

**COUNCIL MEETING  
AGENDA**

**Pineville Meeting Hut  
Tuesday, October 8, 2019  
6:30 p.m.**



**PINEVILLE TOWN COUNCIL AGENDA  
6:30 P.M. - PINEVILLE HUT MEETING FACILITY  
TOWN OF PINEVILLE, NORTH CAROLINA  
TUESDAY, OCTOBER 8, 2019**

- 1) Call Meeting to Order:**
  - a) Pledge Allegiance to the Flag: (MD)**
  - b) Moment of Silence:**
- 2) Adoption of Agenda:**
- 3) Approval of the Minutes from the:** Regular & Closed Session Meetings of September 10, 2019 and the Work Session Meeting of September 23, 2019.
- 4) Consent Agenda:** a) *Finance Report as of 09/30/19*
- 5) Public Comment:**
- 6) Public Hearing:** *None*
- 7) Old Business:** *None*
- 8) New Business:**
  - A. AMENDING TOWN CODE TO REMOVE CRIMINAL ENFORCEMENT** (*Travis Morgan*) As Discussed at the September Work Session (**ACTION ITEM**).
  - B. PCAA Tapping Fees** – Paul Boyd of PCAA will be present to request funding for Water/Sewer tap fees (**ACTION ITEM**).
  - C. RESOLUTION TO PAY FOR CONSTRUCTION OF NEW TOWN HALL -** (*Ryan Spitzer*) IRS regulations require a resolution for expenses prior to debt obligation (**ACTION ITEM**).
  - D. APPROVE AND SIGN CONTRACT FOR NEW TOWN HALL FINANCING** (*Ryan Spitzer*) Review and approve contract (**ACTION ITEM**).
  - E. BUDGET AMENDMENT** (*Richard Dixon*) To transfer funds for workstation/console upgrades, PW salaries/benefits for mowing contract (**ACTION ITEM**).
  - F. Staff Update:**
    - 1) Manager's Report**
    - 2) Calendar of Events**

**9) Adjourn**

*If you require any type of reasonable accommodation as a result of physical, sensory, or mental disability in order to participate in this meeting, please contact Barbara Monticello, Clerk of Council, at 704-889-2291 or [bmonticello@pinevillenc.gov](mailto:bmonticello@pinevillenc.gov). Three days' notice is required.*

# **MINUTES**

**Minutes from the Town  
Council Regular and  
Closed Session Meeting  
September 10, 2019 and  
Town Council Work  
Session September 23, 2019**



**MINUTES OF THE  
TOWN COUNCIL MEETING OF THE  
TOWN OF PINEVILLE, NORTH CAROLINA  
TUESDAY, SEPTEMBER 10, 2019**

The Town Council of the Town of Pineville met in Regular and Closed Session on Tuesday, September 10, 2019 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 & Zoning Director: Travis Morgan  
Town Clerk: Barbara Monticello

**CALL TO ORDER**

Mayor Jack Edwards called the meeting to order at 6:30 p.m.

**PLEDGE OF ALLEGIANCE TO THE FLAG (DP)**

Mayor Pro Tem David Phillips led the group in the Pledge of Allegiance.

**MOMENT OF SILENCE**

Mayor Edwards asked for a moment of silence for our troops, first responders, police, fire and our military men and women. He asked those in attendance to remember the Martin family, for their loss of Police Officer Dan Martin, who recently passed, the baby left in a car recently who also passed, and the terrorist acts of 9/11. Also, keep the people affected by Hurricane Dorian in the Bahamas and along the East Coast in your thoughts and prayers.

**ORDER OF BUSINESS:**

**Adoption of the Agenda:**

Council Member Debbie Fowler moved to adopt the agenda with Council Member Melissa Davis seconding the motion. There were ayes by all and the agenda was adopted as is.

**Approval of the Minutes from the Regular & Closed Session Council Meeting of August 6, 2019 and the Work Session of August 26, 2019.**

Mayor Pro Tem David Phillips moved to approve the minutes, seconded by Council Member Debbie Fowler. There were ayes by all and the minutes were approved.

**Consent Agenda:**

The Consent Agenda consisted of the following items: a) *Finance Report as of 8/31/19* b) *Proclamations for Constitution Week and Public Power Week*. Council Member Debbie Fowler moved to approve the consent agenda as is, seconded by Council Member Melissa Davis. There were ayes by all and the motion passed 4-0.

**PUBLIC COMMENT:**

Resident, **Al Baskins**, spoke on the Mill stating that the Town needs to take care of the property. The Town has Code Enforcement out there writing tickets to everyone else for tall grass but the town was not taking care of the property as grass was growing on top of the building. He stated the Mill was the biggest eyesore in Pineville that was holding the town up from moving forward. The Mill was more important to residents than districting, but it was keeping residents in the dark about what was happening with it. He stressed the importance of residents being informed so they know who to vote for. He stated the town was being unfair to residents by not telling them what was happening with the Mill. He stated it was time to tear it down and holding secrets from the public was not what residents wanted because they need to know what is happening.

**Jane Shutt** of Pineville Neighbors Place spoke on the upcoming 4<sup>th</sup> Annual Potato Drop on October 5<sup>th</sup>, 2019. They will have 40,000 pounds of potatoes to be distributed to soup kitchens, etc. They need volunteers to help bag the potatoes. Pineville Neighbors heard that some people may have issues with them assisting Sterling Elementary students as they are in need of help as well as those from Pineville Elementary School. She stated that 84% of the assistance goes to Pineville but 2/3 of volunteers are from outside Pineville.

**Tom Stinsen-Wesley**, Pastor of Pineville United Methodist Church, invited everyone to join them for Civil Servant Sunday, this Sunday at 9 a.m. and 11 a.m. at the gym sanctuary to honor those who serve among us and serve our community. Special Guest will be TJ Whiteley of Pineville Police Department. They will also have a blood drive going on the same day and all are welcome.

Mayor Edwards commented on what Mr. Baskins stated earlier regarding the Mill and discussions of the property. North Carolina State Statutes do allow for discussions in closed sessions but only on limited topics. Real estate issues, particularly with regards to economic development, fall within those guidelines so we're not doing anything in secret, but in accordance with the law and the law requires things to be done correctly and step by step.

**PUBLIC HEARING:** None

**OLD BUSINESS:**

- A. **Retiree Benefits** (*Ryan Spitzer*): Town Manager, Ryan Spitzer, stated that if an employee was hired prior to September 1<sup>st</sup> and had 25 years of service, those employees would receive \$150 toward their health insurance after turning 65. If they were hired after September 1<sup>st</sup>, 2019 there will be no retiree benefits paid. Council Member Joe Maxim asked Finance Director Richard Dixon if there were any special requirements or obligations the town needed to deal with due to these changes? Mr. Dixon replied that we just have to report the change to the auditors. Council Member Joe Maxim moved to approve the revisions to retiree benefits with Council Member Melissa Davis seconding the motion. There were ayes by all and the motion passed unanimously.

