

**Council Meeting Minutes**

**October 12, 2018**

Mayor Jim Hager called the meeting to order at 10:00AM. Council Members Bob Wehr, Patrick O'Donovan, and Mary Williams were present for the meeting. Town Administrator Kim Matheson, Clerk Emily Hooper, and Public Works Technician Eric Hayes were also present. Councilmember Keith Predmore was available by phone for a portion of the meeting.

The first order of business was the approval of the agenda, Councilman Bob Wehr made a motion to move Item #1 under Old Business: Follow up Sewer Study Survey/Beth Booth Graham County Health Director & Jacob Nelms Graham County Building Inspector immediately following the approval of the agenda. The Council will also move into Closed Session to receive legal advice from the litigation attorney regarding three pending lawsuits and the possibility of filing a complaint against a survey company. This will become item #14 under New Business. Councilman Patrick O'Donovan seconded. Councilman Patrick O'Donovan made a motion to approve the agenda as amended. Councilman Bob Wehr seconded. All others approved, the motion carried.

**#1 Follow up Sewer Study/Beth Booth Graham County Health Director & Jacob Nelms Graham County Building Inspector:** The Town of Lake Santeetlah completed a Sewer Study in 2016. The report from that Sewer Study is posted on the website for review. Tetra Tech, provided various options for the Town in regards to repairs and both short and long term goals for Sewer Systems. The Town sent out a survey to all Town residents in order to gather as much information as possible to assist in making the best decision moving forward. Beth Booth and Jacob Nelms have reviewed both the study and the survey prior to today's meeting. Booth, employed by Graham County since November 2017, stated that the sewer system failures had recently been on the rise within Lake Santeetlah. Due to the different lot sizes, the repair options are typically case by case. There isn't a universal solution that will work for everyone within the Town. Nelms explained that there are specifics that determine the system availability for each homeowner, type of soil, size and slope of lot, deep or shallow soil. Also, the type of failure, drain field or tank failure determines what type of system is available. The County can approve lots no greater than 65% slope. The NC State requirement for all sewer systems is a minimum of fifty feet from the high water mark. The smaller lots will likely need to involve an engineer or soil scientist. This allows more options for systems that cannot be approved by the local health department but also comes with an added cost. Most lots within Lake Santeetlah could be repaired with an engineered system. Although the engineered system would be designed for that specific lot and scenario it would be considered only a short term fix. Short term could potentially mean only a few years expanding to twenty years. There would be no way to determine how long the new system would function effectively. Tetra Tech offered recommendations that would be considered a long term fix however these all come with a high cost. Long term options include, a large on-site system or re-visiting the option of pumping sewage to Robbinsville. Working towards a long term solution the Town could be inquiring land for a sewer system and devising a plan for funds making this an option if necessary in the future. Education is key for maintaining septic systems. There are more than ten approved systems in NC and knowing and understanding the system you have and treating it as needed will extend the life of the system. Those who purchase homes within the Town can call or visit the health department to find out the type of system they have. The Health Department can typically identify all those that were built from 1980-present with the original owners name. Lakeside has a sewer system installed that has never been used. Nelms is familiar with the system and acknowledged that it would meet standards for approval upon engineer evaluation. The system would require an operator and would possibly have a minimum flow requirement. Based on opinion Nelms and Booth agreed that there are lots that likely do not have onsite solutions. POD systems would be considered private and would be a solution for neighbors interested in working together. The Town would not have to be involved with these systems unless there was a Zoning restriction or requirement that caused them to intervene. Graham County will be glad to assist with questions or concerns

individuals have concerning their sewer systems. The County can link those interested with soil scientist or engineers if a more advanced system or design is necessary.

After review of the September 14, 2018 Council Meeting Minutes, there were no additions or changes necessary. Councilman Patrick O'Donovan made a motion to approve the Council Meeting Minutes. Councilman Bob Wehr seconded. All others approved, the motion carried.

