



## Town of Waynesville, NC Board of Aldermen Regular Meeting

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

Date: **February 12, 2019**

Time: **6:30 p.m.**

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(828) 452-2491 [eward@waynesvillenc.gov](mailto:eward@waynesvillenc.gov)

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### A. CALL TO ORDER - Mayor Gavin Brown

1. Welcome/Calendar/Announcements
2. Adoption of Minutes

**Motion: To approve the minutes of the January 22, 2019 regular meeting as presented (or as corrected).**

### B. PUBLIC HEARINGS

3. Public Hearing for Voluntary Annexation for property located at 77 Sutton Loop (PIN 8616-29-7639) in order to receive Town Services

- Assistant Town Manager Amie Owens

**Motion: To approve the voluntary annexation into the Town of Waynesville for property located at 77 Sutton Loop (PIN 8616-29-7639) to receive town services**

4. Public Hearing to consider modification of the Town of Waynesville Code of Ordinances section 6.6 Animals at street fairs, festivals or parades.

- Assistant Town Manager, Amie Owens

**Motion: To approve the modification to the Town of Waynesville Code of Ordinances section 6.6 Animals at street fairs, festivals or parades.**

5. Public Hearing to consider modification of Sections 26-31, 26-32 and 26-35 of the Town of Waynesville Code of Ordinances Article II – Nuisances

**Motion: To approve the modification to the Town of Waynesville Code of Ordinances Sections 26-31, 26-32 and 26-35, Article II – Nuisances**

TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA

February 12, 2019

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C. NEW BUSINESS

6. Authorization to install pedestrian signals at Church and Haywood Intersection

- David Foster, Public Services Director

***Motion: To authorize Town staff to proceed with Mattern and Craig bidding and installing a concrete pole at the Church and Haywood intersection.***

7. Budget Amendment to establish a capital project account

- Elizabeth Teague, Development Services Director

***Motion: To establish a capital project account for the Greenway Bridge at Recreation Park.***

8. Discussion of New Bridge across Richland Creek at Recreation Center

- David Foster, Public Services Director

***Motion: To authorize Town staff to proceed with hiring Bell Engineering to complete the preliminary hydraulic study for a new bridge across Richland Creek.***

9. 2018 Delinquent Tax Advertisements

- James Robertson, Tax Collector

***Motion: To allow Tax Collector, James Robertson, to proceed with the tax advertisements to be printed in The Enterprise Mountaineer in early March 2019, as required by NCGS §105-369***

D. COMMUNICATIONS FROM STAFF

10. Manager's Report

- Town Manager Rob Hites

a. Forest Stewards Annual Contract for Managing the Watershed

***Motion: Approve Forest Stewards Annual Contract for Managing the Watershed***

b. Contract to conduct a financial analysis of the water and sewer fund in order to recommend funding sources and rate increases over the life of the loan for the Waste Water Treatment Plant. Draft the application for grants or loans for funding improvements to the Waste Water Treatment Plant

- Town Manager Rob Hites

**TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA**

**February 12, 2019**

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***Motion: Approve the contract with Dennie Martin of Withers and Ravenel for a lump sum not to exceed contract of \$18,000.***

**11. Attorney's Report**

- Town Attorney Bill Cannon

**E. COMMUNICATIONS FROM THE MAYOR AND BOARD**

**F. CALL ON THE AUDIENCE**

**G. ADJOURN**



# TOWN OF WAYNESVILLE

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

## CALENDAR

February 12, 2019

2019	
Tuesday February 12 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Wednesday February 13 6:45 AM Waynesville Publix	Ribbon Cutting – Waynesville Publix Super Market 124 Frazier Street
Thursday February 21 5:30 – 7:30 Hart Theater	Haywood Pathway's First Annual Empty Bowl
Tuesday February 26 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Wednesday February 27 12:00 Noon Waynesville Inn, Golf Club & Spa	Commission for a Clean County 2018 Community Pride Award
Friday March 1 8:30 AM Public Services Training Room	Board of Aldermen Retreat
Tuesday March 12 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Tuesday March 26 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Tuesday April 9 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Friday April 19	Town Offices Closed – Good Friday
Tuesday April 23 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Tuesday May 7 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Tuesday May 21 6:30 PM Board Room	Board of Aldermen Meeting – Regular Session
Monday May 27	Town Offices Closed – Memorial Day

<b>Tuesday June 11</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday June 25</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Thursday July 4</b>	Town Offices Closed – Independence Day
<b>Tuesday July 9</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday July 23</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday August 13</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday August 27</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Monday September 2</b>	Town Offices Closed – Labor Day
<b>Tuesday September 10</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday September 24</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday October 8</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday October 22</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Monday November 11</b>	Town Offices Closed – Veterans Day
<b>Tuesday November 12</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday November 26</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Thursday &amp; Friday Nov 28 &amp; 29</b>	Town Offices Closed – Thanksgiving
<b>Tuesday December 10</b> <b>6:30 PM</b> <b>Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Tues, Wed &amp; Thurs Dec 24 – 26</b>	Town Offices Closed – Christmas

## Board and Commission Meetings – February 2019

ABC Board	ABC Office – 52 Dayco Drive	<b>February 19th</b> 3 <sup>rd</sup> Tuesdays 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	<b>February 5th</b> 1 <sup>st</sup> Tuesdays 5:30 PM
Downtown Waynesville Association	UCB Board Room – 165 North Main	<b>February 28th</b> 4 <sup>th</sup> Thursdays 12 Noon
Firefighters Relief Fund Board	Fire Station 1 – 1022 N. Main Street	<b>Meets as needed;</b> <i>No meeting currently scheduled</i>
Historic Preservation Commission	Town Hall – 9 S. Main Street	<b>February 6th</b> 1 <sup>st</sup> Wednesdays 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	<b>February 18th</b> 3 <sup>rd</sup> Mondays 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	<b>February 14th</b> 2 <sup>nd</sup> Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	<b>February 20th</b> 3 <sup>rd</sup> Wednesdays 5:30 PM
Waynesville Housing Authority	Waynesville Towers – 65 Church Street	<b>February 20th</b> 3 <sup>rd</sup> Wednesdays 3:30 PM

## BOARD/STAFF SCHEDULE

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**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REGULAR MEETING**  
**January 22, 2019**

**THE WAYNESVILLE BOARD OF ALDERMEN** held its regular meeting on Tuesday, January 22, 2019 at 6:30 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

**A. CALL TO ORDER**

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

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

Mayor Pro Tem Gary Caldwell was absent

The following staff members were present:

Rob Hites, Town Manager  
Amie Owens, Assistant Town Manager  
Eddie Ward, Town Clerk  
Bill Cannon, Town Attorney  
Jesse Fowler, Planner  
Elizabeth Teague, Development Services Director

The following media representatives were present:

Becky Johnson, the Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown reminded the Board of the following calendar events:

- Commission for a Clean County 2018 Community Pride Award – Wed. Feb. 27 – Waynesville Inn- 12:00
- Board Retreat – Friday March 1 – Public Services Training Room – 8:30 am

Mayor Brown asked Development Services Director, Elizabeth Teague, to make an announcement concerning a contribution received from the Community Foundation of Western North Carolina. Ms. Teague said this contribution was for the acquisition and installation of a multi-use bridge at the Waynesville Recreation Park and the land purchased by the Town (known as the Schulhofer property), in accordance the Town of Waynesville's Greenway Feasibility Study 2017, and related planning. The gift of \$102,269.20 was made possible by the generosity of Ms. Philan Medford. Ms. Teague asked Ms. Medford to come forward and speak.

Ms. Medford gave a brief history of how the greenway came to be, starting in 1997. The Board purchased the Schulhofer property in 2017. From there Ms. Medford sent a picture of a steel bridge located at Lake Logan to Ms. Teague, and she contacted experts to evaluate the area, and give ideas on

how to make the bridge happen. Ms. Medford asked the Board to post on the Town's website how to donate monies for projects at the Recreation Center.

Everyone thanked Ms. Medford for her generosity to the Town.

2. Adoption of Minutes

***A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter, to approve the minutes of the January 8, 2019 regular meeting as presented. The motion passed unanimously.***

**B. PRESENTATION**

a. Tuscola High School Air Force Junior ROTC

- Cadet Presentation

The Tuscola High School Air Force Junior ROTC cadets gave a presentation about the activities they have been participating in the last year. Cadet Lt. Col Jack Leslie told the Board that this Tuscola Unit was the 75<sup>th</sup> unit to be established in North Carolina, and was started in 1972. Their goal is to build better citizens for tomorrow. He explained that every three years they have a North Carolina inspection and this year the unit was going for the Distinguished Unit Award, and described their opportunities for this award during the year.

Cadet Captain Clay Payne explained the goals of the 2018-2019 year. They included raising \$5,000.00 in profit through fundraisers by April 1<sup>st</sup> 2019. They want to recruit 50 new cadets, and conduct 35 school service events. For their community impact, the goal of the unit is to assist 10 local charitable organizations in the community, and have an average of 12 community service hours completed by April.

The Cadets went on to explain the accomplishments in the PT performance area and community service projects of the program. This unit has participated in the Town of Waynesville's Apple Festival, Salvation Army bell ringing, Wreaths across America and organized Hurricane Florence care packages.

Mayor Brown explained his experience with the ROTC program and asked Cadet Payne about Space Camp. He thanked the unit for their presentation, and recognized Major David Clontz and SMSgt Steve Robertson for their leadership of this unit.

b. Forest Stewards

- Peter Bates, Professor, Geosciences and Natural Resources
- Craig Breedlove, Stewardship Coordinator

Dr. Peter Bates provided an overview of work performed by Forest Stewards during the past several years and continuing into the 2018-2019 fiscal year. Dr. Bates said that working in collaboration with the WCU professor Jerry Miller, they had maintained and operated a network of stream water quality monitoring stations within the Waynesville Watershed since 2007. The primary objectives were:



1. Document water quality conditions within the watershed (particularly during floods)
2. Gain an understanding of the factors that control selected water quality (particularly turbidity and total suspended solids)
3. Identify the predominant sources of sediment and suspended material within the watershed.

Dr. Bates explained to the Board that the data collected between 2007 and 2014 has been summarized in a professional paper, and demonstrate that water quality within the watershed is excellent. In 2016, the monitoring program was modified to collect base line data that would more effectively identify changes in water quality that may occur in response to localized timber harvests within the Watershed. Specifically, monitoring sites located near the reservoir on Old Bald Creek (#2 & #3) were moved upstream. Currently there are four active monitoring sites within the basin. The sites located along old Ball Creek are intended to collect base line water quality data for streams that drain areas where trees may be harvested in the near future.

Dr. Bates said the data collected since 2014 has not been rigorously manipulated and interpreted. He expects this will occur in the spring of 2019. It is important to note that there has been no evidence of water quality changes at any of the sites since 2007.

Each year Forest Stewards conduct NNIS surveys, apply control treatments, and asses the effectiveness of pest control measures. In addition to chemical control, a group of WCU students studied the effectiveness of the manual removal of Japanese honeysuckle from an area that was heavily infested. Initial results suggest that the manual removal was very effective for this species.

Dr. Bates gave a summary which indicated that NNIS will continue to be a threat to native forests in the watershed – and this is a threat throughout the southern Appalachians – and their control will likely require an ongoing effort.

Data that was collected to develop the 2008 Watershed management plan showed that the forests in the Watershed were generally healthy but less diverse than they were historically. The loss in diversity was attributed to the exploitive logging practices in the 1800's – mid 1900's, the introduction of non-native insects and diseases, and a reduction in the frequency of fire on dry sites due to widespread fire suppression efforts.

Dr. Bates stated that the basic forest stewardship goal for the property is to increase forest diversity by increasing the number of naturally occurring forest types that better mimic historical conditions. To achieve these goals, Forest Stewards recommend implementing silvicultural treatments that create gaps and otherwise mirror natural disturbance patterns. Mr. Bates also recommend using prescribed burning to restore fire adapted communities. He proposes implementing these treatments in the Old Bald Management unit, an area of about 800 acres, and incorporating the help of the Natural Resources students, and the NC Forest Service. This burn would be very controlled, and would require ideal weather conditions, and fire lines surrounding the area.

A proposed initial survey for flowering and large surviving chestnuts in the Watershed is to identify areas with potentially reproductive chestnuts and large surviving trees, and to characterize the habitat in which they occur. The presence of such trees would enhance the Watershed as a site for chestnut restoration should the Town approve.

Dr. Bates explained the use of wildlife cameras to assess wildlife is to estimate distribution and density of mammals across the property and estimate the total number of bobcats in the area, and assess the feasibility of performing a multi-year bob cat monitoring project to explore relationships between wildlife populations and forest conditions in the Southern Appalachians. This project is being completed by undergraduate student researchers from WCU and is being done via camera trapping. Some of the mammals identified at the Watershed include 3 unique bobcats, 1 red fox, American black bear, and coyotes. Notable captures included the first documented nine-banded armadillo, and spotted skunk.

Manager Hites reminded the Board that Dr. Bates was the Forest Manager for the Watershed and they are contracted annually. He said there is \$42000.00 in the budget for their contract. He said he would bring the contract before the Board at the next meeting.

### **C. CALL FOR PUBLIC HEARINGS**

#### **3. Call for Public Hearing for Voluntary Annexation**

- Assistant Town Manager Amie Owens

Ms. Owens explained that this petition is being requested by Haywood Christian Academy for the purpose of annexing to receive additional town services in accordance with Town Policy. This property is non-contiguous to the Town's current limits. Water and sewer service is already provided to this property utilizing outside rates. An annexation would allow for garbage collection and police and fire protection under the Town of Waynesville.

Clerk's Certification:

Ms. Owens stated that the property is closer than 3 miles to the Waynesville Town limit; the property is not closer to another municipality's primary corporate limits than to Waynesville; the property is not part of any subdivision and Town services are already available in the area. The petition meets the requirements of the general statutes NCGS §160A-58.1 annexation of non-contiguous area and a public hearing is required prior to the Board voting on such annexation. The fee of \$200.00 for such petition was collected on January 7, 2019.

***A motion was made by Alderman Jon Feichter, seconded by Alderman Julia Freeman, to call for public hearing on Tuesday, February 12, at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room, 9 South Main Street, Waynesville, to consider a voluntary annexation into the Town of Waynesville for property located at 77 Sutton Loop (PIN 8616-29-7639) to receive town services. The motion carried unanimously.***

#### **4. Call for Public Hearing to consider modification of the Town of Waynesville Code of Ordinances section 6.6 Animals at street fairs, festivals or parades.**

- Assistant Town Manager Amie Owens

Ms. Owens gave a brief summary of the events to consider modification of the Code of Ordinances section 6.6 Animals at street fairs, festivals and parades as follows:

In October 2017, a moratorium was passed to suspend enforcement of the ordinance prohibiting animals at street fairs, festivals or parades. At that time, it was determined that in order to properly consider this issue, data was required related to the number of animals at the three largest festivals, the number of issues encountered and the number of attendees. The Waynesville Civilian Police Volunteers used a stickering system to more adequately count the number of animals at the festivals in July and October.

Folkmoot International Day: Ms. Owens stated that there were 117 animals either on leashes, carried by owners or in carriers. She said that was about a 60:1 human to animal ratio. There was one reported growling and snarling incident between animals – but no biting or scratching of dogs or humans. We had one irresponsible owner who allowed a dog to defecate in the mini park at Depot and N. Main. There were two reports of dog owners who were looking at the vendors wares and the dogs were behind them on a full 6’ leash and the leashes could have tripped others. (approx. 7000 attendees)

Church Street Fair: At this Street Fair there were 141 dogs that were counted/stickered with about an 80:1 human to dog ratio. One case of a “dog fight” (growling and barking – no biting) that scared a young child. (approx. 11,000 attendees)

Apple Harvest Festival: Ms. Owens said that this festival had the most animals with a total of 252 animals stickered. That was a ratio of 80:1 human/animal. No incidents (bites, trips, etc.) were reported with no poo on the sidewalks noted. (approx. 20,000 attendees)

***A motion was made by Alderman Jon Feichter, seconded by Alderman LeRoy Roberson to call for a public hearing on Tuesday, February 12, 2019 at 6:30 p.m., or as closely thereafter as possible, in the Town Hall Board Room, 9 South Main Street, Waynesville, to consider the modification to the Town of Waynesville Code of Ordinances section 6.6 Animals at street fairs, festivals or parades. The motion carried unanimously.***

#### **D. PUBLIC HEARINGS**

5. Public Hearing on a Text Amendment to the Land Development Standards, Section 4.4. Measurement of building height.

- Elizabeth Teague, Development Services Director

Ms. Teague explained to the Board that at the Planning Board’s direction, staff is bringing forward recommendations for a text amendment to clarify the Town measures building height. The staff has identified and discussed issues related to interpreting the ordinance over three Planning Board meetings, and has made several recommendations to change the ordinance. Ms. Teague said staff has consulted with architect Odell Thompson concerning current Land Development Standards and building codes, and the “as-built” precedent around Town.

In addition to eliminating confusion for how the ordinance is interpreted, the goals of this text amendment are to:

- 1) Maintain a certain scale within zoning districts, not changing the table of dimensional standards by district (Table 2.4) which already limits building height by story, but by also limiting the overall building height within all residential districts where there is often pitched-roof design;
- 2) Work with the Town's topography to measure from the highest adjacent grade and be consistent with what is currently built around Town;
- 3) Accommodate both commercial and residential styles of structures, clarifying interpretation on pitched versus flat-roofed structures and making an allowance for the need to elevate buildings within floodplains;
- 4) Give architects and designers leeway in designing to the guidelines and the context without being too proscriptive so that the Town encourages good design.

#### Consistency with the 2020 Comprehensive Land Development Plan

Ms. Teague said that In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, one of the stated actions is to "Revise the Zoning Ordinance, other development ordinances and the zoning map to reflect the Land Use Map and concepts contained in the plan." (4-2). Additionally there is an objective to "Work to preserve the important character and scale of each unique area within the larger Waynesville community by building on those elements identified as important to defining each area." (4-5).

Clarifying the way in which the Town measures building height will re-inforce the goal of keeping new construction within the scale and dimensional requirements of the designated zoning districts. Additionally, the Planning Board intentionally framed the proposed ordinance so that a maximum scale of height was imposed on residential districts as a design guideline to "control development in appropriate areas and incorporate design criteria into the Town's development ordinances," (4-6).

#### Recommended Text Amendment

The Planning Board reviewed and revised the attached text to replace LDS Section 4.4, to add a footnote to Section 2.4.1., the dimensional standards table for residential districts to place an overall cap on height, and to update the definition of "Basement" in Section 17.4. The current version is also attached for reference along with the Consistency Statement adopted by the Planning Board.

Ms. Teague reiterated to the Board that above all Building Codes will still be followed.

Mayor Brown asked Ms. Teague to go over the revised Ordinance O-03-19 as follows:

#### **Part I: Replacement of Section 4.4 of the Land Development Standards, with the following text and illustrations:**

#### **1.4 - Measurement of Building Height.**

##### **4.4.1 Applicability**

Building heights shall be specified in Section 2.4, Dimensional Standards by District and use "stories" as the standard unless otherwise regulated in Chapter 5 Building and Development Design. Where a specific dimension is used in the calculation of maximum height for certain types of buildings in Chapter 5, the height shall be measured from the highest adjacent grade to the highest point of the structure or at the structure's "primary façade." Wherever one Section of

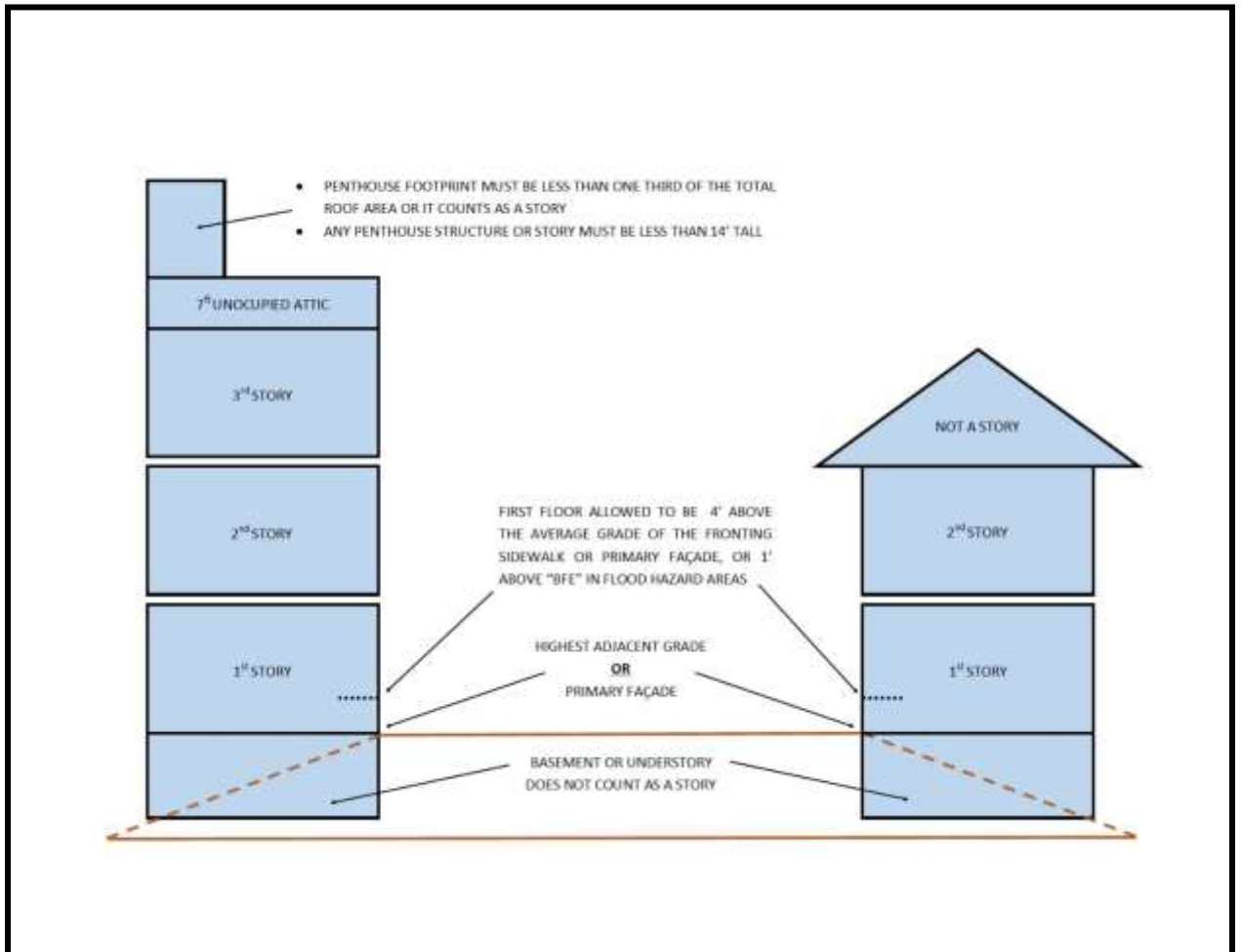
the Town's Land Development Standards may differ from another, the more restrictive ordinance shall apply. All structures are subject to regulations under the North Carolina State Building Codes in addition to this Section.

#### **4.4.2 Measurement of Building Height**

The Town regulates building height by limiting the number of allowable stories within zoning district types in accordance with Section 2.4 of the Land Development Standards. In addition, the following regulations apply:

- A. Maximum within residential districts: All structures within residential districts (RL, RM, NR, and UR), including mixed-use overlays, are limited to a maximum height of 60' as measured from the highest adjacent grade to the top of a flat roof or the peak of a sloped roof. The 60' maximum is inclusive of floodplain elevations and the number of stories allowed in Section 2.4.1 Table of Dimensional Standards by Residential District.
- B. Maximum height and measurement of a story: A story is a habitable level within a building of no more than 14 feet in height from finished floor to finished floor, not including space above the eaves and within the slope structure of a pitched roof. The number of stories is measured from the highest adjacent grade or at the structure's "primary façade." The primary façade is that side of the building that is considered the front of the structure architecturally, and that contains the primary entrance or front door.
- C. Flat-roof or parapet design: For buildings with flat roofs, unoccupied attics or building caps less than 7 feet in height are not considered stories for the purposes of determining building height. A penthouse on top of a flat roof shall be considered as a story only if it equals or exceeds one-third of the total roof area. A penthouse structure that is less than one-third of the total roof area will not count toward the number of stories of the building but must also be less than 14' in height.
- D. Pitched roof design: For buildings with pitched roofs, lofts, attic space or cathedral ceilings within the slope of the roof structure, with or without dormers or vents, are not considered stories.
- E. Allowance for foundations, basements and floodplain ordinance compliance: For either pitched or flat roofed structures, the first floor may be up to 4' above the average grade of the fronting sidewalk or primary facade, or be one foot (1') above base flood elevation for the lot if within a special flood hazard area. Basements or under-stories below the highest adjacent grade and facing away from the structure's primary façade, do not count as stories for the measurement of building height.

F. Illustration:



4.4.3 Items Not Included in Height Calculations.

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, mechanical penthouses (provided they are set back 20 feet from the front elevation), observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas (provided evidence from appropriate authorities is submitted to the effect that such building or buildings will not interfere with any airport zones or flight patterns). See Chapter 3 Supplemental Standards related to communication towers and wireless communication facilities.

**Part 2: Amend footnotes to cross –reference with Table 2.4.1 of Dimensional Standards by Residential District.**

- A. Eliminate "4 & 5" marking that does not refer to a footnote.
- B. Add footnote to Table 2.4.1: "3. A maximum of 60' in Building Height from highest adjacent grade to highest point on a roof."

**Part 3: Amend Chapter 17.4 Definitions to cross-reference change in Section 4.4 to read:**

Basement: The lowest level or story of a building which has its floor below the grade of the fronting window.

Town Attorney Bill Cannon opened the Public Hearing at 7:50 pm and asked if anyone wished to speak.

No one spoke.

Attorney Cannon closed the Hearing at 7:51 pm.

***A motion was made by Mayor Gavin Brown, seconded by Alderman LeRoy Roberson that the text amendment to LDS Section 4.4 Building Height is approved and is consistent with the Town's comprehensive land use plan because it clarifies the way the town measures building height and will re-enforce the goal of keeping new construction within scale and dimensional requirements of the designated zoning districts. The motion passed unanimously.***

***A motion was made by Mayor Gavin Brown, seconded by Alderman Jon Feichter, that the text amendment to LDS Section 4.4 Building Height is reasonable and in the public interest because it works with the town's topography to measure from the highest adjacent grade; accommodates both commercial and residential styles of structures; and clarifies application to both flat and pitched roof structures; and gives some flexibility to design professionals without being too proscriptive. The motion passed unanimously.***

***A motion was made by Mayor Gavin Brown, Alderman LeRoy Roberson, to adopt the text amendment to the Land Development standards as provided (or as amended) in Ordinance No. O-03-19. The motion carried unanimously.***

6. Affordable Housing Policy

- Town Manager Rob Hites

Manager Hites indicated that staff has held numerous calls and visits from organizations that wish to construct affordable rental and for sale housing in Waynesville. One of the most frequent questions is whether the Town has a program to help reduce the cost of the development through grants or incentives. The General Statutes give a town the ability to provide grants to affordable housing developments so long as the developer is willing to stipulate through contract that they will rent or sell their product too low to moderate income clients. He said that given the interest that the Town is receiving in this area, he recommends that a policy establishing the process the Town would use to consider requests for incentive grants to promote affordable housing be adopted.

Manager Hites reviewed who is eligible to apply for Affordable Housing Grant, and what the process is for obtaining the grant, including the target market and target income. Organizations must have a positive track record in development and construction of affordable housing. Some of the ways the Town will

evaluate the request is by studying the Site Plan and building design to determine efficiency of the project. Also the Town will determine the “Gap” in affordability between cost and sale/rent price.

Attorney Bill Cannon opened the Public Hearing at 8:12 pm and asked if anyone wished to speak.

**Brian Cagle**

Mr. Cagle stated he is thrilled the Town is taking these steps for affordable housing, because this is a big issue for our community. Mr. Cagle stated that if organizations would come together we could continue to provide a great place for all income levels.

**Jed Tate**

Mr. Tate stated that he is in favor of the Affordable Housing Policy. He asked how affordable is defined. Manager Hites stated that the policy will follow the guidelines of the Department of Housing and Urban Development, State of North Carolina, Department of Agriculture, and even the guidelines of Habitat for Humanity, and follow the 80% rule for a family of four in Haywood County which is about \$38,000.00, and the rent numbers will be about \$550.00 - \$600.00 per month. For single parent families the guidelines will be a little less because of being a single parent home. Mr. Tate asked if there would be lower rent for lower salaries, which would be economical diversity. Mayor Brown said that would be allowed. He asked if in the future would there be a policy that would require all residential development to have a percentage of affordable housing. Mayor Brown said the Town has not taken that step yet. This policy does not go that far.

**Anna Rogers**

Ms. Rogers stated she is the housing recruiter for Mountain Projects. She thanked the Board for their support, and in 19 years Mountain Projects have built 51 workforce housing homes that are approved and funded by USDA. She said this is a very successful program with only one foreclosure. Mountain Projects have recently started considering land within the Town of Waynesville, and by implementing this new policy, this will allow them to move forward for local working residents.

**Philan Medford**

Ms. Medford asked the question if this would be considered mixed use. Manager Hites there was no problem with that.

Town Attorney Cannon closed the Public Hearing at 8:22 pm.

***A motion was made by Alderman Jon Feichter, seconded by Alderman LeRoy Roberson, to approve the adoption of an Affordable Housing Policy for the Town of Waynesville. The motion carried unanimously.***

**E. NEW BUSINESS**



7. Board consideration to permit application for the 2019 Medford Grant

- Jesse Fowler, Planner

Mr. Fowler explained that the Medford Grant is a grant offered through the Mib and Phil Medford Endowment fund for the purposes of beautification in Waynesville. In the spring of 2019, The Medford Endowment Fund will award \$14,280. Town staff would like to ask the Board of Aldermen to permit the Development Services department to apply for the spring 2019 Medford Grant for the purpose of assisting in the funding of the Main Street beautification project which is being conducted by Nelson, Byrd, and Woltz Landscape Architects. Mr. Fowler said Development Services would be meeting with the Architects on January 29, 2019 concerning the Downtown Beautification Project. This grant, if received, would help pay for this project. This would include updates to planters, installation of additional bulb-outs, a redesign for the Miller Street Park, and a redesign for the pocket park across from the Historic Courthouse.

***A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter to approve application for the 2019 Medford Grant for the purpose of funding the Main Street beautification project. The motion passed unanimously.***

8. Ray, Bumgarner, Kingshill, and Associates – 3 year contract

- Assistant Town Manager, Amie Owens

Ms. Owens explained to the Board that the proposed audit fee for each year would be \$27,500 plus any out of pocket costs. The fee for the preparation of the financial statements and preparation of the data input sheet to the LGC will be based on the actual time spent at the firm's standard hourly rate of \$95.00 per hour. The fee is based on the anticipated cooperation from Town's personnel and the assumption that unexpected circumstances will not be encountered during the audit.

The previous contract was for one year; however, with the retirement of Finance Director Eddie Caldwell, there has not been adequate time to develop any RFQ for audit services prior to this presentation as was planned. It is the hope of management that prior to the next renewal, an RFQ for services will be developed and sent out.

This would be to audit Fiscal Year 2018/2019; Fiscal Year 2019/2020 and Fiscal Year 2020/2021

Ms. Owens noted that the fees are the same as those paid over the past seven years; there has been no increase in this proposed contract cost.

***A motion was made by Alderman Julia Freeman, seconded by Alderman Jon Feichter to approve the audit proposal and authorize the Mayor to sign the Contract to Audit Accounts. The motion carried unanimously.***

9. Application for appointment of Leigh M. Forrester to the Public Art Commission

- Assistant Town Manager Amie Owens

Ms. Owens stated the Town had received an application for a vacancy on the Public Art Commission from Ms. Leigh M. Forrester. Ms. Forrester is the Director of the Haywood County Arts Council and has attended several meetings. If approved, Ms. Forrester will serve a term ending in June 2021.

