

**MOUNT AIRY, NORTH CAROLINA
REGULAR MEETING MINUTES
June 17, 2021**

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

APPROVAL OF AGENDA:

Commissioner Koch made a motion to approve the amended agenda with the removal of Item 9-h: Board to Consider Cancellation of July 1, 2021 Board Meeting and it was approved unanimously.

CONSENT AGENDA:

On motion by Commissioner Koch and approved unanimously, the following Consent Agenda items were approved:

- **APPROVAL OF MAY 20, 2021 BOARD MEETING MINUTES:** _____
- **RESOLUTION 2021-085-MAKING HISTORIC PRESERVATION COMMISSION REAPPOINTMENTS:** _____

RESOLUTION NUMBER 2021-085

RESOLUTION MAKING HISTORIC PRESERVATION COMMISSION REAPPOINTMENTS

WHEREAS, three members of the Historic Preservation Commission's terms will expire June 30, 2021; and

WHEREAS, all three members are eligible for reappointment and have expressed interest in being reappointed; and

WHEREAS, it is recommended to reappoint Bobbie Collins, Shelby King, and Carroll Hooker to the Historic Preservation Commission for another three-year term:

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

- Section 1. Bobbie Collins is hereby reappointed to the Historic Preservation Commission for another three-year term expiring June 30, 2024.
- Section 2. Shelby King is hereby reappointed to the Historic Preservation Commission for another three-year term expiring June 30, 2024.
- Section 3. Carroll Hooker is hereby reappointed to the Historic Preservation Commission for another three-year term expiring June 30, 2024.
- Section 4. This resolution shall become effective upon approval.

Approved and adopted this the 17th day of June, 2021.

- **ORDINANCE 2021-034-BUDGET ORDINANCE AMENDMENT TO REFLECT ADDITIONAL OCCUPANCY TAX COLLECTIONS AND THEIR DISTRIBUTIONS:**

**ORDINANCE # 2021-034
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 reflect potential additional occupancy tax collections and their distribution;

AND WHEREAS it is necessary to amend the current budget ordinance in order to provide an adequate appropriation for that potential required distribution;

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>	
Transfer to Mount Airy Tourism Development Authority	93,000
	<u>93,000</u>
Section 2. <u>General Fund Revenue Estimates</u>	
Other Taxes and Licenses	93,000
	<u>93,000</u>

Adopted this 17th day of June, 2021

- **ORDINANCE 2021-035-PROJECT ORDINANCE AMENDMENT #1 FOR 2021 CAPITAL EQUIPMENT PROJECT:**

**ORDINANCE # 2021-035
PROJECT ORDINANCE AMENDMENT #1
FOR
2021 CAPITAL EQUIPMENT PROJECT**

WHEREAS the City of Mount Airy adopted a project ordinance for the 2021 Capital Equipment Project on January 28, 2021;

AND WHEREAS it is necessary to amend this project ordinance to reflect the transfer from the General Fund to pay for the sanitation vehicles.

BE IT ORDAINED by the Board of Commissioners of the City of Mount Airy, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the project ordinance is hereby amended as follows:

Section 4

The following revenues are anticipated to be available to complete this project:

Transfer from General Fund	\$ 768,000
Proceeds from Debt - Installment Purchase Agreement	(768,000)
	<u>\$ -</u>

Section 5

The Finance Officer is hereby directed to maintain within the Project Fund sufficient specific detailed accounting records to satisfy applicable accounting and reporting requirements.

Section 6

Funds may be advanced from other funds for the purpose of making payments as due. Drawdowns of debt proceeds and/or other funding sources should be made in an orderly and timely manner.

Section 7

Copies of this project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 17th day of June, 2021

- **ORDINANCE 2021-036-BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR SANITATION VEHICLES:**

**ORDINANCE # 2021-036
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 the sanitation vehicles;

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)
<u>Section 1. General Fund Appropriations</u>	
Transfer to Capital Projects Fund	768,000
	768,000
 <u>Section 2. General Fund Revenue Estimates</u>	
Appropriation of Fund Balance	768,000
	768,000

Adopted this 17th day of June, 2021

- **ORDINANCE 2021-037-BUDGET ORDINANCE AMENDMENT TO CHANGE THE ACCOUNTING FOR UTILITY DONATION FUND DUE TO GASB STATEMENT 84:**

**ORDINANCE # 2021-037
BUDGET ORDINANCE AMENDMENT**

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

AND WHEREAS the City of Mount Airy due to GASB 84 must change the accounting for the Utility Donation Fund;

AND WHEREAS the City will create a project within the Water and Sewer fund to account for the Utility Donation funds;

AND WHEREAS it is necessary to amend the budget ordinance in order to account for the activity within the Utility Donation Project;

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:

	<u>Increase (Decrease)</u>
Section 9. <u>Water and Sewer Fund Appropriations</u>	
Finance	<u>12,000</u>
	<u>12,000</u>
Section 10. <u>Water and Sewer Fund Revenue Estimates</u>	
Donations	4,000
Appropriation of Fund Balance	<u>8,000</u>
	<u>12,000</u>

Adopted this 17th day of June, 2021

(end of consent agenda)

SPECIAL PRESENTATION:

a) Downtown/Small Business Development Vision Committee Update:

Commissioner Wood introduced this item. She thanked the committee for their input. The vision committee discussed many potential projects.

Teresa Leiva mentioned a permanent multi-use structure:

Elements of this project vary greatly. The location suggested is the Spencer's Mill site. The size of the structure will be comparable to the Dobson and Elkin Farmer's Market structures. The design should be compatible to downtown and the Spencer's Mill area. It will be used for a Farmer's Market and other multiple uses and community events. The committee was interested in adding more family friendly opportunities to the community, which includes a campus and park with a splash pad featuring Mount Airy granite.

Lenise Lynch mentioned issuing RFPs for a downtown master plan and streetscape design:

Elements include burying overhead power lines, streetscape, traffic analysis, solutions for garbage/garbage pickup, future parking opportunities, and Willow Street parking lot renovations. The power lines pose a big problem-not only are they unattractive, but also pose maintenance and safety issues.

Nathan Bond mentioned Willow Street parking lot (Municipal parking lot) upgrades: This parking lot was constructed in 1977 with very little maintenance and upgrades since then. There are many things to address in this parking lot-it needs modernization, complete resurfacing, and beautification. There is also a dumpster enclosure to address as well as an area for outdoor seating and restrooms to support the Arts District. There is a lot of underutilized space in this parking lot.

Holli Nowlin mentioned the creation of upper floor residential incentive program for fire suppression and safety:

Elements include incentivize upper floor use in buildings in the downtown district, create more housing in upper floors, utilize underused space, create a matching grant program to assist with cost of sprinkling or secondary means of ingress/egress for upper floor development. They would also look to create a firebreak to protect the historic district. They want to encourage upper floor use of the buildings downtown. An incentive grant offered by the city would help to defray some of these costs that would in turn stimulate additional private development. These cost savings would encourage the use of fire suppression systems and reduce the chances of a catastrophic fire.

Commissioner Wood reviewed the projects that were recommended. The next steps are for a staff feasibility assessment, community feedback, community partnerships, and grant research.

Mayor Niland mentioned his goal after hearing from all vision committees is to have a meeting to look at all committee recommendations and priorities.

PUBLIC HEARINGS:

a) Board to Hear Public Comment Regarding Closing Portion of Worth Street Between S. South Street and Rockford Street:

Andy Goodall, Planning Director introduced this item. The closing was advertised in the Mount Airy News four times since the Resolution of Intent was approved by the Board. Letters were sent to all adjacent property owners and signs have been posted along that segment of street.

Mayor Niland declared the public hearing open for comments.

Leslie Gaines, City resident: Questioned what will be done for people to get from South Street to Worth Street because the Haymore Street intersection and the intersection of S. South Street/Rockford Street are dangerous intersections.

Gene Clark, 1221 Newsome Street (city resident): The closure of this section will increase traffic at the intersection of S. South Street and Rockford Street. He suggests the City request the NCDOT install a traffic light at that intersection.

Chris Lumsden, CEO of Northern Regional Hospital: Spoke in favor of closing the section of Worth Street located between S. South Street and Rockford Street. The Hospital has a master campus plan combined of several phases to be implemented beginning this year and over the next 20 years. The goals are to expand clinical services and jobs, create a safe

campus environment, provide more convenient parking and easier accessibility to the hospital, enhance wayfinding/directional signage and campus curbside appeal, and to plan and construct the first of perhaps several phases of construction of medical office buildings. They plan to invest over \$11 million for these phases. The reasons for this request are safety and hospital growth. He submitted a letter signed by all hospital leadership team leaders asking the Board to approve the request.

Jason Edsall, Northern Regional Hospital Emergency Department Physician: Spoke in support of the request to close the portion of Worth Street. There are four main entrances to the hospital because there is no parking at the main entrance. Development of this hospital will vary contingent upon having a front door. The best way to do that is looking north across Worth Street into that parking lot. People walk across that street day and night and cars coming down the road-they get distracted. He is concerned that those drivers will hit someone trying to cross the street. He asks the Board to support this request because it will help with safety and allow the hospital to expand.

Robin Hodgin, Northern Regional Hospital employee: Spoke in support of the request to close the portion of Worth Street. The biggest parking lot for the visitors, patients, and staff is across the street from the hospital. She advocates for patient safety and represents the nurses at the hospital as they all request to close this portion of street not only for safety but also for the hospital to be able to grow.

Greg Casstevens, Northern Regional Hospital employee: Spoke in support of the request to close the portion of Worth Street. The safety of the patrons of this hospital is paramount as well as the plan for the hospital's future. Closing this portion of Worth Street will provide opportunities of growth for the hospital as well as economic development for the city. The closure of this portion of Worth Street will provide for the development of approximately 2.5 acres of land. The employees of the hospital respectfully request the Board to approve this request.

Jenny Triplett, Northern Regional Hospital employee: Spoke in support of the request to close the portion of Worth Street. There are 27 long-term care patients that reside in the Skilled Nursing Unit on the 3rd floor. In the past, the visitors had to park in the parking lot across Worth Street. They average around 70 people coming to the unit every day to visit their family members. She asks the Board to close this portion of Worth Street, not only for safety, but also for the growth of the hospital.

With no further speakers, Mayor Niland declared the public hearing closed.

b) Board to Hear Public Comment Repealing the IPMC, amending Chapters 4 and 7 of the Code of Ordinances, and adoption of the Non-Residential Maintenance Code:

Chuck Morris, Codes Enforcement Officer introduced this item. He explained the request is to repeal the International Property Maintenance Code, adopt a Non-Residential Maintenance Code, Amend Chapters 4 and 7 of the City's Code of Ordinances, and to reinstate Chapter 4, Article 5 and Chapter 6, Section 6-9.

Mayor Niland declared the public hearing open for comments.

There were no speakers; therefore, Mayor Niland declared the public hearing closed.

c) Board to Hear Public Comment Regarding Closeout of CDBG Infrastructure Project 17-I-2698

Martin Collins, Community Development Coordinator introduced this item. This project involved the Maple Street/Merritt Street area sewer line replacement. The City was awarded a CDBG infrastructure grant for \$1,731,600 to replace the sewer lines. The project was completed and this public hearing is necessary to close the grant project out.

Mayor Niland read the following Project Summary:

FINAL REPORT

City of Mount Airy

Maple/Merritt Streets Sewer Improvements, Project # 17-I-2968

1. PROJECT SUMMARY

The City of Mount Airy CDBG-I Project 17-I-2968 Maple/Merritt Streets Sewer Improvements Project included the replacement of the existing gravity sewer lines, manholes, and service connections in the designated Maple/Merritt Street project area within the City. The existing sewer lines serving the area were terra cotta material that were over 60 years old. The lines were subject to frequent blockages and some line segments had poor accessibility due to the lines being located underneath buildings. There were also excessive lengths of pipe between manholes. The City identified this neighborhood as being the most problematic area within its sewage collection system. With the changes as described below the following work was completed:

- Replacement/installation of approximately 7,906 linear feet of 8-inch sewer line with new PVC and DI pipe
- Replacement/Installation of approximately 53 sewer manholes
- Demolition and removal of approximately 9 sewer manholes not being replaced
- Reconnection of approximately 83 existing services to the new sewer line and/or manholes
- Approximately 4,292 square yards of asphalt repair

This project benefited approximately 230 low-moderate income people totaling 87.95% LMI.

2. CHANGES TO THE PROJECT

The project was originally bid on January 22, 2020. The low bidder was Sowers Construction Co., Inc. at \$1,690,0141. The next low bidder was C.W. Cauley & Son, Inc. at \$1,928,255.

After tabulating the bid results and checking Bid submission materials provided by Sowers, it was learned that Sowers' Contractor licensure with the North Carolina Licensing Board for General Contractors was designated to have two approved Classifications; Building and Highway. Neither of those classifications were appropriate licensure for the nature of work involved in the City's Maple/Merritt Project as it was a public utility project. Accordingly, the Bid submitted by Sowers was deemed to be non-responsive and rejected by the City.

It was learned that C.W. Cauley & Son, Inc.'s Contractor licensure had two approved Classifications; Highway and Public Utility. The Public Utility Classification was appropriate for the nature of work involved in the Maple/Merritt Project. Accordingly, C.W. Cauley & Son, Inc. was determined to be the lowest responsive and responsible Bidder. Because of the cost differential (\$238,214) between the rejected Sowers Bid and the Cauley Bid, the project funding agency requested that the City negotiate with Cauley to determine if any cost savings could be realized.

The City and the Consulting Engineer entered negotiations with Cauley for potential cost savings. The negotiations did not result in any items that were agreeable, so the bid price was not reduced. The contract was awarded to C.W. Cauley & Son, Inc. on April 3, 2020 in the amount of \$1,928,255.

There were two change orders issued for the project during construction.

Change Order No. 1 was requested by the City to eliminate a sewer line (Line 109) and associated manholes located on private property by constructing the sewer line within the public street right-of-way. The sewer line within the street had to be constructed deeper in order to serve the homes. The change order resulted in a decrease of \$2,888.70 to the Contract Price.

The second change order was to adjust the final contract values to reflect the actual installed quantities. The change order resulted in an increase of \$38,631.35 to the Contract Price using the Bid unit prices. The change order added 29 days to the Contract Time to extend the contract time until asphalt plants re-opened in the spring and asphalt to become available to the Contractor for final paving.

The final Contract Price was \$1,963,997.65.

The City of Mt Airy will be using State Appropriation Funds to cover approximately \$435,834.10 of the project cost and the CDBG-I will cover \$1,731,600 of the project cost.

Mayor Niland declared the public hearing open for comments.

There were no speakers; therefore, Mayor Niland declared the public hearing closed.

PUBLIC FORUM:

Mayor Niland declared the public forum open for comments.

Joseph Zalescik, 1541 West Devon Drive (City resident): Updated the Board on the Farmer's Market. There are currently 12-15 vendors per week. Thanks to Hugh Campbell's donation, they will be able to schedule six musical events. Dobson's Farmer's Market was a public/private partnership and the Town of Dobson spent nothing on that structure-it was a lot of public money but also a lot of private money. The Surry County's Farmer's Market goal is to use as little public money as possible and they are ready to do all the hard work to get a structure in Mount Airy.

John Pritchard, 128 Ridgecrest Drive (City resident): Spoke about how, according to the State Treasurer's website, Mount Airy takes in 20% more than average, spends 27% more

than average, costs of wages and salaries are 58% above average, and on capital items, the city is average. Mount Airy is in the 10,000-50,000 population group.

With no further speakers, Mayor Niland declared the public forum closed.

NEW BUSINESS:

a) Ordinance 2021-038-Repeal the International Property Maintenance Code (Appendix D) and Reinstate Chapter 4-Article V and Chapter 6-Section 6-9 of the City of Mount Airy Code of Ordinances:

Commissioner Cawley made a motion to approve Ordinance 2021-038 and it was approved unanimously:

ORDINANCE NUMBER 2021-038

ORDINANCE TO REPEAL THE INTERNATIONAL PROPERTY MAINTENANCE CODE (APPENDIX D) AND REINSTATE CHAPTER 4-ARTICLE V (MINIMUM HOUSING) AND CHAPTER 6-SECTION 6-9 (LOT NUISANCE) OF THE CITY OF MOUNT AIRY CODE OF ORDINANCES

WHEREAS, the City of Mount Airy Board of Commissioners adopted the International Property Maintenance Code (IPMC) in 2018, which repealed Chapter 4-Article V and Chapter 6-Section 6.9; however, at the discretion of the City, Article V and Section 6-9, will not be struck from this Code until further review; and

WHEREAS, City staff has found that the ordinances repealed were more than sufficient to regulate residential dwellings and a separate and distinct Ordinance is necessary to regulate non-residential structures; and

WHEREAS, City staff also found numerous reasons to repeal the IPMC and revert back to the previous City Ordinances; and

WHEREAS, the City Clerk caused a notice of public hearing on the request to be published on the 4th and 11th day of June, 2021; and

WHEREAS, the Board of Commissioners, having conducted a public hearing and reviewed the requests to repeal the IPMC (Appendix D) and reinstate Chapter 4-Article V and Chapter 6-Section 6.9, concur that the IPMC be repealed and Chapter 4-Article V and Chapter 6-Section 6.9 be reinstated to the City of Mount Airy Code of Ordinances:

NOW, THEREFORE, BE IT ORDAINED by the City of Mount Airy Board of Commissioners that the 2018 Edition of the International Property Maintenance Code is hereby repealed and Chapter 4-Article V and Chapter 6-Section 6-9 of the City of Mount Airy Code of Ordinances is hereby reinstated.

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

Approved and adopted this the 17th day of June, 2021.

b) Ordinance 2021-039-Approve and Adopt Chapter 4-Article IX Non-Residential Maintenance Code:

Commissioner Koch made a motion to approve the following Statement of Consistency and it was approved unanimously:

“The Proposed Non-Residential Maintenance Code is consistent with the applicable recommendations in the City of Mount Airy Comprehensive Plan; therefore, the Board finds that the request is reasonable and in the public’s interest.”

Commissioner Wood made a motion to approve Ordinance 2021-039 and it was approved unanimously:

ORDINANCE NUMBER 2021-039

**ORDINANCE TO APPROVE AND ADOPT CHAPTER 4-ARTICLE IX
NON-RESIDENTIAL MAINTENANCE CODE**

WHEREAS, the City of Mount Airy Board of Commissioners adopted the International Property Maintenance Code (IPMC) in 2018, which repealed Chapter 4-Article V and Chapter 6-Section 6.9; however, at the discretion of the City, Article V and Section 6-9, will not be struck from this Code until further review; and

WHEREAS, staff has found that after using the IPMC, the existing ordinances were more than efficient to regulate residential dwellings and that a separate and distinct ordinance is necessary to regulate non-residential structures; and

WHEREAS, the City Clerk caused a notice of public hearing on the request to be published on the 4th and 11th day of June, 2021; and

WHEREAS, the Board of Commissioners, having conducted a public hearing and reviewed the proposed Chapter 4-Article IX-Non-Residential Maintenance Code, concur that the new Chapter 4-Article IX be adopted:

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 Non-Residential Maintenance Code is consistent with the applicable recommendations in the City of Mount Airy Comprehensive Plan; therefore, the Board finds that the request is reasonable and in the public’s interest.”

BE IT FURTHER ORDAINED that the following Chapter 4-Article IX-Non-Residential Maintenance Code is hereby adopted and approved:

NON-RESIDENTIAL MAINTENANCE CODE

4-190 Findings

Pursuant to NCGS 160D-1129, it is hereby found and declared that there exist in the City, non-residential buildings or structures which the Board of Commissioners finds to be injurious to public health, safety and welfare resulting from the failure to meet minimum maintenance standards.

4-191 Intent

The intent of this Article is to establish minimum standards of maintenance, sanitation and safety for all non-residential buildings or structures within the corporate limits of the City of Mount Airy. These standards only address conditions that are dangerous and injurious to public health, safety and welfare and identify circumstances under which there is a public necessity to cause the repair, closing or demolition of such non-residential buildings or structures.

4-192 Scope

This Article is hereby declared to be remedial and shall be construed to secure the beneficial interest and purposes thereof which are public health, safety and welfare and identify circumstances under which a public necessity exists for the repair, closing or demolition of non-residential buildings or structures that fail to meet minimum standards of maintenance, sanitation and safety. The provisions of this Article shall apply to all existing and future buildings or structures in use or with the intended use for non-residential purposes.

4-193 Definitions

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section. Other words and phrases defined in other Sections of this Code shall apply to this Article as well.

Parties in interest means all individuals, associations and corporations who have interests of record in a non-residential building or structure and any who are in possession thereof.

Structure means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including, but not limited to, principal and accessory buildings, manufactured homes, signs, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers, cables, above and below ground storage tanks, or other manmade facilities or infrastructures.

Vacant industrial warehouse means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one (1) year and has not been converted to another use.

Vacant manufacturing facility means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one (1) year and has not been converted to another use.

4-194 Conflicting provisions

In the event any provision, standard or requirement of this Article is found to be in conflict with any provision of any other Ordinance or Code of the City, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the City shall prevail.

4-195 Conditions for enforcement

It shall be the duty and responsibility of the owner of a building or structure being used for non-residential purposes to see that said structures are maintained to promote the public health, safety and welfare of the City. The following conditions within the corporate limits are hereby declared to be dangerous and detrimental to the public health and safety and thus constitute a violation of this Article:

- A.** The existence of an individual window frame with more than fifty (50%) percent of the total surface area covered with disfigured, cracked or peeling surface materials.
- B.** Windows with more than twenty (25%) percent of the total surface area which contains cracked or missing glass.
- C.** Awnings containing more than twenty (25%) percent surface area that is torn, tattered or missing.
- D.** Exterior elements attached to the building, including but not limited to signs, facades or other surface materials, which are loose and/or not properly attached to the structure.
- E.** Any condition which causes the structure to permit air and/or water to penetrate rooms, roofs, walls, doors or windows intended to be weather tight.
- F.** Any exterior element which contains graffiti for a period of time over thirty (30) days.
- G.** Interior and exterior walls or studs which list, lean or buckle beyond the allowable deflection limit, as described in the North Carolina State Building Code.
- H.** Floors or roofs which have improperly distributed loads.
- I.** Damage caused by fire, wind or other source as to render the building unsafe.
- J.** Unsanitary conditions, disrepair, decay or dilapidation which is dangerous to the general health, safety and welfare of either the occupants of the structure or the general public.
- K.** Obstructed facilities for egress in case of fire or panic.
- L.** Other defects increasing the hazards in the case of fire, accident or other calamities.
- M.** Lack of adequate ventilation, light, heating or sanitary facilities.
- N.** Lack of proper electrical, heating or plumbing facilities.

4-196 Enforcement generally

The Codes Enforcement Officer is hereby designated to exercise the powers prescribed in this Article; in accordance with the provisions of NCGS 160D-1129 and specifically the supplemental powers set forth in NCGS 160D-1129(l).

4-197 Applicability of other codes

The North Carolina State Building Code, General Construction, Volume I; Plumbing, Volume II; Heating, Air Conditioning, Refrigeration and Ventilation, Volume III; the National Electrical Code; the North Carolina State Rehabilitation Code; and the North Carolina State Fire Code, shall govern all repairs or alterations made to any existing structure. Any identified violations under the state building code shall be certified by the County Building Inspector.

4-198 Investigation of conditions

Whenever it appears to the Codes Enforcement Officer that any non-residential building or structure has not been properly maintained so that the safety or health of its occupants, or members of the general public, are jeopardized for failure of the property to meet the minimum standards established by this Article, the Codes Enforcement Officer shall undertake a preliminary investigation.

If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with NCGS 15-27.2 or with permission of the owner, the owner's agent, a tenant or other person legally in possession of the premises.

4-199 Complaint and hearing

If the preliminary investigation discloses evidence of a violation of Section 4-195, the Codes Enforcement Officer shall issue and cause to be served upon the owner of and parties in interest, in the non-residential building or structure, a complaint. The complaint shall state the following:

- A.** The charges and a notice that a hearing will be held before the Codes Enforcement Officer at a place within the City; scheduled within not less than ten (10) days and not more than thirty (30) days after the serving of the complaint;
- B.** That the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint;
- C.** That the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Codes Enforcement Officer.

4-200 Order

A. Exemptions

This Section shall not apply to ordering the repair, alteration or improvement to vacant manufacturing facilities or vacant industrial facilities to preserve the original use. An order may only require such facilities to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the facilities closed for any use.

B. Order to repair, alter, improve, vacate or close

If, after notice and hearing, the Codes Enforcement Officer determines that the non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the building or structure to meet the minimum

standards established herein, the Codes Enforcement Officer shall state in writing the findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order to take remedial action within a reasonable time specified.

If the cost of repairs, alterations or improvements would be less than or equal to fifty (50%) percent of the structure's then current value, the order may require the owner to make repairs, alterations or improvements to the structure and/or to vacate and close the structure.

C. Ejectment

If any party in interest fails to comply with the order issued by the Codes Enforcement Officer, or abandons the intent to repair, alter or improve said structure, the Codes Enforcement Officer may file a civil action in the name of the City to remove the occupant and close the structure until the issued order has been executed. The occupant shall be served with notice at least thirty (30) days prior to the filing of the summary ejectment proceeding and shall be enforced in the same manner as the judgment for summary ejectment entered under NCGS 42-30.

Following the ejectment proceedings, the Codes Enforcement Officer may cause to be posted on the main entrance of any non-residential building or structure so closed a placard with the following words: "This building is unfit for any use; the use of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

D. Council action

Pursuant to NCGS 160D-1129(g), if the owner fails to comply with the order issued by the Codes Enforcement Officer to repair, alter or improve the building or structure, the Board of Commissioners may make findings that the owner has abandoned the intent and purpose to repair, alter or improve the non-residential property based on the following criteria:

1. An order(s) has been issued requiring the building or structure to be repaired, altered, improved and/or vacated and closed.
2. The building or structure has been vacated and closed for a period of two (2) years pursuant to the originally issued order or judgment ordering summary ejectment.
3. The continuation of the structure in its vacated and closed status would be inimical to the health, safety and welfare of the City.
4. The continuation of the building or structure in its vacated and closed status would continue to deteriorate and create one (1) of the following conditions:
 - a. The existing conditions create a fire or safety hazard;
 - b. The structure is a threat to children and vagrants;
 - c. The building or structure attracts persons intent of criminal activities; and
 - d. The condition causes blight and the deterioration of surrounding property values.

E. Abatement

1. Upon such findings and after the two (2) year compliance period has expired; the Board of Commissioners may enact an Ordinance and serve such Ordinance on the owner setting forth the following:
 - a. If the cost to repair, alter or improve the non-residential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty (50%) percent of its then current value, the Ordinance shall require that the owner cause the repair, alteration or improvement to be made to the structure within ninety (90) days.
 - b. If the cost to repair, alter or improve the structure to bring it into compliance with the minimum standards exceeds fifty (50%) percent of its then current value, the Ordinance shall require the owner to cause the demolition and removal of such building or structure within ninety (90) days.
2. In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to the original order or summary ejection for a period of five (5) years before the Board may take action. Upon making the findings in Section 4-200 (D), an Ordinance may be adopted and recorded in the Office of the Register of Deeds setting forth the following:
 - a. If the cost to repair, alter, or improve the non-residential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty (50%) percent of its then current value, the Ordinance shall require that the owner cause the repair, alteration, or improvement to be made to the structure within ninety (90) days.
 - b. If the cost to repair, alter, or improve the structure to bring it into compliance with the minimum standards exceeds fifty (50%) percent of its then current value, the Ordinance shall require the owner to cause the demolition and removal of such building or structure within ninety (90) days.

F. Structures of historic significance

Notwithstanding any other provision of law, a non-residential building or structure may be defined as having historic significance and an order may only require the building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this Article, upon making the following determinations:

1. The building or structure has been designated as one (1) of the following:
 - a. A local historic landmark.
 - b. Listed in the National Register of Historic Places.
 - c. Located in a locally designated historic district.
 - d. Located in a historic district listed in the National Register of Historic Places.
2. The Board of Commissioners holds a public hearing and determines the non-residential building or structure is of individual significance or contributes to maintaining the character of the historic district.
3. The non-residential building or structure has not been condemned as unsafe.

G. Order to repair, remove or demolish

If, after notice and hearing, as previously described herein, the Codes Enforcement Officer determines that a non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the structure to meet the minimum standards established by this Article, the Codes Enforcement Officer shall state in writing the findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order to take remedial action within a reasonable time specified.

If the cost of repairs, alterations, or improvements would exceed fifty (50%) percent of the property's then current value, the order may require the owner to repair, remove, or demolish the non-residential building or structure.

H. Board of Commissioners action; abatement

If the owner fails to comply with the order issued by the Codes Enforcement Officer to repair, remove or demolish the non-residential building or structure, the Board of Commissioners may adopt an Ordinance stating the owner has been given reasonable time to comply with the order to repair, remove or demolish; has waived the right to take remedial action under the order; and ordering the Codes Enforcement Officer to proceed to cause the immediate demolition and/or removal of the building or structure.

4-201 Service of complaints and orders

Complaints or orders issued by the Codes Enforcement Officer pursuant to an Ordinance adopted under this Section shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused and/or the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Codes Enforcement Officer in the exercise of reasonable diligence, and the Codes Enforcement Officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the City at least once no later than the time that personal service would be required under this Section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

4-202 Liens

Upon the Codes Enforcement Officer effectuating the order to repair, alter, improve, vacate, close, remove or demolish the non-residential property, the amount of the cost shall be a lien against the real property upon which the cost was incurred. This lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in NCGS 160A-10.

The amount of the costs shall also be a lien on any other real property of the owner located within the corporate limits, except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

When a non-residential building or structure is removed or demolished by the Codes Enforcement Officer, the Officer shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures or appurtenances found in or attached to the building or structure. All proceeds of the sale shall be credited against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court. The proceeds shall be secured in a manner directed by the court and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree. Nothing in this Section shall be construed to impair or limit in any way the power of the Board of Commissioners to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

4-203 Civil penalty

In addition to other available remedies provided in this Article, any violation of this Article may subject the offender to a civil penalty in the amount of \$50.00 for each day the violation(s) continue to exist, as provided in Chapter 1-6.

4-204 Appeals

Any appeals for an order or decision made by the Codes Enforcement Officer may be taken to the Board of Adjustment. Any person aggrieved by a decision or order of the Codes Enforcement Officer shall have the remedies provided in NCGS 160D-1208.

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

Approved and adopted this the 17th day of June, 2021.

c) Ordinance 2021-040-Amending Chapters 4 and 7 of the City of Mount Airy Code of Ordinances:

Commissioner Wood made a motion to approve Ordinance 2021-040 and it was approved unanimously:

ORDINANCE NUMBER 2021-040

ORDINANCE TO AMEND CHAPTERS 4 AND 7 OF THE CITY OF MOUNT AIRY CODE OF ORDINANCES:

WHEREAS, the City of Mount Airy Board of Commissioners desires to amend Chapters 4 and 7 of the City of Mount Airy Code of Ordinances; and

WHEREAS, the City Clerk caused a notice of public hearing on the request to be published on the 4th and 11th day of June, 2021; and

WHEREAS, the Board of Commissioners, having conducted a public hearing and reviewed the proposed amendments concur that the amendments be made to Chapters 4 and 7 of the City of Mount Airy Code of Ordinances:

NOW, THEREFORE, BE IT ORDAINED that Chapters 4 and 7 of the City of Mount Airy Code of Ordinances be amended to read as follows:

Chapter 4-Article II Building Code:

4-25 Demolition of unsafe buildings - Noncompliance with order of ~~Building Inspector~~ Codes Enforcement Officer

If the owner fails to remove or demolish a building in compliance with an order by the ~~Building Inspector~~ Codes Enforcement Officer, the ~~Building Inspector~~ Codes Enforcement Officer may cause such building to be removed and demolished; provided, however, the duties of the ~~Building Inspector~~ Codes Enforcement Officer set forth in this Section shall not be exercised until the Board of Commissioners shall have by Ordinance ordered the ~~Building Inspector~~ Codes Enforcement Officer to proceed to effectuate the provisions of Section 4-26 with respect to the part of the property which the ~~Building Inspector~~ Codes Enforcement Officer shall have found to be especially dangerous to life and which property shall be described in the Ordinance.

4-26 Same - Demolition; costs, lien against property

- a) After the Board of Commissioners shall have by Ordinance ordered the ~~Building Inspector~~ Codes Enforcement Officer to demolish a particular building, the ~~Building Inspector~~ Codes Enforcement Officer shall upon default of the owner to remove or demolish the subject building within the time specified in the Ordinance, demolish or cause to be demolished the subject building and the cost for the demolition of such building shall be a lien on the real property upon which such cost was incurred.
- b) The ~~Building Inspector~~ Codes Enforcement Officer may demolish and remove such building with City personnel or may cause the demolition and removal of such buildings by private contracts; provided, however, the ~~Building Inspector~~ Codes Enforcement Officer, should such inspector cause removal by private contractor, shall first secure competitive bids in the manner provided for by the general law and City Ordinances governing contracts by local governmental units with private contractors.
- c) The materials of such buildings shall be held by the ~~Building Inspector~~ Codes Enforcement Officer and sold in the manner provided for by general law to recover the costs for the removal or demolition of such buildings, or the residual materials of such building shall be included in such contract thereby reducing overall costs, whether the building is dismantled by the ~~Building Inspector~~ Codes Enforcement Officer with City personnel or by agents supervised by the ~~Inspector~~ Officer or by private contractors, and any surplus shall be deposited by the ~~Building Inspector~~ Codes Enforcement Officer in the Office of the Clerk of Superior Court and shall be secured in such manner as may be directed by such court and disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

4-27 Remedies for violations of Article

The ~~Building Inspector~~ Codes Enforcement Officer or any properly authorized representative acting in the ~~Inspector's~~ Officer's behalf is hereby empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this Article. Any person having been served with an order to remove any such violation or to cease and desist from a continuing violation, who shall fail to comply with such order within ten (10) days after service thereof, or who shall continue to violate any provision of this Article in the respect named in such order, shall be guilty of a misdemeanor and shall be subject to punishment as provided in Section 1-6. Any trial, which might be conducted pursuant to the authority of this Section shall not constitute former jeopardy of the defendant therein and if such defendant continues in the violation for which such trial was held, such continuing violation shall be a separate misdemeanor for which such defendant may again be tried. In addition to the foregoing remedies, the Building Inspector may maintain, in the name of the City, an action of injunction to restrain any violation of this Article.

Chapter 7-Article II Junked, Abandoned, or Nuisance Vehicles

7-31 Definitions

For purposes of this Article certain words and terms are defined as follows:

Abandoned motor vehicle. An abandoned motor vehicle is one that:

1. Has been left on a street or highway in violation of a law or ordinance prohibiting parking;
2. Is left on property owned or operated by the City for longer than (24) **twenty-four** hours;
3. Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two **(2)** hours; or
4. Is left on any public street or highway for longer than seven **(7)** days.

Junked motor vehicles. The term junked motor vehicle means ~~an abandoned motor vehicle that also:~~ **any motor vehicle that is parked, kept or stored on any premises that:**

1. Is partially dismantled or wrecked;
2. Cannot be self-propelled or moved in the manner in which it was originally intended to move;
3. Is more than five **(5)** years old and appears to be worth less than \$100.00; or
4. Does not display a current license plate.

Motor vehicle. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle. A junked or abandoned motor vehicle on public or private property that is determined and declared to be a health and safety hazard, a public nuisance, or unlawful, including a vehicle found to be:

1. A breeding ground or harbor for mosquitoes, other insects, rats or other pests;

2. A point of heavy growth of weeds or other noxious vegetation over eight (8") inches in height;
3. A point of collection of pools or ponds of water;
4. A point of collection of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
5. One which has areas of confinement which cannot be opened from the inside, such as trunks, hoods, etc.;
6. ~~So~~ Situated or located **in a way** that there is a danger of it falling or turning over;
7. Any other vehicle specifically found to be a health or safety hazard or a public nuisance by the Codes Enforcement Officer or Building Inspector; or
8. So offensive to the sight as to damage the community, neighborhood or area appearance, upon a finding by the Codes Enforcement Officer or Building Inspector that such aesthetic regulation is necessary and desirable for the protection of property values, promotion or tourism, indirect protection of health and safety, preservation of the character and integrity of the community, or promotion of the comfort, happiness and emotional stability of area residents.

