

Town of Mineral Springs
Town Hall
3506 S. Potter Road
Town Council
Regular Meeting
May 11, 2017 ~ 7:30 PM

Minutes Draft

The Town Council of the Town of Mineral Springs, North Carolina, met in Regular Session at the Mineral Springs Town Hall, Mineral Springs, North Carolina, at 7:30 p.m. on Thursday, May 11, 2017.

Present: Mayor Frederick Becker III, Councilwoman Valerie Coffey, Councilman Jerry Countryman, Councilwoman Janet Critz Councilwoman Lundeen Cureton, Councilwoman Bettylyn Krafft, Town Clerk/Zoning Administrator Vicky Brooks, Attorney Bobby Griffin and Deputy Town Clerk/Tax Collector Janet Ridings.

Absent: Mayor Pro Tem Peggy Neill.

Visitors: Margaret Brantley, Spiro Kaltsounis and Linda Smosky.

With a quorum present Mayor Frederick Becker called the Regular Town Council Meeting of May 11, 2017 to order at 7:31 p.m.

1. **Opening**

- Councilwoman Critz delivered the invocation.
- Pledge of Allegiance.

2. **Public Comments**

- Spiro Kaltsounis – Mineral Springs property owner.

3. **Consent Agenda**

- **Councilwoman Coffey** made a **motion** to approve the consent agenda which contained:

- A. April 13, 2017 Regular Meeting Minutes
- B. March 2017 Tax Collector's Report
- C. March 2017 Finance Report

Councilwoman Krafft seconded. *The motion passed unanimously as follows:*

*Ayes: Coffey, Countryman, Critz, Cureton and Krafft
Nays: None*

4. Council on Aging – Linda Smosky

- Ms. Linda Smosky thanked the council for the support they have given Council on Aging in the past. Ms. Smosky noted she was not speaking just for herself, but also for the staff on Council on Aging and their Board of Directors. When Ms. Smosky comes and talks with the council she always shares it with them, so they are very much aware of the support they are getting from the town. In addition to the support the town gives Council on Aging financially, Ms. Smosky commended and thanked the council for the support they give, it not only helps them meet their goals and mission, but it also helps the residents of Mineral Springs. When the council listens to what she has to say and when they learn and they know what Council on Aging does, they can be an advocate for the residents of Mineral Springs. Ms. Smosky feels they do, because they know what Council on Aging does and they can connect the residents with the services that are provided. If the council knows someone that is turning 65, they can tell them to call Council on Aging and they will help with your decision about Medicare. If they know someone in Mineral Springs who has no family here and they need some grab bars installed in their bathroom, they can tell them to call Council on Aging; they have volunteers who will do that. If you know someone who has difficulty with personal care (bathing or washing their hair), they have aides who can go out and do that. There might be a caregiver who is providing for someone who has dementia and they are on call 24/7 and they need a break, you can tell them to call Council on Aging and they can get a respite. By making those connections it's good for everybody, because you are not only helping Council on Aging to provide the services, but you are helping the people in your community, which is invaluable and it is really what everybody should be doing. Not every municipality takes their responsibilities as seriously as Mineral Springs does; Ms. Smosky was not "just saying that". Ms. Smosky has had the experience of going to quite a few municipalities and the atmosphere is very different.
- Ms. Smosky referred to the handout she had provided to the council and noted there were some statistics that she would like them to take a look at. Ms. Smosky put together a few things that might be of interest to the council. The website was just updated – Ms. Smosky encouraged the council to go take a look at it; there is a lot of information on there, including a three-minute video they did this summer, which talks about their in-home services. Last October, they had 1,369 visits to the website, which Ms. Smosky thought was a lot for a small agency like theirs; this past January it was up to 1,442. At the first of the year they usually get an increase in inquiries from family members, because they have gone home over the holidays to visit their family and they find that maybe mom is slipping a little bit and she could use a little help. Ms. Smosky referred to the handout, which she was not going to read, but she thought the council would like to see it. Ms. Smosky reminded the council of the building (next to theirs) they purchased last year where they were planning to open an adult daycare; it was sad to say nothing has happened on that front. It is very difficult to get permits to do something like this, especially with an adult day care, so they've kind of given up that idea and what they are going to do is renovate the building and offer group respite, which means that they won't be licensed by the state, but they will be able to provide almost the same service. They just can't do it five days a week, they will only be allowed to do it four days a week, but with the population that they are targeting Ms. Smosky thought it was going to work well.