***A motion was made by Alderman Jon Feichter, seconded by Alderman Julia Freeman, to approve the application of Leigh M. Forrester for appointment to the Public Art Commission for a term to expire on June 30, 2021. The motion passed unanimously.***

10. Manager's Report

a. Purchase of Ensley Property abutting Plott Heights Road off of Pigeon Street

- Town Manager Rob Hites

The landslide that damaged Plott Heights Road will require most of the Ensley property to re-establish the bank. After speaking with the owners, Manager Hites said they would consider selling the property at the appraised value. The Mayor contacted Spencer Appraisal Service and obtained an appraisal with a \$44,000 value for the 1.32 acre parcel.

The staff has engaged a geotechnical engineer to advise them on the proper method of stabilizing the bank. They have carried out some remediation on the property with fill and rock in anticipation of a permanent fix. David Foster has suggested that the Town use the property to stabilize the bank and then create a green space for the community when the project is completed and the area is reseeded.

Manager Hites recommended to the Board to adopt Amendment # 9 to the Fiscal year 2018-2019 Budget Ordinance for the purpose of transferring \$46,000.00 from the General Fund Balance to purchase the property. Two thousand of the transfer would be used to pay closing costs and attorney fees.

***A motion was made by Alderman Jon Feichter, seconded by Alderman Julia Freeman, to approve the purchase of the tract of land for the appraised value plus administrative costs. The motion passed unanimously.***

***A motion was made by Alderman Julia Freeman, seconded by Alderman Jon Feichter, to approve Amendment #9 to the Fiscal year 2018-2019 Budget Ordinance for the purpose of transferring \$46,000 from the General Fund Balance to purchase the property and pay the closing cost. The motion passed unanimously.***

b. Select Engineering Firm to conduct a "Preliminary Engineering Report" for Waste Water Treatment Plant

Manager Hites stated that during a meeting with the staff of the Asheville Office of NC Department of Environmental Quality (DEQ) they stated that the Preliminary Engineering Report (PER) would be their factual basis for negotiating the SOC. We sent out a request for proposals (RFP) and received five responses.

Manager Hites said that he, Larry Pressley, David Foster, and Preston Gregg studied them and asked

three firms to meet with us for a personal interview. We met with them on Thursday the 10th. Following the interview we unanimously chose McGill & Associates to recommend to the Board. The group asked them to provide us with a quotation for the PER in accordance with the procedure outlined in GS 143-64.31. McGill and Associates will perform the PER for a lump sum fee of \$ 55,000. The contract stipulates that it be complete in sixty days in accordance with DEQ's proposed time table. McGill offers a \$6,500 service to obtain funding for the project. Manager Hites told the Board that he recommends that the Town engage Dennie Martin of Withers & Ravenel to provide this service.

Town Attorney Bill Cannon stated that after reviewing the contract for the Preliminary Engineering Report from McGill and Associates, he recommends that in section 7.2.1 – Ownership of Documents – that the sentence “The owner shall be provided a set of reproducible record prints of drawings, and copies of other documents, in consideration of which the owner will use them solely in connection with the project, and not for the purpose of making subsequent extensions or enlargements hereto and not for resale” be eliminated from the contract.

Attorney Cannon also recommended that the section 7.3 Arbitration be removed entirely.

***A motion was made by Alderman Jon Feichter, seconded by Alderman, to approve the proposed contract as corrected with McGill and Associates for the lump sum of \$61,500. The motion carried unanimously.***

c. Manager Hites told the Board that the bar screen at the Wastewater Treatment Plant has had some failures causing solids to get into the clarifiers and digesters. This is an emergency repair and will cost about \$40,000.00. Manager Hites said he had conferred with the engineers to make sure that this particular bar screen could be repaired and used again, and put in use when the new Wastewater Treatment plant is in place.

## 11. Attorney's Report

- Town Attorney Bill Cannon

Town Attorney Cannon said he had been asked to look at a way of approaching the situation occurring at a residence concerning a homeless camp. He said this is a national problem, and the Federal Government does not seem interested in addressing it. Because of this it is up to Local Government to address it and they have the least resources. Cities that have criminalized the conduct has not worked well, because courts are reluctant to rule on vagrancy laws. Attorney Cannon told the Board that there have been serious situations brought to their attention by citizens and the Police Department. Most legal approaches to these issues are cooperative with the property owner. With the Muse issue, health, sanitation, and crime issues are missing with the homeless located on the Muse property.

Attorney Cannon has been looking at statutes from a nuisance and zoning standpoint to try to find some way to prohibit structures not used under the housing code. He explained that nuisance ordinances are the broadest use of police powers. He feels that the best way to do this is to tweak the nuisance ordinance to address what is causing the issue, and seek civil remedy. Attorney Cannon does not want to send the signal that they do not care and property owners may be sympathetic to that plight. One alternative to the problem is that the property owner who are supportive could build affordable homes, etc... This approach would have a quasi-judicial hearing by the Planning Department and injunction by the Superior Court Judge.

Mayor Brown said any changes to the nuisance ordinance will require a Public Hearing. And the proposed changes would allow the Town to address the problem of the homeless camp on the Muse property.

***A motion was made by Alderman Jon Feichter, seconded by Alderman Julia Freeman, to call for public hearing on Tuesday, February 12, at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room, 9 South Main Street, Waynesville, to consider to consider modification of Sections 26-31, 26-32 and 26-35 of the Town of Waynesville Code of Ordinances Article II – Nuisances. The motion passed unanimously***

**F. COMMUNICATIONS FROM THE MAYOR AND BOARD**

There was no additional communication from the Board.

**G. CALL ON THE AUDIENCE**

**J. ADJOURN**

***There being no further business to discuss, Alderman LeRoy Roberson made a motion, seconded by Alderman Jon Feichter to adjourn the meeting at 8:52 p.m. The motion carried unanimously.***

**ATTEST:**

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Gavin A. Brown, Mayor

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Robert W. Hites, Jr., Town Manager

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Eddie Ward, Town Clerk



## CONSISTENCY STATEMENT WORKSHEET

Date: January 22, 2019  
Description: Clarification to the Land Development Standards Section 4.4

In accordance with NCGS 160A-383, the Town of Waynesville Board of Aldermen find that in regards to a Text Amendment to the Land Development Standards Section 4.4 with cross references 20 Section 2.4.1 and 17.4:

The Board hereby adopts the following statement(s) :

- ☐ The zoning amendment **is approved and is consistent with the Town's comprehensive land use plan** because:

*It clarifies the way the town measures building height and will re-enforce the goal of keeping new construction within scale and dimensional requirements of the designated zoning districts.*

The motion was made by Mayor Brown, seconded by Alderman LeRoy Roberson. The motion passed unanimously.

The zoning amendment and **is reasonable and in the public interest because:**

*The text amendment works with the town's topography to measure from the highest adjacent grade; accommodates both commercial and residential styles of structures; and clarifies application to both flat and pitched roof structures; and gives some flexibility to design professionals without being too proscriptive.*

The motion was made by Mayor Brown, seconded by Alderman Jon Feichter. The motion passed unanimously.

- ☐ The zoning amendment **is rejected because it is inconsistent with the Town's comprehensive land plan and is not reasonable and in the public interest** because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ In addition to approving this zoning amendment, this approval is **also deemed an amendment to the Town's comprehensive land use plan.**

Mayor Gavin Brown made a motion, seconded by LeRoy Roberson.

The motion passed 5 - 0.

\_\_\_\_\_  
Gavin Brown, Mayor, Date

\_\_\_\_\_  
Eddie Ward, Clerk, Date

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 12, 2019**

**SUBJECT:** Public Hearing to be held on February 12, 2019 to consider a Petition for Annexation of a Non-Contiguous Satellite Area for property located at 77 Sutton Loop (PIN 8616-29-7639)

**AGENDA INFORMATION:**

**Agenda Location:** Public Hearings  
**Item Number:** B3  
**Department:** Administration  
**Contact:** Eddie Ward, Town Clerk  
**Presenter:** Amie Owens, Assistant Town Manager

**BRIEF SUMMARY:** This petition is being requested by Haywood Christian Academy for the purpose of annexing to receive additional town services in accordance with Town Policy. This property is non-contiguous to the Town's current limits. Water and sewer service is already provided to this property utilizing outside rates. An annexation would allow for garbage collection and police and fire protection under the Town of Waynesville.

**Clerk's Certification:**

The property is closer than 3 miles to the Waynesville Town limit; the property is not closer to another municipality's primary corporate limits than to Waynesville; the property is not part of any subdivision and Town services are already available in the area. The petition meets the requirements of the general statutes NCGS §160A-58.1 annexation of non-contiguous area and a public hearing is required prior to the Board voting on such annexation. The fee of \$200.00 for such petition was collected on January 7, 2019.

The notice of public hearing was published on February 1 and February 8 in the Mountaineer.

**MOTION FOR CONSIDERATION:** To approve the voluntary annexation into the Town of Waynesville for property located at 77 Sutton Loop (PIN 8616-29-7639) to receive additional town services in accordance with Town policy.

**FUNDING SOURCE/IMPACT:** Addition of garbage collection fee and change to the outside rates for water and sewer to inside rates.

**ATTACHMENTS:**

1. Ordinance
2. Petition
3. Aerial Map
4. Property description

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Board will determine approval.

PETITION FOR ANNEXATION OF  
NON-CONTIGUOUS "SATELLITE" AREAS

(Part 4, Article 4A, G.S. 160A-58)

01.07.19

Date

TO: Board of Aldermen of the Town of Waynesville

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 3 below be annexed to the Town of Waynesville.
2. Standards which the satellite area must meet:
  - a. The nearest point on the satellite area must not be more than three (3) miles from the primary limits of the annexing city.
  - b. No point on the satellite area may be closer to the primary limits of another municipality than to the annexing city.
  - c. Note: When there is any substantial question as to whether the area is closer to another city, the tax map submitted with the petition shall show the satellite area also in relation to the primary corporate limits of the other city.
  - d. The area proposed for annexation must be situated that services provided the satellite area can be equivalent to the services provided within the primary limits.
  - e. If the area proposed for annexation, or any portion thereof, is a subdivision, as defined in G.S. 160A-376, all of the subdivision must be included.
  - f. The area within the proposed satellite limits plus the area within all other satellite corporate limits may not exceed ten percent (10%) of the total land area within the primary corporate limits of the annexing city.
3. The area to be annexed is non-contiguous to the Town of Waynesville and the boundaries of such territory are as follows:
  - a. Metes and bounds description is attached.
4. A tax map is attached showing the area proposed for annexation in relation to the primary corporate limits of the Town of Waynesville. If there is substantial question as to whether the area may be closer to another city than to the annexing city, the map should show the relation to the primary corporate limits of the other town.

NAME

C. Matt Haynes

SIGNATURE



ADDRESS

77 Sutton Loop Waynes, NC 28786



2018004322

HAYWOOD CO, NC FEE \$26.00  
STATE OF NC REAL ESTATE EXT  
\$3400.00PRESENTED & RECORDED:  
05-21-2018 02:10:20 PM  
SHERRI C. ROGERS  
REGISTER OF DEEDS  
BY: TARA E. REINHOLD  
DEPUTYBK: RB 951  
PG: 2326-2329DATE 5/21/18 BY KH.

## HAYWOOD COUNTY TAX CERTIFICATION

There are no delinquent taxes due that are a lien  
against parcel number(s) 8616297639

Mike Matthews, Haywood County Tax Collector

Date: 5-24-18 By: CEL

## NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$3,400.00

Parcel Identifier No. 8616-29-7639 Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
By: \_\_\_\_\_Mail/Box to: CLARENCE H. DICKSON, III, 137 Hazel Street, Waynesville, NC 28786This instrument was prepared by: CLARENCE H. DICKSON, III, 137 Hazel Street, Waynesville, NC 28786

Brief description for the Index: \_\_\_\_\_

THIS DEED made this 21st day of May, 2018, by and betweenGRANTOR  
CALVARY ROAD BAPTIST CHURCH1391 Soco Rd.  
Maggie Valley, NC 28751GRANTEE  
HAYWOOD CHRISTIAN ACADEMY, INC.P.O. Box 609  
Lake Junaluska, NC 28745

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot, parcel of land or condominium unit situated in the City of \_\_\_\_\_, IVY HILL Township, HAYWOOD County, North Carolina and more particularly described as follows:

SEE ATTACHED SCHEDULE "A"

The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_ page \_\_\_\_\_.  
All or a portion of the property herein conveyed \_\_\_\_\_ includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book \_\_\_\_\_ page \_\_\_\_\_.



TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

CALVARY ROAD BAPTIST CHURCH (SEAL)  
(Entity Name)  
By: [Signature] Print/Type Name: \_\_\_\_\_  
Print/Type Name & Title: JOSHUA BURGESS, President (SEAL)  
By: \_\_\_\_\_ Print/Type Name: \_\_\_\_\_  
Print/Type Name & Title: \_\_\_\_\_ (SEAL)  
By: \_\_\_\_\_ Print/Type Name: \_\_\_\_\_  
Print/Type Name & Title: \_\_\_\_\_ (SEAL)

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that  
\_\_\_\_\_ personally appeared before me this day and acknowledged the due  
execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

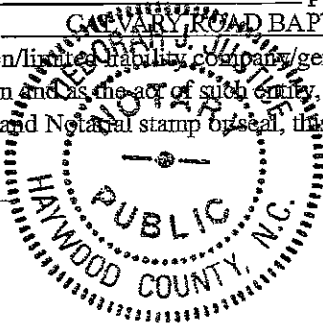
My Commission Expires: \_\_\_\_\_ Notary Public  
(Affix Seal) Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that  
\_\_\_\_\_ personally appeared before me this day and acknowledged the due  
execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_ Notary Public  
(Affix Seal) Notary's Printed or Typed Name

State of North Carolina - County or City of HAYWOOD  
I, the undersigned Notary Public of the County or City of HAYWOOD and State aforesaid, certify that  
JOSHUA BURGESS personally came before me this day and acknowledged that  
he is the President of CALVARY ROAD BAPTIST, a North Carolina or  
\_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the  
inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its  
behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 21st day of May, 2018.

My Commission Expires: 4/9/19 Notary Public  
(Affix Seal) Deborah L. Justice Notary's Printed or Typed Name



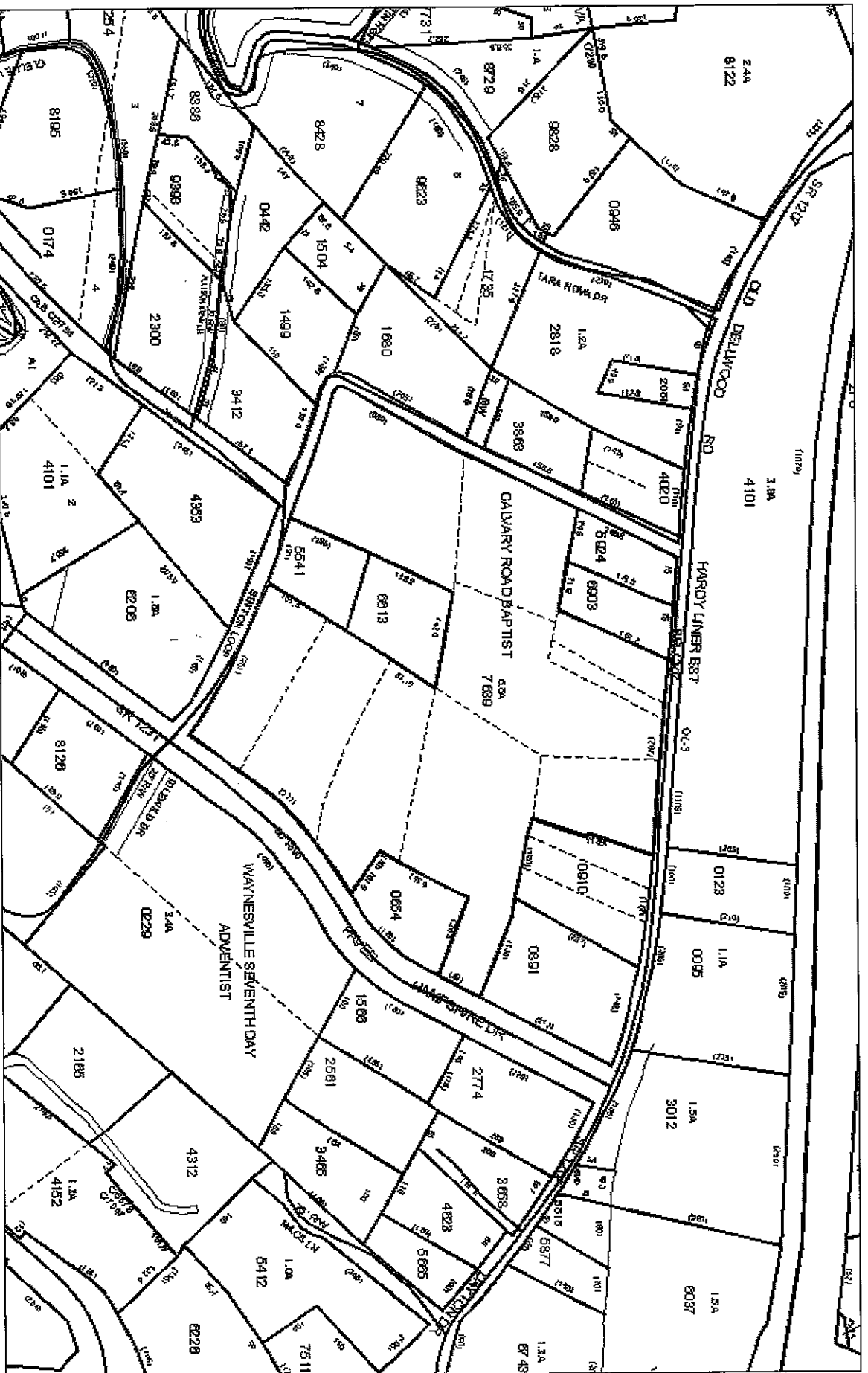
SCHEDULE "A": PROPERTY DESCRIPTION FOR DEED DATED MAY 21, 2018,  
FROM CALVARY ROAD BAPTIST CHURCH, GRANTOR, TO HAYWOOD CHRISTIAN  
ACADEMY, INC., GRANTEE.