**NEW BUSINESS:**

- A. **Miller Road: two resolutions to consider as Miller Road runs adjacent to the State Line.** Planning and Zoning Director, Travis Morgan, provided some background on this issue. Originally this was a State Road which turned left but was rerouted after Pulte Home Company started building. The Right-of-Way was never abandoned and we need to clean it up with the alignment of the road. North Carolina DOT wants to abandon this road to the town of Pineville. The Town would then turn the road over to Pulte and Pulte would improve it and then bond the road before turning it back over to the town of Pineville once all roads are completed in the McCullough subdivision. To ensure road improvements are performed to standards and all requirements such as sidewalks, street lights, etc. are met, the project must be bonded. These would all be improvements for the town. Resolution No. 2019-08 represents the first part of the process of NCDOT abandoning the road to the town.

There is a large, old Oak Tree where the sidewalks are planned and the goal is to attempt to save the tree.

Drawings have been approved and the bond is set from that. Council Member Joe Maxim asked when the final layer of hot mix asphalt was expected? Mr. Morgan stated that it had to do with timing. Normally they would put the top coat on right before turning the street over to the town and correct any damage before turning it over. Mr. Maxim then voiced concern as water is not able to reach the storm drains with the road as is now and he was afraid it would be a problem that just continues. Travis then stated that instead of approving the one road, it could be lumped with the rest of the roads being built so they can all be approved at once, unless council wants to do it separately.

Mayor Pro Tem David Phillips asked if Miller Road fed into another neighborhood or cut into Regent Park? A member of the audience stated that it was gated off now and that no one could get through. Council Member Joe Maxim asked Travis what he thought the prognosis would be on the old, massive oak tree. Travis stated that the property behind the tree was going to be a park, so moving the sidewalk 10 feet to save the tree was not a big deal. Hearing no further discussion, Council Member Debbie Fowler moved to accept Resolution #2019-08. Mayor Pro Tem David Phillips seconded the motion and there were ayes by all.

- B. **Resolution No. 2019-09** – Resolution No. 2019-09 is the second part of process where Miller Rd. is turned over to Pulte Homes. Jeremy Huntsman, of Pulte Homes, spoke regarding this resolution and stated that as long as resolutions are in place they can bond the project. They just did not want to move forward without knowing if the road would be turned over to them. He added that they would do whatever they could to save the oak tree. Council Member Debbie Fowler moved to pass this resolution with Mayor Pro Tem David Phillips seconding the motion. There were ayes by all and Resolution No. 2019-09 passed unanimously.
- C. **Edifice Contract (Ryan Spitzer)** Town Manager, Ryan Spitzer, stated that Edifice was a construction management company for at risk properties that had come to the last Council Work Session to do a short presentation for Council on their role as construction managers. They have done many schools, libraries and government buildings and have a good knowledge of project management. The new Town Hall will be next to the Police Building. They will act as our project manager as the town is not experienced in this sort of thing. This project, a combination of a Town Hall and Library, is an 11.5 million dollar project which is the guaranteed maximum price. If project costs exceed this amount, Edifice becomes responsible for the additional costs. Council Member Melissa Davis asked if our town attorney had looked over the contracts to which Mr. Spitzer responded that she had. Council Member Melissa Davis moved to accept the Edifice contract with Council Member Joe Maxim seconding the motion. The contract was accepted by all and the motion passed.
- D. **Creech and Associates (Ryan Spitzer)** Town Manager, Ryan Spitzer, stated that Creech and Associates was also at the Work Session as the architects for the Town Hall/Library project. He noted a few changes that had been made to their contract since that meeting: under article 12 on page 22, 2 public meetings were added so that we can get an understanding from the public's perspective as to what they want to see in a Town Hall/Library. Three sketches of what the building and area will look like will be revealed to the public to get their opinion. We will then update our contract to reflect any changes.

Article 4 on page 14, if Council decides to do this, it will make this a green project. The additional costs include \$25,000 to commission and \$63,000 to do lead work and paperwork. Most libraries are now lead-certified. Council Member Melissa Davis asked if there would be fees associated with the two public meetings. Ryan replied that there would be no charge for the public meetings. Creech and Associates take 8.5 % of the total cost, which would be a fee of \$977,500. Mayor Edwards then asked Ryan to explain the Lead Certification and how it effects our cost.

Mr. Spitzer replied that it adds an additional \$63,000 to the cost of the project. Council Member Joe Maxim asked if being lead-certified would give us a better shot at landing any grants? Mr. Spitzer responded that he wasn't really sure but would check on it. Council Member Melissa Davis wanted to know if the process would take 6 months for the design work and 15 months for construction two which Mr. Spitzer replied that was correct. Hearing no further comments, Council Member Davis moved to accept the changes to the contract with Joe Maxim seconding the motion. There were ayes by all and the motion passed 4-0.

E. **Prequalification Resolution** (Ryan Spitzer) Mr. Spitzer stated that this was an update to our policy to state our intention to prequalify sub-contractors used in building the new Town Hall. Mayor Pro Tem David Phillips moved to accept this update and Council Member Debbie Fowler seconded the motion. There were ayes by all and the motion passed.

F. **Review/Approve Contract for Storm Water Issues** (Ryan Spitzer) Mr. Spitzer advised the group of the storm water issues on Lynnwood Lane and Lakeview Drive. To improve the storm water flow, the town needs to have design work and survey work done. We put an RFP out to bid and LaBella was the only company that responded with a bid for the project. The bid totals came in at \$149,000 for the project and \$12,000 for the surveys. Mayor Pro Tem David Phillips asked if the sidewalks were still within the design plan. Mr. Spitzer stated that they will still be in the design work, but we did not have to install them just yet.

Council Member Melissa Davis asked what impact this would have on any development in back of this area. Mr. Spitzer stated that we could have them pay for some of this as the project is designed to accommodate run off from them. Mayor Pro Tem David Phillips asked when the project would start. The representative from LaBella stated that they could start tomorrow with letters going out and then the bid project going out in mid spring of 2020. The surveyor would be able to start in 3 to 4 weeks. Council Member Melissa Davis moved to accept the contract and Council Member Joe Maxim seconded the motion. There were ayes by all and the motion passed.

G. **Work Session Dates for November and December, 2019** (Ryan Spitzer) Mr. Spitzer announced that the work session dates for November and December of 2019 were being changed to one week earlier due to the meeting falling in holiday weeks.

H. **Staff Update** (Ryan Spitzer) – Town Manager, Ryan Spitzer, reported on the following items:

- Reviewed Electricities Survey with Council. Electricities conducted a survey on electric customers with results showing a confidence level of 95% with an overall rating of 92.7% with customer service included. North Carolina Public Power Agents had an 83.3% average across the state. Competitors, such as Duke Energy, only had an average of 80.1%. We did better than other power agencies around the state.
- Work Session is scheduled for September 23, 2019. Electricities will present Pineville Systems Study at that meeting.
- Town Hall Meeting Wednesday, September 11, at the Hut Meeting Facility. Town Manager Ryan Spitzer will answer questions residents may have on districting and other topics if time allows.
- News – Blue/green algae has been detected at the lake at the park. It is not a total infestation of the algae but only located in a small area. What is there will die off with the first frost so no further action is needed.

Mayor Edwards requested a ten-minute break at 7:28 p.m. before moving in to the Closed Session.

**CLOSED SESSION:** Melissa Davis moved to enter Closed Session at 7:50 p.m. seconded by Council Member Joe Maxim. A lengthy discussion took place regarding personnel issues with town employees in several departments. Directives were given to Town Manager, Ryan Spitzer, along with expectations for improvement on their performance. A retreat-type meeting was suggested for further discussion on the matter. At 10:20 p.m. Council Member Melissa Davis moved to exit Closed Session, seconded by Mayor Pro Tem Phillips. There were ayes by all and the Closed Session ended.

**ADJOURNMENT:** At 10:21 p.m. Council Member Debbie Fowler moved to adjourn the meeting with Council Member Joe Maxim seconding the motion. There were ayes by all and the meeting adjourned at 10:21 p.m.



---

Mayor Jack Edwards

**ATTEST:**

\_\_\_\_\_  
Barbara Monticello, Town Clerk



**MINUTES OF THE  
TOWN COUNCIL WORK SESSION OF  
Monday, September 23, 2019 · 6:00 P.M.  
Pineville Telecommunications Bldg.  
118 College Street, Pineville, NC**

The Town Council of the Town of Pineville, NC, met in a Work Session on Monday, September 23, 2019 at 6:00 p.m. at the Telephone Building located at 118 College St. in Pineville NC.

**ATTENDANCE**

Mayor: Jack Edwards  
Mayor Pro-Tem: David Phillips  
Council Members: Melissa Davis & Debbie Fowler; Joe Maxim was absent.  
Town Manager: Ryan Spitzer  
Town Clerk: Barbara Monticello  
Planning Director, Travis Morgan  
Finance Director, Richard Dixon

**CALL TO ORDER**

At 6:01 p.m. Mayor Jack Edwards announced the meeting would begin. Council Member Debbie Fowler moved to open it, seconded by Mayor Pro Tem David Phillips. There were ayes by all and the meeting commenced.

**DISCUSSION ITEMS:**

- A. **Presentation by Creech & Associates** – (Ryan Spitzer) Town Manager, Ryan Spitzer, introduced Brent Green of Creech and Associates who was in attendance to give a LEED certified power point presentation. To be LEED certified, a building has to be constructed using energy efficient and sustainable products. The newest version of the program is much more stringent than in the past. There are several categories on which the structure is scored; each time one of those categories is achieved, credits are given and accumulated. At the end of the construction period, all the credits are tallied and depending on the number of credits earned, your building can achieve one to four levels of certification. 1) Certified 2) Silver 3) Gold and 4) Platinum.

Earning daylight credits are the hardest to achieve but there are other credits that are easier to obtain. You typically start with those first – installing energy efficient appliances, reducing water consumption – those types of things. The program also looks at raw materials being used and where they come from as well as water consumption, energy efficiency, etc.

The USGBC, US Green Building Council, are the ones that determine how many credits the project earns and then assigns the level of certification that has been achieved. Mr. Green stated there were higher initial costs associated with being a LEED certified building but eventually down the road, the return on investment is realized. It costs approximately 6-10% more to build a LEED certified building, depending on what is used in building the structure.

Town Manager Ryan Spitzer asked if we were to aim for a silver designation, what would the average savings be? Mr. Green replied that the ROI would be different for all buildings but that he would run some figures to determine an average. Mayor Pro Tem David Phillips asked if more costs were associated with these LEED

programs because of the materials and special processes needed to install them? Mr. Green responded yes, typically. Council Member Debbie Fowler asked if the designation could be used in applying for grants? Mr. Green advised that he was not sure as he had never been asked this question before. He will look into it to see if there was anything available.

Mayor Edwards asked what the difference was between one level and the next. Mr. Green advised that the lowest level will result in about a 6% increase in cost to construct a building and the highest level, platinum, would result in an increase in cost of about 10% more. Mr. Green stated that it is not required to be LEED certified. Mayor Pro Tem David Phillips wanted to know how the county would feel if we chose not to pursue the LEED designation? Town Manager Ryan Spitzer stated that county buildings no longer need to be LEED certified and they really don't have a say in this decision since we were the ones financing the construction of the building. Mayor Edwards said it would be difficult for us, as a municipality, not to do some sort of green building as we are always asking others to construct quality products. We need to practice what we preach.

Council Member Melissa Davis asked why the county was no longer required to be LEED certified? Mr. Green stated that it was a regulation that was rescinded in the middle of last year. Mayor Pro Tem David Phillips then asked Mr. Green when he needed an answer from us. Mr. Green stated he would like to know as soon as possible, within two weeks to a month at the latest. Sooner is best.

Mayor Edwards asked what things were the easiest to accomplish first? Mr. Green stated that going to enhanced commissioning, reducing water consumption, and utilizing renewable energy would be the easiest things to start with and incorporate into the new building. Council Member Debbie Fowler asked if any grants were available for renewable energy but Don Mitchell of Electricities was not aware of any. Town Manager, Ryan Spitzer, stated that he would check with Pineville Elementary to see what measures they took to become LEED certified. That concluded Mr. Green's presentation.

- B. Electricities Systems Study Presentation** – Don Mitchell, Electric Manager with Electricities stated that a systems study was conducted in two parts by Southeastern Engineering. They looked at our current electric system and used a computer model to project results using data that was entered. The study looked forward to see what growth in the next ten years would look like and how our Electric System would perform in ten years. The study determined what we will need to do to make it a viable system for the future.

Mr. Mitchell introduced AJ Molnar of Southeastern Engineering, municipal electric providers. He also introduced Kevin Smorgala who also helped conduct the study. Mr. Molnar began the presentation by stating that municipal electric systems were very responsive when power goes out. They are always a good business to be in. Our electricity is delivered from Duke Power to two of our substations -- one in JHP and the other one by the James K. Polk Site. All the equipment the town owned was cables, wires and poles -- including 62 miles of power lines, 12 of which are overhead and 50 miles of it underground.

The peak demand for power during the summer was found to be 31,776 kilowatts. The growth of meters was at 4% each year. About 17% of electric consumption was coming from the Carolina Place Mall. All equipment gets old and needs to be replaced at some point as we never want to turn someone away from being added to our electric system. The town had been aggressively pursuing customers throughout the years and going underground was great but it was now time to invest in burying whatever overhead lines there were left in town. Additionally, the Polk substation was built in 1990. Technology has changed a lot since that substation was built. All the load was never really transferred over to it so it was found not to be operating at full load.

Mr. Kevin Smorgala took over the presentation from this point stating that the Polk Substation needed to be upgraded because it needed to be the backbone for potential growth. It was time to build upon and improve circuits there.

Council Member Debbie Fowler inquired about the industrial vacant area of land thinking that some builder may decide to donate land to the town for another substation or when the Millers come in to develop their properties, maybe they would consider donating some land for one. Town Manager Ryan Spitzer stated that we should start putting lines out so that Duke doesn't get the customers. He thought maybe Jimmy Harlee would donate land for a new substation.

Mr. Smorgala reviewed year one recommendations, which included many things that needed to be upgraded or installed to get equipment up to speed. He noted that technology had changed quite a bit since that substation was put in. Council Member Debbie Fowler commented that the state was going to start redoing NC 51 and that would be the time to finish going underground with the electric lines. Council Member Melissa Davis said she hopes the Carolina Place Mall didn't turn into another Eastland Mall. She asked how far behind we were in replacing our poles. Mr. Mitchell stated that there had not been a pole inspection program for a long time and that they will hire an outside firm to do an inspection of all poles. Ms. Davis wanted to know why Electricities had not brought this to their attention three years ago when they took over managing our electric system. Mr. Mitchell responded that he could not answer that question because he was not here at that time. Council Member Davis added that she hoped that by doing this study we didn't get this far behind again in the future.

Ms. Davis asked about the AMI metering. Mr. Mitchell advised that he wanted to investigate other systems to be sure that one would be the right one for us before investing the money in it. Mr. Mitchell went back to the year-1 slide and stated that most of the things listed were already in the budget but we may have to come back for a budget amendment if necessary. He said there was one other study to be done regarding cost of service and this study is to make sure our rates were accurate. It will also establish if the rates can cover the improvements that were planned. These studies will be completed by late November or December of this year.

Mr. Spitzer stated that the Electric Department was looking to purchase a new vehicle. All the details were included in their packets. Council Member Debbie Fowler asked if they had hired another person. Mr. Mitchell stated that they had not. They currently had two people working Monday through Thursday 10-hour days. They also have 3 people working from Tuesday through Friday 10-hour days. They are looking to add another person to work the 6:30 a.m to 5:00 p.m. shift. Council Member Debbie Fowler asked that if the working hours were changed from what they were, to please let Council know of the change. Council Member Melissa Davis said she was OK with it as long as there was coverage. As for the truck, she was OK with them purchasing a fully loaded vehicle as long as they stayed within the \$45,000 budget.

- C. **Amendment of Town Code regarding Criminal Enforcement – (Travis Morgan)** Planning Director, Travis Morgan, mentioned that in the Town Code under Section 10.99, General Penalty, he was recommending an amendment to strike out "Class 3 Misdemeanors". The state was cracking down on towns with this in their codes so he recommended just take it out of the criminal section. Town Manager, Ryan Spitzer, added that if we didn't change it by November, we will have to report it to the state. Travis will bring this to the October Council Meeting for approval.
  
- C. **Amendment to Lowes, Inc. Conditional Use Permit - (Travis Morgan)** Mr. Morgan stated that Lowes had a conditional use permit for outdoor storage. He reviewed the details of the CUP from the 90's and the temporary event permit which only allows 56 days for outdoor storage. Lowes is requesting an amendment to their conditional use permit and provided a map showing where they proposed putting all their storage. Planning's concern is driving down McMullen Creek Road and seeing all the items outside. Lowes originally planned on a larger center strip but that didn't happen. Mr. Morgan suggested they utilize more screening or build a structure to house all of the items they want outside.

Mayor Pro Tem David Phillips stated that he had seen a lot of cars parked in their parking lot on several occasions very early in the morning and asked if Mr. Spicer of Lowes knew why the cars were parked there. Mr. Spicer stated he had no idea who would be using their lot to park in; they had no agreements with anyone to park there. Mr. Spicer also stated that they had 4 trailers that they were going to move way off the road. They are used to store pine needles and wheat straw.

Council Member Melissa Davis explained to Mr. Spicer that she just wanted to see the town cleaned up. Council Member Debbie Fowler wanted to know why they needed to display their goods outside for 8 months out of the year. Mr. Spicer stated that he wanted to present his plan to get feedback from Council. Mayor Edwards added that they wanted to keep things uniform throughout town and if they allowed one business permission to store so much outside, then they would need to allow all of them to do it and then it just looks messy. Mr. Morgan stated that he could work with Lowes easier if they expanded their garden center or utilized the backside more where it's screened to include more of the items that are currently outside. That would make it a whole lot easier to work with them.

Council Member Davis stated she could just see things moving back where they didn't want them. Mayor Pro Tem Phillips stated that if they had an acceptable plan, we could keep it on file and write them up if there was a violation. Both Ms. Davis and Mayor Edwards suggested the applicant work with Mr. Morgan to develop an acceptable plan. Mr. Morgan agreed to get more feedback from Council and work something out with the applicant. Mayor Edwards suggested to meet again at another work session to smooth things out before heading to a Council Meeting. Mr. Morgan and the applicant will work together to come up with something but Mr. Morgan wanted to be sure the applicant gave him enough time to advertise for a public hearing.

Discussion turned to motorcycles. A request from the police department had originally been on an agenda in the past but was tabled. It had not come back up on a subsequent agenda yet the police department apparently had received them and members of Council wanted to know why they weren't informed that the Police Department had purchased them. Mr. Spitzer stated that if they were purchased using asset forfeiture funds, they didn't have to go back to Council and as long as the items met the guidelines of what the money can be used for, they can purchase what they want.

Council Members did not feel the same way and thought that it made for good public relations if they had only known about them. Council Member Melissa Davis asked Mr. Spitzer if he had known about the purchase of the motorcycles. Mr. Spitzer stated that he knew that the department had applied for them but did not know that they had come in. Mayor Pro Tem Phillips asked that they be made aware of such purchases in the future. Mr. Spitzer agreed and stated the motorcycles will be used during the holiday shopping season at the Carolina Place Mall and also on the Greenway. He added that the Fire Department had also received a grant from Atrium Health Care.

#### **ADJOURNMENT:**

Mayor Pro Tem Phillips asked Mr. Spitzer to have someone check a leaking transformer by his house. Mr. Spitzer advised that he would have Rock Love from the Electric Department check it in the morning. Having no further business to discuss, Council Member Melissa Davis moved to adjourn the meeting, seconded by Mayor Pro Tem David Phillips. There were ayes by all and the meeting adjourned at 8:45 p.m.

---

Jack Edwards, Mayor

#### **ATTEST:**

---

Barbara Monticello, Town Clerk

# **CONSENT AGENDA ITEMS**

*a) Finance Report as of 9/30/19*

Town of Pineville  
Budget vs. Actual  
9/30/2019

	<u>Budget</u>	<u>Actual</u>	<u>% of Budget</u>
<b>Revenues</b>			
Property Tax	\$ 8,166,295	\$ 649,973	7.96%
Prepared Food Tax	675,000	373,729	55.37%
Room Occupancy	610,000	63,241	10.37%
Franchise Tax	900,000	244,605	27.18%
Sales Tax	1,400,000	169,897	12.14%
Storm Water	405,000	38,398	9.48%
Powell Bill	180,000	-	0.00%
Other	1,179,815	451,895	38.30%
Sale of Fixed Asset	3,500,000	-	0.00%
Appropriated F/B - Restricted Police	205,000	205,000	100.00%
Appropriated F/B Cultural and Tourism	88,185	88,185	100.00%
Total	\$ 17,309,295	\$ 2,284,923	13.20%
<b>Expenditures</b>			
Governing Board	\$ 121,500	\$ 57,209	47.09%
Administration	5,550,835	193,278	3.48%
Human Resources	201,083	28,779	14.31%
Zoning	368,222	88,847	24.13%
Police	5,268,789	1,147,403	21.78%
Fire	1,034,100	335,558	32.45%
Public Works	771,215	168,503	21.85%
Storm Water	431,375	71,686	16.62%
Powell Bill	892,413	18,783	2.10%
Sanitation	600,000	95,755	15.96%
Recreation	592,578	131,194	22.14%
Cultural/Tourism	1,373,185	381,633	27.79%
Cemetery	4,000	-	0.00%
Contingency	100,000	-	0.00%
Total	\$ 17,309,295	\$ 2,718,628	15.71%

**Town Of Pineville**  
**Johnston Road Realignment**  
**9/30/19**

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>Total Project</b>	<b>Project Budget</b>
<b><u>Road Realignment Revenue</u></b>						
DOT grant	-	-	-	-	-	-
General Fund Balance					1,957,000	1,957,000
<b>Total Road Realignment Revenue</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,957,000</b>	<b>1,957,000</b>
<b><u>Road Realignment Expense</u></b>						
Land/Building	-	731,228	6,586	-	737,814	725,000
Engineering	-	74,089	47,278	31,459	152,825	307,000
Construction	-	-	-	-	-	925,000
<b>Total Road Realignment Expense</b>	<b>-</b>	<b>805,317</b>	<b>53,863</b>	<b>53,863</b>	<b>890,639</b>	<b>1,957,000</b>



**Town Of Pineville**  
**Splash Pad/Dog Park**  
**9/30/19**

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>Total Project</b>	<b>Project Budget</b>
Cultural & Tourism Reserves	-				361,460	361,460
Part F Grant	-	-	129,465	91,241	220,706	361,460
Transfer from Cultural & Tourism						50,000
<b>Total Part F Grant Revenue</b>	-	-	129,465	91,241	582,166	772,920
<b>Part F Grant Expense</b>						
6201.7200.70	32,656	61,816	324,720	71,342	490,534	772,920
6201.7400.70			275,132		275,132	
<b>Total Part F Grant Expense</b>	32,656	61,816	599,852	71,342	765,666	772,920

Town of Pineville  
Electric Fund  
9/30/2019

	<u>Budget</u>	<u>Actual</u>	<u>% of Budget</u>
Revenues			
Electric	14,438,143	3,692,772	25.58%
Expenditures			
Administration & Billing Support	488,739	135,861	27.80%
Purchased electricity	8,863,296	1,937,183	21.86%
Operations and Maintenance	5,086,108	373,048	7.33%
Total	14,438,143	2,446,092	16.94%

Town of Pineville  
ILEC Telephone Fund  
9/30/2019

	<u>Budget</u>	<u>Actual</u>	<u>% of Budget</u>
Revenues			
Revenues	1,464,345	354,762	24.23%
Telephone Reserves	1,210,450	1,210,450	100.00%
Total Revenue	<u>2,674,795</u>	<u>1,565,212</u>	58.52%
Expenditures			
Operating Transfer Out	357,749	357,749	100.00%
Operating Expenses	1,266,996	277,295	21.89%
Plant under Construction	<u>1,050,050</u>	<u>229,220</u>	<u>21.83%</u>
Total	<u>2,674,795</u>	<u>864,264</u>	32.31%

Town of Pineville  
CLEC Telephone Fund  
9/30/2019

	<u>Budget</u>	<u>Actual</u>	<u>% of Budget</u>
<b>Revenues</b>			
Revenue	1,033,604	339,324	32.83%
Transfer from ILEC	357,749	357,749	100.00%
<b>Total</b>	<u>1,391,353</u>	<u>697,073</u>	<u>50.10%</u>
<b>Expenditures</b>			
Operating Expenses	1,255,953	299,755	23.87%
Plant under Construction	<u>135,400</u>	<u>43,763</u>	<u>32.32%</u>
<b>Total</b>	<u>1,391,353</u>	<u>343,518</u>	<u>24.69%</u>

## **NEW BUSINESS**

- A. Amending Town Code to Remove Criminal Enforcement**
- B. PCAA Tapping Fees**
- C. Resolution to Pay For Construction of New Town Hall**
- D. Approve & Sign Contract For New Town Hall Financing**
- E. Budget Amendment**
- F. Staff Update**
  - 1) Manager's Report**
  - 2) Calendar of Events**

# Workshop Meeting



**To:** Town Council

**From:** Travis Morgan

**Date:** 10/8/2019

**Re:** Section 10.99 of the Town Code Text Amendment (*Action Item*)

---

## **Background:**

The North Carolina General Assembly passed law S.L. 2019-198, which requires all cities with 1,000 or more in population to submit to the legislature an itemized report identifying and describing all local ordinances enforced by criminal penalties. The deadline for this report is November 1, 2019. Furthermore, this new law also directed the General Statutes Commission to recommend to the legislature which local offenses should remain criminally enforceable.

From the Town's Code of Ordinances:

## **EXISTING**

### **§ 10.99 General Penalty**

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

## **Request:**

Staff recommends the criminal reference and enforcement from section 10.99 of the Town Code to be removed.  
Proposed text

## **PROPOSED**

### **§ 10.99 General Penalty**

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall be subject to a fine not to exceed \$50 per day per violation.

## **Staff Comment:**

Staff believes that the Town should get ahead of possible legislation and review by acting quickly to remove Section 10.99 from the Town Code. We do not feel it is worth reporting to the state and being subjected to a review, as this form of penalty is seldom, if ever, used by either Planning and Zoning or the Police Department.

## MEMORANDUM

To: NCLM membership  
From: Erin Wynia, Chief Legislative Counsel  
Date: September 17, 2019  
Subject: Reporting ordinances with criminal enforcement

**YOUR ACTION IS NEEDED.** The N.C. General Assembly took an additional step in the 2019 legislative session to gather information about municipal ordinances that are enforced with criminal penalties. To that end, all cities must submit a report by November 1, 2019, if they meet the following criteria:

1. Over 1,000 in population; and
2. Did not previously submit this report.

**\*\*\*FAILURE TO COMPLY WITH THIS LAW WILL RESULT IN CONSEQUENCES FOR NON-COMPLIANT MUNICIPALITIES, AS DESCRIBED BELOW.\*\*\***

**BACKGROUND.** This session, legislators expanded upon a prior initiative of the [Criminal Law Recodification Working Group](#) by passing into law [S.L. 2019-198](#). For several years, the Working Group has sought to catalog all state and local laws that are enforced with criminal penalties. This work backs efforts by both academic researchers at the UNC School of Government (SOG) and staff members at the John Locke Foundation (JLF) regarding overcriminalization. The [SOG webpage](#) dedicated to this issue describes the issue this way: “North Carolina lacks a streamlined, comprehensive, orderly, and principled criminal code. This creates costly inefficiencies in the system, opportunities for unfairness, and undermines the rule of law.” And [an August 2017 JLF report](#) on the effort lists five reasons for reducing the number of crimes in the state, including that the creation of crimes “discourages entrepreneurship,” “places ordinary citizens in constant legal jeopardy,” and “reduces consistency in enforcement.”

