

Town of Waynesville, NC

Town Council Regular Meeting

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

Date: December 12th, 2023 Time: 6:00 p.m.

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(828) 452-2491 cpoolton@waynesvillenc.gov

- A. CALL TO ORDER MEETING-** Mayor Gary Caldwell

- B. MAYOR'S OATH OF OFFICE-** Chief District Court Judge Roy Wijewickrama *

- C. COUNCILMEMBERS' OATHS OF OFFICE-** Chief District Court Judge Roy Wijewickrama *
 - 1. Appointment of Mayor Pro Tempore
 - 2. Calendar/Announcements

- D. CONSENT AGENDA**

All items below are routine by the Town Council and will be enacted by one motion. There will be no separate discussion on these items unless a Councilmember so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.

- 3.
 - a. November 14th, 2023, Regular Scheduled Meeting Minutes
 - b. Key Card Budget Amendment Ordinance No. 11
 - c. Agreement to purchase a portion of property known as 234 W. Marshall Street, 8616-40-7478, to provide greenway access between the Mountain Creek greenway and Vance Street Park.
 - d. Solar Interconnection Electric Fee Rate Rider-Fee Schedule Amendment
 - e. Budget Amendment to use Restricted Funds from the North Carolina State Drug Fund in the amount of \$4,025.00.

Motion: To approve the consent agenda as presented.

E. PRESENTATION

4. Resolution Awarding Badge and Duty Weapon (handgun) to retiring Sr. Lieutenant Christopher Chandler.*
 - Police Chief David Adams

D. PUBLIC COMMENT

E. COMMUNICATION FROM STAFF

5. Manager's Report
 - Town Manager Rob Hites
6. Town Attorney Report
 - Town Attorney Martha Bradley

F. COMMUNICATIONS FROM THE MAYOR AND COUNCIL

G. ADJOURN

**A photographer will take pictures of the members' oaths of office and at the end of the meeting, she will take group pictures of the Councilmembers behind the dais. She will take individual pictures of Councilmembers and staff for the Town's media files.*



TOWN OF WAYNESVILLE

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

CALENDAR

December 2023

ALL COUNCIL MEETINGS TO START AT 6:00 PM IN THE BOARD ROOM LOCATED
 AT
 9 SOUTH MAIN STREET UNLESS OTHERWISE NOTED

2023-2024	
December, 25th, 26th and 27th	Town Closed – Christmas Holidays
Tues. January 9	Town Council Meeting – Regular Session
Tues. January 23	Town Council Meeting – Regular Session
Tues, February 13	Town Council Meeting – Regular Session
Tues. February 27	Town Council Meeting – Regular Session
Tues, March 12	Town Council Meeting – Regular Session
Tues. March 26	Town Council Meeting – Regular Session
Tues. April 9	Town Council Meeting – Regular Session
Tues. April 23	Town Council Meeting – Regular Session
Tues. May 14	Town Council Meeting – Regular Session
Tues. May 28	Town Council Meeting – Regular Session
Tues. June 11	Town Council Meeting – Regular Session
Tues. June 25	Town Council Meeting – Regular Session
Tues, July 9	Town Council Meeting – Regular Session
Tues. July 23	Town Council Meeting – Regular Session
Tues. August 13	Town Council Meeting – Regular Session
Tues, August 27	Town Council Meeting – Regular Session
Tues, September 10	Town Council Meeting – Regular Session
Tues. September 24	Town Council Meeting – Regular Session
Tues. October 8	Town Council Meeting – Regular Session
Tues. October 22	Town Council Meeting – Regular Session
Tues. November 12	Town Council Meeting – Regular Session
Tues. December 10	Town Council Meeting – Regular Session

Board and Commission Meetings – December 2023

ABC Board	ABC Office – 52 Dayco Drive	December 19th 3 rd Tuesday 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	December 5th 1 st Tuesday 5:30 PM
Cemetery Commission	Public Services Building	January, March-CANCELLED, July, and October 3 rd Tuesday 2:00 PM
Downtown Waynesville Commission	Municipal Building – 16 South Main Street	December 19th 3 rd Tuesday 8:30 AM
Environmental Sustainability Board	Municipal Building-16 South Main Street	December 7th , December 21 st CANCELLED 1 st and 3 rd Thursdays 4:30pm
Firefighters Relief Fund Board	Fire Station 1 – 1022 N. Main Street	Meets as needed; <i>No meeting currently scheduled</i>
Historic Preservation Commission	Town Hall – 9 S. Main Street	December 6th 1 st Wednesday 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	December 18th 3 rd Mondays 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	CANCELLED 2 nd Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	December 18th 3 rd Monday 5:30 PM
Waynesville Housing Authority	Main Office-48 Chestnut Park Drive	December 20th 3 rd Wednesday 9:00 AM

MINUTES OF THE TOWN OF WAYNESVILLE TOWN COUNCIL
Regular Meeting
November 28, 2023

THE WAYNESVILLE TOWN COUNCIL held a regular meeting on Tuesday, November 28, 2023, at 6:00 pm. in the Town Hall Board Room located at 9 South Main Street Waynesville, NC.

