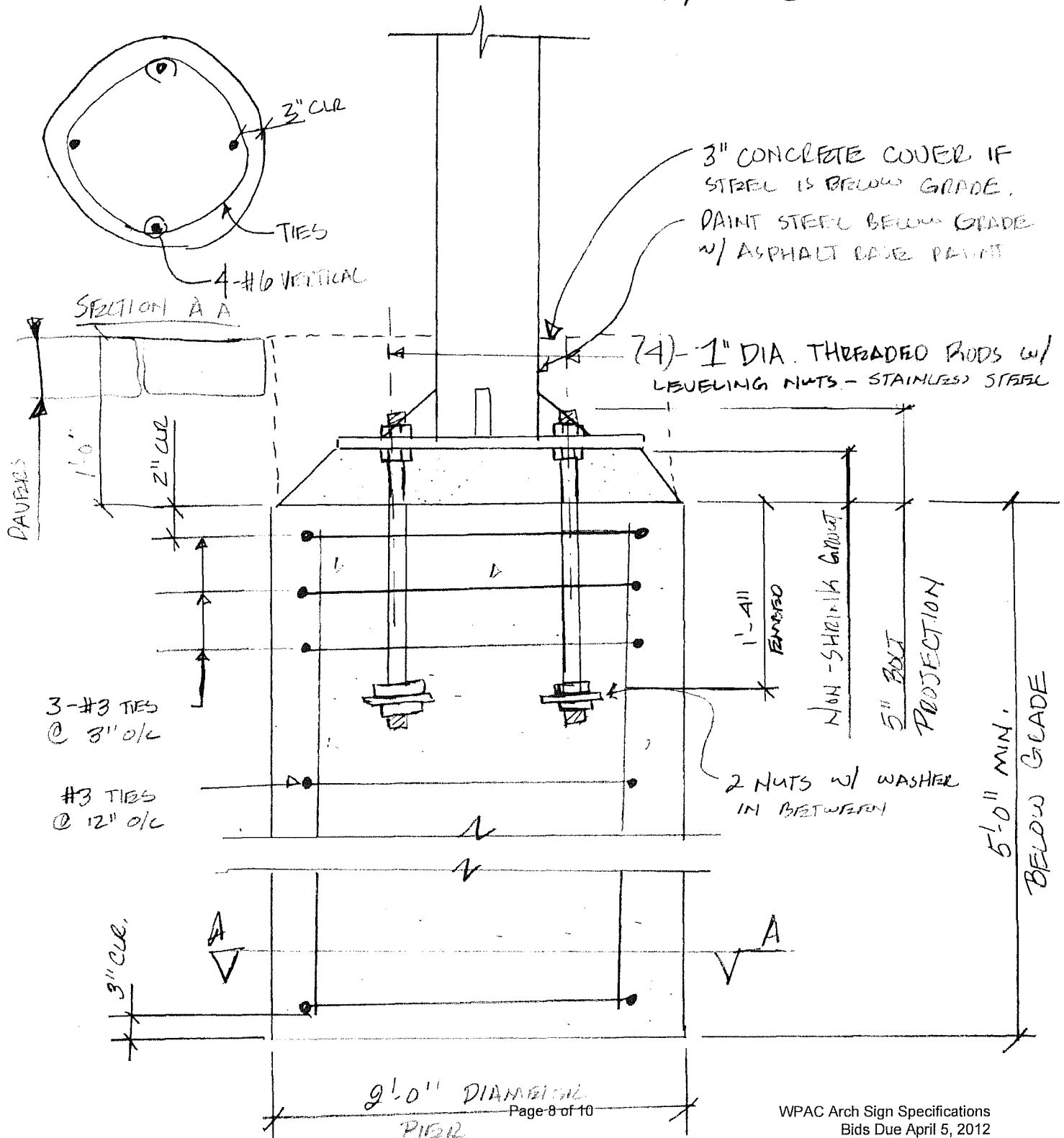
Designed By: DRF

Checked By: _____

Date: 1/11/2012

Sheet No: _____

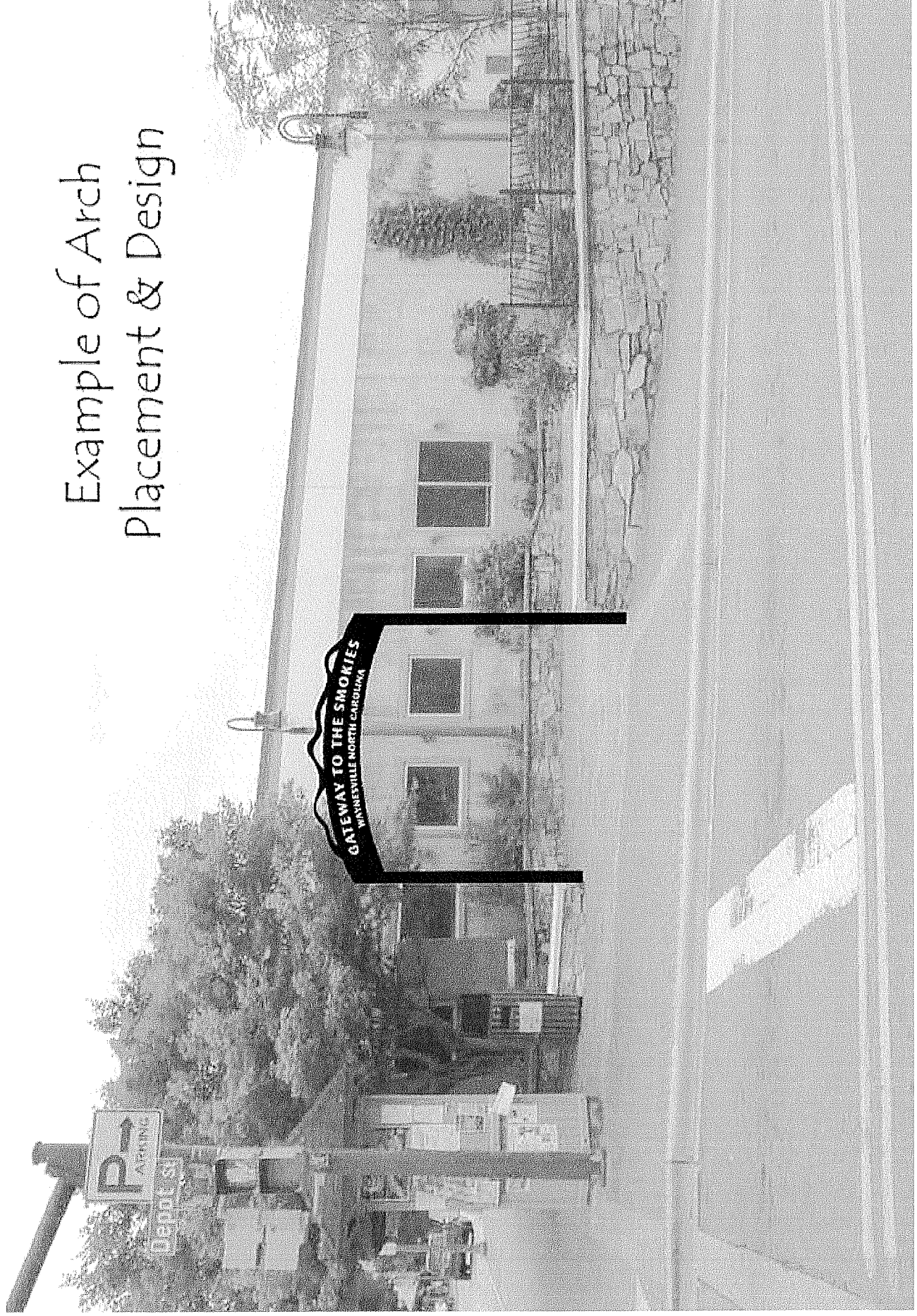
TYPICAL PIER DETAIL





Example of Arch Placement & Design

Example of Arch Placement & Design

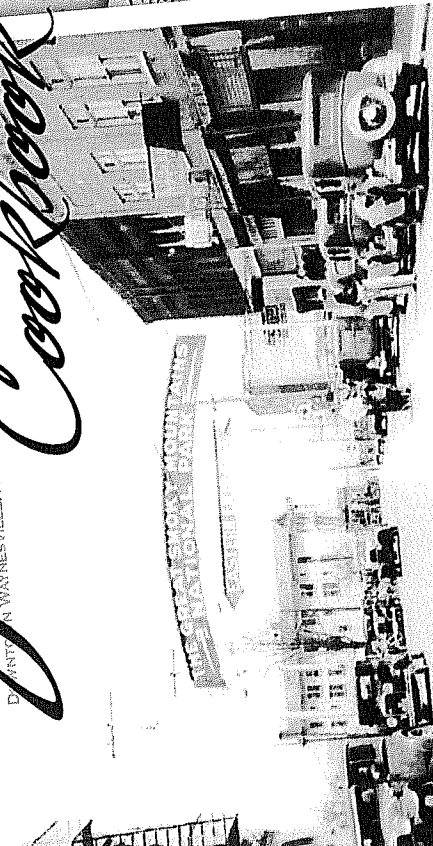


WAYNESVILLE
PUBLIC
COMMISSION

Taste of the Great Smokies Cookbook

DARTON IN WAYNESVILLE, NORTH CAROLINA 1934

Commemorating the
Great Smoky Mountains
National Park
Historic Arch in
Waynesville, NC.



WAYNESVILLE
JAN 20 1934
3 4 PM
POST OFFICE

Mr. & Mrs.
323 E. 4th

It is a great food and
very beautiful scenery here in
the C. P. N. S.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 24, 2011

SUBJECT: Street/Sidewalk Closing - Cancellation of Prior Approval for 2012 Downtown Sidewalk Sales (*request of Downtown Waynesville Association*)

AGENDA INFORMATION:

Agenda Location: Unfinished Business
Item Number: 4-B
Department: Administrative Services
Contact: Phyllis McClure, Town Clerk
Presenters: Marcy Onieal, Town Manager

BRIEF SUMMARY: Based on discussion by members of its Promotions Committee and Executive Board during regular March meetings, Downtown Waynesville Association has announced the cancellation of all 2012 Sidewalk Sales Events, previously scheduled for holiday weekends of May 25-26 (Memorial Day), July 3-5 (Independence Day), and August 31-September 3 (Labor Day).

On February 14, 2012, the Board formally approved a schedule of street and sidewalk closings for DWA-sponsored events, including dates for the sidewalk sales indicated above. It is recommended that the Board now rescind approval of the three dates in question in order to avoid a potential situation whereby an individual merchant could cite prior Town approval in order to hold a sidewalk sale outside of his/her business, without being part of any sanctioned Downtown event.

MOTION FOR CONSIDERATION: *To rescind authorization to close sidewalks for 2012 Downtown Waynesville Sidewalk Sales Events, originally scheduled for May 25-28, July 3-5 and August 31-September 3, as requested by the Downtown Waynesville Association*

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

- Memo from Downtown Waynesville Association dated April 4, 2012
- Excerpt from 2/14/12 board minutes addressing street closings
- Schedule of currently approved street/sidewalk closings

MANAGER'S COMMENTS AND RECOMMENDATIONS: Approve motion as presented.

Phyllis McClure

From: Buffy Phillips <dwabuffy@charter.net>
Sent: Wednesday, April 04, 2012 2:04 PM
To: 'Phyllis McClure'
Subject: Sidewalk Sale events canceled

Date: April 4, 2012

To: Town of Waynesville Mayor and Aldermen

From: Buffy Phillips, DWA

Re: 2012 Sidewalk Sales

Earlier this year, Downtown Waynesville Association requested three dates for your approval of annual Sidewalk Sale events for 2012. After discussions held at DWA Promotions Meetings and the most recent DWA Executive Board Meeting it was decided to discontinue the Sidewalk Sales in Downtown Waynesville at this time.

All attendees were in agreement that the Sidewalk Sale participation is lacking and they do not reflect the quality image we have for downtown.

As always, thank you for your support,

Buffy

Buffy

Buffy Phillips
Executive Director
Downtown Waynesville Association
PO Box 1409
Waynesville, NC 28786

www.downtownwaynesville.com

dwabuffy@charter.net
downtownwaynesville@charter.net
828.456.3517

Alderman Roberson asked if this additional charge would apply if an individual had a membership to the Recreation Center. Manager Galloway said there would not be an additional charge at the Armory for those with memberships to the Recreation Center.

