

Present:

Mayor Abigail Norton	Alderman Jimmy Moore
Alderman Jeanne Gentry	Police Chief David Shelton
Alderman Vaughn Barnett	Fire Chief Josh Norton

Mayor Norton called the meeting to order at 7:00pm.

**Mayor Norton**

Mayor read the Public Charge.

Mayor Norton asked the Board if they had read and approved the minutes from the April 2022 meeting. Alderman Gentry made a motion to approve the April 2022 meeting minutes Alderman Barnett seconded the motion; all were in favor.

Mayor Norton asked the Board if they had read and approved the minutes from the April 25, 2022 Special Session meeting. Alderman Barnett made a motion to approve the April 25, 2022 Special Session meeting minutes Alderman Moore seconded the motion; all were in favor.

Mayor Norton explained what we heard, from the Fire Marshal: only 24 people could be in Town Hall at one time. Fire Chief Norton further explained that if the doors opened the other way (pull to enter push to exit) we could have 49 people in Town Hall at the same time. Police Chief Shelton's door/office would be a path way. The Board discussed changing the way the door is situated. It is felt the door could be changed to allow for pull/enter push/exit and therefore allow up to 49 people to be in Town Hall at one time.

Mayor Norton read the Draft of the Noise Ordinance Draft 2003-01 Amended 5-3-22. She announced we would then move to the agenda and public comment.

Section One (\*summarized/paraphrased)

Unlawful for individual to emit offending noise beyond boundaries of property where they are located. If someone emits a noise that offends or interferes with an individual's use and enjoyment of adjoining properties, causing or allowing emission to occur is a violation of the ordinance.

Section Two (\*summarized/paraphrased)

Discharging firearm or shooting fireworks within 300 ft of an occupied structure, without occupant's approval, is violation of the ordinance.

Section Three (\*summarized/paraphrased)

Exemptions: safety signals: warning devices; emergency vehicles emergency work; normal operation of commercial or industrial business, except amplified sound; or noise from normal operations of governmental facility.

Section Four (\*summarized/paraphrased)

In any proceeding based upon the ordinance, the person who would benefit from the exception being established has the burden of providing that the exception applies and that the terms of the exception have been met.

Section Five (\*summarized/paraphrased)

Person, business owner, or property owner violating any provision of the ordinance will be fined: \$100 for first offense; \$300 for second offense; and \$500 for the third offense, withing a permitted year.

Each day of a continuing violation shall constitute a separate violation under the ordinance.

When responding to a noise complaint, Law Enforcement Officer has the right to shut down violators. Owners of the business and residential property owners are responsible for monitoring their noise levels. After 3<sup>rd</sup> violation received, music permits are revoked for 120-days in a permitted year.

Section Six (\*summarized/paraphrased)

I Commercial District C1

Amplified music is allowed: Monday through Thursday from 5:00pm until 8:00pm; Friday and Saturday from 12:00pm until 10:00pm; and Sunday 1:00pm until 6:00pm. An annual permit required and must be approved by the Board of Aldermen Business and Property owners are held accountable as stated in Section 5.

II Commercial District C2

Amplified music is allowed only with a special permit. Permit fee is \$100 per each event. Permits must be approved by the Board of Aldermen. Permitted hours are the same as for Commercial District C1. Business and Property owners are held accountable as stated in Section 5.

III No outdoor amplified music in Residential areas. Existing wedding and event centers, as of the date of this ordinance approval will be grandfathered in but a special permit is required at \$100 per each event. Permits must be approved by the Board of Aldermen. Permitted hours are the same as for Commercial District C1. Business and Property owners are held accountable as stated in Section 5.

IV Extensions for Special Events must be approved by the Board of Aldermen.

V Amplified music is any music that is amplified by electronic means. Amplified music may be used indoors during a business' normal operating hours with windows and doors closed.

\*See Copy of Actual Signed Noise Ordinance for Exact Ordinance Wording.

Mayor Norton asked if there were any amendments that needed to be made by the Board. Alderman Gentry said the yearly permit fee of \$250 needed to be noted in the Ordinance. She also indicated that we didn't include a timeline for fees to be paid. She recommends 7-days from the date of receiving the fine -this needs to be placed in section Six, C1. Alderman Gentry explained the commercial areas. C1 is from the Spa to the Post Office. C2 is from the Welcome Center to Raleigh Lane. She referred people to the map of the Town's Zoning. The grandfathered residential businesses are the Mag House and The Dixon Farm. Laughing Heart is in C-2.

