

TOWN OF NEWLAND
MONTHLY BOARD MEETING

August 2nd, 2022



Attending:

- Mayor:** Derek Roberts
- Attorney:** Gerald McKinney
- Alderman:** Kenny Caraway, Gail Haller, Christie Hughes, James C. Johnson, Lauren Turbyfill (Via Phone)
- Guests:** Mike Shirley, Bill Bailey, Gary Lewis, Sandra Lewis, Mr. JR. Sluder, Mike Nelson, Lily Kincaid,
- Staff:** Captain Michael Fields, Public Works James Clark, Town Clerk Jennifer Beam

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

Alderman James Johnson made a motion to accept the meeting's agenda, Christie seconded the motion, all agreed by show of hands and stating aye.

The Mayor temporarily stepped down as the Mayor to speak as a town citizen. Mr. Roberts stated in March of 2012 or 2013, he received a letter from the town attorney saying that he owed town taxes for \$304.00. Mr. Roberts then went to the tax collector at the time, Pricilla Trivette, and she informed Mr. Roberts his taxes were not due until October. Mr. Roberts stated about a month and a half later, he got elevated letter from the same attorney warning a lawsuit against Mr. Roberts, as well as a lien to be placed on Mr. Roberts house. Mr. Robert's went to see Donetta McKinney who could not explain the letter. Mr. Roberts went to his attorney at the time, Joe Seegers, who did not understand why Mr. Roberts had received the letters but advised for Mr. Roberts to go ahead and pay the bill. After a few months, Mr. Roberts received another letter from the same town attorney that stated that Mr. Roberts' house is being foreclosed on even though the taxes were paid. Mr. Roberts went to his attorney Mr. Seegers, who told Mr. Roberts to ignore the letter because he had paid the taxes. Eight years later, Mr. Roberts received a reminder letter that stated Mr. Roberts owed \$1,001.29 along with interest. Mr. Roberts called Joe Seegers who said that he did not understand why this attorney was reporting as the town attorney. Mr. Roberts explained that the lawsuit reads "The Town of Newland versus Derek Roberts" not "The Attorney versus Derek Roberts." Mr. Roberts said he received a "Notice of Rights and Waivers" which is the final step before the Sheriff Department takes property to settle debts owed. Mr. Roberts stated that the notice ensued panic, so he went to see the town attorney which advised him to call the town clerk to ask how much is owed and get an attorney. Mr. Roberts' attorney instructed him to sue the Town of Newland along with the attorney that sent him the letters and it will be addressed at small claims

court. Mr. Roberts suggested that there are several legalities being crossed such as abuse of process and obtained by false pretense. Mr. Roberts stated in April of 2022, the town sent out letters and posted the names in the Avery Journal on April 27th, 2022, of individuals within town limits who had delinquent taxes. Mr. Roberts continued; the town clerk then sent out an additional letter to those individuals. The next step is for the town attorney to record a lien on the property where the taxes are owed. The attorney then gets paid for that process. Mr. Roberts suggested that someone apart of the Town Board is currently in that position. Mr. Roberts stated that no one can tell him why he was singled out that year, why it is coming up eight years later, or why this gentleman is reporting as the town attorney. Mr. Roberts came before the board to ask for his \$1,001.29 reimbursed, and if that decision is made, he will go before the court and state he has received his money back. If it is prolonged, he will ask for court cost along with reimbursement.

James Johnson asked Mr. McKinney if what Mr. Roberts is stating is true. The attorney suggested the board discuss the matters at hand in closed session and exclude Mr. Roberts. The attorney stated that the lawsuit is Derek Roberts and C.L. Hughes III and the Town of Newland, and it is scheduled for hearing August 3rd, 2022, before the magistrate.

Kenny Caraway suggested the board hold a closed session at the end of the regular meeting. Gail seconded the motion, and all agreed by show of hands and stating aye.

The town clerk mentioned that Steve Rooney needs a letter from the town address to the county to allow him to place a barn on his property. The Mayor said that we do not have any legal reasons to prevent him from placing the barn. Christie suggested that he could not have animals on the property. Lauren agreed and stated the board voted in a livestock ordinance about eight years ago. James Johnson said he can build the barn, if the barn is not for animals, the board agreed.

Mike Shirley wanted to recognize the veterans in the room. The Mayor asked all veterans to raise their hand. Mr. Shirley and the Mayor thanked them for their service.