7-33 Pre-towing notice requirement

- a. A vehicle to be towed or otherwise removed because it has been declared to be a nuisance or junk vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the names and mailing addresses of the registered owners of the vehicles can be ascertained, the notice shall be given to both by first-class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the City on a specified date, no sooner than ten days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time. However, notice need not be given to the registered owner of the vehicle when it does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. Nevertheless, where such vehicle is on private property, the owner, occupant or lessee of the private property shall be notified.
- b. If the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is a nuisance, junked or abandoned vehicle, such appeal shall be made to the City Manager **or his/her designee** in writing, within the ten-day period set out in paragraph (a) above, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
- c. Upon receipt of an appeal to the City Manager **or his/her designee** as set out in paragraph (b) above, the City shall promptly notify the appellant in writing of the date, time and place of such hearing. Within three days, the City Manager **or his/her designee** shall notify the appellant in writing of his determination and may, upon such notice, proceed under section 7-34.

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

Approved and adopted this the 17th day of June, 2021.

d) Order 2021-002-Close Portion of Worth Street Between S. South Street and Rockford Street:

Commissioner Cawley mentioned making it a no left turn area at the intersection of S. South and Rockford Streets instead of asking the DOT to place a stoplight there.

Commissioner Yokeley mentioned that he attended an RPO meeting and asked how to request any changes from the NCDOT, especially a traffic signal. They stated it is very unlikely that it will be a traffic signal. They suggested that the City send an email to request that a study be done to see if a light could be placed there or what recommendations to go there once the street is closed. He will send the email and copy the Board members.

Commissioner Cawley made a motion to approve Order 2021-002 and for Commissioner Yokeley to send an email requesting for a study to be done for recommendations on what to do at the intersection of S. South Street and Rockford Street, and it was approved unanimously:

ORDER NUMBER 2021-002

ORDER TO CLOSE PORTION OF WORTH STREET BETWEEN S. SOUTH STREET AND ROCKFORD STREET

WHEREAS, Northern Regional Hospital has filed a petition pursuant to N.C. General Statute 160A-299 requesting that the City of Mount Airy close a portion of Worth Street, hereinafter described; and

WHEREAS, the Mayor and Board of Commissioners of the City of Mount Airy adopted a Resolution on the 6th day of May, 2021 as by law prescribed declaring intent to close this portion of Worth Street as described in the petition filed by Northern Regional Hospital, and the City of Mount Airy scheduled a public hearing for June 17, 2021, publishing notice thereof once a week for four (4) consecutive weeks in the *Mount Airy News*, a newspaper qualified for legal advertising in the City of Mount Airy and County of Surry of North Carolina; and

WHEREAS, all persons entitled to notice, whether by certified mail or by publication of notice, have been notified of the public hearing and afforded an opportunity to express their views, whether in favor of the closing of this portion of Worth Street or whether opposed thereto; and

WHEREAS, a notice of the public hearing was posted as required by law in at least two (2) locations along and upon the portion of Worth Street to be closed during the period notice thereof was published in the *Mount Airy News*; and

WHEREAS, the Mayor and Board of Commissioners of the City of Mount Airy find as a fact that no person is adversely affected by the closing of this portion of Worth Street; no one is deprived of reasonable means of ingress and egress to his property; nor is it detrimental to the public interest by closing this street hereinafter described:

NOW, THEREFORE, IT IS ORDERED:

1. That the portion of Worth Street between S. South Street and Rockford Street and that portion of a public right-of-way (previously abandoned) as described in Attachment A are permanently closed under the authority of GS 160A-299(a) with the area described as follows:

See Attachment A

2. That easements twenty-five feet (25') in width (12.5' on each side of centerline) for both public water and sewer lines referenced in Attachment A (or shown on the plat referenced in Attachment A) are hereby retained by the City. Existing stormwater is maintained by NCDOT and shall become privately maintained by the property owner upon closure of Worth Street. Easements owned by private utility companies that are shown on Attachment A shall be retained by the private utility companies indicated.
3. That in accordance with NCGS 160A-299(c), all right, title, and interest in the public street and rights-of-way described herein shall be conclusively presumed to be vested in the property owner owning property adjacent to the closed street. The adjacent property owner shall have legal title for the width of the abutting land owned by them, which shall extend to the centerline of the former street and public right-of-way described in Attachment A.
4. That a certified copy of this Order be recorded in the Office of the Register of Deeds of Surry County.
5. That the costs incidental to the closing of this portion of Worth Street be paid by the petitioner, Northern Regional Hospital.
6. That this Order is effective upon and after the date of its adoption.

Approved and adopted this the 17th day of June, 2021.

ATTACHMENT A
ATTACHED TO CITY OF MOUNT AIRY ORDER #2021-002
CLOSING A PORTION OF WORTH STREET AND A PREVIOUSLY ABANDONED
RIGHT-OF-WAY (PARKING LOT AREA)

THE POINT AND PLACE OF BEGINNING is a point in the eastern right-of-way of S. South Street where it intersects the northern line of a previously abandoned right-of-way, and proceeding thence with the northern line of said previously abandoned right-of-way South 18° 20' 41" East a distance of 18.09 feet; thence South 29° 23' 26" East a distance of 50.94 feet; thence South 33° 12' 53" East a distance of 50.00 feet; thence South 39° 06' 53" East a distance of 50.00 feet; thence South 44° 39' 06" East a distance of 74.99 feet; thence South 51° 18' 44"

East a distance of 75.01 feet; thence South 59° 53' 14" East a distance of 49.39 feet; thence South 63° 24' 54" East a distance of 49.96 feet; thence South 68° 01' 41" East a distance of 50.39 feet; thence South 73° 49' 54" East a distance of 49.96 feet to a point in the northern right-of-way (40' public right-of-way) of Worth Street; thence with the northern right-of-way of Worth Street South 78° 39' 54" East a distance of 49.96 feet; thence South 78° 38' 35" East a distance of 49.97 feet; thence South 81° 20' 15" East a distance of 100.24 feet; thence South 81° 23' 23" East a distance of 151.05 feet; thence following the curvature thereof an arc distance of 37.79 feet (said arc having a chord bearing of North 62° 33' 13" East, a counterclockwise direction, a chord distance of 35.34 feet and a radius of 30.00 feet) to a point lying 9.22 feet southwest of a found iron pipe; thence from said point and running with the western right-of-way of Rockford Street South 26° 28' 04" West a distance of 75.75 feet ; thence leaving said right-of-way following the curvature thereof an arc distance of 16.84 feet (said arc having a chord bearing of North 38° 59' 35" West, a counterclockwise direction, a chord distance of 16.76 feet and a radius of 50.93 feet); thence North 81° 23' 23" West a distance of 144.03 feet; thence North 81° 20' 15" West a distance of 100.25 feet; thence North 80° 53' 33" West a distance of 267.11 feet; thence North 79° 53' 33" West a distance of 193.82 feet to a point in the eastern right-of-way of S. South Street; thence with said right-of-way North 03° 43' 52" West a distance of 41.20 feet; thence departing the eastern right-of-way of S. South Street and running with the northern right-of-way of Worth Street South 79° 53' 33" East a distance of 203.68 feet; thence leaving said right-of-way North 58° 51' 54" West a distance of 44.62 feet; thence North 51° 18' 24" West a distance of 85.56 feet; thence North 44° 29' 29" West a distance of 74.32 feet; thence North 39° 06' 53" West a distance of 57.73 feet; thence North 33° 17' 50" West a distance of 33.00 feet; thence North 03° 52' 25" West a distance of 98.14 feet to the point and place of BEGINNING, containing 1.047 acres, more or less, according to the survey map prepared by Timmons Group entitled "Abandonment Survey of a Portion of Worth Street Right of Way Mount Airy, North Carolina" dated June 09, 2021. A true and complete copy of said survey map is attached hereto as **EXHIBIT A** and incorporated herein by reference as a part of and in aid of this description.

SUBJECT TO reservation of easements 25' feet in width (12.5' on each side of centerline) for both public water and sewer lines referenced in **EXHIBIT A** are hereby retained by the City.

e) Board to Consider Request from Westwood Mountain Bikers:

Darren Lewis, Parks and Recreation Director introduced this item. There are 5-6 miles of mountain bike trails at Westwood Park that are maintained by the Westwood Mountain Bikers. The City owns property across the street from Westwood Park and the bikers would like to be able to utilize some of that property to construct more bike trails. They will do all the work and labor to construct the trails and maintain them. They do understand that if the City should ever sell that property, they will no longer be able to utilize those trails as it would be private property at that point.

Commissioner Cawley asked if the City could get something in writing stating that bike trails aren't the best use of the property and that the bike group doesn't own or have rights to the property.

Darren Lewis stated he can prepare something and plans to have a meeting with the bike groups. He will inform them that they have permission to construct the bike trails but the

property hasn't been designated as park lands but just as conditional use and if there was any offer for the property down the road, the City would look at the best option for that.

Commissioner Wood made a motion to approve the request from the Mountain Bikers group with Darren to meet with the group and inform them that they have permission to construct the bike trails on the property as a conditional use and if there is any offer for the property in the future, the City will make a decision on the best option for that property.

f) Board to Discuss Placing Items on Open and Closed Session Agendas:

Commissioner Yokeley mentioned that he doesn't feel it was appropriate that at a previous meeting, a closed session item was called at the last minute. The City has a policy that items may be placed on the agenda at least five business days before the meeting.

Mayor Niland stated that Commissioner Yokeley is correct and the Board does need to stick to the policy in fairness to other board members. He will do a better job enforcing that policy.

Commissioner Cawley informed everyone that he was the Board Member that asked for a closed session because it was a time sensitive issue. He asked Mayor Niland prior to the meeting and the Mayor's suggestion was to call for a closed session because the Mayor sets the agenda.

Mayor Niland stated he doesn't believe that he sets the agenda. Commissioner Cawley would like the Mayor to set the agenda.

Commissioner Koch stated they should adhere to the policy but if something comes up that is an emergency or needs discussion quickly, there is an exception.

Commissioner Cawley feels that if it doesn't meet the five-day requirement, the Mayor should make the call as to whether or not it is discussed.

Commissioner Yokeley would like to consult with the City Attorney for a decision.

Andy Goodall stated he has worked in other municipalities and every municipality does it differently. Usually staff puts an agenda together, the Mayor and Manager review and ultimately the Mayor sets the agenda-if there is something on the agenda and the Mayor feels it isn't the appropriate time, he can take it off.

Mayor Niland asked if the Board was in consensus to consult with the City Attorney regarding this policy and rules/regulations. Everyone agreed.

g) Board to Discuss Suggested Rules of Procedure Rule 25-Debate:

Commissioner Yokeley brought this up because the Board adopted Rule 25 as a policy and it isn't being followed. He feels every Board member should be able to say what they want and not be interrupted.

Mayor Niland stated he was not fully behind this when it was approved. He feels the back and forth debate helps everyone understand where the others are coming from. He feels that everyone has had a chance to discuss their opinion because he hasn't stopped anyone from speaking.

Commissioner Koch likes the discourse between the Board members and that is why he voted against this Rule 25.

Commissioner Yokeley stated there are some on the Board that don't get a fair chance to participate in the discussion or debate. He hasn't felt that he has had the chance to speak in the past and hopes that in the future, discussion won't be monopolized by two or three on the board and everyone will have a chance to speak as much as they would like.

REMARKS BY OFFICIALS:

Commissioner Cawley: No comments.

Commissioner Koch: Thanked Commissioner Wood's Committee for their presentation. Thanked Darren Lewis and City staff for continuing to expand the good things that Mount Airy has to offer. Thankful for City staff and Mount Airy.

Commissioner Yokeley: No comments.

Commissioner Wood: Thanked her Vision Committee for their presentations.

Mayor Niland: Reminded the Board that Central Continuing Care will be having a drive through parade for their residents.

Please keep David Rowe in thoughts and prayers for his recent health issue.

Barbara Jones: No comments.

ADJOURNMENT:

Commissioner Yokeley made a motion to adjourn and it was approved unanimously.

Approved and adopted this the 5th day of August, 2021.

Ronald M. Niland, Mayor

ATTEST:

Melissa N. Brame, City Clerk