

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
OCTOBER 13, 1998
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, October 13, 1998. Members present were Mayor Henry Foy, Aldermen Gary Caldwell, Kenneth Moore, Sam Wiggins and James Williamson. Also present were Town Manager A. Lee Galloway, Town Engineer/Public Works Director Fred Baker, Planning and Zoning Manager John Swift, 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 September 8 and September 25, 1998

Alderman Caldwell moved, seconded by Alderman Moore to approve the minutes of the September 8 and September 25, 1998 meetings as presented. The motion carried unanimously.

Public Hearing - Amendment to Section 154.012 Grading and Land Filling Permit

Town Attorney Michael Bonfoey opened the public hearing regarding a proposed amendment to Section 154.012 Grading and Land Filling Permit. The following persons spoke:

Gary Cochran, 45 Mast Court, Clyde, President of the Haywood County Home Builders Association, asked that the proposed amendment not be passed as written. He felt that the amendment would be detrimental to the Town; requiring a tremendous amount of property for development, which would make it impossible for some people to develop their property.

John Burgin, 275 Wildcat Mountain Road, Waynesville, said that he was a builder and a member of the Land Use Task Force Committee. Mr. Burgin felt that the proposed amendment would be detrimental to Waynesville and he asked that the Board take a close look before passing. Mr. Burgin felt that this amendment was more strict than the last because a 1.75 slope is required and the previous slope was 1.5. He added that the amendment will require more benches and the movement of more dirt from the mountains, eliminating many yards in Waynesville. Mr. Burgin also felt that it would be a mistake to prohibit speculative grading.

Planning and Zoning Manager John Swift said that a plan could be presented for grading. John Burgin said that more paper work would then be required before final grading could be completed. Alderman Wiggins asked Mr. Burgin what his recommendation would be. Mr. Burgin said that he did not want to make a statement at this meeting that would "hang him". Mr. Burgin said that this ordinance, as it is presented tonight, is unacceptable and would not be good for the development of affordable housing in the \$150,000 range.

Burton Edwards, General Contractor, said that he asked a Professional Engineer to give an example

of how this grading ordinance would affect development, but he said that there were so many variables and that every situation needed its own approach. Mr. Edwards said that he would rather see tougher inspections than tougher regulations. He pointed out the importance of making sure that developers remove sod and stumps so that the property doesn't cave in when those items deteriorate. Burton Edwards said that water management needs to be brought into this ordinance because there was an area in the Dellwood with a 3:1 slope and the mountain was still moving.

Joni' Cure, Southern Exposure Realty, said that buyers and sellers were concerned with this proposed ordinance. Ms. Cure said that she has sold dozens of lots to people who were not present at the meeting. Ms. Cure asked for a copy of any economic impact studies which have been done on this ordinance.

Jack Suddath, 224 Love Lane, said that he was a member of the Land Use Task Force. Ms. Suddath said that no ordinance or resolution is perfect, but that you have to begin somewhere and you need some restrictions. Mr. Suddath said that he attended the workshop on October 3, 1998, when Gary McKay made a presentation to the Board of Aldermen and Planning Board and recommended the 1.75 slope.

Ron Leatherwood, 171 Scenic Circle, said that he felt that some parts of the ordinance needed further study. Mr. Leatherwood felt that speculative grading should not be prohibited because of its importance in recruiting industries to this area. Mr. Leatherwood felt that the \$15,000 fine should be reduced. Mr. Leatherwood also recommended that the Town of Waynesville consider the Erosion and Sedimentation Control Plan adopted by Haywood County.

Ron Fleener, 31 Seyeta Park Drive, said that this ordinance is necessary for the protection of people buying homes, existing residents and contractors in Waynesville. Mr. Fleener presented some pictures of a bank which had been cut without using this type ordinance.

Martha June Setzer, Monarch Realty, said that she came to the meeting to learn. Ms. Setzer said that we have had these mountains for a long time and will have to deal with them for a long time. Ms. Setzer said that she served 12 years on Haywood County's Planning Board and she understood that ordinances and rules are necessary, but that there also needed to be some sort of exceptions. Ms. Setzer was concerned that this ordinance would limit Waynesville's tax base because it would limit the number of people who could build homes in this area.

