



VILLAGE OF MARVIN

10004 New Town Road | Marvin, NC | 28173 | Tel: (704) 843-1680 | Fax: (704) 843-1660 | www.marvinnc.org

VILLAGE COUNCIL REGULAR MEETING April 10, 2018 – 6:30 p.m. Village Hall

Agenda

1. **ADOPTION OF AGENDA**
 2. **PLEDGE OF ALLEGIANCE**
 3. **PUBLIC COMMENT**
 4. **RECOGNITION OF BRIAN BEATY AND NEIL QUERY**
 5. **PUBLIC HEARINGS**
 - a. Conditional Use Permit #18-12055 for a pool to be located in the side yard without the required minimum side yard setbacks for property 3202 Waxhaw-Marvin Road.
 1. Discussion and Consideration of CUP #18-12055
 - b. Temporary Use Permit #18-12054 for the Village of Marvin Spring Movie Night to be held Friday, May 18, from *6:00 ~~6:30~~ – 10:30 pm at Marvin Ebird Park. The movie “Cars 3” will be shown at dusk on the lawn beside the barn.
 1. Discussion and Consideration of TUP #18-12054
 6. **ADMINISTRATOR’S REPORT**
 7. **PLANNER’S UPDATE**
 8. **CONSENT AGENDA**
 - a. Approve OR-2018-04-01 Budget Amendment for Land Use Plan Survey.
 - b. Adopt Meeting Minutes for Regular Council Meetings on 11-14-2017, ~~12/12/2017~~ (*tabled*), 1-09-2018, 2-13-2018 and 3/13/2018 Budget Work Session.
 - c. Adopt the revised Village Fee Schedule. (*To add flash drive fees*)
 - d. Appoint Lara Carnow, Marvin Planner, as Zoning Administrator.
 - e. Monthly Deputy Report and Traffic Survey.
 - f. Amend the Public Comment Sheet to serve a dual purpose.
 9. **UNFINISHED BUSINESS**
 - a. Discussion and Consideration allowing Council to participate in the Village of Marvin’s Healthcare Plan at no cost to the Village. (*Council shall pass a resolution reflecting their approval to participate*)
 - b. Discussion and Consideration of Council facsimile signature on file.
 - *c. Code of Ethics ~~Conflict of Interest Forms~~ (*Ask Council to fill out during the meeting to be filed in Clerk’s office*)
 10. **NEW BUSINESS**
 - a. Discussion and Consideration of filling the vacant seat on the Planning Board for a 3 year staggered term expiring 3/1/2021.
 - b. Discussion and Consideration to appoint a Planning Board Liaison.
 - c. Discussion and Consideration of Council responses to constituents.
 - d. Discussion and Consideration of amending Council’s Rules of Procedure to add: A New Rule _____. Supermajority Required for Appointments, Removals, Hiring and Firing and to amend the Village of Marvin’s Personnel Policy and Hiring Authority Policy to reflect this new rule. (*A supermajority of Council is required for all appointments and removals from Boards, as well as hiring and firing of any Village Employee*)
 11. **UPDATE ON VILLAGE HALL**
 12. **UPDATE ON SUBDIVISION ROADS**
 13. **REVIEW ACTION ITEMS**
 14. **COUNCIL COMMENTS**
 - *15. **MOVE INTO CLOSED SESSION PURSUANT TO NCGS 143-318.11 (A)(5) AND (6) TO DISCUSS PROPERTY ACQUISITION AND PERSONNEL MATTERS**
 16. **ADJOURNMENT**
- * Agenda revised at the meeting

VILLAGE OF MARVIN
Council Regular Meeting Minutes
April 10, 2018 – Village Hall
Executive Summary Minutes

Mayor Pollino called the regular meeting to order at 6:40 pm.

Quorum was determined with the following members in attendance: Mayor Joe Pollino, Mayor Pro Tem Nick Dispenziere, Councilwoman Kim Vandenberg, Councilman Ron Salimao and Councilman Robert Epps

The following staff were present:

Christine Robertson, Interim Village Administrator / Finance Officer
Kelley Moore, Zoning Administrator
Barbie Blackwell, Clerk
Melanie Cox, Village Attorney

1. ADOPTION OF AGENDA

No additions or deletions were made to the agenda.

Motion: Mayor Pro Tem Dispenziere moved to adopt the agenda as presented.
Vote: The motion carried with a unanimous vote.

2. PLEDGE OF ALLEGIANCE

Council led the Pledge of Allegiance.

3. PUBLIC COMMENTS

Mayor Pollino invited Mr. Kyle Bender to come and speak to Council regarding sponsorships for events in the Park.

Mr. Bender, a local realtor at 3416 Torrington Way, Ste. 104A, Charlotte, NC, expressed to Council an idea of sponsorship possibilities with community people and business owners for park events (e.g. popcorn, hot chocolate or provide the machines, and website ads). In exchange of sponsorships for park events, they would like to pass out their business cards to get more business in Marvin.

4. RECOGNITION OF BRIAN BEATY AND NEIL QUERY

Mayor and Council welcomed and recognized Brian Beaty and Neil Query for their years of service and dedication to the Village of Marvin and its citizens. Council presented them with a gift card and cookies, a proclamation and certificate, which Mayor Pollino read on Council's behalf.

5. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT # 18-12055 FOR A SWIMMING POOL TO BE LOCATED IN THE SIDE YARD OF 3202 WAXHAW-MARVIN ROAD WITHOUT THE REQUIRED MINIMUM SIDE YARD SETBACKS OF 110 FEET.

Motion: Councilwoman Vandenberg moved to open the public hearing at 6:54 pm on Conditional Use Permit #18-12055 for a pool in the side yard of 3202 Waxhaw-Marvin Road without the required minimum side yard setbacks.
Vote: The motion carried with a unanimous vote.

Ms. Blackwell swore in the witnesses: applicant, Mr. Jay Kaduson, 3202 Waxhaw-Marvin Road, Marvin, NC, and Village Zoning Administrator, Ms. Kelley Moore.

Ms. Moore presented the Conditional Use Permit #18-12055 for a swimming pool to be located on the side yard of the property with a setback of 110 feet.

Motion: Mayor Pro Tem Dispenziere moved to close the public hearing at 7:06 pm on Conditional Use Permit #18-12055 for a pool in the side yard of 3202 Waxhaw-Marvin Road without the required minimum side yard setbacks.
Vote: The motion carried with a unanimous vote.

The Marvin Village Council, having heard all the evidence and arguments presented at the hearing, finds and determines that the application is complete and bases its decision APPROVING the conditional use permit on the following:

Findings of Fact

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan.

Motion: Mayor Pro Tem Dispenziere moved to approve.
Vote: The motion carried with a unanimous vote.

The lot is approximately 5.6 acres. The proposed use is sufficiently setback from the road and adjoining properties so as to not endanger public health or safety. A fence compliant with NC Residential Code will be installed to provide a safe environment.

2. The use meets all required conditions and specifications:

Motion: Mayor Pollino moved to approve.
Vote: The motion carried with a unanimous vote.

The proposed use is a permitted accessory use in the R-Marvin Residential District. Swimming pools are an accessory use provided that setback requirements are met. The pool will be located over 300 feet from Waxhaw Marvin Road and 110 feet from the West property line.

3. The use will not substantially injure the value of adjoining or abutting property or the use is a public necessity:

Motion: Mayor Pro Tem Dispenziere moved to approve.
Vote: The motion carried with a unanimous vote.

The property is a 5.6-acre lot in the Providence Road Estate subdivision. The surrounding properties are large lots zoned R-Marvin Residential. The property to the West has a barn. The properties to the North and East are across Waxhaw Marvin Road. The property to the South is owned by the applicant and has a barn on it. There is landscaping that sufficiently screens the side yard of the adjacent lot. The proposed use is common of surrounding properties and no evidence was presented that it would injure property values.

4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with this chapter and the Village Land Use Plan:

Motion: Mayor Pro Tem Dispenziere moved to approve.
Vote: The motion carried with a unanimous vote.

The location and character of the use will be in harmony with the area in which it is to be located and the surrounding area. Given the location of the existing home and structure, the size of the lots in the subdivision and surrounding properties, the proposed use will be in harmony with the area and the intent of the zoning ordinances and Village Land Use Plan will be met.

5. The following conditions were agreed to by the applicant:
 - a) A 110-foot side yard setback shall be maintained along the Western property line.
 - b) A fence complying with the NC Residential Code shall encompass the pool and be designed to provide a safe environment.
 - c) Landscaping shall be plated surrounding the pool area as proposed on the CUP application. The landscaping will shield the view of the pool from the road and the adjoining property.

- The applicant was afforded the opportunity to offer evidence, cross-examine witnesses, and inspect the evidence that was presented.

Motion: Mayor Pro Tem Dispenziere moved to approve CUP #18-12055 with the conditions.

Vote: The motion carried with a unanimous vote.

B. PUBLIC HEARING TO CONSIDER TEMPORARY USE PERMIT #18-12054 FOR VILLAGE OF MARVIN SPRING MOVIE NIGHT TO BE HELD ON FRIDAY, MAY 18, FROM 6-10:30 PM AT MARVIN EFIRD PARK.

Motion: Mayor Pro Tem Dispenziere moved to open the public hearing at 7:10 pm on Temporary Use Permit #18-12054 for Village of Marvin Spring Movie Night to be held on Friday, May 18, from 6-10:30 pm at Marvin Efirid Park.

Vote: The motion carried with a unanimous vote.

No one was signed up to speak.

Motion: Mayor Pro Tem Dispenziere moved to close the public hearing at 7:10 pm on Temporary Use Permit #18-12054 for Village of Marvin Spring Movie Night to be held on Friday, May 18, from 6-10:30 pm at Marvin Efirid Park.

Vote: The motion carried with a unanimous vote.

Pre-movie activities will begin at 6 pm and the Disney movie featuring “Cars 3” will be shown around 8:30pm. Staff and volunteers will help set up prior and clean up after the event. Potbelly BBQ Food Truck will be selling food (e.g. hamburgers, hot dogs, BBQ etc.) and free popcorn will be served.

Marvin Zoning Ordinance

Per the Marvin Zoning Ordinance §151.051, the Village Council may issue a temporary use permit for public events such as festivals, concerts, carnivals, circuses, fireworks displays, etc. only after a public hearing has been conducted. Before issuing the temporary use permit, the Village Council shall make the following determinations:

- The proposed temporary use will not materially endanger the public health, welfare and safety.
- The proposed temporary use will not have a substantial negative effect on adjoining properties.
- The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit.

Motion: Councilman Epps moved to approve the Temporary Use Permit #18-12054 for Village of Marvin Spring Movie Night on Friday, May 18, from 6-10:30 pm at Marvin Efirid Park with conditions related to the zoning and noise ordinances.

Vote: The motion carried with a unanimous vote.

6. ADMINISTRATOR’S REPORT

Ms. Robertson gave a brief update on the following items to Council:

- The Ballantyne Magazine wrote an article on Marvin Efirid Park for their summer issue.
- Ms. Robertson handed out a redacted copy of the lawsuit to Council that Councilman Epps submitted and wanted recorded in the December 12, 2017, minutes.

7. PLANNING BOARD REPORT

Ms. Robertson presented the Planning Board’s report:

- Requesting approval to release the bonds for Tullamore and Woodcliff. A Staff Report will be presented at the next Council meeting.

- A boundary change is currently being reviewed along the fence line on the Reason's plat. A Staff report will be presented at the next Council meeting.
- Continue to work with Marvin Courtyards regarding their retention pond issue.

8. CONSENT AGENDA

Council took the following actions:

- Mayor Pollino made corrections to the November 14, 2017 minutes: (1) page 4; paragraph 3: should be changed from unincorporated Marvin to unincorporated Union County; (2) page 5; paragraph 6: should be changed from Three Pond Lakes to Providence Downs and (3) page 10; under Review Action Items: he questioned the time stamp insert on #3 and verified with Council the corrected the word Pelville to Powell Bill on #6.
- Council agreed to table the 12-12-17 minutes until next meeting.
- Councilwoman Vandenberg corrected the motions on page 5 under item b Councilman Dispenziere to Mayor Pro Tem Dispenziere of the 1-9-18 minutes.
- Mayor Pro Tem Dispenziere corrected Councilman Dispenziere to Mayor Pro Tem Dispenziere on the motion under adoption of the agenda on page 1 of the 1-9-18 minutes.
- Approved OR-2018-04-01 Budget Amendment for Land Use Plan Survey.
- Adopted the revised Village Fee Schedule to add flash drive fees.
- Appointed Lara Carnow, Marvin Planner, as Zoning Administrator.
- Amended the Public Comment Sheet to serve a dual purpose to keep tract of visitor attendance to meetings.

Motion: Mayor Pro Tem Dispenziere moved to adopt the consent agenda as amended.

Vote: The motion carried with a unanimous vote.

9. UNFINISHED BUSINESS

a. Discussion and Consideration allowing Council to participate in the Village of Marvin's Healthcare Plan at no cost to the Village

Ms. Robertson stated, that Council asked her two questions at the last meeting. She explained: The first, was to find out how many Municipalities offered the Healthcare Plan to its Council and/or Boards. She stated, the NCLM could not give her that information because their resolutions did not differentiate between elected or board. She also said the NCLM will honor the plan the way it is worded on the resolution.

The second, was to follow-up on the 0-14 and 15-49 groups. She said that the Village is in the 0-14 group, which is a straight pool group. She clarified that the 0-14 group were participating employees with or without dependents. The Village is pooled with all other small groups and rates are determined with no relevance to claims experience. The second group is the 15-49 employee participants but does not include dependents. This is a partially under written group, which means the rates would fluctuate based on the claims experience of the group.

Motion: Councilwoman Vandenberg moved that Council shall pass a resolution to allow Council and Boards to participate in the Village of Marvin's Healthcare Plan at no cost to the Village.

Motion: Councilman Epps made a motion to recuse himself from the voting because of a potential financial impact.

Vote: The motion carried with a unanimous vote.

Vote: The motion passed with a vote of 2 ayes, 1 nay and abstained with Councilman Salimao as the nay vote and Councilman Epps abstained.

b. Discussion and Consideration of facsimile signature on file

Council discussed, considered and adopted policy P-2018-04-10 Village Council Facsimile Signature for administrative authority only to use a facsimile signature in place of original signatures for the Mayor, Mayor Pro Tem or a Council member. The intent of the policy would allow the Clerk to give proper notice of any special and/or emergency meetings when a physical signature could not be

obtained by Council. The Clerk would follow proper protocol set forth in policy P-2018-04-10 and exercise privacy controls when using Council's facsimile signature.

Motion: Mayor Pro Tem Dispenziere moved to adopt policy P-2018-04-10 Village Council Facsimile Signature for administrative purposes only.
Vote: The motion carried with a unanimous vote.

c. Review of Code of Ethics

Council members handed a signed copy to the clerk of the Code of Ethics form to update her files.

10. NEW BUSINESS

a. Discussion and Consideration of filling the vacant seat on the Planning Board for a 3-year staggered term expiring 3/1/2021

Council reviewed and discussed the applications for Kelly Cates and Dusty Rhodes.

Motion: Councilman Salimao moved to appoint Kelly Cates to the Planning Board effective immediately for a 3-year staggered term expiring 3/1/2021.

Vote: The motion carried with a unanimous vote.

b. Discussion and Consideration to appoint Planning Board Liaison

Council discussed and decided not to appoint a Planning Board Liaison. They agreed to invite the Chairman from the Planning Board to give an update to Council at their regular meetings.

c. Discussion and Consideration of Council responses to constituents

After a lengthy discussion, Council agreed to forward all responses from constituents to Village Staff to address. Council also agreed they are free to correspond to constituents but make it clear to them that their response is an opinion of one.

d. Discussion and Consideration of amending Council's Rules of Procedure to add: A New Rule _____. Supermajority Required for Appointments, Removals, Hiring and Firing and to amend the Village of Marvin's Personnel Policy and Hiring Authority Policy to reflect this new rule.

After a lengthy discussion, Council agreed not to amend their Rules of Procedure to add the new rule. They agreed to trust all Council members to adhere to the 48-hour policy currently in their Rules of Procedure for adding items to the agenda.

11. UPDATE ON VILLAGE HALL

Council discussed the property on 10209 New Town Road as another potential site for the Village Hall. Council discussed the property at length. After a lengthy discussion, they agreed the property would not work as a Village Hall site.

Motion: Councilman Salimao made a motion to suspend the rules to remove the closed session item NCGS 143-318.11 (a)(5) to discuss property acquisition

Vote: The motion carried with a unanimous vote.

12. UPDATE ON SUBDIVISION ROAD

- Ms. Roberts reported the Village has received a total of nine (9) petitions for voluntary annexation from Weddington Chase leaving seven (7) petitions outstanding. She and Ms. Carnow met with AMT (Village Engineers) to get a better understanding for resurfacing the roads.

13. REVIEW OF ACTION ITEMS

Ms. Blackwell reviewed the action items addressed in the meeting:

- Add the Bow and Arrow Ordinance on the May agenda.
- Add the boundary change at the fence for the Reasons property on the May agenda.
- Communicate to the Planning Board and PR&G of the Council Liaison changed and that Council invites the Chairs to their regular meetings to give a brief update.
- Councilman Epps will speak with TJ Philbrick regarding his property.
- Chris will run the bond numbers for roads.

- Replace the lawsuit attachment without the Councilman Epps notes to the December 12, 2017 minutes.
- Council is asked to review the December 12, 2017 minutes to help Chris fill-in the missing information.
- Add the Healthcare Resolution to the May agenda.

14. COUNCIL COMMENTS

- Councilman Salimao stated: It was a good meeting. Everyone have a good week.
- Councilman Epps stated: I agree. Good meeting. We have all the Planning Board spots filled. I think that Kelly will be a good addition. Sorry to see Brian go. Even though we disagreed sometimes, he was good to work with. It was good to see Neil at the park again. Thanked both Brian and Neil for their contributions to the Village. Thank you.
- Mayor Pro Tem Dispenziere stated: Good meeting. I hope we can continue to have a good second half and we can discuss things without getting crazy. Thanked Chris, Barbie and the staff for their hard work and getting the information to Council in preparation of the meetings. Thanked Brian and Neil for their services.
- Councilwoman Vandenberg stated: Ditto.
- Mayor Pollino stated: Had a great vacation at Disney with my kids. Hope everyone had a good spring break. Staff, I can't thank you enough. Especially you Chris for filling in a spot for us and navigating a lot of things going on at the Village and juggling the balls that you have with your time. Again, we will show that appreciation at some point hopefully in closed session when we talk about personnel. Again, thank you all very much. To Nick's point, we had a good meeting. Following-up on the last end of the last meeting and what we have accomplished today. We are moving forward in the right direction not only what we need to do but show the community that we can work together and disagree but be respectful towards each other. I appreciate your time.

12. MOVE INTO CLOSED SESSION PURSUANT TO NCGS 143-318.11 (A)(6) TO DISCUSS PERSONNEL MATTERS

Motion: Councilwoman Vandenberg moved to go into closed session at 9:19 pm pursuant to NCGS 143-318.11 (a)(6) for Personnel Matters.

Vote: The motion carried with a unanimous vote.

Council asked Ms. Blackwell to leave.

MOVE INTO OPEN SESSION

Motion: Councilwoman Vandenberg to reconvene into open session at 11 pm.

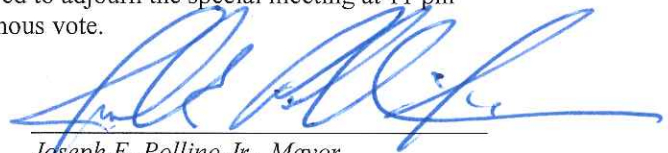
Vote: The motion carried with a unanimous vote.

13. ADJOURNMENT

Motion: Councilwoman Vandenberg moved to adjourn the special meeting at 11 pm

Vote: The motion passed with a unanimous vote.

Adopted: July 10, 2018


Joseph E. Pollino Jr., Mayor
Village of Marvin


Barbara R. Blackwell, NCCMC
Clerk, Village of Marvin