A. CALL TO ORDER

Mayor Gary Caldwell called the meeting to order at 6:02 pm with the following members present:

Mayor Gary Caldwell
Mayor Pro Tempore Julia Freeman
Councilmember Chuck Dickson
Councilmember Jon Feichter
Councilmember Anthony Sutton

The following staff members were present:

Rob Hites, Town Manager
Jesse Fowler, Assistant Town Manager
Candace Poolton, Town Clerk
Elizabeth Teague, Director of Development
David Kelley, Senior Code Enforcement Official
Misty Hagood, Finance Director
Olga Grooman, Land Use Administrator
Beth Gilmore, DWC Executive Director
Police Chief David Adams
Assistant Police Chief Brandon Gilmore
Charam Miller, Grants Administrator

Members of the Media:

Becky Johnson, The Mountaineer

1. Welcome/Calendar/Announcements

Mayor Gary Caldwell welcomed everyone and announced that the last Art After Dark gallery stroll will be this Friday, as well as the Christmas Tree Lighting. He added that the Hazlewood Christmas parade is Sunday, December 3rd, Monday December 4th is the Waynesville Christmas Parade, Saturday, December 9th is Smoky Mountain Christmas on Main Street 6-9pm, and the next Town Council meeting is Tuesday, December 12th at 6pm. Councilmember Dickson mentioned that Canton invited Town Council to their swearing in ceremony at 7:30pm. Town Manager Hites said Canton also invited Council to their Christmas parade.

B. PUBLIC COMMENT

No one signed up for public comment.

C. ADDITIONS OR DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

A motion was made by Councilmember Freeman, seconded by Councilmember Dickson, to approve the agenda as presented. The motion passed unanimously.

D. CONSENT AGENDA

All items below are routine by the Town Council and will be enacted by one motion. There will be no separate discussion on these items unless a Councilmember so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.

2.
 - a. November 14th, 2023 Regular Scheduled Meeting Minutes
 - b. Proposed 2024 Town Council Meeting Schedule
 - c. Call for a Public Hearing for January 9, 2024 to consider a request for Annexation for one (1) parcel off 42 Hillside Terrace Drive in Waynesville, PIN 8626-01-2244 (2.62 acres).
 - d. Call for a Public Hearing for January 9, 2024 to consider a request for Annexation for one (1) parcel at 68 Hillside Terrace Drive in Waynesville, PIN 8626-01-1444 (1.11 acres).
 - e. Call for a Public Hearing for January 9, 2024 to consider a request for Annexation for one (1) parcel at 76 Hillside Terrace Drive in Waynesville, PIN 8616-91-9354 (0.81 acre).
 - f. Call for a Public Hearing to consider a zoning map amendment request for a portion of the property at 1460 Russ Avenue, PIN 8616-24-8812, from the Dellwood Residential Medium Density District Mixed-Use Overlay (D-RM MXO) to the Russ Avenue Regional Center District (RA-RC).
 - g. Renewal of Forest Steward's Contract to manage Watershed.

A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to approve the consent agenda as presented. The motion passed unanimously.

E. NEW BUSINESS

3. Purchase of five Patrol Dodge Chargers.
 - Police Chief David Adams

Police Chief David Adams reported that the Waynesville Police Department has reached a critical point regarding many of the vehicles that are being depended upon for daily operation and patrol purposes. Currently, he said they are operating six (6) 2014 Dodge Charger patrol vehicles with mileage ranging from

103,000 to 147,351 miles. He said that many of these vehicles have had a variety of issues with motor mounts, struts, rotors, brakes, rebuilt engines, and other mechanical issues resulting in a total of \$78,816.28 in expenses for repair and maintenance. He added that one of the vehicles in question has had \$24,798.12 in repair and maintenance expenses alone. He said that having unreliable vehicles poses a safety hazard to officers and could prevent them from responding to calls in a timely manner. Chief Adams said the vehicles they hope to purchase are almost patrol ready and it's the last year they are making them. After that, they will all be SUVs. Councilmember Freeman asked if they run on propane. Chief Adams said they did away with propane run vehicles because propane is just as expensive as gas and the propane run vehicles are very expensive to maintain.

Councilmember Sutton asked Ms. Hagood how the Town would pay for the patrol cars. She recommended using the Fund Balance and buying them outright. She looked into loans, and right now they are at 5.5% interest.

Councilmember Dickson asked what the return was on the Town's investments are currently. Ms. Hagood said about 5%.

A motion was made by Councilmember Feichter, seconded by Freeman, to approve the purchase of 5 Dodge Charger patrol vehicles and adopt the budget amendment appropriating \$248,500 from the General Fund Balance. The motion passed unanimously.

4. Council approval of condemnation of the structures located at the below address and approval of associated demolition costs.
 - David Kelley, Senior Code Enforcement Official

Senior Code Enforcement Official David Kelley reported that Code Enforcement staff seeks Council's approval for the condemnation of the main building and the island canopy located at 1737 S Main Street, and permission to proceed with demolition of the structures at a cost of \$28,500.

He reported that the Town received a complaint on August 18, 2023, regarding the condition of this property. After an initial site inspection, Mr. Kelley said he contacted Ron Sneed for legal counsel and to conduct a title search to notify all parties of the deteriorated condition and public safety concerns. He said a more thorough inspection was completed September 25, 2023, and he found multiple building and fire code violations, and evidence that the building was open to vagrancy. He sent out Notices to Correct were sent out on September 27, 2023, to all parties noted on the title search and posted on the property per Section 10-157 of the Waynesville Code of Ordinances. At the end of the deadline to correct, Mr. Kelley said he reinspected the property on October 31, 2023, and no corrective action had been taken, nor had any party of interest contacted our office during the timeframe to correct.

Mr. Kelley said that on October 31, 2023, a Notice of Hearing was sent to all parties listed on the title search and the property was posted per Section 10-158(a) of the Waynesville Code of Ordinances. He said a hearing was held on November 16, 2023, at 9:00am at Waynesville Town Hall, 9 S Main Street and no party of interest or designated representative attended the hearing or contacted the office to present any arguments, evidence, or information pertaining to the matter.

Mr. Kelley stated that on November 20, 2023, the Finding of Fact and Order was sent out to all parties of interest listed on the title search and was posted on the property per Sec 10-158(c) of the Waynesville Code of Ordinances. He said he also mailed the Findings of Fact and Order to the owner of record by FedEx per Ron Sneed.

He said that on November 27th, Michael Kirkpatrick (brother of owner) came to the office to discuss purchasing the property and cleaning up the site, Mr. Kelley also said that Mr. Kirkpatrick requested an extension of the 60 days given on the Findings of Fact and Order. In turn, staff requested that Mr. Kirkpatrick get a notarized statement from his brother saying that he can act on his behalf, as well as a plan of action for clean up of the property. Mr. Kelley said that if Mr. Kirkpatrick can provide the documents and secure the building from vagrancy, and begins clean up of the property, staff will work with him on extending the 60 days.

Staff requests Council's permission to proceed with scheduling demolition and to continue our efforts to contact property owners to find a resolution for addressing the condition of the property. Councilmember Sutton asked if Mr. Kirkpatrick (who was in the audience) provided the notarized statement. He said no.

Mr. Kelley said that if no work has started by January 22nd, they would move forward with demolition of the property.

Attorney Bradley said passing the presented resolution starts the clock, and Council can always choose to give more time to the property owner.

A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to approve the attached Resolution Authorizing Demolition of the main building and island canopy located at 1737 S Main Street, Waynesville, NC 28786. The motion passed unanimously.

5. Ice Stroll
 - Beth Gilmore, Executive Director of DWC

Downtown Waynesville Commission Executive Director Beth Gilmore reported that last year, the Town of Maggie Valley launched the inaugural Ice Festival as a winter-themed event that would draw tourists during the Winter season and in its first year, the event far surpassed promoters' expectations and drew 10,000 people to the Maggie Valley Festival Grounds. She said the TDA hopes to capitalize on Ice Fest this year and is extending an offer to surrounding towns and industry partners to join forces to expand the weekend into a full schedule of winter-themed activities throughout the county.

Ms. Gilmore said she is working with Haywood County Chamber Director, Cece Hipps, to coordinate a winter/ice themed restaurant promotion during the week of January 22-26 (leading up to Ice Festival weekend) and a Downtown Waynesville Ice Sculpture Trail on the evening of January 26.

She said that Ice Mills in Asheville has agreed to carve single-block sculptures for a reduced rate of \$350 per sculpture (3.5 feet tall) and \$700 for double-block sculptures. She added that the sculptures will be lit.

Ms. Gilmore requested that the Town participate in the Waynesville Ice Sculpture Trail by purchasing a custom sculpture to display on Main Street in front of Town Hall. She asked that the sculpture be something artistic instead of just a logo.

Councilmember Freeman said it's going to be a huge event and the Town should be a part of it and engage local businesses. Mayor Caldwell suggested using the Town Clerk's dog, Marty, as a model for the ice sculpture.

A motion was made by Councilmember Freeman, seconded by Councilmember Sutton, to purchase a double block sculpture for \$700. The motion passed unanimously.

A motion was made by Councilmember Feichter, seconded by Councilmember Freeman, to make the ice sculpture a Plott hound. The motion passed unanimously.

6. Dogwood Foundation Grant for Downtown improvements

- Rob Hites, Town Manager

Town Manager Rob Hites reported that staff received notice that the Dogwood Health Foundation is advertising for \$10,000 grants to improve Downtowns. He said the grants are targeted "to fund projects in downtowns or commercial corridors that enhance appearance, infrastructure or the pedestrian experience". He added that the grant is targeted to enhance projects that will not exceed a total cost of \$50,000. Mr. Hites reviewed the conceptual designs outlined in Thomas Woltz's firm's study relating to the renovation of the Depot Street niche park. The Downtown Waynesville Commission also discussed the design and installation of "sail shades" to protect musicians that are performing at the Miller Street niche park. He said that Thomas Woltz stated that considerable design will be necessary to develop a workable plan for Depot Street. DWC agreed that renovating the park would enhance the pedestrian experience at that end of the Downtown and steer visitors closer to the parking garage. Mr. Hites said they endorsed the idea of applying for the \$10,000 grant to perform a feasibility study to determine the best use for the Depot Street lot. If the Dogwood Foundation will only accept grants for "shovel ready" projects, the DWC requested that the Town Council fund the feasibility study and the grant be used for construction of the Park and they would look to the TDA, and the Medford Fund to help fund the remainder of the construction of the Depot Street niche park. Use \$10K for design. And then that will fund up to a \$50K project.

Councilmember Feichter asked if the Town can use funds for the feasibility study. Ms. Miller said it can only be used on tangible items such as a mural, tables, shade structures, and landscaping.

Councilmember Feichter said based on Mr. Woltz's professional opinion, he feels strongly that a feasibility study is necessary. Ms. Miller said they will only a project budget and it's not an open application process. She said the grant application is due Jan 8th and they will release funds in February or March.

Mr. Hites mentioned the mural that DWC is working on. He suggested that the grant could help pay for the mural.

A motion was made by Councilmember Feichter, seconded by Councilmember Freeman, to endorse the Town applying for a Dogwood Foundation Grant. The motion passed unanimously.

Councilmember Dickson said he would like the DWC to continue with the niche park efforts.

F. COMMUNICATION FROM STAFF

7. Manager's Report

- Town Manager, Rob Hites

Town Manager Rob Hites reported that the contractor is putting in the final phase of the wayfinding signs in Waynesville. He said Hazelwood residents are already calling and complimenting the new signs.

8. Town Attorney Report

- Town Attorney, Martha Bradley

Nothing to report.

G. COMMUNICATIONS FROM THE MAYOR AND COUNCIL

Councilmember Dickson asked if Town staff could gather together Development Services to do clean up of junked vehicles on S. Main Street and possibly present options on dealing with things like that.

Councilmember Sutton said there are two items of outstanding business, the closure of DOT road near Ingles and the one in front of the country club. He requested that staff put those items on the January agenda.

Mayor Gary Caldwell requested that the bump out on Depot Street be removed because it disrupts traffic coming up to the light.

H. CLOSED SESSION

9. To enter into closed session under NC General Statute § 143.318.11(a)(3) to discuss to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, the matter of Autobell Car Wash, LLC and Autobell-Arrowhead, Inc. v. Town of Waynesville and to enter into closed session under NC General Statute § 143.318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

- Town Attorney, Martha Bradley

A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to enter into closed sessions under NC General Statute § 143.318.11(a)(3) to discuss to consult with an attorney employed or

retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, the matter of Autobell Car Wash, LLC and Autobell-Arrowhead, Inc. v. Town of Waynesville and under NC General Statute § 143.318.11(a)(6) and to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee at 6:45pm. The motion passed unanimously.

A motion was made by Councilmember Dickson, seconded by Councilmember Freeman, to go back into open session at 7:25pm. The motion passed unanimously.

I. ADJOURN

A motion was made by Councilmember Freeman, seconded by Councilmember Dickson, to adjourn at 7:25pm. The motion passed unanimously.

ATTEST:

Gary Caldwell, Mayor

Robert W. Hites, Jr. Town Manager

Candace Poolton, Town Clerk

**TOWN OF WAYNESVILLE TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: 12/12/23**

SUBJECT: Budget Amendment for Ordinance No. 11

AGENDA INFORMATION:

Agenda Location: Consent Agenda
Item Number:
Department: Administration
Contact: Jesse Fowler, Assistant Town Manager
Presenter: Jesse Fowler, Assistant Town Manager

BRIEF SUMMARY: The key card access software that controls the key card access systems in the Municipal Building and Town hall require updates. This update will not require new card readers to be installed on any of the doors of either building. However, this update will require the system control panels to be replaced, as well as the purchase of new software that will be installed on the computers of each designated system administrator.

There is currently enough funding budgeted in the Administration department to fund this project in the Municipal Building. However, implementation of this project in Town Hall is an unexpected budgetary expense in the amount of \$9,070. Staff is requesting a budget amendment for \$9,070 in order to install this new system in Town Hall.

MOTION FOR CONSIDERATION:

- Motion to approve Budget Amendment No. 11.

FUNDING SOURCE/IMPACT:

\$9,070 from state forfeiture drug funds.


Misty Hagood, Finance Director

12/7/23
Date

ATTACHMENTS:

- Southern alarm and Security Quote
- Budget Amendment No. 11

MANAGER'S COMMENTS:



305 S. King Street
Hendersonville, NC 28792
828-693-7136

mark.russell@southernalarm.com

Town of Waynesville

16 S Main St

Waynesville, NC 28786

Adam Brunkhorst abrunkhorst@electronicoffice.net

Jesse Fowler: jfowler@waynesvillenc.gov

Access Control:

Town of Waynesville

6- 2-Door Access Control Panels

1- Reuse All Readers and Wiring

Locations:

1. Server Room
2. Tac Extension
3. CID Outside
4. CID Inside
5. PD Rear
6. Evidence Processing
7. Elevator
8. Development Office
9. PD Lobby Entrance
10. Town Hall Side Entry
11. PD Development Entry

Cost: \$9070+tax

Municipal Building

1- 2-Door Access Control Panel

1- Reuse Readers and Wiring

Locations:

1. Rear Entry
2. Basement Entry

Cost: \$1785+tax

Optional for Alarm.com Cloud Service: \$105/month

Ordinance No. O-52-23

Amendment No. 11 to the 2023-2024 Budget Ordinance

WHEREAS, the Town Council of the Town of Waynesville, wishes to amend the 2023-2024 Budget Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Waynesville that the 2023-2024 Budget Ordinance be amended as follows:

General Fund:

Increase the following revenues:

Restricted Fund Balance (State Drug Funds)	9,070
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Increase the following appropriations:

Police Department	9,070
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Adopted this 12th day of December 2023.

Town of Waynesville

Gary Caldwell
Mayor

Attest:

Candace Poolton
Town Clerk

Approved As To Form:

Martha Sharpe Bradley
Town Attorney

**WAYNESVILLE TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: December 12, 2023**

SUBJECT:

Agreement to purchase a portion of property known as 234 W. Marshall Street, 8616-40-7478, to provide greenway access between the Mountain Creek greenway and Vance Street Park.