C2 and the two, grandfathered, residential businesses would pay the special permit of \$100 per event. The Board needs to approve any requests. Alderman Gentry asked that anyone who knows of scheduled weddings or events to go ahead and obtain the special event permit.

Mayor Norton clarified a music permit does not allow for music to be played as loud as one would wish to play. She advised this was the reason for the Noise Ordinance. Alderman

Gentry noted that several of the letters received, between the April and May Board of Aldermen meetings, recommended self-monitoring – the businesses would self-monitor the music being played at their business. Alderman Gentry used the owners of the Spring Creek Tavern as a good example of self-monitoring. When the Tavern would have outdoor music, the owners would walk around the neighborhoods and see how far the music was going. If they felt the music was too loud, they'd come back to the Tavern and tell the musicians/DJs to turn the music down. It will be up to all businesses, playing music, to self-monitor the music level.

Alderman Gentry said a letter will be sent to each business with a copy of the ordinance. The letter will let the businesses know which zoning area they are in. Julie Hochwender asked if Creek Bridge Camping grandfathered in. Ben Houser said Creek Bridge is in C2.

Alderman Moore mentioned that non amplified music does not require a permit. Amplified music can be moved indoors after 10:00pm, with windows and doors shut. Radio music may be played during lunch hours.

Mayor Norton said she has been asked if people can play radio in back yard, can they practice in their house. She advised the Board isn't being unreasonable. They are trying to make it where the *other residents* who live here are comfortable in their own homes. Alderman Moore said the Board is addressing live bands or DJs playing amplified music. The Board is not talking about someone watching TV or listening to their radio in their house.

The Board agreed to put wording in the Ordinance indicating that all fines must be paid within 7-days of receiving the fine. If the fine is not paid within 7-days, it must be paid before the business can start playing music again.

Permits should be paid in January of each year. For business that have not yet purchased their music permit, the \$250 permit fee will be prorated.

Mayor Norton asked the Board, that with the amendments that have been stated, if they approve the Noise Ordinance 2003-01, to be amended today, 05/02/2022. Alderman Gentry made the motion to approve the Ordinance, Alderman Moore seconded the motion; all were in favor.

## **AGENDA**

### **Kevin Reese**

Kevin said his main concern was with the semantics in the language. He understands that when the Board refers to amplified music, they are mainly referencing music played by a DJ or a live band. Several on the Board agreed. Alderman Moore spoke up and said people can still be disturbed by a radio, but if you're not disturbing, no one should call and complain.

### **Sonja Askew**

She appreciates the consideration of music between Monday through Thursday being allowed. She still asks that 5:00pm and 8:00pm be extended for a daytime event or festival. Alderman Gentry told her that under Section Six of the Ordinance, special events must be approved. Ms. Askew explained that she works at Big Pillow and a portion of her wages come from tips. She said her tips depend on how many people come in the door and how much fun the people are having. Ms. Askew said that her tips double when live music is playing. She said she carries her

money back to the community. She is concerned that the live music is being placed in a limited box. She is also concerned about what everyone has been put through during covid. Big Pillow has opened windows when they could, all through the year. They aren't wanting to have to close the windows back down and have everyone breathing the same air as covid is not gone. She doesn't want music blaring because she can't hear people order – she has even had to ask musician's, playing inside, to turn their music down so she can here. She'd like to see music go until 8:00pm on Sundays with the Summer coming on. Alderman Gentry told Ms. Askew that we can see how things are going with the new Ordinance and the Board can revisit. Ms. Askew said her big concern was with the hours mentioned in the April meeting.

### **Daniel Meyers**

Thanked the Board for changing the Noise Ordinance from what was presented in April to what is being presented this evening. He asks that the wording electronic amplified is fine tuned so that it's not misused later down the road. Alderman Moore explained that the Board is referencing DJ or Live Band amplified music.

Mr. Meyers said he was upset a bit when the Board mentioned residential businesses that they *knew* of regarding the short-term rentals. He wanted to know if that was a thing, that we don't know of all the rental properties here in our town. Alderman Moore said very much. He said the town isn't made aware of a buyer's intention when properties are purchased. Mr. Meyers suggested we impose some sort of regulations on recreational properties. Alderman Moore explained that the Board has looked into this matter. He said North Carolina has changed some laws as what can and can't be done. Alderman Gentry said that the situation falls under Zoning.

Mr. Meyers asked the Board if they were familiar with Occupancy Fees. He said a lot of cities impose an occupancy fee for short term rentals. Alderman Gentry said businesses with a specific number of rooms [to rent] charge the occupancy fees. Businesses with fewer rooms don't have to charge the fee. Julie Hochwender said there were about 17 units in town limits that utilize airbnb and Vrbo. Ms. Hochwrnder said airbnb and Vrbo collect Madison County tax as well as state tax. The Town of Hot Springs doesn't receive any of those collected taxes. Mr. Meyers feels something should be done so that the Town can collect taxes on the recreational businesses.

### **Hart Barnhill**

Mr. Barnhill said the County is waiting on a case in Willington regarding airbnbs. The residence of Willington has been going through similar situations as we are in. Terry Dolin, County Zoning Director is vested in regulating this. Mr. Dolin asked Mr. Barnhill he'd talk to the Hot Springs Board of Aldermen about getting a few volunteers to go around town to canvas airbnb and Vrbo; find out who owns the property, how long they've owned it, how long has it been a rental. Mr. Barnhill said doing this would really help the County out. Mr. Barnhill said for those present, who own rentals, he does construction and he'd love to have their business. 😊

Mr. Barnhill asked about the Noise Ordinance. He wanted to know if the person who called in was the person who had to prove the noise was too loud. Or is it the property owner who has to prove that the music wasn't too loud? Alderman Moore said it is the responsibility of the property owner to prove their music wasn't too loud.

## **PUBLIC COMMENT**

### **Marion Griffin**

Ms. Griffin said that her understanding is that if the Mag has an event, has paid for a permit, and if a neighbor calls, during the hours in which amplified music is allowed, and states that the music is too loud – the Mag can receive a fine, even though they've paid for a permit and it's 5:00pm. Ms. Griffin asked if her understanding was correct. Alderman Moore stated that the Ordinance boundaries have been exceeded. Alderman Gentry asked Police Chief Shelton to explain his process when he receives a call for music being too loud. Chief Shelton said the Town has several areas in which mentally handicap people lives in houses close to venues who play music. Some of these people require certain routines. When the routine is interrupted, everything in the person's life is disrupted. Chief Shelton explained he looks out for these people and the elderly people in the area as these are the people who can't always take care of themselves. Chief Shelton asks the business owners to be respectful and remember those around them.

### **Robert Fitzpatrick**

Mr. Fitzpatrick said he lived in Charlotte before coming to live in Hot Springs. He got involved in citizens trying to quieten loud amplified music. What he learned is that it gets cast as residents complaining vs. money making, prosperity, commerce, wages, tips, jobs, etc... and usually the residents lose. He also saw how fearful and difficult it was to complain.

### **Sonja Askew**

Said she can only hear the music when she steps out on her porch. She said the trucks and motorcycles are mainly what she hears. She said as she looks around the room she sees a lot of people who like to go out and enjoy the entertainment. She feels that all can come to a compromise and a solution where the music isn't limited to a real stringent standard, but one where everybody can go to bed at night.

### **Robin Longinotti**

Ms. Longinotti said she echoes Ms. Askew said. There are a lot of tourists that come for the day events, but like to enjoy their evenings, too. She said she the only time her windows rattled was during River Fest. Since she knew this was a temporary thing, she was okay with it.

### **Amanda Arnette**

Thanked the everyone for coming together and working together to come to an agreement. Ms. Arnette asked everyone to look around and see all the people that were attending the meeting. She explained we all lived here, some owned businesses, we all need to be in attendance in all the meetings.

### **Tim Arnette**

Mr. Arnette wanted to reiterate that the Board has a really tough job. They don't get credit for the work they do. The Board gets pulled in all directions because everyone has something they want done and done in their way. Mr. Arnette said that the Board has worked hard over the past several years to do what is best for the Town. He said the Board has worked hard and kept the Town from being taken over by the state to actually having money in the bank. Mr. Arnette told the Board they have done an amazing job over the last few years, and he applauds the Board for what they've done. Mr. Arnette said he hopes the Board is able to continue for many years.

### **Julie Hochwender**

Thanked the Board for putting together the Noise Ordinance. Ms. Hochwender said the Town has gained mass and strength within the past few years. She said there are more landowners than

business owners, but the business generate more tax than the residential owners. Ms. Hochwender said her residents is one where the music has been so loud that it literally has shaken her windows. She appreciates the Noise Ordinance.

## **TOWN BUSINESS**

### **Josh Norton**

Fire Chief Norton has information from the School of Government regarding something they have worked on for years. Chief Norton explained that there are two different districts that the Fire Department can try to get funds from outside of City Limits. Fire protection is currently being provided by the tax paying citizens of Hot Springs. There is a Rural Fire tax and Fire Service District. General Statute 153a-301a2&7 explains who has governorship over the department if they go with a Fire Service District. The Town would have to agree for the County to overlay the Fire Protection District over the town limits. The County/Fire Protection District would collect the funding and distribute it to Department. The Board of Aldermen would accept this resolution – however, that takes the Board's hand, in governing the Hot Springs Fire Department, away from the Town and gives it to the County. So there needs to be some discussion with the County Attorney, County Commissioners and whether or not they would be willing to amend that particular part of the Fire Service District. It expands the ability for revenue. The rural revenue is maxed out at \$.15 per \$100 in taxes. The Fire Service District maxes out at \$1.50 *total* with every tax the Town would be paid. The other side to the Fire Service District would be that if the Board would break down the Fire Department's budget now, say it's \$.09 for what the Town currently pays for fire and protection in the City Limits. If the Town goes to the Fire Service District and the County were to leave the Board's governorship in place, the County would charge \$.09 on County Taxes, additional. The Town could then reduce, if we wanted to, taxes by \$.09 or whatever the Town is paying for Town Protection, put toward water & sewer, hiring another person, or whatever is needed. We need to get with the County Attorney along with the Commissioners to see what we can get in place for next year. Chief Norton provided a handout to the Board to figure out what needs to be done to get this in place. He said he didn't think it fair for the Town's tax paying residents to foot the bill for responding to FireFly or other Hot Springs communities, outside of Town Limits.

Chief Norton said they are waiting on word from FEMA; if they awarded the grant from FEMA it will be used for a new truck. They will be responsible for 5% of \$325,000. He's not expected that FEMA will award the Fire Department the grant simply because he knows how FEMA works and they probably will not see it that we don't have much need or would use the equipment enough. The State of North Carolina, through BlueCross/BlueShield, they got a \$5,000 grant to use on whatever the Fire Department needs. It's in the works to get \$10,000 for whatever the Department needs and there is also a request for a State \$30,000 grant, and Chief Norton is waiting to hear for his request for a \$35,000 grant. The Fire Department has received two weighted trucks from a couple of NC towns, within the past two months. Our ISO rating is still a 6 inside the town. The Fire Department is wanting to plan an open house when things organized and straightened up so the Community can see what the Fire Department has.

### **Julie Hoshwender**

Wanted to let everyone know the Zoning Board/Board of Adjustments approved the placement of the cell tower at their April meeting. The tower is expected to be placed in January 2023. There will not be 5G. Currently ATT and First Responders will be the first two carriers. There will be available spaces for three more antennas to be placed.

Fire Chief Norton asked if there would be space for emergency services on the tower. Ms. Hoshwender explained that First Responders is a carrier will shut down the tower to give only first responders the service they need. Chief Norton said there is an antenna on the tower at Rich Mountain, but the County Board has said that any tower going up in Madison County needs to leave space for an emergency service antenna. Ms. Hoshwender said that everything that needs to be on the tower, per federal, state, and county regulations are to be on the new tower.

### **Laura Holloway**

Ms. Holloway has several items:

1. A prior owner was charged interest. New owner paid the taxes before January 6, 2022. No interest was due. Request to release the interest charged to prior owner. The request was approved.
2. Made contact with the executor of an Estate. Executor requests to make payments on the taxes due as he can not afford the full balance. The current taxes need to be paid before a payment plan can be set up. Ms. Holloway told the Board she'd let the executor know.
3. Property has been sold. Prior owner was billed the 2021 taxes. New owner has already paid the 2021 taxes. Board was asked if the taxes billed to the prior owner could be released. Alderman Gentry said she would need to look at this.
4. Ms. Holloway explained she saw a delinquent County tax bill which charged a \$5.00 for having to advertise the delinquent taxpayers name in the paper. She asked if Hot Springs could do the same. Alderman Gentry said we'd need to check with the Town's Attorney to get his recommendation.
5. Ms. Holloway told the Board that the tax collection is up. Currently, at 94.62% of taxes collected. Alderman Gentry let everyone know that the State requires collections to be at 96% by June 30<sup>th</sup> of each year.

### **OLD BUSINESS**

#### **Mayor Abby Norton**

Board had to advertise for request for qualifications from engineering firms regarding the application for grant money. Now the Board needs to award the on-call engineering services. M<sup>c</sup>Gill was the only company that responded. Mayor Norton asked for a motion to award the on-call engineering services to M<sup>c</sup>Gill. Alderman Gentry made the motion; Alderman Barnett seconded the motion; all were in favor.

Mayor Norton referred the Board to the Grant Project Ordinance, amendment #2. The amendment is taking the total amount of the ARP funds and place them under the expenditure category of Water and Sewer Maintenance Services. By doing this, the Board will not have to do another amendment. This is good through 2026. Alderman Gentry made a motion to approve; Alderman Moore seconded the motion; all were in favor

Mayor Norton announced that there have been no sealed bids for the caboose. Alderman Moore made the suggestion to table the caboose discussion to the June 6, 2022 meeting. All were in agreement. Someone from the floor said they were curious as to why the town was trying to sell the caboose. Mayor Norton said the Spa has requested the caboose be removed, have a fence around it, or sell it. The Board has opted to sell. Person from the floor said they'd like to see the caboose stay. Alderman Moore explained the caboose was a liability matter for the Spa. Alderman Gentry told everyone that the Spa is wanting specific fencing around the caboose and for us to also have it painted. The cost is great and the Town just doesn't have the extra money

to spend on the caboose. Also, the new bridge is coming through, that may also play a part in the spa needing the caboose to be moved from their property.

Someone from the floor asked what the value of the caboose was. Alderman Gentry said the value was from \$15,000 to \$20,000. Mayor Norton explained that the caboose was advertised for sealed bids, minimum bid was \$20,000 and no bids were received. Spa will give the Town time to sell/move.

Sonja Askew suggested money be raised to move the caboose. Board asked where it could be moved to. Ms. Askew suggested the Hot Springs Rafting Company would be a nice place for the caboose, but Rodney McCall would have to be asked. No one wants the caboose to be sold as it is an icon for the Town.

Alderman Gentry said if anyone wants to raise funds to move, keep, update the caboose, get together, gather thoughts and ideas, and bring them to the June 6, 2022 meeting. Alderman Moore said we'd also need some sort of a contract for the timeframe for the caboose to remain wherever it goes if the Town still owns it. In 2009 the Spa took complete responsibility for care and upkeep on the caboose. No one thought we'd be in this situation.

Mayor Norton told the Board they had a copy of an e-mail she received from a group who owned Indian Motorcycles. The group has called asking if they could do a photo shoot, in June, down at the red bridge. They want to roll one motorcycle at a time and take pictures. Alderman Moore felt the bridge wouldn't support the weight. Greg Hicks agreed that the weight of a motorcycle would be too much for the bridge. It was suggested that the group take pictures with the motorcycles in front of the bridge.

#### **Alderman Gentry**

She has an amendment, it will be amendment #3 to the budget ordinance for the fiscal year ending June 30, 2022. This is to amend the General fund to add Building Maintenance \$12,525.00, Fire Department Expense \$3,900, Powell Bill for paving \$31,000. Totaling \$47,425.00. Purpose of the amendment is to budget for additional paving services and to budget for new revenue sources. Alderman Gentry made a motion to approve the amendment; Alderman Moore seconded the motion; all were in favor.

Since there is no other business to discuss, Alderman Moore made a motion to adjourn, Alderman Barnett seconded the motion; all were in favor.

*yes*  
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Approved *Abigail Norton*  
\_\_\_\_\_  
Mayor Abigail Norton

\_\_\_\_\_  
Date *6-6-2022*  
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Other