

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
TOWN HALL  
JUNE 22, 1999  
TUESDAY - 7:00 P.M.

The Board of Aldermen held a regular meeting on Tuesday, June 22, 1999. 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 Clerk Phyllis McClure and Acting Town Attorney Woodrow Griffin. Mayor Foy called the meeting to order at 7:03 p.m.

Approval of Minutes of May 25, 1999

Alderman Caldwell moved, seconded by Alderman Wiggins, to approve the minutes of the May 25, 1999 meeting as presented. The motion carried unanimously.

Budget Ordinance for Fiscal Year 1999 - 2000

Town Manager Galloway said at the last Board Meeting the Board held a public hearing regarding the proposed budget for Fiscal Year 1999 - 2000. At the last budget work session, the Board members stated that they would like to see the fund balance appropriation in the General Fund at a figure less than \$300,000. The proposed allocation in the budget document which is being presented at this meeting is approximately \$235,000. Manager Galloway said when the Town entered the 1998-1999 fiscal year, the fund balance from the General Fund was proposed at about \$315,000. Manager Galloway said that there is a 10% increase on sewer rates and an increase for cemetery lots to \$550.00. At the present time the Town has approximately \$35,000 in the perpetual care fund. The \$100/cemetery lot increase will be placed entirely in the perpetual care fund. When the cemetery becomes full, the fund will then be able to pay for maintenance of the cemetery.

There was discussion regarding the proposed increase for cemetery lots. Alderman Williamson suggested that all money from the sale of cemetery lots be placed in the perpetual care fund until the fund increases. Mayor Foy and other Aldermen said that years ago Greenhill Cemetery was a beautiful cemetery. Now the concrete is crumbling and needs to be replaced. Alderman Wiggins said that the Town has a "deplorable situation at the cemetery" and the Town needs to go up there and make the corrections. Alderman Caldwell said that the \$100 will go with the other \$100 increase several years ago, totaling \$200 from the sale of each cemetery lot going into the perpetual care fund. Alderman Williamson suggested that the issue of the cemetery be placed on the next agenda.

Town Manager Galloway said that this year's budget totals \$18,264,475, which is a 5.9% increase over last year. The Recreation Fund is increased by \$700,000. Alderman Williamson asked if the Town did not have a reserve fund how would the budget be balanced. Alderman Wiggins pointed

out that it was agreed at the other meetings that the fund balance appropriations in the General Fund be kept at a figure less than \$300,000 and that this budget allows approximately \$235,000.

Alderman Caldwell moved, seconded by Alderman Wiggins, to adopt the Budget Ordinance for Fiscal Year 1999-2000. The motion carried unanimously. (Alderman Williamson abstained which counts as an affirmative vote). (Ord. No. 12-99)

#### Recognition of Boy Scout

Mayor Foy recognized and welcomed two Boy Scouts who attended the meeting.

#### Resolution on Financial Operating Plan for the Two Internal Service Funds

Finance Director Eddie Caldwell explained that a resolution is needed for the Public Works Operation and for the Vehicle Maintenance Garage. Funds for these two Service Funds come from the General, Water, Sewer and Electric Funds.

Alderman Williamson moved, seconded by Alderman Moore, to approve the resolution for the financial operating plan for two internal service funds. The motion carried unanimously. (Res. No. 7-99)

#### Amendment No. 1 to the 1998-1999 Budget Ordinance

Finance Director Eddie Caldwell said that each year, there are expenditures which are not anticipated or which are carried over from a prior fiscal year. Sometimes these expenditures push a specific department beyond the amount of money that has been budgeted for the costs in that department. Finance Director Caldwell said that the Town has a lot of revenues coming in and he did not expect to tap into fund balance as anticipated.

Alderman Williamson moved, seconded by Alderman Caldwell, to adopt Amendment No.1 to the 1998-99 Budget Ordinance. The motion carried unanimously. (Ord. No. 13-99)

#### Report by Town Clerk on Petition for Annexation Submitted by David and Cassenda Farmer

At the last meeting a petition from David and Cassenda Farmer was received for the annexation of their property on the northeast corner of the intersection of Oakdale Road and Wildcat Mountain Road. At that time, the Board directed Town Clerk Phyllis McClure to investigate the sufficiency of the petition from the Farmers. Ms. McClure has done this and finds that the petition is sufficient to comply with State law.

Alderman Williamson moved, seconded by Alderman Caldwell, to reject the petition for annexation. The motion carried unanimously.

#### Fire Department Roster

Town Manager Galloway said that each year the Fire Chief must submit a roster of both the paid and volunteer fire fighters who have fulfilled the requirements to maintain their coverage under the special State retirement system for firefighters. In order to be eligible, the fire fighter must complete a certain number of hours training each year.

Alderman Wiggins moved, seconded by Alderman Williamson, to approve the Fire Department Roster, as submitted by Fire Chief Bill Fowler. The motion carried unanimously.

#### Fire Department Request for Funds for Infrared Camera

Fire Chief Bill Fowler introduced Mark Pless with Dixie Fire and Safety to present a demonstration of an infrared camera for the Fire Department. Mr. Pless said that this unit allows a firefighter to see children who might be hiding in a burning home, to find firemen who are overcome by smoke and must be rescued from a burning structure, and to locate hot spots. The camera costs in the range of \$21,500. Town Manager Galloway said that the Fire Department will end the year with more than \$50,000 in funds from their budget that will not be spent. It was suggested that the request be presented to the Board of Aldermen for their approval.

Alderman Williamson moved, seconded by Alderman Wiggins, to approve the request for purchase of the infrared camera for the Fire Department. The motion carried unanimously.

#### Police Department Request for Funding for Special Response Team Equipment

Police Chief Bill Hollingsed said that several things have happened recently which have made the Waynesville Police Department realize the need for a special response team. Chief Hollingsed said that explosive devices have been found at Waynesville Middle School and the Police Department recently dealt with a possible hostage situation. In larger areas response teams are available to respond to this type situation, but not in Haywood County. Chief Hollingsed said that the Waynesville Police Department recently received a \$6,000 grant for training purposes. A request for a \$45,000 grant for equipment was turned down.

Chief Hollingsed requested approval to purchase various equipment needed for the Special Response Team. Those items include sniper rifle, protective/entry shields, night vision equipment, day/night weapon sight, night vision (binocular style), diversionary devices (flashbangs) and 40mm gas gun with ammunition. Chief Hollingsed said that he would also like to purchase ten gas masks for the response team. The total cost of all requested equipment is approximately \$13,803.60 and the gas masks are \$142.14 each.

Town Manager Galloway said that the Police Department budget is under spent in the current fiscal year and it is recommended that the Mayor and Board of Aldermen consider granting this request.

Alderman Wiggins moved, seconded by Alderman Williamson, to approve the request for equipment at a cost of \$13,803.60, plus the addition of ten gas masks. The motion carried unanimously.

Mayor Foy said that it was appropriate that both the Fire Chief and Police Chief came before the

Board with their requests.

#### Amy Cogdill - Grant for Recreation for at Risk Youth

Police Chief Bill Hollingsed distributed copies of job descriptions for a police officer and recreation specialist to work with at risk youth. A few months ago, the Town was awarded a special grant to assist with youth at risk. This grant will combine the Police Department and the Recreation Department in an effort to work with middle school teenagers who have been suspended from school. Rather than let these young people roam at will and perhaps get into more serious trouble, this program gives these teens and their families a second chance. The program also provides our community with a second chance to deal with these young people, allowing the police and recreation personnel the opportunity to redirect them and hopefully guide them back toward a behavior level which is more acceptable. The project has been named the B.A.D.G.E. Program (Becoming Achievers and Doers through Guided Education).

Town Manager Galloway said that this grant was awarded in the amount of \$50,000 annually for a two-year period of time. It funds the salaries of two employees and a small amount of materials and transportation. Although the grant application requested funding of the fringe benefits for the two employees, it was not approved. Manager Galloway said that he mentioned at one of the budget work sessions that the Town is holding approximately \$15,000 to \$17,000 in the Police Department budget so that these benefits might be paid.

Police Chief Hollingsed said that this will work as a mentoring program for children who have been suspended from school, having problems at home and with law enforcement. He said that the school system has committed tutors for this program. Hopefully there will be field trips with parent participation. The after school component will be open to all children at Waynesville Middle School. Chief Hollingsed said that the Town is required to match the benefits and that money is available in the budget for this purpose. The grant term is two years. Part of the program is follow up.