Longstanding N.C. law sets criminal punishment as the default enforcement mechanism for local ordinances, unless the governing board takes a separate action: “Unless the Council shall otherwise provide, violation of a city ordinance is a misdemeanor or infraction as provided by G.S. 14-4...” N.C. Gen. Stat. § 160A-175(b).

**REPORTING CRIMINALLY ENFORCED ORDINANCES.** This year's law targets local ordinances that carry criminal penalties. It requires all cities with 1,000 or more in population to submit to the legislature a report listing all local ordinances enforced by criminal penalties. The deadline for this report is November 1, 2019. **Failure to submit a report will result in non-compliant communities losing the ability to criminally enforce any ordinance passed between January 1, 2020, and January 1, 2022.** Instead, ordinances passed during that time would only be enforceable by civil penalties.

As originally filed, [SB 584 Criminal Law Reform](#) would have decriminalized all local ordinances passed after December 1, 2019. However, after much negotiation with the League and other local government interests, legislators voted to allow local governments to retain criminal enforcement of their local codes, if they met the November 1, 2019, reporting deadline. The full requirement in this law reads:

*“Every county with a population of 20,000 or more according to the last federal decennial census, city or town with a population of 1,000 or more according to the last federal decennial census, or metropolitan sewerage district that has enacted an ordinance punishable pursuant to G.S. 14-4(a) shall create a list of applicable ordinances with a description of the conduct subject to criminal punishment in each ordinance. Each county, city, town, or metropolitan sewerage district shall submit the list to the Joint Legislative Administrative Procedure Oversight Committee no later than November 1, 2019.”*

The new law also directed the General Statutes Commission to recommend to the legislature which of the local offenses listed in those reports should remain criminally enforceable. The Commission's recommendations are due May 1, 2020. Legislators approved this bill nearly unanimously.

**WHAT IF MY MUNICIPALITY ALREADY SUBMITTED A REPORT?** A prior law, [S.L. 2018-69](#), originally required all municipalities to make these reports by December 1, 2018; this year's law extended the deadline for these reports to November 1, 2019. Hundreds of cities and towns complied with this reporting requirement last year. [Check the status of your city here](#) on the N.C. General Assembly website. Based on conversations between NCLM staff and legislators, we do not believe the intent of this year's law was to require municipalities that already submitted these reports to update their prior reports. However, please consult your city attorney when determining whether your municipality has complied with this year's legislation

**HOW TO COMPILE YOUR REPORT.** Because S.L. 2019-198 does not specify a format for the ordinance report, we believe a range of possible formats would comply with the law. For example, UNC School of Government Assistant Professor Trey Allen authored [a blog post](#) describing the original law that contained this reporting requirement. He suggested an approach



whereby each applicable ordinance is identified and summarized. If you wish to organize the information in a table, the format below would likely comply. Regardless of your chosen approach, please consult with your attorney in developing the report to ensure compliance with the law.

Ordinance Punishable by G.S. 14-4(a)	Description of Conduct Subject to Criminal Punishment under the Ordinance	Other Notes

**HOW TO SUBMIT YOUR REPORT.** In our discussions with legislative staff, they expressed a preference to receive reports by e-mail. They requested that local governments send their reports to the chairs of the Joint Legislative Administrative Procedures Oversight Committee as well as committee staff, as follows.

**Rep. James L. Boles, Jr.**  
**Rep. Ted Davis, Jr.**  
**Rep. Sarah Stevens**  
**Sen. Andy Wells**  
**Susan L. Sitze, committee staff**

jamie.boles@ncleg.net  
 ted.davis@ncleg.net  
 sarah.stevens@ncleg.net  
 andy.wells@ncleg.net  
 susan.sitze@ncleg.net

August 28, 2019

Mayor Jack Edwards  
Town of Pineville  
200 Dover Street  
Pineville, NC 28134

Dear Mr. Mayor,

I'm writing this letter on behalf of the families and youth who enjoy playing softball and baseball throughout the year at Pineville Memorial Ballpark.

The Pineville Community Athletic Association is happy to report that 94 Pineville youth players were registered and played ball on those fields this Spring season. A total of 63 Pineville youth are currently playing Fall ball there right now. *(Details attached)*

PCAA hit record registration in 2019 and grew 11% from last year. *(Details attached)*

The matching financial support that Town Council provided to bring field lights back to the ballpark was very appreciated and has been crucial to our growth. We've continued fundraising to bring back the other amenities torn down with the original PCAA fields.

Survey results from our families have overwhelmingly pointed to the need for a permanent bathroom facility instead of portable toilets with no running water. The PCAA Board of Directors worked hard to gather sponsors and fundraise this year. We also secured generous architectural donations and contractor discounts in order to replace the bathroom facility that was demolished. We consulted with CMS and Town officials and we're very excited that construction is now underway. *(Drawings & Contract attached)*

The PCAA Board of Directors set aside \$60,000 for construction and another \$1500 for water & sewer tap fees. Earlier today it was brought to my attention that Charlotte Water would charge us directly more than \$10,000 to tap into their system.

I take responsibility for misunderstanding the contractors estimate for this important budget line. This "new" expense will now push the limits of our operating budget this Fall.

In light of this development, the PCAA Board of Directors would like to formally request Pineville Town Council support the bathroom project by paying the one-time utility cost.

It's worth noting that the bathroom facility will allow Pineville Memorial Ballpark to host new softball and baseball tournaments throughout the year that require permanent bathrooms on site. Those tournaments will bring in additional tourism revenue for Pineville.

Thank you for considering this request and passing along the attached information to the members of Town Council to review.