BEGINNING on an iron (found) in southerly margin of State Road 1207, northeast corner of that tract conveyed to Calvary Road Baptist Church (Book 753, page 1933), said iron being located at northwest corner of Eunice A. Palmer tract (Book 448, Page 2076) and runs thence with westerly line of said Palmer tract, three (3) calls: S. 19 deg 07' 14" W. 94.70 feet to an iron; S. 70 deg. 38' 13" E. 5 feet; and S. 19 deg. 11' 47" W. 86.03 feet to an iron; thence continuing with southerly line of said Palmer tract, S. 77 deg. 07' 00" E. 111.75 feet to an axle (found) at common corner of Palmer tract and Fredrick M. Waldron tract (Book 279, page 570); thence with southerly line of said Waldron tract two (2) calls: S. 77 deg. 14' 42" E. 37.60 feet to an iron (found); and S. 68 deg. 45' 48" E. 137.31 feet to a railroad spike (found) near margin of Hampshire Drive (State Road 1231); thence running with margin of said drive, S. 31 deg. 10' 26" W. 67.81 feet to easternmost point of Troy Phillips tract (Book 325, page 896 and Book 528, page 2409); thence with northern line of said Phillips tract, N. 69 deg. 05' 42" W. 130.18 feet (passing an iron (found) at 2.99 feet) to an iron (found); thence continuing with westerly line of said Phillips tract, three (3) calls: S. 28 deg. 37' 59" W. 45.17 feet to an iron (found); S. 28 deg. 37' 59" W. 74.44 feet to an iron; and S. 28 deg. 37' 59" W. 26.11 feet to an iron (found); thence continuing with southerly line of said Phillips tract two (2) calls: S. 53 deg. 45' 32" E. 67.01 feet to an iron (found); and S. 53 deg. 45' 32" E. 34.57 feet to a point in center of Hampshire Drive; thence with center of said drive four (4) calls: S. 57 deg. 36' 02" W. 56.52 feet; S. 49 deg. 46' 29" W. 104.80 feet; S. 40 deg. 27' 50" W. 67.78 feet; and S. 36 deg. 16' 38" W. 58.35 feet to a point near intersection of Hampshire Drive and Sutton Loop; thence running parallel with Sutton Loop two (2) calls: N. 62 deg. 18' 39" W. 29.85 feet to a right of way monument (found); and N. 62 deg. 18' 39" W. 244.29 feet to an iron at southeast corner of Barbara B. Yarborough tracts (Book 214, page 680 and Book 280, page 266); thence with easterly line of said Yarborough tracts three (3) calls: N. 31 deg. 57' 09" E. 105.54 feet to an iron (found); N. 31 deg. 57' 09" E. 98.47 feet town iron (found); and N. 34 deg. 34' 06" E. 82.98 feet to an iron (found); thence with northerly line of said Yarborough tract, N. 79 deg. 07' 38" W. 141.99 feet to a concrete monument (found); thence with westerly line of said Yarborough tract three (3) calls: S. 26 deg. 05' 22" W. 60.43 feet to an iron (found); S. 26 deg. 00' 06" W. 77.86 feet to a concrete monument (found); and S. 25 deg. 08' 23" W. 126.60 feet to a concrete monument (found) near Sutton Loop; thence running parallel with Sutton Loop, N. 68 deg. 42' 48" W. 199.66 feet to a concrete monument (found) known as Control Point 1 (Lat. 35 deg. 31' 26.58820" N., Lon. 82 deg. 59' 34.07229" W., N. 669545.98, E. 812284.53); thence continuing with margin of Sutton Loop, N. 26 deg. 57' 29" E. 392.31 feet to a concrete monument (found) at southwest corner of James Parton tract (Book 475, page 91); thence with southerly line of said Parton tract, S. 79 deg. 05' 16" E. 81.03 feet to an iron (found) at southwest corner of James R. Grooms tract (Book 475, Page 88); thence with southerly line of said

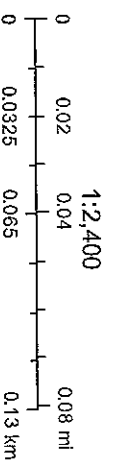
Grooms tract, S. 79 deg. 05' 16" E. 70.46 feet to an iron; thence with easterly line of said Grooms tract two (2) calls: N. 25 deg. 03' 08" E. 165.94 feet to an iron (found); and N. 25 deg. 03' 08" E. 14.23 feet to a point in southerly margin of State Road 1207; thence with southerly margin of said road two (2) calls: S. 84 deg. 00' 58" E. 148.73 feet to an iron; and S. 83 deg. 18' 13" E. 135.81 feet to the BEGINNING, containing 7.02 acres as per survey and plat of Burns Land Surveying, Inc., dated November 20, 2008, Drawing No. H-35.

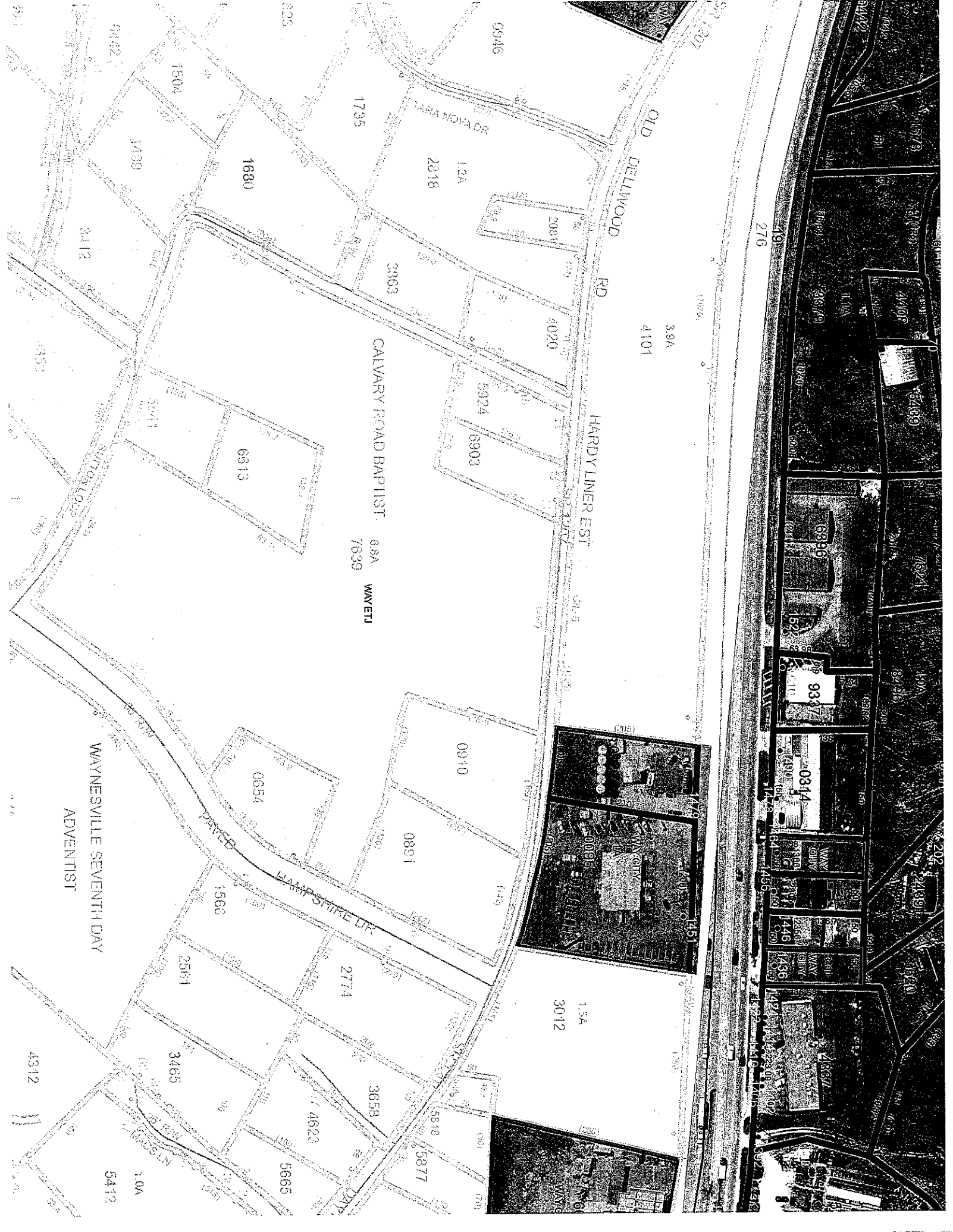
BEING the same property conveyed to Grantor by deeds recorded in Book 387 at Page 54, Book 444 at Page 2407, Book 463 at Page 1076, Book 483 at Page 861, Book 525 at Page 1693, Book 533 at Page 218, and Book 753 at Page 1933, Haywood County Registry.

# Haywood County



September 18, 2018





OLD DELLWOOD RD

HARDY LIMER EST

TARA NOVA DR

CALVARY ROAD BAPTIST

6.8A WAVEYU 7639

WAMP SHIRE DR

WAYSVILLE SEVENTH DAY ADVENTIST





OBJECTID: 1 26309  
ALPHA: 8616-23-7639  
OWNER: 1 HAYWOOD CHRISTIAN ACADEMY  
OWNER2  
ADDR: 1 PO BOX 609  
ADDR2  
CITY: LAKE JUNALUSKA, NC 28745  
Map: 8616.07  
LegalRef: 1 9512326  
LegalRef2  
Address: 1 CA9 C/967  
Address2: 2 C/L-5  
Sale Acres: 7.0701  
Prop: Addr: 77 SUTTON LP  
Sale Date: 6/21/2018  
Sale Price: 1700000  
Subj: Code: HDLR  
Subj: Name: HARRY LINER ESTATE  
and Value: 159100  
and Value: 1817800  
and Value: 1878900  
and Value: 1978900  
Heated Area: 0  
Bldg: 0  
Bldg: 193171  
Ownership: IVYHILL  
Tax: Code: F04/G01  
Bldg: Use: Code: CHURCH  
Bldg: Use: Code: CHURCH-CHURCH  
Occupancy: Code: E,CM  
Occupancy: Desc: EXEMPT/COMMERCIAL  
and Code: CS  
Land Desc: COMMERCIAL SECONDARY  
Parcel: 1  
Parcel: Label  
Parcel: Amt: 0  
Parcel: 2  
Parcel: Label  
Parcel: Amt: 0  
Parcel: Desc: 77 SUTTON LP 106 HAMPSHIRE  
OBJECTID: 48647417  
ALID: SALE CODE Y  
REVAL: INHOOD NAME HAMPSHIRE  
SENSUS TRACT: AV4  
LAND\_USE\_CODE  
Shape: Polygon  
Shape: S1:Length: 295268.381287  
Shape: S1:Length: 3367.840267  
Sale Date: 05/21/2018  
TaxYear: 2016  
TaxYear: 2017  
TaxYear: 2018  
HASPERMIT: YES  
SEPTICD: 92861  
WELLPERMIT: NO  
WellRecordID: <null>

1 inch = 417 feet

Map Created On:









9/20/2018

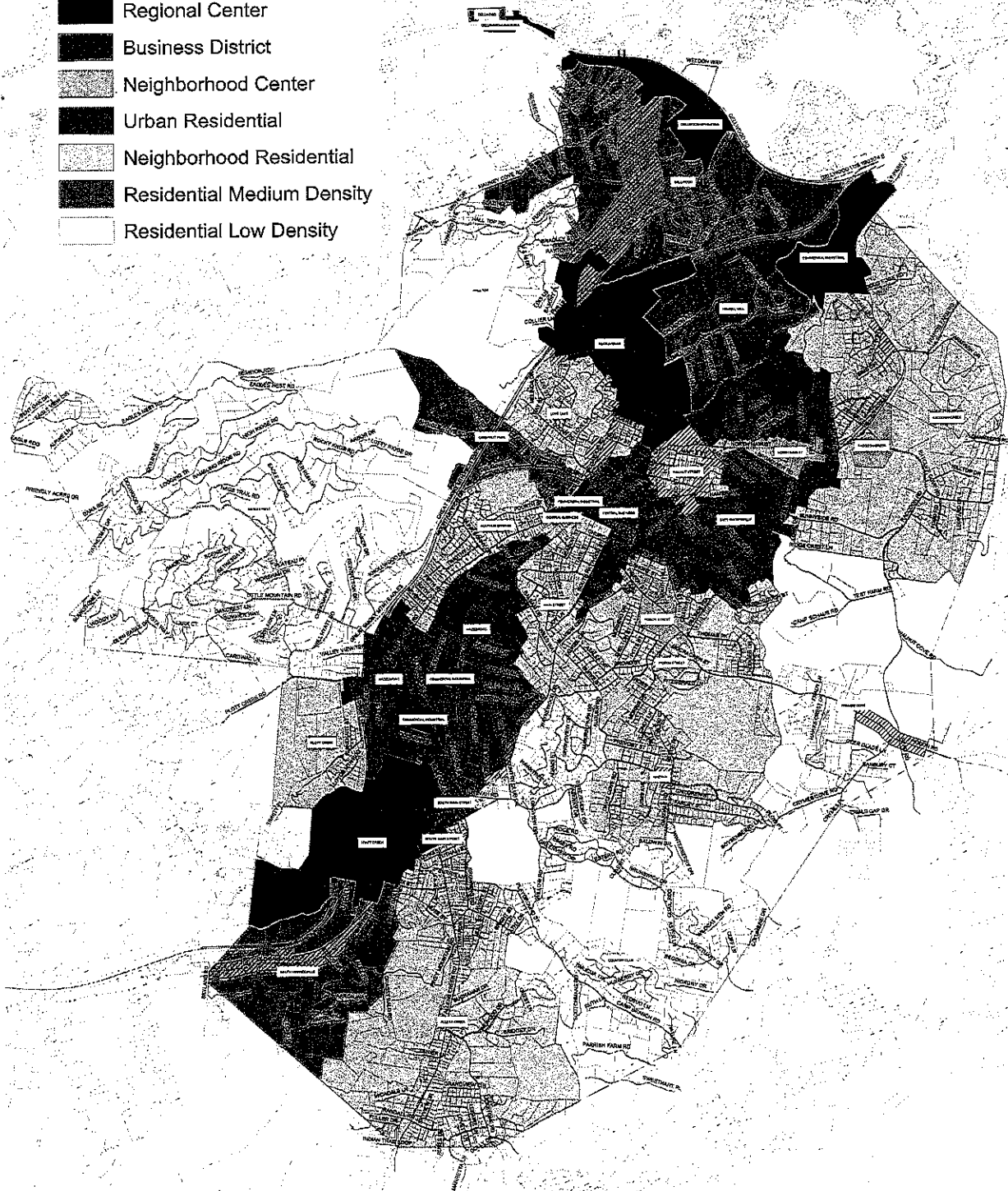
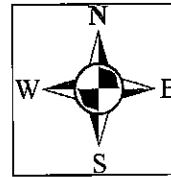


