

TOWN OF NEWLAND  
MONTHLY BOARD MEETING  
DECEMBER 6TH, 2022



Attending:

Mayor: Derek Roberts

Attorney: Gerald McKinney

Alderman: Kenny Caraway, Gail Haller, Christie Hughes, James C. Johnson,  
Lauren Turbyfill

Guests: Auditor Cindy Randolph, Nathan Gittner, Mr. William Costner

Staff: Public Works Supervisor Gary Lewis, Town Administrator Bill  
Bailey, Town Clerk Jennifer Beam, Finance Officer Jessica  
Buchanan, Police Chief Byron Clawson, Captain Michael Fields,  
Officer Chris Clark

The Mayor called the meeting to order at 6:00 pm, led the assembly in the Pledge of Allegiance, and reminded everyone of ethics awareness.

The Council reappointed Bill Bailey as the Town Administrator, Jennifer Beam as the Town Clerk, and Gerald McKinney as the Town Attorney. Christie Hughes made the motion to make Alderman Kenny Caraway the Mayor Pro Tem for the remainder of his term. Gail seconded the motion. All agreed by stating aye.

James made a motion to adopt the agenda. Christie seconded the motion. All agreed by stating aye.

**Agenda:**

Jessica mentioned that the Auditor, Cindy Randolph is attending the meeting to give the audit report for 2021. Cindy thanked the Town Council Members, the Mayor and Jessica for allowing her to do the audit again this year. The audit has been submitted for local government commission and has been accepted by the local government commission. Cindy mentioned that

the town is off the unit assistance list as of December 6<sup>th</sup>, because of submitting the audit. Cindy issued an unmodified opinion on the audit which is the normal type of opinion the town would want in an audit of the town's financial statement. She identified budgetary violations; the town was over budget in the water and sewer fund. The operating expenditure in the water and sewer fund were over by \$12,290 and then the principal retirement on debt was over by \$46,008. Which means that the budget was not amended to cover the over expenditures. Cindy continued the town will most likely receive a letter where the town will respond about how the town will correct the overage in the future. Also, the town will have to respond about why the audit was late because it was due December 1<sup>st</sup> of 2021. The 2022 audit is also due, and the town currently does not have a contract with Cindy yet. The Town's unassigned fund balance for the general fund was \$891,884 which was an increase of \$181,236 from the June 30<sup>th</sup>, 2020, year. Unassigned fund balance as of June 30<sup>th</sup>, 2021, represented 108 percent of total general fund expenditures for the fiscal year. The average for a similar unit compared to Newland, they are typically supposed to average 71 percent. Current property tax collection was 93.37 percent on June 30<sup>th</sup> for 2021. The general fund increased to \$920,216. Cindy mentioned the 2022 fiscal year will only require a regular audit and she will get a contract together that the Mayor and Jessica will have to sign for the contract to be submitted to the local government commission. Cindy will start the 2022 audit at the beginning of January. James thanked Cindy for her work for the town. The Mayor asked Bill when the board would see the contract for the town and Cindy. Bill stated that it would be ready at the January meeting.

Bill mentioned that social media has been an ongoing subject. Bill researched the statutes, and the town has restrictions on what we can and can't do with social media accounts. There are several types of social media accounts. The town can have a general open discussion type account, the town can have a more focused account directed towards a certain project or an account just for staff with no outside input. Bill continued the key thing is the town must adopt a social media policy. Any post or comments made are public record just like emails. There must be an employee administrator of the page to manage the public records. The clerk handles the public records request, but the administrator could be another employee. There must be a warning on the page stating that it is public record. If a private phone is used, the phone is subject to the public record's request. According to the supreme court, the town has very limited ability to control what people comment on the page due to public record. Bill stated that there is

one town official page that is a closed group and if it is not used to conduct public business it can remain a private group. James asked if the clerk was not an administrator of the group per the previous meeting and if the clerk had access. The clerk stated no. The Mayor asked who has control over the town's Facebook page. Lauren said Christie and herself. The Mayor asked one of them to give the clerk access. Lauren stated that she did not want to cause confusion, the page is working well. Tom Carruther with the League of Municipalities, informed Lauren that anyone can be the administrator of the page by choice of the board. Whomever the board votes to be the administrator, can admin the page. Bill stated aside from the administrator we still need a social media policy. Kenny asked if the town needed to host a public hearing to change a policy. Bill stated no that the town would need to for ordinances not internal policies. Gail asked if Lauren and Christie are administrator's and she wanted to add something to the page, could she not just contact them to add it. James asked what the big deal is about the town having access to the page. Gail said that it is working so why change it. The Mayor stated that it is not working because there have been times things have been sent to them and not posted. Christie asked like what? The Mayor said Like pictures of skeletons out front. Christie said that was promoting a personal business. The Mayor stated that he felt the two managing the page was censorship. Bill stated the only other issue is just handling a public records request, how's that going to be handled. Lauren stated that the more she must deal with it the less she wants to be involved. Bill stated that he just wants to make sure the town is covered under a policy. Lauren stated she had an alternative idea to change the page's name to Friends of Newland and let it be a promotional page for the events and let that be that. Then you guys can create whatever you want. Lauren stated she was just concerned about what gets posted on the page, she was concerned about the text that wanted to thank Appalachian Seal Coating for putting up Christmas lights. The Mayor stated let's say Ms. Foxx were to put up the lights, would the town thank Ms. Foxx and Grandfather nursery for putting up the lights. Christie stated that it is different cause Mr. Robert's is the Mayor. The Mayor asked how it is different, the previous attorney explained that it is not different. Christie said let us keep our page and the town can create a page. Bill stated that it must be voted on. Lauren said that she would promote the new page on her page too. Lauren stated that there needs to be governance of what is posted on the new page. Bill stated that there is little to no oversight about what is posted on the page. James stated that the clerk should get access and let's move on. Gail stated that Jennifer can be administrator over the Town

of Newland page and Lauren over the events page. James made a motion to accept the social media policy, Lauren seconded the motion. All agreed by stating aye with the exception of Kenny who voted no. The Mayor stated then we need to vote that Lauren keeps the current page and Jennifer will create a new page as the official Town of Newland page. Gail made a motion; Kenny seconded the motion and all agreed with the exception of Lauren whom stated she has financial interest and could not vote.

Bill stated that to get the Sokassa Building usable the town is looking close to \$100,000 because it was not installed correctly. The cheapest way to do this is to get a modular building for office space and a bathroom next door to the building. To get the doors on, the door openers, heat and electricity in the building that is the cost. Bill had Gragg construction to lay gravel to try to level the floor so that the town can at least use the building for storage. Maintenance is starting to take precautions to use the building and to get stuff out of the garage and secured at the building, but Bill asked what do you want me to do with this building? James stated the board voted on the building to be built and it was not built right nor prepared right. The board voted on a salt shed to be built and it was not constructed right, who was over these projects and James asked Gerald if there is anyway that the town could come back on the one over the projects. Gerald stated that it seems that there is a right of action, but he did not want to say for sure. Kenny asked about the size of the modular for the office building and the cost. Bill stated that it would be like a single wide modular and an estimate to get it completely installed is \$91,000 that includes bath, snow load graded, wind load graded. Kenny asked if that was just for the modular and the town still must complete the other building. Bill stated yes, The doors are \$45,000, the concrete is going to be eight to nine thousand, and the cost will continue to rise over the coming year. James stated that the only one who was not on the board when the building was voted on was Gail. James asked the board who remembers the building being a \$50,000, turnkey job. Bill stated that he was at the meeting when it was presented and remembered it as well. James stated that those who oversaw this project needed to be held responsible. The Mayor asked the board for direction moving forward. The Mayor stated that the concrete for the building should run around sixteen thousand. Bill stated that the concrete quote from Gragg Construction is eleven thousand for a six-inch slab. The Mayor said that the board needs to vote on allowing Gragg to do the job because of such a good deal. James made a motion to accept the bid on the concrete at the Sokassa Building. Kenny stated that the front of the building is below grade level. Bill stated yes,

Gragg has fixed that issue to stabilize the building. He compacted road grade gravel to raise the building to the correct level. Christie seconded the motion, all agreed by stating aye. Bill asked if the board would like to direct the attorney toward the original construction. Kenny stated that the ground was never graded before the building was put up and no matter who was in charge of the project, it ultimately comes back to the board. Gerald also mentioned that turnkey may mean one thing to one person and another thing to someone else. The Mayor stated that should have been in a contract and did the county inspector pass the post being uneven. Bill stated yes, he did pass the building. Bill stated he is unsure how they got a building permit because of how close the electric lines are to the building. Kenny stated there was no permit until after the fact, the ground was not put to grade, and the front part of the building was below grade and the back of the building was sixteen inches higher and needs to be level before concrete can be placed. Kenny continued he wanted to know about the permit. The town obtained the permit after the building was already put up. Rather it was lack of supervision or who the board put in charge to do it, it falls back on the board whether we like it or not. The Mayor stated that the board should hire someone who has credentials to hold the job of which they apply for. James stated that he was not blaming Mr. Benfield but rather the contractor of the building company. The Mayor stated that this falls on Mr. Benfield's position, he came to the board and reported that it is a turnkey building. Bill stated that he would rely on the contractor to get the necessary permits for the building so then the responsibility falls on the contractor per the building code. Lauren asked if the town were to hire someone to place a mile of pipe to Mountain Glen, would that fall back on Gary or the contractor placing the pipe. Bill stated that Gary would provide oversight for the contractor but neither him nor Gary are qualified to do that type of work. They would monitor the plans daily. The Mayor asked Gerald as a property owner if he were to hire a contractor and did not have a permit the county would go to the property owner. Gerald stated yes, it is the owner's responsibility, but it runs back down hill to the contractor. James stated he would like to move on and discuss this another day. Kenny stated that we need to set a date to discuss this issue and stop moving things down the road. James said we would give Bill time to do the research and revisit the issue in January.

Bill mentioned the dog park and stated Shumaker Park is the prospected location. Gail stated that is a great area. The Mayor mentioned that the size of the park needs to be ideal for all sizes of dogs. Bill agreed stating the vet could utilize the area to exercise their dogs too. Kenny stated

that it needs to be far enough away from residents. Bill and the Mayor stated that the location is far enough away from residents. James asked how much money that the fencing would cost. Bill stated he was unsure. Christie stated that there are funds set aside for the park, at least five thousand dollars. The Mayor stated that the dog park is going to be nice with features and benches. Kenny said when we have a complete plan then the board can vote. Bill suggested if the location is ok, then he will start developing the plan. The board agreed that the location is great. Lauren made a motion to approve Shumaker park the location for the dog park, Gail seconded the motion all agreed by stating aye.

The Mayor asked about employee bonuses. In 2021, the board gave the employees with the exception of one, a \$500 bonus. Lauren stated she felt that at some point last year, she felt the board made a motion to do the same thing every year so that this conversation did not have to happen. Jessica mentioned that the employee handbook states that it is up to the board to vote on every year. Kenny suggested that it should be brought up in budget, so that they do not have to discuss it every year. Kenny continued that everyone got a substantial raise, and a three percent cost of living raise this year, the employees have had two raises this year, the board needs to set something in place so that when someone comes to work for the town, they know what to expect. Kenny asked if an employee that has been here nineteen years, such as James should expect the same bonus as an employee that has been here four months. Kenny said that it is not fair to James. Christie stated that a longevity bonus should be given once a year on your anniversary date. The Mayor asked if that would cut out Christmas bonuses. Christie said that would cut out other bonuses, every year on the employee's anniversary they would know to expect it. Kenny stated that would need to be discussed at budget time. James asked if we have the extra money to do a bonus this year. Jessica stated that it was not included in the budget. The Mayor asked if the town is under budget in a couple of line items. Jessica stated yes, the town is under budget. The Mayor stated that he would be disappointed in the board if they did not provide the employees a Christmas bonus at this juncture. Kenny stated that if we did provide a bonus, we would have to do a budget amendment. Bill stated yes because there is no line item but if the board decides how much we can come back to the board with the amendment. James made a motion to move employee bonuses to the end of the meeting. Gail stated that would be fine. The Mayor stated that employee bonuses was tabled until the end of the meeting.

James made a motion to approve the November minutes. Gail seconded the motion. All agreed by stating aye. Kenny stated that he has not read the minutes but asked James if they were right. James stated that they were right, the clerk emails them out. Kenny stated that he does not do emails and that he asked for stuff to be printed out and his basket has not had anything in it. Kenny stated he checks the mail every day or every other day, he stated that he would pay the quarter a page. Kenny stated that it is his choice whether he does emails or not and he is not going to do emails.

### **Public Comments:**

Mr. Costner thanked Bill and the Mayor for attending the fire department's board meeting last month. Mr. Costner is the Chairman/President of the Newland Fire Department. Mr. Costner stated that he listened to the recording with the Fire Chief and he felt like this should be more informational. Mr. Costner stated that the Newland Fire Department will never bash or comment negatively whether someone gives a dollar or seventy-five hundred dollars. Newland Fire Department will survive because of the citizens of Avery County. The State of North Carolina tells Newland Fire Department what they will do. Mr. Costner continued no other business has saved the taxpayers of Newland money. The fire department must do state fire inspections for insurance rates. The Town of Newland is under a five. Mr. Costner stated that he never thought the town would be under a seven, but the volunteer fire fighters have worked very hard to get the citizens that rate. James asked who the paid fire fighter at the Newland Fire Department works for. Mr. Costner stated that he is a county employee. James asked if part of his job was not to get the equipment ready for the inspection. Mr. Costner stated that his job is to make sure that each truck is ready to roll out. Mr. Costner asked if it is just one person's job to make sure everything is working in the town. Mr. Costner stated that it takes every one of the volunteers. James asked who the paid fireman answers to. Mr. Costner stated he answers to the chief paid by the county. The Mayor explained that he and Bill went to the meeting in reference to the confusion between the amount that Newland gave the Fire Department. The Mayor stated that the board full-throated supports the fire department, the meeting with Chief Benfield came of the tracks and Chief Benfield made it very clear that the board was misleading him. The paper also made it clear that the amount was brought to budget. Chief Benfield told the board that he knew it was voted on because Christy Hughes voted the to give the \$20,000. The Mayor stated he is still upset the fire department, who the chief was the representative of, came in and accused our board of lying despite several people telling him otherwise. The Mayor praised the fire department for the insurance rate and told Mr. Costner "I guess the problem that I have is and I would like to let you know because I promised you I'd follow this up, at no point that this board openly outside the budget meeting vote for the \$20,000 that Chief Benfield a

stood in here and assured us, once we read the minutes at no point even in the budget meeting it went down to \$7,500.” The Mayor said that he hopes after this meeting that relationships can be mended between the fire department and the town. Mr. Costner stated that it is water under the bridge but challenged the board to support the fire department come budget time so that they can maintain the low insurance rates for the citizens. Kenny stated as a board member he is responsible for public money, when the time comes to talk about budget, Kenny asked whether it's five thousand or seventy-five hundred dollars what does Newland Fire Department do with that money. Kenny stated he has heard stories from previous chiefs that is water under the bridge, but he needs to be accountable for the money being spent. Mr. Costner stated that the Mayor will see where the seventy-five hundred was spent. Mr. Costner apologized that the Chief came to the meeting asking for support and stated that it should have been a board member. Kenny asked if we have a written contract with the fire department. Bill stated no. Kenny stated that the board was told that there is one. Kenny stated that if it is not on paper it never happened. If there is a contract, Kenny would like to see who signed it and did the board approve it. Mr. Costner stated that if you have problem then we need to go to the source. The Mayor stated that he knows that it is water under the bridge, but he would like to get the gutters cleaned. Mr. Costner said he would not give a time frame, but they will get cleaned. James asked Mr. Costner if any of businesses complained about cleaning the culverts. Mr. Costner stated that he was unaware if they did. The Mayor stated the Chief came into the board meeting and stated that is why they stopped cleaning them. Kenny stated that when he was on the fire department, they did not clean the storm drains this time of year and they waited until it warmed up and the state was through salting the roads. Mr. Costner stated the state requires thirty-six hours training for a regular firefighter, and Newland requires forty-five hours for the officers. Mr. Costner stated that if the free water and sewer is a problem at any given time, the town needs to bill the fire department.

Mr. Gittner asked to get on the agenda for January to talk about noise and air brakes. Mr. Gittner also, thanked the board for doing well on the audit. Mr. Gittner stated that when it comes to employee bonuses, use them to get the behavior that you want. Everyone must win but the board ultimately controls it to drive results for Newland. Mr. Gittner offered his time to come speak on the matter. The Mayor said it would be interesting to see how he would translate private over to government.

## **REPORTS:**

Jessica gave the finance report. Jessica stated in August, the board did a special budget for the ARP funds. Jessica stated that the salaries were 68,000 and the benefits of 22,000 to equal out at total amount. However, Corey from the High-Country Council of Government said that she must get a budget

amendment because she needs to put more money in the salaries and less money in the benefits. It doesn't change the total and everything's the same Jessica stated that she must divvy out them out differently. James made a motion to do the budget amendment on the ARP funds, Kenny seconded the motion. The Mayor stepped out of the meeting, Kenny as the Mayor Pro Tem stated there is a motion and asked for the second. Lauren gave a second. All agreed by stating aye. Jessica mentioned that the town is no longer on the unit assistance list.

Bill gave the administrators report. He asked the board if they would like for him to do research concerning garbage pickup. The board agreed that it would be nice. He asked the board about changing public works departments hours. It is currently 7:30 am to 3:30 pm. The Mayor stated that having someone here during operating business hours would be nice. Bill stated that the board meeting of Newland Fire Department was nice to see how they function. He went to the Capitol Christmas Tree event. The bathrooms are now freshly remodeled. They found some water damage, but everything turned out nice and under budget. James asked if they are ADA compliant. Bill stated yes. Bill showed the board pictures of the dumpster at the park. Kenny stated that he knew trash would blow out onto the RV park and picked up by the RV park employees. Kenny stated that the RV Park has its own dumpster. The Mayor stated that the pipe-liners cleaned out their campers and they dumped it in our dumpster. The Mayor asked about moving the dumpster and putting small receptacles at the park. Kenny stated that residents dump their trash in that dumpster as well and agreed about moving the dumpster. Bill stated that dumpster is a problem, he recommended getting rid of our large dumpster all together and just using the small receptacles. Bill asked about Puerto's dumpster. James said that he did not see it would be the town's problem where the business has a dumpster. James continued if we find a spot for them, then the town has to find one for all of the businesses, if the town utilizes trash pickup it may solve the problem. Lauren asked about the contract with Republic, and if they could up citizen's trash. Bill mentioned we do have an exclusive contract with Republic, but he was working on numbers for the town offering our own trash pickup. The Mayor asked about an ordinance on fencing around dumpsters. Bill said he did not know of anything.

Chief Clawson gave the police report.

Gary gave the public works report. He gave the board the remaining meters that need to be switch over to the electronic meters. Gary provided pictures of the waste-water treatment plant which appears to be of disrepair. We can refurbish the plant or purchase a new plant in four to five years. Gary stated that there may be funds available to refurbish the plant, but something will need to be done in the next two to three years. Gary asked the board about doing something different other than candy. Christie stated that she had a better idea of how to control the candy at the parades. James asked about the meters and if we would have to purchase more meters. Gary stated yes. James asked about the State Employees Credit Union and why they do not have electric meters. Gary stated that he did not understand why a newer building would not have electric meters. Bill stated that the goal is to have them all electric where the systems communicate meter readings. James asked about inventory and an \$800 light that is missing. Bill stated that the police department knows about it and they have a case.

#### **Council Comments:**

Kenny said that the Christmas Parade was the nicest parade that the town has had. He made an appearance at the Rock Gym as well and both events went really well.

Gerald asked to schedule a public hearing for January 3<sup>rd</sup>, a decision does not have to be made at the public hearing, but it does need to be scheduled. He also sent letters to the delinquent tax property owners as well as their lean holders. Kenny asked how the board would answer questions if the public were to attend the public hearing. The Mayor mentioned that the people who petitioned the town will send a representative. Bill mentioned that the questions that might be asked would be the value to the town and the representative would be able to answer that question. The board set the public hearing for 6:05 pm on January 3<sup>rd</sup>.

James thanked Lauren and Christie for their time towards the Christmas events. James also thanked the Mayor for the time and money spent towards decorating the town.

The Mayor asked the board to discuss the employee Christmas bonuses. Lauren gave a scale of longevity for employee's bonuses. James said he believed that it should be a set amount because it is a Christmas bonus. Lauren asked for the number of employees. At five hundred for each

employee, it would be seven thousand five hundred. James made a motion to give the employees five hundred dollars each. Lauren seconded the motion. Gail and Christie agreed by stating aye. Kenny disagreed and stated that it should be based on longevity and unfair to those who have been working for the town eighteen to nineteen years.

**Adjournment:**

James made a motion to adjourn the meeting. Kenny seconded the motion. All agreed by stating aye.

**Meeting adjourned.**

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MAYOR DEREK ROBERTS

TOWN CLERK, JENNIFER S. BEAM