

**MOUNT AIRY, NORTH CAROLINA
REGULAR MEETING MINUTES
March 18, 2021**

MEMBERS PRESENT: Mayor Pro Tempore Ron Niland, Commissioners Jon Cawley, Tom Koch, Marie Wood, and Steve Yokeley

APPROVAL OF AGENDA:

Commissioner Wood made a motion to add an item to New Business to consider approving a construction manager for the Spencer's project. With this change, the board voted unanimously to approve the agenda.

CONSENT AGENDA: On motion by Commissioner Yokeley and passed unanimously, the following items were approved by way of the consent agenda:

- **APPROVAL OF MINUTES:**
 - **March 4, 2021 Regular Meeting Minutes**
- **RESOLUTION 2021-052 APPROVING TAX RELEASES:**

RESOLUTION NUMBER # 2021-052

A RESOLUTION

Approval of Tax Releases

WHEREAS, a list of taxes to be released has been submitted by the Staff Accountant in her capacity of Tax Collector for the City of Mount Airy Finance Department; and

WHEREAS, North Carolina General Statute 105-373 provides for settlement of such taxes; and

WHEREAS North Carolina General Statute 105-381 provides for release or refund of taxes; and

NOW THEREFORE BE IT RESOLVED BY THE CITY OF MOUNT AIRY BOARD OF COMISSIONERS MEETING IN OPEN SESSION THAT:

Section 1. Said taxes be released or refunded in accordance with said statutes for the reasons stated on the attached list.

Section 2. This Resolution shall become effective upon approval by the Board of Commissioners of the City of Mount Airy.

Adopted this 18th day of March, 2021.

Date: 8-Mar-21
 Board of Commissioner of
 To: City of Mount Airy
 Sherri Abbott,
 From: Staff Accountant
 Release and Refund of City
 Re.: Property Taxes

| | | <u>TAX AMOUNT</u> | | | | | | |
|----------------------------|-----------------|-------------------|-------------|--------------------|-----------------|---------------------|-----------------|----------------------|
| <u>Account</u> | <u>Taxpayer</u> | <u>Value</u> | <u>Real</u> | <u>Advertising</u> | <u>Personal</u> | <u>Late Listing</u> | <u>Total</u> | <u>Reason</u> |
| 2020 - General Fund | | | | | | | | |
| | Diamond View | | | | | | | |
| 35301 | Trucking LLC | 165,638 | 0.00 | 0.00 | 993.83 | 79.51 | 1,073.34 | Outside Jurisdiction |
| | Total | <u>165,638</u> | <u>0.00</u> | <u>0.00</u> | <u>993.83</u> | <u>79.51</u> | <u>1,073.34</u> | |
| Grand Total | | <u>165,638</u> | <u>0</u> | <u>0</u> | <u>993.83</u> | <u>79.51</u> | <u>1073.34</u> | |

(end of consent agenda)

SPECIAL PRESENTATION:

Market Street Arts & Entertainment District Update: Lizzie Morrison

Lizzie Morrison gave an overview of this economic recovery initiative, which was coordinated by Mount Airy Downtown, Inc. as a result of Covid-19. This program provided opportunities for the community to gather safely outdoors to enjoy art, music, food, and drinks while supporting local businesses. The trial period began Friday, September 18, 2020 and ended Sunday, November 29, 2020, during the hours of 4pm-11pm on Friday, 4pm-11pm on Saturday, and 10am-7pm on Sunday. Food trucks, artists, and musicians set up on Market Street, which was closed to vehicular traffic during these hours. An ordinance was in place to allow open containers of beer and wine within the district.

Lizzie stated that many of the vendors reported profits during this trial period. Some have now leased space downtown for their small businesses. Others have now become more active in our community and committees. Free concerts were held to raise money for the Melva's Alley project. The funds were raised to complete the mural. Surveys were sent out to measure the benefit of this trial program. The majority responded favorably to having the event continue, and were also in favor of making Market Street one-way. The responders indicated that they shopped with the Market Street businesses as well as downtown businesses while attending the event. The majority of the Market Street business owners responded that they would like to see the District continue in 2021.

