

**MOUNT AIRY, NORTH CAROLINA
REGULAR MEETING MINUTES
February 7, 2019**

MEMBERS PRESENT:

Mayor David L. Rowe, Commissioners Jim Armbrister, Shirley Brinkley, Dean Brown, Jon Cawley, and Steve Yokeley

APPROVAL OF AGENDA:

On motion by Commissioner Brinkley, seconded by Commissioner Brown and passed unanimously, the agenda was approved.

CONSENT AGENDA:

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

- **APPROVAL OF JANUARY 17, 2019 REGULAR MEETING MINUTES:** _____
- **RESOLUTION 2019-041-APPROVING AUDIT CONTRACT WITH MARTIN STARNES & ASSOCIATES, CPAs, P.A.:** _____

RESOLUTION NUMBER 2019-041

WHEREAS, the Board of Commissioners of the City of Mount Airy desires to engage the services of Martin Starnes & Associates, CPAs, P.A. to perform the audit of the financial statements for the year ending June 30, 2019; and

WHEREAS, Martin Starnes & Associates, CPAs, P.A. has submitted an engagement letter and audit contract consistent with the terms and conditions of their proposal to audit each of the five years ended June 30, 2020; and

NOW, THEREFORE BE IT RESOLVED that the Mayor of the City of Mount Airy is hereby authorized to execute a contract with Martin Starnes & Associates, CPAs, P.A. to perform said audit for a fee of \$32,000.

Approved and adopted this the 7th day of February, 2019.

- **RESOLUTION 2019-042-ORDERING ADVERTISEMENT OF UNPAID TAXES:** _____

RESOLUTION NUMBER 2019-042

ORDERING ADVERTISEMENT OF UNPAID TAXES

WHEREAS, the Revenue Collection Assistant II, in her capacity as Tax Collector, has submitted a report on unpaid 2018 taxes, which constitute a lien on real property as required by G.S. 105-369(a); and

WHEREAS, G.S. 105-369(a) provides for the advertisement of such taxes:

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

Section 1. In accordance with G.S. 105-369(a), the Revenue Collection Assistant II is hereby authorized, empowered, and commanded to advertise unpaid taxes for the current fiscal year that are liens on real property at least once between March 1 and June 30.

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

Approved and adopted this the 7th day of February, 2019.

- **RESOLUTION 2019-043-SETTING PUBLIC HEARING REGARDING REQUEST TO REZONE PROPERTY LOCATED AT 229 WILLOW STREET:**

RESOLUTION NUMBER 2019-043

RESOLUTION TO SET PUBLIC HEARING REGARDING REZONING REQUEST OF PROPERTY LOCATED AT 229 WILLOW STREET

WHEREAS, the City of Mount Airy Planning & Development Department requests the rezoning of a .27 acre parcel located at 229 Willow Street from M-1 (Industrial) to B-2 (General Business); and

WHEREAS, the Tax Identification Number for this property is 5020-15-64-7954; and

WHEREAS, the Planning Board of the City of Mount Airy has recommended approval of the request to the Board of Commissioners:

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

Section 1. That a public hearing be scheduled for Thursday, February 21, 2019 at 7:00 pm to hear public comment on the above mentioned request.

Section 2. That notice of the public hearing shall be published in the Mount Airy News, a newspaper having general circulation in the City of Mount Airy, at least ten (10) days prior to the date of the public hearing.

Section 3. This resolution shall become effective upon approval.

Approved and adopted this the 7th day of February, 2019.

- **RESOLUTION 2019-044-SETTING PUBLIC HEARING FOR REQUEST TO REZONE/ANNEX MULTIPLE PROPERTIES LOCATED ON W. PINE STREET AND S. FRANKLIN ROAD:**
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RESOLUTION NUMBER 2019-044

RESOLUTION TO SET A PUBLIC HEARING REGARDING REQUEST TO REZONE/ANNEX MULTIPLE PROPERTIES LOCATED ON WEST PINE STREET AND SOUTH FRANKLIN ROAD

WHEREAS, the City of Mount Airy has been petitioned by Andy Priolo to annex and rezone multiple properties located on West Pine Street/South Franklin Road from R-20 (Residential District) to B-4 (Highway Business District); and

WHEREAS, the Tax Identification Numbers for said properties are 5010-12-95-2012; 5010-12-95-1042; 5010-12-95-0132; 5010-12-95-2132; 5010-12-95-2241; and

WHEREAS, the Planning Board of the City of Mount Airy has recommended approval of the request to the Board of Commissioners:

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

- Section 1. That a public hearing be scheduled for Thursday, February 21, 2019 at 7:00 pm to hear public comment on the above mentioned request.
- Section 2. That notice of the public hearing shall be published in the Mount Airy News, a newspaper having general circulation in the City of Mount Airy, at least ten (10) days prior to the date of the public hearing.
- Section 3. This resolution shall become effective upon approval.

Approved and adopted this the 7th day of February, 2019.

- **RESOLUTION 2019-045-RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION FOR ANNEXATION:**
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RESOLUTION NUMBER 2019-045

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.2

WHEREAS, a petition requesting annexation of an area described in said petitions were received on November 19, 2018 by the Mount Airy Board of Commissioners; and

WHEREAS, G.S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the Board of Commissioners of the City of Mount Airy deems it advisable to proceed in response to this request for annexation:

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

The City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Board of Commissioners the result of her investigation.

Approved and adopted this the 7th day of February, 2019.