-  Conditional District
-  Mixed-Use Overlay

## District Key

### Category

-  Commercial Industrial
-  Regional Center
-  Business District
-  Neighborhood Center
-  Urban Residential
-  Neighborhood Residential
-  Residential Medium Density
-  Residential Low Density



*Official Land Development Map  
Town of Waynesville, North Carolina*

TOWN OF WAYNESVILLE  
280 GEORGIA AVENUE  
WAYNESVILLE NC 28786

MISC RECEIPT 2339004  
REFERENCE  
DATE/TIME 01/07/19 11:40  
CLERK 2044mbak  
CUSTOMER Matt Haynes  
EFF. DATE 01/07/2019  
DEPT

PG: 1

01

TOTAL: 200.00  
200.00

PMT TYPE	QTY	REF
CASH	1	

AMOUNT  
200.00



**ORDINANCE NO. O-02-19**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF  
THE TOWN OF WAYNESVILLE, NORTH CAROLINA**

WHEREAS, the Board of Aldermen has been petitioned under G.S. 160A-58.1, to annex the area as described in attached Exhibit A, and

WHEREAS, the Board of Aldermen has by resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Town Hall at 6:30 p.m., on the 12th day of February 2019, and

WHEREAS, the Board of Aldermen further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the Town of Waynesville.
- b. No point on the proposed satellite corporate limits is closer to another city than to the Town of Waynesville.
- c. The area described is so situated that the Town of Waynesville will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits,
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation,
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits does not exceed ten percent (10%) of the area within the primary corporate limits of the Town of Waynesville; and

WHEREAS, the Board of Aldermen does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign and all other requirements of G.S. 160A-58.1, as amended;

WHEREAS, the Board of Aldermen further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and of the area proposed for annexation will be best served by annexing the area described as follows: 77 Sutton Loop -7.0701 acres -PIN 8616-29-7639

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following described non-contiguous territory is hereby annexed and made part of the Town of Waynesville, as of the 1st day of April, 2019. Meets and bounds description is in Exhibit A attached hereto and incorporated by reference.

Section 2. Upon and after the 1st day of April 1, 2019, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Waynesville and shall be entitled to the same privileges and benefits as other parts of the Town of Waynesville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.1.

Section 3. The Mayor of the Town of Waynesville shall cause to be recorded in the office of the Register of Deeds of Haywood County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Haywood County Board of Elections as required by G.S. 163-288.1.

Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the Town of Waynesville.

Adopted this 12th day of February, 2019.

TOWN OF WAYNESVILLE

ATTEST:

\_\_\_\_\_  
Gavin A. Brown, Mayor

\_\_\_\_\_  
Eddie Ward, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
William E. Cannon, Jr., Town Attorney

Re: 77 Sutton Loop – 7.0701 acres - PIN 8616-29-7639

## EXHIBIT A

uBEGINNING on an iron (found) in southerly margin of State Road 1207, northeast corner of that tract conveyed to Calvary Road Baptist Church (Book 753, page 1933), said iron being located at northwest corner of Eunice A. Palmer tract (Book 448, Page 2076) and runs thence with westerly line of said Palmer tract, three (3) calls: S. 19 deg 07' 14" W. 94.70 feet to an iron; S. 70 deg. 38' 13" E. 5 feet; and S. 19 deg. 11' 47" W. 86.03 feet to an iron; thence continuing with southerly line of said Palmer tract, S. 77 deg. 07' 00" E. 111.75 feet to an axle (found) at common corner of Palmer tract and Fredrick M. Waldron tract (Book 279, page 570); thence with southerly line of said Waldron tract two (2) calls: S. 77 deg. 14' 42" E. 37.60 feet to an iron (found); and S. 68 deg. 45' 48" E. 137.31 feet to a railroad spike (found) near margin of Hampshire Drive (State Road 1231); thence running with margin of said drive, S. 31 deg. 10' 26" W. 67.81 feet to easternmost point of Troy Phillips tract (Book 325, page 896 and Book 528, page 2409); thence with northern line of said Phillips tract, N. 69 deg. 05' 42" W. 130.18 feet (passing an iron (found) at 2.99 feet) to an iron (found); thence continuing with westerly line of said Phillips tract, three (3) calls: S. 28 deg. 37' 59" W. 45.17 feet to an iron (found); S. 28 deg. 37' 59" W. 74.44 feet to an iron; and S. 28 deg. 37' 59" W. 26.11 feet to an iron (found); thence continuing with southerly line of said Phillips tract two (2) calls: S. 53 deg. 45' 32" E. 67.01 feet to an iron (found); and S. 53 deg. 45' 32" E. 34.57 feet to a point in center of Hampshire Drive; thence with center of said drive four (4) calls: S. 57 deg. 36' 02" W. 56.52 feet; S. 49 deg. 46' 29" W. 104.80 feet; S. 40 deg. 27' 50" W. 67.78 feet; and S. 36 deg. 16' 38" W. 58.35 feet to a point near intersection of Hampshire Drive and Sutton Loop; thence running parallel with Sutton Loop two (2) calls: N. 62 deg. 18' 39" W. 29.85 feet to a right of way monument (found); and N. 62 deg. 18' 39" W. 244.29 feet to an iron at southeast corner of Barbara B. Yarborough tracts (Book 214, page 680 and Book 280, page 266); thence with easterly line of said Yarborough tracts three (3) calls: N. 31 deg. 57' 09" E. 105.54 feet to an iron (found); N. 31 deg. 57' 09" E. 98.47 feet town iron (found); and N. 34 deg. 34' 06" E. 82.98 feet to an iron (found); thence with northerly line of said Yarborough tract, N. 79 deg. 07' 38" W. 141.99 feet to a concrete monument (found); thence with westerly line of said Yarborough tract three (3) calls: S. 26 deg. 05' 22" W. 60.43 feet to an iron (found); S. 26 deg. 00' 06" W. 77.86 feet to a concrete monument (found); and S. 25 deg. 08' 23" W. 126.60 feet to a concrete monument (found) near Sutton Loop; thence running parallel with Sutton Loop, N. 68 deg. 42' 48" W. 199.66 feet to a concrete monument (found) known as Control Point 1 (Lat. 35 deg. 31' 26.58820" N., Lon. 82 deg. 59' 34.07229" W., N. 669545.98, E. 812284.53); thence continuing with margin of Sutton Loop, N. 26 deg. 57' 29" E. 392.31 feet to a concrete monument (found) at southwest corner of James Parton tract (Book 475, page 91); thence with southerly line of said Parton tract, S. 79 deg. 05' 16" E. 81.03 feet to an iron (found) at southwest corner of James R. Grooms tract (Book 475, Page 88); thence with southerly line of said Grooms tract, S. 79 deg. 05' 16" E. 70.46 feet to an iron; thence with easterly line of said Grooms tract two (2) calls: N. 25 deg. 03' 08" E. 165.94 feet to an iron (found); and N. 25 deg. 03' 08" E. 14.23 feet to a point in southerly margin of State Road 1207; thence with southerly margin of said road two (2) calls: S. 84 deg. 00' 58" E. 148.73 feet to an iron; and S. 83 deg. 18' 13" E. 135.81 feet to the BEGINNING, containing 7.02 acres as per survey and plat of Burns Land Surveying, Inc., dated November 20, 2008, Drawing No. H-35.

BEING the same property conveyed to Grantor by deeds recorded in Book 387 at Page 54, Book 444 at Page 2407, Book 463 at Page 1076, Book 483 at Page 861, Book 525 at Page 1693, Book 533 at Page 218, and Book 753 at Page 1933, Haywood County Registry.

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 12, 2019**

**SUBJECT:** Public Hearing to consider modification of the Town of Waynesville Code of Ordinances section 6.6 Animals at street fairs, festivals or parades.

**AGENDA INFORMATION:**

**Agenda Location:** Public Hearing  
**Item Number:** B4  
**Department:** Administrative Services  
**Contact:** Amie Owens, Assistant Town Manager  
**Presenter:** Amie Owens, Assistant Town Manager

**BRIEF SUMMARY:** In October 2017, a moratorium was passed to suspend enforcement of the ordinance prohibiting animals at street fairs, festivals or parades. At that time, it was determined that in order to properly consider this issue, data was required related to the number of animals at the three largest festivals, the number of issues encountered and the number of attendees. The Waynesville Civilian Police Volunteers used a stickering system to more adequately count the number of animals at the festivals in July and October.

**Folkmoot International Day:** We had 117 animals either on leashes, carried by owners or in carriers. About a 60:1 human to animal ratio. There was one reported growling and snarling incident between animals – but no biting or scratching of dogs or humans. We had one irresponsible owner who allowed a dog to defecate in the mini park at Depot and N. Main. There were two reports of dog owners who were looking at the vendors wares and the dogs were behind them on a full 6' leash and the leashes could have tripped others. (approx. 7000 attendees)

**Church Street Fair:** We had 141 dogs that were counted/stickered - about an 80:1 human to dog ratio. One case of a “dog fight” (growling and barking – no biting) that scared a young child. (approx. 11,000 attendees)

**Apple Harvest Festival:** We had a total of 252 animals stickered for this festival. That was a ratio of 80:1 human/animal. No incidents (bites, trips, etc) were reported with no poo on the sidewalks noted. (approx. 20,000 attendees)

The notice of public hearing was published in the Mountaineer on February 1 and February 8.

**MOTION FOR CONSIDERATION:** To approve the modification to the Town of Waynesville Code of Ordinances section 6.6 Animals at street fairs, festivals or parades.

**FUNDING SOURCE/IMPACT:** N/A

**ATTACHMENTS:**

- Proposed ordinance language

**MANAGER’S COMMENTS AND RECOMMENDATIONS:** Recommend approval.

**Sec. 6-6. - Animals at street fairs, festivals or parades.**

Animals under restraint will be allowed at street fairs, festivals and parades on leashes six (6) feet in length or less, in carriers or if carried by their owners.

Pursuant to section 91-01 of the Haywood County Code of Ordinances definition of restraint, which requires animal owners to ensure animals are:

1. Controlled by means of a chain, leash, or other like device; and
2. To be under the physical control of the owner or animal handler and is obedient to that person's commands;

(a) *Prohibited.* It shall be unlawful for any person that owns or possesses any animal, including dogs or cats:

- i. To allow such animal to run at large within 150 feet of any street fair, festival or parade sanctioned or permitted by the town.
- ii. Animals designated under section 91-01 of the Haywood County Code and defined by G.S. § 67-4.1(a) (1) and (2), subject to the exceptions of G.S. § 67-4.1(b) as "fierce, dangerous, or vicious" are not permitted within the boundaries of the festival.

(b) *Exceptions.* This section shall not apply to licensed or permitted kennels or to animals legitimately a part of a parade, sanctioned street fair or festival, animals in a petting zoo or animal rides if the otherwise prohibited animals are part of an authorized exhibit, activity or display.

(c) *Approval.* For the purposes of this section, a sanctioned or permitted street fair, festival or parade is an event approved or permitted by the Board of Aldermen by action taken and recorded in the official minutes of the Board of Aldermen. The geographical limitations of the street fair, festival or parade shall be delineated by the approval or permitting of the event.

(d) *Violations.* Violations of subsection (a) of this section shall be misdemeanors, punishable upon conviction in accordance with section 1-8.

ARTICLE II. - NUISANCES<sup>12</sup>

State Law reference— Authority to define, regulate and abate nuisances, G.S. 160A-193.

DIVISION 1. - GENERALLY

Sec. 26-31. - Creation of public nuisances unlawful.

- (a) It shall be unlawful for the owner, lessee, or occupant of any property to create, maintain, permit or fail to abate any activity upon, construction upon, condition existing upon, or use of, any property that is detrimental, dangerous, or prejudicial to the public health and safety. Such activity, construction, condition, or use shall constitute a public nuisance. ~~any public nuisance as defined in this division on such property.~~
- (b) Every owner, lessee, or occupant of any property within the town shall keep such property clean and clear of all weeds, and any wild growth thereon, including grass over ten inches in height. Every owner, lessee or occupant shall also keep such property free and clear of all filth, open wells or containers, and all refuse materials of every kind and description.
- (c) The obligations set forth in this section shall extend to the area between the property line of a lot and the curb-line or edge or the roadway.

Sec. 26-32. ~~— Specific~~ Public nuisances enumerated.

- (a) A public nuisance shall include, but not be limited to, The existence of any of the following conditions on any ~~vacant lot or other~~ parcel of land within the corporate limits whether on public or private property is hereby declared to be ~~dangerous and prejudicial to the public health or safety~~ and to constitute a public nuisance:
  - (1) The uncontrolled growth of weeds or grass to height of ten inches or more within 100 feet of any principal structure or public right-of-way;
  - (2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or which is inhabited by rats, mice, snakes or vermin of any kind, which is or may be dangerous or prejudicial to the public health;
  - (3) Any accumulation of trash, garbage or other waste not in compliance with the provisions of this chapter;
  - (4) Any accumulation of hazardous refuse or concentration of combustible items such as mattresses, carpet, boxes, paper, automobile tires, old clothes, or any other combustible materials or objects of like nature;
  - (5) Open wells;
  - (6) Any accumulation of stagnant water causing or threatening to cause the inhabitation thereof by mosquitoes;
  - (7) The open storage of any item detrimental to the public health or safety including, but not limited to any furniture, appliance, ice box, stove, automobile tire, glass, building material or building rubbish;
  - (8) Any condition detrimental to the public health which violates the rules and regulations of the county health department; and
  - (9) The presence of any debris from the demolition of any structure on the property, including but not limited to partially demolished walls, foundations, basements, building materials and rubbish, after the cessation of all active demolition activity on the property.

(10) Human defecation and urination into or upon soil or in any other manner that is or is potentially injurious to the public health and safety.

(11) Any fabric, metal, carboard, or other materials used for a temporary tent or structure for purposes of a permanent or temporary abode.

- (b) When any of the following conditions exist on a public right-of-way between the property line and the curb or edge of the roadway and threatens, limits, impairs or creates a hazard to the use of the

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right-of-way by vehicles or pedestrians, such a condition is declared to be dangerous and prejudicial to the public health or safety and to constitute a ~~severe~~severe nuisance:

- (1) Any accumulation of animal or organic matter that is offensive by virtue of odors or which is inhabited by rats, mice, snakes, or vermin which may be dangerous to the public health;
- (2) Any accumulation of trash, garbage or other waste not permitted by an ordinance in compliance with the provisions of this chapter;
- (3) Any accumulation of hazardous refuse or concentration of combustible items such as mattresses, fabric, carpet, boxes, paper, house-wares, tires, clothes, or furniture;
- (4) Any accumulation of appliances, glass, building materials, demolition materials, or rubbish.

Sec. 26-33. - Notice and order to abate nuisance.

- (a) For purposes of this division, the respondent is the person in possession of the property where a public nuisance (as described in section 26-32) is located, as well as the owner of the such property, if different from the former.
- (b) Upon determination by the inspector that there exists on any property conditions constituting a public nuisance (as described in section 26-32), the inspector shall notify the respondent by certified and first class mail of such conditions and shall order the abatement thereof within 15 days of the date of such notice. If after due diligence the respondent's correct address cannot be determined, then the required notice shall be hand delivered by a designated representative of the town or shall be posted conspicuously on the offending property. The notice shall order the abatement of the nuisance within 15 days of the delivery or posting of the notice.
- (c) Upon determination by the inspector that there exists on the public right-of-way conditions constituting a severe nuisance, the inspector shall notify the owner of the abutting property of such conditions and shall order the abatement thereof within 24 hours of such notice. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed by first class mail and to his last known address unless he or his agent receives this notice in writing.

Sec. 26-34. - Appeal.

