

MINUTES – June 1, 2020

The Board of Aldermen of the Town of Gibsonville met at 7:00pm for a public hearing meeting in the Town Hall. The meeting was called to order by Mayor Williams. Alderpersons Shepherd, Owen, O'Toole, Pleasants, and Maizland were present. Ben Baxley, Town Manager, and Laurie Yarbrough, Town Clerk, were present. Gina Griffeth, Police Chief Ron Parrish, Public Works Director Rob Elliott, Fire Chief James Todd, Town Attorney Doug Hoy, Recreation Director Mike Dupree, Intern Jack Pendergraft, Officer Korn, and Officer Hudson were in attendance. Due to the Covid 19 event, the board meeting was held live on Gibsonville Facebook and by telephone for those that had no internet access. There were five Gibsonville Town residents in attendance.

Invocation – Alderman Shepherd

Rev. Brian Foust gave the invocation.

Mayor Williams led the Pledge of Allegiance.

Public Comments

Mayor Williams commented on an incident that occurred two weekends prior. He stated that he sat down at his house and was unable to get back up. Both Fire and EMS responded and he was transported to ARMC. Mayor Williams was diagnosed with a UTI and dehydration.

Patricia Rone, a 19-year resident of the Town of Gibsonville, commented that she does not drive and relies on Link Transit for transportation. She requested that the Link Transit bus make a stop at the Gibsonville Community Center as it is a long and difficult walk for her to get to the bus stop at the Whitsett/Minneola 4-way flashing light.

Approval of Agenda

Alderman Shepherd, seconded by Alderman Owen, made a motion to approve the agenda. The motion passed unanimously.

Approval of Minutes

Alderman Owen, seconded by Alderwoman Maizland, made a motion to approve the minutes of May 18, 2020. The motion passed unanimously.

Ordinance Amendment to Chapter 97: Streets and Sidewalks, Section 97.28 Benches and Chairs on Sidewalks

Ben Baxley, Town Manager, stated that the town was exploring the allowance of items on sidewalks. He stated that benches, tables, chairs, etc. would be beneficial to businesses as long as pedestrian safety, ADA compliance, and liability insurance were considered. Work would need to be done to prepare an ordinance for the town of Gibsonville and a copy of Graham's ordinance was obtained for guidance. An assessment of town sidewalks was performed by Chief Todd of the Gibsonville Fire Department.

Chief Todd, Gibsonville Fire Chief, stated that he had performed an assessment of the sidewalks on Main Street and Lewis Street. He believes that the town will be able to meet ADA requirements. He stated that there is no way for Gibsonville to meet the same 6' sidewalk requirement located in the City of Graham ordinance but we should be able to maintain 4'. He recommended that all benches, tables, chairs, etc. be brought in each night to prevent issues.

Alderman Shepherd asked if the tables, benches, chairs, etc. would be confined to the central business district.

Chief Todd stated that his assessment was confined to Main Street and Lewis Street.

Alderman Shepherd, seconded by Alderman Pleasants, made a motion to open the public comments.

Alderman Shepherd, seconded by Alderwoman Maizland, made a motion to continue the public hearing regarding Ordinance Amendment to Chapter 97: Streets and Sidewalks, Section 97.28 Benches and Chairs on Sidewalks until the June 15th board of alderman meeting. The motion passed unanimously.

Ordinance Amendment Title XV: Land Use, Chapter 150. Building Regulations

Ben Baxley, Town Manager, stated that the intention of the ordinance was to improve the ability of the town to address non-residential structures. He stated that it would be a tool for inspections and helping with the safety of buildings. The ordinance would serve as the first step of the process in dealing with non-residential building issues.

Alderman Shepherd, seconded by Alderman O'Toole, made a motion to open the public hearing.

Alderman Shepherd, seconded by Alderman Owen, made a motion to close the public hearing.

Alderman Shepherd, seconded by Alderman Owen, made a motion to approve the Ordinance Amendment Title XV: Land Use, Chapter 150. Building Regulations. The motion passed unanimously.