5. Catawba Lands Conservancy

- Catawba Lands Conservancy (CLC) Development Director Ms. Margaret Brantley stated she greatly appreciates partnering with Mineral Springs and their interest in conservation. “Conservation by Design”, Ms. Brantley loves it, it makes her heart sing that is what Mineral Springs is going by. Ms. Brantley gave a quick update on some of the things that have been going on in Union County and then overall with the CLC. Ms. Brantley reminded the council of the conservation easement the CLC has on several acres of land along Waxhaw Creek and explained that last year in December they closed on 31 more acres that were contiguous to that property. The Waxhaw Creek is a tributary to the Catawba River and it is really important, because it dilutes the pollution that the Catawba gathers as it goes through Charlotte. The CLC is really excited about this project and they are continuing to work with the landowners along Waxhaw Creek to make that bigger and bigger.
- Currently the CLC is working with a group of landowners in this area to conserve a local farm. Ms. Brantley can't say that it is going to go through, because land deals have a lot of variables, but it's looking favorable. It will conserve about 100 to 200 acres of local farm in this specific area of Union County.
- The Carolina Thread Trail (CTT) is one of the CLC's major projects. Mineral Springs has a great section here in the Mineral Springs Greenway. The CTT now has 260 miles on the ground over 15 counties. They have 171 miles of blueway, so if you are interested in paddling, they have tons of places to put in and take out. They have launched a capital campaign, which is in the silent phase, but Ms. Brantley announced to the council for their public minutes that they are going to be raising more capital to grant money back out into the community for sections of the CTT. The CLC has some lofty goals, but Ms. Brantley knows they are going to meet them.
- The CLC received a Women's Impact Fund Grant, which has funded a programming coordinator. They have so much interest in people getting out on the land and on the trails, that they have maxed out on the capacity of their staff, so this grant allows them to do a lot more of that, which is going to benefit the Town of Mineral Springs. The CTT is going to offer to volunteer (hopefully the town will take them up on this) to do two programs along the Mineral Springs Greenway and then one volunteer work day on the greenway where they can help clean up and maintain; doing things that will beautify this. Mayor Becker will be promoting it through his avenues and the CTT will be promoting this through the avenues. The CTT and CLC social media reaches about 10,000 folks, so they'll be reaching out to their people to have them come out to Mineral Springs to enjoy the greenway, enjoy the programming and to come work and beautify the area.
- Councilwoman Critz stated that it was so exciting to have a workday; her property backs up to part of the greenway and creek and with all the torrential rains we have had recently there is a lot of sections where there is just a lot of debris piled up that needs a lot of people in there pulling. Ms. Brantley commented that they have a wonderful Volunteer Outreach Coordinator – Vanessa Gore, who has done an amazing job. Ms. Gore has been with them four or five years and she has increased their volunteers to about 600 to 800 active volunteers, so they have a base that will be able to help Mineral Springs. Mayor Becker commented he was happy also to have the option of these additional guided hike days and he thought they could coordinate that with some others, like Ms. Brantley talked about, she

says a program, but a guided nature hike or an event like that. Mayor Becker sees those promoted on the CLC/CTT social media in various trails around the region. Ms. Brantley responded it's amazing and Mary Ann Harrison, who is their programming person, has done these great things, like owl prowls, where she takes people out and they look for owls and starlight gazes, she is super creative; she is an amazing person. Councilwoman Critz mentioned that she had quite a few owls and someone recently put an owl box up, although she didn't know who. Mayor Becker commented it was three of them and it was Evan Wunder, which was part of a Scout project. There are three Barred Owl boxes and 24 Nuthatch houses; Evan is willing to help with the program and do some bird explanations.

6. **Consideration of Appointing a Board of Adjustment Member**

- Mayor Becker announced Councilwoman Coffey as the Board of Adjustment volunteer (from last month). The council can decide if they wish to accept Councilwoman Coffey's willingness to serve on the Board of Adjustment.
- **Councilwoman Critz** made a **motion** to accept Ms. Coffey's application (she appreciates her volunteer spirit) and **Councilwoman Cureton** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Critz, Cureton and Krafft

Nays: None

7. **Consideration of Amending the Nuisance Ordinance Policy**

- Mayor Becker explained there had been a lot of discussion and its sort of built up over the week on some of the problems we have had that have cropped up with management of our recently adopted Nuisance Ordinance; some abuse that's creeping in and some difficulties/problems. Some of the council has gotten some of the emails staff has. The council worked very hard to try to make this bulletproof, but we have one citizen who has decided to abuse the reporting process. In the first six weeks, we had four legitimate complaints about relatively well known problems in the town; we had heard about them before and they came in through channels. Suddenly at the end of April, (Mayor Becker thought the council was copied on this with an email to the clerk) we were hit with a list of 14 violations from somebody who had taken it upon himself to do what we promised we weren't going to do: he is driving around the town and seeking out problems all over town and reporting them. Mayor Becker stated, "we became very concerned in the tone of the emails, you saw some of them, was very confrontational and basically this is just the beginning". That's not the words that were used but... So, staff began to discuss the problems, could we modify the reporting process, limit people to a certain number of complaints per year. Mayor Becker explained that he discussed it with our attorney and he believed Councilwoman Critz has and that didn't seem like a legally viable or even a practically viable solution, so we are up in the air and don't know what to do. Mayor Becker explained what he thought was happening (in his opinion), with four complaints, we just got our bill for April and Mr. Ganus has done a very fair bill, he has done a very good job in handling those complaints, plus receiving three of the fourteen and not even doing any major investigation, the bill is up to \$634 for the first month of enforcement; that's reasonable. We have 11 that he hasn't even touched yet and that's the tip of the iceberg. The other problem is some of these are nuisance structures and Mayor