• **RESOLUTION 2019-046-MAKING BOARD OF ADJUSTMENT REAPPOINTMENTS:**

RESOLUTION NUMBER 2019-046

RESOLUTION MAKING BOARD OF ADJUSTMENT REAPPOINTMENTS

WHEREAS, three appointments to the Board of Adjustment have expired and all three are eligible for reappointment; and

WHEREAS, Luke Morrison, Sharon Gates, and Tim Devore have all expressed interest in being reappointed to the Board of Adjustment; and

WHEREAS, it is staff recommendation that Luke Morrison, Sharon Gates, and Tim Devore be reappointed to the Board of Adjustment:

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

Section 1. Luke Morrison is hereby reappointed to the Board of Adjustment for a four-year term expiring January 1, 2023.

Section 2. Sharon Gates is hereby reappointed to the Board of Adjustment as an Alternate for a four-year term expiring January 1, 2023.

Section 3. Tim Devore is hereby reappointed to the Board of Adjustment for a four-year term expiring January 1, 2023.

Section 4. This resolution shall become effective upon approval.

Approved and adopted this the 7th day of February, 2019.

• **RESOLUTION 2019-047-AUTHORIZING NEGOTIATIONS FOR ALTERNATIVE FUEL CARD PROVIDER:**

RESOLUTION NUMBER 2019-047

RESOLUTION AUTHORIZING NEGOTIATIONS FOR ALTERNATIVE FUEL CARD PROVIDER

WHEREAS, the City of Mount Airy utilizes a fuel card system to provide for its fueling needs through a network of providers; and

WHEREAS, it is staff recommendation for approval to begin negotiations with an alternative fuel card provider:

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 authorize the City Manager and Finance Director to begin negotiations with an alternative fuel card provider.

Section 2. The Board of Commissioners does hereby authorize the City Manager to execute the contract (once negotiations are finalized) with an alternative fuel card provider upon review and approval by the City Attorney.

Section 3. This resolution shall become effective upon approval.

Approved and adopted this the 7th day of February, 2019.

(end of consent agenda)

SPECIAL PRESENTATION:

Black History Month Proclamation:

Mayor read the proclamation declaring the month of February as Black History Month and presented the proclamation to Reverend Craig Smith, Surry County NAACP Chapter President.

PUBLIC HEARINGS:

Board to Hear Public Comment Regarding City of Mount Airy Zoning Ordinance Amendments as it Relates to Off-Street Parking Requirements within the MSD:

Mayor Rowe: Now is the scheduled public hearing. I want to recognize Andy Goodall.

Andy Goodall: Sometimes when we come in here and it is rough and we think we aren't doing a good job, I was at the park this afternoon with my son and there are so many people out there enjoying the things that we are involved in that I think we are doing good for this city. Thank you for that and I thank all of my co-workers. The text amendment is one we discussed at the last meeting-adjusting the zoning ordinance...a very minor tweak in the language that would exempt off-street parking requirements for properties within the MSD instead of those that are zoned B-1. I have a feeling that when this was written in 2001, that the MSD just incorporated properties that were zoned B-1 but as the MSD has expanded, it has also taken in properties that are in other zoning districts. That is where we are with some of the properties on Willow Street and some that align with Pine Street. They are within the MSD but there are lots that do not have room for their own parking. This text amendment will allow them to use the public parking lots as their required parking so that when they

come in for development permits, we are able to permit them to continue the use. When you do vote on it, like with any amendment to the zoning ordinance, you will have to approve a consistency statement as well as finding that request is reasonable and in the public interest.

Mayor Rowe: Thank you Andy. I now declare the public hearing open. Please come up to the podium and state your name, address, and whether or not you live in the city limits.

Mayor Rowe declared the public hearing open.

Lizzie Morrison, 325 South Main Street (city resident): I am Lizzie Morrison and I am the Main Street Coordinator with Mount Airy Downtown, Inc. and I just want to say that the Board of Directors of Mount Airy Downtown, Inc. does support this text amendment. There has been no opposition that I have heard from the downtown property or business owners for this text amendment.

Mayor Rowe: Anyone else?

Jessica Cockerham, 239 Hilda Drive (non-city resident): I am Jessica Bolick Cockerham and I live at 239 Hilda Drive outside of the city limits. I am going to be leasing the Willow Street property from Gene Rees in the near future. I first want to say thank you so much for considering this proposal that Andy has brought to y'all and I want to second Andy saying I think that everybody here sitting at this has the best interest of Mount Airy at hand and I think that this is something that is going to benefit everybody in the MDA and the downtown area. Thank y'all for considering this.

Randy Collins, Greater Mount Airy Chamber of Commerce President: I am Randy Collins and I am with the Greater Mount Airy Chamber of Commerce. I appreciate the opportunity to speak on this topic tonight. We support the proposed ordinance amendments as it relates to off-street parking in the MSD. We think it is a great idea. I think the proposed changes obviously allow the event center to do what it needs to do and to bring that project to downtown and we think also for future projects as well. Parking continues to be a problem downtown and it is just the nature of the beast we think and certain sections of the city have no parking issues. I work in downtown every day and it can be a struggle. Amending the ordinance will help the current applicant and I think it will help other people in the future who have an interest in developing property in that area. I want to say for the record as well that the Chamber wants to say publically that we support the event center project on Willow Street. If you aren't aware, but certainly we are aware of it every day, there is a shortage of adequate meeting space within the city limits and specifically in the downtown area. If you have a meeting of more than 50 people, there aren't a lot of choices. This project will allow groups, businesses, non-profits, churches, anybody who needs a large venue to have for events. We are interested and talked with them already about moving some of our events because of that the need for the space is there. We think it will be a catalyst perhaps for that whole section of the city under the Spencer's Mill site once this project comes in and other projects come in, that development and redevelopment will occur. We appreciate the opportunity to speak on the topic and for your time tonight. Thank you.

