

**TOWN OF TRYON
BOARD OF COMMISSIONERS
MAY 18, 2021
TRYON TOWN HALL – MCCOWN MEETING ROOM
7:00 P.M.**

Present: Mayor J. Alan Peoples Mayor Pro Tem Chrelle Booker

Commissioners: Crys Armbrust, Bill Crowell, Bill Ingham

Staff Present: Town Manager Zach Ollis Town Clerk Susan Bell
 Police Chief Jeff Arrowood Planning Director Tim Daniels
 Fire Captain Josh Connell Public Works Director Jody Morse
 Town Attorney William Morgan TDDA Ex. Director Paige Henderson
 Harmon Field Supervisor Travis Aldred

CALL TO ORDER

Mayor Peoples called the meeting to order and asked for a moment of silence. Mayor Pro Tem Booker led the Pledge of Allegiance.

AGENDA ADOPTION

Mayor Peoples asked if there were any additions, deletions or corrections. Being none, he entertained a motion to adopt the agenda. Commissioner Armbrust so moved. The motion carried unanimously.

CONSENT AGENDA ADOPTION

Mayor Peoples asked if there were any additions, deletions or corrections. Being none, he entertained a motion to adopt the Consent Agenda, which included the Board minutes. Commissioner Ingham so moved. The motion carried unanimously.

PRESENTATION OF BUDGET FOR FY21/22

Town Manager Ollis presented the budget message, budget ordinance and FY21/22 budget. The budget is set at \$4.2 million with \$1.6 in General Fund, \$65,000 in Powell Bill, \$553,000 in Fire, \$237,000 Harmon Field, \$31,000 in Tourism, \$1.5 million in Water/Sewer and \$249,000 Sanitation. He has taken the current tax rate of \$.5028 and dropped it to \$.4810. With the real property values, it will set it at \$902,000 with a 98% collection rate. \$17,000 includes boats and motorhomes, etc. Expecting vehicle taxes to be around \$80,000. Basically, what he has presented is much like last year's budget with the projects that you as a board have requested. Includes \$109,000 for Governing Board, \$553,000 for Admin, \$716,000 for Police, \$227,000 for Street, Parks & Rec and Zoning \$45,400 for a total of \$1.6 million. The projects added are:

1. Town staff will start a kudzu eradication program (\$30,000).
2. \$20,000 for a boardwalk.
3. \$1,000 for Rails to Trails discussion
4. \$10,000 for signage
5. Other small items around downtown

The ordinance is attached. Everything you have worked for is included in the budget.

SET PUBLIC HEARING FOR JUNE 15, 2021 FOR BUDGET ORDINANCE FY21/22

Mayor Peoples entertained a motion to set June 15, 2021 at 7:00 p.m. for a Public Hearing on the FY21/22 budget. Commissioner Armbrust so moved. The motion carried unanimously.

55 MELROSE AVE BID UPDATE

Town Manager Ollis explained at the last meeting you rejected all bids that were received. He was tasked with taking another offer. That offer has been put in front of you. He needs a Resolution to accept the new offer. This would start the process again. Mayor Peoples asked Mr. Morgan about this. Attorney Morgan needed a motion to reject all the bids and start the process over.

Mr. Fincher asked if he could speak. Mayor Peoples asked the board if they had problems with Mr. Fincher speaking. Being none, they allowed him to speak.

Ellis Fincher of 77 Chestnut Street, Unit 105 in Tryon, explained that his family moved to Tryon in 1966. In 1971, he moved out of the town limits until April of this year. Both of his children attended Tryon City Schools. They were hands on volunteers throughout their children's school years. He began his career at age 19, working at Henson's. In 1979, he became an officer and part owner. They have worked with the Town giving reduced rates on grading at Ziglar Field, mulch at the playground at Harmon Field, donating mulch to the garden clubs around town. They took the town's brush for years at no charge. The Town asked his father before he died if they could place a sign on his property near Highway 176. The Town will landscape and maintain the area. They did landscape it, but they haven't maintained it. For the last ten years he has allowed the town to leave the sign. The sign reads "Welcome, The Friendliest Town in the South". He and his partners purchased property that wasn't in the city limits, but they soon requested it to be moved into the city limits. They then purchased the property that TD Bank was located at 936 S. Trade Street. The lot located beside One Tryon Place was purchased by him and brought back to life, by grading and filling in and now maintaining. Why does he bring these purchases up? It is to let you know how long he has been around and to let you know what you can expect from one of his endeavors. This brings him to why he is here this evening. He is sure that you are aware that he is the one that put in the original bid of \$145,000 on 55 Melrose Avenue. It was upset at \$150,000. He then submitted a \$160,000 bid that was not upset. The water was muddied by a last-minute bid that threw out his bid. The property should have been awarded to him. The Town paid \$42,500 for this property and spent approximately \$80,000 to remediate the contamination to bring the cost to less than \$125,000. His bid of \$160,000 would have given the town an extra \$35,000 for profit. He asked if the Town was in the real estate business or just being greedy. He asked if the town needed the money or was there another reason. He understands the bid was from a local foundation or trust. Since the bid was emailed or faxed, he would like to know who delivered the check to the Town of Tryon. He would also like to know who signed the check. He feels the process is tainted. He would like a thorough investigation of the parties involved. He would also like to request that any further attempt to market this property wait until this investigation is completed. He asked the board to take the time to consider the optics of this situation. He thanked the board for listening.

Mayor Peoples explained we have a motion. Commissioner Ingham explained that we have questions that need to be answered. His reasoning for voting the way they did is there was a last-minute bid, but

the intent was there. He doesn't feel that anyone was trying to pull the wool over anyone's head. The intent was for him to purchase the property.

Mr. Fincher asked for the name of the person who signed the check and brought it in. Town Clerk Bell stated it was a Nina Simone check signed by Crys Armbrust.

Commissioner Armbrust explained that it was him, we had gone months without any bidders. This situation had been going on for two years. Mr. Fincher understands that. He could have purchased the property for \$55,000, but he didn't want his name on it until it was remediated. Armbrust explained the town went through that process. The Town had a duty to all of our citizens.

Mr. Fincher told him that was all in the past. He feels this was tainted, because one of the commissioners brought a check in from the Foundation that he is on. Armbrust will stand back from this process, because that is what is legally required.

Mayor Peoples explained he had received a call from a person that filled out paperwork and turned it in. He told him what he thought was correct, but told him to call Zach to make sure this was correct. After that he doesn't know what happened. He then asked what they should legally do. Once they were told this is what they did.

Mr. Fincher explained that was probably the proper answer, but if a check had not come in that muddied the water, then his bid would have been accepted. He told Crys that when he came to him and advised him what to submit (\$145,000), then you would recommend approval. You got your out, because it was done on an upset bid and he will let him go with that, but that is what he said.

Mr. Fincher feels this needs to be fully investigated before moving forward. Commissioner Armbrust stated he feels they have. They went to the local government. Mayor Peoples asked if they had done all that they should have done, legally and ethically. Attorney Morgan believes so, but you have always had the right to reject all bids, so that's the final action to be done as he recalls. Now another has come in and so the question before the council tonight is whether or not to start this process over by resolution. He understands that is was murky, but in any event per resolution you have the right to reject any and all bids.

Commissioner Ingham told Mr. Fincher the board was not trying to be greedy, but however our obligation is to the town and we are not a murky town. The option was there and if we can make more money, then we should. Mr. Fincher thought their obligation was to clean it up and get their money back. Ingham stated that was one of their obligations and we did clean it up.

Commissioner Armbrust explained this sale pays for other projects. Amber Fincher explained the people are the ones paying for the projects because they love the area and they love the people here.

Mayor Peoples asked if he would like to withdraw his motion. Ingham said he was a little uncomfortable with it. Commissioner Crowell asked to use the same motion at last month's meeting and award this to Mr. Fincher.

Attorney Morgan explained you need to decide if you want to approve the resolution. Mayor Peoples explained we have a motion on the table. Commissioner Ingham withdrew his motion. Mayor Peoples asked if there was any discussion. Crowell replied he would like to use the same motion used at last month's meeting to award to Mr. Fincher.

Mayor Peoples explained we included in the resolution the right to deny any and all bids. Attorney Morgan explained that you would have to rescind the motion to deny and a motion to reconsider. He would have to look into this to be sure. Armbrust would like for the board to get back on track in this process. Mayor Peoples wants to work this from both sides off of reality and law, not just a motion.

Ingham explained that the other person is a Polk County native, born here.

Ollis explained the process was cutoff last month when you made the motion to deny. You can task him to find out if there are any other options. Ingham would like to task him to do that. Mayor Peoples asked if we decide to table this, can we go back and do this. Attorney Morgan explained that you have two entities that believe they have the winning bid. You already have a new bid. You have the option to take it and start the process over or not to accept it. If you table it, we can look into the process.

Ingham made a motion to table with the manager investigating the process. The motion carried unanimously.

PUBLIC HEARING: CONDITIONAL USE PERMIT

Mayor Peoples opened the Public Hearing. Town Clerk Bell swore in the persons wanting to speak. Mayor Peoples asked who were the ones that purchased the property. Mr. Wainscott explained that he owned the property. Mayor Peoples asked if he had researched and knew that Bed & Breakfasts were not allowed. Mr. Wainscott said yes, he did.

Planning Director Tim Daniels read his statement:

This hearing is in regards to Case #21-CU-REZ-01. Mr. Brent Wainscott owns the property at 574 Howard Gap Road, Tryon and is applying for a conditional use district permit and a conditional use rezoning. The conditional use permit allows them to run a Bed & Breakfast on his property. Initially they applied for a straight rezoning R-3 to R-4. In the initial Planning Board meeting, those in the community voiced their concerns, arguing the other uses that would be allowed, specifically the multi-family dwellings and there was the mention of serving bourbon and wine to guests. As a result of the discussion Mr. Wainscott was given the opportunity to change the application to a conditional use permit and re-applied addressing those concerns. At the follow up Planning Board meeting, the Board voted unanimously to recommend to Town Council that the application be denied. The Town Attorney will now explain the process.

Town Attorney Morgan explained this is what was being considered a couple of months back, a straight rezoning. All the different uses that are listed in the permissible use table are allowed. You have to consider all the options. One option is to consider a conditional use rezoning. This approach gives two decisions. One is whether or not to rezone and at the same time you are considering whether or not to make it a conditional use permit. That way you know what you are getting. Every use becomes a conditional use for that property. The rezoning is strictly legislative. The conditional use is quasi-judicial. Therefore, those in opposition have to be sworn in. Everyone is under oath now. We should hear from the applicant first. The ones in opposition are allowed to ask questions of the applicant. The clerk will record the names and addresses of everyone speaking.

Brent Wainscott introduced himself and his wife Tammy Scott. They are the owners of 574 Howard Gap Road. They appreciate the Board's time today. Hopefully he will clear up some misconceptions of the

prior meetings. They have no intentions of making enemies of their neighbors. They want to be good citizens of Tryon and they will do that no matter what decision is made here. One misconception is that they are not on-site. Tammy lives there full-time, with her mother and her son. Mr. Wainscott works in Charlotte and is away from the home several days a week and is here on the weekends. He is an air force veteran. Tammy is a navy veteran. She retired to hopefully run this Bed & Breakfast. Yes, we knew it was zoned R-3 and we knew what we had to do to try and make it a Bed & Breakfast. Hopefully you will understand when we are through here. He recently retired with 35 years as an airplane pilot out of Charlotte. He has a second business, financial planning in Charlotte. Last August he and Tammy were looking at property in the area, pulled off I-26, came down 108 and saw a sign in front of Green Life Inn sign saying Bed & Breakfast ahead. They found the 574 Howard Gap property, met Greg & Linda Williams who were selling it. They fell in love with the property. The house was built in 1913 by the Wilcox family, founders of Tryon. Intent was not to live there, but they are cyclists and want to attend the horse events. His friend's children run the events at the equestrian center. They love the wineries in the area. He has a wine cellar and a bourbon bar. Their intent is not to have a liquor license. His intent was to differentiate them from the other B&B's. They will have a pool. They applied for R-4 and heard the fears of commercialization. They then applied for a Conditional Use permit. They failed at that attempt also. Full-time homeowners. They can be an Airbnb, but they feel the B&B attracts higher clientele people. Ms. Scott stated their property is in a fenced property with a gate. Will not open unless they open it. Mr. Wainscott thanked the Board for considering their request.

Emily Rogers, 534 Howard Gap Road, stated that she is the direct neighbor of those applying. She is a native of Tryon. She grew up here. Born and raised here. She moved away when she was 18 and 23 years later, she has moved back with her family (3 small children). They purchased the Yeager property, which is adjacent to the property a year ago. They have been doing renovations on that property since that time. She loves Tryon, it is the greatest place in the world. She was lucky enough to convince her husband to move back here and wakes up every morning thinking this is a great place. In moving back here, she wanted to live in a town that had a good sense of community, friendly and fairly rural. She grew up on a farm. This application came in initially to change it from an R-3 to an R-4. Two reasons she is opposed to this are: 1) R-4 will open up the area, which is traditionally residential to a lot of different things. That is not what the area looks like and she doesn't want it to be that way. It is a slippery slope. We let one in and what's next? 2) She is young, but she wasn't born yesterday. You originally had an applicant that applied to rezone to R-4 stating a bourbon room. Now they say they are not going to have a bourbon room, but we are going to have a wine cellar, but we are not going to serve wine, it's just to draw people in. She doesn't understand that. If you are telling me, you have a wine cellar, then I think you would have wine on the premises. For the Town of Tryon to think it is okay to have a Bed & Breakfast less than a quarter of a mile of one of your biggest drawing points, Harmon Field, where hundreds of families with small children congregate day after day, it's not a good idea. She is part of the community. She works at St. Luke's Hospital and Spartanburg Regional. She is here to stay. She is sorry that this property was purchased thinking they were going to get this. It's a bad idea. Thank you.

Garland Rice, 1536 Howard Gap Road, has been involved in this process since the beginning. He is mostly thinking about Sallie Page who lives on our road. An 80-year-old woman with a heart condition and couldn't be here today. He thinks of her while saying these things. The community has been fiercely protected. He had talked with Mr. Wainscott awhile back and was told by him that he just loves this area. Mr. Rice said it's because it has been fiercely protected and it continues to be. These are

neighbors that are the backbone of this community. Mr. Peoples asked him the question, did he know about this before he bought the property. At the first meeting, the records will show, he said no. Mr. Wainscott stated that he knew it was R-3 and they had to apply for a Bed & Breakfast. Mr. Rice stated that is his recollection that he didn't know about it before and now saying that he does. It's unfortunate enough that you made a mistake, but as Lucy said because of our hard work we are protecting the community.

Tim Brannon, 2253 Warrior Drive, we've been through two Planning Board meetings. Once going from an R-3 to R-4 and once going from R-3 to R-4 Conditional Use. Further point being, he and Lucy have lived here a long time. They have a farm on Warrior Drive and have protected that property and avoided any development of the property. They now have purchased additional property. They are doing everything they can to protect the property, to keep it pristine. That type of property is what we believe Polk County and the Town of Tryon wants. To now change this one piece of property to an R-4, because one piece of Emily's property is R-4 and is adjacent to this property. They are trying to see why this hasn't been changed. They don't feel this is appropriate to base the change on. His concern is they have a camel nose under the tent. In the future, people could say there is an R-4 there and we want an R-4 on their property. He understands there are more considerations. Everyone has made that clear. There are more considerations than just being adjacent to an R-4. That is one specific issue that has been raised over the years. He doesn't feel that is appropriate.

Mayor Peoples asked the town attorney if this was a conditional use or a rezoning to R-4. Attorney Morgan explained it's all wrapped up together. You have to make the decision to resolve this and if you do then you have to make a decision to issue the conditional use permit. It's on a separate, side by side track. Town Manager Ollis stated it would be rezoned to R-4, but it would have a conditional use for a Bed & Breakfast use, but no other use in R-4. Attorney Morgan stated the Bed & Breakfast would be the only use there. Mayor Peoples just needed clarification.

Carolyn Roff Henry, 1519 Howard Gap Road explained that she is a farmer on Howard Gap Road. She sells her products to Asheville, Greenville and Spartanburg. They do a lot about promoting Tryon, North Carolina. She has history with her parents and Sallie fighting for R-1 up the road. The reality as follows is you all were told you could have potentially an R-4. You were denied that and then the conditional use came up. That was when that was discussed. The reality is that R-4 in this neighborhood sets a precedent for other properties in our neighborhood to become R-4. She hears everything about the bourbon bar and wine cellar and she understands that. Even if you were to get that okayed today, hypothetically then you could come back at a later time and ask to change this. She wants to close that gap down guys. The reality is when she looked up online this week, she found there are 73 Airbnb's in Tryon. There are fourteen within a mile radius of the Wainscott's. There is one that is \$250 a night and one that is \$500 a night. You can advertise you are an Airbnb. The host is on premise and you can have a breakfast. Honestly the two ways she is looking at this is to preserve our neighborhood. You could have an Airbnb and this could potentially change the face of our road. She drives the road multiple times a day. She sees walkers and runners and would like it to be safe. She feels they have options, just not a conditional use.

Mr. Wainscott appreciates the comments. They can go as an Airbnb. They are the walkers and cyclists on the road too. They know they are new. They are not long time Tryon residents, but they would like to be. They are going to be whether they are approved or not. They are not pursuing a liquor license.

You can't serve alcohol without a liquor license, can't even pour it, much less sell it. The fact that he put it in there was only to differentiate it. There are wineries all around here. It was only a selling point. It doesn't mean they are serving alcohol. It doesn't mean there are drunks running all over their property. Love the nice wineries in the area. Maybe he misunderstands the conditional use process. They originally applied for an R-4, but were advised the process was changing. They have no intentions to do anything other than a Bed & Breakfast. They thought the conditional use permit limited them and anyone else who purchased the property to a Bed & Breakfast. That was it. Opening it up to other issues that could or could not happen down the road may apply to someone else, but he doesn't see how it applies to their property if they are only allowed to do a Bed & Breakfast. Having stayed at many Bed & Breakfasts and Airbnb's, he does think you get a higher clientele at Bed & Breakfasts, because you do expect the owner to be there. Maybe the ones around here have the owner there as well, but not all Airbnb's do. Most of the Airbnb rentals people are not looking for the owner to be there.

Town Manager Ollis asked just for clarification, the initial use, when that is applied would this be the only thing allowed. If they were to sell the property to someone else, the new property owners would have to come back to you for approval. Attorney Morgan stated no they could live there or both. Each application rises and falls on its own. You as a board has to decide if it is good or bad. It would not be appropriate in his opinion to think about what might happen in the future. Any future owner or current owner could seek rezoning. It's a fundamental right. Mayor Peoples stated we are here to decide on one thing, right? Attorney Morgan stated yes. He understands their concern, but you can't base your decision on the what ifs in the future.

Tara Brannon, 2210 Warrior Drive, asked for clarification is this Conditional and R-4. Is it attached to R-4 or does it become R-4 with a condition? That's an important distinction. Attorney Morgan explained that it becomes R-4, but it doesn't open it up to all R-4 uses. Ms. Brannon stated it does open up our neighborhood to R-4. She stated you have explained to me that it will become R-4 with a condition. Attorney Morgan explained that it would be R-4, with only one thing allowed. It runs with the land. They couldn't build an apartment building. It really restricts the use. On the map it would show CU-R4.

Lucy Brannon, 2253 Warrior Drive, they are going to live in this neighborhood where they have spent 40 years keeping their property cleaned up. They don't want on Saturday night, Friday night, or Monday night an extra 12 people sitting at the pool, drinking or not, eating fried chicken, ridden their bike all day, come home, sitting by the pool, probably having a beer causing commotion. They don't want commotion. It's a residential neighborhood.

Commissioner Crowell asked on our Planning Board are they Township positions. Planning Director Daniels stated there is a combination of Town residents appointed by you and ETJ (Township) residents appointed by the County. Mayor Peoples stated we have to have ETJ people on the board.

Mayor Pro Tem Booker asked if there were any residents from the community that are for you. Town Manager Ollis sent the Board an email earlier. Attorney Morgan explained that you can only take comments from residents that you can ask questions of. Booker just wanted to ask if anyone agreed with them.

Carolyn Roff Henry asked if they had any personal experience running a B&B. Mr. Wainscott stated no. They have talked about it for years and researched it. Mrs. Scott stated this is a Boutique Bed & Breakfast. It's a small three-bedroom max, eight people max. They will honestly will have more

weekend guest that are friends than guests sitting by the pool eating chicken. They are not doing this to disrupt your neighborhood. She doesn't want them to think it's going to be a big commercial process. It's a small property. Ms. Henry asked if you are denied tonight, will you open as an Airbnb. Ms. Scott stated yes.

Mayor Peoples asked if there were any more comments or questions? Being none, he closed the Public Hearing.

Commissioner Armbrust made a motion to accept the recommendation of the Planning Board and to deny the request. Commissioner Ingham agrees with recommendation. He is sorry for the applicants, because he knows your intent was good. They do have a Planning Board that does all the research for them before making a recommendation. The motion carried unanimously.

MINIMUM HOUSING UPDATE

Planning Director Daniels updated the board.

- 1) 427 E Howard & 45 E Livingston were both bid on by SVR Sales (\$11,300 & \$17,850), basically they are the low bids, they can move forward and get this done. Also received a bid from PACE (\$11,245 & \$18,292). East Livingston property he is working with Phil Feagan to get this done. He thinks we need something in writing that we are going to get the additional piece of property at no extra cost to the Town. Ollis asked for a motion to approve the SVR Sales contract.

Commissioner Armbrust made a motion to accept the SVR Sales contracts. The motion carried unanimously.

- 2) 140 Grady Avenue-the Owner has informed him that demolition will start on June 7th
- 3) 143 Broadway – he sent an inquiry letter to find out what they are going to do with the property. He asked about the roof and if they were planning to sell the property. He didn't warn them that the house meets minimum housing as of yet. If nothing is done it will soon.

TDDA UPDATE

TDDA Director Henderson submitted the ED report to be included in the packet, so if you have any questions, now would be a great time. She plans to talk to you all at the June 15th work session about the MSD. That will hopefully be in the planning for the next year. They are also looking into the Façade Grant that had been done a couple of years ago. It's a matching grant up to \$2,000 that, downtown businesses can apply for awnings and paint for their exterior of the building. They're going to be applying for more funding, such as the Duke Energy Grant which is for \$25,000, to be used for COVID-Relief issues for businesses.

TOWN MANAGER'S REPORT/TOWN PROJECT PRIORITIZATION

Town Manager Ollis reported:

- 1) Meeting with NCDENR concerning Braewick issue-still on time with ASADRA Grant-once we get approval from the state, we get that money back. Almost \$2million.
- 2) Been communicating with the state about the budget process
- 3) Ordered signage for the Plaza

- 4) Sidewalks have been marked up by SEGRA out of Greenville-fiber project-he decided to call NCDOT to see if they knew anything. They did not, so he forwarded them everything he had on this. DOT will look into this. He also informed Duke. He will be meeting with them soon.
- 5) Working with Duke on the lights. He wanted to thank them for their response to the tree down on E. Howard Street.
- 6) Been meeting with the County on several things., such as the County and Town's responsibilities and where they lie in regards to the shooting range.
- 7) Working on the ARP Funds
- 8) DEHEC has reached out for the Cranston Review. One detail is that he is to forward report to SCDOT. Once he did, they closed the bridge, but have recently opened it back up

Armbrust asked about the signage for the Plaza. Ollis explained that it would be black and gold and ready soon.

- 9) He thanked staff in the backroom for all their hard work, along with Tim and Paige for their hard work. He also thanked the board for their work on the budget.

COUNCIL/MAYOR REPORT

Commissioner Ingham thanked all the staff for all their hard work.

Commissioner Armbrust thanked the Town of Tryon for the work at the cemetery. Successful ground breaking ceremony for the Nina Simone Archive building. He looks forward to ongoing work at Ziglar Field.

Commissioner Crowell thanked everyone for everything they have done.

Mayor Pro Tem Booker thanked the staff and asked if we had heard from Mr. Wingo. Ollis hasn't heard from him. Booker-they took from the last meeting that the field would be ready. Ollis will contact him.

Mayor Peoples explained that Jerry Soderquist works hard for the cemetery and commended John Vining for cleaning the tomb stones.

Commissioner Ingham thanked the volunteers who work tirelessly to help keep the town clean.

CITIZEN COMMENTS & RESPONSES

Jerry Soderquist invited everyone to come to the cemetery on May 26, 2021 at 9:30 am. They will be walking the cemetery and placing flags on the veteran's graves.

ADJOURN

Mayor Peoples entertained a motion to adjourn. Commissioner Armbrust so moved. The motion carried unanimously.

J. Alan Peoples, Mayor

Attest:

Susan B. Bell, Town Clerk