

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
TOWN HALL
JULY 13, 1999
TUESDAY - 7:00 P.M.

The Board of Aldermen held a regular meeting on Tuesday, July 13, 1999. Members present were Mayor Henry Foy, Alderman Gary Caldwell, 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.

Welcome to Boy Scouts

Mayor Foy welcomed the Boy Scouts attending the meeting who were working toward getting their communication badges.

Public Hearing - Amendments to Chapter 154: Zoning - Adult Establishments

Attorney Michael Bonfoey, Planning and Zoning Officer John Swift and Town Manager Lee Galloway have worked to develop a draft ordinance to regulate various adult establishments located in Waynesville and the extraterritorial jurisdiction. The Planning Board reviewed the first draft on Thursday, July 1, 1999, and they made several suggestions which were useful in working toward a second draft.

Town Attorney Bonfoey opened the public hearing, limiting each person's comments to four (4) minutes. The following people spoke:

Diane Zabo, said that she lives in Haywood County and does not believe that this "low form of entertainment" can be allowed, based upon her interpretation of a 1973 Supreme Court Ruling. She said that the average person is not aware of its existence. Ms. Zabo said that this type of entertainment is degrading, humiliating and insulting to any decent woman. Ms. Zabo asked that the Board of Aldermen consider the 1973 Court Decision in making their decision and to keep in mind that this "trash entertainment" is not wanted in this community.

Mayor Foy said that it is recommended that this public hearing be continued until the meeting on July 27, 1999 in order for the Planning Board to review the second draft ordinance at their meeting on July 19, 1999. During that time, Mayor Foy announced that the Board will be taking all written comments as a part of the record.

Alderman Caldwell said that he was concerned that an adult establishment could transfer their license from another area. Attorney Bonfoey said that their license could not transfer from another County and that the ordinance adopted by the Board previously is still in effect. Attorney Bonfoey said that the Waynesville Police Department has issued several citations but those have not come

up in Court yet.

Alderman Moore asked if the proposed ordinance would allow both the performer and the owner to be cited for violations. Attorney Bonfoey said it would depend upon whether it could be proven that the owner has knowledge of the violation. Alderman Williamson asked if an adult establishment could operate with the proposed ordinance. Attorney Bonfoey said if they can meet the requirements of the proposed ordinance they can continue operating. Attorney Bonfoey explained that when a zoning change is made and there were uses existing before the change, they would be allowed to continue for a certain amortization period, similar to Waynesville's Sign Ordinance.

Alderman Williamson said that at the time Maggie Valley adopted regulations regarding adult establishment, he thought that Waynesville had done the same. Attorney Bonfoey said that there were regulations in this proposed ordinance which deal with issues such as distance requirements. Alderman Williamson asked if the Board could adopt an ordinance which would prohibit this type of entertainment. Attorney Bonfoey said that you can regulate sexually oriented businesses, but you can't stop them from operating. Attorney Bonfoey said that the Town of Waynesville has never had a regulatory ordinance regarding adult entertainment, but the Town did have an ordinance under police power which was adopted in 1992 based on what the Supreme Court said was allowed at that time.

Town Manager Galloway said that the State established general items that can be regulated for sexually oriented businesses, such as zoning districts, clothing to be worn by entertainer, penalties for violations and distance requirements between patrons and entertainers. Attorney Bonfoey said that the proposed ordinance is the most restrictive which is allowed by State Law.

It was the consensus of the Board to continue the public hearing until July 27, 1999.

Public Hearing - Request of Lynn Sylvester to Rezone .424 Acres Located at 655 Haywood Street From R-3 to LU-1

Mr. Lynn Sylvester has requested rezoning to the LU-1 zone which the Board created earlier this year. In establishing this zone, it was designed primarily for business uses which do not generate large amounts of traffic or cause a detriment to adjacent properties. The properties on three sides are zoned C-3 - the Haywood House, the Haywood County Public Library and the architectural office of Randy Cunningham. At one time, the property was zoned commercial, but it was changed to R-3 when the Park Place Condominiums were developed. At their meeting of June 19, 1999, the Planning Board unanimously recommended that the Town Board approve the rezoning request from R-3 to LU-1.