AGENDA INFORMATION:

Agenda Location: New Business
Item Number:
Department: Development Services and Parks and Recreation Services
Contact: Rob Hites, Elizabeth Teague, or Luke Kinsland
Presenter: Rob Hites

BRIEF SUMMARY:

The Town of Waynesville has been in communication with the new owners of the WNC Storage facility, now Richland Creek Storage, LLC, to create a greenway connection of approximately 150' between the new trail in front of the Mountain Creek Apartments, and the trail at Vance Park. This sliver of property totals 0.054 acres. The terms of the agreement would be as follows:

1. Town purchases the property for \$5,000.
2. Town handles any costs associated with recording and legal description, or other fees.
3. Town handles cost to the seller of modification of their mortgage; and
4. Town maintains the area of the unopened right-of-way of West Marshall Street and the Park area adjacent to the dog park and across the right-of-way from their building (as shown), going forward once conveyance is complete.

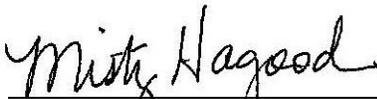
This area is adjacent to a State trout stocking stream. The parcel would be used to connect the Vance Park Greenway with the new Greenway constructed adjacent to Mountain Creek Apartments. In the future we would recommend that an ADA accessible fishing pier and viewing area be constructed on the property. It is identified in the 2017 Greenway Feasibility Study as a "pinchpoint". Construction of an elevated walkway and pier would require a "no rise study" since the improvements would reside within the floodway.

MOTIONS FOR CONSIDERATION:

1. Approve the purchase of the 0.054 acre parcel under the terms of the attached contract.

FUNDING SOURCE/IMPACT:

\$5,000 from the General Fund.


Misty Hagood, Finance Director

12/4/2023
Date

ATTACHMENTS:

- Property Information and area of proposed Town Maintenance
- Survey
- Page 17 of the 2017 Greenway Feasibility Study.

MANAGER'S COMMENTS AND RECOMMENDATIONS: The staff has attempted to acquire an easement or purchase of the parcel outlined in Mr. Ensley's survey for a number of years without success. Ms. Teague reached out to the new owners of the storage units as soon as the sale was consummated and found them receptive to some sort of conveyance. The parcel is a critical link in the Town's Greenway program. We have negotiated the terms of the contract with the new owners. We recommend the Council approve the purchase of the property.

OFFER TO PURCHASE AND CONTRACT AGREEMENT

For valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Grantee offers to purchase and Grantor upon acceptance agrees to sell and convey the Property on the terms and conditions of this Offer to Purchase and Contract Agreement and any addendum or modification made in accordance with its terms (together the "Agreement").

1. **TERMS and DEFINITIONS:** The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) **"Grantor":** RICHLAND CREEK STORAGE, LLC, a North Carolina Limited Liability Company, 176 Mine Lake Court #100, Raleigh, NC 27615 (hereafter "Grantor").

(b) **"Grantee":** the TOWN OF WAYNESVILLE, a municipal corporation of Haywood County, North Carolina, 16 South Main Street, Waynesville, NC 28786 (hereafter "Grantee").

(c) **"Real Estate":** The Real Estate shall include a portion of that certain lot or parcel of land described below together with all appurtenances thereto.

- a. Fee simple title to a portion (roughly 30 feet by 70 feet) of that 0.587-acre parcel of real property located at 234 West Marshall Street, Waynesville, North Carolina and being a portion of that parcel of real property more particularly described in a deed recorded at Deed Book RB 1078, Page 1679 of the Haywood County Registry (hereafter the "Property") for the purpose of the construction of a greenway running between Grantor's parcel and Richland Creek for the use and enjoyment of the general public. Some or all of the Real Estate may be described in Deed Book RB 1078 at Page 1679 of the Haywood County Registry.
- b. A temporary construction easement, immediately adjacent to the Property for the purpose of installing, constructing, replacing, or removing, as necessary from time to time, the greenway, utility maintenance, and shoreline construction/reconstruction.

(d) **"Purchase Price":**

\$5,000.00 Paid in U.S. Dollars in cash at Settlement.

The purchase price shall be the complete cost for the Property. Should Grantee fail to pay any monies by their due dates, or should any check or other funds paid by Grantee be dishonored, for any reason, by the institution upon which the payment is drawn, Grantee shall have one (1) banking day after written notice to deliver cash, official bank check, wire transfer or electronic transfer to the Grantor. In the event Grantee does not timely deliver the required funds, Grantor shall have the right to terminate this Contract upon written notice to the Grantee.

