

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
APRIL 14, 1998  
TUESDAY - 7:00 P.M.  
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, April 14, 1998. Members present were Mayor Henry Foy, Aldermen Gary Caldwell, J. Kenneth Moore, Sam Wiggins 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 March 24, and April 1, 1998

Alderman Caldwell moved, seconded by Alderman Moore, to approve the minutes of the March 24 and April 1, 1998 meetings as presented. The motion carried unanimously.

Public Hearing - Annexation Petition - 1141 Oakdale Road - Donnie and Margaret Phillips

At the meeting of March 10, 1998, Town Clerk Phyllis McClure reported that the petition requesting annexation of the property located at 1141 Oakdale Road from Donnie and Margaret Phillips was sufficient. A public hearing date was set for April 14, 1998.

Town Attorney Bonfoey opened the public hearing. No one spoke; Attorney Bonfoey closed the public hearing.

Alderman Williamson moved, seconded by Alderman Moore, to adopt an ordinance annexing the property located at 1141 Oakdale Road, effective April 14, 1998. The motion carried unanimously. (Ord. No. 12-98)

Public Hearing - Amendments to Sections 154.012 and 154.006 - Grading and Land Filling Permit

The Planning Board, at their meeting of March 16, 1998, recommended approval of the following amendments (indicated in blue) to Sections 154.012 and 154.006:

Amend Section 154.012 to read as follows:

Section 154.012 GRADING AND LAND FILLING PERMIT REQUIRED

In addition to the requirements of the State Sedimentation Control Commission, property owners, grading contractors, and developers intending to conduct any land disturbing activities involving grading or filling of the land within the jurisdiction referenced in Section 154.003 shall be required to obtain a Grading and Land Filling Permit from the Town of Waynesville Planning and Zoning

Office. The purpose of this permit is to assure that all grading and filling activities are not detrimental to Town infrastructure improvements (street and utilities), adjacent properties, community appearance, and floodplain areas. Any grading and filling activities conducted in a floodplain area shall comply with the requirements of Chapter 151, Flood Damage Prevention Ordinance.

Graded areas shall be hydroseeded, mulched, and landscaped within thirty (30) calendar days of achieving final grade or within sixty (60) calendar days from the date of the grading permit, whichever is less. Cutbanks shall be left with a 1:3 slope or better.

If extenuating circumstances (weather, engineering problems, etc.) create a delay in the completion of the grading and fill activities, the Planning and Zoning Office may grant a thirty (30) day extension for the grading permit.

All applicants shall complete the appropriate forms in the Planning and Zoning Office. Upon review of the application by the Zoning Director/Planning Officer and upon a finding that the grading or filling activity will not be detrimental, a Grading and Land Filling Permit shall be issued, provided other applicable local and state regulations will not be violated.

Add the following definition to Section 154.006.

“Grading.” Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades. Grading shall also mean any manipulation of the ground forms and the natural vegetation growing upon it.

Town Attorney Bonfoey opened the public hearing. The following persons spoke:

Robert Davis said that he had two items of concern. First, Mr. Davis said that he is one of the members serving on the Land Use Task Force Committee, appointed by the Board of Aldermen to review all development ordinances within the Town. Mr. Davis said that he hoped that the reason for this proposed amendment was not a reaction to things that are disliked in Waynesville. Mr. Davis asked the Board of Aldermen to honor and trust the responsibility given to the Land Use Task Force Committee and that they forward this proposed amendment to them for review. Mr. Davis said that several years ago the Town acknowledged that the future lies in the ability to preserve and protect the beauty which is in Waynesville. He asked that the Board step back and take a look at how Waynesville is going to be developed in the future.

Mr. Davis said that his second concern was the proposed 1:3 slope, adding that the property at Laurel Ridge does not have a lot of 1:3 slopes. Mr. Davis said if this slope is required for driveways there would be no more driveways at Laurel Ridge. Mr. Davis said that a 1:3 slope would not be feasible in the mountains and that the Department of Transportation allows a 1:1-1/2 slope. He asked that the Board refer this to the Land Use Task Force Committee and have them develop what Waynesville needs, because this is the future of our heritage.

Attorney Jack Kersten said that he represented several developers in Waynesville. Attorney Kersten

said that he understood that the Task Force was formed because of something that someone did not like. Attorney Kersten said for land disturbing activities in the winter that a thirty-day extension would not be enough. Attorney Kersten asked that the Task Force look at the proposed amendment because he felt that the way it has been proposed is ill advised. Attorney Kersten said that no one is against proper and controlled development.