Bill Burgin said that he lives in Waynesville, has built a lot of good homes and none of them are falling off the mountains. Mr. Burgin said with this ordinance a lot of land is being taken that people are still paying taxes on. Mr. Burgin asked the Board to consider not passing the ordinance the way it is written now.

Ron Muse expressed concern with the staff which the Town will need to hire to enforce this ordinance. Mr. Muse said that Eagles Nest has 800 lots remaining for development.

Ken Henson, 181 Bob Henson Road, said that this ordinance would create eyesores in the Laurel Ridge area. Mr. Henson said that engineers that develop these ordinances can not run the machinery

to do the work and do not realize the impact of the ordinances. Mr. Henson said that the Town should not have incorporated the Laurel Ridge area into the city if they knew it was steep.

Attorney Bonfoey closed the public hearing.

Mayor Foy said that this proposed ordinance is for the corporate limits of Waynesville and its extraterritorial jurisdiction. The density is becoming greater in this area and an ordinance is needed to protect it.

Planning and Zoning Manager John Swift said that the ordinance contains a “built-in” flexibility. If the requirements cannot be met, an engineer can be hired to ensure the stability of the property. Mr. Swift said that it would cost \$2,500 - \$3,800 per lot (based on one acre lots with 100' driveway) for an engineering study for those lots which do not meet the requirements of this ordinance. Mayor Foy asked if this ordinance is more rigid than other ordinances. Mr. Swift said that the ordinance is less strict than some ordinances; some do not allow development in areas above 20-30% slopes.

Alderman Wiggins suggested that some type of graduated slope process be developed in which owners or developers could be given the right to have a 1:1 slope under certain circumstances. This would take less trees if a high bank was not required. Alderman Wiggins said that one of the developers showed him examples of the different slopes, adding that more trees would have been taken if a 1:5 slope was used rather than a 1:1 slope. Alderman Wiggins said that the Board of Aldermen and Planning Board were not familiar with the ordinance and did not know what its impact would be. Alderman Wiggins agreed that some type of ordinance is needed. Alderman Wiggins said that there was a house in the Laurel Ridge area that he was familiar with that sunk approximately twenty (20) feet. However, he had a problem with the requirement of hiring an engineer to determine if a person could build on the side of the hill. Alderman Wiggins felt that the proposed ordinance was too restrictive and needed further study.

Engineer Gary MacConnell said that some soils cannot handle a 1:1 slope. Mr. MacConnell said that the proposed ordinance is to protect the public, establishing requirements to ensure the stability of the soil. Mr. MacConnell said that it was more costly to develop the steeper areas.

Alderman Williamson said it bothered him to have so many people opposed to this ordinance and that the ordinance was not reviewed again by the Land Use Task Force Committee. Alderman Williamson said that he has not seen any houses come down off the mountain yet. Alderman Williamson said that an ordinance with restrictions was needed but that you have to look out for the people. Alderman Williamson asked Engineer MacConnell if he had looked at the homes in the Laurel Ridge area and if any of them would have been affected if this ordinance had been in effect at the time they were built. Engineer MacConnell said that there were some homes which would have been done differently.

Alderman Moore said that the Town already has an ordinance which has been working for as long as he has been on the Board. Alderman Wiggins pointed out that the ordinance used by the Town at this time does not control slopes.

Alderman Williamson moved, seconded by Alderman Moore, to authorize Mayor Foy to appoint a six (6) member committee to further study the proposed ordinance, look at the technical aspects and make recommendations for modifications. One (1) member is to be a representative of the Haywood County Home Builders Association and the other five (5) members to be appointed by Mayor Foy. The recommendations from this Committee would be reviewed by the Land Use Task Force Committee, Planning Board and then to the Board of Aldermen for another public hearing. The motion carried unanimously.

Public Hearing - Amendment to Section 154.036 - Front Yard Building Setback Requirement for Moderate to Severe Sloped Lots Abutting a Public Street or Road

John Swift requested that the public hearing for this amendment be postponed until a later date, because it was designed to work with the grading ordinance. It was the consensus of the Board to delay the proposed amendment to Section 154.036 until a later date.