Mayor Rowe: Thank you, Randy. Anyone else wish to speak?

John Pritchard, 128 Ridgecrest Drive (city resident): I'm John Pritchard and I live on Ridgecrest Drive in Mount Airy. I was thinking about this...I thought about the Trojan Horse, a well-known myth about an army that wanted to take over the City of Troy. They built a huge Trojan Horse and left it at city gates. The horse was full of men from that army and once inside the gate, they came out and took over the city. Spencer's might be our Trojan Horse. When it was bought, I was in favor of it...I thought it was a good idea for the city to buy it. The initial intentions were made known and I thought that was all right too. It was supposed to be a wonderful thing for the city but it has been nothing but trouble and millions in wasted dollars with millions more to come. There is no big army inside our version of the horse but there was a small group with plans to get their way. First it was called the RDC, now I call it the BSS...the Big Spender's for Spencer's. We can see they have been trying to control the city since the purchase and we have really made good progress. Our Trojan Horse has also given us Trojan ponies and the rezoning issue tonight is just one of those ponies. The zoning change sounds innocent enough and sounds minor. The present zoning for Spencer's says a new business has to provide its own parking and the new zoning would remove that requirement. You have already had one request to get the city to provide parking for a new business. That has been withdrawn for now but will likely come up again if the zoning changes and then all future businesses that may come will expect parking as well. Much of the Spencer's property is parking but is in terrible shape. New owners would have to repave and landscape plus the lighting and maintenance and of course pay property tax. Naturally, potential new businesses would rather the taxpayers cover all of that. Potential developers are already getting something like 60% tax credit for developing things at Spencer's and to give them free parking on top of that would be a little much. There is so much parking area available, any new business should simply buy enough from the city for their customer parking. If you approve this zoning change, taxpayers will be stuck with an expense forever for anything that might locate at Spencer's. The zoning shouldn't be changed or should be changed to something that protects the city from future responsibilities. Thank you.

Mayor Rowe: Anyone else wish to speak? All right, seeing no one else, I declare the public hearing closed.

Mayor Rowe declared the public hearing closed.

PUBLIC FORUM:

Mayor Rowe: The next item on the agenda is a public forum. This is an opportunity for anyone in the audience to address the board. Please come up to the podium, state your name, address, and whether or not you reside in the city limits. You will be given three minutes to make your comments and the City Clerk will ring the bell to signal when your three minutes are up. I ask that you state your thoughts, facts, and opinions in a respectful manner. This shall not include name calling or defamation of anyone's character. After the public forum is closed, all items on the agenda will be for board discussion only—the audience will not be recognized for comments. I now declare the public forum open.

Mayor Rowe declared the public forum open.

Rawley King, 260 Lakeview Drive (non-city resident): My name is Rawley King and I live at 260 Lakeview Drive, Mount Airy, North Carolina. I am here tonight about the ETJ. I think

you ought to take it out. We have no say in it and we can't vote. I have been here before and I move for y'all to take it out. The county is willing to take it out as soon as y'all will vote on it, the county will take it out. I appreciate for you to consider that and talking about it. If it falls back to the county, they have an ordinance anyway. Thank you.

JT Henson, 772 South Franklin Road (non-city resident): I am JT Henson and I reside at 772 South Franklin Road. My telephone number is 336-755-2101. On the 15th of November last year, I spoke at a public forum to request that the board repeal the ordinance to establish the ETJ. At that time, I outlined specific reasons why the board should repeal or abolish the ETJ and since that is on the record, I will not repeat those things in the interest of time. On the 13th day of January of this year, the Mount Airy News had an op-ed entitled "Time to Dismantle the ETJ". It is time to start that process. It has been reported that it would take up to two years to do it. That is true only if the city and county governments can't reach a mutual agreement. The statute that established the ETJ, NCGS 160-360, states that such an agreement "may be modified at any time by mutual agreement". There is no need for any changes in land use or restrictions. The zoning designation may change, but the permitted land uses would remain the same. The county has adequate zoning ordinances to protect against placing hog lots or poultry operations next to the city line. There is no need to worry about that...the county wouldn't permit that through their zoning. The combined interest of ETJ residents is best served and protected by the county. The ETJ residents do not have any direct elected representatives. The control for zoning and code enforcement is controlled by this board...the county appoints four and we have no direct elected representatives in the ETJ. I am requesting tonight that this board vote to start the process to repeal, unwind, abolish or whatever the ordinance that initially established the ETJ boundaries.

Gene Clark, 1221 Newsome Street (city resident): Good evening Mayor and Commissioners. My name is Gene Clark and I live at 1221 Newsome Street. I am here tonight to talk about perception and doing the right thing. First, I want to commend the Mayor...no matter what conversation you have with him, he tries to do the right thing and I want to publically tell you that David, I really believe that is in your heart. I know I was upset about the vote recently about doing away with the four-to-one majority. The issue wasn't about whether or not it was done right necessarily or wrong, it is about being fair to each other and treating each other the way you would want to be treated. Two of the commissioners were caught off guard. It was a misunderstanding and I understand that but put yourself in their position. How would you feel? How would you feel if you got caught off guard and were treated the way they were treated? I think that is part of the situation we have with the city council. I think that we put our personal feelings ahead of what is best for the city. If we can check our...and myself included, I will include myself in this...if we could check our tempers and our agendas outside the door and do what is best for everybody in this town, we might find it would be easier to compromise. Compromise is not a dirty word, by the way. Until we find out how to do that, we are going to stay in the same rut we are in now. I hope you will take the time to think long and hard about that. Thank you.