Jack Suddath said that he served on the Land Use Task Force Committee and that he did not have a problem with the Task Force reviewing the proposed amendments. Mr. Suddath said that when the Town has eyesores which go on for long periods there will be reaction. Mr. Suddath said he felt that the thirty-day extension is adequate.

Tim Welch, 471 Cardinal Drive, said that he recently cleared two home sites and neither one of them would have met the criteria of the proposed amendments. Mr. Welch said that hydroseeding in the winter is a waste of money and that developers could not meet the time requirement for hydroseeding. Mr. Welch said that requiring a 1:3 slope needs to be thought out seriously.

Eleanor Suddath said that she could see property being disturbed on Dellwood Road and has watched this being done for more than one year. Ms. Suddath said that she could not see any walls or slopes and that people visiting her Bed and Breakfast Home ask her what is going on with the grading being done on property belonging to Mr. Tim Welch. Ms. Suddath said that Dellwood Road is one of the main roads coming into Waynesville and that this type of grading activity should not be going on for so long. Ms. Suddath also said that she felt that Dellwood Road did not need to be widened because of the existing traffic problems in this area.

Mr. Tim Welch said that he planned to build an office complex on his property on Dellwood Road.

Terry Shuler, a grading contractor in Waynesville, said that hydroseeding in the winter would not work. Mr. Shuler said that, in the Waynesville area, all the bottom lots have been sold and all that is left to develop is in the mountain ridges. Mr. Shuler said that the Town should look at methods to control erosion instead of hydroseeding and slope requirements.

Ron Fleenor, 31 Seyeta Park Drive, said that something does need to be done about grading. Mr. Fleenor said that the entire community should be taken into consideration and that property should not be left in a disturbed state for long periods of time.

Attorney Bonfoey closed the public hearing.

Mayor Foy said that some grading of property is speculative grading which can make property more attractive to prospective buyers; however, he felt that a plan should be presented to the Town when developers plan to do speculative grading. Mayor Foy also said that a 1:2 slope may work, but he did not feel it unreasonable to leave the proposed slope at 1:3.

Mr. Bob Davis said that speculative grading is done sometimes and that property would be too expensive if someone was hired to show what the property would look like without the speculative grading.

Alderman Wiggins said that he felt that the proposed amendment should be studied further and that developers should be required to submit a plan to the Town before grading occurs.

Alderman Williamson moved, seconded by Alderman Moore, to request that the proposed amendment be reviewed by the Land Use Task Force Committee and that they make a recommendation in trying to find a plan suitable for everyone. The motion carried unanimously.

#### Public Hearing - Request by Frank and Ellen Childers to Place Property at 510 Smathers Street on the Local Historic Landmarks List

Frank and Ellen Childers own the historic “Judge Frank Smathers House” at 510 Smathers Street. They have petitioned the Board of Aldermen for their property to be placed on the Local Historic Landmarks List. In order for a building to be placed on the local listing, two public hearings must be held. The first public hearing was conducted by the Historic preservation Commission on March 11, 1998. The Commission unanimously recommended adding Childers’ home to the official listing. The second public hearing must be conducted by the Board of Aldermen.

Attorney Bonfoey opened the public hearing. The following persons spoke:

Ellen Childers said that this house was owned by Judge Frank Smathers and that it had been in the Smathers family since it was purchased from the Love family many years ago. Ms. Childers said that the house was built in 1925 and that it has remained the same except for the kitchen.

Mayor Foy commended the efforts of Frank and Ellen Childers in preserving the house. Attorney Bonfoey closed the public hearing.

Alderman Williamson moved, seconded by Alderman Caldwell, to place the property located at 510 Smathers Street, owned by Frank and Ellen Childers, on the Local Historic Landmarks List. The motion carried unanimously. (Ord. No. 13-98)

#### Tom Knapko - Haywood County Chamber of Commerce

Tom Knapko, with the Haywood County Chamber of Commerce, said that on Saturday, April 18 an amateur walking group from Illinois will be in Waynesville. Their walk will begin at Mast General Store at 1:00 p.m. and a reception with cake will be held at the First United Methodist Church at 3:00 p.m. Mr. Knapko invited the Board to the reception. No action was necessary.

#### Mr. Jack Wadham - Concerns Regarding Homeless Shelters

Mr. Jack Wadham requested an opportunity to speak to the Board regarding the possibility of a homeless shelter being located in the Frog Level area. Mr. Wadham said that the store owners and property owners in the Frog Level area are concerned about problems which have arisen since the Soup Kitchen moved to Frog Level. Mr. Wadham said that Frog Level has been an area since the 1920's for derelicts and drunks to hang out and that one of the worst areas for drug dealings was in the alleyway behind the Royal Cafe. Mr. Wadham said that since the Soup Kitchen began, food is

taken out of the soup kitchen and dumped behind the stores. Mr. Wadham presented a petition requesting that a homeless shelter not be put in this area. Mr. Wadham said that several businesses had been broken into and that a homeless person was living in this area now. One of their main concerns was that 85% of the stores within a two-block area in Frog Level are being operated by women. Mr. Wadham said that he has personally operated a half way house in Haywood County and he knows that there are a lot of problems which will need to be dealt with in a homeless shelter. Mr. Wadham said that there are too many alleys, backs of buildings, vacant areas along the creek, etc., in this area which homeless people will occupy if the number of persons allowed in the homeless shelter is limited and people are turned away. Mr. Wadham felt that a homeless shelter should be located in Haywood County's jurisdiction rather than Waynesville's. He also asked if there really was a problem with homeless people in Haywood County since most of the people who eat at the soup kitchen arrive in cars.

Bob Wood, 262 Depot Street, Waynesville, verified Mr. Wadham's concerns. Mr. Wood said that people were throwing out food, beer and wine bottles and using the the Frog Level area as a restroom.

Ellen Childers said that a homeless shelter needed to be a facility in which the residents could be observed at all times. Ms. Childers said that some people do not choose to be in a homeless shelter but that others do and that the ones that do want to be in a shelter do not want to go by the rules.

Jerry Parks, one of the soup kitchen's board members, said that he has lived in this area all his life. Mr. Parks said that he has been at the Soup Kitchen since it opened and that he wanted to share some of the things that God is doing at the Open Door. Mr. Parks said that he has seen people who have come out of prison helped by this service until they could get back into society. He also said that women and children out of wedlock who are trying to better themselves have been helped by the Soup Kitchen. Mr. Parks said that the Soup Kitchen has devotions each day, Bible Study twice per week, and Jubilee Night on Saturday night. Mr. Parks said that this is part of what the Open Door is about, not only are people fed but they are given confidence in themselves. Mr. Parks said that the reason a shelter is wanted is to change people's lives. Mr. Parks pointed out that he lives in Iron Duff and picks up cans and cups in his yard each day, he added that everyone is guilty when it comes to littering.

Mayor Foy said that the Board will consider all the comments made at this meeting. Alderman Wiggins suggested that the Board Members take a look at the Frog Level area and see what improvements can be made. The other Board Members agreed.

#### Report on Bids - 1099 Brown Avenue - Former Hazelwood Town Hall

In early March, 1998, letters were sent to all persons who have shown an interest in purchasing the property at 1099 Brown Avenue, formerly the Hazelwood Town Hall. Two bids were received and were to be presented to the Board of Aldermen at the meeting of April 14, 1998.

Town Attorney Bonfoey reported that some legal questions had arisen and advised the Board not to take action on this matter until the next meeting.

### Award of Bids - Junaluska - Dellwood Sewer Line - Base Bid Only

Town Manager Galloway said that on Thursday, April 2, 1998, bids were opened for the construction of the 12" sewer line between the swimming pool at Lake Junaluska and nearly to the top of Dellwood Hill. The project was bid in two phases. The base bid included that section of sewer line between the swimming pool at the Lake and a point on the east side of U.S. Route 19 across from the Queen's Farm. The cost of this section of line was proposed to be financed between Haywood County and the Town of Waynesville, using a \$200,000 grant from the Appalachian Regional Commission. An alternate bid was also received for construction of the sewer line from the point opposite Queen's Farm to the end of the Sammy Carver property just north of the top of Dellwood Hill. The alternate bid is to be paid for by Haywood County if they decide to authorize construction of the line. The bids received were as follows:

The only issue that the Board of Aldermen need to deal with is the Base Bid. At their meeting on Monday, April 6, the Haywood County Commissioners voted to proceed with the Base Bid to be financed between Haywood County and Waynesville.