**Financial Report/Tax Report:** Town Administrator Kim Matheson explained that due to last month's computer issues the totals displayed was for both August and September. The general account balance is \$34,563.05, water operating \$881.62. The water account was low but water bills were mailed September 30, 2018 and the balance is currently around \$12,700 (as of October 12<sup>th</sup>). Town Administrator Kim Matheson shared the tax collection for September was \$9,038.38. This check has been received and deposited in the general account. Finance Officer Patrick O'Donovan explained that this was only the beginning of the new budget year therefore there are not any issues of concern to be addressed. The new report form displays the month end totals and the year to date budget total. This report should be easier to understand than the reports used in the past. O'Donovan thanked Tina Emerson for her suggestion at the May Budget meeting for a report of this type. O'Donovan stated the audit was not ready for approval as listed on the agenda. Joseph Turchetti, the auditor, lacked some minor "cosmetic changes" which would be completed by the end of next week. It will be necessary for the Town Council to call a Special Meeting to approve the audit in order to meet the October 31st deadline. Resident Jack Gross questioned a possible correction needed in the current year budget prior to audit approval. The Town water department loaned the general account \$30,000 for water meters in 2016 with a commitment to repay over a three year period. According to Gross the payment should be budgeted to repay as stated in Council Meeting minutes from October 2016. Mayor Hager explained that the Town intended to pay the funds back within the year. Gross also asked how the invoice submitted to the Town from TuGood Enterprises LLC for the labor and use of skid steer during a water line break was shown on the budget? Mr. Gross was informed that the check had been prepared for this invoice and would be mailed this week. Gross asked if the Town was still within the budgeted funds for litigation and attorney fees for this fiscal year. Finance Officer Patrick O'Donovan confirmed that the town was within the amount budgeted. Councilman Bob Wehr made a motion to approve the financial report as presented. Councilman Mary Williams seconded, all others approved. The motion carried.

#### **Request for Public Comment:**

**Tina Emerson:** The Town of Lake Santeetlah hired surveyor Terry James to complete a survey of the Town property near Santeetlah Trail. This area was split into five parcels and the Town is currently accepting bids on each parcel. Tina Emerson displayed a large copy of the survey completed by Terry James and another that was completed in 1962 and recorded Plat 2 Book 9. Emerson is concerned with the new survey and its starting points. In the old survey there is no Town property in between Johnny Cochran and Greg McCoy's house and the new survey shows a 9x40 piece that is supposedly Town owned property. On the old survey the property lines go almost to the road and now according to Terry James there is a greater distance. Zach Anderson who lives adjacent to parcel three has approximately 20-25 feet that is now considered Town property according to the new survey. Emerson stated the new survey had so many differences in her opinion it needed to be thrown out. Emerson is concerned that two of these parcels are listed on the agenda to be sold today and obviously the survey is not correct. Emerson reminded the Council that there was already a lawsuit on this property and selling it with such discrepancy in the surveys would be a mistake. Also, on Santeetlah Trail for certain parcels there will be a three foot strip of the road included in the sale. According to law to dispose of Town Property the statute to follow is 160A-269, however to sale a road 160A-299 must be followed. Emerson shared information from The NC School of Government, the disposal of a street is different than the sale of land and Emerson wants those who are bidding to be aware there could be other lawsuits to follow due to the rules for disposal not being accurately followed by the Town. If the Town wants to dispose of a street it must follow the Street Abandonment process. Also, Powell Bill or Town of Lake Santeetlah funds could not be used to maintain the road once sold.

Tina Emerson is involved in the Public Records request lawsuit against the Town. Emerson asked that the Town, "cut the losses" and pay the attorney fees so that suit could be over. This would save the Town money in the end according to Emerson and keep each public request from going through the attorney. Statute 143-318-16B states, if a party prevails you will pay attorney fees. According to Emerson the Town had to surrender the documents that were being withheld and if the attorney fees were simply paid this suit could end. If the Town does not chose to consider this plea then the next step will be going to court for the fees which according to statute will be rewarded. Emerson asked the Council to consider making this decision prior to going to court, costing even more.

Emerson pointed out that those interested could go online to NC Water Conversation Rate and see how the Town of Lake Santeetlah is rated.

**Jack Gross:** Marsha Mathews bid for Parcel 1 on Santeetlah Trail should be on the agenda for approval today. Mr. Gross asked why this was not listed as an item on the agenda. The upset bid received from Bill Smith was after the deadline and invalid. Mayor Hager explained to Gross that the bid was received on October 8, 2018 which was prior to the deadline. There was a clerical error on the form and check with the wrong date. There was adequate evidence that the bid was received on October 8<sup>th</sup>. There were three people in the office the day the bid came in, an email sent to Mack Tallant and two phone calls made to identify the bid was received prior to the deadline.

Gross pointed out added language in the initial offer to purchase form that had not been there previously. Gross did not feel the Town could legally make this change without a board decision. According to Mayor Hager the wording was simply changed to match the approved and adopted Resolution for Land Sale. Gross argued that the wording was changed for "buddies" and not for all bidders.

Gross stated that he can only assume the advertisement would change for Parcel 5 stating that the easement would be granted to pass over and not up to the person who purchased Parcel 5.

**Dick Eyestone:** This summer the Eyestone's lost their grandson in a skiing accident. Dick Eyestone wanted to publically thank everyone who sent a card, called, or made a donation.

**Betty Lobue:** The TPOA has had a successful and productive year. The election for new officers will be held in January. The ballots will be sent out with the notice of dues per household for 2019 TPOA membership. For the upcoming year the TPOA would like to have more volunteers to assist with projects such as liter pick up. These duties seem to fall on the same individuals each year and would be helpful if more were willing to participate. If anyone would like to become more involved in any way please see Betty LoBue.

### **Old Business**

**#2 Occupancy Tax Update/Diana Simons:** The current balance in the OT account is \$7,657.15. The total amount incoming for the year is \$8,897.62. This is prior to expenses which include, insurance coverage, administrative fees, block party, repaying the town. The TDA meeting is tomorrow October 13, 2018 at 10:00 at Town Hall.

### **New Business**

**#1 Town Technician Maintenance Report:** Town Technician Eric Hayes reported that valves had been changed at 626 Thunderbird Trail and 41 Black Bear Court. The DOT was scheduled to complete the road repairs next week however the recent rain has delayed the project for approximately two weeks.

**#2 Kenneth Wright, Purchase of Town Property abutting the 1817 Contour Line of Lake Santeetlah** Councilman Patrick O'Donovan made a motion to approve the land transfer from the Town of Lake Santeetlah to Kenneth Wright as presented. Councilwoman Bob Wehr seconded. All others approved. The motion passed.

**#3 Daniel Longino, Purchase of Town Property abutting the 1817 Contour Line of Lake Santeetlah** Councilman Bob Wehr made a motion to approve the land transfer from the Town of Lake Santeetlah to Daniel Longino as presented. Councilwoman Patrick O'Donovan seconded. All others approved. The motion passed.

**#4 Craig Keith, Town of Lake Santeetlah, Parcel 4 on Santeetlah Trail:** A corrected survey is being completed by Terry James which has not been received at this time. According to the attorney the sale can be approved pending receipt of this survey. Councilman Patrick O'Donovan made a motion to postpone the approval of Parcel 4 until the survey is received. Councilman Bob Wehr seconded. All others approved. The motion carried.

**#5 Bill Smith, Town of Lake Santeetlah, Parcel 2 on Santeetlah Trail:** Councilman Bob Wehr made a motion to postpone the sale of parcel 2 until a corrected survey is received. Councilman Patrick O'Donovan seconded. All others approved. The motion carried.

**#6 Approval of Town of Lake Santeetlah 2017-18 FY Audit:** This item was discussed in the Financial Report. The Audit will be approved in a Special Called Meeting after the auditor completes the "cosmetic changes" recommended by the State.

**#7 Donation to Imagination Library:** The Town of Lake Santeetlah contributed \$500.00 last year to the Imagination Library, which is a program that allows every child from birth through five years of age to receive a book each month. Councilman Patrick O'Donovan made a motion to donate \$500.00 once again to this cause. Councilman Bob Wehr seconded. All others approved. The motion carried.

**#8 Ethics Training for Councilmembers:** All Councilmembers need to complete the ethics training as soon as possible. Once completed print the form and bring to Town Hall to keep on file. A link has been emailed to each Councilmember. Town Administrator Kim Matheson asked that each Councilmember try using the link and let her know if there were any issues. This training is required within a year after being appointed or elected.

**#9 Appoint Town of Lake Santeetlah Zoning Board of Adjustments:** The plan to appoint the Zoning Board of Adjustments has been delayed after talking with the attorney and reviewing the document. There are areas where changes are necessary. The most recently approved Zoning Regulation document has certain ordinances that are not enforceable. Other areas that are vague and will not help the ZBA as they move forward. Therefore the document will be reviewed, redlined, all changes will be summarized and sent to Lake Santeetlah property owners for review. Once those changes are completed the ZBA will be appointed. This will allow those interested in serving on the board to know the ordinances and understand what is to be followed. At this time the way the document is written the ZBA would be advisory to the Town Council. It is currently being considered to change this allowing the ZBA to make final decisions removing the Town Council from the process. This will be included in the summary which will go out to the property owners for feedback. This may also effect some that have volunteered to serve on the ZBA. They may no longer feel comfortable if the board makes the decisions. If the ZBA has the decision making authority then all appeals would go directly to the Superior Court. The Town Council would not be involved. The correct process would be followed to implement the changes to the document. When the redlined document is complete it will be sent out for review.

**#10 Past Due Water bill at 56 Chalet Village:** David Dickert, who was once the Town Technician, rented 56 Chalet Village for several years and left owing a past due water bill. The amount due when he moved out of the home was \$422.60. He made 25% payments each month trying to catch up but did not pay the balance when he left. We sent multiple emails and mailed numerous bills to his new address without receiving any payments. The homeowner, Pam Carvalho, was contacted and she does not feel the balance is her responsibility. She has paid the amount of each new billing since David left in September 2017 but has not paid the past due balance. The water was locked due to non-payment. Pam had a new renter move in September 15, 2018 and asked that we remove the lock and forgive the balance. The water was turned on at the residence for the new renter and staff explained that the past due balance would be on the agenda for Council decision. After discussion Councilmember Mary Williams made a motion to leave the remaining balance as it stands and make an agreement with the homeowner for payment on the past due balance. From now on water bills should be left in the homeowners name and an agreement can be

made between the homeowner and renter for water bill payment. The Town should not be involved to avoid similar situations. Councilman Bob Wehr seconded. All others approved. The motion carried.

**#11 Repair Steps at Town Hall:** The steps behind the office are in disrepair. Town Staff has contacted several contractors for an estimate. At this time there has been no estimate received. No action is needed on this item.

**#12 Budget Amendment for Roads & Grounds/DOT Road Repair:** At the time of budget preparation there was only one area of road repair necessary due to water line breaks. A major break occurred on Nantahala Terrace causing a large portion of the road to be removed. The amendment is needed for \$9,000 to complete the road repair. The DOT plans to complete the project within two-three weeks. Councilman Bob Wehr made a motion to approve the budget amendment for road repair for \$9,000. Councilman Patrick O'Donovan seconded. All others approved. The motion carried.

**#13 Resolution for DOT to complete Road Repair:** The estimate received from the DOT is \$10,470.00 to complete the road repair on Thunderbird Trail and Nantahala Terrace. The approved resolution is required by the DOT in order to proceed with the project. The amount displayed on the Resolution is \$12,000 is incorrect and should be changed to reflect the estimated figure of \$10,470.00. Councilman Bob Wehr made a motion to approve the Resolution as amended. Councilman Patrick O'Donovan seconded. All others approved. The motion carried.

**Discussion:**

**#1 Increase Water Rates to compensate for aging water system necessary repair costs:** This item is not ready for discussion at this time.

Motion for Closed Session

Councilman Patrick O'Donovan read the motion, Pursuant to the provisions of North Carolina General Statute 143-318.11 (a) (3) and 143-318.11 (c), I move that the Town of Lake Santeetlah Town Council go into closed session to receive advice from attorney, Bill Brazil, Town of Lake Santeetlah litigation attorney, which advice comes within the purview of the attorney client privilege. The advice will be general legal advice about legal issues or legal matters.

Pursuant to the provisions of North Carolina General Statute 143-318.11 (a) (3) and North Carolina General Statute 143-318.11 (c), I move that the Town of Lake Santeetlah Town Council go into Closed Session to receive advice relative to the following existing lawsuits which are presently pending: Jack & Connie Gross vs. The Town of Lake Santeetlah, The Santeetlah Trail suit, Marsha Mathews, Zachary Anderson & Johnny Cochran vs. The Town of Lake Santeetlah and the Public Records suit, Jack Gross & Tina Emerson vs. The Town of Lake Santeetlah. Councilman Bob Wehr seconded. All others approved. The motion carried. The Town of Lake Santeetlah Town Council moved into Closed Session.

Councilman Patrick O'Donovan made a motion to move back into open session. Councilman Bob Wehr seconded. All others approved. The motion carried.

**Announcements:**

Mayor Jim Hager announced that the next Council Meeting is November 16, 2018 at 10:00AM at Town Hall.

With no further business at this time Councilman Patrick O'Donovan made a motion to adjourn the meeting. Councilman Bob Wehr seconded, all others agreed. The motion carried. Mayor Jim Hager adjourned the meeting at 12:05PM.

**Meeting Adjourned**

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Jim Hager, Mayor

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Emily Hooper, Town Clerk