**ORDINANCE TO AMEND TOWN OF GIBSONVILLE CODE OF ORDINANCES
TITLE XV: LAND USE, CHAPTER 150. BUILDING REGULATIONS BY ADDING
SECTION 150.130 NONRESIDENTIAL BUILDINGS**

Section 150.130 NONRESIDENTIAL BUILDINGS

(A) Authority

As authorized by G.S. 160A-439, the provisions of this chapter shall apply to all non-residential buildings and structures within the town limits as now or hereinafter fixed.

(B) Purpose and Definitions

The purpose of this chapter is to arrest, remedy, and prevent the decay and deterioration of nonresidential buildings and structures for the protection of life, health, welfare, safety and property of the general public and the owners and occupants of non-residential buildings and structures within the Town of Gibsonville.

Basic Structural Elements: the parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to, plates, studs, joists, rafters, stringers, stairs, sub-flooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.

Building: Any structure, place, or any other construction built for the shelter or enclosure of persons, animals, chattels or property of any kind or any part of such structure, shelter or property.

Code Enforcement Officer: A code enforcement officer of the Town of Gibsonville or any person or persons designated or contracted by the Town to enforce the provisions of this chapter.

Nonresidential: Any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.

Occupant: person who is a tenant or has actual possession of a nonresidential building or structure or part thereof.

Operator: Any person who has charge, care, or control of a nonresidential building or structure, or part thereof.

Owner: Any person who alone, or jointly, or severally with others:

- (a) Shall have title in fee simple to any nonresidential building or structure, with or without accompanying actual possession thereof; or
- (b) Shall have charge, care or control of any nonresidential building or structure as owner or agent of the owner, or as executor, executrix, administrator, administration, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

Parties in Interest: All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

Premises: Any lot or parcel of land inclusive of any building or improvements located thereon.

Safe: A condition which is not likely to do harm to humans or to real or personal property.

Sound: Substantially free from flaw, defect, decay or deterioration to the extent that the building or structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

Structure: Anything constructed or placed upon a property which is supported by the ground or which is supported by any other structure, except a currently operable licensed vehicle.

Unsafe Building: A building that falls within the statutory definitions as set forth in G.S.160 A-426(a).

Vacant Industrial Warehouse. Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Vacant Manufacturing Facility. Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

Vacant Retail Facility. Any building or structure previously used for the lawful sales of goods or services, which has not been used for that purpose for at least one year and has not been converted to another use.

(C) Applicability and Compliance.

1. The provisions of this chapter shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the town.

2. Every nonresidential building or structure and the premises on which it is situated shall comply with the provisions of this chapter, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this subchapter, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities. This section establishes minimum standards for all nonresidential buildings and structures and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building or structure, equipment or facilities contained therein.

(D) Maintenance and Standards

1. Standards for Nonresidential Buildings and Structures.

All nonresidential buildings and structures shall be free of all conditions that are unsafe and dangerous and injurious to the public health, safety, and welfare of occupants or members of the general public. Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be dangerous to the public health, safety and welfare for which a public necessity exists for the repair, closing, or demolition of such building or structure and must be corrected in accordance with the provisions of this section and G.S. 160A-426 Unsafe Buildings Condemned in Localities:

- (a) Exterior walls that are not structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of demolition of adjacent buildings, such wall must have all doors, windows, vents, or other similar openings closed with material of the type comprising the wall. The exposed wall shall be painted, stuccoed or bricked and sufficiently weatherproofed to prevent deterioration of the wall.
- (b) Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building.
- (c) Such damage by fire, wind, or other causes as to render the building unsafe.
- (d) Dilapidation, decay, unsanitary conditions, or disrepair, which is dangerous to the health and safety of the occupants or members of the general public.
- (e) Buildings and structures including their environs that have accumulations of garbage, trash, or rubbish, which creates health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner.
- (f) Buildings and structures that have loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property.
- (g) Buildings and structures that have cracked or broken glass, loose shingles, loose wood, rotted wood, peeling paint, crumbling stone, concrete or brick, loose or broken plastic, or other dangerous objects or similar hazardous conditions.
- (h) Buildings and structures that have objects and elements protruding from building walls or roofs, which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.
- (i) Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept sound, in good repair, and free of defects.
- (j) Windows containing broken or cracked glass that could be in danger of falling or shattering.
- (k) All openings originally designed as windows, doors, loading docks, or other means of egress or ingress which have been temporarily closed by boarding or other manner in a non-secure manner so as to allow unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the boarding shall be trim fit, sealed to prevent water intrusion, and the building or structure shall be maintained in a state that secures the building or structure from any unauthorized admittance from humans, animals, or birds.
- (l) Any combination of conditions which in the judgment of the code enforcement officer renders any building or structure dangerous or injurious to the health, safety, or general welfare of occupants or members of the general public.