Amy Cogdill, who works with Project Challenge, said that she currently has 33 children in her case load and the majority of those children are 11 - 16 years of age. After July 1 of this year the laws change and they are allowed to carry children up to the age of 18 years. Ms. Cogdill said that most of these children are from Waynesville Middle School. Some of those children were suspended for the year since January or February and they have been unsupervised since that time. A lot of these children are from single parent homes. With the proposed program, these children would report to the BADGE program during the day.

Alderman Wiggins moved, seconded by Alderman Williamson, to accept the grant and allow \$15,000 to be applied to the fringe benefits. The motion carried unanimously.

#### Resolution - U.S. Flag Protection Amendment

A letter was received from the District Commander of the American Legion, Mr. Jerrold A. "Jerry" Smith, of Franklin. The letter requests that the Town Board adopt a resolution in support of an

amendment to the United States Constitution. According to the letter, the amendment would call for protection of the flag, and state that “The Congress shall have power to prohibit the physical desecration of the flag of the United States.”

Alderman Williamson moved, seconded by Alderman Moore, to adopt the resolution as presented. The motion carried unanimously. (Res. No. 8-99)

#### Minor Subdivision Plat - Mark Sheppard - Carpenter Way (Off Chambers Road)

Mr. George Carpenter owns a 14.6 acre tract of land on Carpenter Way, which is located off Chambers Road. The property is zoned “R-1”, Low Density Residential, and Mr. Carpenter is subdividing the tract to sell Mark Sheppard a 1.193 acre parcel. The plat meets or exceeds Town standards, and Town Staff recommends that the Board approve the minor subdivision.

Alderman Wiggins moved, seconded by Alderman Caldwell, to approve the minor subdivision for Mark Sheppard located on Carpenter Way. The motion carried unanimously.

#### Petition to Amend Parking Regulations on Montgomery Street

Town Manager Galloway said that the owners of some businesses on Montgomery Street have submitted a petition requesting that the Board approve an amendment to the Town’s parking regulations which would eliminate parking spaces in front of their businesses. The three businesses are Haywood Barber Shop 131 Montgomery St., Café on Line 133 Montgomery Street, and Backstreet Hair Studio 135 Montgomery Street. There are a total of three parking spaces involved in this request and one of those is reserved for the Handicapped. The handicapped space was actually installed at the request of Mr. Hugh Massie, owner of Haywood Barber Shop. The business owners want to do away with the parking spaces because they feel that they block their store fronts and hinder the businesses.

Alderman Williamson moved, seconded by Alderman Wiggins, to eliminate all three (3) parking spaces on Montgomery Street in front of the businesses located at 131, 133 and 135 Montgomery Street. The motion carried unanimously.

#### Request to Investigate Legalities of Parking on Sidewalk

Mayor Foy asked that the Town Manager investigate the legalities of parking on the sidewalk in front of the Stage Door on Montgomery Street.

#### Request by Institute of Government for Special Pledge of Approximately \$800

Town Manager Galloway said for several years, the Institute of Government at Chapel Hill worked to secure funding from the General Assembly to expand their facility. The facility was constructed in the 1950's and has served countless individuals who are involved in local government. As governments have grown, the facility has become inadequate, and many meetings involving institute instructors had to be moved to other sites.

A few years ago, the Institute was able to secure State funding for their expansion. However, the efforts had been underway for several years, and the money approved in 1997 was based upon construction cost estimates from 1993. To accommodate the expansion, the Institute found that it needed approximately \$4,000,000 more than what had been approved. Rather than return to the General Assembly, the Institute is attempting to raise the needed money from local governments and from the private sector. The Institute, League of Municipalities and Association of County Commissioners have requested that the municipalities and counties of the state agree to double their membership dues to the Institute for one year. The additional cost for the Town of Waynesville would be around \$800.

Alderman Williamson moved, seconded by Alderman Moore, to approve a pledge to the Institute of Government to match the normal annual dues of approximately \$800. The motion carried unanimously.