Lynn Sylvester said that he contracted to purchase this property last December and originally requested that the property be rezoned to C-3. At that time it was concluded that the best approach would be to request a rezoning to LU-1. Mr. Sylvester said that this was a good step to allow properties to have certain rezonings without opening the door to a lot of other establishments. He added that the LU-1 zoning district makes a much more compatible zoning district in some areas.

Attorney Bonfoey closed the public hearing.

Alderman Williamson moved, seconded by Alderman Moore, to approve the rezoning as requested by Mr. Lynn Sylvester, to rezone the .424 acre parcel of property located at 655 S. Haywood Street from R-3 to LU-1. The motion carried unanimously. (Ord. No. 14-99)

Public Hearing - Amendments to Chapter 154: Zoning - Continuing Care Retirement Centers

The proposed amendments would create a definition for a Continuing Care Retirement Center, which would be a planned community with both independent and congregated residential areas and health sustaining services to assist the residents. It is proposed to include nursing facilities, resident dining facilities, recreational and social facilities, health care services, gift shop, snack shop, bank, a barber shop and a beauty shop. The new use would only be allowed as a conditional use in the R-1, R-3, R-4, R-5 residential zoning districts and in the C-2 and C-3 commercial zones. The Planning Board, at their meeting on June 21, 1999, reviewed the proposed amendments and unanimously recommended that they be approved.

Alderman Moore moved, seconded by Alderman Caldwell, to approve the proposed amendments to allow continuing care retirement centers. The motion carried unanimously. (Ord. No. 15-99)

Clarification of Personnel Policy Meaning of the Term "Same Work Unit"

Town Manager Galloway said that several months ago, the Board adopted a regulation regarding nepotism as a part of the Town's personnel policy manual. The wording of that portion of the policy is as follows:

"The Town prohibits the hiring and employment of immediate family in permanent positions within the same work unit."

It was a consensus of the Board that the intent of the amendment was to avoid a situation where one employee would supervise or evaluate another employee who is a relative. The amendment was not meant to prohibit two employees from working in the same department, if the supervision of a department was arranged in a way to avoid one family member from supervising another family member.

Alderman Williamson moved, seconded by Alderman Moore, to approve an amendment to the Town's Personnel Policy Manual to clarify the meaning of "the same work unit" to reflect their interpretation. The motion carried unanimously.

Phil and Lorraine James - Offer to Purchase Property in Hyatt Hills

Mayor Foy said that Phil and Lorraine James have made an offer to purchase Lot 18 in the Hyatt Hills Subdivision (off Eagles Nest Road) for \$2,500. This property was donated to the Town several years ago because there is no public sewer service available to the lots and the lots would not percolate for a septic tank.

Alderman Williamson moved, seconded by Alderman Moore, to authorize the Town Clerk to advertise the offer to purchase, and give any other interested party the opportunity to submit an upset bid in accordance with State Law. The motion carried unanimously.

Accept Dedication of Right-of-Way Located off Boyd Avenue

Town Manager Galloway said in researching the process for condemnation of the Burton Green property to allow the construction of the Boyd Avenue Bridge, Town Attorney Michael Bonfoey discovered the existence of a street which was a part of a subdivision plat recorded by the Queen family a number of years ago. In order to widen Boyd Avenue as part of the bridge and street project, the Town Attorney advises that the Board needs to accept that portion of the unopened street right-of-way which is shown on the plat.

Alderman Wiggins asked how many of the trees would have to be taken down. Town Manager Galloway said that in order to get the necessary right-of-way three trees would be removed. Manager Galloway added that the State requires a 60' right-of-way and sidewalks will be away from the street.

Charles McDaniels said that he felt that too much property was being taken away from the local proper owner.

Philan Medford said that the NC Department of Transportation is changing their policies in order that they do not infringe on neighborhood quite as much.

Attorney Bonfoey said that this is what was required in order to get the money from the State for the project to rebuild the bridge.

Town Manager Galloway said that there would be a strip between the street and the sidewalk which will be a big help to children walking to school. Manager Galloway added that the trees would be replaced along this greenway. Alderman Wiggins said that if he was one of the property owners he would question why the trees needed to be removed.

Alderman Williamson moved, seconded by Alderman Moore, to accept the right-of-way off Boyd Avenue for that portion of the unopened street right-of-way shown on the plat presented by Attorney Bonfoey. The motion carried unanimously.

Audit Contract for Fiscal Year Ending June 30, 1999

Town Manager Galloway said that Ray, Bumgarner, Kingshill & Associates have submitted a proposal to audit the financial records of the Town of Waynesville for the 1998-99 fiscal year. Their proposal is for \$19,000 for the audit and another \$5,000 to write the document. This is an increase of \$500 over the prior fiscal year, which amounts to a 2.7% increase. It is the recommendation of the Town Manager and Finance Director that the Board enter this agreement.

Alderman Wiggins moved, seconded by Alderman Williamson, to authorize Mayor Foy to enter into an agreement with Ray, Bumgarner, Kingshill & Associates, for the audit of the 1998-99 fiscal year. The motion carried unanimously. (Cont. No. 11-99)

Grant for K-9 Unit

Police Chief Bill Hollingsed said that the Police Department has been awarded a grant for the purchase and training of a dog to be used in searching for drugs. The grant is in the amount of \$5,949.75, which represents 75% of the cost of the project for dog, training and supplies. In approving the 1999-2000 budget, the Board included funds for the local share to match this grant. Police Chief Hollingsed said that the Police Department would like to be ready for enforcement with the K-9 unit around the time that children go back to school this year. However, there are problems finding a suitable dog.

Alderman Moore moved, seconded by Alderman Caldwell, to approve the funds needed for the local share to match the grant. The motion carried unanimously.

Local Law Enforcement Block Grants

Lieutenant Chuck Way has been searching for grants which are available to law enforcement agencies, and he discovered that the Bureau of Justice provides Local Law Enforcement Block Grants to police departments such as Waynesville's. Lieutenant Way attended the meeting and requested approval for the Town to apply for a grant of \$11,866.00. The Town would be required to match the grant with 10% local funds, which means that the Town would provide \$1,186.60 in order to receive the \$11,866.00. Lieutenant Way said that this would be a means of replacing some of the funds which had to be cut from the police budget for materials and supplies or capital outlay.

Alderman Williamson moved, seconded by Alderman Moore, to approve the application for a grant in the amount of \$11,866. If the grant is approved the Town would provide the necessary 10% local match of funds. The motion carried unanimously.

Appointments to Fill Vacancies on the Planning Board and Board of Adjustment

Town Manager Galloway said that there are still several vacancies existing on the Planning Board and Board of Adjustment. The following persons have expressed interest in serving on these Boards and it is recommended that they be appointed:

Planning Board	It is recommended that the name of Bob Moody be recommended to the Haywood County Commissioners to serve as a member in the extraterritorial jurisdiction. The term will expire May 31, 2000.
Board of Adjustment	It is recommended that Jack Suddath be appointed as an alternate member to serve inside the Town. The term will expire May 31, 2001.

Alderman Wiggins moved, seconded by Alderman Caldwell, to recommend the appointment of Bob Moody to the Haywood County Commissioners to serve as a member of the Planning Board (term to expire May 31, 2000) and to appoint Jack Suddath to serve as an inside alternate member of the Board of Adjustment (term to expire May 31, 2001). The motion carried unanimously.

Request by Attorney to Proceed with Litigation - Miller Street Property

Attorney Bonfoey reported that he has not received a response from Mr. Smith regarding the Miller Street property. He requested authorization to proceed with litigation.

Alderman Caldwell moved, seconded by Alderman Wiggins, to authorize Attorney Bonfoey to proceed with litigation regarding the Miller Street property. The motion carried unanimously.

Folkmoot Parade - July 16, 1999

Town Manager Galloway reminded the Board that the Folkmoot Parade will be Friday, July 16, 1999, at 1:00 p.m. The lineup will be at 12:40 p.m. on Academy Street. No action was necessary.

Complaint Regarding Funeral Processions

Alderman Williamson said that he understood that there was a problem with police escorts for funeral processions. Alderman Williamson felt that the Police Department should call the funeral homes each day to see if they were needed to escort. Mr. Dick Young said that police escorts were a problem. Police Chief Bill Hollingsed said that the Police Department currently escorts funeral processions when they are called upon by the funeral homes. Police Lieutenant Chuck Way said that the Police Department spends many hours escorting funeral processions and that this is done when the funeral home contacts the Police Department. Roscoe Wells said he felt that people pay a tremendous amount of money for funerals and that funeral processions should be handled by the funeral homes. It was a consensus of the Board to instruct the Police Chief to address the complaint regarding funeral processions.

Status of Dilapidated Building Located at 500 Depot Street

Alderman Williamson asked what the status was of a dilapidated building located at 500 Depot Street. Town Manager Galloway said that the Code Enforcement Official has given a date of September 30, 1999 for the property owner to either restore or demolish the building. If this is not completed by October 1999 the Board of Aldermen will need to adopt an ordinance to proceed with the process.

Question Regarding the Installation of Lights at Dutch Fisher Park

Alderman Moore asked why the lights have not been installed at the Dutch Fisher Park. Town Manager Galloway said that the 60' poles needed for these lights were received at the end of June and have not been installed yet. Electric Superintendent John Yarborough has been speaking with Roger Hampton regarding the installation of these lights. No action was necessary.

Complaint by Mr. James Wood - Installation of Drain at Rogers Street

Alderman Williamson asked why a drain has not been installed for Mr. James Wood in the Rogers Street area as promised. Town Manager Galloway said that this project is on order but that he was

not sure how to address the situation. Manager Galloway said that he drove out to this area one evening after budget workshop when it was raining and he did not see a problem. Alderman Williamson said that the Board voted to install a new drain line.

Mr. James Wood attended the meeting and said that Mr. Burgin was allowed to rip the drain out and that Mr. Fred Baker did not stop him. Mr. Wood said that the last time it rained hard the water was up to his shoe tops. Mr. Wood said that when Mr. Burgin put the drain back in he put it about one foot above where it originally was and this is what created the problem.

Town Manager Galloway said that the Town has completed the drain line installation for Mr. Ray Fisher's project and if the Board wishes to install a drain line in the Rogers Street area then it could be done. It was the consensus of the Board that the drain line be installed to correct the problems brought to the Board's attention by Mr. Wood.

Greenhill Cemetery

Alderman Moore asked Town Manager Galloway what was being done at Greenhill Cemetery to correct an erosion problem. Manager Galloway said that Town Staff is in the process of collecting estimates now to construct a wall. Manager Galloway also reported that a donation has been received to repair the steps leading to the County's section of Greenhill Cemetery. This money was the remainder of money collected in a fund established for Mr. Keane who was hit by an automobile and later died while crossing the street at the Walnut Street/Main Street intersection. It was a consensus of the Aldermen that repairs to Greenhill Cemetery should be a priority.

Questions Regarding Church Street - Charles McDaniel

Charles McDaniel attended the meeting to ask questions about Church Street. Mr. McDaniel said that Church Street has become a big issue and that large construction figures are circulating. Mr. McDaniel said that he would like to see a final figure in print. Town Manager Galloway told Mr. McDaniel that he would be glad to provide accurate figures for the Church Street construction once all the invoices have been received. Town Manager Galloway said that approximately three weeks ago he had given an estimated final figure of \$125,000 - \$130,000 and he still feels that this figure is accurate. Mr. McDaniel felt that he has been given the "run-a-round" with answers to his questions. Alderman Wiggins told Mr. McDaniel that he did not feel that any member of the Board of Aldermen or Town Staff member would try to give him the "run-a-round". No action was necessary.

Adjournment

With no further business, Alderman Williamson moved, seconded by Alderman Moore, to adjourn the meeting at 8:40 p.m. The motion carried unanimously.

Phyllis R. McClure

Henry B. Foy

Town Clerk

Mayor