Sincerely,

*Paul Boyd*

Paul Boyd  
President, PCAA

**Summary of PCAA Funded Capital Improvement Projects**  
**@ PINEVILLE MEMORIAL BALLPARK since 2015**

\$30,000 – Batting Cages, Bleachers and Various Field Upgrades

\$55,000 – Construction of Two TBall Fields with Fencing (Front of School)

\$62,000 – PCAA Portion of Field Light Project

\$60,000 – Construction of Bathroom Facility

-----

**\$207,000 – Total Spent By PCAA**

*The majority of that money has been generated through fundraisers.*

*PCAA's operating budget functions like most non-profits: \$1 in - \$1 out.*

*Hundreds of PCAA parents also give back to Pineville every year by volunteering thousands of hours as coaches, scorekeepers and field maintenance crews.*

# PCAA

## BALANCE SHEET

As of August 28, 2019

	TOTAL
<b>ASSETS</b>	
Current Assets	
Bank Accounts	
Checking	85,797.97
<b>Total Bank Accounts</b>	<b>\$85,797.97</b>
Accounts Receivable	\$350.00
<b>Total Current Assets</b>	<b>\$86,147.97</b>
Fixed Assets	\$23,199.22
<b>TOTAL ASSETS</b>	<b>\$109,347.19</b>
<b>LIABILITIES AND EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	\$ -77.23
<b>Total Current Liabilities</b>	<b>\$ -77.23</b>
<b>Total Liabilities</b>	<b>\$ -77.23</b>
Equity	\$109,424.42
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$109,347.19</b>

# PCAA

## PROFIT AND LOSS

January 1 - August 29, 2019

	TOTAL
<b>Income</b>	
ALLSTAR TEAM INCOME	2,100.00
Challenge Tournament Gate Fees	75.00
CONCESSION INCOME	715.00
DONATIONS	1,556.00
FUNDRAISERS	150.00
50/50 Raffle	192.00
Charlotte Knights PCAA Day	5,400.00
Dunk Tank	1,620.00
Hit-a-Thon	28,085.61
T-SHIRTS & HATS	90.00
<b>Total FUNDRAISERS</b>	<b>35,537.61</b>
REGISTRATIONS	145,092.08
SPONSORS	22,135.22
UNIFORMS REIMBURSEMENT	890.00
<b>Total Income</b>	<b>\$208,100.91</b>
<b>GROSS PROFIT</b>	<b>\$208,100.91</b>
<b>Expenses</b>	
Advertising	335.62
Challenge Teams	399.00
10U Challenge Team	2,882.90
12U Challenge Team	2,274.57
12U Softball Allstars	3,285.00
7U Challenge Team	1,577.68
8U Challenge Team	2,397.02
9U Challenge Team	2,085.46
Challenge Softball	540.00
<b>Total Challenge Teams</b>	<b>15,441.63</b>
Equipment	
Baseball Equipment	12,011.00
Equipment & Supplies	319.41
Field Equipment Purchase	2,999.61
Softball Equipment	222.88
<b>Total Equipment</b>	<b>15,552.90</b>
Fees	
Baseball Fees	1,621.25
Coaches Training & Certification	122.90
Softball Fees	4,680.00
<b>Total Fees</b>	<b>6,424.15</b>
Fundraisers - Expense	
Knights Expense	3,840.00
Spring Fling Expenses	1,136.26
<b>Total Fundraisers - Expense</b>	<b>4,976.26</b>

	TOTAL
<b>Improvements</b>	
Building Improvements	25,000.00
Field Improvements	475.44
<b>Total Improvements</b>	<b>25,475.44</b>
Insurance	6,260.00
<b>Maintenance</b>	
Building Maintenance	54.24
Field Maintenance	13,531.21
Maintenance Equipment	87.29
<b>Total Maintenance</b>	<b>13,672.74</b>
<b>Marketing</b>	<b>114.45</b>
Flyers	165.37
<b>Total Marketing</b>	<b>279.82</b>
<b>Miscellaneous</b>	<b>532.28</b>
Background Checks	3,289.00
Field Rental	8,087.00
Office & Meeting Supplies	257.07
PO Box	118.00
Signs	471.61
Sponsorship Field Signs	131.10
Stamps	54.75
<b>Total Miscellaneous</b>	<b>12,940.81</b>
<b>Professional Fees</b>	
Non Profit Organization Filing	610.00
<b>Total Professional Fees</b>	<b>610.00</b>
Quickbooks Subscription Fee	168.00
Refund	893.74
Trophies	1,910.18
Umpire Fees	11,640.00
Uniforms	27,461.57
<b>Utilities</b>	
Electric	2,089.93
Porta-Jon	6,625.95
Water	3,117.31
<b>Total Utilities</b>	<b>11,833.19</b>
<b>Total Expenses</b>	<b>\$155,876.05</b>
<b>NET OPERATING INCOME</b>	<b>\$52,224.86</b>
<b>NET INCOME</b>	<b>\$52,224.86</b>

# Memorandum



**To:** Mayor and Town Council  
**From:** Ryan Spitzer  
**Date:** 10/3/2019  
**Re:** Construction Cost prior to Debt Issuance

---

## **Overview:**

The IRS requires a local government to pass a Resolution explaining expenses that may be incurred prior to the issuance of a debt obligation. The reason for the Resolution is so the Town can include these pre debt obligation expenses in to the debt issuance. While the Town may not have any significant expenses before the debt is issued by the bank, this will cover the Town if we do.

## **Costs:**

None

## **Attachments:**

Resolution 2019-13  
IRS Statute for Exemptions

## **Recommendation:**

Approve the Resolution

RESOLUTION NO. 2019-13

DECLARING OFFICIAL INTENT TO REIMBURSE EXPENDITURES WITH  
PROCEEDS OF DEBT PURSUANT TO UNITED STATES DEPARTMENT OF  
TREASURY REGULATIONS

BE IT RESOLVED by the Town Council of the Town of Pineville (the "Town"):

1. The Town Council hereby finds, determines and declares as follows:

(a) Treasury Regulations Section 1.150-2 (the "Regulations"), promulgated by the United States Department of Treasury on June 18, 1993, prescribes certain specific procedures applicable to certain obligations issued by the Town after June 30, 1993, including, without limitation, a requirement that the Town timely declare its official intent to reimburse certain expenditures with the proceeds of debt to be issued thereafter by the Town.

(b) The Town has advanced and/or will advance its own funds to pay certain capital costs (the "Original Expenditures") associated with financing, in part, (a) the acquisition, architectural, engineering, surveying, soil testing, bond issuance, construction, installation and equipping of (i) a new Town Hall and (ii) a new library (collectively, the "Projects"), (b) parking infrastructure for the Projects, and (c) road infrastructure improvements.

(c) The funds heretofore advanced or to be advanced by the Town to pay the Original Expenditures are or will be available only on a temporary basis, and do not consist of funds that were otherwise earmarked or intended to be used by the Town to permanently finance the Original Expenditures.

(d) As of the date hereof, the Town reasonably expects that it will reimburse itself for such Original Expenditures with the proceeds of debt to be incurred by the Town, and the maximum principal amount of debt to be incurred with respect to the Projects is expected to be \$11,500,000.

(e) All Original Expenditures to be reimbursed by the Town were paid no more than 60 days prior to, or will be paid on or after the date of, this declaration of official intent. The Town understands that such reimbursement must occur not later than 18 months after the later of (i) the date the Original Expenditure was paid; or (ii) the date the component of the Project was placed in service or abandoned, but in no event more than 3 years after the Original Expenditure was paid.

2. This resolution shall take effect immediately.

Council Member \_\_\_\_\_ moved to approve the passage of the foregoing resolution, Council Member \_\_\_\_\_ seconded the motion, and the resolution was passed by the following vote:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_



Not Voting: \_\_\_\_\_

\* \* \* \* \*

I, Barbara Monticello, Clerk to the Town Council for the Town of Pineville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Town Council at a regular meeting held on [date] as relates in any way to the passage of the resolution hereinabove referenced, and that said proceedings are recorded in Minute Book No. \_\_\_ of the minutes of said Town Council, beginning at page \_\_\_ and ending at page \_\_\_.

I DO HEREBY FURTHER CERTIFY that the schedule of regular meetings of said Town Council has been on file in my office pursuant to North Carolina General Statutes §143-318.12 as of a date not less than seven (7) days before said meeting.

WITNESS my hand and the corporate seal of said Town of Pineville, this \_\_\_ day of [month], 2019.

\_\_\_\_\_  
Clerk to the Town Council  
for the Town of Pineville, North Carolina

[SEAL]

**(f) Exceptions to general operating rules -**

**(1) *De minimis* exception.** Paragraphs (d)(1) and (d)(2) of this section do not apply to costs of issuance of any bond or to an amount not in excess of the lesser of \$100,000 or 5 percent of the proceeds of the issue.

**(2) *Preliminary expenditures* exception.** Paragraphs (d)(1) and (d)(2) of this section do not apply to any preliminary expenditures, up to an amount not in excess of 20 percent of the aggregate issue price of the issue or issues that finance or are reasonably expected by the issuer to finance the project for which the preliminary expenditures were incurred. Preliminary expenditures include architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction.

# Memorandum



**To:** Mayor and Town Council

**From:** Ryan Spitzer

**Date:** 10/3/2019

**Re:** **Contract for Financial Services for Town Hall and Library Financing**

---

## **Overview:**

As part of the funding for a new Town Hall and Library building the Town will have to prove to the Local Government Commission their available to repay a debt. In order to do this the town will have to create several financial models for the LGC to review and approve. The town solicited responses from financial advisory companies to do this and Waters and Company was the most cost effective and knowledgeable of the process.

Waters and Company, LLC has done work for the Town before when it was investigating constructing a Discovery Place. Waters and Company, LLC conducted preliminary work for the Town free of charge and would only collect a fee if the Town proceeded with the construction of a Discovery Place. The Town did not proceed with a Discovery Place.

Waters and Company, LLC has significant experience working through the LGC process. They do debt financing services for Charlotte Water, Raleigh, Winston-Salem, as well as some smaller surrounding jurisdictions.

The services that will be provided to the Town are:

1. Financial Modeling
2. Obtaining bank proposals for interest rates
3. Organizing and Coordinating the financing team
4. Securing approval through the LGC

## **Costs:**

\$35,000

## **Attachments:**

Contract with Waters and Company, LLC

## **Recommendation:**

Approve the Contract with Waters and Company, LLC.

# WATERS AND COMPANY, LLC

---

176 Peachtree Circle  
Birmingham, Alabama 35213  
Telephone (205) 870-1187  
Facsimile (205) 870-0889

September 2, 2019

Town of Pineville  
200 Dover Street  
Pineville, NC 28134

**Re: Documentation of Municipal Advisory Relationship  
in Connection with  
Installment Financing Agreement (Town Hall)**

Ladies & Gentlemen:

This letter documents the municipal advisory relationship of Waters and Company, LLC (the “Company”) and the Town of Pineville, North Carolina, (the “Town”) in connection with the above-referenced agreement (the “Agreement”). The Company will assist the Town with various activities related to the Agreement, including the following: (i) preparation of a financial model demonstrating the affordability of the Agreement, (ii) development of the financing structure, (iii) obtaining a bank proposal satisfactory to the Town, (iv) organizing and coordinating financing team activities, (v) reviewing financing documents, (vi) participating in financing team working group sessions, (vii) providing written assurance to the Local Government Commission regarding the Town’s financial projections and (viii) closing the Agreement. It is anticipated that planning efforts will occur throughout fiscal year 2020 and the financing will close during fiscal year 2021.

As compensation for its services, the Company will receive a contingent fee, including expenses, of \$35,000 payable upon closing of the Agreement. Under MSRB Rule G-42 regarding duties of municipal advisors, municipal advisors must provide certain documentation, as follows:

1. The Company has no material conflicts of interest in connection with this undertaking, except that fees paid on a contingent basis may provide a potential incentive for a municipal advisor to provide advice that might unnecessarily lead to the issuance of debt.
2. There is no legal or disciplinary event that is material to the County’s evaluation of the Company or the integrity of its management or advisory personnel. Form MA for the Company and Form MA-I for Gerald Steven Waters have been filed with the Securities and Exchange Commission (the “Commission”). These forms include information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation. The date of the last material change to a legal or disciplinary event disclosure on any Form MA or Form MA-I filed with the Commission was July 21, 2014, the date of initial filing. Forms MA and MA-I may be electronically accessed at:

<http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001614249&owner=exclude&count=40&hidefilings=0>

3. The municipal advisory relationship between the County and the Town will terminate upon closing of the Agreement.

Pursuant to MSRB Rule G-10, we provide the following information:

1. Waters and Company, LLC is registered with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board.
2. The website address for the Municipal Securities Rulemaking Board is [www.msrb.org](http://www.msrb.org).
3. A municipal advisory client brochure is available and posted on the website of the Municipal Securities Rulemaking Board. This brochure describes the protections that may be provided by the Municipal Securities Rulemaking Board rules and how to file a complaint with an appropriate regulatory authority.

We appreciate the opportunity to serve the Town.

Sincerely yours,



G. Steven Waters  
President

Accepted and agreed:  
Town of Pineville, North Carolina

By: \_\_\_\_\_  
John Edwards  
Mayor

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

**TOWN OF PINEVILLE  
BUDGET AMENDMENT**

**WHEREAS**, the Governing Board of the Town of Pineville, North Carolina adopted on the 24th day of June, 2019, the Town of Pineville budget for the fiscal year beginning July 1, 2019 and ending on June 30, 2020; and

**WHEREAS**, it is appropriate to amend the accounts in the fund listed for the reasons stated;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Board of the Town of Pineville, North Carolina, that in accordance with the authority contained in G.S. 159-15, the following accounts are hereby amended as shown and that the total amounts are herewith appropriated for the purposes shown.

**Section 1:**

<b>Department</b>	<b>Number</b>	<b>Increase</b>	<b>Decrease</b>
911-PSAP	5102	75,000	
911 Fund Reserves	5102		75,000
<b>Total</b>		<b>75,000</b>	<b>75,000</b>

**To transfer reserve funds for workstation and console upgrades.**

**Section 2:**

<b>Department</b>	<b>Number</b>	<b>Increase</b>	<b>Decrease</b>
Public Works - Contract Services	5600	33,877	
Powell Bill - Contract Services	5700	7,156	
Public Works - Salaries	5600		41,033
<b>Total</b>		<b>41,033</b>	<b>41,033</b>

**To transfer budget from Public Works salaries and benefits for mowing contract.**

Adopted this 8th day of October, 2019

Town of Pineville, North Carolina

\_\_\_\_\_  
John Edwards, Mayor

ATTEST:

\_\_\_\_\_  
Barbara Monticello  
(Seal)

# **ADJOURNMENT**