John Pritchard, 128 Ridgecrest Drive (city resident): I am still John Pritchard and I still live at Ridgecrest Drive. I want to talk about public trust. Public trust is priceless but it is easily destroyed. It is destroyed in politics more often than any other way and unfortunately, it happens all too often. It never happened on the Mayberry TV show and it shouldn't happen

in the town that calls itself Mayberry either, but it has. Public trust in politics is built by officials demonstrating strong character, ethics, and integrity. Trust is destroyed if officials sidestep these qualities to get what they want. The best way to keep public trust is for officials to always stand by their agreements and keep their word. If some don't, there is nothing left to trust. I am sad to say I think that is what has happened in Mayberry with the agreement of the four-to-one vote on Spencer's. A firm agreement was made, agreed to by all, and tossed aside by some. There are other examples of damage to public trust...tonight's public hearing is required by law for citizens to voice their opinions before the board votes. The Board's past policy for years has been never to vote on the issue the same night as the hearing. This allows commissioners to take time to consider the comments and to receive more comments between the hearing and the vote. This board stopped doing this a couple of years ago and I think you will see a vote on the zoning tonight. How can they have time to really consider those comments or is the hearing only because the law requires it? I spoke at the hearing about Trojan Horse and I said this zoning change is one of its ponies...it will obligate tax payers to provide parking lots for anything that may come to Spencer's. Other examples that damage trust is hiding too much in the consent agenda, which happens frequently, and treating various committees that the board appoints. You treat it like musical chairs, it is really mostly the same group of people and they are renewed and renewed until they can't be renewed anymore and they are switched over to a different committee or maybe their spouse is appointed. It is also putting some people on the agenda and not others, allowing issues to come up to vote without being on the agenda by calling it old business when they aren't, violating Roberts Rules of Order even though the board is required by the city ordinance to follow it. Most all cities have the Mayor run the meetings and he or she has the authority to rule things like that out of order. Most of us remember who William Saphire is from TV and newspapers and he said something I think fits in right here-the right to do something does not mean that doing it is right. Thank you.

Mayor Rowe: Anyone else wish to speak? All right, seeing no one else, I declare the public forum closed.

Mayor Rowe declared the public forum closed.

OLD BUSINESS:

a) 2018 Annual Fire Department Report:

Chief Poindexter was present to answer any questions from the Board in regard to the 2018 Annual Fire Department Report. The Board had no questions or concerns.

b) ETJ Update-Andy Goodall:

Andy Goodall: I spoke with the Planning Board at their January meeting and we had a lengthy and detailed round table discussion. The end result, there were seven members there and they voted with a six-to-one vote to recommend to the board that the ETJ should stay intact. The one dissenting vote, there was a condition to their vote...they would be ok with relinquishing the ETJ as long as the county put back something that was comparable to what we have. Should the county not put something back similar, then they would not be ok with the change. Right now, we have three members that live in the ETJ and two supported it staying and one was the one that voted to relinquish. One of the members used to sell real estate and I asked him does a property or home being in the ETJ detract from being able to sell it or someone to buy it and he said no-the big kicker for properties outside city limits is

whether or not they have water. It has very little to do with who has the zoning, it is whether or not it has the ability to connect to public water. Most of them felt that the ETJ serves as a buffer and we can have some say in the development patterns just outside our borders and they think it is best we stay that way.

Commissioner Brinkley: When JT came before us some time ago when there were apartments that were going to be built on Franklin Road, our board went to bat to try to stop that. Had he not been in the ETJ, what do you anticipate what could have happened? Could he have ended up having apartments there?

Andy Goodall: Because of the intensity of that use, I would say that you would have heard that case anyway because 65-units is not going to be able to run on well and septic, so they would most likely have asked for annexation into the city limits, which would require a zoning change as well. I think you probably still would have heard it regardless if it was in the ETJ or not.

Commissioner Brinkley: Then we could have made a decision well there is revenue there and we just may put it in if it came to that point, is that right?

Andy Goodall: You would still make that decision about the annexation as well because it was just over the line. It would have been that decision and if you decided to annex, you would have to give it zoning. This way, you just have our zoning and whether or not to change it. I would have imagined they probably would have attempted to speak with the county, but due to the fact they wouldn't be able to service 65-units with water and septic tanks, they would have had to come to the city. The annexation you have for the next meeting is the same thing, right now they are on the edge of town and they want to develop that property in a way that they need city services.

Commissioner Armbrister: Did you discuss the fact that we have control and they don't have any representation?

Andy Goodall: We did talk about that. Yes, by not being in city limits, you don't have a vote but we have gone this far with two people coming to your meetings...where is the rest of the ETJ? Like I said during the previous meeting, we have always been very, very fair to listen to the concerns of those who live in the ETJ and we have a record of tweaking our ordinances to help them.

Commissioner Brown: The School of Government says the concept of ETJ was first explored in N.C. in 1894. The local ETJ set up was formed in the 1900's for preparation of annexation areas. I have had many contacts with those who live in the ETJ and those who live on the inside edge of city limits. Another ETJ area resident says he is out of the city for voting and other services. Our police department doesn't service the ETJ area. Another doesn't want to be taken into the city-she is trying to buy a new trailer and if the city keeps the ETJ, she will be forced to buy a double-wide that she can't afford. Some citizens tell me that as soon as the ETJ zoning is done away with, there will be farm animals a few feet from their back door, to spend \$900,000 on a new home to wind up with a cattle or horse lot next to you. That isn't right either. County zoning can control that. I have had some board members say that the local ETJ is no longer viable, so they should do away with it and let the county take control of the area involved. After all, we aren't living in the 1900's anymore. One resident cited a drawback to the ETJ is the fact that they don't get to vote for those who have control over their property. The last report, it said 7,000 to 8,000 people were believed to be living in the ETJ. According to data provided by Andy, it wasn't really known how many of these are

city water customers. In one case, a Patsy Hunter who appeared at a board meeting in March 2015 to discuss an issue that she encountered with the ETJ situation. She wants to sub-divide the property she owns in the ETJ so her daughter could put a home there but it wasn't allowed. That property is in the county but subject to city zoning laws, which do not permit that zoning provision. As part of the move to create the ETJ, Surry County relinquished the zoning control of those areas. It seems to me, the ETJ has lost its value. Some municipalities have excluded jurisdiction for developing regulations both within the city limits and established ETJ. I have always been a fighter for the ETJ, but since researching this, I have decided that it was a good thing 20 years ago. Many cities all over the state are having the same problems. The Town of Boone is in federal court over the ETJ. Other pros and cons can be found on the internet or old copies of the Mount Airy News.

Commissioner Cawley: It is always my desire to try to support what our committees recommend to us. Did that committee talk about nuisance violations?

Andy Goodall: We did briefly. After looking through what the city can/can't do outside city limits, nuisance ordinances are tied to police power ordinances that we don't have the statutory authority to enforce outside city limits. Minimum housing is a development type ordinance and we can, our ordinance doesn't include the ETJ, but we could include it. That was discussed briefly but that would be using city taxpayer dollars to either fix or demolish houses outside city limits and we have been doing very little of that inside city limits. The planning area is about 16,000 acres-city limits and ETJ, with 55% of that being the ETJ. We would be adding substantial land mass if we were to do housing enforcement outside city limits.

Commissioner Cawley: The ETJ is a mile from our city limits...is that correct?

Andy Goodall: Yes, in most places. When Cross Creek was annexed, the ETJ wasn't expanded another mile outside of that so when you get to the end of city limits at Parker Road, there is no ETJ. Most places east, west, and south do have the mile ETJ.

Commissioner Cawley: Arguments make a lot of sense if we are talking about Franklin Road and this side of the street is the city limit line and the other side is not. That argument bears some weight to those people but we are talking about going another 5,000 feet behind that resident across the street and that is the distance. I agree with Commissioner Brown that the ETJ has run its course. It was put there for the protection of the municipality when forced annexation was going to be practiced.

Commissioner Yokeley: I haven't heard any comments on how it protects the citizens of Mount Airy and that is who we are elected to represent. I can't vote for eliminating the ETJ. I think it is still necessary. If you want to change it, change the State law and change the US Constitution.

Commissioner Cawley made a motion to begin the process to dissolve the ETJ. Commissioner Armbrister seconded it and it was approved by a four to one vote:

Vote Aye: Commissioners Cawley, Brinkley, Brown, and Armbrister

Vote Nay: Commissioner Yokeley

Hugh Campbell: We will start the process and proceed depending on how the County wants to approach it.

RESOLUTION 2019-048-TERMINATING AUTOMATIC AID AGREEMENT BETWEEN THE CITY OF MOUNT AIRY AND FRANKLIN COMMUNITY VOLUNTEER FIRE DEPARTMENT:

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

RESOLUTION NUMBER 2019-048

RESOLUTION TERMINATING AUTOMATIC AID AGREEMENT BETWEEN THE CITY OF MOUNT AIRY AND FRANKLIN COMMUNITY VOLUNTEER FIRE DEPARTMENT

WHEREAS, the City of Mount Airy (City) entered into an Automatic Aid Agreement for Fire Protection with the Franklin Community Volunteer Fire Department (VFD) in July of 2013; and

WHEREAS, the City received notification from the VFD of their wish to terminate said agreement as of July 1, 2019 for the reason they cannot sustain themselves on the contracted amount; and

WHEREAS, the City appreciates the working relationship with the VFD and thanks them for their assistance of automatic aid and fire suppression service support to the Mount Airy Fire Department; and

WHEREAS, it is staff recommendation to accept the termination request of said Automatic Aid Agreement:

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 accept the request to terminate the Automatic Aid Agreement for Fire Protection between the City of Mount Airy and the Franklin Community Voluntary Fire Department.
- Section 2. Said agreement shall be mutually terminated as of July 1, 2019 upon approval by the City Attorney.
- Section 3. This resolution shall become effective upon approval.

Approved and adopted this the 7th day of February, 2019.

ORDINANCE 2019-026-AMENDING ARTICLE VIII, Section 8.1 OF THE CITY OF MOUNT AIRY'S ZONING ORDINANCE:

On motion by Commissioner Brinkley, seconded by Commissioner Armbrister, the following Statement of Consistency was approved:

“The proposed City of Mount Airy Zoning Ordinance amendments are consistent with land use recommendations in the City of Mount Airy’s Comprehensive Plan and have been found to be reasonable and in the public’s interest.”