- (a) At any time before the expiration of the 15 days abatement period specified in subsection 26-33(b), the respondent may request a hearing before the town manager to appeal the finding of the inspector that a public nuisance as defined in section 26-31 exists on the premises. Upon completion of the hearing, the town manager shall consider the evidence before him and shall, within seven days, either revoke the initial order, issue a final order which differs from the initial, or reinstate the initial order as a final abatement order.
- (b) If the town has caused the abatement of a severe nuisance as defined in subsection 26-32(b), at any time within 30 days of the owner's receipt of a statement of charges from the town for the removal of the conditions, the property owner may request a hearing before the town manager to appeal the charges and the finding of the inspector that a severe nuisance existed on the right-of-way. Upon completion of the hearing, the town manager shall consider the evidence before him and shall, within seven days, either modify or revoke the charges resulting from the abatement by the town.
- (c) Any request for a hearing pursuant to this section must be in writing and must be filed in the office of the town manager. The town manager shall fix a time for the hearing, and the initial abatement order or the accrual of interest on the statement of charges shall be temporarily suspended pending such hearing. The hearing must be held by the town manager within 31 calendar days following receipt of the request for hearing by the office of the town manager. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order or the removal of the nuisance condition.

Sec. 26-35. - Abatement of nuisance by town.

Upon the occurrence of any of the following conditions:

- (1) A hearing is requested and held under section 26-34 resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within 15 days from adjournment of the hearing; or
- (2) No hearing is requested or held, and the respondent having been ordered to abate such public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days of such order; or
- (3) The property owner fails to abate conditions constituting a severe nuisance within ten days of notification of the owner of such conditions;

then the inspector shall cause such condition to be removed or otherwise remedied by having employees of the town go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the inspector. In addition to the remedies provided above, the Town may abate the nuisance by obtaining injunctive relief a court with appropriate jurisdiction.

Sec. 26-36. - Charges for abatement by town; lien.

- (a) The actual cost incurred by the town in removing or otherwise remedying a public nuisance pursuant to section 26-35 shall be charged to the owner of the offending property and shall be a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. 160A-193.
- (b) If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges from the town, such charges shall bear interest at the rate of eight percent per annum until paid.

Secs. 26-37—26-50. - Reserved.

DIVISION 2. - WEEDS<sup>[3]</sup>

Footnotes:

--- (3) ---

Cross reference— Vegetation, ch. 62.

Sec. 26-51. - Growth of weeds restricted.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Codes administrator* means the officer of the inspection department authorized to administer the provisions of this chapter, or any individual designated by the codes administrator to act in his behalf.

*Weed* means a valueless plant growing wild or untended by the owner, lessee, possessor or occupant of the property in which it is growing.

- (b) *Maximum height.* No owner, lessee, possessor or occupant of any property situated in the town and located within 50 feet of another person's property occupied as a residence or business shall allow or maintain on any such property any growth of weeds and/or grass to height of over ten inches.
- (c) *Notice.* It shall be the duty of the codes administrator or his designee to notify the owner and lessee, possessor or occupant of such property in writing that the owner, lessee, possessor or occupant is allowing weeds and/or grass to grow on such property in violation of subsection (b) of this section. This notice shall be served by the codes administrator upon the owner, lessee, possessor or occupant of the property and shall order compliance with subsection (b) within seven days of the date of the notice. Service shall be by delivering the notice in person or sending the notice by first class mail to the owner and lessee, possessor or occupant. Each day the weeds and/or grass are allowed to remain upon the property after such seven-day notice shall constitute a separate offense.
- (d) *Removal by town; cost.* If the owner, lessee, possessor or occupant of any premises upon which weeds and/or grass have grown or are growing in violation of subsection (b) does not cut or have the

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weeds and/or grass cut, or refuses to obey or abide by any notice from the town to have the weeds and/or grass cut, the town may, through its proper officers, enter the premises and remove the weeds and/or grass. The cost of the removal by the town shall be charged and assessed against the owner of the premises in the same manner and shall have the same force and effect as a tax lien against the premises.

(Code 1987, § 96.30; [Ord. No. O-11-13](#), § 1, 11-12-2013)

Secs. 26-52—26-85. - Reserved.

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 12, 2019**

**SUBJECT:** Authorization to install pedestrian signals at Church and Haywood Intersection

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** C6  
**Department:** Public Services  
**Contact:** David Foster, Public Services Director  
**Presenter:** David Foster, Public Services Director

**BRIEF SUMMARY:**

Request direction and possible approval to hire Mattern and Craig to design and install a new concrete signal pole and pedestrian signals.

The Town has attempted to install a requested pedestrian signal at this intersection for a few years. The previously approved plan required a new guy wire and support system to install additional hardware on the existing signal pole. Without this guy support system, the new hardware that is needed would cause the existing signals to sag too low, and the adjacent property owner has declined to allow a guy anchor to be placed on their property, so an alternate system was sought. Mattern and Craig recommended the attached concrete pole solution.

**MOTION FOR CONSIDERATION:**

Motion authorizing Town staff to proceed with Mattern and Craig bidding and installing a concrete pole at the Church and Haywood intersection.

**FUNDING SOURCE/IMPACT:** Electric operating budget.

**ATTACHMENTS:**

- Mattern and Craig Professional Services Agreement

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend Board authorize staff to proceed with Mattern and Craig proposal to install the concrete pole.

**CLIENT AND ENGINEER  
PROFESSIONAL SERVICES AGREEMENT**

This agreement is made and entered into at Asheville, North Carolina effective this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between:

**ENGINEER:**

Name: Mattern & Craig, Inc.  
Address: 12 Broad Street  
Asheville, NC 28801  
Phone: (828) 254-2201

**CLIENT:**

Name: Town of Waynesville  
Address: 129 Legion Drive  
Waynesville, NC 28786  
Phone: (828) 456-3706

The project upon which the services hereinafter described are to be performed is located at the intersection of Haywood Street and Church Street in downtown Waynesville, Haywood County, NC and is herein referred to as the ***Haywood at Church Street Traffic Signal Revision Project***.

**Services:**

Prepare revised traffic signal designs for the subject intersection following guidelines set forth by the North Carolina Department of Transportation (NCDOT) and the Town of Waynesville including the following tasks:

- Consultation/meeting with Town personnel to determine detailed scope of project (task completed on 1/15/19). **It is understood that the scope of work will be to replace an existing wooden traffic signal support pole with a concrete direct-bury pole due to limited available right-of-way,**
- Develop base mapping of intersection from plans prepared by Mattern & Craig in 2017 for the subject intersection. Formal survey of the intersection is not included in this scope of services,
- Develop traffic signal upgrade plans to incorporate the use of a direct-bury concrete traffic signal support pole. **Previously developed plans that included accessible pedestrian heads on all four crossings of the intersection will be retained.** Existing controller and cabinet will also be retained,
- Traffic signal upgrade plans will identify location and expected loading on the proposed concrete traffic signal support pole. All work will be performed in accordance with the latest version of NCDOT's Standard Specifications, Standard Drawings, Qualified Products List (QPL), and NCDOT Traffic Signal Design Manual,
- Prepare and submit the appropriate number of preliminary traffic signal plan packages for Town review. Plan package to include Title Sheet, Quantities Estimate, Revised Signal Design to include the concrete pole, Electrical Programming (Wiring) plans, Concrete Pole Loading Diagram, and any Detail Sheets as necessary,
- Based on Town comments, revise plans accordingly and **submit the appropriate number of preliminary traffic signal plan packages to the NCDOT for review of the concrete pole portion of the design only. Assist the Town will establishing a Reimbursable Agreement with NCDOT for the review of the concrete pole portion of the project,**
- Based on NCDOT comments, revise plans accordingly and submit the appropriate number of final traffic signal plan packages to the Town for approval. Also, provide the Town with any necessary Special Provisions, and any back-up/supporting documentation/calculations,
- Upon approval from the Town, provide sealed and accepted signal plan packages to the Town for use in installing the revised traffic signal design.
- **Assist the Town with selecting an NCDOT-approved traffic signal contractor for the installation of the direct-bury concrete traffic signal support pole only.** It is assumed that all other traffic signal work will be performed by Town forces and coordinated with concrete pole installer.

Services Not Included:

- Survey
- Right-of-Way/Easement identification, negotiation and/or acquisition
- ADA-compliant wheelchair ramps (Town forces will provide)
- Coordinated timing plan development and/or implementation
- System integration plans (Signal currently runs isolated and will remain as such)
- Contract assembly, advertising, bidding and/or award
- Any post design services including construction, construction administration and/or inspection

Fee:

- Revised Traffic Signal Design including Concrete Pole **\$5,500.00 lump sum.**

Other Estimated Costs:

- |                                      |                          |
|--------------------------------------|--------------------------|
| • Reimbursable Agreement with NCDOT: | Estimated at \$5,000.00  |
| • Supply and Install Concrete Pole:  | Estimated at \$10,000.00 |
| • Contingency (Estimated at 10%)     | Estimated at \$ 2,050.00 |

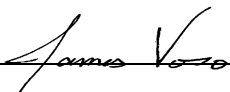
Total Estimated Cost for Design, Supply and Install of Concrete Pole is \$22,550.00 lump sum. As previously indicated, it is assumed that Town forces will be used for installation of the remaining traffic signal items including pedestrian heads, push buttons and all amenities. The Town will coordinate their work with the installation of the concrete pole by others.

Time of Completion (*from receipt of signed Agreement*):

- Preliminary Plans for Town review – **30 calendar days**
- Preliminary Plans to NCDOT for review – **7 calendar days after receipt of any Town comments**
- Final Plans for Town use – **7 calendar days from receipt of any NCDOT-provided comments**

In addition to the matters set forth herein, our agreement shall include, and shall be subject to the Standard Provisions, which are attached hereto and incorporated herein. If you concur and wish us to proceed with the services described above, please have both enclosed originals of this Agreement executed by a properly authorized individual in the space provided. Retain one and return the other. Times stated in this agreement are valid for sixty (60) days from the date executed by the Engineer.

ENGINEER:

By   
Title: Principal-in-Charge  
Date January 16, 2019

CLIENT:

By \_\_\_\_\_  
Title: \_\_\_\_\_  
Date \_\_\_\_\_

**MATTERN & CRAIG, INC.**  
**STANDARD PROVISIONS**

(1) **Engineer's Scope of Services** The undertaking of the Engineer to perform professional services extends only to those services specifically described in this Agreement. However, if requested by the Client and agreed to by the Engineer, the Engineer will perform additional services ("Additional Services") hereunder and shall be compensated as set forth below.

(2) **Client's Responsibilities** In addition to other responsibilities described herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide to the Engineer all previous studies, plans, or other documents pertaining to the project; Client's requirements and criteria; standards to be followed; and all new information reasonably necessary; upon all of which the Engineer may rely.
- (c) Arrange for access to the site and other property and obtain approvals and permits required for the Engineer to provide its services.
- (d) Review all documents or verbal reports presented by the Engineer and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Engineer.
- (e) Provide such overall feasibility services such as independent accounting, legal, insurance, and cost estimating as the client may require or the Engineer may reasonably request.
- (f) Give prompt written notice to the Engineer wherever the Client becomes aware of any development that affects the scope and timing of the Engineer's services or any defect or noncompliance in any aspect of the project.
- (g) Bear all costs incident to the responsibilities of the Client.

(3) **Period of Services** This Agreement has been entered into in anticipation of conditions permitting continuous and orderly progress through the completion of the Engineer's services. Times for performance shall be extended to the extent necessary for delays due to circumstances the Engineer does not control. If such delay or suspension extends for more than six months (cumulatively), the rates of compensation provided for in the Agreement shall be renegotiated.

(4) **Compensation for Additional Services** Unless otherwise agreed to in writing, the Client shall pay the Engineer for the performance of any Additional Services an amount based upon the Engineer's current hourly rates plus an amount to cover certain direct expenses including in-house duplicating, local mileage, telephone calls, postage, and word processing. Other direct expenses will be billed at 1.15 times cost.

(5) **Method of Payment** Compensation shall be paid to the Engineer in accordance with the following provisions:

- (a) Invoices will be submitted by the Engineer to the Client for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due the Engineer for services and expenses within 30 days after the Engineer's transmittal of its invoice, the Engineer may suspend services until all amounts are paid in full.
- (b) If the Client objects to any invoice, it must advise the Engineer in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections shall be waived, and the invoice shall conclusively be deemed due and owing.
- (c) If the Engineer initiates legal proceedings to collect payment for services, it may recover in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Engineer's normal hourly billing rates, of the time devoted to such proceedings by its employees.
- (d) The Client acknowledges and agrees that the payment for services rendered and expenses incurred by the Engineer pursuant to this Agreement is not subject to any contingency or conditions unless expressly set forth in this Agreement.

(6) **Use of Documents** All documents, including but not limited to drawings, specifications and data or programs stored electronically, prepared by the Engineer are related exclusively to the services described herein. They are not intended or represented to be suitable for partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client or any partial use or reuse without written authorization or adaptation by the Engineer will be at the Client's sole risk and without liability or legal exposure to the Engineer, and the Client shall indemnify, defend and hold the Engineer harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Any authorization or adaptation will entitle the Engineer to further compensation at rates to be agreed upon by the Client and the Engineer. Copies of Documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) signed or sealed by the Engineer. Files in electronic media format of text, data, graphics, or of other types furnished by Engineer to Client are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the Client, after receiving electronic files, agrees to perform acceptance tests or procedures within 60 days, after which the Client shall be deemed to have accepted the data. Any errors detected within the 60-day acceptance period will be corrected by the Engineer. Engineer shall not be responsible to maintain documents stored in electronic media format after acceptance by Client. When transferring documents in electronic media format, Engineer makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operation systems, or computer hardware differing from those used by Engineer at the beginning of this Project. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

(7) **Opinions of Cost** Because the Engineer does not control the cost of labor, materials, equipment, services furnished by others, methods of determining prices, competitive bidding or market conditions, any opinion rendered as to costs shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, but the Engineer cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator.

(8) **Termination** The obligation to provide further services under this Agreement may be terminated by either party upon seven days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, the Engineer will be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Engineer as a result of such termination.

(9) **Insurance** The Engineer is protected by Workers' Compensation insurance, professional liability insurance, and general liability insurance for bodily injury and property damage and will exchange certificates of insurance upon request.

(10) **Liability** In performing its professional services, the Engineer will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality at the time the services are provided. No warranty, express or implied, is made or intended by the Engineer's undertaking herein or its performance of services hereunder, and it is agreed that the Engineer is not a fiduciary with respect to the Client. To the fullest extent of the law, and notwithstanding any other provisions of this Agreement, the total liability, in the aggregate of the Engineer and the Engineer's officers, directors, employees, agents and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Engineer or the Engineer's officers, directors, employees, agents, or subconsultants shall not exceed twice the total compensation received by the Engineer under this Agreement or \$50,000 whichever is greater. Under no circumstances shall the Engineer be liable for lost profits, consequential damages or for extra costs or other consequences due to changed conditions or for costs related to the failure of the contractor to perform work in accordance with the plans and specifications.

(11) **Expenses of Litigation** If the Client or its contractors initiate legal proceedings against the Engineer, its contractors, or its subcontractors related to the Engineer's services, and such proceedings conclude with the entry of a final judgment favorable to the Engineer, the Client shall reimburse the Engineer for all of its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Engineer's normal hourly billing rates, of the time devoted to the proceedings by the Engineer's employees.

(12) **Dispute Resolution** If and to the extent that Client and Engineer have agreed on a method and procedure for resolving disputes between them arising out of or relating to this Agreement, such dispute resolution method and procedure, if any, is set forth in an Exhibit attached to this Agreement. Client and Engineer agree to negotiate in good faith for a period of thirty days from date of notice of all disputes prior to exercising their rights under any Exhibit or under law.

(13) **Hazardous Substances** It is understood and agreed that in seeking the professional services of the Engineer, the Client does not request the Engineer to undertake to perform any services, studies, or tests, or to make any determinations involving hazardous substances or conditions, as defined by federal or state law. Therefore, the Engineer undertakes no such obligation, and the Client agrees to hold harmless, indemnify, and defend the Engineer from and against any and all claims, losses, damages, liability, and costs arising out of or in any way connected with the presence, discharge, release, or escape of hazardous substances or conditions of any kind, or environmental liability of any nature, in any manner related to services performed by the Engineer. If any hazardous substance or condition is observed or reasonably suspected by the Engineer, it shall have the right to cease all services until the hazardous substance or condition has been eliminated. The Engineer shall notify the Client of any such substance or condition of which the Engineer becomes aware, and the Client shall be solely responsible for its elimination.

