

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
AUGUST 12, 1997
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, August 12, 1997. Members present were Mayor Henry Foy, Aldermen Gary Caldwell, Earl Clark, Kenneth Moore and James Williamson. Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure and Town Attorney Michael Bonfoey. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of July 14 and July 15, 1997

Alderman Caldwell moved, seconded by Alderman Clark, to approve the minutes of the July 14 and July 15 meetings as presented. The motion carried unanimously.

Public Hearing - Rezoning Request - Key Development Corporation - Belleview Road - R-2 to R-3

A petition was received from Key Development Corporation requesting the rezoning of a 7.131 acre tract of land located off Belleview Road and Burma Drive. The property is presently zoned R-2 (medium density development) and has been subdivided into 14 lots. The petitioner has requested a rezoning to R-3 which allows high density residential development. Town Attorney Bonfoey opened the public hearing.

Helen Malina, 147 Preservation Way, Waynesville, said that her property is adjacent to the property proposed for rezoning; and that both properties were once part of the James Massie estate. Ms. Malina said that the developer has done a lot of land clearing. At first she said that the land clearing was frightening; however, she was satisfied with the manner in which her driveway, rockwall and other things were restored and she is now comfortable with the developer's work. Ms. Malina said that the proposed clustered development plan disturbs less area on the hillside, leaves more greenway and trees, and the property will be more desirable for retirees.

Charles McDaniel, 227 Brook Street, Waynesville, said that there was a similar development in his neighborhood which would eventually house 11 families in a high density development on 1.12 acres of property. Based on this density, Mr. McDaniel said there was a potential of 77 units being developed on the Belleview property. He said that he did not want to see the same thing happen at this location that has happened in his neighborhood.

Richard Miller said that he would like to place the maximum number of units allowed on this property (possibly 20) in order to get a better return on his investment; however, with the hillside development ordinance, setback requirements, etc., he may only be able to have 16 detached units. Mr. Miller said that he has redesigned the plan since last year. Mr. Miller said that last year the

Board of Aldermen adopted an amendment which allows the residential planned unit development only as a conditional use in the R-3 zoning district. Mr. Miller said that he met with the residents in this area on August 11, 1997; some of their concerns were whether he would develop the property as he said he was going to do and that the zoning change may set a precedent.

Mr. Miller said the proposed units are most suitable for “empty nesters”, which he said tend to produce about 1/3 the amount of traffic flow as other developments. Mr. Miller said with this development approximately three (3) acres would be used for paving and housing, and the other four (4) acres would remain as wooded area to be maintained by the homeowner’s association. Each unit will be approximately 1,400 square feet, one story with a garage, and twenty feet between each unit.

Charles Miller, said that he was raised on Belleview Road and has spent many hours on the top of this ridge. He was concerned with how the development would look, and with protecting the timber, wildlife and greenery on the hillside. Mr. Charles Miller said that he would rather not see the property developed; however, if it was developed he would prefer the “lesser of two evils” by developing the property with a clustered development, disturbing the least amount of area. Mr. Charles Miller said that he was satisfied with the proposed development and feels that Mr. Richard Miller is a truthful gentleman who will do what he says he intends to do.

Attorney Bonfoey closed the public hearing.

Alderman Williamson asked some of the people in the audience how they felt about the development. Ms. Lucille Milner said that she was satisfied with the last plan presented by Mr. Richard Miller. Mr. Coy Wood said that he would like to have guaranteed assurance that this is the plan which would be used for development of this property.

Mayor Foy pointed out that there was concern that this rezoning could be “spot zoning”. Mayor Foy said that residents had expressed concern with what could be put in this area if the property was rezoned to R-3. Mayor Foy said that he felt that an alternative to the rezoning request would be to ask the Planning Board to study an amendment which would allow a residential planned unit development as a conditional use in the R-2 zoning district. This would allow Mr. Miller to cluster the development, allowing approximately one unit per ½ acre, with a total of approximately 14 units on this particular property, without rezoning the property.

Alderman Moore moved, seconded by Alderman Williamson, to postpone a decision for two weeks on the request for rezoning and to direct the Planning Board to begin the process for an amendment to allow a residential planned unit development as a conditional use in the R-2 zoning district. The motion carried unanimously.

Mayor Foy recommended that Mr. Richard Miller have a landscape architect draw up a plan for this development; Mr. Richard Miller said that he could do this.

Public Service Company of North Carolina Natural Gas System Operational Franchise

Mr. Don Hallingse, District Manager of Public Service Company of North Carolina, attended the

meeting to discuss the proposed thirty (30) year franchise which gives their firm permission to operate within Waynesville. Mr. Hallingse said that the franchise agreement with the Town of Clyde recently passed. Mr. Hallingse said that their firm plans to install a 6" main trunk line through Waynesville to Dayco with a completion date of June 30, 1998.

Attorney Bonfoey pointed out some areas which were of concern and recommended that they be amended. They are as follows:

1) That paragraph 2 of the letter(as follows) be included in the franchise contract rather than a letter. "Prior to commencing construction, PSNC shall submit plans for the installation of the six inch gas transmission line and the six inch and four inch gas distribution lines within the Town. Notwithstanding route changes brought about by unforeseeable construction restraints, market demands, etc., should PSNC fail to have these lines installed within three years from the date the Town Board approves the Franchise, said Franchise becomes null and void."

2) Section 10, Page 6, that the following sentence be amended to allow the Town the right to resolve or defend any claim, demand or suit: "In the event of such notification, the Company shall have the sole and full responsibility for the resolution and defense of any such claim, demand or suit on behalf of the Town, and the Town shall cooperate fully with the Company in any such undertaking."

Town Manager Galloway pointed out that Section 8(a) was amended by adding, "Wherever feasible and practical, the Company shall attempt to bore underneath asphalt or concrete streets, sidewalks, driveways and curb and gutter, avoiding open cuts as much as possible." Section 16 was amended to allow the Town to fix a franchise tax to be paid by the Company to the Town in the event that the State repealed the tax.

Alderman Williamson moved, seconded by Alderman Moore, to approve the thirty year franchise agreement with Public Service Company of North Carolina, subject to the changes as recommended by Town Attorney Bonfoey. The motion carried unanimously. (Ord. No. 35-97)

Marcus Cable Company Cable System Operating Franchise

Mayor Foy asked that the reviewal of the Cable Franchise with Marcus Cable be deferred in order for the Board Members to review the agreement further at a special meeting on August 19, 1997.

Discussion of Junaluska Assembly's Trunk Sewer Line and the Pass Through of Waste Water Collected Above the Assembly's System

Town Manager Galloway said that Fred Baker has been working with a number of property owners in the Junaluska to Dellwood Hill area regarding the location of the sewer line along Route 19. The line is intended to begin near the swimming pool of the Junaluska Assembly, to the main entrance into the Assembly and then along Route 19 to Queen's Farm and possibly to Dellwood Hill. One of the major property owners is the Junaluska Assembly. The line proposed by the Town and County would connect to the sewer trunk line owned by the Assembly. Some questions have been raised about the wastewater from the Route 19 area which will pass through the Assembly's trunk

line. The Assembly has had problems with this line and have made efforts to repair some of the manholes in the lake which allow lake water to overload the system. Although the Assembly continues their efforts to make these repairs, the Assembly has concern about the additional waste water possibly overloading their trunk line between the pool and Liner Building. Mr. Harbough, Fred Baker and Town Manager Lee Galloway have met several times to discuss these issues. The Assembly could transfer ownership and responsibility of the trunk line to the Town or the Assembly may want some type of operational agreement which specifies who will be responsible for problems on that trunk line.

It was the consensus of the Board for Lake Junaluska Assembly and the Town to work out an agreement regarding the maintenance and responsibility of the trunk line between the pool and the Liner Building.

Appointments to ABC Board and Planning Board

ABC Board

The term of Bill Plott on the ABC Board will expire August 15, 1997. He has been contacted and expressed a desire to continue service on the Board.

Alderman Williamson moved, seconded by Alderman Caldwell, to reappoint Bill Plott to the ABC Board to serve another three year term to expire August 15, 2000. The motion carried unanimously.

Planning Board

A vacancy was created on the Planning Board for a member in the extra-territorial jurisdiction when Planning Board Member Earl Mashburn declined reappointment. It has been recommended that Emily Mashburn, a resident of Sunnyside Drive, be appointed to fill the vacancy.

Alderman Williamson moved, seconded by Alderman Moore, to appoint Emily Mashburn to serve a three year term on the Planning Board; the term expires May 31, 2000. The motion carried unanimously.

Community Development Block Grant Quarterly Report

Town Manager Galloway presented a quarterly report, prepared by Zoning Director John Swift, regarding the progress made with the Community Development Block Grant Program through June 30, 1997. Twenty-one homes have been renovated to date. No action was necessary.

Release of Bond - Key Development Corporation

Mr. Richard Miller, co-owner of Key Development Corporation, requested that a portion of bond money be refunded for the amount of work that has been done in a townhouse project (Cypress Villa) located off of Poplar Street and South Main Street. The total bond required was \$9,875.00; the amount requested for refund is \$4,227.30. Director of Public Works/Utilities Fred Baker said that he had inspected the portion of the work which was complete and it is acceptable to the Town.

Alderman Caldwell moved, seconded by Alderman Williamson, to approve the partial release of the cash bond in the amount of \$4,227.30 as requested. The motion carried unanimously.

Alderman Moore moved, seconded by Alderman Williamson, to authorize Town Manager Galloway to release the remainder of the cash bond upon satisfactory completion of the project. The motion carried unanimously.

Minor Subdivision

Mr. David Pope is creating a two lot subdivision from a 2.68 acre tract of land on Eagles Nest Road. The two lots will be accessed via a private road. Town staff recommends approval with the following condition: 1) submit septic tank permits for the two lots.

Alderman Williamson moved, seconded by Alderman Caldwell, to approve the minor subdivision as proposed by Mr. Pope subject to submission of the septic tank permits. The motion carried unanimously.

Resolution Regarding Interstate 40 Rockslide

The Haywood County Tourism Development Authority recently approved a resolution asking that the State Department of Transportation take all extreme measures to reopen the highway as quickly as possible. They have requested that all local governments in Haywood County adopt a similar resolution.

Alderman Williamson moved, seconded by Alderman Clark, to send a letter rather than a resolution, to the State DOT. The motion carried unanimously.

Speed Limit - Prevost, Robinson and Railroad Streets

Alderman Williamson moved, seconded by Alderman Caldwell to reduce the speed limits on Prevost Street, Robinson Street and Railroad Street to twenty (20) miles per hour. The motion carried unanimously. (Ord. No. 36-97)

Special Meeting - August 19, 1997

A special meeting will be held on Tuesday, August 19, 1997, at 6:00 p.m., in order for the Board to discuss the franchise agreement with Marcus Cable. The Board will also view a video from Electricities regarding Deregulation of Electricity.

Adjournment

With no further business, Alderman Caldwell moved, seconded by Alderman Moore, to adjourn the meeting at 8:20 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor