

## AGENDA

### Regular Meeting of the Sawmills Town Council Sawmills Town Hall

Tuesday, September 16, 2014  
6:00 pm

1. Call To Order  
Mayor Pro-Tem Trena McRary Kirby
2. Invocation  
Pastor Ron Burgett
3. Pledge of Allegiance  
Mayor Pro-Tem Trena McRary Kirby
4. Adopt Agenda  
Mayor Pro-Tem Trena McRary Kirby
5. Approve Meeting Minutes  
A. August 19th Regular Meeting Minutes  
Mayor Pro-Tem Trena McRary Kirby
6. Public Comment  
Mayor Pro-Tem Trena McRary Kirby
7. Recognitions:  
A. Recycle Rewards  
Administrator Seth Eckard  
B. Yard of Month Winners  
Administrator Seth Eckard
8. Discussion:  
A. Appointment of a New Mayor  
Administrator Seth Eckard  
B. Caldwell County Railroad Commission Member Appointment  
Administrator Seth Eckard  
C. Caldwell County Sales Tax Reinvestment Commission Member  
Administrator Seth Eckard
9. Planning Matters:  
A. Proposed Text Amendment for Protest Petitions  
Planner Elinor Hiltz  
B. Appointment for Subdivision Review Board  
Planner Elinor Hiltz
10. Public Comment:
11. Updates:  
A. Code Enforcement Monthly Report  
Administrator Seth Eckard  
B. Administrators Report  
Administrator Seth Eckard  
C. Council Comment  
Mayor Pro-Tem Trena McRary Kirby
12. Adjourn  
Mayor Pro-Tem Trena McRary Kirby

**TUESDAY, AUGUST 19, 2014**  
**TOWN OF SAWMILLS REGULAR COUNCIL MEETING**  
**6:00 PM**

**COUNCIL PRESENT**

Bob Gibbs  
Joe Wesson  
Gerelene Blevins  
Jeff Wilson  
Johnny Wilson

**STAFF PRESENT**

Seth Eckard  
Julie Good  
Terry Taylor  
Elinor Hiltz

**COUNCIL ABSENT**

Trena McRary Kirby

**CALL TO ORDER:** Mayor Bob Gibbs called the meeting to order.

**INVOCATION:** Mayor Bob Gibbs gave the invocation.

**PLEDGE OF ALLEGIANCE:** Mayor Bob Gibbs led the Pledge of Allegiance.

**ADOPT AGENDA:** Mayor Bob Gibbs asked for a motion to adopt the agenda.

Joe Wesson made a motion, and Gerelene Blevins seconded, to adopt the agenda. All were in favor.

**APPROVE JULY 22, 2014 REGULAR MEETING MINUTES:** Mayor Bob Gibbs asked for a motion to approve the July 22, 2014 regular meeting minutes.

Joe Wesson made a motion, and Jeff Wilson seconded, to approve the minutes. All were in favor.

**PUBLIC COMMENT:** Mayor Bob Gibbs asked if anyone had any questions or comments at this time.

Jim Sponenburg wanted to introduce himself. Mr. Sponenburg is a resident of Caldwell County and is running for the NC State Senate. Mr. Sponenburg wants to go sit in on town meetings and learn what is going on in Caldwell County so he will be better prepared to represent the county if he wins the election.

Donnie Potter spoke on the 321-corridor study that the County Commissioners have started and the effect it could have on Sawmills and the surrounding municipalities. Mr. Potter also spoke on traveling ball teams and how Caldwell County would like to try to get traveling ball teams to play at fields in Caldwell County. The County would run the ball program. The County would rent the fields from the municipalities. The municipalities would get the money from the field rentals plus any concessions that the municipality would sell. It is a win-win situation for everyone.

**RECOGNITIONS:**

**RECYCLE REWARDS WINNER:** Town Administrator Seth Eckard announced Mr. and Mrs. Gary Reese as the August Recycle Rewards winner. A credit of twenty-eight dollars (\$28.00) will be added to their sanitation bill and their certificate will be available at the Town Hall for pick up.

Town Administrator updated Council on the first month of the new recycle program. July 2014 the Town recycled 18.99 tons compared to July 2013 where the Town recycled 8.77 tons. The highest ever recycled under the old program was 11.56 tons. Republic Services will send reports out quarterly.

No Council action was required.

**YARD OF THE MONTH WINNERS:** Mayor Bob Gibbs announced that Lauri and Keith Browning, from the 28630 zip code, and Mt. Zion Baptist Church, from the 28638 zip code, as the August Yard of the Month winners. Mayor Bob Gibbs stated that both certificates would be available at the Town Hall for pick up.

No Council action was required.

**SOUTH CALDWELL SPARTANS JUNIOR AMERICAN LEAGUE BASEBALL TEAM:** Mayor Bob Gibbs congratulated the South Caldwell Spartans Junior American Baseball Team, coached by Jeff Parham, on winning the State Title in Cary, NC.

No Council action was required.

**FINANCIAL MATTERS:**

**BID AWARD FOR MOORE ACRES DRIVE AND BAIRD WALKING TRAIL:** Town Administrator Seth Eckard stated that the Town received the following three (3) bids for repairs on Moore Acres Drive and Baird Park walking trail:

Midstate Contractors, Inc.	\$224,210.00
<b>Evans Construction</b>	<b>\$221,313.50</b>
Caldwell Construction Services, LLC	\$228,745.00

Joe Wesson made a motion, and Gerelene Blevins seconded, to award the bid to Evans Construction in the amount of \$221,313.50, as they were the lowest bidder. All were in favor.

**REQUEST FOR A DONATION FROM SOUTH CALDWELL HIGH SCHOOL BAND BOOSTERS:** Town Administrator Seth Eckard stated that the South Caldwell High School Band Boosters has requested a donation in the amount of \$100.00 (one hundred dollars).

Gerelene Blevins made a motion, and Joe Wesson seconded, to give a donation in the amount of \$100.00 (one hundred dollars) to South Caldwell High School Band Boosters. All were in favor.

**DISCUSSION:**

**VETERANS PARK SLOPE:** Town Engineer Benjie Thomas stated that approximately 2,500 square feet is starting to sink in below the parking lot toward the cove where there was fill dirt added on top of the storm drain system when the park was built. Dan Miller was hired to investigate and believes that the problem could be in the drainpipe at the slope and that moisture could factor into that problem. There is a crew with camera access coming to scope the drainpipe to see if it needs to be repaired.

Town Engineer Benjie Thomas recommends that the area be dug out, pipe fixed if that is the problem, and layer the area with stone then put fill dirt back in. If nothing is done, then the area above the slope will become unstable and start to erode.

Johnny Wilson made a motion, and Joe Wesson seconded, to move forward, have a survey done then put bids out to correct the Veterans Park slope problem. All were in favor.

**PUBLIC HEARING: REZONING 4737 AND 4741 HICKORY NUT RIDGE ROAD:**

**OPEN PUBLIC HEARING:** Mayor Bob Gibbs asked for a motion to open the public hearing.

Joe Wesson made a motion, and Gerelene Blevins seconded, to open the public hearing. All were in favor.

**STAFF COMMENT/RECOMMENDATIONS:** Town Planner Elinor Hiltz stated that on July 1, 2014 the Planning Board unanimously recommended approval of the 4737 and 4741 Hickory Nut Ridge Road rezoning from R-20 to RA-20. This is a 10 (ten) acre piece of property. The subject property has 1(one) mobile home and 1 (one) stick built home on it and the applicant would like to do a family subdivision to add 2 (two) additional mobile homes. Town Planner Elinor Hiltz stated that this rezoning is consistent with the Comprehensive Plan and an RA-20 district is right across the street.

**PUBLIC COMMENT:** Mayor Bob Gibbs asked if anyone wished to speak on the proposed rezoning of 4737 and 4741 Hickory Nut Ridge Road.

John Letterman at 4730 Hickory Nut Ridge Road spoke. Mr. Letterman stated that he was against the rezoning because, after talking to multiple appraisers, he has been informed that the rezoning would bring the value of his property down at least \$15,000.00 (fifteen thousand dollars) and could possibly be more depending on the condition of the mobile homes.

Alice Wright, who owns the property for rezoning, spoke. Mrs. Wright told the Council that she has 2 (two) children who are both married and both expecting their own children. Mrs. Wright stated that she wants to be able to rezone the property so that she can put a

doublewide for each of her children on the property and her grandchildren can be the 5<sup>th</sup> (fifth) generation of her family to grow up on the property that has been in her family for 80 (eighty) years.

Tamara Letterman, at 4730 Hickory Nut Ridge Road, spoke. Mrs. Letterman stated that she built her home 11 years ago. She has 2 (two) boys of her own and that she wants to also leave them her property. She is against the rezoning because, like her husband John Letterman, she has also spoken with multiple appraisers and they have told her that it will bring her property values down. Mrs. Letterman stated she did not want to leave her children with property that has little or no value. Mrs. Letterman also told Council that they are in our ETJ and get no resources from the Town of Sawmills. Mrs. Letterman stated that she did not think it was fair for a Council that she could not vote for to be able to vote on an issue that will affect her and her family.

Ryan Wilson at 4751 Hickory Nut Ridge Road spoke. Mr. Wilson stated that his family has had six (6) generations grow up there and that he is for the rezoning.

George Wenzel, Jr, at 5016 Grouse Lane, spoke. Mr. Wenzel stated that he has been informed that if the property is rezoned, it will affect the tax value of his property. Mr. Wenzel also wanted to know if it was rezoned, could there be more mobile homes put on the property? Town Planner Elinor Hiltz informed Mr. Wenzel that there could be more mobile homes put on the property if the owner made it a subdivision and added a road that was up to state standards. Mr. Wenzel was opposed to the rezoning.

Ms. Ruthann Egan, at 5016 Grouse Lane, spoke. Ms. Egan stated that if her taxes were lowered on her property then she would consider supporting the rezoning. Ms. Egan is opposed to the rezoning.

Benny Townsend spoke. Mr. Townsend owns the property that connects to 4741 and 4737 Hickory Nut Ridge Road. Mr. Townsend is Alice Wright's brother. Mr. Townsend stated that his land and Mrs. Wright's land were one (1) parcel and was divided between them. Mr. Townsend has not put anything on his property yet, but he also has children of his own and would like to leave this property to them. Mr. Townsend stated that his family has owned that property for 80 years. Mr. Townsend is for the rezoning.

Shane Wilson spoke. Mr. Wilson owns the property next to Benny Townsend and stated that he is not opposed to the rezoning.

Clyde Miller spoke. Mr. Miller owns property close to the rezoning and is not opposed to the rezoning.

Adam Wilson spoke. Mr. Wilson lives behind the property to be rezoned and is not opposed to the rezoning.

**CLOSE PUBLIC HEARING:** Mayor Bob Gibbs asked for a motion to close the public hearing.

Jeff Wilson made a motion, and Johnny Wilson seconded, to close public hearing. All were in favor.

**COUNCIL ACTION:** Joe Wesson made a motion, Jeff Wilson seconded, to approve the rezoning request from R-20 to RA-20 and the rezoning is consistent with the Town's Comprehensive Plan. All were in favor.

**PUBLIC HEARING: AMENDMENT TO TOWN OF SAWMILLS CODE OF ORDINANCE TEXT:**

**OPEN PUBLIC HEARING:** Mayor Bob Gibbs asked for a motion to open the public hearing.

Joe Wesson made a motion, Gerelene Blevins seconded, to open public hearing. All were in favor.

**STAFF COMMENT/RECOMMENDATIONS:** Town Planner Elinor Hiltz stated that under Town of Sawmills current code, churches are only allowed in residential districts. The Town would like to amend the zoning code to allow churches in every zoning district because churches can fit in a variety of building types in a variety of areas. The text amendment is consistent with the Comprehensive Plan.

**PUBLIC COMMENT:** Mayor Bob Gibbs asked if anyone wished to speak on the proposed text amendment.

No one wished to speak.

**CLOSE PUBLIC HEARING:** Mayor Bob Gibbs asked for a motion to close the public hearing.

Jeff Wilson made a motion, and Gerelene Blevins seconded, to close public hearing. All were in favor.

**COUNCIL ACTION:** Jeff Wilson made a motion, and Joe Wesson seconded, to adopt the text amendment to allow churches in every zoning district and the text amendment is consistent with the Town's Comprehensive Plan. All were in favor.

**PLANNING MATTERS:**

**LIVESTOCK TEXT AMENDMENT:** Town Planner Elinor Hiltz stated that since the May 20, 2014 council meeting, she has meet with council members and further revised the livestock text amendment with council's help. The proposal is consistent with the Town's Comprehensive Plan. The proposal is as follows:

- Livestock-Livestock is unrestricted in the ETJ, with the exception of platted major subdivisions. Livestock is never permitted within major subdivisions.
- In the Town limits livestock is not permitted on parcels less than 1 (one) fenced acre.
- In the Town limits on parcels that are between 1 (one) and 4 (four) fenced acres, homeowners can have 2 (two) animals per each ½ acre.

- In the Town limits there can be no livestock kept on vacant properties.
- In the Town limits barns and fences must be set back 100 (one hundred) feet from the nearest structure under different ownership.
- The regulations for fowl that the Town already has stays in place with the exception of commercial poultry farms. Commercial poultry farms are allowed in the Town limits with a conditional use permit.

Joe Wesson made a motion, Jeff Wilson seconded, to remove the barn and fence 100 (one hundred) foot setback and adopt the remaining livestock text amendment and the livestock text amendment is consistent with the Town's Comprehensive Plan. All were in favor.

**HOUSE CONDEMNATION PROCESS AND COSTS:** Town Planner Elinor Hiltz stated that there have been discussions about squatters being in Sawmills and she has done research on the house condemnation process and the costs. Buildings that have been uninhabited for a long time attract vagrants. In the minimum housing code, a Town can be justified to tear down a house that has been posted unfit for human habitation. However, it takes a minimum of 2 (two) years and there is a 2 (two) to 11 (eleven) step process that the Town must go through, depending on owner cooperation.

In the case of a burnt house, or a house that is falling down that the Town would like to demolish, that can be accomplished through the nuisance code. This process takes about 90 (ninety) days and can be done without a Building Inspector's assistance.

The approximate costs are as follows:

- Asbestos inspection: \$400.00-\$1,000.00. If asbestos is present add 25% to demolition costs
- Removal of a 1,500 square foot cinderblock building, asbestos included: \$10,000.00
- Removal of a singlewide: \$1,200.00-\$4,000.00
- Removal of a 1,100 square foot house: \$7,000.00
- Past Sawmills cases: \$4,000.00 to \$5,000.00

No Council action was required.

**PUBLIC COMMENT:** Mayor Gibbs asked if anyone had any questions or comments at this time.

Donnie Potter wanted to ask if the Town could fix the road at the railroad tracks on Helton Road because the road at the tracks is horrible.

Debra Norris asked about the intersection at Cajah Mountain Road and Horseshoe Bend Road. Mrs. Norris stated that she knows that it is a state maintained road and not a town maintained road but wanted to know if there was anything that the Town could do about not being able to see around the Leland Cyprus trees. The state has informed Mrs. Norris that the trees are not in the right of way so it is the property owner's responsibility to trim the trees back.

**UPDATES:**

**CODE ENFORCEMENT MONTHLY REPORT:** Administrator Seth Eckard stated Town Planner Elinor Hiltz has enclosed an updated status report of Code Enforcement cases and the progress that has been made on each case as of August 2014.

No Council action was required.

**ADMINISTRATORS REPORT:** Administrator Seth Eckard made the following announcements:

- The DOT bridge on Highway 321-A between Sawmills and Hudson is now open
- The May Road bridge is now closed until August 29, 2014
- The Town of Sawmills would like to congratulate Jane Wesson for winning the Lydia Beam Memorial Award from Caldwell Community College and Technical Institute
- The Sawmills Fall Festival will be September 13 from 11:00 am to 3:00 pm

**COUNCIL COMMENT:** Mayor Bob Gibbs asked if anyone on the Council had any questions or comments at this time.

There were none.

**COUNCIL ADJOURN:** Mayor Bob Gibbs asked for a motion to adjourn.

Gerelene Blevins made a motion, and Jeff Wilson seconded, to adjourn the meeting. All were in favor.

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Julie A Good, Town Clerk

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Trena McRary Kirby,  
Mayor Pro-Tem



**AGENDA ITEM 7A**

**MEMO**

**DATE:**

September 16, 2014

**SUBJECT:**

Recognition:  
Recycle Rewards  
Program

**Discussion:**

The Town of Sawmills would like to congratulate Mr. and Mrs. Mark Maheux on winning the Recycle Rewards Program for the month of September. Town Administrator Seth Eckard will present Mr. and Mrs. Maheux with a Certificate of Appreciation. A twenty-eight dollar (\$28.00) credit will be added to the current sanitation bill.

**Recommendation:**

No Council action is required.

**AGENDA ITEM 7B**

**MEMO**

**DATE:**

September 16, 2014

**SUBJECT:**

Recognition:  
Yard of the Month  
Winners

**Discussion:**

Joe Helton, from the 28630 zip code, and IBS, from the 28638 zip code, are the Yard of the Month winners for September. Town Administrator Seth Eckard will present them with a Certificate of Appreciation.

**Recommendation:**

No Council action required.

**AGENDA ITEM 8A**

**MEMO**

**DATE:**

September 16, 2014

**SUBJECT:**

Discussion:  
Appointment of  
A New Mayor

**Discussion:**

On August 25, 2014, Bob Gibbs resigned as Mayor of Sawmills. Attached to this memo are options from Town Attorney, Terry Taylor, as to the appointment of a new Mayor. The options are as follows:

- Nominate a candidate for Mayor;
- Postpone Mayor appointment; or
- Not appoint a Mayor and wait until the November 2015 election cycle.

**Recommendation:**

Staff recommends Council discuss how to move forward with appointment of a new Mayor.

**YOUNG, MORPHIS, BACH & TAYLOR, LLP**  
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TERRY M. TAYLOR ♦  
PAUL E. CULPEPPER  
KEVIN C. MCINTOSH  
JIMMY R. SUMMERLIN, JR.  
TIMOTHY D. SWANSON

JORDAN L. FAULKNER

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♦ CERTIFIED MEDIATOR  
♦ BOARD CERTIFIED SPECIALIST IN  
REAL PROPERTY LAW-RESIDENTIAL,  
BUSINESS, COMMERCIAL &  
INDUSTRIAL TRANSACTIONS

August 25, 2014

**M E M O R A N D U M**

**TO: SAWMILLS TOWN COUNCIL**  
**FROM: TERRY M. TAYLOR, ESQ.**  
**RE: VACANCY OF MAYOR**

I have been asked to provide some guidance regarding filling the vacancy of the Mayor's position, and in that regard I would provide you with the following information.

- 1) **N.C.G.S. 160A-63** says "vacancies that occur in an elective office of a city shall be filled by appointment of the City Council". It does not appear that there is any case law concerning the provision, but my opinion would be that the vacancy is filled by majority Council vote.
- 2) **Is there a time limit in which the Office must be filled?** There is **no** time limit within which the appointment must be made.

Council Members sometimes suggest they would prefer to leave it to the electorate to choose a new Council Member, therefore not filling a vacancy before the next election. While this may reflect a genuine desire to afford the public the right to choose the vacant slot, it is generally reviewed that a vacancy should be filled as soon as reasonably possible.

- 3) **Do the General Statutes or Town Charter Require the Council to use a particular process to select the person to fill the vacancy?**

**No.** Neither the Town of Sawmills Charter nor Statutes require a particular method to fill a vacancy other than by a vote of Council. Some Towns decide to appoint the next highest vote- getter in the most recent election, but again there is no particular method. Some Boards ask for nominations and

applications from the community and some Town Councils just simply make the nominations from among their own recommendations.

- 4) **Are the Town Records relating to the Applicants or the Methods the Town uses to fill the vacancies subject to public access?**

**Yes.** Whatever method the Town uses to identify candidates for appointment, if they have an application process when asking for the selection of the candidates, is public records, and probably is not protected under the Personnel Privacy Statutes. If we do want to follow a formal application process, we want to make sure to put a warning in the application process that all of their information is subject to being disclosed, and we need to be careful not to ask any personal information that the Council does not need in making their determination.

- 5) **May the Town Council meet in Closed Session to discuss candidates under consideration to fill any vacancy.**

**No.** All of this information is open and is not one of the exceptions that can be considered to discuss in Closed Session. Qualifications, competence, performance, character are all matters of public record that must be discussed in an open meeting. If you decide to go this route of applications, there are several methods to use, and I would be glad to discuss those with you further.

- 6) **Is an appointment to fill a vacancy for the remainder of the term or only until the next election?**

The requirement is that the person appointed serves until the next election, even if the original term would extend beyond the next Town election. The person appointed may run for the seat and may be re-elected, but otherwise the appointment will end when someone is elected to that seat. The only exception to this rule is when a vacancy actually occurs within ninety days of the next election, then the person appointed will serve for the entire remaining term, even if it extends beyond the next election.

- 7) **Can the vacancy be filled by another member of the Town Council?**

**Yes.** The Town could vote to fill the Mayor's seat with another member of the Council, and then that person would serve until the next election. This would then create an open seat for that Council Member's slot, and then again Council would vote following the same procedures as for the above to fill the vacancy created in that Town Council Member's position.

Please let me know what further comments or questions you would have.

Very truly yours,

Terry M. Taylor

**AGENDA ITEM 8B**

**MEMO**

**DATE:**

September 16, 2014

**SUBJECT:**

Discussion:  
Caldwell County  
Railroad Commission  
Member Appointment

**Discussion:**

A representative from each municipality serves a two (2) year term on the Caldwell County Railroad Commission. Bob Gibbs was serving on the Caldwell County Railroad Commission. The term started on January 1, 2014 and lasts until December 31, 2016.

**Recommendation:**

Staff recommends Council decide whom they wish to appoint as the Caldwell County Railroad Commission member representing the Town of Sawmills.

**AGENDA ITEM 8C**

**MEMO**

**DATE:**

September 16, 2014

**SUBJECT:**

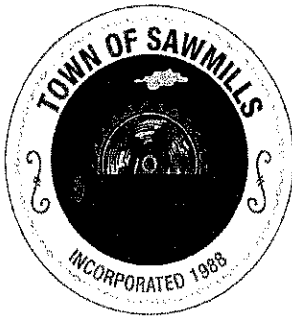
Discussion:  
Caldwell County  
Sales Tax Reinvestment  
Commission Member

**Discussion:**

Bob Gibbs was serving on the Caldwell County Sales Tax Reinvestment Commission. Council needs to appoint a member to serve on the Caldwell County Sales Tax Reinvestment Commission until December 2015.

**Recommendation:**

Staff recommends Council decide whom they wish to appoint as the Caldwell County Sales Tax Reinvestment Commission member representing the Town of Sawmills.



**TOWN ADMINISTRATOR**  
Seth Eckard

**TOWN PLANNER**  
Elinor Hiltz

**PLANNING  
BOARD**

Steve Duncan, Chairman  
Buford Pennell  
David Powell  
Thad Hall  
Clyde Miller

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**COUNCIL MEETING**  
**Sept 16, 2014**  
**6:00 PM**

**Agenda Item #9A**

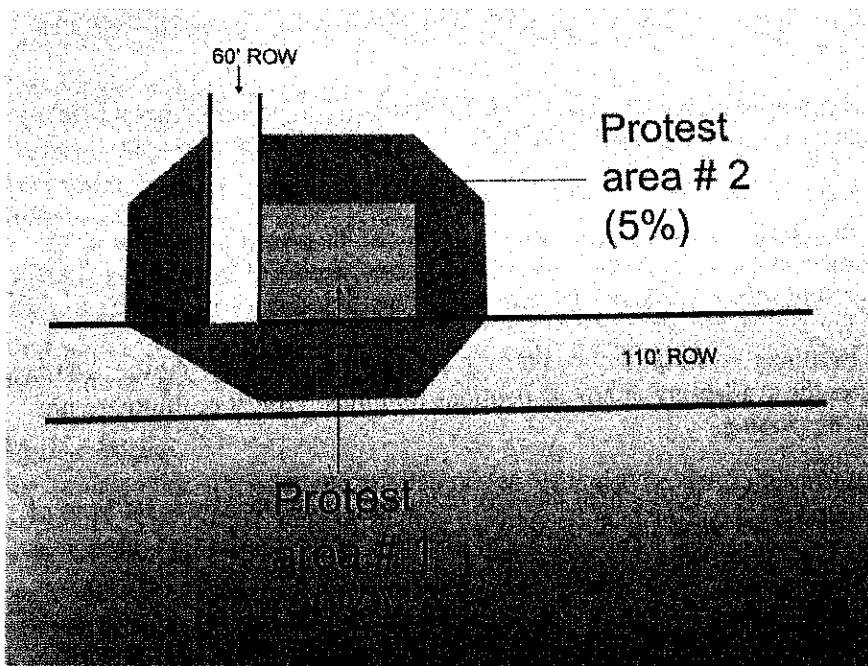
**PLANNER'S STAFF REPORT**

**PROTEST PETITION TEXT AMENDMENT PROPOSAL**

**Status:** The Planning Board unanimously recommended approval of this ordinance on September 2<sup>nd</sup>.

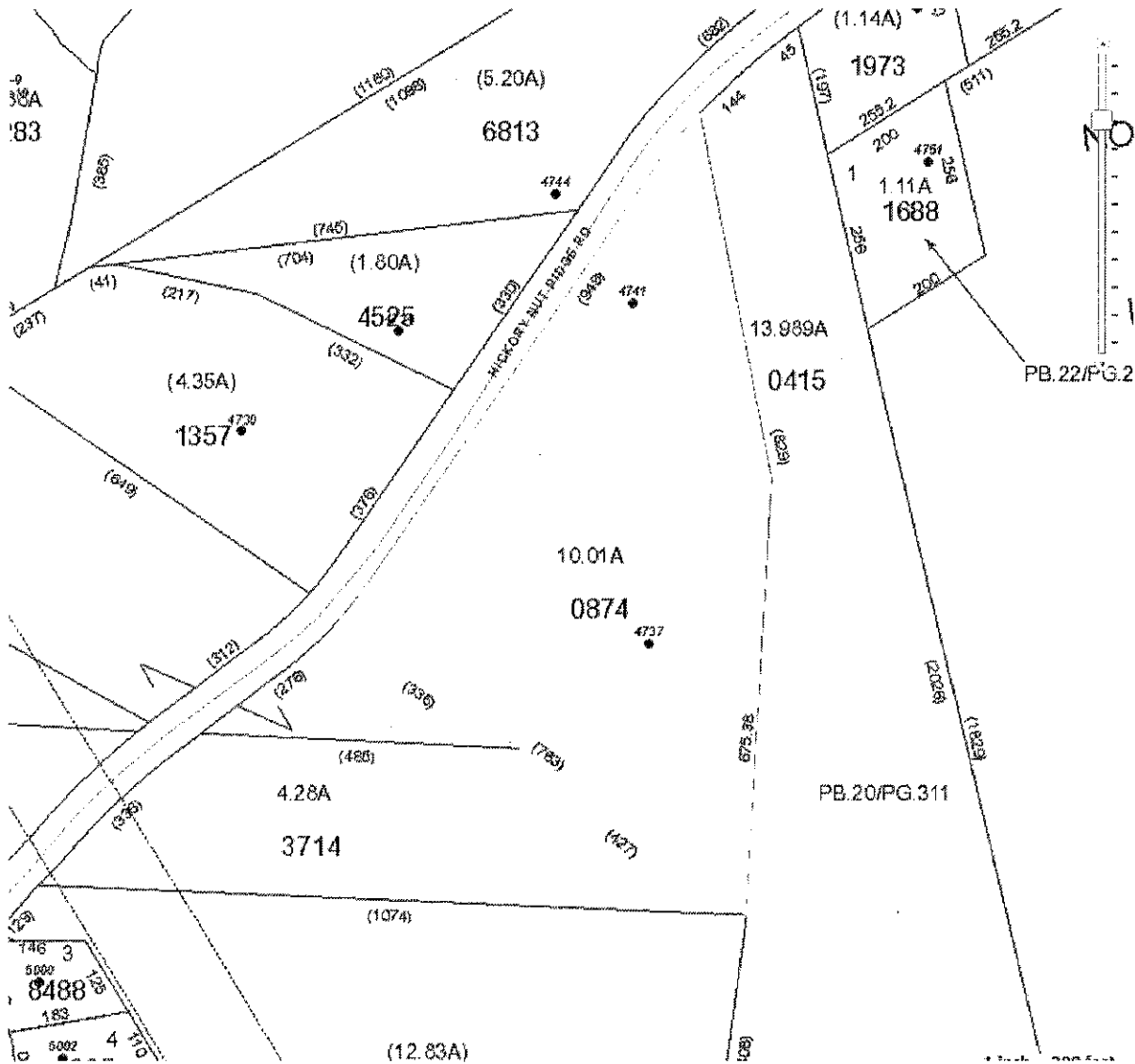
**Proposal:** The protest petition section of the Sawmills code conflicts with state statutes. The proposed new text is the state statute, almost verbatim.

If opposition to a rezoning turns in a valid protest petition more than two working days before the public hearing, then Council must approve the rezoning by a  $\frac{3}{4}$  vote for the rezoning to pass. Councils usually vote unanimously so a statewide poll has shown that protest petitions have only affected the outcomes of something like 6 percent of cases (UNC School of Government blog). But protest petitions are good for indicating that there is clear opposition to the rezoning.



The graphic above shows how many signatures a valid protest petition has to have.





In many cases it is not hard to collect enough signatures for the protest petition to be valid. The owners across the street from 4737 Hickory Nut Ridge only needed to sign the petition themselves to meet the requirement. (The approximate square footage of a perimeter 100-foot buffer is 312,600 and the property across the street constituted 11 percent or 37,600 square feet of the buffer).

If Sawmills did not have the protest petition in its ordinance, a landowner would still have a right to file one per state law.

**Consistency with Comprehensive Plan:**

Sawmills Comprehensive Plan does not cover rezoning proceedings, but zoning is a useful tool for land-use planning. This text amendment could prevent legal challenges. A judge can make a Town rehear a rezoning case if the Town did not do it legally the first time, by inadvertently discounting a protest petition that should have been counted.

**Action Needed:**

**SET PUBLIC HEARING** for October 21, 2014 at 6:00.

Sept 16, 2014

6:00 PM

**PROTEST PETITION TEXT AMENDMENT PROPOSAL**

Deletions are in strikethrough; the new text is not in strikethrough

**§ 153.211 PROTEST PETITION.**

~~(A) General. A protest petition may be presented against any proposed amendment signed by the owners of 20% or more either of the area of the lots included in the proposed changes, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet there from, or of those directly opposite thereto extending 100 feet from the street fronting on the opposite lots. In this case the amendment shall not become effective except by favorable vote of three-fourths of all members of the Town Council.~~

~~—(B) Petition requirements. No protest against any change in or amendment to the Zoning Code or Zoning Map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, unless it shall have been received by the Town Clerk in sufficient time to allow the town at least two normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition (G.S. §160A-387). (Ord. passed 4-17-2012)~~

(A) A protest petition may be filed to contest a rezoning or zoning ordinance amendment. In case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. No protest petition shall be valid unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the town clerk in sufficient time to allow the town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

(B) To qualify as a valid protest petition, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

(C) The foregoing provisions concerning protests shall not be applicable to any amendment which

initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.



**TOWN ADMINISTRATOR**  
Seth Eckard

**TOWN PLANNER**  
Elinor Hiltz

**PLANNING  
BOARD**

Steve Duncan, Chairman  
Buford Pennell  
David Powell  
Thad Hall  
Clyde Miller

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**COUNCIL MEETING**  
**Sept 16, 2014**  
**6:00 PM**

**Agenda Item #9B**

**PLANNER'S STAFF REPORT**

**SUBDIVISION REVIEW BOARD MEMBER**

**Status:** Minor subdivisions and family subdivisions need to be reviewed by a small subcommittee called the Subdivision Review Board (SRB). The SRB will likely meet at 5:00 or 5:30 on Tuesdays when there are plats to review.

**Subdivision Review Board:**

- 1) Mayor**
- 2) Steve Duncan**
- 3) David Powell**
- 4) Clyde Miller (alternate)**

On September 2<sup>nd</sup>, the Planning Board appointed David Powell (primary) and Clyde Miller (alternate) to the Subdivision Review Board. The Sawmills Subdivision Ordinance mandates that the Mayor and the Planning Board Chair, Steve Duncan, are on the board. Clyde Miller will attend in the Mayor's place until Sawmills has a Mayor.

**Action Needed:**

**FOR INFORMATION ONLY**

**AGENDA ITEM 11A**

**MEMO**

**DATE:**

September 16, 2014

**SUBJECT:**

Updates:  
Code Enforcement  
Monthly Report

**Discussion:**

The attached report shows the progress that Planner Elinor Hiltz continues to make throughout the town.

**Recommendation:**

No Council action required.

Code Enforcement Report  
 Sept, 2014

Property Owner	Property Address	Issue	Status
Marth Kendall Webb	corner of Cajah Mtn and Kendall	high grass	sent friendly letter
George & Amanda McGhee	4455 Sawmill Sch Rd	2 Junk cars	need code enf committee input. There are 2 Junk cars that are in violation of Chapter 92.
Phyllis & Jimmy Chester	6098 Spartan Dr	Trash in front and back yard	need code enf committee input. Could close the case or could enter the yard to go through the checklist item by item. From the street it looks like they have done everything.
Ralph Flannagan	4417 Nathan's Way	Buildings falling in	On Aug 26 Ralph called to ask for an extension until Sept 24. He has cleared the front yard and now needs to work on the back yard and remove the back addition.