Becker doesn't know if this council remembers a very nice, very large man (he must have played football in school) who was very concerned about his property where he had an old home place that was falling down and it was a life estate of his daddy and his mother was alive and there were going to be problems, he was concerned about that being a subject. "Well, guess what, that has been reported, so now he will be subject to the extreme cost of demolishing that property, which isn't visible from the street, it's behind trees, it's hurting nobody, so these are problems both to our citizens as victims of this abusive reporting and seeking out problems, seeking out sign violations (well, that's zoning, we are talking nuisance) and then the cost of enforcement to the taxpayers with these bills to N-Focus are going to be escalating, so we need to figure out a way to make this stop", Mayor Becker said. It reminds Mayor Becker of a situation, let's say we opened a swimming pool, we worked for two years on planning it, we spent \$750,000, we opened a community pool, we did everything by the book, everything was right, we worked our fingers to the bone and the thing opened and the first month three children died of brain eating amoeba disease, we were attacked by a parasite, we would have no choice, but to close the pool. No matter how hard we work, we've got to fix this before we can expose our community to this parasite; that's kind of where we are at with our Nuisance Ordinance, we have been infected by a parasite and we need to find a way to fix this. Mayor Becker stated he was going to turn it over to Councilwoman Critz, because she had a long conversation with our attorney (he didn't want to monopolize the conversation) looking at possible things that a lot of them may involve. "We talked about suspending the ordinance, but that's kind of a legal term that has no meaning and really what you need to do is possibly repeal the ordinance pending further study and then readopt when you have come up with a process to protect our community from abuse", Mayor Becker said. Mayor Becker hoped he had elaborated the problem and noted that they were going to look at some possible solutions.

- Councilwoman Critz stated she would just hit a couple of the high points here and then certainly each council member has a feel or feelings on the subject; hers has been quite conflicted at times. The first thing Councilwoman Critz went to was our "municipal bible" and it is sort of vague, so she went from there to our attorney, because she felt like she needed to know if we try to fix, what we now have evidence of as being loopholes or means of using this ordinance as a tool to police the community and to cause unfair advantage to people going around the community. These are things that if you look back at our minutes of our public hearing, we said multiple times statements such as, "our intent for this ordinance is for this to be a tool for the community to use for extreme situations where there could be environmental damage or property damage, that it was not intended to be policed". None of us were planning to be the Nuisance Ordinance police and it was not intended for that and yet we have seen it used as that, so Councilwoman Critz began to feel like it was their responsibility, as councilmembers, to protect and serve this community. It is like Mr. Kaltsounis said earlier, he knows that the council has worked hard to come up with the things that we have done and they have. Councilwoman Critz did not think this is a reflection on the fact that they haven't worked hard, she thought it was a reflection on the fact that someone has found a way to take this ordinance and use it as a weapon or a tool against our neighbors, our community and it is being abused and misused; grossly misused. Councilwoman Critz explained she felt a responsibility to stand between the abuser

and our community in this, so speaking to Attorney Griffin in looking at a variety of ways to try and tweak it to correct the problem without repealing the Nuisance Ordinance altogether, Attorney Griffin assured her that we really can't do that without opening ourselves up to a legislative and judicial situation that we can't guarantee that we can fix. The Institute of Government handbook pretty much says the same thing. "Band-aiding" things that come to a situation where they are not working properly is typically not the best solution, so by repealing this we basically stop the ordinance dead in its tracks and basically it gets tabled, it's ineffective, it's gone. It does not prevent us from further research and coming back to this using the foundation. "I don't believe for one second that the foundation of this ordinance is wrong. I think the planning board did a great job and foundationally is correct. I think there is some wording and some tweaking that we've got to look at", Councilwoman Critz said. Attorney Griffin assures Councilwoman Critz that we can, by repealing this, the policy just comes to an end and no way, shape or form prevents us from picking it back up, going back to it, bringing it back alive at a future date when we have had a chance to do a little more research on wording and see how other communities have corrected. We are not the first municipality to have an ordinance that had very good intentions and worked very hard on misused. Councilwoman Critz thought the only responsible thing at this point for the council to do was to repeal the ordinance and start over; fortunately we will not have to start from scratch, we will start with the foundation of the ordinance that we have, but we will do further research. On Monday, Councilwoman Critz will be contacting the Institute of Government setting up an appointment and will be planning a trip to Chapel Hill to spend the day there talking to the "powers that be" to see if she can't get more information on exactly their formulas (how they have handled certain problems/this kind of thing) and always running this through the filter of our own attorney who can let us know no matter how good of intentions we have or how hard we try, we need to be sure that we can legislatively and judicially provide the community with something that will actually do what we intended to do. Councilwoman Critz thought the council made themselves perfectly clear in their public hearings what their intent was and she didn't know any way they could have foreseen the excessive abusiveness that has taken place, so she certainly doesn't want to make a motion at this point until everyone has had an opportunity to weigh in on this issue.

- Councilman Countryman stated that he felt it was really a sad day in that, as a board and certainly with the assistance of the planning board, they worked very hard to put this program together with the intent of obviously improving the appearance of our community, the congeniality of our community, the livability of our community, but it's become very apparent very quickly that there is one individual in this community that has a vendetta against this board and will do anything that he can to create issues and disturbances by which they have to deal. As Councilman Countryman's colleague so clearly and plainly stated, "it was not our intent with the initiation of this ordinance to do anything other than provide a vehicle and means by which in those very rare circumstances we had a situation we needed to deal with, we had the ability to do so and we very effectively communicated during our public hearing that it was not our intent, our will or our desire to be policemen in the community and go out and look for these problems". Councilman Countryman commented "sadly, there is one individual in this community, his name is Charles Bowden and he has taken it upon himself to be

the community policeman. I think his intention is probably not honorable and he would debate that with me; however, his intention is to create a financial hardship for this board and to create an ill feeling within the community, so I think it is imperative that we take steps to ensure that he cannot continue to victimize the community as he has and I'm in favor of taking steps this evening that will bring that problem to an end".

- Councilwoman Coffey stated that the council did as much due diligence as humanly possible in putting this together, getting the legal advice that they thought was best to their knowledge to meet the constituents of our town's desires and what they believed would help to grow this town by improving it by getting rid of dilapidated buildings, situations that create health hazards to their constituents as well as to themselves; it is the council's responsibility to do everything they can that will alleviate situations without their constituents becoming bankrupt. Councilwoman Coffey commented that the council never spoke for the constituents of this community, they could never speak for them in saying they would not police, they could not do that, they stated that they as a board would not police, that is not what the council does, that's not what N-Focus is doing, that was not their job and that was not in the description whatsoever. Councilwoman Coffey continued that the council has to realize (not meaning any harm) that they can't look at anyone badly, because they picked up the ordinance and read it and said, "well I am going to report this one, I'm going to report that, I'm going to report", the council can't hold that person responsible for that because they did according to what we had formulated. That person had that right, because that's a citizen, that is not this board; therefore, according to the rules that were in the Nuisance Ordinance, that person filed complaints, viable complaints Councilwoman Coffey did not know, N-Focus would have to make that decision; that is not what the council does. That person went by the ordinance as far as Councilwoman Coffey knew and it would be up to N-Focus to investigate and determine at \$67 an hour. Councilwoman Coffey reiterated the council did their due diligence, spent the time, the man-hours, the money, got the legal advice and it seemed to be what we needed; however, she is hearing that because we've had so many reports of violations it superseded what the council foresaw as being a financially feasible avenue to continue on. When you put an ordinance in place you have to be ready to stand behind it and enforce it, the enforcer is N-Focus, that's not the council, so that's all Councilwoman Coffey has to say on it. The person that made the complaints did according to the ordinance as far as Councilwoman Coffey knew and she hasn't been to the 13 properties and that person is a citizen within their right according to this to make those complaints.
- Councilwoman Critz stated she didn't know that she could like strongly disagree with anything that Councilwoman Coffey was saying, but she would like to correct something she said earlier on the planning board. "The planning board was not involved in this, that was my error in judgment and statement, it was the council, as well as strong public input, which involved a survey, as well as a public hearing". Councilwoman Critz stated that there was a financial aspect to this for sure, that they can't ignore, but that is not the worst offense here, to her the worst thing that has happened here is that someone is abusing their right, they are taking the ordinance and... Councilwoman Critz stated that she foresees and she doesn't want to say this now, because she thinks that at some point you need to hold your cards close to your chest and that is what she is trying to do right now, she is trying

to hold her cards a little close to her chest right now and so by doing that she is going to limit what she says here, but what the gist is that there are some apparent loop holes in some of the wording that will allow someone who is a citizen and has the right to make a complaint to abuse that. This is what Councilwoman Critz thought the council could improve upon, but she didn't think they could do it tonight without throwing a band-aid on a very big sore, which is why she would like to see the council repeal it, take it back to the drawing board and take a step further than what they went before to see how this could be better worded and better organized. "We cannot prevent, nor should we, every potential problem, but we are, I believe, responsible to stand, when there is an obvious problem and obvious abuse, to stand between that abuse and our constituents to the best of our ability", Councilwoman Critz said.

- Councilwoman Coffey offered she would also be on record as stating "that there hasn't ever been a perfect document created, so we are not going to get there". Councilwoman Critz agreed, but explained that she thought there was room for improvement, holding her cards close to her chest here.
- Councilwoman Krafft stated that she was in total agreement with Councilwoman Coffey, she believed that when you put forth an ordinance (our documents are living breathing documents) that sometimes you find that there are errors and sometimes you find that there are things that you could do better, hindsight is always 20/20, but she believes that the individuals that made complaints as citizens have the right to make those complaints based on an ordinance that we approved. Councilwoman Krafft does not see any abuse of doing that as it has been stated, only because the ordinance is there and it was applied and she can't criticize anybody for doing something that is on paper that the council approved. With that being said, Councilwoman Krafft commented it is a financial thing that she pretty much anticipated and they all said in the beginning they would have an influx, but there are possibilities for improvement and that we need to take a step back and look at it further and she is okay with that, but know that anything that is put out there, everybody has a right to take it and apply it; that's what we are here for.
- Councilwoman Cureton agreed and commented "you can't do what I'd like to do, so I agree, I won't say what I'd like to do".
- Councilwoman Critz explained the one thing Attorney Griffin brought to her attention was that this would give the council time to view this well, so that it could possibly prevent the abuse or overly used or however you want to state that fact and that they could be sure that they are wording it in such a way that they are going to stand the test of time through a judicial challenge. Councilwoman Coffey shared that Mineral Springs is not alone, Waxhaw made Channel 9 News, because some 85 to 90-year-old lady hadn't cut her grass according to their ordinance. Guess what? She still has to cut that grass. The family complained, but she still has to cut the grass. Councilwoman Coffey was just saying "we are not by ourselves". Councilwoman Critz agreed and stated, "but we are new at this". Councilwoman Coffey replied, "we are all in this together". Councilwoman Cureton responded, "plus when they checked the police department, their grass was as tall as the lady's grass". Councilwoman Coffey explained the only reason she threw that out there was [to say] that we are not by ourselves, everybody has challenges with their ordinance no matter how tight you think they are. Councilwoman Critz asked Attorney Griffin if she were wrong in saying she thought the main reason that

