



**MINUTES OF THE  
TOWN COUNCIL MEETING OF THE  
TOWN OF PINEVILLE, NORTH CAROLINA  
TUESDAY, AUGUST 14, 2018**

The Town Council of the Town of Pineville met in Regular Session and Closed Session on Tuesday, August 14, 2018 at 6:30 p.m. at the Hut Meeting Facility in Pineville.

**ATTENDANCE**

Mayor: Jack Edwards  
Mayor Pro-Tem: David Phillips  
Council Members: Debbie Fowler, Melissa Davis and Joe Maxim  
Town Manager: Ryan Spitzer  
Planning Director: Travis Morgan  
Planner: Brian Elgort  
Town Clerk: Barbara Monticello

**CALL TO ORDER**

The meeting was called to order by Mayor Edwards at 6:34 p.m. Anyone that wished to speak on an item was asked to sign the speaker's list.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Council Member Melissa Davis led the group in the Pledge of Allegiance.

**MOMENT OF SILENCE**

Mayor Edwards called for a general moment of silence for first responders, police, fire, and military personnel. Planning and Zoning Director, Travis Morgan, introduced the new Town Planner, Brian Elgort.

**ORDER OF BUSINESS:**

**Adoption of the Agenda:**

Mayor Edwards asked that item 8A be moved up to be presented before the Splash Pad item under Old Business. Council Member Debbie Fowler moved to approve the agenda with the change, seconded by Mayor Pro Tem David Phillips. There were ayes by all and the agenda was adopted with the change.

**Approval of the Minutes from the Regular Meeting of July 10, 2018 and the Regular and Closed Session from the Work Session of July 23, 2018 and the Special Called Meeting of August 1, 2018.**

Hearing no changes, a motion was made by Council Member Melissa Davis and seconded by Council Member Debbie Fowler to approve all sets of minutes. There were ayes by all and all sets of minutes were approved.

**Consent Agenda:**

The only item on the Consent Agenda was: a) *Police Department Capital Outlay Item*. Town Manager, Ryan Spitzer explained that the police department wanted to purchase a Ford F150 to replace the one Chris Delux drives. There was already money in the budget under asset forfeiture funds to cover the cost of it. Mayor Pro Tem David Phillips moved to approve the purchase of the vehicle, seconded by Council Member Melissa Davis. There were ayes by all and the motion passed 4-0.

## **PUBLIC COMMENT:**

**Jenna Cuddeback** – Ms. Cuddeback introduced herself as a senior at South Meck HS interning at Pineville Neighbors Place. She stated that Pineville Neighbors Place had their Grand Opening Ribbon Cutting on July 18<sup>th</sup> at their new building and invited anyone that hadn't been to visit yet to come and check out their new facility. She noted that Pineville Neighbor's Place had helped a total of 116 people so far and that they were getting ready to assist Sterling Elementary School with school supplies as well as partner with Pineville Police for Shop With a Cop.

## **PUBLIC HEARINGS:**

- A. Town's Intent to Exchange Property (Ryan Spitzer).** A motion was made and seconded to open the Public Hearing. There were ayes by all. Town Manager, Ryan Spitzer, made a presentation for the public to explain the Johnston Drive realignment project and the town's intent to swap properties with Mr. Goode in connection with that realignment. He explained that the town currently owns the property that Luna occupies and Mr. Goode owns the property where Oowee BBQ is. In order for the realignment to occur, the town needs to acquire the Goode property as the street will be realigned to go through it. The NCGS requires the town to hold a public hearing to declare its intent to carry out the property exchange.

An agreement has been worked out and is being finalized for the exchange of properties between the town and Mr. Goode. Mr. Spitzer added that we won't get funding from the state for a while so the BBQ restaurant can remain until the fall of 2019. Additionally, it was Mr. Goode's intention to eventually demolish the house that Luna occupies to construct a commercial building at some point.

Council Member Melissa Davis was disappointed in losing the house because of the character it added to Main St. She asked if the home could be moved elsewhere but Mr. Spitzer indicated that structurally the building was not in the best shape so it may not survive a move. Planning Director, Travis Morgan, added that if the swap was approved, it meant the town only had to purchase two properties, not three, nor did it need to use eminent domain to take any property.

Hearing no comments from the public and no further question or comments from Council, Mayor Pro Tem David Phillips moved to close the public hearing with Council Member Debbie Fowler seconding the motion. There were ayes by all and the public hearing was closed at 6:49 p.m. Mr. Spitzer added that action would be taken at the next Regular Council Meeting in September.

## **NEW BUSINESS:**

- A. Presentation by Angela Lee, Director of Charlotte Water.** Ms. Angela Lee, Director of Charlotte Water, was present to provide an update and present a short video. Ms. Lee prefaced the video by stating that Charlotte Water was the largest water/waste water facility in North Carolina. It had a AAA rating, no water violations and a high quality of water. Charlotte Water's goal is to rehabilitate the infrastructure which is quite old in some areas so that it can continue to provide safe water to its customers for years to come.

## **OLD BUSINESS:**

- A. Splash Pad (Ryan Spitzer).** Town Manager Spitzer, stated that three bids had been received for the construction of the splash pad with the lowest bid by Fairwood Construction at \$400,895. This amount was actually \$82,894.60 over the previously estimated costs, identifying changing market conditions, increased construction in the area and increased costs of materials as the reasons for the difference. He added that after speaking with an engineer, all the projects he was working on had come in over budget by \$100,000 or more.

Mr. Spitzer reviewed the timeline of events that have occurred over the course of the project so far to explain why the project was not on schedule including a redesign of the bathroom, infrastructure and permitting issues and

procedural and approval delays. There was also a change in removing three metal benches and replacing them with a stone seat wall. The splash pad would not be built in time to open this year; it will open next year. He further explained that at the time the town applied for the grant to fund this project, we did not consult first with an engineer or design construction company to determine if there were any issues with the site itself and only found out about infrastructure issues when well into the project. He pointed out that the difference in the original estimate and the bid quote was only a 12% variance.

Mr. Spitzer reiterated that the price that Fairwood Construction presented was a binding figure. Additionally, they were provided with 500 pages of project manual information and a soil study. They have indicated that it would take 135 days to construct the splash pad, not including any weather delays, and the penalty for going over that limit would be \$500 per day.

Mr. Spitzer proposed using \$50,000 of the \$100,000 budgeted for concrete work out of the CIP fund (leaving \$50,000 in it), remove two of the splash pad features at \$15,000-\$20,000, remove the benches and replace with the stone seat wall at a savings of \$5,000 and the balance remaining would only be \$13,000. This could easily be absorbed by the Park and Recreation and Cultural & Tourism budgets during the next fiscal year.

Council Member Debbie Fowler pointed out that Council had opted to add two additional features from the original proposed plan so it really wasn't a matter of removing two features – it was more like going with the original plan before Council had agreed to add the two additional features. Mr. Spitzer added that Fairwood put both a bench and seat wall in their quote and all the town was doing was removing the benches to save some money. He also stated that Benesch would be responsible for keeping track of any bad weather days and that Fairwood would start the work laying the concrete pads but Vortex would finish the project with the actual features. Vortex's share of the cost was \$295,000 with Fairwood's costs being the rest.

Discussion followed with Council Members expressing their concerns. Council Member Melissa Davis stated that there were delays with this project from the start beginning with Woolpert who held the project up twice. Benesch originally stated it would take 10 months total from start to finish but we are so far off that schedule and the budget. She stated that we should have done the splash pad before we did the dog park so we would have had more money to spend on the splash pad. Additionally, she was concerned about using the concrete money to help pay for the pad because there was also a need to redo the sidewalks. She was disappointed in the delays and overages.

Mayor Pro Tem David Phillips was also concerned about the delays and the amount of money being spent. The project had taken way too long from the time we applied for the grant to get it off the ground as well as taking on projects that continue to escalate in cost. He stated that he "guaranteed the \$18,000 contingency money will be used," adding that there would be overages both on Fairwood's end as well as Vortex's end unless both sign a contract to build it for the amount quoted and not one penny more. He did not understand the way the contract was written and wanted to see one that was straight forward stating that they would build the splash pad for the amount they said they would. Additionally, he was concerned about the recent flooding at the Belle Johnston Center and how much that would cost to repair.

Mr. Spitzer responded that Fairwood would have to provide bond money in case anything should go wrong, they go bankrupt or walk away from the project. That is what bond money was for. Additionally, if they go over the contingency amount of money, he would have to go before Council for direction. Council Member Joe Maxim was not comfortable in delaying the splash pad project anymore. The grant had a 3-year deadline that if not used by October, 2019, the money would have to be returned.