The recommendations to continue this event for 2021 include having the six parking spaces and striped no-parking space become permanent pedestrian area. MAD, Inc. proposes

collaborating with Mount Airy City Schools art students to paint the parking spaces for a colorful street art installation. The picnic tables would always be available for outdoor seating in these spaces. There would be barriers in place alongside the tables to separate them from the street. In addition, Market Street becomes permanently one-way with better signage indicating it is a one-way street, and MSA&ED continues only on Saturdays, from 12 p.m. – 11 p.m., May-June, and September-October.

Lizzie closed her presentation by announcing that this project won an award for Best Economic Recovery Initiative from the N.C. Department of Commerce. She thanked the Board for investing in Market Street and for the catalyst it has been to much of downtown Mount Airy. She also noted that Mount Airy has a six-page spread in the April issue of “Our State” magazine that highlights the Whittling Wall project as part of their feature of eight towns to tour sculpture in Mount Airy. She gave credit to Jessica Roberts for making this happen.

She summarized that she would like to work with Andy Goodall to amend the ordinance that was passed to allow this, and to work with Fire and Police to make sure they meet any safety requirements for them. She hopes to have this done by the first meeting in April.

PUBLIC HEARING:

Board to Hear Public Comments Regarding Request to Rezone Property Located at 1515 Fancy Gap Road

Ben Barcroft explained that this request is to rezone a 0.18-acre parcel for use as a convenience store. The property operated as a convenience store as a legal non-conforming use in the R-20 zoning until 2015 when it was vacated. Due to its size, specifically with a width of only 40’, the setbacks would not allow any new development to occur on the lot. The best use of the lot would be to renovate the existing building. The new owner submitted a site plan which was reviewed by the Planning Board. The conditions submitted were that it was to be only used as a convenience store; future development of the property shall be limited to the preliminary site plan as amended; and that additional uses may be approved by the City Board of Commissioners through the required hearing process as necessary. Planning Staff met with some neighbors who were opposed to the rezoning, and recommended additional conditions to include an 8’ privacy fence at the rear of the property to supplement existing trees as a buffer, and add a curbed landscaped island in the parking lot to separate the parking lot from the road. The City Traffic Department will also stripe the edge of the street along the southern edge of the property up to Fancy Gap Road to indicate the separation from the asphalt of the parking lot.

Commissioner Yokeley asked about underground storage tanks. Ben responded that they have been inspected and passed, and the owner does not have immediate plans to remove them at this time.

Mayor Pro Tem Niland declared the public hearing open.

Deputy Clerk Carolyn Hegler read comment(s) on behalf of:

Jennifer McBride, owner M & H Mechanical: In regards to the rezoning request for 1515 Fancy Gap Road, parcel 5011-12-97-1299, I am the property owner and business owner of the adjoining property at 1463 Fancy Gap Road and I am not in favor of the rezoning request. My concerns are basically the same as previous concerns expressed in my last email for the previous rezoning request.

I have several concerns with this property being rezoned to this type of business. My biggest concern is the lack of adequate parking at this particular location. The parking lot looks big enough for a maximum of two or three vehicles. I feel multiple customers will be inside the convenience store at the same time and I don't feel the parking lot is large enough to hold multiple vehicles at one time. I have enough problems with random people walking, parking and turning around on my property and I don't need this type of business next door adding to that problem. I do not want their customers parking on my property and/or causing property damage, litter, etc. on my property. If this rezoning request is approved, I will be forced to put up a fence on my property to keep their customers off my property. This will be a substantial cost for me. Part of their building is actually over the property line onto my property and there is an easement granted in the property records; however, the easement is only for six inches and the building is more than six inches on my property.

Another concern I have is that there are plenty of people of questionable character walking and riding up and down this road at all times of the day and night now. I feel a convenience store in this location will only add to that. There are families, some with young children and some with older members, who live on this road. These people don't need the added stress and worry of people in and out of a convenience store all day and night. Neighbors don't want to have to be concerned with damage to their property, belongings, etc. with more people in and around the area.

My business was not here when there was a convenience store previously in that location; however, I have heard from multiple neighbors around that there were a lot of problems when the store was there. There were problems with parking due to the fact that the parking lot is entirely too small for any type of retail establishment and that customers were parking on neighboring properties while visiting the store. I have also been told that there were issues with more people in the area causing damage to property, more litter, etc.

According to law enforcement, they are trying to clean this area up with the property down the road being declared a nuisance and as a business owner in the area; I would like to see that trend continue. I feel allowing a convenience store to reopen in that location will cause more problems than solutions. I am not against any type of business moving into the area, as long as the property is capable of handling the needs of the business and I have concerns that this property isn't capable of doing that. Thank you.

Carol Burke, previous owner, Turfwood Stable, Corner of Fancy Gap Road and Miller Road: This letter serves as my support for the recommendation of the Planning Board of the City of

Mount Airy to approve the rezoning. Prior to this property being annexed by the city, this convenience store was a positive convenience store for the area.

When I was teaching horseback riding lessons to pre-elementary and elementary students at Turfwood Stables at the corner of Fancy Gap Road and Miller Road, this was a well managed convenience store with a clientele that supported the business owner.

I am not aware of any misbehavior or drug related activity that occurred during the many years that the store was operated at this site. Sadly, this area has become a haven of drugs and illegal activity as evidenced by the abatement of the property across the street from Miller Road by Sheriff Hiatt, a long needed and applauded effort to rid the neighborhood of drugs and drug related activity. Sheriff Hiatt's abatement of this nuisance property is just outside the city limits.

Hopefully, with a properly managed convenience store under the jurisdiction of the City of Mount Airy Police Department, this area can be returned to a beautiful law abiding drug-free community, what we all want. I applaud and support the work of the City of Mount Airy Planning Board. Each member of The Planning Board has been properly credentialed to serve on this important board. I trust their review of the rezoning issue that has been placed before them. I request that the City Commissioners vote yes to the rezoning of the property at 1515 Fancy Gap Road.

Thank you for excusing me for not appearing in person for the public hearing this evening. If I were there, the above statement is what I would read and present to you in writing following my comments.

With no one else wishing to speak, Mayor Pro Tem Niland declared the public hearing closed.

PUBLIC FORUM:

Mayor Pro Tem Niland declared the public forum open.

Deputy Clerk Carolyn Hegler read comment(s) on behalf of:

John Pritchard, 128 Ridgecrest Drive: Expressed his concerns about spending and borrowing on items he believes are of questionable need, and contract with DEC. Believes current situation is looking like the previous Barter Theater venture. Believes this project will cost too much and take many years to recover the cost. Encouraged the board to practice good stewardship of the taxpayers' money.

In-Person Comments:

Joseph Zalescik, 1541 West Devon Drive: Spoke in support of Sarah Stevens' bill to change elections to even years for City commissioners. As a poll worker, he believes the Board will benefit from the new options for voting. As a small business owner, he applauds what Lizzie and MAD have done on Market Street. Would like to see it continue.

With no one else wishing to speak, Mayor Pro Tem Niland declared the public forum closed.

NEW BUSINESS:

BOARD TO CONSIDER ORDINANCE TO REZONE PROPERTY LOCATED AT 1515 FANCY GAP ROAD: ORDINANCE 2021-019:

Commissioner Yokeley asked if the privacy fence discussed earlier could be added to this ordinance since it is not listed. He also questioned if the hours of operation can be restricted and included as a condition. Ben Barcroft affirmed that the fence can be added, as well as the curbed island, but was unsure about a time restriction. Mayor Pro Tem Niland expressed doubt about being able to add hours as a condition. Commissioner Cawley asked if we were making an exception by approving this rezoning, seeing as the size of the lot is too small to build on, specifically with regards to parking. Ben responded by confirming that the seven spaces provided on the site plan meet the ordinance requirements of six. Commissioner Cawley received concerns from neighbors about building an outdoor deck with large screen TV's and entertainment in the back. He is concerned that approving this won't allow them to be protected. Ben responded there is not enough room due to required setbacks for any additions. Andy Goodall explained that when the property annexed, it was either blanket rezoned with the intention of having it remain residential, or else they might have missed it. He stated that these problems occur with old buildings that predate zoning. But if we deny this and the building remains occupied, then we will start to run into problems with deterioration of the structure. The site plan and the additional conditions is our attempt at a solution for all involved. He noted that the angle of the rear parking spaces will work best for people having to back out onto Westwood Drive. He believes that these parameters seem to have alleviated most of the concerns of the neighbors. He stated that with regard to limiting hours, the owner would have to agree to this as a condition, but noted that this kind of condition would require policing to ensure compliance.

Commissioner Yokeley is in favor of requiring limited hours. Mayor Pro Tem Niland pointed out that we are trying to balance the safety and harmony of the neighborhood with the rights of the property owner, who is asking to do something on this property that has existed there in the past. He pondered that the property may have been rezoned residential on purpose to prevent future commercial activity in the area, or it possibly could have just been left out. Andy Goodall noted that it was a legal non-conforming use up to 2015 when it closed.

Mayor Pro Tem Niland noted that the Board can approve with conditions, deny, or table the request. The updated site plan includes the fence, and the curbed island. City Attorney Hugh Campbell stated that the owner would have to agree to the condition of limiting the hours in order for it to be imposed. Commissioner Yokeley would like to see the new conditions added to the proposed ordinance, included limited hours. The owner of the property, Ibrahim Kaya, stated his expected hours to be 6 a.m. to 10 or 11 p.m. Commissioner Cawley asked about public hearing comments from Mrs. McBride with regard to her adjacent property. Andy responded that the portion of her property that is adjacent to this lot is filled with brush and trees, which would make it unlikely that people would use her property to access the store.

Commissioner Cawley made a motion to table the item until the next meeting in order for citizen concerns to be addressed and the ordinance is updated with applicable conditions. The Board voted unanimously in favor of the motion.

BOARD TO CONSIDER OPTION AGREEMENT FOR PURCHASE OF REAL PROPERTY IN SPENCER’S MILL REDEVELOPMENT AREA – RESOLUTION 2021-053:

City Attorney Hugh Campbell explained the details of the option that was provided to the members of the Board. Specifically, Sunhouse Hospitality LLC would like an option to purchase the “Sparger Building”, the “Dye House” and the “Lower Plaza” located within the Spencer’s Mill Redevelopment Area, as show on Exhibit A. The developers need site control during the period while they apply for historic tax credits and other sources of funding in order to be able to complete the financial close on the project. This option is broken into three different time periods, each one increasing their financial investment in the project as follows: \$10,000 between now and August 31; \$10,000 for the period of August 31 – December 31; and \$10,000 from December 31 – February 28, 2022, should the extensions be needed. Whatever option fees end up being paid will be credited against the purchase price of \$350,000. During this period, we will be working on the creation of the development agreement, which will state the specifics of the site plan, the development, and the City’s obligation regarding public infrastructure in Willow Street as well as infrastructure within the campus of the Spencer’s project. This information will be presented to the Board as we reach those milestones through the project.

Commissioner Koch restated his previous statement that any contractor or entity that does work on the property must provide insurance certificates to the City. Hugh confirmed that those certificates would need to be provided before any access to the property is allowed.

Mayor Pro Tem Niland noted that this is historic event in the City, and commended current and previous board members that have worked on this project. He also commended Surry County Commissioner Larry Johnson who was present at the meeting, and the full County Board of Commissioners for their partnership in this project. Commissioner Koch stated that they were relying on the City Attorney regarding this agreement. Hugh stated that both he and the developers feel good about the content of the option agreement.

On motion by Commissioner Yokeley, seconded by Commissioner Cawley and passed unanimously, the following resolution was approved:

RESOLUTION NUMBER 2021-053

RESOLUTION APPROVING OPTION AGREEMENT TO PURCHASE REAL PROPERTY LOCATED IN SPENCER’S MILL REDEVELOPMENT AREA

WHEREAS, The City of Mount Airy is the fee simple owner of certain real property commonly referred to as (i) the “Sparger Building,” (ii) the “Dye House” (being an area of

approximately 10,000 square feet that comprises the eastern side of the “Cube Building”), and (iii) the “Lower Plaza” situated in the City of Mount Airy, County of Surry, State of North Carolina and located within the Spencer’s Mill Redevelopment Area. The Sparger Building, Dye House and Lower Plaza are each shown on Exhibit A attached to the Option Agreement and by this reference made a part hereof (hereinafter collectively identified as the “Subject Property”); and

WHEREAS, Sunhouse Hospitality, LLC, a North Carolina limited liability company (the “Developer”), has requested an exclusive option to purchase the Subject Property subject to the terms and upon the conditions contained in that Option Agreement for Purchase of Real Property (the “Option Agreement”); and