(14) **Assignment** Nothing in this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the Client and the Engineer, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Client and the Engineer and not for the benefit of any other party. Neither the Client nor the Engineer shall assign, sublet, or transfer any rights under or interest in this Agreement without the written consent of the other, except that the Engineer may retain subconsultants as it deems appropriate.

(15) **Confidentiality** The Client consents to the use and dissemination by the Engineer of photographs of the Project and to the use by the Engineer of facts, data and information obtained by the Engineer in the performance of its services. If, however, any facts, data or information is specifically identified in writing by the Client as confidential, the Engineer shall use reasonable care to maintain the confidentiality of that material.

(16) **Miscellaneous Provisions** This Agreement is to be governed by the laws of the State of North Carolina. This Agreement shall bind, and the benefits thereof shall insure to the respective parties hereto, their legal representatives, executors, administrators, successors and assigns. This Agreement contains the entire and fully integrated agreement between the parties hereto and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. This Agreement can be supplemented or amended only by a written document executed by both the Engineer and the Client. Provided, however, that conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Engineer. Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. Also, the non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 12, 2019**

**SUBJECT:** Budget Amendment to establish a capital project account

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** C7  
**Department:** Development Services and Administration  
**Contact:** Elizabeth Teague, Development Services Director  
**Presenter:** Elizabeth Teague, Development Services Director

**BRIEF SUMMARY:**

The Town of Waynesville has received a gift of \$102,269.20 from Philan Medford in coordination with the WNC Community Foundation for the acquisition and installation of a multi-use bridge at Waynesville Recreation Park. Staff requests a budget amendment to establish a project account with these funds dedicated to accomplishing this task and to raise additional resources through other donations and grants. As part of the project, the Town will seek engineering assistance with floodplain permitting and bridge design.

**MOTION FOR CONSIDERATION:**

1. Motion to establish a capital project account for the Greenway Bridge at Recreation Park.

**FUNDING SOURCE/IMPACT:** Funding source is a \$102,269.20 gift which we hope to supplement with other donations and grant funds.

**ATTACHMENTS:**

1. Project area map

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend Approval



## Greenway Bridge Location



## Location Floodplain Data



**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 12, 2019**

**SUBJECT:** Discussion of New Bridge across Richland Creek at Recreation Center

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** C8  
**Department:** Public Services  
**Contact:** David Foster, Public Services Director  
**Presenter:** David Foster, Public Services Director

**BRIEF SUMMARY:**

Request direction and approval to hire Bell Engineering to complete a preliminary hydraulic study for a new bridge across Richland Creek.

The Town has recently been gifted approximately \$102,000 that was specifically earmarked for a bridge between the Recreation Center and the recently acquired Schulhofer property. The generous gift came with a stipulation that it be used within one year. To meet this deadline, and comply with state regulation, many items have to be completed in advance of requesting a permit to build a bridge. Bell Engineering has proposed to complete the attached hydraulic study which will help determine a crossing location to submit for a required no-rise study.

**MOTION FOR CONSIDERATION:**

Motion authorizing Town staff to proceed with hiring Bell Engineering to complete the preliminary hydraulic study for a new bridge across Richland Creek.

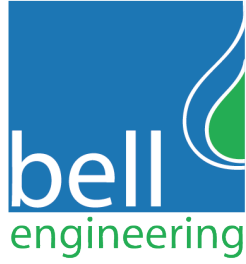
**FUNDING SOURCE/IMPACT:**

Parks and Recreation Professional Services budget

**ATTACHMENTS:**

- Bell Engineering Proposal

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend Board authorize staff to proceed with Bell Engineering proposal to complete preliminary hydraulic study.



January 31, 2019

Mr. David Foster, Public Services Director  
Town of Waynesville  
129 Legion Drive  
Waynesville, NC 28786

Re: Preliminary Hydraulic Study for a  
New Bridge Across Richland Creek

Dear Mr. Foster:

Thank you for considering Bell Engineering to provide civil engineering services for a preliminary hydraulic study to aid in siting a new bridge from the Waynesville Recreation Center to an adjoining recreation site across Richland Creek. We understand that the schedule for completion of not only the preliminary hydraulic study but the overall bridge design and construction project is one year from the date of a recently received monetary gift. We propose to provide the preliminary hydraulic study to determine the feasibility of bridging Richland Creek at the desired location and to assess the necessary bridge span. The preliminary study will be conducted with a goal of achieving a no-rise condition if possible. However, due to the presence of an approximately 260-foot-wide established floodway at the desired location, it may be necessary to seek a Letter of Map Revision (LOMR) to accommodate a rise in flood elevation near the project site. We propose a scope of services to address these initial questions as follows:

- Obtain current North Carolina Floodplain Mapping model and determine if the mapped floodway depicted on the current Flood Insurance Rate Map (FIRM) matches the encroachments included in the current model;
- Utilize available Haywood County GIS property boundary data and Statewide LiDAR contour data to evaluate the preferred bridge location for flood impacts; evaluate the span required to achieve a no-rise condition (if obtainable) and determine the anticipated rise resulting from shorter bridge spans;
- Prepare a memo report summarizing the preliminary hydraulic study findings in narrative and graphic format.

Please note that while the preliminary flood study will utilize available LiDAR elevation data, a detailed topographic survey of the project area will be necessary to complete a future detailed flood study and bridge design. This preliminary study will allow the proposed bridge location to be identified and allow the future surveying efforts to be focused in that area. The currently proposed scope of services does not include seeking review or final acceptance of the no-rise or LOMR determination by North Carolina Floodplain Mapping. We will work closely with the Town Floodplain Administrator regarding local ordinance compliance and potential impacts of any rise resulting from the proposed bridge.


We anticipate completion of the preliminary hydraulic study within 4 weeks of receipt of a signed copy of this proposal.

Payment for the hereinabove described services will be on a lump-sum basis in the amount of \$7,500. Should additional evaluation, such as additional bridge locations, or other services not listed above be desired, those services will be performed at the rates as listed on the attached Bell Engineering Hourly Rates or under an amended scope of services and fee. All work will be performed in accordance with our attached Standard Terms and Conditions.

On behalf of Bell Engineering, we would like to thank you for the opportunity to submit this proposal for a preliminary hydraulic study. If you would like to discuss the proposed scope of services, please contact either of us at your convenience. If this proposal is acceptable to you, please sign below and return one copy to us.

Sincerely,

**Bell Engineering**



Dana J. Bolden, P.E.  
Senior Project Manager



Joshua T. Karrick, PLA, ASLA, AICP  
Regional Office Manager

Authorized: \_\_\_\_\_  
Town of Waynesville

Date: \_\_\_\_\_



Authorized: \_\_\_\_\_  
Robert L. Pickerill, P.E.  
Vice President  
Bell Engineering

Date: January 31, 2019

# BELL ENGINEERING

## STANDARD TERMS AND CONDITIONS

### FOR ENGINEERING SERVICES

**Scope:** Engineer shall provide, or cause to be provided, the services set forth in the proposal and in accordance with these terms and conditions.

**General:** Owner shall have the responsibilities set forth herein and as noted in the proposal. Owner shall pay Engineer as set forth in the proposal and defined herein. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

**Commencement:** Engineer shall begin rendering services as of the Effective Date of the Agreement, unless specified otherwise.

**Time for Completion:** Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed shall be as defined in the proposal and are hereby agreed to be reasonable. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of direct damages resulting from such failure.

**Compensation and Methods of Payment:** The method of payment and amount of compensation shall be as noted in the proposal/agreement and shall be based on one of the following methods of payment:

*Lump Sum.* A fixed price for engineer's services and reimbursable expenses.

*Standard Hourly Rates Plus Expenses.* Shall be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursable expenses and Engineer's consultant's charges. The standard hourly rates and reimbursable expense schedule shall be revised annually as of January 1 unless noted otherwise in the proposal.

**Additional Services:** For engineering services beyond the Scope of Services and/or time period defined in the proposal, Engineer shall furnish additional services only as authorized by the Owner. The method of payment and amount of compensation shall be as mutually agreed to by the Owner and Engineer as defined herein.

**Invoices:** *Preparation and Submittal of Invoices.* Engineer shall prepare invoices in accordance with its standard invoicing practices. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

**Payments:** *Application to Interest and Principal.* Payment will be credited first to any interest owed to Engineer and then to principal.

*Failure to Pay.* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:

1. Amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and

2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

*Disputed Invoices.* If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion.

**Opinions of Probable Construction Cost:** Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner wishes greater assurance as to probable Construction Cost, Owner shall employ an independent cost estimator.

**Opinions of Total Project Costs:** The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

**Standards of Performance:** The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information.

Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner. Subject to the standard of care set forth herein, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards. Engineer and Owner shall comply with applicable Laws and Regulations and Owner-mandated standards that Owner has provided to Engineer in writing. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, and compensation. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents. Engineer shall not at any time supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the Work in accordance with the Contract Documents. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner without consultation and advice of Engineer.



**Design Without Construction Phase Services:** If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, then Owner waives any claims against the Engineer that may be connected in any way thereto.

**Use of Documents:** All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a license to use the Documents on the Project, extensions of the Project, and other projects of Owner, subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project or on any other project without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants; (3) Owner shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by Engineer; (4) such limited license to Owner shall not create any rights in third parties.

**Insurance and Liability:** Engineer shall maintain the following insurance and coverage limits during the period of service. The Owner will be named as an additional insured on the Commercial General Liability and Automobile Liability insurance policies.

*Worker's Compensation.* As required by applicable state statute.

*Commercial General Liability.* \$1,000,000 per occurrence for bodily injury, including death and property damage, and \$2,000,000 in the aggregate.

*Automobile Liability.* \$1,000,000 combined single limit for bodily injury and property damage.

*Professional Liability (E&O).* \$1,000,000 each claim and \$2,000,000 in the aggregate.

The Owner shall make arrangements for Builder's Risk, Protective Liability, Pollution Prevention, and other specific insurance coverage warranted for the Project in amounts appropriate to the Project value and risks. The Engineer shall be a named insured on those policies where Engineer may be at risk. The Owner shall obtain the counsel of others in setting insurance limits for construction contracts.

**Suspension and Termination:**

*Suspension.*

*By Owner:* Owner may suspend the Project upon seven days written notice to Engineer.

*By Engineer:* If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement.

*Termination.* The obligation to provide further services under this Agreement may be terminated:

1. For cause, by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

By Engineer: upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or upon 7 days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control. Engineer shall have no liability to Owner on account of such termination.

Notwithstanding the foregoing, this Agreement will not terminate for cause if the party receiving such notice begins, within seven days

of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.

*Effective Date of Termination.* The terminating party may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

*Payments Upon Termination.* In the event of any termination, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of these Terms and Conditions. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in the paragraph above, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth herein.

**Controlling Law:** This Agreement is to be governed by the law of the state in which the Project is located.

**Successors, Assigns, and Beneficiaries:** Owner and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Unless expressly provided otherwise in this Agreement, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party. Owner agrees that the substance of the provisions of this paragraph shall appear in the Contract Documents.

**Dispute Resolution:** Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of mediation or other provisions of this Agreement, or exercising their rights under law.

**Environmental Condition of Site:** Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site. If Engineer encounters an undisclosed Constituent of Concern, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional

services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days' notice. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

**Indemnification and Mutual Waiver:**

*Indemnification.* To the fullest extent permitted by law, Engineer and Owner shall indemnify and hold harmless the officers, directors, partners, agents, consultants, and employees of each party from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of each party or its officers, directors, partners, employees, or Consultants.

*Percentage Share of Negligence.* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

*Mutual Waiver.* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

**Limitation of Liability:** To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$25,000 or the total amount of compensation received by Engineer, whichever is less.

**Miscellaneous Provisions:**

*Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

*Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

*Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

*Waiver.* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

*Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

**Designated Representatives:** With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

**Permits and Approvals:** Engineer will assist Owner in preparing applications for permits and approvals from the authority having jurisdiction. The Owner shall pay all fees associated with any permits or review processes.

**BELL ENGINEERING**  
**2019 HOURLY RATES**  
**BASED ON AVERAGE HOURLY RATE PER CLASSIFICATION**

	<b>Hourly Rates</b>
Principal IV	205.00
Principal III	204.00
Principal I	199.00
Consultant	185.00
Associate II	181.00
Engineer VI	154.00
Engineer V	149.00
Engineer IV	135.00
Engineer III	111.00
Engineer II	102.00
Engineer I	84.00
Landscape Architect III	125.00
Landscape Architect II	95.00
Landscape Architect I	75.00
Designer/Planner IV	107.00
Designer/Planner III	81.00
Engineering Tech II	71.00
Engineering Tech I	44.00
Inspector II	78.00
Draftsman III	74.00
Draftsman II	74.00
Accountant/Econ. II	129.00
Admin. Assist. III	93.00
Admin. Assist. II	58.00
Secretary III	71.00



**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 12, 2019**

**SUBJECT:** Authorization to advertise 2017 Delinquent Property Taxes

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** C9  
**Department:** Financial Services  
**Contact:** James Robertson, Tax Collector  
**Presenter:** James Robertson, Tax Collector

**BRIEF SUMMARY:** The tax office respectfully requests that authorization be granted to advertise all 2018 delinquent property taxes in the local newspaper, *The Mountaineer*, as required by NCGS §105-369. These are taxes that were billed on property values as of January 1, 2018, which became due as of September 1, 2018 and became delinquent as of January 6, 2019. After the approval of the Board, a target date of early March has tentatively been set for the delinquent ad. This date may change due to scheduling with the newspaper.

**MOTION FOR CONSIDERATION:** *To authorize staff to advertise all 2018 delinquent property taxes in The Mountaineer in early March, as required by NCGS §105-369.*

**FUNDING SOURCE/IMPACT:** It has been shown in previous years, that the sooner that the delinquent advertisement is done, there is a better chance of collection of delinquent taxes. This early advertisement also allows the tax collector to see what additional revenue will be collected and how to move forward with further collection proceedings.

**ATTACHMENTS:**

- NCGS §105-369

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend approval.

**§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

(a) **Report of Unpaid Taxes That Are Liens on Real Property.** - In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body must order the tax collector to advertise the tax liens. For purposes of this section, district taxes collected by county tax collectors shall be regarded as county taxes and district taxes collected by municipal tax collectors shall be regarded as municipal taxes.

(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

(b1) **Notice to Owner.** - After the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the record owner of each affected parcel of property, as determined as of the date the taxes became delinquent. The notice must be sent to the owner's last known address by first-class mail at least 30 days before the date the advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the name of the record owner as of the date the taxes became delinquent will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date. Failure to mail the notice required by this section to the correct record owner does not affect the validity of the tax lien or of any foreclosure action.

(c) **Time and Contents of Advertisement.** - A tax collector's failure to comply with this subsection does not affect the validity of the taxes or tax liens. The county tax collector shall advertise county tax liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. The municipal tax collector shall advertise municipal tax liens by posting a notice of the liens at the city or town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period March 1 through June 30. The costs of newspaper advertising shall be paid by the taxing unit. If the taxes of two or more taxing units are collected by the same tax collector, the tax liens of each unit shall be advertised separately unless, under the provisions of a special act or contractual agreement between the taxing units, joint advertisement is permitted.

The posted notice and newspaper advertisement shall set forth the following information:

- (1) Repealed by Session Laws 2006-106, s. 2, effective for taxes imposed for taxable years beginning on or after July 1, 2006.
- (1a) The name of the record owner as of the date the taxes became delinquent for each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order.
- (1b) After the information required by subdivision (1a) of this subsection for each parcel, a brief description of each parcel of land to which a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.
- (2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.
- (3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the names of all newspapers in which advertisements will appear and the dates on which they will be published.

(4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

(d) Costs. - Each parcel of real property advertised pursuant to this section shall be assessed an advertising fee to cover the actual cost of the advertisement. Actual advertising costs per parcel shall be determined by the tax collector on any reasonable basis. Advertising costs assessed pursuant to this subsection are taxes.

