## TOWN OF VALDESE TOWN COUNCIL REGULAR MEETING May 3, 2021

The Town of Valdese Town Council met on Monday, May 3, 2021, at 6:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue, SW, Valdese, North Carolina. The following were present: Councilwoman Frances Hildebran, Councilwoman Susan Stevenson, Councilman J. Andrew Thompson, and Councilman Roy F. Sweezy. Also present were: Town Attorney Marc Mitchell, Town Manager Seth Eckard, and various department heads.

Absent: Mayor John F. "Chip" Black, Jr., Councilman Keith Ogle, Town Clerk Jessica Lail

A quorum was present.

Mayor Pro Tem Susan Stevenson called the meeting to order at 6:00 p.m. She offered the invocation and led in the Pledge of Allegiance to the flag.

## **OPEN FORUM/PUBLIC COMMENT:**

<u>LIGHTING AT ORS – GINA WALKER, 213 COLOMBO ST NW, VALDESE:</u> Ms Walker submitted the following comment: We are in desperate need of lighting near and around the backside of the Old Rock School and the track. This is a critical issue from a safety standpoint for our citizens.

GUARD RAIL/GRAVEL UPKEEP – ERIC ASHBAUGH, 4628 CARSWELL ROAD, VALDESE: Mr. Ashbaugh submitted the following comment: Two items - 1. I would like to see if a guard rail can be installed on the sharp bend coming down Flat Gap Road. This a huge drop off on the inside of the bend, if a car was to go off that side it could be fatal. 2. I would like to see if there is any possibility of getting some financial support for the gravel upkeep of Carswell Road. The residents there have been maintaining it themselves for quite a few years. Even if it was a once a year expenditure, it would be appreciated.

Town Manager Seth Eckard noted that Flat Gap Road is not in the Town limits and is maintained by DOT. Mr. Eckard shared that Carswell Road is part of a private subdivision, and the Town would not be responsible for that. Staff has already contacted DOT to make them aware of the request. Mr. Eckard also shared that staff is looking into Ms. Walker's request.

**CONSENT AGENDA:** (enacted by one motion)

### APPROVED REGULAR MEETING MINUTES OF APRIL 12, 2021

## APPROVED BUDGET WORKSHOP MINUTES OF APRIL 19, 2021

**REVISED VALDESE TOWN COUNCIL RULES OF PROCEDURES** The Valdese Town Council Rules of Procedures adopted March 7, 2016, have been revised to change the "Deputy Town Clerk" language to "Town Clerk," which was approved at the April 12, 2021, regular meeting. A copy can be found on the Town of Valdese website or in the Clerk's office.

<u>SET PUBLIC HEARING DATE FOR CONDITIONAL USE PERMIT APPLICATION #1-4-21</u> Staff requests Monday, June 7, 2021, as the date to hold a public hearing for Conditional Use Permit Application #1-4-21.

<u>SET PUBLIC HEARING DATE FOR 160D PLANNING AND DEVELOPMENT REGULATIONS</u> Staff requests Monday, June 28, 2021, as the date to hold a public hearing for 160 D Planning and Development Regulations

#### APPROVED VALDESE ABC BOARD TRAVEL POLICY

## **VALDESE ABC BOARD**

1018 MAIN STREET WEST • VALDESE, NC 28690 • PHONE 828-879-2227 • FAX 828-874-0332

#### TRAVEL POLICY

Proposed Date: Effective Date:

ABC Board business:

April 20, 2021 July 1, 2021

Do:

Adoption of Town of Valdese Travel Policy JULY 01, 2000, "Revised"

The following guidelines will be used as a travel policy for all employees traveling on Valdese

1. Reimbursement of travel expenses-

Meals will be covered on a per day rate. (Based on the current Federal Per Diem Rate) The Federal Per Diem Rates listing (found online at www.gsa.gov) is updated on an annual basis in October. If the traveler's destination is not listed on the website, the standard rate is used.

When traveling to attend a conference, where some meals are provided by the conference, remaining meals not provided by the conference will be eligible for reimbursement on a reasonable and actual basis (receipts required).

When on a trip <u>not</u> involving an over-night stay, expenses (i.e. mileage, meals) will be eligible for reimbursement on a reasonable and actual basis (receipts required).

Lodging will be covered for reasonable and actual cost (receipt required). Unless attending a conference, the Federal Per Diem Listing should be used as a guideline in determining reasonable cost.

- Board credit cards may be used to <u>reserve</u> lodging. Travel related cost however, should <u>not</u> be charged to the credit cards. All travel expenses will be covered through travel advances and / or reimbursements.
- It is the responsibility of the General Manager to determine which meal allowances are eligible for reimbursement to employees for partial day travel. Reimbursement will be for reasonable and actual cost (receipt required).
- All requests for travel expense reimbursement (i.e. meals, lodging, mileage, etc.) must be accompanied by a travel expense report.
- Other issues-
  - Transportation: As a general rule, it is the Board's policy that an employee is authorized to use a private vehicle and be reimbursed at the current standard mileage rate. The current standard rate shall be the same as paid by the Town of Valdese following the IRS rate.
  - Telephone: Any employee traveling out of town and staying overnight will be allowed a personal telephone call up to \$4 per night. Board business related calls will be paid by the Board.
  - Registration: Registration fees are generally paid in advance directly to the vendor, not from travel advance.
  - Advances: The Board does permit employees to request advances whenever an estimated trip cost exceed \$25. If the cost is less than \$25, employee must seek reimbursement when the trip is completed.

Adopted this the 20th day of April, 2021

Chairm

Attest

Secretary/Treasurer

Councilwoman Hildebran made a motion to approve the aforementioned items on the Consent Agenda, seconded by Councilman Thompson. The vote was unanimous.

#### **End Consent Agenda**

## ITEMS REMOVED FROM CONSENT AGENDA None

**INTRODUCTION OF NEW EMPLOYEES** Finance Director Bo Weichel introduced Customer Services Representative, Emily Fore.

APPROVED ACCEPTANCE OF BUILDING DONATION LOCATED AT 408 PINEBURR AVE. SW Town Manager Seth Eckard explained that we have already purchased the three parcels on the Pineburr Mill Site that will eventually be the new Public Safety Building home. Mr. Eckard shared that this is a donation of a fourth parcel that has the building on it. This donation is 100% free to the Town.

# RESOLUTION (Gift of Pineburr Property)

WHEREAS, Pineburr 408, LLC (the Donor) has offered to donate to the Town of Valdese that property identified as REID 33227 by the Burke County Tax Office; and

WHEREAS, the Donor has provided to the Town a Donor Letter of Intent (the Donor Letter) outlining the terms of this proposed donation; and

WHEREAS, the Town desires to develop this offered property in connection with the construction of a new public safety complex for the Town; and

WHEREAS, the Town Council is therefore of the opinion that the acceptance of this donation would be in the best interest of the Town;

#### IT IS THEREFORE RESOLVED AS FOLLOWS:

- 1. The Town of Valdese agrees to accept the donation of real property as outlined in the Donor Letter.
  - 2. The Town Manager is authorized to execute the Donor Letter on behalf of the Town.

THIS 3RD DAY OF MAY, 2021

/s/ Susan Stevenson, Mayor Pro Tem

ATTEST: /s/ Town Clerk

#### DONOR LETTER OF INTENT

Name of Donor: Pineburr 408, LLC, a North Carolina limited liability company

Address: P. O. Box 816, Morganton, NC 28680

To: The Town of Valdese

Attention: Seth Eckard, Town Manager and Members of the Town Council P.O. Box 339 Valdese NC 28690

Date: April 7, 2021

Dear Mr. Eckard and Members of the Town Council:

On behalf of Pineburr 408, LLC, I am pleased to submit this letter of intent to gift the real property located at 408 Pineburr Avenue, SE (the "Property"), to the Town of Valdese. The Property is identified by the Burke County Tax Office as PIN 2743-03-8327 (REID 33227) and is a portion of the property shown in Plat Book 5, Page 95, of the Burke County Registry.

It is my understanding that the Town is interested in acquiring and developing this Property for the purpose of constructing a new public safety complex to serve the Town. I am pleased to be able to donate the Property to the Town and to have a role in helping the Town to achieve its goal of developing a new facility to serve the community in the coming years.

The gift will be a voluntary donation of the Property to the Town for use for public purposes, and the Donor does not expect to receive any payment or other compensation.

The Donor will execute a **Special Warranty Deed** to the Town for the Property within thirty (30) days of the Town's acceptance of this Letter of Intent, unless otherwise agreed by the Parties. The Donor will convey fee simple marketable title, subject to ad valorem taxes for the current year (which will be prorated), utility easements, access easements, rights of way, and other matters of record.