(e) **Intentionally deleted.**

Grantee initials _____ Grantor initials _____

- (f) **“Property”**: The Property shall mean the Real Estate described in 1 (c).
- (g) **“Effective Date”**: The date that: (i) the last one of Grantee and Grantor has signed or initialed this offer or the final counteroffer, if any, and (ii) such signing or initialing is communicated to the party making the offer or counteroffer, as the case may be. The parties acknowledge and agree that the initials lines at the bottom of each page of this Contract are merely evidence of their having reviewed the terms of each page, and that the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement.
- (h) **“Settlement”**: The proper execution and delivery to the closing attorney of all documents necessary to complete the transaction contemplated by this Contract, including the deed, settlement statement, deed of trust and other loan or conveyance documents, and payment of all funds necessary to complete such transaction.
- (i) **“Settlement Date”** The parties agree that Settlement will take place on _____ (The “Settlement Date”) unless otherwise agreed in writing, at a time and place designated by Grantee. The parties acknowledge and understand that Settlement may be delayed for a number of reasons, including but not limited to: (i) an extension of the Pre-Purchase Evaluation Period under paragraph¹; (ii) an unsatisfactory title update or the closing attorney’s lack of authority to disburse funds; or (iv) Grantor’s failure to perform any required correction, repair, treatment or remediation or other work that may be required. In the event of a delay in Settlement, the Settlement Date will be extended by a reasonable time to account for the delay(s) experienced. Unless otherwise agreed in writing, there must be Substantial Completion² of the agreed upon obligations on or before the Settlement Date.
- (j) **“Closing”**: The completion of the legal process which results in the transfer of title to the Property from Grantor to Grantee. Closing includes the following steps: (1) the Settlement (defined above); (2) the completion of a satisfactory title update to the Property following the Settlement; (3) the closing attorney’s receipt of authorization to disburse all necessary funds; and (4) recordation in the appropriate county registry of the deed(s) and deed(s) of trust, if any, which shall take place as soon as reasonably possible for the closing attorney after Settlement. Upon Closing, the proceeds of sale shall be disbursed by the closing attorney in accordance with the settlement statement and the provisions of Chapter 45A of the North Carolina General Statutes. If the title update should reveal unexpected liens, encumbrances or other title defects, or if the closing attorney is not authorized to disburse the lender’s funds, then the Closing shall be suspended and the Settlement deemed delayed.
- (k) **“Special Assessments”**: A charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners’ association in addition to any regular

¹ I suspect this corresponds to Paragraph 2 that was intentionally deleted and should also be deleted but please confirm.

² This term is not defined; please define.

Grantee initials _____ Grantor initials _____

assessment (dues), either of which may be a lien against the Property. A Special Assessment may be either proposed or confirmed.

“Proposed Special Assessment”: A Special Assessment that is under formal consideration but which has not been approved prior to Settlement.

“Confirmed Special Assessment”: A Special Assessment that has been approved prior to Settlement whether payable in a lump sum or future installments.

NOTE: Any Proposed and Confirmed Special Assessments must be identified by Grantor in paragraph 9(b), and Grantees and Grantor respective responsibilities for Proposed and Confirmed Special Assessments are addressed in paragraphs 8(a) and 10(k).

2. **Intentionally deleted.**

3. **GRANTEE OBLIGATIONS**

- a. Grantee further agrees to conduct a survey that sets forth the location and legal description of the property to be purchased and bear all expenses associated therewith. Grantee shall cause to be placed survey stakes on the landward side of the Property with two corners being the centerline of Richland Creek. Grantee agrees to bear the expense of causing said survey to be recorded in the Haywood County Registry.
- b. Grantee agrees to maintain the grassy area abutting the park and across from Building “9”.
- c. **Responsibility for Proposed Special Assessments:** Grantee shall take title subject to all Proposed Special Assessments.
- d. **Responsibility for Certain Costs:** Grantee shall reimburse Grantor at Settlement up to Two Thousand Dollars (\$2,000) for attorney’s fees associated with amending the deed of trust recorded at Book RB 1078, Page 1684, Haywood County Registry, or any loan documents associated therewith. Grantor shall present to Grantee, prior to closing, an itemized statement outlining any such costs for review and acceptance by Grantee.

4. **GRANTOR OBLIGATIONS**

Grantor represents and covenants that:

- a. it has owned the Property for less than one year;
- b. it is seized of the aforesaid premises in fee simple and have the right to convey the property hereby granted;
- c. the same are free from encumbrances, except for easements, assessments, restrictions and rights of way of record, the Deed of Trust recorded in Record Book 1078, Page 1684, as modified by that Modification to Deed of Trust recorded in Record Book 1081, Page 407 in the Office of the Haywood County Register of Deeds, and matters shown on the survey recorded in Map Book CABD, Page 2133; and
- d. it will warrant and defend said title to said property against the claims of all persons claiming by, under or through Grantor, other than the exceptions

Grantee initials _____ Grantor initials _____

listed above.

- e. **Evidence of Title, Payoff Statement(s) and Non-Foreign Status:**
- (i) Grantor agrees to use best efforts to provide to the closing attorney as soon as reasonably possible after the Effective Date, copies of all title information in possession of or available to Grantor, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust, leases, and easements relating to the Property.
 - (ii) Grantor shall provide to the closing attorney all information needed to obtain a written payoff statement from any lender(s) regarding any security interest in the Property as soon as reasonably possible after the Effective Date, and Grantor designates the closing attorney as Grantor's agent with express authority to request and obtain on Grantor's behalf payoff statements and/or shortpay statements from any such lender(s).
 - (iii) If Grantor is not a foreign person as defined by the Foreign Investment in Real Property Tax Act, Grantor shall also provide to the closing attorney a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act). In the event Grantor shall not provide a non-foreign status affidavit, Grantor acknowledges that there may be withholding as provided by the Internal Revenue Code.
- f. **Authorization to Disclose Information:** Grantor authorizes: (1) any attorney presently or previously representing Grantor to release and disclose any title insurance policy in such attorney's file to Grantee and both Grantee's and Grantor's attorneys; (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Grantee and both Grantee's and Grantor's attorneys; and (3) the closing attorney to release and disclose any Grantor's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction.
- g. **Access to Property:** Grantor shall provide reasonable access to the Property (including working, existing utilities) through the earlier of Closing or possession by Grantee, including, but not limited to, allowing the Grantee and/or Grantee's agents or representatives, an opportunity to (i) investigate enumerated issues found in paragraphs 2, 3 and 4, (ii) verify the satisfactory completion of negotiated change orders/repairs/improvements, and (iii) conduct a final walk-through inspection of the Property.
- h. **Removal of Grantor's Property:** Grantor shall remove, by the date possession is made available to Grantee, all personal property which is not a part of the purchase and all garbage and debris from the Property.
- i. **Affidavit And Indemnification Agreement:** Grantor shall furnish at Settlement an affidavit(s) and indemnification agreement(s) in form