Amendment to Section 154.204 - Wireless Telecommunications Facilities

Town Manager Galloway said that a question has arisen concerning what to do in the event that the telecommunications company failed to remove their tower after it ceased to be used. A change was proposed to require that a bond be posted to assure the removal of the telecommunications tower. The change also requires that if said bond is insufficient to pay for the removal of such a cellular tower, the responsibility for the additional cost to remove the tower shall be upon the landowner. The amendment is as follows:

By changing subsection B(7) to subsection B(8) and by deleting the language after the words “of its discontinued use,” and inserting the following:

B.(8) . . . and the bond that was posted pursuant to paragraph 7 above is insufficient to cover the costs of the removal of the facility, then the responsibility for the additional costs of removal shall be upon the landholder.

By adding a new subsection B(7):

B.(7) The applicant shall post a bond in an amount sufficient to pay for the costs of the removal of the facility. The bond amount shall be determined by the Administrator after considering the size, location, type of facility and other relevant facts in the application. The bond shall be no less than \$10,000 cash or other security equal to \$10,000 and satisfactory to the Town.

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

Alderman Wiggins moved, seconded by Alderman Caldwell, to adopt the amendment to Section 154.204 regarding Wireless Telecommunications Facilities. The motion carried unanimously. (Ord. No. 32-98)

Amendment to Section 154.017.1 - Family Care Homes (Six or Less Beds)

Town Manager Galloway said that under a Statewide law adopted by the North Carolina General Assembly in 1981, a local government may not prohibit a “Family Care Home” from any residential zoning district. That same law does allow local governments to adopt an ordinance restricting one “Family Care Home” from being located within a one-half mile distance from any other “Family Care Home”. This amendment would add the stipulation that a family care home shall not be located within a one-half mile radius of an existing family care home.

The proposed amendment would add Section 154.017.1 as follows:

Section 154.017.1 Family Care Homes (six or less beds).

A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts of the Town’s land use jurisdiction as defined by Section 154.003. However, a family care home shall not be located within a one-half mile radius of an existing family care home.

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

Wendell Woods, 411 Howell Street, said that he has lived at this location for twenty years, which is directly below the property proposed for the location of a family care home. Mr. Woods asked if this ordinance is passed if it would negate the building of the proposed home on Assembly Street. Town Attorney Bonfoey said that he did not have all the facts at this time due to the fact that there may be a question regarding vested rights. Mr. Woods said that he supported the adoption of this ordinance.

Bob Clampitt, Oak Street, said that the gentleman who originally requested the closing of this right-of-way said that he was going to build a single family home. Mr. Clampitt asked if anything could be done if he misrepresented his reason for requesting the closing of the right-of-way. Attorney Bonfoey said that anything permissible in that zoning district could be built. No one else spoke; Attorney Bonfoey closed the public hearing.

Alderman Moore moved, seconded by Alderman Williamson, to approve the proposed amendment regarding “Family Care Homes” as presented. The motion carried unanimously. (Ord. No. 33-98)

Public Hearing - Community Development Block Grant Program

This is the second of two public hearings conducted by the Town to obtain citizen input regarding the contents of the application package. The Town of Waynesville is applying for a Fiscal Year 1999-2000 Community Development Block Grant. The Town is requesting \$350,000 to repair 12 homes which are owner-occupied and whose owners meet low-income standards. These homes will be within the corporate limits of the Town. Attorney Bonfoey opened the public hearing. No one spoke; Attorney Bonfoey closed the public hearing.

Alderman Moore moved, seconded by Alderman Williamson, to proceed with the Fiscal Year 1999-2000 Community Development Block Grant Project. The motion carried unanimously.

Ordinance to Remove or Demolish Property - 220 Frazier Street

The Building Inspector has submitted a request that the Mayor and Board of Aldermen adopt an ordinance directing the removal and/or demolition of the house and outbuildings located on a lot at 220 Frazier Street. Representatives of the Waynesville Fire Department have evaluated this building to see if it might be burned rather than demolished. Due to the extremely dilapidated condition of the building, the close location of the house to the Bypass, and the aerial electrical lines which would need to be removed it was determined that the building could not be burned.

Alderman Williamson moved, seconded by Alderman Caldwell, to adopt the ordinance authorizing the Building Inspector to remove or demolish the property located at 220 Frazier Street. The motion carried unanimously. (Ord. No. 34-98)

Resolution in Support of Clean Water and Natural Gas Bonds

Town Manager Galloway said in the current session of the N.C. General Assembly, Clean Water and Natural Gas Bonds have been authorized in the amount of one billion dollars. The actual bond proceeds will not be available unless approved by the voters on November 3rd. The N. C. League of Municipalities has distributed a report and asks that every Board in the State adopt the resolution to encourage voters to approve these bonds. Of the \$1,000,000,000, 80% is for water and sewer and 20% is for natural gas projects to serve areas not presently served.