The Property will be conveyed by the Donor to the Donoe in AS IS/WHERE IS condition without representation or warranty, express or implied, as to the condition thereof, the merchantability thereof or the fitness thereof for any particular use or purpose, and Donor is under no obligation to repair any portion of the Property.

By agreeing to accept the donation of this Property, the Donce agrees to cooperate with the Donor in reporting the donation to the Internal Revenue Service and NC Department of Revenue, upon the request of the Donor.

This the day of	, 2021.
Donor:	PINEBURR 408, LLC
	Ву:
	By: W. Gresham Orrison, Member/Manager
ACCEPTANCE:	
Donee:	The Town of Valdese, a municipal corporation
	By:Printed name and title:
STATE OF NORTH COUNTY OF BURI	
acknowledged that h liability company, a foregoing instrument	at W. Gresham Orrison personally came before me this day and e is the Member/Manager of PINEBURR 408, LLC, a North Carolina limited nd that by authority duly given and as the act of such entity, he signed the in its name on its behalf as its act and deed.  and and Notarial stump, this day of April, 2021.
(NOTARY STAM	P-SEAL)  Printed Name My Commission Expires:
STATE OF NORTE COUNTY OF BUR	
I, the under	signed Notary Public, do hereby certify that personally came before me this date and acknowledged that
he/she is the State of North Caro	of the TOWN OF VALDESE, a local government of the lina, and that by authority duly given and as the act of the Town of ig document was signed in its name by
Witness my I	and and official stamp or seal, this the day of April, 2021.
	Print Name:, Notary Public
ONOTADV S	My Commission Expires:

Councilman Sweezy made a motion to approve the Resolution accepting the building donation and authorizing the Town Manager to execute the letter of intent, seconded by Councilman Thompson. The vote was unanimous.

RESOLUTION AMENDING SECTION 9-1085 (B) (MINIMUM HOUSING ENFORCEMENT) Planning Director Larry Johnson shared with Council that Town Attorney Marc Mitchell found language within Section 9-1085(b) that needed to be changed after a recent code enforcement action. Mr. Johnson explained that what is presented are two items: one allowing the code enforcement office to order a repair for a deteriorated building, and the second being the filing of the code enforcement actions. Town Attorney Marc Mitchell explained that the old language gives the homeowner a choice whether or not to repair a deteriorated building, now the code enforcement officer has the option. The second change is filing a notice of lis pendens that would be filed in the Clerk's office. If the enforcement is filed, you will not have to start over with enforcement. Councilwoman Hildebran asked if this would affect the property on 909 Main St. W and Mr. Mitchell said no, but we could file a lis pendens in the future if it meets the requirements.

# RESOLUTION AMENDING SECTION 9-1085(b) OF THE TOWN OF VALDESE CODE OF ORDINANCES

WHEREAS, the minimum housing code statutes for the State of North Carolina (formerly G.S. 160A-441 et. seq., now G.S. 160D-1201 et. seq.) allowed a municipal ordinance to provide in the case of deteriorated dwellings that the owner of the unfit dwelling could be ordered "to repair, alter or improve or to vacate and close" the unfit structure; and

WHEREAS, the minimum housing code statutes were subsequently amended to allow a municipal ordinance to provide that instead of the owner being given a choice as to whether to repair, alter or improve or to vacate and close, the owner could be ordered "to repair, alter or improve the dwelling in order to render it fit for human habitation"; and

WHEREAS, the town council desires to amend the town's minimum housing code ordinance as now allowed so that owners of a deteriorated dwelling will no longer be given a choice as to whether to repair, alter or improve the dwelling, or to vacate and close it; and

WHEREAS, to avoid having to reinstitute enforcement proceedings when there is a change of ownership, the town council desires to provide for the filing of a notice of lis pendens to notify property owners that minimum housing code enforcement actions are being taken;

IT IS THEREFORE RESOLVED that Section 9-1085(b) is amended to read as follows:

- "(b) If after such notice and hearing the code enforcement officer determines that the dwelling under consideration is unfit for human habitation, the code enforcement officer shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owners an order as follows:
- (1) If the repair, alteration or improvement of the dwelling can be made at a cost not to exceed fifty percent (50%) of the value of the dwelling, requiring the owner to repair, alter and improve such dwelling to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling until such repairs, alterations and improvements have been made. Upon application by the owner of a dwelling within the specified time, the code enforcement officer may grant extensions of up to one (1) year if such dwelling is occupied by its owner, or up to 180 days if the dwelling is not occupied by its owner, for good cause shown.
- (2) Within ten (10) days from the date of an order determining that a building is dilapidated, the owner may notify the code enforcement officer in writing of his intent to make such repairs or alterations to the place of habitation so as to comply with the minimum standards of fitness. Upon receipt of an owner's written intent to repair the place of habitation within the time provided in this subsection, the code enforcement officer shall issue a supplemental order directing the owner to commence and complete the repairs or alterations necessary to comply with the minimum standards of fitness. The code enforcement officer shall allow a reasonable time for the owner to make such repairs or alterations, but in no event shall the period of time allow for such repairs or alterations be less than 30 days nor more than 90 days unless an extension of up to 90 days is granted by the code enforcement officer for good cause. Upon application by the owner within the specified period of time, the code enforcement officer may grant extensions of up to one (1) year for an owner-occupied dwelling, or up to 180 days for all other places of habitation for good cause shown.
- (3) The code enforcement officer may cause the complaint and notice issued under subsection (a) and the findings of fact and order issued under this subsection along with a notice of lis pendens to be filed in the office of the Clerk of Superior Court of Burke County. From the date and time of indexing by the clerk of court, the complaint and notice of hearing or findings of fact and order shall be binding upon the successors and assigns of the owners of and parties in interest in the place of habitation. A copy of the notice of lis pendens shall be served upon the owners and parties in interest in the place of habitation at the time of filing. The notice of lis pendens shall remain in full force and effect until it is canceled. The code enforcement officer shall have the authority to notify the clerk of court to cancel the notice of lis pendens when the code enforcement officer determine that there no longer is a need for that notice to remain in effect.
- (4) The code enforcement officer is authorized to fix the reasonable value of any housing and to estimate the cost of repairs, alterations or improvements for the purposes of this section.
- (5) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the code enforcement officer may cause such to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building or posted shall constitute a misdemeanor.
- (6) If the owner fails to comply with an order to remove or demolish the dwelling, the code enforcement officer may cause such dwelling to be removed or demolished;" provided, however, that the powers of the code

enforcement officer set forth in subsection (d) and this subsection shall not be exercised until the Town Council has, by ordinance, ordered the code enforcement officer to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the code enforcement officer has found to be unfit for human habitation and which shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.

- (7) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the code enforcement officer, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. § Ch. 160A, art. 10. If the dwelling is removed or demolished by the code enforcement officer, he shall sell the materials of such dwelling, any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the code enforcement officer, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.
- (8) If any occupant fails to comply with an order to vacate a dwelling, the code enforcement officer may file a civil action in the name of the Town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the code enforcement officer produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (e), authorizing the code enforcement officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the governing body has ordered the code enforcement officer to proceed to exercise duties under paragraphs (d) and (e) of this section to vacate and close or remove and demolish the dwelling.

(9	) Any violation	of this section sha	all additionally su	bject the offender	to a civil penalty t	o be recovered
by the Tov	vn pursuant to s	ection 1-7.				

ADOPTED THIS, THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

/s/ John F. Black, Jr., Mayor

ATTEST: /s/ Town Clerk

Councilman Sweezy made a motion to approve Resolution to amend the Section 9-1085(b), seconded by Councilwoman Hildebran. The vote was unanimous.

FAMILY FRIDAY NIGHT CONCERT LOCATION (This item was added at the beginning of the meeting.) Community Affairs Director, Morrissa Angi shared a presentation on the Family Friday Nights Summer Concert Series location. Ms Angi went over the two locations' pros and cons: the current Wells Fargo parking lot and the possible new location on the Old Rock School football field. Ms Angi explained that it would not include the Independence Day Celebration and Festival if the location changes to the ORS field. Ms Angi feels that due to COVID-19 restrictions and Morganton and Lenoir not holding their Friday night music we will have a large crowd and wants to be able to spread out and accommodate the crowd.



## **Town Parking Lot at Wells Fargo**

## Pros

- No crowd limit in June Hopefully
- · Proximity to merchants
- Known Location
- On Main Street = Visibility

#### Challenges

- 18,000 sq.ft. = 324 people allowed in May
- Asphalt is extremely hot in summer temps
- Packed area in 2019 = no room to grow event or social distance
- · Parking can be a challenge
- · Location is on a hill
- · Little to no band visibility with dancers
- Traffic to ATM with pedestrians coming to the event until 6pm
- · Keeping emergency access road behind stage clear



#### Field behind the Old Rock School

#### Pros

- 108,000 sq.ft. = 1,944 people allowed in May
- No crowd limit in June Hopefully
- · Permanent Concession Stand
- Grass Level Area Cooler
- Permanent Restrooms = Cost Savings
- Off Main Street = Safer for Families with young children
- · Parking proximity
- Utilize Teachers Cottage for Band dressing area
- Easier for families to join grassy area, picnics, blankets
- Room for the event to grow & expand
- · Safer for children away from traffic

#### Challenges

- · Proximity to merchants
- Dance Floor possible need to purchase
- · Off Main Street Visibility
- · Possibility for "bass" to be heard at the outdoor drama

July 16-August 14 (Fridays Only = 5 shows) - Cast now has headmics - OCP is aware that music may be heard





2019 FFN Concert Series

- Would public perception be better/safer in regards to COVID-19 if we moved locations to a much larger venue this season?
- Could the event attendance be drastically increased due to the lack of events in 2020?
- Would the event have a larger crowd size due to Morganton's Courthouse Square construction and their concerts beginning in late August?
- Is this the proper time to make a change to the football field permanently due to the increase in crowd size that was seen in 2019? Not including Independence Day & Festival.
- Would the new location spur new excitement for the concert series that would encourage even more attendees?

#### **Options to consider:**

- A. No change All held in the Town Parking Lot as before
- B. Host Kickoff Celebration on the Football Field Rest at the Town Parking Lot
- C. Host Kickoff Celebration & Concerts through June 25 on the Football Field
  - Staff would hand out dining/shopping guides to attendees and would promote the event with proper signage on Main Street.
  - By following this recommendation, the change will not impact any of the major events nor OCP's production but in our opinion, would help to alleviate public concerns surrounding COVID-19.
- D. Move entire Concert Series to Football Field (not including Independence Day & Festival)



Ms Angi shared that she would like Council's feedback and has four options for consideration. 1. No change 2. Just host the kickoff celebration at the football field and then move the rest back downtown like normal. 3. Host the kickoff and concerts through June 25, 2021. 4. Consider moving the entire series to the football field. Town Manager Seth Eckard feels that this will be a huge event due to Morganton and Lenoir not hosting Friday night events. Councilman Thompson is concerned about moving away from the merchants and the visibility and feels item three would be best. Councilwoman Hildebran agrees and is worried about the residential area. Councilwoman Hildebran feels item three would be best. Mr. Eckard said staff would communicate with the residents in that area. Ms Angi's recommendation would be item three as well.

Councilwoman Hildebran made a motion to start the FFN concerts behind the Old Rock School through June 25, 2021, seconded by Councilman Thompson. The vote was unanimous.

MANAGER'S REPORT: Town Manager Seth Eckard made the following announcements:

The Craft Market is scheduled for Saturday, May 22, 2021, from 9:00 a.m. – 4:00 p.m. at the Old Rock School Field.

The Town Council Budget Workshop is scheduled for Monday, May 24, 2021, at 6:00 p.m.

The Family Friday Night Kickoff Celebration is scheduled for Friday, May 28, 2021, from 7:00 p.m. – 10:00 p.m. Concerts will continue every Friday until September 3, 2021.

Town Offices will be closed Monday, May 31, 2021, in observance of Memorial Day.

<u>MAYOR AND COUNCIL COMMENTS:</u> Councilwoman Hildebran thanked those that attended the Little Library ribbon cutting at Corner Stone Baptist Church.

Councilman Sweezy reminded Council that Rutherford College has a groundbreaking ceremony for their Greenway on May 6, 2021. Councilman Sweezy also shared the K&L Dunrite Roofing & Restoration has a ribbon cutting on May 13, 2021. Councilman Sweezy is excited that the Craft Market event has sold all the booths.

Councilwoman Stevenson reminded Council that the Old Colony Players, The Wizard of Oz, has one more weekend of shows and shared how wonderful it was.

<u>ADJOURNMENT:</u> At 6:31 p.m., there being no further business to come before Council, Councilwoman Hildebran made a motion to adjourn, seconded by Councilman Sweezy. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, June 7, 2021, 6:00 p.m.

	3	•	,	J	3.	,	,		
	T Ol-							Marra	 
il	Town Cle	rK						Mayor	