On motion by Commissioner Brinkley, seconded by Commissioner Armbrister and passed unanimously, the following ordinance was approved:

ORDINANCE NUMBER 2019-026

ORDINANCE TO AMEND THE CITY OF MOUNT AIRY ZONING ORDINANCE

WHEREAS, the City of Mount Airy Board of Commissioners desires to amend Article VIII Section 8.1 of the City of Mount Airy Zoning Ordinance as it relates to Off-Street Parking Requirements within the MSD; and

WHEREAS, at their January 17, 2019 Regular Meeting, the Board voted to hold a public hearing for comments related to this item on the 7th day of February, 2019; and

WHEREAS, the City Clerk caused a notice of public hearing on the request to be published on the 25th day of January and the 1st day of February, 2019; and

WHEREAS, the Board of Commissioners, having conducted a public hearing and reviewed the proposed amendments, concur that the proposed amendments be made to the City of Mount Airy Zoning Ordinance:

NOW, THEREFORE, BE IT ORDAINED by the City of Mount Airy Board of Commissioners that the following Statement of Consistency is hereby adopted:

STATEMENT OF CONSISTENCY

“The proposed City of Mount Airy Zoning Ordinance amendments are consistent with land use recommendations in the City of Mount Airy’s Comprehensive Plan and have been found to be reasonable and in the public’s interest.”

BE IT FURTHER ORDAINED that the following sections of the City of Mount Airy Zoning Ordinance be amended to read as follows:

Section 8.1 Off-Street Parking Requirements

Except in the ~~B-1~~ Municipal Service District (MSD), there shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Section. Such parking space may be provided in a parking garage or parking lot constructed in accordance with Section 8.2.

BE IT FURTHER ORDAINED that this ordinance shall become effective upon approval.

Approved and adopted this the 7th day of February, 2019.

Public Parking Discussion:

Commissioner Cawley asked if development continues to take place around the Spencer’s Property, at what point is the city concerned that there will not be enough public parking. What will they do when the event center is in business and there isn’t enough public parking?

Andy Goodall stated at the previous meeting, he stated this amendment is for the moment. The city needs to address what the future parking needs are going to be, not just for downtown, but for specific areas in downtown. There is roughly around 1,700 parking spaces total for the downtown area. A lot of those are away from the Spencer's property. Staff has discussed the possibility of redesigning the Franklin Street parking lot (Municipal parking lot) for more spaces. If all of those properties in that area fully develop, then they will need more parking regardless of this amendment.

Commissioner Armbrister stated they could possibly look into purchasing the property that houses the old train car but there is acreage on the city owned property from South Street to the Housing Authority. There is also some distance between the house and Spencer's itself that involves some 0.5 acre tracts. With that area, why are they looking at other areas for parking? He doesn't feel that it is an issue of available space, he feels it is more an issue about cost. He knows there will need to be some municipal parking and he knows the city will have to pay for some, but he is against the city doing all the parking there. If a business needs certain parking, they can purchase the land and put in their needed parking.

Andy Goodall stated they haven't done any future parking planning at this time. He feels this is a good topic for the Board Retreat. There is enough surface area to look into constructing parking decks.

RESOLUTION 2019-049-AUTHORIZING STAFF TO RE-ADVERTISE FOR BIDS FOR THE FACTORY STREET WATER & SEWER REHAB PROJECT:

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

RESOLUTION NUMBER 2019-049

RESOLUTION AUTHORIZING RE-ADVERTISEMENT FOR BIDS FOR THE FACTORY STREET WATER AND SEWER REHAB PROJECT

WHEREAS, the Factory Street Water Systems Improvements Project includes the replacement of approximately 3,200 linear feet of existing 12-inch and smaller water lines, the installation of approximately 80 linear feet of new 12-inch water line, and the replacement of approximately 2,300 linear feet of existing 8-inch gravity sewer lines, along with all water and sewer appurtenances and street repairs; and

WHEREAS, the City of Mount Airy advertised for bids for the project in July of 2018 with the low bid being from North State Water & Sewer, Inc. in the amount of \$999,624.00; and

WHEREAS, the City was awarded an ARC grant for the project; however, the city wasn't permitted to award the project until all environmental documents and procedures were completed, which took several months; and

WHEREAS, North State Environmental, Inc. initially agreed to honor their bid price beyond the required sixty-day period; however, they recently made the decision to withdraw their bid from the project; and

WHEREAS, the final approval from the ARC is expected to be by the end of February and it is staff recommendation for the board to approve the re-advertisement of bids for said project:

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 of the City of Mount Airy does hereby authorize staff to re-advertise for bids for the Factory Street Water System Improvements Project.

Section 2. This resolution shall become effective upon approval.

Approved and adopted this the 7th day of February, 2019.

BOARD TO DISCUSS WATER & SEWER REHAB PRIORITIES:

The Board needs to make a decision on which project they would like to use the \$1 million that the City received from the State. The Board asked for staff to bring water & sewer rehab priorities to this meeting for discussion and prioritization.

Jeff Boyles reviewed the current and potential water and sewer rehab priorities. The current projects are: 1-Maple/Merritt Street Water & Sewer Project with a DEQ water loan of around \$1 million; 2-Spencer's Phase I infrastructure is underway and the city will be borrowing around \$2.1 million for that project. New potential projects the board could consider are: 1-Willow/Franklin/Oak Streets water & sewer project; 2-Lovills Creek outfall north rehab project. The Maple/Merritt project is under design and Spencer's Phase I has been designed.

Barbara Jones stated that the Board knows there are two projects that have loans associated with them. Does the board want to use the \$1 million toward one of those projects in place of the loan or toward a new project? The deadline for the \$1 million is June 30, 2020, but they don't know the details of that-is that date to have the project completed, is that date to begin the project, is that date to have the project designed...that is unknown at this time.

Commissioner Cawley suggested putting the \$1 million toward a current project that has an existing loan if possible.

Commissioner Armbrister suggested for Jeff Boyles to list his top three water & sewer project priorities.

Barbara Jones stated that it would make sense to use the \$1 million toward a current project with a loan to avoid having to borrow money for the project.