Mike Shirley invited the board to move the meeting to his home. He claimed it would be a good time for everyone to get a good dose of the smell. Mr. Shirley asked how often the public works department treats the wastewater plant with lime. James Clark said they treat with lime two times a week because it builds up and traps the smell. The Mayor asked if public works could place lime every Friday. James Clark said the grinder is supposed to be shipped on the 4th of August and as quick as the company gets the part, they will come that day to put it in. Mr. Shirley asked how much the grinder cost. The Mayor answered \$85,000.00. Mr. Shirley mentioned that he never saw where the Board agreed to order one for \$85,000.00. The Mayor suggested that it was ordered in May, so the Board voted on it the month before it was ordered.

Mr. Shirley said that the town needs to update the home page as it does not include the town attorney's information. Mr. Shirley informed the last meeting did not go well. When Mr. Shirley did not see Mr. McKinney because he was hiding behind a microphone and Mr. Shirley did not like it. Mr. McKinney informed he had been diagnosed positive with Covid and could not come to

the meeting. Mr. Shirley said if you are going to earn trust, remotely attending a meeting is not the way to do it. Mr. McKinney stated he did not know if the board would trust him too much if he came to the meeting and got everyone sick. The Mayor said there was an announcement at the previous meeting as to why Mr. McKinney was absent.

Mr. Shirley asked why it takes a month to print the minutes and who edits them. The clerk mentioned that the minutes must be approved by the board, and she edits them. Mr. Shirley asked why hydrogen sulfide was left out. Mr. Shirley asked if the board knows what hydrogen sulfide is, he continued it is bad news gas and Mr. Shirley asked if he needed to look it up and read it to the board. Mr. Shirley stated he understood that the part is ordered but as long as the town keeps reminding him, he will be on every agenda for the board meetings. Mr. Shirley went on, if it is fixed in the next month, he may not be at the next meeting. The Mayor stated that he hopes it will be.

Mr. Shirley said it was nice of Glen Johnson and Nathan Gittner to donate the air conditioners. Mr. Shirley already had three air conditions. The Mayor asked if they help at all. Mr. Shirley stated he does not live in air conditioning; he works around his house and smells the issue all day. Mr. Shirley gave his air conditioning unit to Jason who appreciates the units.

Mr. Shirley asked if there were any navy veterans at the meeting. Mr. Bailey said that he was a navy veteran. Mr. Shirley stated that he watches and listens to people, he picks up on who is a talking and who is not a talking. He was a wildlife officer for almost 24 years, he watches people like a hawk. He compared the town to a navy scenario. Mr. Shirley stated Newland is the ship and it must be run like a ship. Mr. Shirley pointed out the captain as the Mayor, the lieutenants as the Aldermen, and the town employees as the crew. Mr. Shirley continued, the town must take care of the crew and the board needs to start working together. The Mayor agreed.

Mike Nelson came before the board to ask for help in funding an amphitheater. The theater will measure 32 feet across by 20 feet deep and 14 feet high. It will have a green room on the side that host a restroom and changing room. Mike said if the town would help provide funds for the amphitheater, the town could have festivals and events on his property. Mike mentioned there are hookups for concession trucks on both sides of the stage. The Mayor asked about a bath house. Mike said there is one on his property. Mike said the estimate for the project is \$38,000. The Mayor asked the attorney if the town were to do something like this, what documents would need to be in place. Mr. McKinney said it would be set up as a contract. James Johnson asks if the total of the project is \$61,000 because of the optional green room. Mike agreed. James continued the stage is \$38,600 and \$22,500 for the greenroom. Mike stated he would work with the town as long as he is alive. The Mayor said Ann with the Chamber of Commerce and himself have been working with Mike to bring festivals from Sugar Mountain and Banner Elk over to Mike's property. James asked how much Mike is looking for from the town. Mike stated he would like for the town to go in half on the project. Mike has spoke with Eric Church's manager and Luke Combs' stepbrother and Mike continued Luke would come and play an hour. If Mike were to bring people in for the concert,

he would like to charge them and give a percentage back to the town. Kenny said he would like a little bit of time for the attorney to look into it because of the use of public funds for an investment. Mike said citizens would be welcome to use the facility as well. The Mayor asked for a month for a decision to be made. Mike agreed. Mr. McKinney said the format of the contract makes a difference; the town may be able to contribute for the rights to use the stage. The Mayor suggested Mike come back to the next meeting so that the town could have the information necessary to decide. Lauren asked that her information, along with Christie's information be shared with Mike. The Mayor suggested that the board visit Mike's campground to help visualize their decision.

The Mayor asked for a motion to approve Mike Nelson paving throughout town for \$16,000. James Clark said that it needed to be more than just the \$16,000, there are additional issues that need to be fixed. James Johnson made a motion to award Mike Nelson a paving contract. Christie seconded the motion. All agreed by show of hands and stating aye.

James Johnson made a motion to adopt the ARP documents for the Town of Newland, Gail seconded the motion. All agreed by show of hands and stating aye.

The Mayor asked for a motion to hire Mr. Bailey as the town administrator, Kenny made a motion as follows:

I would like to make a motion to appoint Mr. Bill Bailey as the Newland Town Administrator with \$65,000 being the salary plus benefits. The anticipated start date of full time will be effective 09/01/2022, and part-time effective immediately with an hourly rate of \$31.25 per hour. This position is an AT WILL position, meaning you will work at the pleasure of the Board of Alderman. You or the Town of Newland may terminate the employment relationship at any time. Your employment shall be deemed as voluntary in nature and shall be considered employment at will and both parties acknowledge and agree that employment is not set for a specific duration of time.

Gail seconded the motion. All agreed by show of hands and stating aye.

The Mayor asked for a motion to hire Mr. Lewis as the public works supervisor, Kenny made a motion as follows:

I would like to make a motion to hire Gary Lewis as Public Works Supervisor with an anticipated start of 08/15/2022. You will report directly to the Town Administrator and report monthly to the Town Council at the monthly board meetings. Your beginning rate of compensation will be an hourly rate of \$21.63. Overtime is compensated at an hourly rate of \$32.45 (time and half). According to the Town of Newland's policy: "Employees required to be on 'stand-by" duty will be paid for four- and one-half hours of work for each week of stand-by time they serve."

After being employed with the town for six months, you must start working towards the necessary Water/Wastewater Certifications as required by the state to maintain the Town of Newland's Water/Sewer

treatment as required by state and federal law. You will be expected to complete at least one certification per year and recertify yearly and/or as needed. For each certification you obtain, you will be compensated a \$1,500 bonus. You or the Town of Newland may terminate the employment relationship at any time. Your employment shall be deemed as voluntary in nature and shall be considered employment at will and both parties acknowledge and agree that employment is not set for a specific duration of time.

Lauren seconded the motion. All agreed by show of hands and stating aye.

James made a motion to approve the minutes of the July board meeting. Christie seconded the motion. All agreed by show of hands and stating aye.

Public Comments:

The Mayor read the rules of public comments.

Mr. Sluder began by mentioning the Coke-Cola Sign is going to be painted by the Coke-Cola company. Mr. Sluder said the Riverwalk was formed by a beautification committee of Jake and himself. Mr. Sluder stated the Riverwalk is involved in Avery County as well as the town. He appreciated everything that Mike Nelson is accomplishing with the campground, but he asked the board not to forget the Riverwalk. The Mayor assured Mr. Sluder that would not happen.

Mr. Sluder mentioned the lot across from the Mexican restaurant is owned by Jim Carpenter who wishes to beautify the property and he would like assistance from the town. The Mayor asked if Mr. Sluder could speak with Mr. Carpenter and see if Christmas Trees would be able to be placed on the property. Mr. Sluder said he would like for a meeting to take place on the property to see what can be done.

Mr. Sluder said there is a hole in the parking lot of the presbyterian church that dips down in the pavement. Mr. Sluder is concerned if a vehicle were to hit the hole. Mike Nelson said he would fix it when he begins paving for the town.

Mr. Sluder mentioned the Waterfall's Park has two miles of trail and brings in several visitors to Newland. Mr. Sluder asked if the town would not care to mow it. Christie asked who owns the property. Mr. Sluder answered they have leased the property for \$1.00 annually that has never been paid. Kenny stated it started out with the fire department helping. Mr. Sluder said they were involved and there is still a sign out there that says, "Sponsored by the Newland Fire Department."

Kenny asked Mr. Sluder to tell the board how the Riverwalk got started and how they got permission for the grandstand. Mr. Sluder began by stating the Riverwalk was developed by Jake and himself. It was initially swamp and impassible. Mr. Sluder went to a county commissioner meeting where Sugar Mountain asked for \$25,000 for a golf cart path. Mr. Sluder then asked the commissioner's if they could aid with the Riverwalk which was gravel at the time. They granted \$25,000 for paving. Mr. Sluder continued to say that the lights around the walk cost \$400, and there are plaques on the lights that tell who owns them. When Mr. Sluder was working on a section

of the walk he referred to as “The Garden” the EPA came in and told them to finish what they started but nothing further. Mr. Sluder stated that the whole Riverwalk was accomplished because of an “easier to get forgiveness than to ask for permission” mindset.

Mr. Sluder mentioned the crosswalk at the United Community Bank needs signage for safety. The Mayor stated that he has been working on it. Mr. Sluder said that he hopes that the town and himself can get together on these things, as beautification is important for the Town of Newland. Lauren said that a Junior Sluder statue on the corner would be a good idea. Gail and the Mayor agreed.

Mike mentioned that he could extend the Riverwalk up the River. Gail said there is a lot of room to continue around the campground with the Riverwalk. The Mayor asked if the town could put power around the walk, the town could take the streetlights off the main road and add them to match the Riverwalk. Mike agreed.

Finance Officer Report: Sandy Lewis printed the report for the board to read.

Police Report: Captain Michael Fields gave the police report and listed notable calls. Captain Fields stated that himself as well as three other officers attended active shooter training at Lees McRae. The Mayor asked who performed the training. Captain Fields stated Mayland Community College.

Public Works Report: James Clark mentioned the water issue on Banner Hill when Spectrum bored through the main line. He said we had to borrow parts from Banner Elk that will need to be replaced as well as parts for the town incase an issue should arise again. The Mayor asked why we do not have parts in stock. James said they have never been ordered but he would like to purchase extra parts as well as three pumps to have on hand. James Johnson told James Clark to order what the town needs. James said that we have one pump down right now, he has a company that is going to rebuild it and put it back in and he is going to order another one as well. James Johnson asked how much a pump cost. James Clark said for a big pump like the one mentioned, around \$20,000. James Clark said that the items should have been ordered over the years, but the public works department has gotten behind. James Clark said the yokes for the meters should be in stock on the 8th of August. James Johnson stated to Gary Lewis saying, no one on the board has ever told public works not to order what is needed. James Johnson continued, there is money in the budget and the town needs to stock up so we do not have issues again that could potentially be avoided. Gary said he will get what is needed.

The Mayor mentioned that he would like to mow from Wes Brewer towards the town. James Clark said he did not like mowing state right-of-way because of liability issues. James Clark said he was concerned about how workman’s compensation would handle a situation if an employee were to get hurt on the state’s right-of-way. The Mayor asked why James Clark feels like the town will not cover the employees working within the town limits. James Clark said if there is no issue with the state and the town board tells him to mow the right-of-way, he will do it. Mr. McKinney said he

would have to look and see if there is an exclusion for being on the state right-of-way. Mr. Bailey said in his experience the Department of Transportation (DOT) frowns upon operating on state right-of-way's, not necessarily because of liability issues, but unless the town has an easement or agreement with them, then the town would need to write one out if the state is not mowing to meet our needs. The Mayor stated that the DOT contracted the mowing out to someone that covers seven counties, and they were not scheduled to mow Avery County until August. The Mayor stated that his crew mowed the property to prepare for the fourth of July and had he not the other company had plans to use round up which would look horrible within the town's limit.

The Mayor asked James Clark about trash pick-up and if they would be willing to do so. Gary asked if we could instate an adopt a highway plan where businesses would adopt a section of highway and keep it clean. The Mayor stated when Mr. Bailey is on board that is something that we could look into.

Kenny asked if the town is mowing on the state right-of-way and a rock hits a vehicle who is held responsible. Mr. Bailey stated eventually it will come back on the town. The Mayor suggested that whom ever is on the mower is the one responsible.

COUNCIL COMMENTS:

Lauren said she had spoken with Rennie Stewart, and she had mentioned it would be nice to have a sign near McDonalds that states park and points towards the Riverwalk.

The Mayor said that he is working with the housing authority to update the old Lowes Food sign in that area, and he is asking them to add something for the Riverwalk. It will either be a new sign, or they will refurbish the one that is currently there.

James Johnson made a motion to move the meeting to closed session. Gail seconded the motion. All agreed by show of hands and stating aye. Mr. McKinney stated that closed session will be for the purpose of discussing with the town attorney the case Roberts versus Hughes and the Town of Newland.

CLOSED SESSION.

James Johnson stated that the regular meeting was back in session with no decision made in the closed session.

James Johnson made a motion to adjourn the meeting. Gail seconded the motion. All agreed by show of hands and stating aye.

MEETING ADJOURNED.

TOWN CLERK

MAYOR ROBERTS