Council Member Debbie Fowler was concerned that we had an engineer that knew if everything was being done correctly. In the past we asked to have one to oversee other projects but never got one. Mr. Spitzer assured her that we did have one now.

Council Member Joe Maxim asked if Council could get regular monthly updates. Mr. Spitzer stated that we could have Benesch come in each month to provide an update. Mr. Maxim added that we were doing better than we had

in the past having a more controlled handle on projects than previously. Mayor Edwards added that if we refer to the horrors of the past, we'll never have another contractor here again. Mr. Spitzer stated that the contractor was ready to get started on the project. Council Member Fowler stated that being we had an engineer on this project, she was ready to move forward. She did not want to hold the town back from completing this project nor did she want to delay it any longer. Council Member Maxim agreed and added that the town's financial health was very strong and he was ready to vote.

Council Member Joe Maxim moved to accept and approve the splash pad bid from Fairwood Construction as presented seconded by Council Member Debbie Fowler. Council Member Melissa Davis and Mayor Pro Tem David Phillips voted against approving it. Vote was two in favor, two against with Mayor Edwards breaking the tie by voting in favor of approving the bid from Fairwood to move forward with the splash pad as presented.

- B. Resolution No. 2018-07 in Support of NCDOT Abandoning a Remnant of Land (Travis Morgan)** – Planning and Zoning Director, Travis Morgan, stated there was a small, triangular wedge of land along Old Pineville Road and Cadillac Street that was not being used. He thought it may be beneficial to the town if the NCDOT abandoned that sliver of land to the town. He added that it was usually done at low or no cost to the town.

Hearing no questions or comments on the matter, Council Member Debbie Fowler moved to approve Resolution No. 2018-07 to abandon the triangular remnant of Old Pineville Road, seconded by Council Member Melissa Davis. There were ayes by all and the resolution was adopted 4-0.

- C. Tax Collectors Settlement and Order of Collection (Richard Dixon)**—Finance Director, Richard Dixon, explained that each year Mecklenburg County sends us a settlement statement of the taxes they collected for the town, the percentage of the total amount collected and an Order of Collection to designate them as our tax collector for the coming fiscal year. The Settlement Statement is required to be accepted into the town's official records while the Order of Collection must be signed and returned to the county. Council Member Melissa Davis pointed out that 99.81% of the taxes due from Pineville were actually collected by the county; a very favorable percentage worth mentioning. All Agreed. Council Member Debbie Fowler moved to accept the Settlement Stated and approve Mecklenburg County as our tax collector for the coming year. Mayor Pro Tem David Phillips seconded the motion and there were ayes by all.

- D. Staff Update:** Mr. Spitzer provided an update on the following:

- York Development's due diligence deadline was coming due on September 9th.
- Lending Tree is moving closer toward meeting their due diligence timeframe.
- Issue with our bond procedures will need to be changed to comply with state statutes.
- Engineer determined that a turn lane from Franklin St. was doable.

Mr. Spitzer anticipated there would be a Work Session for August. At 8:23 p.m. Mayor Edwards called for a break before moving into Closed Session.

**CLOSED SESSION:** Upon the motion made by Council Member Debbie Fowler and seconded by Mayor Pro Tem David Phillips, and unanimously approved, Council entered Closed Session. Mr. Andrew Trump was present to provide an update on developments relating to a real estate transaction. Closed Session concluded at 9:16 p.m. Council Member Joe Maxim moved to enter back into Open Session, seconded by Mayor Pro Tem David Phillips. There were ayes by all and Council went back into Open Session.

**OPEN SESSION:** Once back in Open Session Council Member Joe Maxim moved to approve the town paying \$30,000 for an expedited Brownsfield Agreement. Mayor Pro Tem David Phillip seconded the motion. There were ayes by all and the motion passed unanimously.

#### **ADJOURNMENT**

At 9:18 p.m. a motion was made by Council Member Debbie Fowler and seconded by Mayor Pro Tem Phillips to

adjourn the meeting. There were ayes by all and the meeting adjourned.

  
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David Phillips, Mayor Pro Tem

ATTEST:   
Barbara Monticello, Town Clerk