Alderman Moore moved, seconded by Alderman Williamson, to adopt the resolution as requested by the N.C. League of Municipalities. The motion carried unanimously. (Res. No. 22-98)

Award of Bids for Backhoe/Loader

Town Manager Galloway said that bids were opened on Thursday, October 1, 1998, for a new backhoe-front end loader for the Street Department. This unit will replace a 1984 Ford 555 model which has provided excellent service over the past 14 years. \$75,000 was requested for this piece of equipment during the 1998-1999 fiscal year budget, and funds from the Powell Bill would be used for this purpose. The bids were received as follows:

<u>BIDDER</u>	<u>AMOUNT</u>	<u>DELIVERY TIME</u>	<u>MAKE</u>
Haywood Tractor	\$68,582.00	120 Days	FORD 575
Carolina Tractor	No Bid		
Farm Equipment	\$50,463.42	120 Days	FORD 555
Von Lott, Inc.	\$57,015.28	30-60 Days	DEERE

The low bid was submitted by Farm Equipment Company of Asheville, Inc., in the amount of

\$50,463.42. A buy-back option program is also available for \$2,500/year. With this program if the Town kept the Ford 555 for ten (10) years, it could then be traded in for a new piece of equipment for \$12,500. It is the recommendation of Town Staff that the bid be awarded to Farm Equipment, including the buy-back option.

Alderman Williamson moved, seconded by Alderman Moore, to award the bid to Farm Equipment in the amount of \$50,463.42, and to include the buy-back option for \$2,500 per year. The motion carried unanimously.

Resolution to Recognize Haywood County Schools

Mr. Walt Plexico, Chairman of the Education Committee for the Haywood Chamber of Commerce sent a letter to the Town encouraging local governments to adopt resolutions honoring the school system because of recent accomplishments.

In attempting to improve the quality of the schools in North Carolina, the State came out with criteria for which each school should strive. By meeting these goals, the schools could earn an “Exemplary Growth” rating from the State. For the past fiscal year, all 15 schools in the county achieved this status. In addition, the scores for the Scholastic Achievement Tests (SAT), were 1,013, higher than the State average and almost at the national level of 1,017.

Alderman Moore moved, seconded by Alderman Williamson, to proclaim the week of October 19th - 23rd as “Haywood County Schools Week” and to proclaim their support for the efforts of the students, teachers and staff of the Haywood County School System. The motion carried unanimously.

Transfer of Marcus Cable to Vulcan Cable

Town Manager Galloway said at the end of August, Waynesville, along with seven (7) other local governments in Western North Carolina, received a request from Marcus Cable to approve the transfer of their franchise to Vulcan Cable, Inc. The Managers of these eight local governments have met to discuss some of the problems they have experienced with rate increases and channel changes. A joint letter was mailed saying that a transfer of the franchise was not recommended until a meeting was held with the cable representative and some of these concerns were resolved.

Town Manager Galloway said in the franchise which was granted to Marcus Cable there was wording to the effect that in the event a transfer of the franchise is requested, the Town will not unreasonably withhold approval of the transfer. The franchise also states that the Town must act upon the transfer request within sixty (60) days. Manager Galloway said that he would recommend that the Town decline to approve the request for the transfer at this time, delaying such action until Vulcan or Marcus representatives meet with the manager to discuss and hopefully resolve the issues which cause some concerns. Attorney Bonfoey agreed with Manager Galloway.

Alderman Wiggins moved, seconded by Alderman Williamson, to table action on the transfer of Marcus Cable to Vulcan Cable until Town Manager Galloway has had an opportunity to discuss the

transfer with Vulcan Cable. The motion carried unanimously.

Mr. Wayne Smith - Concerns Regarding Handicap Access

Mr. Wayne Smith attended the meeting to discuss his concerns regarding handicap access in Waynesville. Mr. Smith said that buildings built before 1992 were not required to be handicapped accessible, but any buildings built after that time were required to comply with ADA regulations. ADA does have a process established by which handicapped persons can request compliance with ADA regulations, however, this process is very time consuming. Mr. Smith said that he challenged a motel to comply and they were given one (1) year in which to do so. Mr. Smith said that he was told that the Town could adopt an ordinance requiring that all buildings comply with ADA regulations.