WHEREAS, the City is engaged in the redevelopment of the Spencer’s Mill Property and recently completed phase I of the project consisting of market-rate apartments and public infrastructure; and

WHEREAS, Developer proposes to redevelop the Sparger Building into a boutique hotel containing approximately 70-80 rooms with an estimated tax value of approximately \$9 million. Developer also proposes to redevelop the Dye House into a market center containing mini-convention space, meeting rooms, and certain amenities available to hotel guests and the public with an estimated tax value of approximately \$1 million; and

WHEREAS, Developer has requested an exclusive option to purchase the Subject Property for the sum of three hundred and fifty thousand dollars (\$350,000.00) as set forth in the Option Agreement; however, the developer shall receive a credit toward said purchase in the amount of the Option Fee; and

WHEREAS, the proposed Option Agreement outlines the Developer’s responsibilities as well as the obligations of the City. The Option Agreement has been reviewed by the Board, and in its reasonable good faith judgment, the Board determines that Developer’s promises made in the Option Agreement together with payment of the Option Price will confer fair and adequate consideration for the Subject Property. The Board further finds that the proposed sale, if consummated, will enhance economic development, increase tourism, create jobs, benefit the central business district and provide new sources of revenue for the City of Mount Airy.

NOW, THEREFORE BE IT RESOLVED BY THE CITY OF MOUNT AIRY BOARD OF COMMISSIONERS MEETING IN OPEN SESSION THAT:

- Section 1. The Board of Commissioners does hereby approve the Option Agreement.
- Section 2. The Board of Commissioners does hereby authorize the Mayor Pro Tempore to execute the Option Agreement per review and approval by the City Attorney.
- Section 3. This resolution shall become effective upon approval.

Approved and adopted this the 18th day of March, 2021.

BOARD TO CONSIDER APPOINTING CITY CONSTRUCTION MANAGER FOR SPENCER'S REDEVELOPMENT AREA PROJECT:

Commissioner Wood made a motion to consider developing a contract and appointing Charles (Charlie) Vaughn as construction manager for the Spencer's Redevelopment Area project.

Mayor Pro Tem Niland indicated this would authorize City Attorney Hugh Campbell to draw up a legal agreement to act as the City's agent to work with the developers on this project, and to bring this back before the Board for approval.

With no further discussion, the Board voted unanimously in favor of the motion.

BOARD TO CONSIDER RESOLUTION APPROVING 2021 STREET RESURFACING CONTRACT - RESOLUTION 2021-054:

On motion by Commissioner Koch, and passed unanimously, the following resolution was adopted:

RESOLUTION NUMBER 2021-054

RESOLUTION TO AWARD 2021 STREET RESURFACING CONTRACT TO SOWERS CONSTRUCTION COMPANY

WHEREAS, the City of Mount Airy Board of Commissioners approved a multi-year plan for street resurfacing and this is year five (5) of the 2021 Street Resurfacing Project; and

WHEREAS, the 2021 Street Resurfacing Project includes the placing of approximately 4,200 tons of asphalt for the repaving of the following streets: Laurel Lane, Pine Creek Trail, Laurel Creek Drive, Boston Circle, Camelia Court, Foxledge Lane, Valleyview Drive, Hadley Road, Lovill Circle, Paige Street and John Street; and

WHEREAS, the City of Mount Advertised and received five bids from contractors with results as follows:

| <u>Contractor</u> | <u>City</u> | <u>Bid</u> |
|------------------------------------|-----------------------|---------------------|
| Sowers Construction Company | Mount Airy, NC | \$331,930.00 |
| Carl Rose & Sons | Elkin, NC | \$351,488.32 |
| Adams Construction Company | Jefferson, NC | \$355,502.80 |
| Tri-County Paving | Jefferson, NC | \$362,727.76 |
| APAC – Atlantic, Inc. | Winston-Salem, NC | \$458,560.00 |

WHEREAS, it is staff recommendation to award the 2021 Street Resurfacing Contract to Sowers Construction Company for the amount of \$331,930.00, with a budget approval of \$348,527.00 to allow a 5% contingency for possible overruns:

NOW, THEREFORE BE IT RESOLVED BY THE CITY OF MOUNT AIRY BOARD OF COMMISSIONERS MEETING IN OPEN SESSION THAT:

- Section 1. The Board of Commissioners does hereby award the 2021 Street Resurfacing Project Contract to Sowers Construction Company for the amount of \$331,930.00 with a budget approval of \$348,527.00 to allow a 5% contingency for possible overruns.
- Section 2. The Board of Commissioners does hereby authorize the Mayor Pro Tempore to execute said contract per review and approval by the City Attorney.
- Section 3. This resolution shall become effective upon approval.

Approved and adopted this the 18th day of March, 2021.

BOARD TO CONSIDER APPROVAL OF BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR STREET RESURFACING PROJECT – ORDINANCE 2021-020:
On motion by Commissioner Wood, and passed unanimously, the following resolution was adopted:

A21-010

**ORDINANCE # 2021-020
 BUDGET ORDINANCE AMENDMENT**

WHEREAS the City of Mount Airy adopted the 2020-21 budget on June 11, 2020;

AND WHEREAS it is necessary to amend the budget ordinance in order to provide funding for street resurfacing from Powell Bill funds;

AND WHEREAS General Statute 159-15 of the North Carolina Government Fiscal Control Act provides authority to amend a current municipal budget;

NOW, THEREFORE, be it ordained that authorization is hereby given to make the following adjustments:

| | Increase (Decrease) |
|--|------------------------|
| Section 1. <u>General Fund Appropriations</u> | |
| Public Works | 91,220 |
| | <u>91,220</u> |
| Section 2. <u>General Fund Revenue Estimates</u> | |
| Restricted intergovernmental revenues | (14,093) |
| Appropriation of Fund Balance - Powell Bill | 105,313 |
| | <u>91,220</u> |

Adopted this 18th day of March, 2021

OTHER BUSINESS:

Commissioner Koch asked how much we still owed on the DEC contract. Pam clarified that of the original \$25,000 contract for infrastructure borrowing, we paid out only \$17,000, since we did not complete the borrowing. The Addendum 1 for \$35,000 for the financial planning for our capital is the only one we still have open and we have paid \$17,500 on that so far. Addendum 2 for \$50,000 is closed out and we paid a total of \$25,000 for that. Barbara stated that this information has been provided to the Board which notes currently we have paid DEC just over \$60,000. Commissioner Koch asked about out of pocket expenses, to which Barbara replied that he has not submitted any of those to date. She pointed out that should we elect to move forward with borrowing relating to capital purchases, we will need to do an amended agreement for his help with that.

REMARKS BY OFFICIALS:

City Manager Barbara Jones: No comments.

Commissioner Cawley: Great to live in a place that others want to visit. Expressed thanks to Darren Lewis for introducing him to pickleball.

Commissioner Koch: Thanks to the Market Street folks. He admitted he was wrong when he voted against it, and it has turned out very well. Thanks to all involved in the RFP for the Spencer's Development.

Commissioner Yokeley: Today's date will be historic and transformative for this city. We are on the road to many positive improvements. Many more positive developments will happen because of this one. Supports Mount Airy City Schools and congratulations for getting the schools open and teaching in-person this school year.

Commissioner Wood: Expressed thanks to the County Commissioners for agreeing to give \$1.5 million dollars towards this project, and thanks to our Board members who were involved in working with their Board on this. This is going to be a great project for the city and the county.

Mayor Pro Tem Niland: We spend money on these projects as an investment to keep our city vital, alive and growing. He is excited to be a part of it. Following closed session, we will reopen and recess this meeting to Tuesday, March 30, at 1:00 p.m. for budget discussion.

CLOSED SESSION:

Commissioner Koch made a motion to enter into closed session pursuant to NCGS 143-318.11(a)(3) Attorney-Client privilege and NCGS 143-318.11(a)(5) Acquisition of Property and it was approved unanimously.

OPEN SESSION:

On motion by Commissioner Koch and approved unanimously, the board entered back in to open session.

Commissioner Cawley made a motion to direct City Manager and staff to get started on the greenway survey design using available PART funds. This passed by a unanimous vote in favor of the motion.

RECESS:

On motion by Commissioner Wood and approved unanimously, the meeting was recessed until Tuesday, March 30 at 1:00 p.m.

Approved and adopted this the 1st day of April, 2021.

Ronald M. Niland, Mayor Pro Tempore

ATTEST:

Carolyn Hegler, Deputy Clerk