(e) Payments during Advertising Period. - At any time during the advertisement period, any parcel may be withdrawn from the list by payment of the taxes plus interest that has accrued to the time of payment and a proportionate part of the advertising fee to be determined by the tax collector. Thereafter, the tax collector shall delete that parcel from any subsequent advertisement, but the tax collector is not liable for failure to make the deletion.

(f) Listing and Advertising in Wrong Name. - No tax lien is void because the real property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation if the property was in other respects correctly described on the abstract or in the advertisement.

(g) Wrongful Advertisement. - Any tax collector or deputy tax collector who willfully advertises any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid is guilty of a Class 3 misdemeanor, and shall be required to pay the injured party all damages sustained in consequence. (1939, c. 310, s. 1715; 1955, c. 993; 1971, c. 806, s. 1; 1983, c. 808, s. 1; 1983 (Reg. Sess., 1984), c. 1013; 1993, c. 539, s. 725; 1994, Ex. Sess., c. 24, s. 14(c); 1999-439, s. 1; 2000-140, s. 73; 2006-106, s. 2.)

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REQUEST FOR BOARD ACTION  
February 12, 2019**

**SUBJECT** Forest Stewards Annual Contract for Managing the Watershed

**AGENDA INFORMATION:**

**Agenda Location:** Manager's Report  
**Item Number:** D10  
**Department:** Administration  
**Contact:** Rob Hites, Town Manager  
**Presenter:** Rob Hites, Town Manager

**BRIEF SUMMARY** Forest Stewards Inc. has been providing sustainable forest management services to the Town for a number of years. In concert with WCU they conduct surface water quality testing, controlling non-native species plant populations, introduce native species of shelterwood to harvested areas and conduct field days and tours of the watershed. Forest Stewards propose a contract of \$42,000 for 2019, an increase of \$2,000 from the previous years. The funds are included in the current budget.

**MOTION FOR CONSIDERATION:** Approve the annual Forest Stewards Contract.

**FUNDING SOURCE/IMPACT:** Water Fund, was included in current budget

**ATTACHMENTS:**

- Original contract

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend Approval of Contract

*Forest Stewards, Inc.*  
**SERVICES AGREEMENT**  
**(2018-19)**

**THIS SERVICES AGREEMENT** (the "Agreement") is made between **Forest Stewards, Inc.**, a North Carolina nonprofit corporation ("Forest Stewards"), and the **Town of Waynesville, NC** ("Client").

**RECITALS**

**WHEREAS**, Forest Stewards provides a variety of services related to sustainable forest management in the southern Appalachian Mountains; and

**WHEREAS**, Client desires to engage the services of Forest Stewards.

**NOW, THEREFORE**, in consideration of the terms, conditions, and mutual covenants hereinafter set forth, the parties agree as follows:

**TERMS**

**1.0    Obligations of Forest Stewards.**

**1.1    Forest Stewards agrees to perform the following tasks in the Waynesville Watershed:**

- a.    *Monitor surface water quality***
  - i.    *Continue collecting and summarizing surface water quality data within the Waynesville watershed, and to assess stewardship impacts on water quality. A focus will be to summarize and report on data collected since 2014.***
- b.    *In consultation with easement holders (SAHC and CTNC) continue monitoring and controlling non-native invasive plant populations. We will focus on areas in the vicinity of the reservoir, including the white pine thinning unit, and other areas throughout the watershed property.***
  - i.    *Implement chemical and mechanical non-native plant control methods in selected areas in a manner consistent with time and resources available.***
  - ii.   *Compile and share results of all work completed through 2018.***
- c.    *Finalize preparation of proposed stewardship treatments for the Old Bald Management unit.***
  - i.    *Develop a prospectus including goals and proposed treatments. We anticipate these will include selected silvicultural treatments (crop tree release, gap creation, and shelterwood harvesting) and prescribed fire.***
  - ii.   *Host field day (show-me tour) for interested parties including easement holders, town officials, and others.***
  - iii.   *In coordination with town staff, finalize initial treatments and develop timeline and mechanisms for their implementation.***

- d. **Locate and remeasure continuous forest inventory plots (CFI plots).**
  - i. **Goal is to have at least 100 of the plots (50%) remeasured by the end of this fiscal year with the remainder completed during the next fiscal year.**
- e. **Conduct preliminary survey of flowering American chestnut, and explore opportunities to partner with other organizations on an American chestnut restoration program in the watershed.**
- f. **Collaborate and assist with other entities investigating watershed resources.**
  - i. **Examples include EBCI/USFS ramp harvesting, WCU wildlife studies, HRI hemlock treatments.**
- g. **Participate in town meetings and update town officials and the public as needed.**
- h. **Continue to maintain biophysical and geospatial databases for the watershed, and create maps and data summaries as requested.**

**2.0    Period of Performance:**      July 1, 2018 through June 30, 2019

**3.0    Compensation.**

3.1    It is agreed that the total compensation to Forest Stewards for services performed under this Agreement shall be **forty-two thousand dollars (\$42,000).**

3.2    Payment shall be made per the following schedule:

**\$20,000 will be due on Jan 31, 2019**  
**\$11,000 will be due on April 1, 2019**  
**\$11,000 will be due on June 30, 2019**

3.3    Payment shall be made by Client to Forest Stewards upon receipt of invoice and mailed to the following address:

Forest Stewards, Inc.  
331 Stillwell Building  
Western Carolina University  
Cullowhee, NC 28723

3.4    The tax identification number of Forest Stewards, Inc. is: 26-2624364

**4.0    Termination.**

4.1    In the event that either party shall commit any breach of or default in any of the terms or conditions of this Agreement, and also shall fail to remedy such default or breach within thirty (30) days after receipt of written notice thereof from the other party hereto, the party giving notice may, at its option and in addition to any other remedies which it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect, and such termination shall be effective as of the date of the receipt of such notice.

4.2 Termination of this Agreement by either party for any reason shall not affect the rights and obligations of the parties accrued prior to the effective date of termination of this Agreement.

## **5.0 Dissemination of results.**

5.1 Client acknowledges that Forest Stewards is an associated entity of Western Carolina University (WCU), and that certain findings and results of this project may be publishable or otherwise be made available to the public. Client agrees that WCU researchers and others engaged in the project shall be permitted to present at symposia, national, or regional professional meetings, and to publish in journals, theses, or dissertations, or otherwise of their own choosing.

## **6.0 Insurance.**

~~6.1~~ At all times during the term of this Agreement, Forest Stewards shall obtain and maintain in full force and effect: (a) worker's compensation insurance, and (b) comprehensive general liability insurance, in amounts of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the annual aggregate, in connection with the Project and services described in this Agreement. Certificates of insurance evidencing such insurance coverages will be provided to Client upon reasonable request. Forest Stewards shall give five (5) day's written notice to Client of the termination or cancellation of any such policies of insurance.

## **7.0 Independent Contractors.**

7.1 In the performance of all services hereunder, Forest Stewards shall be deemed to be and shall be an independent contractor and, as such, Forest Stewards shall not be entitled to any benefits applicable to employees of Client. Neither party is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, or representation as to any matter. Neither shall be bound by the acts or conduct of the other.

## **8.0 Hazardous Materials and Other Dangers.**

8.1 Client shall notify Forest Stewards in writing before any work is performed of all known hazardous materials, hazardous conditions, and any other safety risks existing on the property that is the subject of this Agreement. Client shall indemnify, protect, defend, and hold harmless Forest Stewards and its directors, officers, agents, employees, representatives, and assigns from and against any and all claims, demands, suits, and causes of action and any and all liabilities, costs, damages, expenses, and judgments incurred that relate to or arise out of the Client's failure or refusal to notify Forest Stewards of known hazardous materials or conditions pursuant to this Paragraph 8.

## **9.0 Miscellaneous Terms.**

9.1 Assignment. Neither party may assign any of its rights or delegate any of its obligations hereunder without first obtaining the prior written consent of the other party hereto. This Agreement inures to the benefit of, and is binding upon, the successors and permitted

assigns of the parties hereto.

9.2 Binding Effect. Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors, heirs, legal representatives, and assigns.

9.3 Entire Agreement/Amendments. This Agreement contains the entire understanding between the parties hereto and supersedes all prior agreements, understandings, and arrangements between the parties relating to the subject matter hereof. No amendment, change, modification or alteration of the terms and conditions hereof shall be binding unless evidenced by a writing signed by the parties hereto.

9.4 Force Majure. No party to this Agreement shall be liable for failure to perform any duty or obligation that said party may have under this Agreement where such failure has been occasioned by any act of God, fire, strike, unavoidable accident, natural disaster, epidemic or pandemic, war or any cause outside the reasonable control of the party who had the duty to perform.

9.5 Governing Law and Venue. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by the substantive law of the State of North Carolina, including all matters of construction, validity and performance. This provision shall survive the term of the Agreement. The parties hereto agree that the venue of any lawsuit filed in connection with this Agreement shall be Jackson County, North Carolina.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the date last hereinafter written.

**Client**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

—

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Forest Stewards, Inc**

By:   
Peter C. Bates

Title: President, Board of Directors

Date: 1-15-2019

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**February 12, 2019**

**SUBJECT** Contract to conduct a financial analysis of the water and sewer fund in order to recommend funding sources and rate increases over the life of the loan for the waste water treatment plant. Draft the application for grants or loans for funding improvements to the waste water treatment plant

**AGENDA INFORMATION:**

**Agenda Location:** Managers Report  
**Item Number:** D10b  
**Department:** Public Services/Administration  
**Contact:** Rob Hites, Town Manager  
**Presenter:** Rob Hites, Town Manager

**BRIEF SUMMARY One** of the most critical elements of the waste treatment plant improvement project is the funding of the project. The funding agencies want to see a well thought out, long term plan to pay for the project which includes a rate analysis. The plan would show the agencies the current finances, fund balances, and future rate increases necessary to carry the debt. The State Revolving Loan and US Dept. of Agriculture has different formats for demonstrating a Town's financial plan. The contractor will draft the application (s) that best suits the Town after presentation and approval by the Board. The contractor will conduct the financial analysis while the Preliminary Engineering Report is being conducted so that both are substantially complete at the same time. Our goal would be to meet funding deadlines for either USDA or State Revolving Loans in April.

**MOTION FOR CONSIDERATION:** Approve the contract with Dennie Martin of Withers and Ravenel for a lump sum not to exceed contract of \$18,000. *(This type of contract permits the contractor to work on an hourly basis but guarantees that the contract will not exceed \$18,000). The Mr. Martin and his staff live in the Asheville area so the Town won't be paying for extended overnight accommodations.*

**FUNDING SOURCE/IMPACT:** Sewer Fund

**ATTACHMENTS:**

- Original contract

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Approve Contract with any amendments recommended by Town Attorney

January 22, 2019

Town of Waynesville  
16 South Main Street  
PO Box 100  
Waynesville, NC 28786

Attn: Rob Hites, Town Manager

RE: Loan / Grant Funding Assistance Services

Dear Mr. Hites:

WR-Martin, a wholly owned subsidiary of WithersRavenel (CONSULTANT) is pleased to provide this Agreement for professional services to aid the Town of Waynesville (CLIENT) with assessing funding alternatives for the Town's wastewater treatment plant improvement project and preparation and submission of a funding application to the requisite funding agency (PROJECT). The following proposal was made after careful consideration of all project related tasks.

If you have questions or concerns about the Agreement, please do not hesitate to call me at the number listed below.

Sincerely,

WithersRavenel



Jessica Martin-Lane, MBA, MSIE  
Vice President - Management & Transformation Services

84 Coxe Avenue, Suite 260 | Asheville, NC 2801  
Office: 828.232.6109 | Mobile: 704.968.1903

Attachments:

Agreement for Professional Services  
Exhibit I - Standard Terms and Conditions

**Town of Waynesville**  
**Grant / Loan Funding Assistance**  
**Agreement for Professional Services**

**A. PROJECT DESCRIPTION**

The CONSULTANT will aid the Town with assessing funding alternatives and preparing and submitting a funding application to the Division of Water Infrastructure State Revolving Fund Program (PROJECT). The primary objective of the PROJECT is to obtain loan/grant money for needed improvements to the Town's wastewater treatment plant.

**B. SCOPE OF SERVICES**

The CONSULTANT proposes to provide the following services with the CLIENT's assistance:

Task 1: Funding Assessment and Project Management

- ▶ Review of project objectives and scope with agencies that have the potential for funding the project and for which the project demonstrates eligibility for funding (both grants and loans).
- ▶ Review the potential funding options and alternatives with the manager, mayor, and City Council, as the Manager deems necessary.
- ▶ Meet with funding agencies as required.
- ▶ Update the above officials, as appropriate throughout the process.
- ▶ Attend working sessions and briefings throughout the funding project (assume not more than 3 such working sessions and briefings)

Task 2: Application Support

- ▶ Assemble all materials necessary for the application as outlined in the agency's 2019 program guidance.
- ▶ Complete all forms, narratives and required documents.
- ▶ Coordinate collection of any information required for this project.
- ▶ Include the project cost estimate that will be provided by CLIENT or CLIENT's engineer.
- ▶ Circulate information to the CLIENT for review and approval.
- ▶ Participate in any teleconferences needed with agency, CLIENT, and CLIENT's engineer.
- ▶ Provide other assistance, as required, to facilitate the complete application process.
- ▶ Coordinate all required signatures and paperwork adoption with CLIENT.

Task 3: Financial Analysis (Optional Task)

- ▶ Update the latest version of the Town's Water/Sewer Funds Capital Improvement Plan and financial analysis to reflect the impact of the proposed wastewater treatment plant project on the sustainability of the fund(s) and the impact on user costs.

Scope of work does not include any accounting services, legal fees, engineering, environmental or other expenses that are not specifically provided for above in this Section.

## C. ADDITIONAL SERVICES

Services that are not included in Section B or are specifically excluded from this AGREEMENT shall be considered Additional Services and will be charged separately according to the CONSULTANT's current rate/fee schedule.

The CONSULTANT will furnish or obtain from others Additional Services if requested in writing by the CLIENT and accepted by the CONSULTANT.

## D. CLIENT RESPONSIBILITIES

During the performance of the CONSULTANT's services under this AGREEMENT, the CLIENT will:

- ▶ Provide any information needed to complete the PROJECT.
- ▶ Examine all information and other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable period so as not to delay the services of the CONSULTANT.
- ▶ Give prompt written notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the PROJECT.
- ▶ Handle matters requiring an attorney at law.

## E. COMPENSATION FOR SERVICES

### A. Lump Sum Fee

CONSULTANT proposes to provide the following Scope of Services previously outlined on a Lump Sum Fee basis as described in the table below plus expenses. Compensation shall not exceed the total estimated compensation amount unless approved in writing by CLIENT.

Task Number	Task Name	Lump Sum Fee
Task 1	Funding Assessment and Project Management	\$2,000
Task 2	Application Preparation and Submission	\$4,000
	<b>Total</b>	<b>\$6,000</b>
Task 3	Financial Analysis	\$9,000 - \$12,000

Any changes to the PROJECT requirements, after CONSULTANT has begun work, may require additional fees.

## F. TIMELINE FOR SERVICES

CONSULTANT will begin services immediately upon receipt of signed contract. Services will terminate upon written notice from CLIENT. Any services rendered prior to written notice of termination shall be paid in full by CLIENT.

## G. ACCEPTANCE

Receipt of an executed copy of this agreement will serve as the written agreement between CONSULTANT and CLIENT for the services outlined.

**Submitted by CONSULTANT:**

WithersRavenel, Inc.  
84 Coxe Avenue  
Suite 260  
Asheville, NC 28801

**Accepted by CLIENT:**

Town of Waynesville  
16 South Main Street  
PO Box 100  
Waynesville, NC 28786

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Jessica Martin-Lane  
Printed Name

\_\_\_\_\_  
Rob Hites  
Printed Name

\_\_\_\_\_  
Vice President  
Title

\_\_\_\_\_  
Town Manager  
Title

\_\_\_\_\_  
jmartinlane@withersravenel.com  
Email Address

\_\_\_\_\_  
rhites@waynesvillenc.gov  
Email Address

\_\_\_\_\_  
828.232.6109  
Phone

\_\_\_\_\_  
(828)-452-2491  
Phone

**PRE-AUDIT STATEMENT:** *This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act (NC G.S. 159-28(a)).*

Signature of Finance Officer:

Printed Name:

Date:

Exhibit I – Standard Terms and Conditions