Alderman Roberson moved, seconded by Alderman Greeley to adopt an ordinance to amend the budget to add the \$1.00 Admission Fee for the Armory as recommended. The motion carried unanimously. (Ord. No. 4-12)

Signage for Route to Cherokee Position with the Department of Transportation

A few months ago, the County Commissioners of Jackson County submitted a request to the Town of Waynesville that it endorse a request to the Department of Transportation regarding signage on Route 23/74 directing motorists toward Cherokee. The request concerned the present signage at the Lake Junaluska Exit directing traffic to Cherokee through Maggie Valley on Route 19. The Jackson County Commissioners were seeking signage that would note that an alternative route to Cherokee would be to remain on Route 23-74, eventually exiting toward Cherokee on Route 441 North.

At the time the request was received, Board members discussed how the Town of Maggie Valley felt about the proposed signage. There was concern that the change in the signage might draw people away from Maggie Valley and send motorists through Sylva instead. The matter was then tabled until such time as Mayor Brown had an opportunity to communicate with the Mayor of Maggie Valley, Mr. Ron Desimone.

Mayor Brown has been in communications with Mayor Desimone, and the two mayors recently met with representatives of the Department of Transportation and the Chamber of Commerce. Mayor Brown has asked that the matter be returned to the Board's agenda for further consideration.

Alderman Roberson said he would support Maggie Valley's decision. Other Board Members agreed to support their neighboring town. Mayor Brown said the Cherokee Tribal is supportive of the new signage, on their website they give Waynesville as the direction to reach their destination. It is felt that Highway 19 is probably the least attractive way to travel to Cherokee and they are attempting to get those traveling to Cherokee to travel through Waynesville.

Alderman Freeman moved, seconded by Alderman Greeley, to support signage that includes Maggie Valley as an alternate route to Cherokee and to send a letter to the N. C. Department of Transportation to support this signage. The motion carried unanimously.



Downtown Waynesville Association Street Closing Requests for 2012

Each year, the Downtown Waynesville Association makes a formal written request for the closings of various streets and portions of streets to facilitate various events held in the Downtown area. In the past, the Town Board has expressed a desire that the Downtown Waynesville Association coordinate all of these street closing requests and submit a complete list

of the closings to the Board of Aldermen which must approve all closings. The Town has a working agreement with the Downtown Waynesville Association under which DWA agrees to oversee and coordinate these festivals, street dances and other events.

A list of the requested street closings for the various events and activities throughout the summer was presented to the Board. The list was quite similar to the events held in previous years with one change connected with Folkmoot. International Day is proposed to be moved from the 4th Saturday in July to the 3rd Saturday in July. This change will take some extra coordination with the Town's Law Enforcement and Public Works Personnel, and will necessitate a number of overtime hours compressed into one weekend. The new schedule would include the Folkmoot Parade on Friday, July 20, a street dance on the evening of that day and then the street closed on Saturday, July 21 for International Day. The new schedule is an attempt to eliminate the direct competition with the Bele Chere Festival in Asheville which is traditionally the last weekend of July.

Manager Galloway said the Haywood County Veterans Council is proposing to hold the Memorial Day Parade in Waynesville this year on Monday, May 28 at 11:00 a.m. with a ceremony held on the Courthouse lawn immediately afterwards. The parade was held in Canton last year and they would like to alternate each year between Waynesville and Canton. This would involve closing the street as the parade progresses. It was requested that this street closure be included in the list of closings.

Alderman Roberson asked about closing the street for the Main Street Mile event. Manager Galloway said he was not aware of any requests for this street closure, but he will follow up on the event.

Alderman Caldwell moved, seconded by Alderman Roberson, to authorize the street closings as requested by the Downtown Waynesville Association and to include the Memorial Day Parade on May 28. The motion carried unanimously.

Frog Level Association Street Closings

A letter was received from the Historic Frog Level Merchants' Association regarding the "Whole Bloomin' Thing Festival" for 2012. This year's event is scheduled for Saturday, May 12, between the hours of 9:00 a.m. and 4:00 p.m. This is the tenth year of the "Whole Bloomin' Thing Festival" and it has been growing each year.

The requested street closings for 2012 are similar to those of the past few years, with Commerce Street closed between Panacea Coffee Shop and Depot Street for the hours of 5:30 a.m. until 5:30 p.m. In addition, the Association is requesting that Depot Street be closed during those same hours between the railroad tracks and Water Street. Throughout the time Commerce and Depot Streets are closed, traffic will be able to pass through the area by using Water Street, Charles Street and Boundary Street.

TO: Town of Waynesville Mayor and Board of Aldermen

-Approved 02-14-12

FR: Buffy Phillips, Downtown Waynesville Association

DA: February 1, 2012

RE: STREET CLOSING requests

1. **Block Party Street Dance, Saturday May 26, 7-10pm** on Main St. Sponsored by DWA
▶ Close Main Street from Church St. to edge of courthouse lawn/Justice Center, 5-10:30pm.
2. **Friday Night Street Dances, June 22, July 6 & 20, Aug 3**
▶ Close Main St at Depot intersection to end of courthouse lawn/Justice Center at 5pm until 9:30 pm Co-sponsored by DWA, Town of Waynesville, Smoky Mountain Folk Festival.
3. **Appalachian Lifestyle Celebration, Saturday, June 9**
▶ Close Main St. @ 9pm Friday, 8th from Church St. to edge of courthouse lawn/Justice Center
4. **Stars & Stripes Celebration, Wednesday, July 4th**
▶ Close top of Miller Street at N. Main Street. Miller Street parking lot will still be accessible from the bottom at Montgomery Street.
5. **Folkmoot Parade (1pm) & Opening Ceremonies (12:30pm) July 20**, Sponsored by Folkmoot
▶ Parade begins after the 12:30pm Opening Ceremony on the courthouse lawn and will proceed toward S Main St
Police: Parking removed several hours before parade and street closed as parade progresses.
6. **International Festival Day, Saturday, July 21 NOTICE DATE CHANGE for 2012**
▶ Close Main St. from Pigeon & S Main to north edge of courthouse lawn/Justice Center, **Fri, July 20 @ 9pm through Sat, July 21**, until 7pm or when street is cleared. Co-sponsored by HCAC & Folkmoot.
7. **Hispanic Street Dance Friday, August 17**
▶ Close Main Street at Depot intersection to end of courthouse lawn/Justice Center 5 to 9:30 pm
Co-sponsored by DWA & Town of Waynesville
8. **Block Party Street Dance, Saturday September 1** Main Street
▶ Close Main Street from Church to edge of courthouse lawn/Justice Center, 5-10:30pm.
Sponsored by DWA
9. **Church Street Art & Craft Show, Saturday, October 13**
▶ Close Main Street from Pigeon & S. Main to north edge of courthouse lawn & Justice Center **Fri, Oct 12 at 9pm thru Sat, Oct 13** until 7pm or when street is cleared. Sponsored by DWA.
10. **Haywood County Apple Harvest Festival, Saturday, October 20**
▶ Close Main Street from Pigeon and Main to edge of courthouse lawn/Justice Center, **Fri, Oct 19 at 9pm through Sat, Oct 20** until 7pm or when street is cleared. Co-Sponsored by Haywood Cooperative Extension Service, Haywood Apple Growers, Haywood Chamber and DWA
11. **Waynesville Christmas Parade, Monday evening, December 3** 6pm
▶ Parade begins at corner of N Main & Walnut St. parading toward S Main S Main ending at Bogart's Restaurant. Parking is removed before parade and street closed as parade progresses. Sponsored by Town of Waynesville, Waynesville Kiwanis Club and DWA.
12. **"A Night before Christmas", Saturday evening, December 8** 6-9pm
▶ Close Main Street from Church to Depot St, 5-10pm Parking will be removed during this time period.
Sponsored by DWA.

Downtown Waynesville Sidewalk Sales for 2012

The Downtown Waynesville Association and businesses within the MSD request these dates for the following weekends:

May 25, 26 & 28 Memorial Day weekend

July 3, 4 & 5 4th of July celebration

August 31, 1 & 3 Labor Day weekend



P.O. Box 903 • Clyde, North Carolina 28721

Each year The Haywood County Veterans Council sponsor a Memorial Day parade to be held either in Waynesville or Canton. This year the site will be Waynesville as Canton was the Host last year. If all concerned are in agreement then the following streets will have to be closed from 10:30 until 12:00 noon on May 28, 2012. Parade route would come up Academy St, cross over South Haywood, turn left, come down Main St and disband at the bottom of hill around Mead St.

The parade would commence at 11:00am and upon completion, there will be Ceremonies in front of Court House.

Sincerely,

A handwritten signature in cursive script that reads "Roy L. Pressley".

Roy L. Pressley, President Haywood County Veterans Council

Approved by Board of Aldermen 2-14-12
Street to be closed as parade progresses.
Coordination between Roy Pressley, Haywood
County Veterans Council, DWA, Brian Beck (WPD)