he recommended repealing it was so that Mr. Bowden couldn't go back to the original document and claim any previous right, by repealing it now it is just "dead in the water" and he can't go back to that ordinance and demand any rights under that wording, so then we would have the chance to look at it again and deal with that without any previous right. Councilwoman Critz asked if what she was saying was correct. Attorney Griffin responded that part of what Councilwoman Critz was saying was correct, but he didn't think they individualized it, what they talked about was problems that Mineral Springs was facing and obviously someone mentioned where they thought the problem was coming from. They talked about it in terms of not doing this to prevent a particular person from making these complaints, but anyone could not avail themselves from making complaints over again; if there is a good way to do it. Attorney Griffin didn't know how they were going to look at that unless they stop this one, unless they want to continue with it and suffer the consequences of cost and everything else until they can appoint a study committee or do some further research as to how you limit one's ability as a citizen to make complaints. The purpose behind it was to encourage complaints Attorney Griffin thought. Councilwoman Krafft asked if the complaints that have already been filed would go forward if the council repealed the ordinance today, because they are under ordinances that were active at that point or does that make them null and void, because the ordinance has been removed. Attorney Griffin responded when you repeal an ordinance you don't have an ordinance to enforce. Mayor Becker responded "they would be". Councilwoman Critz responded "that's the positive part of this, it gets tabled and we have a chance to look at it and review it without being under the gun to enforce anything while we're trying to fix it, so that we cannot be so multitasking. I think if we try to band-aid this we will probably come out with not really fixing the problem right". Mayor Becker shared that he did think about (in terms of what Attorney Griffin said) the idea that several complaints that are actually in process (asking Attorney Griffin to correct him if he was wrong), it sounds, "oh, we are going to throw all that work and all that process by N-Focus out, but really if we didn't, if we allowed it to continue we'd change the ordinance while it's in effect and those people are being treated a certain way, those violators, and then we make some changes that we finally get adopted in three months and they are different. Now they have been prosecuted or dealt with under an old ordinance, we've changed the ordinance, now our standards have changed". Mayor Becker thinks that gets us in more trouble. Mayor Becker thinks if it is repealed and those enforcement actions are suspended, then when we come back with an ordinance that we've hopefully removed some of the abuse potential then those people can re-complain, they will be on the same page and we won't be governing earlier complaints and later complaints by two different standards, which Mayor Becker thought would really be a bad thing to do; that could result in confusion and legal action. Mayor Becker shared that Attorney Griffin says, "the court house is open from 8:00 a.m. to 5:00 p.m. five days a week", so you never know if somebody wants to sue you. Attorney Griffin commented that you get into the fairness issue, that's for you people to deal with, not him, but it reaches a point sometimes that it becomes legal. If you go ahead with these and how they are treated and you tweak it a little bit, people could fuss at you. Mayor Becker added "then new people are treated differently, that is legislatively probably that's not fair". Councilwoman Critz noted that towns do this all the time; they repeal ordinances and rework them. Councilwoman Coffey reiterated that she wanted to make sure

that the council understands that no matter what ordinance is in place, everybody has the right. Councilwoman Critz responded “no, we are not trying to prevent anyone from having the right, we are trying to prevent it from being abusive”. Councilwomen Coffey and Krafft both responded, “there is no such thing”. Councilwoman Critz replied, “well again, holding my cards to my chest here, there is some wording that I believe can be enhanced or improved”. Councilwoman Coffey stated that was not what she was disputing, she was just saying she didn’t think that is going to be the case. Councilwoman Critz replied that Councilwoman Coffey might be right and she might be wrong, but she didn’t think... Councilwoman Coffey commented “red lights are up, some choose to stop, some chose to go through. How do you...” Councilwoman Critz responded she just thought they had to try, she agrees with Councilwoman Coffey, but knowing this they at least have to try. Councilwoman Coffey replied she was not disputing that at all, she was just saying the same situation will be present as the new document comes into place; everybody will have the right. Councilwoman Critz commented if it happens, that they have done everything else they could do and they have improved wording and they have gone back to the Institute of Government and through the legal and went through Attorney Griffin and there are still abuses that take place then they will have to accept that. Councilwoman Coffey replied, “but they are not abuses, that’s the only thing I want to say, they are not abuses if it’s to the standard that we put in place. We really need to strike that; it’s not abuse”. Councilwoman Krafft commented, “it’s not abuse, it’s his right”. Councilwoman Coffey added that it was a person’s right to file a complaint based on the ordinance. Mayor Becker stated the ordinance needs to be changed so that... Councilwoman Coffey responded, “okay, I got that, I got that”. Councilwoman Cureton asked couldn’t it be so one person couldn’t file so many complaints. Councilwoman Critz responded that’s one of the things they are holding. Councilwomen Krafft and Coffey responded, “you can’t do that”. Councilwoman Krafft explained that’s like telling you you can’t talk, because you are only allowed to have freedom of speech for five minutes. Mayor Becker stated that was the original thought that he had brought up, he thought that was an easy thing and that’s what prompted the decision with the attorney and Attorney Griffin basically said that. It’s not really a legally enforceable policy Mayor Becker didn’t think and he didn’t know what the answer.... Mayor Becker commented he was going to say one more thing, it will break his heart and he won’t even want to have a Nuisance Ordinance if they have a situation where we have citizens who have large pieces of property or who have smaller pieces of property that are well shielded where a situation has been the way it was, an old shed, an old barn, it’s been there for 20 years, 50 years, it hasn’t disturbed a neighbor, it hasn’t disturbed the public driving by, because they can’t see it and these people are now being hit with the hammer of our authority just because a citizen wants to abuse his right to file those complaints to hurt people; “that breaks my heart”. That’s not what we wanted to do, we didn’t want to attack those citizens. Councilwoman Critz commented, “and that’s the only thing I would like for us...” Mayor Becker asked if the council could fix that. Councilwoman Critz continued “to look at fixing, is how we could possibly allow the right, we don’t want to stop someone’s right to complain or even the right things that need fixing to be eliminated, but we need to protect the others that are just being done to harass or harm someone. That’s what we need to figure out, I think, I’m not sure”. Councilwoman Coffey asked if she was understanding things

correctly this evening, repeal is the way to go? Councilwoman Critz responded, "that's my opinion".

- **Councilwoman Coffey made a motion to repeal the Nuisance Ordinance and Councilwoman Critz seconded.** Mayor Becker stated, "I even drew up, in case it was, as the attorney says, if you are going to do something you make it as short as it can be and this is a copy of, he's seen it, as short as it gets and we hold our cards close to our chest". Councilwoman Critz made a personal commitment to the council to do further research and will be going to Chapel Hill to meet with the Institute of Government. Mayor Becker stated there was a motion to repeal the ordinance tonight by Councilwoman Coffey and a second by Councilwoman Critz; there has been a lot of discussion. Mayor Becker asked if there was any further discussion. Mayor Becker read the ordinance: "Whereas the Town Council of the Town of Mineral Springs finds that it is in the public interest to repeal an ordinance enacting the regulation of public nuisance conditions, private property O-2017-01 adopted on March 9, 2017. Now therefore be it ordained by the council of the Town of Mineral Springs, NC. The following: Part 1: Mineral Springs Ordinance O-2017-01 Titled an Ordinance Enacting the Regulation of Public Nuisance Conditions Private Property is hereby repealed. Part 2: This ordinance shall be effective as the date of its adoption." *The aforementioned motion by Councilwoman Coffey was passed unanimously as follows:*

*Ayes: Coffey, Countryman, Critz, Cureton and Krafft
Nays: None*

- O-2017-02 is as follows:

STATE OF NORTH CAROLINA
TOWN OF MINERAL SPRINGS

**AN ORDINANCE REPEALING ORDINANCE O-2017-01
O-2017-02**

WHEREAS, The Town Council of the Town of Mineral Springs finds that it is in the public interest to repeal "AN ORDINANCE ENACTING THE REGULATION OF PUBLIC NUISANCE CONDITIONS, PRIVATE PROPERTY, O-2017-01", adopted on March 9, 2017;

NOW, THEREFORE BE IT ORDAINED by the Council of the Town of Mineral Springs, North Carolina, the following:

PART ONE: Mineral Springs Ordinance O-2017-01, entitled "AN ORDINANCE ENACTING THE REGULATION OF PUBLIC NUISANCE CONDITIONS, PRIVATE PROPERTY" is hereby repealed.

PART TWO: This ordinance shall be effective as of the date of its adoption.

Adopted this 11th day of May 2017.

Frederick Becker III, Mayor

Attest:

Vicky A. Brooks, Clerk

- Mayor Becker expressed his appreciation for everyone's help on this; it's really a delicate serious issue. We will continue to serve the best interest of this community and will make it right; as right as we can.
- Attorney Griffin asked if it passed by two-thirds. Mayor Becker responded five out of five. Attorney Griffin responded, "that's two-thirds". Mayor Becker explained as an ordinance you need to have two-thirds, otherwise you have to have two votes, [another one at] the next meeting. We will move forward and there is plenty of time to go and we have no problem with our N-Focus contract, it's hourly, so it can even stay in effect Mayor Becker thought. Councilwoman Coffey asked why would they leave it in effect. Mayor Becker commented it ends the end of this fiscal year anyway, so if we have anything adopted in the future we can reestablish a contract. Councilwoman Coffey responded they didn't need a contract; there is nothing to enforce. Mayor Becker replied at this time there isn't. Mayor Becker thanked the council for moving forward with that and noted they all had a lot of soul searching if they can do something better, because he is committed to doing something better and he knows this board is too. "I have so much faith in this board and it turned into something we didn't want it to turn into", Mayor Becker said.

8. Consideration of the 2017-2018 Budget and Calling for a Public Hearing

- Mayor Becker explained all the council would have to do is call for a public hearing on June 8, 2017 for the budget; there is virtually no change. The estimated revenues have been shown, which enabled an increase in the budget. Most of the appropriations for the expenditure side are identical to last fiscal year as the council knows from last month. A few things have been added, there is a new source of revenue, which Mayor Becker may have mentioned in passing, and he is estimating the Beer and Wine tax revenue at \$12,700. It is a very mystical formula out of the Department of Revenue, which they haven't calculated yet; we will be getting that any day now for last year.
- Mayor Becker pointed out that the electric sales tax is an important source of revenue. Most of the council recalls when the legislature was tinkering with the sales tax collection procedures and were going to move that electric sales tax into the conventional sales tax basis; it probably would have cut our \$200,000 annual income down to \$15,000 based on the way those formulas work. We weren't alone, it was statewide, but the League of Municipalities and small municipalities got that straightened out. Mayor Becker explained he never really expressed that to the board, but he has finally put it in the budget analysis, because he thought everyone should really understand it. They pegged your electric, telecom and cable to the 2013-2014 collections for your municipality, that was your base amount regardless of what the real collections were. If you had more houses built, which increased electric customers, that new money would be based on the way normal sales tax was based, so we are not getting what we used to get on that new money; we are getting a teeny weenie piece just like we get for regular sales tax, but we're held harmless. That was a hold harmless provision they did put in, so we are kind of secure with the \$205,000. For the past three years, the electric sales tax has been pretty steady between \$205,000 and \$210,000; however, it used to go up \$10,000 a year as we got users, it's not doing that any more, it's trickling up. Mayor Becker explained he just wanted to caution the council, while it looks like that source of revenue is secure, as long as Parkdale Mills stays in operation, it's not going to increase as much each year as it used to. We can get 100 new

houses built in Copper Run in a three-year period and we are not going to get what we would have gotten for electric use by those new houses, so it slows us down, but it is still a huge source of income and we are getting it. Councilwoman Critz stated she appreciated the extra information; it's helpful.

- **Councilwoman Critz** made a **motion** to accept this budget, order a copy placed with the clerk and call for a public hearing on June 8, 2017 at 7:30 p.m. at the Mineral Springs Town Hall on the 2017-2018 budget and **Councilwoman Coffey** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Critz, Cureton and Krafft

Nays: None

9. **Consideration of Closing out Capital Project Ordinance**

- Mayor Becker explained that the sidewalk repair was finished and he did not anticipate any significant expenditures on our part; therefore, the Capital Project Ordinance can be closed out. It is about \$13,000 under the revised budget, which they kind of expected after they had to up the budget so much the first time. Mayor Becker stated he had given the council the statements and it will appear in the year-end final statements, but he wanted to give the council the information that the actual ordinance called for, so they could see what it is.
- **Councilman Countryman** made a **motion** to close out the Capital Project Ordinance on the city park O-2017-03 and **Councilwoman Krafft** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Critz, Cureton and Krafft

Nays: None

- O-2017-03 is as follows:

STATE OF NORTH CAROLINA
TOWN OF MINERAL SPRINGS

ORDINANCE TO AMEND AND CLOSE OUT THE PROJECT ORDINANCE AUTHORIZING DESIGN AND CONSTRUCTION OF A PARK ADJOINING THE TOWN HALL

O-2017-03

WHEREAS, the multi-use park adjoining the town hall has been completed and all interfund transfers authorized under the original Capital Project Ordinance O-2014-02 adopted on April 9, 2015 and amended by O-2015-01 on October 15, 2015 have been made;

NOW, THEREFORE, BE IT ORDAINED, that pursuant to section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted for the purpose of closing out the project fund:

Section 1: The project has been completed as described and authorized in Section 3, and involved the design and construction of a multi-use park consisting of approximately 16,000 square feet on property owned by the Town of Mineral Springs adjacent to the town hall at 3506 South Potter Road. This park was intended to serve the broadest possible cross-section of citizens, with paved walkways, sitting and picnic areas, open lawn areas, and play and activity features.

Stewart Incorporated, located at 200 South College Street, Suite 720, Charlotte, North Carolina provided design, permitting, construction bid assistance, and construction management services for this park project.

H. C. Rummage, Inc., located at 1201 Stafford Street, Monroe, North Carolina, provided major general contracting services between November 2015 and April 2016, and additionally completed an accessible walkway improvement in March 2017. Cunningham Associates of Charlotte, North Carolina, provided and installed the playground equipment in April 2016 under a separate contract.