Alderman Williamson moved, seconded by Alderman Moore, to tentatively award the bid to Hahn Construction Company of Hendersonville, North Carolina for a total bid amount of \$563,066 for the Base Bid for construction of the sewer line from the Lake Junaluska swimming pool to a point opposite the Queen's Farm, and to enter into an agreement for the construction of this sewer line.

The motion carried unanimously.

#### Parking Ordinance - Church Street

Town Manager Galloway said that when Mr. Dan Burden visited Waynesville in October, 1997, he reviewed some of the problem intersections in Waynesville. One intersection that the Town asked to be reviewed was the Montgomery-Church Street intersection, in front of the Lomo Grill. When attempting to enter Church Street from Montgomery, visibility is difficult. The recommendation has been received that small traffic islands could be installed to allow vehicles to pull farther out into the intersection and permit drivers to see past the Lomo Grill. If the intersection is redesigned in this matter, the sidewalk between Main and Montgomery Streets can actually be widened a few feet, perhaps allowing some plants or a bench, encouraging more pedestrians to reach that area.

In order to implement the proposal, it will require the elimination of the parking spaces on the south side of Church Street. Town Manager Galloway recommended that all property owners and business owners be contacted regarding this proposal before an ordinance is adopted to eliminate the parking spaces.

Several property and business owners attended the meeting and were supportive of the proposal. They recommended that left turns by large trucks from Montgomery onto Church be prohibited.

Town Manager Galloway said that Church Street would need to be closed in order to complete the project and that this will need to be done probably after the 1998 Christmas Season.

Alderman Moore moved, seconded by Alderman Williamson, to approve the recommended improvements for the intersection at Montgomery and Church Streets, pending notification of property owners in this area. The motion carried unanimously.

#### Petitions for Annexation - 184 and 222 Couzins Lane (Formerly Sims Circle) - Williams, Greenleaf

Town Manager Galloway reported that two petitions requesting annexation were received from Frances Rogers Williams (184 Couzins Lane) and William F. and Dorothy E. Greenleaf (222 Couzins Lane). These petitions were submitted because the owners wish to connect to the Town's sewer line. The Town's ordinance requires that any time a property owner wishes to connect to the sewer, they must petition for annexation. The ordinance does not require that the Mayor and Board of Aldermen approve the petition or conduct a public hearing. However, it is recommended that the petitions be held until a future time in case annexation of the entire area takes place.

Alderman Williamson moved, seconded by Alderman Moore, to allow the property owners at 184 and 222 Couzins Lane to tap onto the Town's sewer line and to hold their petitions for annexation for future use. The motion carried unanimously.

#### Closed Session - Legal Matters

Alderman Moore moved, seconded by Mayor Foy, to adjourn to closed session to discuss legal

matters.

Alderman Caldwell moved, seconded by Alderman Wiggins, to return to regular session at 9:38 p.m. Both motions carried unanimously.

Lawsuit - Mrs. Ruby Revis vs Town of Waynesville - Water Tank Property - Town of Hazelwood

Alderman Moore moved, seconded by Alderman Caldwell, to accept the judgment issued by Judge Danny Davis concerning Revis vs. Town of Waynesville. The motion carried unanimously.

Adjournment

With no further business, Alderman Williamson moved, seconded by Alderman Moore, to adjourn the meeting at 9:44 p.m. The motion carried unanimously.

Meeting Reconvened

Alderman Wiggins moved, seconded by Alderman Williamson, to reconvene the meeting at 9:45 p.m. to discuss one additional item. The motion carried unanimously.

Condemnation Proceedings - Burton Green Property - Sulphur Springs Road

Mayor Foy explained that he has met with Burton Green on three occasions to seek a price for right-of-way acquisition necessary for the Boyd Avenue Bridge Project. Mayor Foy said that Mr. Green has indicated that he would lose ten (10) feet of property, several trees and that the property would be less attractive to his tenants, and Mayor Foy has been unable to negotiate a price for the right-of-way.

Alderman Wiggins moved, seconded by Alderman Caldwell, to begin condemnation proceedings on the Burton Green property. The motion carried with four (4) ayes and one (1) nay (Williamson).

Adjournment

With no further business Alderman Williamson moved, seconded by Alderman Moore, to adjourn the meeting at 10:54 p.m. The motion carried unanimously.

---

Phyllis R. McClure  
Town Clerk

---

Henry B. Foy  
Mayor