On motion by Commissioner Yokeley, seconded by Commissioner Brinkley and passed unanimously, the following three projects are the top priorities for the \$1 million from the State of N.C.:

1-Maple/Merritt Street Water & Sewer Project (Current project-DEQ water loan)

2-Spencer's Mill Phase I Infrastructure Project (Current project-\$2.1 million loan)

3-Willow/Franklin/Oak Streets Water & Sewer Project (New project-\$1.3 million - \$1.45 million)

BOARD TO DISCUSS TAX FORECLOSURE OF PROPERTY LOCATED ON WORTH STREET:

Commissioner Yokeley: There is a lot on Worth Street with a tax value of \$12,000 and taxes haven't been paid for at least four years. There are also county taxes owed on the property. The city paid for demolition of the structure at a cost of \$7,000. Right now, around \$7,300 is owed to the city and around \$300 owed to the county. The county wouldn't do a tax foreclosure on the property until the taxes are more than five in arrears. It wouldn't be worth their while to do it because only \$300-\$400 is owed and it will cost a lot more than that to do the tax foreclosure. He feels it would be beneficial for the city to do it and there is an individual interested in purchasing the property. I would like to ask Tycho Wood to make comments.

Tycho Wood: We have been trying to purchase this property for around 10 years. The county is going to wait at least one more year and with the amount that is owed against it, it may be many more years before they do anything. I am lost and need some idea where to go from here. It hasn't been mowed for the last two years so it is going to continue to deteriorate. I have tried calling several times and I think the city has tried to call several times with no answer. I am sure there are other properties that are in the same situation.

Commissioner Armbrister: There are several properties in that same situation and I have been following some of them. I have had communications with several citizens about this property on Worth Street and also there is one on Laurel Lane. In studying this situation, I will agree that we need to proceed with the tax foreclosure on this property.

Hugh Campbell: In order to provide due process to the property owner, there will be several steps involved in a tax foreclosure of this nature. In order to give proper notice, it will be a two-step process...there will have to be a notice published in the newspaper, a guardian ad litem attorney appointed to represent the interest of the unknown heirs. At the conclusion of the tax foreclosure, process the hearing and the order that comes, then whatever the city's lien, costs, etc. plus the unpaid county taxes would be the initial bid that the city would make. Then that bid would be available for upset bids. There would be a public auction of the property, that purchase price would be open for 10 days for upset bids and at the conclusion, the high bidder will be entitled to the property. We would hope to recover the money through the bidding process but if there is no bidder, then the city would acquire the title. I don't know what the guardian ad litem would cost and I don't know what the publication would cost. I think the county has a contract with a firm in Asheville and it is around \$3,500 in attorney's fees for what they do.

Commissioner Yokeley: You need to factor in the foreclosure price plus the taxes and demolition, then you are getting beyond the value of the property at some point in time. It is a Catch 22.

Hugh Campbell: The City Manager and I have discussed should the board adopt a policy about how to deal with these properties. It isn't cost effective to do it in every case but maybe adopt a policy at some point with input from the Codes Enforcement Officer who

suggested if the city has a lien that is more than 50% of the value of the property, then it makes sense to go through this process or foreclosing on a property that has a tax value of at least \$10,000 or some amount so we have a policy that makes sense. Right now, there is no policy and selected enforcement is ok from the standpoint that the School of Government encourages boards to look at these properties and try to recover the cost of demolition or unpaid taxes and get the properties back on the tax rolls.

Commissioner Cawley: Are we going to proceed with a tax foreclosure not knowing what it will cost?

Commissioner Yokeley: I think he gave me an estimate of \$1,500 to \$2,000. Adding that to what is owed on the property is still less than the tax value of the property. When the property is sold we would recover everything that is owed on the property and in the future we would be getting the taxes on the property and the county would also.

Commissioner Cawley: Mr. Wood, you said you wanted to purchase the property; do you have an amount in mind?

Tycho Wood: Whatever the fair market value is on the property. Depends on what the foreclosure runs I suppose but we need to get some kind of process going.

Commissioner Cawley: I agree and I also think we need to know what it is going to cost us. Are you willing to approach close to tax value on the price of that property?

Tycho Wood: Yes.

Hugh Campbell: Just so it is clear to everyone, there is no contract that Mr. Wood is the buyer. The city has no obligation to sell to him because we will go through a foreclosure and a public auction process. I don't want Mr. Wood or anyone to believe that this is a done deal. There will be a public sale of upset bids with the city making the opening bid.

Commissioner Armbrister made a motion to proceed with the tax foreclosure process for the property located on Worth Street. Commissioner Yokeley seconded it and it was approved unanimously.

BOARD TO DISCUSS BOARD WORK SESSION DATES:

Barbara Jones: We need to set the dates for the Board Work Session. I had suggested February 27-28, 2019. I have also heard the board would like departmental tours. My recommendation would be to use one of those days for the tours and the other for financial presentation and invite the Financial Advisor to attend. My question to you is what dates do you prefer and what items do you want on the agenda.

Commissioner Yokeley: It was very helpful last year when we did visit each Department and talked with the employees to understand and see what they need. I feel the tours of the departments are much needed.

Commissioner Brinkley: The employees are really honest in what is needed.

Commissioner Brown: Those visits were most educational. I learned a lot of things that I didn't know.

Commissioner Cawley: I don't need to go the departments. I think we need to sit down as a board and the Financial Advisor and no one else and figure out where we are going to get some revenue or how to cut the budget. We do not have the money or revenues and I have said it for many years-we have created a budget that is unsustainable. I don't need to see the departments. I need to see if we can find a way to sustain all we are doing.

Commissioner Armbrister: I would like to have a line item budget as up to date as possible with where we stand on those. Tell us where we are this year as close as possible on each line item.

Commissioner Brinkley: I agree with having the Financial Advisor present. I will back off going to the departments...I will go individually if I feel the need to.

Commissioner Yokeley: I still think it is important to go to each department. I do think we need the Financial Advisor for the second day. I think it is critical to visit departments and know what we need first and find out what everything is going to cost before we come up with ideas on how to raise the revenue. There may be some things we can cut after looking at departments.

Commissioner Armbrister: I would like to have an agenda for the retreat as soon as we can, maybe within the next week.

Commissioner Brinkley made a motion to set the Board Retreat dates as February 27-28, 2019. Commissioner Armbrister seconded it for discussion.

Barbara Jones: What I am hearing, we will start on February 27th. I have spoken with the Financial Advisor about these dates, he was available for one of the dates but I can't remember which but we will invite him. You want a copy of the current year line item budget with percentages that have been spent and the amount left. What else do you want on the agenda?

Commissioner Yokeley: I want department tours as part of the agenda.

Barbara Jones: I hear you say you want to open up the retreat, go through the process that is typical and move straight in to finances and inviting the Financial Advisor. This is your work session so I wanted your input on what is on the agenda.

Commissioner Brinkley: If we are staying with these two days and some don't want to do the tours, why could the tours be another day prior to this?

Commissioner Yokeley: I think it is important for all five commissioners to go on the tours and talk to the employees and see the condition of the equipment.

Commissioner Brinkley: You don't have to agree with everything they want but it did help last year.

Commissioner Yokeley: Even if we have to go a third day, that would be fine.

Commissioner Cawley: Outside of the Finance Department, I have been in all of the departments.

Commissioner Yokeley: I think the employees were very open when we went last year. I was pleasantly surprised.

Commissioner Brown: It is ok with me to do a third day.

Commissioner Yokeley: If we are going to do three workdays, it is a waste of time if everyone doesn't go on the tours.

Commissioner Brinkley: I went last year and I got a pretty good visual on what was happening.

Barbara Jones: I think we all would agree each department welcomes the board members to come in.

Commissioner Brinkley: If you have four out of five attend is that as good as...

Commissioner Yokeley: Better than three out of five.

Commissioner Armbrister: These departments are open 365 days/year and 24/7 pretty much.

Commissioner Brinkley: But this way they won't have to have five different interruptions at five different times.

Commissioner Armbrister: I encourage keeping up with the departments regularly anyway. There is a lot they need that isn't necessarily money. There are more things than spending and when you get that level of communication going, you are looking at true improvements that maybe don't cost anything.

Commissioner Brinkley: If we can get four out of five going, I will participate in that.

Commissioner Yokeley: Would it be better to do Tuesday/Wednesday/Thursday or Wednesday/Thursday/Friday?

Barbara Jones: My opinion is Wednesday/Thursday/Friday.

Commissioner Yokeley made a motion to add a third day to the Board Work Session to be held on February 27, February 28, and March 1, 2019 with department tours to be held on February 27, 2019. Commissioner Armbrister seconded the motion and it was approved by a four to one vote.

Vote Aye: Commissioners Yokeley, Armbrister, Brown, and Brinkley

Vote Nay: Commissioner Cawley

Barbara Jones will contact the Financial Advisor to schedule him during the Board Work Session.

OTHER BUSINESS:

Trinity Street:

Commissioner Armbrister received a letter from a citizen regarding the reopening of Trinity Street to be able to service the businesses and public. He would like to have continued updates of this situation.

Chief Watson stated this is being reviewed.

REMARKS BY OFFICIALS:

Commissioner Brinkley: Great proclamation for Black History Month.

Great to hear comments.

Appreciates Jeff Boyles and Andy Goodall for their hard work and information.

Appreciates the Police Chief and Fire Chief for all they do and all other department heads.
Pleasure to work with the Board.

Commissioner Armbrister: No comments.

Commissioner Yokeley: Great to have the Black History Month Proclamation.

Wanted to make something clear...when the apartment developer was seeking to place a complex on S. Franklin Road, it was not a unanimous vote, it was a quasi-judicial hearing with two of the commissioners recused themselves so only three commissioners voted and the vote was two to one to approve. It was not a unanimous decision.

Commissioner Brown: Thanked those in attendance for the Black History Month Proclamation.

Commissioner Cawley: No comments.

Barbara Jones: The city has great employees and she is appreciative of everything they do.

Hugh Campbell: No comments.

Mayor Rowe: Roberts Rules of Order is over 700 pages long. The Board does the best they can and mistakes are made. Tired of the board being accused of secret meetings, and to have an editorial about the secrecy of the board and how the board is catering to certain developers...this is not true and he would appreciate not hearing any more about it.

The City Charter doesn't require the city board to use Roberts Rules of Order. There is an ordinance that indicates the city should use Roberts Rules of Order, but the Charter does not require it.

Mount Airy is a great place to live.

Honored to read and present the Black History Month Proclamation to Reverend Smith.

CLOSED SESSION:

On motion by Commissioner Yokeley, seconded by Commissioner Brown and passed unanimously, the board entered into closed session pursuant to NCGS 143-318.11(a)(4) to discussion matters relating to economic development.

OPEN SESSION:

On motion by Commissioner Armbrister, seconded by Commissioner Brinkley and passed unanimously, the board entered back into open session.

ADJOURNMENT:

On motion by Commissioner Armbrister, seconded by Commissioner Brown and passed unanimously, the meeting was adjourned.

Approved and adopted this the 21st day of February, 2019.

David L. Rowe, Mayor

ATTEST:

Melissa N. Brame, City Clerk