Section 2: The following revenues were made available to complete those projects described in section 3:

Source	Budget	Actual
Transfer from General Fund	\$240,000.00	-
Transfers from General Fund, FY2014-15	-	\$5,715.03
Transfers from General Fund, FY2015-16	-	\$216,455.75
Transfers from General Fund, FY2016-17	-	\$5,625.76
Total	\$240,000.00	\$227,796.54

Section 3: The following amounts were appropriated for the projects of the Downtown Park Capital Project fund:

Expenditure	Budget	Actual
Design and Professional Services	\$27,000.00	\$26,684.29
Construction: General Contractor	\$164,800.00	\$164,667.00
Construction: Walkway Improvement*	\$4,798.00	\$4,798.00
Construction: Playground	\$35,202.00	\$27,390.81
Memorial Bricks	\$2,500.00	\$2,378.00
Contingency Allowance	\$5,700.00	\$1,878.44
Total	\$240,000.00	\$227,796.54

*Approved 2/9/2017

Section 4: The Finance Officer has transferred funds from the General Fund balance into the Downtown Park Capital Project Fund in the amount of \$227,796.54.

Section 5: The Finance Officer has maintained within the Downtown Park Capital Project Fund sufficient detailed accounting records for the project authorized.

Section 6: The Finance Officer has reported annually on the financial status of the Downtown Park Capital Project Fund.

Section 7: No further interfund transfers are authorized for the Downtown Park project and the Downtown Park Capital Project Fund is hereby closed out with a zero balance.

Section 8: Copies of this Downtown Park Capital Project Ordinance Amendment/Closeout shall be filed with the Town Clerk and the Finance Officer.

ADOPTED this the 11th day of May, 2017.

Frederick Becker III, Mayor

Attest:

Vicky A. Brooks, Clerk

10. **Staff Reports**

- Ms. Janet Ridings announced that the Ulysess Howard property (tax map #05-033-036) had to go back up for a motion to resale; the person they had as the highest bidder wouldn't consent to closing, so it has gone back to being rebid. The process gets started all over again; it will be on the sheet [delinquent tax list] for a little while longer. Ulysess Howard is deceased and the daughter has not paid the taxes, so the county foreclosed on the taxes, because they had somebody who wanted to buy it and the person who submitted the highest bid would never consent to closing, so they have to go back and file a motion for resale; it will go back on the steps for bidding again. Mayor Becker commented that it was not a lot of taxes (in a dollar sense), but it does close an account for Ms. Ridings if the county can finally

get that sold; we will get approximately \$60 plus the accumulated penalties. Ms. Ridings calculated those to be \$102.

11. Other Business

- Councilwoman Critz stated she appreciated what Mr. Kaltsounis said and thought it was a legitimate consideration for the planning board to possibly consider the size of signs that are just in the commercial area for properties over a certain size. Councilwoman Critz referred to the public hearing when the town was in partnership with UNC Charlotte in 2005/2006 when we developed our conservation zoning and had developers involved and the University involved for a year and stated that she didn't think any of the council people or planning board considered any of our standards to be developer unfriendly and she thought our standards are very well placed; they certainly were when a lot of heart went into creating them, but she thought it was important for people to understand we don't want to be Charlotte, Monroe or Waxhaw. When this yearlong project with the University was done part of it was deciding what we wanted, there were four town hall meetings where the community was involved with how Mineral Springs would be branded. Councilwoman Critz felt it was reasonable to reconsider signs on commercial properties over a certain acreage and she would leave that to the zoning director to take up, but she certainly didn't have a problem with that being revisited. Councilwoman Critz referred to the comments from Mr. Kaltsounis about standards and explained that she hoped the developers didn't consider the town's standards unwelcoming and hoped they consider the fact that we are trying to create a branding in this community that is different and unique; a lot of time and energy and study went into it and it's really a compliment to many of the developers. "We've had several developers come back and say that they would not have necessarily done something the way they did it, but now that's it's done they are proud of it and so it was never intended to be arduous, burdensome or unwelcoming, but it is intended to be specific", Councilwoman Critz said. Councilwoman Critz referred to Ms. Brooks and stated she thought the planning board could look at the possibility of maybe allowing a little bit larger of a sign on commercial property over a certain size and then have it come back to the council. Ms. Brooks clarified that the one property Mr. Kaltsounis referred to is not business, it is residential, so it will not help him in that case. Mr. Kaltsounis commented the reason he put it there was because it's in the downtown overlay.
- Councilwoman Cureton shared with the council that last Saturday she was given a dinner in honor of her raising the \$1,200 for the Parkwood Booster and Band, which was very nice and she received a plaque and some flowers. Councilwoman Cureton thanked everyone who gave her a donation.

12. Adjournment

- **Councilwoman Coffey made a motion to adjourn and Councilwoman Critz seconded. The motion passed unanimously as follows:**

*Ayes: Coffey, Countryman, Critz, Cureton and Krafft
Nays: None*

- The meeting was adjourned at 8:42 p.m.

- The next regular meeting will be on Thursday, June 8, 2017 at 7:30 p.m. at the Mineral Springs Town Hall.

Respectfully submitted by:

Vicky A. Brooks, CMC, NCCMC, Town Clerk

Frederick Becker III, Mayor

DRAFT