

Town of Mills River
Minutes of the Planning Board
Tuesday, March 13, 2018

The Town of Mills River Planning Board met on Tuesday, March 13, 2018, at 7:00 PM in the Mills River Town Hall. Board members present were:, Randy Austin, Sherri Hill, Carolyn Moore, Jim Foster, Cheryl Janoski, and Brian Kimball. Jim Humphrey and Ronnie Edwards were absent (excused) as well as Matt Holloway (unexcused). Also in attendance were Town Manager Jeff Wells and Tax Collector/Deputy Town Clerk Aurelie Taylor. There are no open seats on the Board.

Vice Chairman Brian Kimball called the meeting to order and those present stood for a moment of silence and gave the Pledge of Allegiance.

Adjustments/Additions to Agenda: None.

Sherri Hill made a motion to approve the minutes from February 6, 2018; the motion was seconded by Cheryl Janoski and the motion passed by unanimous verbal assent.

Public Comment: Natalie Chotiner voiced her opinion that noise issues should be included in a nuisance ordinance rather than stand on its own and enforced by the Henderson County Sheriff's Office.

Old Business: No Old Business

New Business:

A. Nuisance Ordinance Development – Town Manager Jeff Wells

Town Manager Jeff Wells began by explaining that in 2016 the development of a nuisance ordinance for Mills River was put on a "wish list" of subjects the Planning Board wanted to look at. The issue was brought to Town Council's attention once again at January's budget retreat and they directed the Planning Board to proceed. Jeff then called the Board's attention to his power point presentation the images of which appear below:

What is a Public Nuisance?

Nuisance Ordinance Discussion

March 13, 2018 Planning Board Meeting

What is a Public Nuisance?

- ▶ Through state and local laws, municipalities are able to define what a public nuisance is.
- ▶ Nuisances are a liability offense: meaning a person's intent is immaterial. It is the consequence of the act or activity that matters.
- ▶ Nuisances can arise from inaction (high grass) or action (parked junk cars or solid waste).
- ▶ Is a "police power": protect public health, safety, and welfare.

Reasons to be Concerned About “Nuisances”

- ▶ Community Appearance
- ▶ Diminishment of property values
- ▶ Public health, safety, and welfare

Outdoor Solid Waste

Typical Solid Waste



White Goods



Outdoor Solid Waste

Tires



Construction Debris



High Grass

In Neighborhoods



Larger Tracts of Land



Vehicles

Junked Cars. Etc.



Vehicles Used for Storage



Abandoned Mobile Homes



Immediate Public Health Issues

Improper Garbage/Sewage Disposal



Stagnant Water - Mosquitoes



Enforcement

- ▶ Civil Enforcement
 - ▶ Lowers burden of proof "from beyond a reasonable doubt"
 - ▶ Civil remedies include injunctions, abatement
- ▶ Criminal Enforcement
 - ▶ High burden of proof
 - ▶ Lengthy process
 - ▶ Although, argue that provides better incentive for compliance

Abatement

- ▶ Allow violator a certain amount of time to remedy ordinance violation.
 - ▶ “Friendly” notice of violation letter
 - ▶ Makes property owner aware of nuisance ordinance violation
 - ▶ Provide amount of time to remedy situation
 - ▶ If violation is not remedied: “civil penalties may be assessed, and violation may be removed by town at owner’s expense”
 - ▶ Second notice of violation letter
 - ▶ If violation persists
 - ▶ Makes property owner aware that town will assess civil penalties if not remedied, violation may be removed by town at owner’s expense”
 - ▶ Town removal a last resort and budget dependent.

Pitfalls of Nuisance Regulation

- ▶ Defining the nuisance to avoid ambiguity.
- ▶ Procedure
 - ▶ Notice to property owner
 - ▶ Time period
 - ▶ Abatement process
- ▶ Consent to enter, administrative warrants
- ▶ Full view vs. hidden (full view vs. backyard)
- ▶ Potential big challenges to implementation
 - ▶ In particular, area is not used to this level of regulation
 - ▶ In house vs. consultant - enforcement 1st year or two



Thank you!

Discussion included a wide range of questions, opinions, and topics. There are many things to be decided – whether to have enforcement complaint based or dedicate staff time; what to do about repeat offenders; what sort of penalties should be assessed. Jeff suggested that for the first few years that the enforcement should be contracted out. Unknowns include cost, volume of complaints, the general reception of a nuisance ordinance by the citizens. What to do about farms? Agriculture would have to be looked at with the need to define “agriculture”, follow the directive of the existing Mills River ordinance regarding the exemption of agricultural properties from most regulation.

A “nuisance grace period” would be a good idea if/when an ordinance is adopted. There should be some form of education about what options exist for the disposal of solid waste/junked cars/mobile homes as well as publicity about the new ordinance before enforcement begins.

Staff was directed to furnish the Board members with a copy of the Henderson County nuisance ordinance to use as a template before the next meeting.

Additional Items

Jeff Wells went over his Council Actions memo, the text of which appears below:

COUNCIL ACTIONS – FEBRUARY/MARCH 2018

- Approved contract for basketball court construction
- Approved staff to seek funding for engineering of NC 280 multi-use path.
- Approved rain garden project between town hall and tennis courts.

- Approved tiny home, park model, RV park ordinance.
- Approved audit contract for upcoming budget years.

OTHER NOTABLE ITEMS

- NCDOT public input meeting on NC 191 widening
 - Thursday March 15th

Jeff Wells brought up the timing of the meeting scheduled for April 3. This is during the schools' spring break; he will be out of town and would like Planning Board to look at either rescheduling or cancelling that meeting. After consulting with a calendar, it was decided that Monday, April 9 was the best choice.

Jim Foster made a motion to reschedule the Planning Board meeting from Tuesday, April 3, 2018 to Monday, April 9, 2018, at 7pm in the Commons Room of Mills River Town Hall. Sherri Hill seconded the motion and the motion passed by unanimous verbal assent.

As there was no further business to discuss, Jim Foster made a motion to adjourn the meeting. Carolyn Moore seconded the motion and the motion passed by unanimous verbal assent.

Respectfully submitted,

Aurelie Taylor, CTC
Tax Collector/Deputy Town Clerk