Grantee initials _____ Grantor initials _____

satisfactory to Grantee and Grantee's title insurer, if any, executed by Grantor and any person or entity who has performed or furnished labor, services, materials or rental equipment to the Property within 120 days prior to the date of Settlement and who may be entitled to claim a lien against the Property as described in N.C.G.S. §44A-8 verifying that each such person or entity has been paid in full and agreeing to indemnify Grantee, Grantee's lender(s) and Grantee's title insurer against all loss from any cause or claim arising therefrom.

- j. **Designation of Lien Agent, Payment and Satisfaction of Liens:** If required by N.C.G.S. §44A-11.1, Grantor shall have designated a Lien Agent, and Grantor shall deliver to Grantee as soon as reasonably possible a copy of the appointment of Lien Agent. All deeds of trust, deferred ad valorem taxes, liens and other charges against the Property, not assumed by Grantee, must be paid and satisfied by Grantor prior to or at Settlement such that cancellation may be promptly obtained following Closing. Grantor shall remain obligated to obtain any such cancellations following Closing.
- k. **Good Title, Legal Access:** Grantor shall execute and deliver a SPECIAL WARRANTY DEED for the Property in recordable form no later than Settlement, which shall convey fee simple marketable and insurable title, without exception for mechanics' liens, and free of any other liens, encumbrances or defects, except: ad valorem taxes for the current year (prorated through the date of Settlement); easements, assessments, restrictions, rights of way of record and those matters that would be revealed by a current and accurate survey of the Property. The Property must have legal access to a public right of way.
- l. **Deed, Taxes, and Fees:** Grantor shall pay for preparation of a deed and all other documents necessary to perform Grantor's obligations under this Contract, and for state and county excise taxes, and any deferred, discounted or rollback taxes, and local conveyance fees required by law. The deed is to be made to: THE TOWN OF WAYNESVILLE.
- m. **Payment of Confirmed Special Assessments:** Grantor shall pay, in full at Settlement, all Confirmed Special Assessments, whether payable in a lump sum or future installments, provided that the amount thereof can be reasonably determined or estimated. The payment of such estimated amount shall be the final payment between the Parties.
- n. **Late Listing Penalties:** All property tax late listing penalties, if any, shall be paid by Grantor.
- o. **Grantor's Failure to Comply or Breach:** If Grantor fails to materially comply with any of Grantor's obligations under this Paragraph 4 or Grantor materially breaches this Contract, and Grantee elects to terminate this Contract as a result of such failure or breach, Grantor shall reimburse to Grantee the reasonable costs actually incurred by Grantee in connection with Grantee's qualification for and approval of any tests, surveys, appraisals, investigations, examinations and inspections of the Property conducted by

Grantee initials _____ Grantor initials _____

Grantee or Grantee's agents or representatives, without affecting any other remedies. If legal proceedings are brought by Grantee against the Grantor to recover the reasonable costs actually incurred by Grantee in connection with any tests, surveys, appraisals, investigations, examinations, and inspections of the Property conducted by Grantee or Grantee's agents or representatives, the prevailing party in the proceeding shall be entitled to recover from the nonprevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

- p. **Prorations and Adjustments:** Unless otherwise provided, the following items shall be prorated, with Grantor responsible for the prorated amounts through the date of Settlement and either adjusted between the parties or paid at Settlement: Ad valorem taxes and recurring governmental service fees levied with such taxes on real property shall be prorated on a calendar year basis.
5. **POSSESSION:** Possession, including all means of access to the Property (keys, codes including security codes, garage door openers, electronic devices, etc.) shall be delivered upon Closing as defined in Paragraph 1(j) unless otherwise provided herein.
6. **PARTIES:** This Contract shall be binding upon and shall inure to the benefit of Grantee and Grantor and their respective heirs, successors, and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.
7. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.
8. **EXECUTION:** The Parties agree that the proper execution and delivery of all documents necessary to complete the transaction contemplated by this Agreement (hereafter "Settlement"), including the deed, settlement statement, deed of trust and other loan or conveyance documents, and the closing attorney's receipt of all funds necessary to complete such transaction shall take place on or before _____, 2023 (hereafter "Settlement Date"), unless otherwise agreed to by the Parties in writing, at a time and place designated by Grantor.
9. **TERMINATION:** Grantee shall have the right to terminate this Agreement for any reason or no reason, by delivering to Grantor a written notice of termination at any time prior to seven (7) days before the Settlement Date.

It is agreed that this agreement supersedes all prior agreements between the parties, and no representations or statements, verbal or written, have been made modifying, adding to or changing the terms of this agreement.

Grantee initials _____ Grantor initials _____

IN TESTIMONY WHEREOF, the said Parties have hereunto set their hands.

GRANTOR:

RICHLAND CREEK STORAGE, LLC

BY: _____

NAME: _____

TITLE: _____

ADDRESS: 176 Mine Lake Ct. #100
Raleigh, NC 27615

GRANTEE:

TOWN OF WAYNESVILLE

BY: _____

NAME: Robert W. Hites

TITLE: Town Manager

ADDRESS: 16 S. Main St.
Waynesville, NC 28786

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Date

Misty Hagood, Finance Director

Grantee initials _____ Grantor initials _____

**TOWN OF WAYNESVILLE TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: 12/12/23**

SUBJECT: Fee Schedule Amendment

AGENDA INFORMATION:

Agenda Location: Consent Agenda
Item Number:
Department: Administration
Contact: Jesse Fowler, Assistant Town Manager
Presenter: Jesse Fowler, Assistant Town Manager

BRIEF SUMMARY: individuals who apply for and install a photovoltaic solar panel generating facility no larger than 20kw are eligible for the town of Waynesville’s Solar Interconnection Electric Fee Rate Rider. Application for this rate rider, and the review of the photovoltaic solar panel generating facility is a cross-departmental process with an associated fee of \$100. This fee is not currently adopted by the Town Council. Therefore, staff is requesting action to amend the Town of Waynesville Fee Schedule to include a \$100 fee for application for the Town of Waynesville’s Solar Interconnection Rate Rider.

MOTION FOR CONSIDERATION:

- Motion to amend the Town of Waynesville Fee Schedule to include a \$100 fee for application for the Town of Waynesville’s Solar Interconnection Electric Fee Rate Rider.

FUNDING SOURCE/IMPACT:

ATTACHMENTS:

MANAGER’S COMMENTS:

**TOWN OF WAYNESVILLE COUNCIL MEETING
REQUEST FOR COUNCIL ACTION
Meeting Date: December 12, 2023**

SUBJECT: Budget Amendment to use Restricted Funds from the North Carolina State Drug Fund in the amount of \$4,025.00.

AGENDA INFORMATION:

Agenda Location: Consent Agenda
Item Number:
Department: Police
Contact: Chief David Adams
Presenter: Chief David Adams

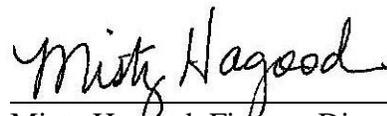
BRIEF SUMMARY:

We are purchasing a 16-foot utility trailer to haul our Polaris Utility Vehicle and motorcycles. Currently, our Department does not have a trailer to move these vehicles around. The cost will be \$4,025.

MOTION FOR CONSIDERATION:

1. To approve the purchase of the utility trailer
2. To approve the budget amendment as presented

FUNDING SOURCE/IMPACT: North Carolina State Drug Funds will be used for the purchase.


Misty Hagood, Finance Director

12/5/23

Date

ATTACHMENTS:

1. Budget Amendment

MANAGER'S COMMENTS AND RECOMMENDATIONS:

Ordinance No. O-53-23

Amendment No. 12 to the 2023-2024 Budget Ordinance

WHEREAS, the Town Council of the Town of Waynesville, wishes to amend the 2023-2024 Budget Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Waynesville that the 2023-2024 Budget Ordinance be amended as follows:

General Fund:

Increase the following revenues:

Restricted Fund Balance (State Drug Funds)	4,025
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Increase the following appropriations:

Police Department	4,025
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Adopted this 12th day of December 2023.

Town of Waynesville

Gary Caldwell
Mayor

Attest:

Candace Poolton
Town Clerk

Approved As To Form:

Martha Sharpe Bradley
Town Attorney

**TOWN OF WAYNESVILLE COUNCIL MEETING
REQUEST FOR COUNCIL ACTION
Meeting Date: December 12, 2023**

SUBJECT: Resolution Awarding Badge and Duty Weapon (handgun) to retiring Sr. Lieutenant Christopher Chandler.

AGENDA INFORMATION:

Agenda Location: New Business
Item Number:
Department: Police
Contact: Chief David Adams
Presenter: Chief David Adams

BRIEF SUMMARY:

Sr. Lieutenant Chandler is retiring after 30 years of service with the Waynesville Police Department. Chris has served in many roles during his distinguished career, and he will be sorely missed.

MOTION FOR CONSIDERATION:

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

MANAGER'S COMMENTS AND RECOMMENDATIONS:

TOWN OF WAYNESVILLE

**RESOLUTION R-31-23
AWARDING BADGE AND SERVICE DUTY WEAPON
TO RETIRING POLICE
SENIOR LIEUTENANT CHRIS CHANDLER**

WHEREAS, North Carolina General Statute 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality, and

WHEREAS, North Carolina General Statute 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member, and

WHEREAS, Senior Lieutenant Chris Chandler has served as a member of the Police Department for the Town of Waynesville from September 1995 to December 2023, in varying capacities beginning as a Patrol Officer in 1995, then continued his career as a Detective in CID, to promotion of Sergeant in 2005, with an additional promotion of Lieutenant in 2011, and to Senior Lieutenant in 2020, where he served until his retirement for the Town of Waynesville where he provided direction and leadership for the department.

NOW, THEREFORE, BE IT RESOLVED, I, James Gary Caldwell on behalf of the members of the Town Council for the Town of Waynesville, North Carolina, the following:

The Police Chief of the Town of Waynesville is hereby authorized in accordance with the provisions of North Carolina General Statute 20-187.2 to transfer to Senior Lieutenant Chris Chandler the badge worn by him during his service with the Waynesville Police Department and his service duty weapon, identified as a **Glock, Model 45, 9mm, (Serial # CBS936)**.

Adopted this 12th day of December 2023.

J. Gary Caldwell, Mayor

ATTEST:

Candace Poolton, Town Clerk