#### 90 Day Moratorium - Sexually Oriented Businesses in Waynesville

A regulatory ordinance is being prepared by the Town Manager and Town Attorney regarding sexually oriented businesses in Waynesville. This is necessary since the Faze 3 Night Club opened in the Waynesville Plaza. There is concern that if a sexually oriented business can open in Waynesville without anyone being aware of it, it could happen again tomorrow.

Alderman Wiggins moved, seconded by Alderman Williamson, to adopt a ninety (90) day moratorium prohibiting the opening of any new sexually oriented businesses or the expansion of any existing sexually oriented businesses in Waynesville. The motion carried unanimously.

Alderman Wiggins asked why additional regulations had not been adopted prior to now. Alderman Williamson said that the Board adopted a moratorium previously and asked why additional regulations were not adopted at that time.

Town Manager Galloway said that when the original ordinance was adopted it was drafted by Attorney Richlyn Holt who served as the town's attorney at that time. It was based on an ordinance which had been upheld in court and at that time it was determined that the Town had an ordinance which would also be upheld if challenged in Court. When the other moratorium was adopted, the law had not changed. However, on July 15, 1998, the law changed and additional regulations could have been adopted. Town Manager Galloway said that last July when the law changed, Attorney Bonfoey sent information to the Board regarding this issue and asked at that time if the Board wanted to consider additional changes in the ordinance. No regulations were adopted.

Alderman Wiggins read a section of NCGS regarding sexually oriented businesses. Alderman Wiggins said that the Town has never had a regulatory ordinance and the Board could not adopt regulatory ordinance in four days.

Police Chief Hollingsed said that the Police Department has issued citations for violations at the Faze 3 Night Club. Those citations are now with the District Attorney for prosecution of these citations.

Alderman Williamson said that he has seen the application for a privilege license for Faze 3 Night Club which shows that they requested to open as a Coffee House. Alderman Wiggins said that it seemed that there was an implied dishonesty with this deal. Alderman Wiggins felt that the license was issued on a false pretense and he did not want to stand still in this Town until this is investigated.

Alderman Wiggins said that he has a problem with the legal representation of the Town stating in the newspaper that the action taken by the Board of Aldermen was unconstitutional based on a 1992 law rather than a 1997 law. Alderman Wiggins said that he also has a problem with Town Staff not asking the proper questions when someone applies for a business license permit.

Alderman Williamson said that he felt that when someone applies for a permit for beer or alcohol and it is approved that it should also come before the Board of Aldermen. He also felt that there were people in the Town of Waynesville who worked with the owners of this business to get it open.

Attorney Griffin explained that the 1998 law does not give you standards. It says that you can establish regulations but does not tell you what those regulations can be. It does not allow you to prohibit sexually oriented businesses. The regulations cannot be found under Local, State or Federal Regulations, because the Federal Government through Congress has not addressed this issue. Whatever ordinance is drafted by Attorney Bonfoey will be based on ordinances which have been tested through the Court System. The draft ordinance will place limitations for regulations which are outlined in State Law. No further action was taken.

#### Concerns of Alderman Moore

Alderman Kenneth Moore said that the utility pole on the Russ Avenue/Howell Mill Road intersection was too close and asked if it could be set back about five (5) feet. Alderman Moore had received a complaint from Charles Burris who drives a tractor trailer.

Town Manager Galloway said that the Town would have to take a look at it since Russ Avenue and Howell Mill Road are both State roads.

#### Questions by Dick Young Regarding Church Street and the Procedure Used for Opening Utility Accounts

Dick Young attended the meeting to ask when Church Street would be reopened. Town Manager Galloway explained that if it does not rain the Town has plans to pave Church Street on Friday, June 25<sup>th</sup> or Monday June 28<sup>th</sup>.

Dick Young said that he has a rental house and that the utilities were in his name. He was upset that someone could come to Waynesville and change the utility account into their name without his knowledge. Mr. Young asked that the Finance Department call the property owner before these changes are made.

Finance Officer Eddie Caldwell said that normally the Finance Department does not do this. Mr.

Caldwell said that the Finance Department will make a notation in the computer and call Mr. Young as requested.

### Adjournment

With no further business, Alderman Williamson moved, seconded by Alderman Caldwell, to adjourn the meeting at 9:20 p.m. The motion carried unanimously.

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Phyllis R. McClure  
Town Clerk

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Henry B. Foy  
Mayor