(E) Enforcement Provisions

1. Duties of the Enforcement Officer.

The code enforcement officer is hereby designated as the public officer to enforce the provisions of this subchapter and to exercise the duties and powers herein prescribed. It shall be the duty of the code enforcement officer:

- (a) To investigate the conditions of nonresidential buildings and structures in the Town and to inspect nonresidential buildings and structures located in the Town in order to determine which nonresidential buildings and structures are not being maintained so that the health and safety of its occupants or members of the general public are jeopardized and for the purpose of carrying out the objectives of this section with respect to such nonresidential buildings and structures;
- (b) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect the repair or demolition of nonresidential buildings and structures which have not been properly maintained in compliance with minimum standards established by this section;
- (c) To keep a record of the results of inspections made under this subchapter and an inventory of those non-residential buildings and structures which have not been properly maintained in compliance with the minimum

- standards established by this section;
- (d) To perform such other duties as may be herein prescribed.

2. Powers of the Enforcement Officer.

The code enforcement officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

- (a) To investigate nonresidential buildings and structures in the Town to determine whether they have been properly maintained in compliance with the minimum standards established by this section so that the safety or health of the occupants or members of the general public are not jeopardized;
- (b) To administer oaths and affirmations, examine witnesses and receive evidence;
- (c) To enter upon premises for the purpose of making examinations and inspections provided that such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and
- (d) To appoint and fix duties of such officers, agents, and employees as the code enforcement officer deems necessary to carry out the purposes of this section.

3. Inspections.

For the purpose of making inspections, the code enforcement officer is hereby authorized to enter, examine, and survey at all reasonable times, nonresidential buildings and structures. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

4. Procedure for Enforcement.

1. *Preliminary investigation.* Whenever it appears to the code enforcement officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this subchapter, the code enforcement officer shall undertake a preliminary investigation.
2. *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards established by this section, the code enforcement officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the code enforcement officer at a place therein fixed, not less than ten days nor more than 30 days after the serving of the complaint, that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the code enforcement officer.
3. *Procedure after hearing.*
 - a. If, after notice and hearing, the code enforcement officer determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this subchapter, the code enforcement officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination.
 - b. If, after notice and hearing, the code enforcement officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this section, the code enforcement officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of division 3.c and 3.d of this section and subject to the limitations set forth in Sec. F and Sec. G.
 - c. If the code enforcement officer determines that the cost of repair, alteration, or improvement of the building or structure would not exceed 50% of its then-current value, then the code enforcement officer shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either:
 - i. Repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this section; or
 - ii. Vacate and close the nonresidential building or structure for any use.
 - d. If the code enforcement officer determines that the cost of repair, alteration, or improvement of the building or structure would exceed 50% of its then-current value, then the code enforcement officer shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either:
 - i. Repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this section; or
 - ii. Remove or demolish the nonresidential building or structure.
4. *Failure to comply with order and ordinances.*
 - a. If the owner fails to comply with an order to either repair, alter, or improve the nonresidential building or structure or vacate and close the nonresidential building or structure, Board of Aldermen may adopt an ordinance ordering the code enforcement officer to cause such nonresidential building or structure to be repaired, altered, or improved in order to bring it into compliance with the minimum standards established by this section or to be vacated and closed. The property shall be described in the subchapter. The section shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the propertyowner(s) in the grantor index.

- b. If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, Board of Aldermen may adopt an ordinance ordering the code enforcement officer to cause such nonresidential building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Board of Aldermen. The property shall be described in the ordinance. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner(s) in the grantor index.

(F) Limitations on Orders and Ordinances - Historic Landmark or Historic District.

Notwithstanding any other provision of this section, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Board of Aldermen determines, after a public hearing, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, an order issued by the code enforcement officer pursuant to Sec. 4.3 and an ordinance approved by Board of Aldermen pursuant to Sec. 4.4 may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this section.

(G) Limitations on Orders and Ordinances - Vacant Manufacturing Facility or Vacant Industrial Warehouse.

Notwithstanding any other provision of this section, an order issued by the code enforcement officer pursuant to Sec. 4.3 and an ordinance approved by Board of Aldermen pursuant to Sec. 4.4 may not require repairs, alterations, or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use. The order and ordinance may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(H) Vacated and Closed Nonresidential Buildings or Structures.

1. If the Board of Aldermen has adopted an ordinance or the code enforcement officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, then if the Board of Aldermen finds that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the Town in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area, then Board of Aldermen may, after the expiration of the two-year period, adopt an ordinance and serve such ordinance on the owner, setting forth the following:
 - (a) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50% of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or
 - (b) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50% of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.
2. In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before Board of Aldermen may take action under this section. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index.
3. If the owner fails to comply with the requirements of the ordinance within 90 days, the code enforcement officer shall demolish and remove the nonresidential building or structure.

(I) Methods of Service of Complaints and Orders.

1. Complaints or orders issued by the code enforcement officer under this subchapter shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner of service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by regular mail shall certify that fact and the date thereof, and such certificate shall be conclusive in the absence of fraud. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.
2. If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the code enforcement officer in the exercise of reasonable diligence, and the code enforcement officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the Town at least once no later than the time at which personal service would be required under the provisions of this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. Sec. J. Interim Action by Code Enforcement Officer.

(J) Interim Action by Code Enforcement Officer.

After failure of an owner of a nonresidential building or structure to comply with an order of the code enforcement officer issued pursuant to the provisions of this subchapter and upon adoption by the Board of Aldermen of an ordinance authorizing and directing the owner to do so, as provided by G.S. 160A- 439(f) and Sec. 4.4 of this section, the code

enforcement officer shall proceed to cause such nonresidential building or structure to be repaired, altered, or improved to comply with the minimum standards established by this section, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the Board of Aldermen. The code enforcement officer may cause to be posted on the main entrance of any nonresidential building or structure which is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a class 3 misdemeanor.

(K) Costs, A Lien on Premises.

1. As provided by G.S. 160A-439(i), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the code enforcement officer pursuant to Sec. 4.4 or Sec. (H) of this chapter shall be a lien against the real property upon which such costs were incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. 160A, Article 10. The amount of the costs shall also be a lien on any other real property of the owner located within the Town limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
2. If the nonresidential building or structure is removed or demolished by the code enforcement officer, the code enforcement officer shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the code enforcement officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(L) Ejectment.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the code enforcement officer may file a civil action in the name of the Town to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the code enforcement officer produces a certified copy of an ordinance adopted by the Board of Aldermen pursuant to G.S. 160A-493(f) and Sec. 4.4. to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the Board of Aldermen has ordered the code enforcement officer to proceed to exercise his duties under G.S. 160A-493(f) and Sec. 4.4 of this chapter to vacate and close or remove and demolish the nonresidential building or structure.

(M) Alternative Remedies.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the Town of Gibsonville to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter as provided in Sec. (P).

(N) Appeals Process.

1. Within 30 days following receipt of an order from the code enforcement officer any person receiving such order, believing that the literal application of the ordinance will cause undue hardship or has been misconstrued, wrongly interpreted or applied, may appeal in writing to the Town of Gibsonville Board of Adjustment for such relief as may be granted, after investigation of the grounds thereof, by way of a reasonable extension of time or a variation from strict compliance with the provisions of this subchapter. The circumstances justifying such findings related to hardship are:
 - (a) Inability to comply within the time period provided in this subchapter due to clearly documented severe financial distress;
 - (b) The clear and significant non-availability of services or equipment with which to comply, without fault of the applicant; or
2. Other extenuating circumstances showing a good faith intention on the part of the applicant or another to comply when able to do so.
 - (a) Any person aggrieved by the decision of the Board of Adjustment may petition the Superior Court in the county where said violation occurs for an injunction.
 - (b) Any such petition must be filed with the Superior Court within 30 days from the date of the Board's decision.

(O) Conflict with Other Provisions.

In the event any provision, standard or requirement of this subchapter is found to be in conflict with any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of health and safety of the citizens of the Town shall prevail.

(P) Violations; Penalty.

1. It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the code enforcement officer duly made and served in accordance with the provisions of this section, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building or structure, with respect to which an order has been issued pursuant to Sec. (E)4.3. of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration, improvement, or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
2. In addition to or in lieu of the other remedies provided by this chapter, any owner of a nonresidential building or structure that fails to comply with an order of the code enforcement officer within the time specified therein, shall be subject to a civil penalty in accordance with Sec. (Q).

(Q) Penalty.

In addition to other remedies provided for in this Chapter. any violator who fails to comply with an order to take corrective action regarding an unsafe building shall be subject to a civil penalty of one hundred dollars (\$100.00) for noncompliance when the order expires. Thereafter, an additional ten (10) days may be allowed for compliance, after which the penalty for the second violation is two hundred dollars (\$200). A penalty of ten dollars (\$10.00) per day that the violation is not corrected may be imposed.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN FOR THE TOWN OF GIBSONVILLE: that the Gibsonville Code of Ordinances be amended Title XV: Land Use, Chapter 150. Building Regulations, by adding Section 150.130. Non Residential Buildings.

Adopted this the 1st day of June, 2020.

Mayor

Attest:

Town Clerk

FY 2021 Budget Ordinance

Ben Baxley, Town Manager, presented the revised 2021 Budget Ordinance. The revision included a 2% COLA for all town employees. The town will continue to monitor sales tax and other revenue throughout the year before considering additional expenses or the addition of personnel.

Alderman Pleasants requested the public be made aware of all items taken out of the budget before it was presented at the last meeting.

Ben Baxley advised that there were approximately 23 items listed during the February 2020 budget retreat. Of the 23, only 2 replacement police vehicles, a new apron for the fire department, and a 2% COLA are included in the current budget ordinance. He stated that the town took a conservative budget approach.

Alderman Owen asked to clarify that the Eugene Street water line project would begin as soon as the budget was approved.

Ben Baxley confirmed that the Eugene Street water line project would start as soon as possible.

Alderman Shepherd, seconded by Alderman O'Toole, made a motion to open the public hearing. The motion passed unanimously.

Ben Baxley stated that he printed public comments that had been e-mailed in. The e-mails were provided to the Board of Aldermen. The budget presentation was also made available to the public on the town website.

Irene Fanelli wished to speak during the public comments to address the 2% COLA. She asked where the funding for the 2% would come from. She stated that several people she had talked to were opposed to the COLA and that she would rather see merit increases than an across the board COLA increase for town employees. She believes that town employees do deserve a COLA but, given the pandemic and resulting unemployment, it won't be an easy thing to swallow for many citizens.

Ben Baxley and Alderman Shepherd stated that the 2% COLA would come out of the Fund Balance.

Alderman Pleasants stated that the town has a goal in place to keep the Fund Balance from falling below 34%. He stated that anything below 8% of the operating budget, the State has the authority to come in and take over. He described the Fund Balance as more of a savings account and not an emergency fund.

Mayor Williams stated that he was in favor of the 2% COLA and that those receiving social security were set to receive a 1.7% increase this year. He stated that food prices have increased. He believes that the town will receive income to cover the approximately \$75,000 required to fund a 2% COLA. He has heard no complaints from citizens.

Alderman O'Toole stated that the e-mails received from citizens against the 2% COLA falsely assume a tax increase. He stated that he supports the 2% COLA. He would like to acknowledge town employees who have been potentially exposed to Covid 19 and yet continue to come to work. He stated that most companies in the private sector have been providing hazard pay. If additional income is needed, he stated that the town has assets which could be liquidated. He stated that the town will be receiving \$70,000 from Guilford County in Covid assistance and that a 2% COLA increase did not amount to a large pay increase per employee.

Ben Baxley stated that Guilford has allocated up to \$70,000 in Covid assistance and that the proper paperwork has been submitted to Alamance County for Covid related expense reimbursement.

Alderman Owen stated that he is 100% for the COLA and keeping employee pay up. He stated that all town employees are heroes and must be looked after.

Alderwoman Maizland stated that she had felt blindsided by the 2% COLA during the May 18th meeting. She stated that a COLA increase was item #6 on the budget retreat matrix and she believes that the matrix should be followed and allowed to play out as revenue dictates. She stated that she would like to go back to the original budget and postpone a COLA increase until the financial situation is more stable.

Alderman Shepherd, seconded by Alderman Owen, made a motion to close the public hearing. The motion passed unanimously.

Alderwoman Maizland made a motion to modify the budget by postponing any COLA increase until January. The motion died due to a lack of a second.

Alderman Shepherd, seconded by Alderman Owen, made a motion to approve the FY 2021 Budget Ordinance. The motion passed by a 4 to 1 vote; with Alderwoman Maizland opposing.

**TOWN OF GIBSONVILLE, NORTH CAROLINA
2021 BUDGET ORDINANCE**

BE IT ORDAINED by the Board of Aldermen of the Town of Gibsonville, North Carolina, a meeting was held this the 1st day of June, 2020 that the following fund revenues and departmental expenditures together with certain restrictions and authorizations.

SECTION I. GENERAL FUND:

<u>Anticipated Revenues</u>	<u>FY 2021</u>
Taxes, Current Year	3,062,850
Taxes, Prior Years	25,150
Motor Vehicle Tax	372,000
Penalties & Interest	12,000
Cemetery	15,000
Recreation	82,000
Sanitation Service Charge	310,000
Interest on Investments	8,000

Fire District Tax(Guilford)	3,500
Library	3,000
Transfer Perpetual Care	2,700
Sale of Fixed Assets	10,000
Guilford County Funds	55,500
Code Enforcement/Planning	10,000
Brush/White Goods Pickup Fees	3,000
Miscellaneous	32,153
GHA	2,340
Stormwater Fee	33,000
Solid Waste Disposal Tax	4,900
Intangible: Sales Tax(Alamance Co.)	836,382
Intangible: Sales Tax(Guilford Co.)	443,618
Utility Franchise	420,000
Beer & Wine	30,000
Powell Bill Funds	192,000
Appro'd. General Fund Balance	410,833
Total Anticipated Revenues	<u>6,379,926</u>

<u>Authorized Expenditures</u>	<u>FY 2021</u>
Governing Board	67,191
Administration	1,024,848
Police	2,053,154
Fire	1,116,355
Public Works	1,141,814
Powell Bill	84,500
Recreation	659,091
Library	175,473
Cemetery	17,500
Contingency	40,000
Total Authorized Expenditures	<u>6,379,926</u>
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SECTION II. WATER & SEWER:

Anticipated W&S Revenues	<u>FY 2021</u>
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Water Revenues

Water Service Fees	837,000
Tapping Fees	5,000
Meter Setting	15,000
Reconnection Fees	40,000
Realize Deferred Revenue	98,000
Miscellaneous Revenues	11,000
Retained Earnings Appropriation	<u>117,246</u>
Total Anticipated Water Revenues	<u>1,123,246</u>

Sewer Revenues

Sewer Service Fees	2,271,000
Tapping Fees	5,000
Meter Setting	15,000
Reconnection Fees	40,000
Realize Deferred Revenue	98,000
Miscellaneous Revenues	11,000
Retained Earnings Appropriation	<u>3,351</u>
Total Anticipated Sewer Revenues	<u>2,443,351</u>

Total W&S Anticipated Revenues **3,566,597**

Authorized W&S Expenditures

Water Expenditures	1,123,246
Sewer Expenditures	2,443,351
Total Authorized Expenditures	<u>3,566,597</u>

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SECTION III. PERPETUAL CARE FUND

FY 2021

Anticipated Revenues **2,700**

Authorized Expenditures **2,700**

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SECTION IV. TAX RATE ESTABLISHED

An ad valorem tax rate of \$0.53 per \$100 at full valuation is hereby established as the official tax rate for the Town of Gibsonville for the fiscal year 2021. This rate is based on a total valuation of property of \$668,128,780 and an estimated collection rate of 97.00%.

SECTION V. FEE SCHEDULE

Charges for services and fees by Town Departments are levied in the amounts set forth in the Fee Schedule (See Attachment A).

SECTION VI. SPECIAL AUTHORIZATION - BUDGET OFFICER

- A. Budget Officer shall be authorized to reallocate departmental appropriations among various object of expenditures as he believes necessary.
- B. The Budget Officer shall be authorized to effect interdepartmental transfers, in the same fund, not to exceed 10% of the appropriated monies for the department whose allocations is reduced. Notation of all such transfers shall be made to the Board on the next succeeding Financial Report.
- C. He may make interfund loans for a period of not more than 60 days.
- D. Interfund transfers, established in the budget document may be accomplished without recourse to the Board.

SECTION VII. RESTRICTION - BUDGET OFFICER

- A. Interfund transfer of monies, except as noted in Section VI. Shall be accomplished by the Board authorization only.
- B. The utilization of any contingency appropriations shall be accomplished only with Board authorization.

SECTION VIII. UTILIZATION OF BUDGET ORDINANCE

This Ordinance and the Budget Document shall be the basis of the financial plan for the Gibsonville Municipal Government during the 2021 fiscal year. The Budget Officer shall administer the budget and shall insure that operating officials are provided guidance and sufficient details to implement their appropriate portion of the budget. The accounting section shall establish records which are consonance with the Budget and this Ordinance and the appropriate statute of the State of North Carolina.

Adopted this the 1st day of June, 2020.

Attest:

Mayor of Gibsonville, NC

Town Clerk of Gibsonville, NC

Resolution to Adopt FY 2021-2025 Capital Improvement Plan

Ben Baxley, Town Manager, provided a copy of the 2021-2025 CIP to the board of aldermen. He stated that it was a tool to help the town in planning for items costing greater than \$10,000 and with a useful life of greater than one year. He recommended the resolution be approved by the board.

Alderman Shepherd, seconded by Alderman Owen, made a motion to approve the 2021-2025 Capital Improvement Plan. The motion passed unanimously.

A RESOLUTION TO CONSIDER AND ADOPT THE RECOMMENDED CAPITAL IMPROVEMENT PLAN – FISCAL YEAR 2021 THROUGH FISCAL YEAR 2025

WHEREAS, the Town of Gibsonville recognizes that a Capital Improvement Plan enables staff and the Board to plan for a vibrant community; and

WHEREAS, the Capital Improvement Plan is a five-year planning tool designed to help the Town plan for the repair, replacement, and acquisition of capital items; to assist in financial planning; to ensure better coordination and evaluation of projects; to provide necessary lead time for project planning, permitting, design; and to maintain or improve the Town’s credit rating and fiscal health; and

WHEREAS, this plan is updated annually for Board of Aldermen review; and

WHEREAS, adjustments for anticipated projects can also be made each year during the annual revision of the Town’s budget; and

WHEREAS, this flexibility in the planning and implementation of capital needs makes Gibsonville’s Capital Improvement Plan responsive to the changing needs of the community.

NOW, THEREFORE, BE IT RESOLVED that the Town of Gibsonville Board of Aldermen has received the *Recommended Capital Improvement Plan – Fiscal Year 2021 through Fiscal Year 2025* and adopts this capital plan. This the 1st day of June, 2020.

Mayor

Attest:

Town Clerk

Mural Initiative Presentation and Discussion

Chelsea Dickey of Motley Community Development presented a draft of the mural by artist Gina Franco of Greensboro. She stated that 150 town residents had responded to the mural survey and that the colors, designs, and icons were based off of those responses. The mural wording “Classic. Creative. Connected.” was developed during a community branding workshop. Anna Hendrick, property owner, and tenant, Cross Current Church on Main Street, have agreed to have the mural on their building. Dickey requested input from the board.

Alderman Pleasants asked to know the scale of the mural and if it would cover the entire wall.

Chelsea Dickey stated that mural would be 10’ x 30’ and would not encompass the entire wall. She provided an image of the mural with an individual standing in front for scale.

Alderman O’Toole stated that the blue of the background and the blue of the train image blended together. He would also like to see the color of the bee’s wings changed. He proposed that the train image could be changed to an older engine style rather than Amtrak.

Alderman Owen asked if the flowers were supposed to be roses or petunias. He would like them to look more rose-like.

Alderwoman Maizland stated that she had taken the mural survey and had wanted the caboose pictured.

Chelsea Dickey stated that most responses to the survey had indicated “train” and not specifically the caboose.

Alderman Pleasants asked if anyone knew how long the caboose had been in town.

Alderman Shepherd stated that the caboose wasn’t present when the depot existed and that it had not been here for long.

Alderman Shepherd stated the mural was creative.

Steve Harrison, Gibsonville resident, stated that retaining one new item in the mural will show how long the town has been here.

Chelsea Dickey stated that her interpretation of the mural was a nod to progress. She stated that the intent to have the community paint the mural was now in question due to Covid 19. She requested the input of the board as to whether artist Gina Franco should paint the entire mural at this time or if painting should be postponed until it is safe for the community to do so.

Alderman Pleasants stated that he would like the mural painted as soon as possible. He believes it will bring some brightness to the town in a time of grumpiness.

Alderwoman Maizland agreed that the mural should be painted as soon as possible.

Chelsea Dickey stated that she would take the recommendations of the board back to the artist and would return at the June 15 board of aldermen meeting to present an updated mural.

Appointment to Link Transit Advisory Committee

Mayor Williams introduced and recommended Joyce Harris to fill the Link Transit vacancy. Williams stated that Harris is a lifelong resident of Gibsonville, attends Faith Baptist Church, and is a good spokesperson for Link Transit.

Alderman Owen, seconded by Alderman Pleasants, made a motion to appoint Joyce Harris to the Link Transit Advisory Committee. The motion passed unanimously.

Reports

a. Town Manager

Ben Baxley, Town Manager, stated that the Parks and Recreation Department was looking for clarification on the use of the depot. While the Town has cancelled all depot events through July due to Covid 19 and social distancing, no decision was made for outside groups looking to use the depot. He requested input from the board.

Alderman Shepherd stated that we do not want to send mixed messages and believes there should be a blanket closure that covers the depot.

Alderman Pleasants stated that there could be liability issues.

Mayor Williams stated that the depot has previously been used as a venue for preaching. He would like to hold off on anyone using the depot at this time.

b. Mayor Williams

Mayor Williams stated that he had received numerous phone calls over the weekend regarding protests in connection with the death of George Floyd. Citizens were concerned with how the Gibsonville Police Department would react if such protests occurred in town. Mayor Williams stated that no one had anything negative to say about the Police Department. He stated that a response from all NC Mayors was being drafted by the Mayor of Durham, condemning the death of George Floyd.

c. Board Members

Alderwoman Maizland stated that she had been closely watching the events related to the death of George Floyd. She stated that, while the protests and riots had begun in Minneapolis, they were spreading across the country. She stated that many cities have outside agitators coming in to incite disorder and that protests have been nearby in the cities of Elon, Burlington, and Graham. She asked Ben Baxley about the town's plan for dealing with civil unrest and was advised that Police Chief Ron Parrish had it covered. She asked that our approach be one of low tolerance.

Alderwoman Maizland stated that she had contacted Ben Baxley, Town Manager, in regards to public conduct during meetings. She was given a book regarding the rule of conduct for public meetings and encouraged all members of the board of aldermen to read it.

Ben Baxley, Town Manager, stated that the board may wish to consider adopting a policy.

Mayor Williams advised Alderwoman Maizland to bring the issue to the June 15th meeting.

Alderman Shepherd, seconded by Alderman Owen, made a motion to adjourn. The motion passed unanimously. The meeting adjourned at 8:34pm.

Mayor

Attest:

Town Clerk