Town Attorney Bonfoey said that he would research the matter and report to the Board at the next regular meeting.

Ms. Linda Russell attended the meeting and said that she had been in a wheelchair for four (4) years. Ms. Russell said that there were problems on Haywood Street for persons in wheelchairs, walking or pushing a stroller. The problems are because of sharp drop-offs, especially the driveway entering the back of the Post Office and the three other streets which intersect with Haywood Street between the Post Office and the Library. Ms. Russell also said that handicapped persons could not cross at the crosswalk in front of the Police Department.

Town Manager Galloway said that during 1994 he was contacted by Aaron Parkins with Pathways who identified several intersections in Waynesville which were not handicapped accessible. The Town made several curb cuts to improve these intersections. Manager Galloway said that he would ask the Street Department Superintendent to look at these areas and make the necessary curb cuts for handicapped accessibility.

Citizen Concerns - Ray Fisher - Greenhill Cemetery - Storm Drain on Glendale Drive Bill Noland - Traffic From Wall Street to Main Street

Mr. Ray Fisher attended the meeting to request that the Town install concrete walkways in Greenhill Cemetery rather than paved walkways because concrete looks better and does not allow grass to grow through like pavement does. Mr. Fisher said that he was told that a sidewalk would be built when he bought his cemetery lots.

Mr. Fisher also thanked the Board for installing a storm drain on Glendale Drive after he fought for twenty-six years to get it done. Mr. Fisher pointed out that a few feet still remain to be completed above Woodfield Drive. No action was necessary.

Bill Noland said that he has an office at 236 North Main Street. He was concerned with the lack of traffic flow ability from Wall Street to Main Street and asked if the Town could make a two-way driveway beside Cedar Hill Studio. Town Manager Galloway said that the Town does not own the entire width of the alley and therefore could not extend it to a two-lane driveway. Public Works

Director Fred Baker said that this was a dangerous area due to pedestrians and that the Enterprise Mountaineer actually owns the alley. No action was necessary.

Sewer Projects - Francis Farm Road, Haywood County's Agricultural Center, Dellwood Road

Alderman Williamson asked what the status was regarding the three sewer projects on Francis Farm Road, Haywood County's Agricultural Center and Dellwood Road. Town Manager Galloway said that he spoke with Haywood County Manager Jack Horton this afternoon and that the Town is waiting to get all the cost estimates for these projects and to discuss whether Haywood County is willing to participate in these projects.

Bill Noland attended the meeting to request the extension of sewer lines along Dellwood Road for Maple Grove Church and Haynes Mobile Home Park.

Town Manager Galloway said that Haywood County opted to extend sewer from Queen's Farm to Dellwood Hill and that they are paying for this portion. The estimated cost for the portion of the sewer line from the US 276 intersection to Maple Grove Church was approximately \$161,000, 100% to be paid by the Town. However, during the retreat the Board decided not to proceed with this portion of the sewer line at the present time. Town Engineer/Public Works Director Fred Baker said that this portion was designed but bids were not received for the project.

Ms. Jackie Haynes said that Haynes Mobile Home Park currently had thirty mobile home lots with the possibility of ten (10) additional lots if sewer is extended. Robert Noland said that he owns property in this area and was puzzled because this project was placed as part of a plan with two other projects when this project was discussed first and sewer is needed in this area.

Closed Session to Discuss: 1) Consideration of Purchase of a Parcel of Land, 2) Consideration of an Easement, and 3) Personnel Matter

Alderman Williamson moved, seconded by Alderman Moore, to adjourn to closed session at 9:25 p.m. Alderman Wiggins moved, seconded by Alderman Caldwell to return to open session.

Approval of Minor Subdivision (Elmer) and Condemnation Settlement (Burgess) Asheville Road

Alderman Williamson moved, seconded by Alderman Moore, to approve a minor subdivision at the request of Attorney Ann Davis and in settlement of a condemnation action against Burgess by the Town to secure a utility line easement along the Asheville Road. This approval was granted subject to the Town receiving the necessary utility easements from the owners, Christopher A. Elmer and Stephanie C. Elmer. The motion carried unanimously.

Adjournment

With no further business, Alderman Moore moved, seconded by Alderman Williamson, to adjourn the meeting at 10:05 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor