

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
OCTOBER 10, 2000
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, October 10, 2000. Members present were Mayor Henry Foy, Aldermen Gavin Brown, Gary Caldwell, Libba Feichter and Kenneth Moore. 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 September 26, 2000

Alderman Caldwell moved, seconded by Alderman Feichter, to approve the minutes of the September 26, 2000 meeting as presented. The motion carried unanimously.

Public Hearing - Petition Requesting Voluntary Annexation Martin & Elizabeth Sheveling - 116.8 Acres - Fiddlin Lane at Laurel Ridge Country Club

Attorney Bonfoey opened the public hearing to consider a petition for voluntary annexation of 116.8 acres at Fiddlin Lane at Laurel Ridge Country Club by Martin & Elizabeth Sheveling.

No one spoke; Attorney Bonfoey closed the public hearing.

Alderman Moore moved, seconded by Alderman Feichter to adopt an ordinance to annex the 116.8 acres at Fiddlin Lane at Laurel Ridge Country Club as requested. The motion carried unanimously. (Ord. No. 25-00)

Amendments to Sections 154.006, 154.107.1 and 154.033 - Group Homes for Developmentally Disabled Adults

At the meeting of September 26, 2000, a public hearing was held on amendments to the Code of Ordinances regarding Group Homes for Developmentally Disabled Adults. Action was delayed until the Town Attorney had time to research the issue regarding the Town's power to set requirements that these facilities be certain distances apart.

Attorney Bonfoey recommended that the distance requirement be reduced from one-half mile to two thousand (2,000) feet.

Alderman Brown moved, seconded by Alderman Caldwell, to adopt an ordinance amending Sections 154.006, 154.107.1 and 154.033, with the reduction in the distance requirement from one-half mile to two thousand (2,000) feet. The motion carried unanimously. (Ord. No. 26-00)

Derrell Stanley - Proposal to Dig Gravesites at Greenhill Cemetery

Mr. Derrell Stanley presented a proposal regarding the digging of cemetery grave spaces at Greenhill Cemetery. Mr. Stanley is interested in contracting with the Town to be the sole firm allowed to dig grave spaces at the cemetery. Mr. Stanley said when one person is responsible for digging grave spaces, better service is received and less maintenance problems occur. He has also proposed to donate money for each grave that he digs back to the cemetery to be used for cemetery equipment.

Manager Galloway said that during the past year, he has held several meetings with representatives of the First Presbyterian Church, the First Methodist Church and Mr. Wells Greeley of Wells Funeral Home, regarding the possibility of a mausoleum or columbarium for cremation urns. Various other future cemetery issues also need to be discussed, such as the price of lots, the adequacy of the Cemetery Trust Fund, burial of cremation urns, etc.

Mayor Foy said that there was a need to establish a committee to review these issues. Town Manager Galloway said that in 1995 and 1999 the increases for cemetery lots sold was placed in a trust fund, which has now grown to approximately \$40,000. It was the consensus of the Board to consider before the next meeting the names of five to seven persons to serve on this committee, including Fred Rathbone, Cemetery Superintendent and representatives from the two funeral homes in Waynesville. Mr. Stanley said that he has worked around cemeteries for the past eleven years and agreed that most cemeteries do have a committee and felt that one was needed for Greenhill Cemetery. Mayor Foy said that the committee will also consider Mr. Stanley's proposal, but the Town will need to get proposals from other persons interested in digging graves as well. No action was taken.

Tax Release - Donald K. and Nancy L. Haynes - 85 Alavista Way

Town Manager Galloway said several months ago, the Town annexed property on Laurel Ridge-South into the Town. During the process, contacts were made with the residents of the newly annexed area. At that time, Mr. and Mrs. Haynes indicated that they thought they were already inside the Town, since they had been paying property taxes for several years. However, only 3% of their property was actually within the Town Limits prior to the annexation.

A check of the record indicated that the Haynes were correct, and over the course of five years, they had paid \$5,993.08 in property taxes. In checking with the Institute of Government to determine how this matter should be handled, they have advised that the Haynes are entitled to a refund of 97% of the amount that they have paid to the Town. It is requested that the Board authorize a refund to Mr. and Mrs. Haynes in the amount of \$5,813.28.

Alderman Brown moved, seconded by Alderman Moore, to authorize a refund in the amount of \$5,813.28 for overpayment of taxes to Donald K. and Nancy L. Haynes for property located at 85 Alavista Way (PIN #8615-04-7913). The motion carried unanimously.

Appointment of Community Appearance Commission Members

At the meeting of September 26, an amendment to the Community Appearance Commission Ordinance was approved which allowed the membership to increase from seven to nine members.

Alderman Caldwell moved, seconded by Alderman Moore, to appoint Tom Hines (term to expire March 1, 2003) and Don Norris (term to expire March 1, 2002) to serve on the Community Appearance Commission. The motion carried unanimously. Mayor Foy also appointed Don Norris to serve as an ad hoc member of the Land Use Study Steering Committee.

Minor Subdivision - Beth Eden Baptist Church - Hendrix Street

Beth Eden Baptist Church owns a 2.3 acre tract of land on the corner of Hendrix Street and Muse Street. The property is located in the R-4 Medium Density Residential District, and the church is requesting approval from the Town to subdivide the property into two (2) lots. One lot contains .648 acres and the other lot contains 1.653 acres. The lots meet or exceed Town standards and Town Staff recommends approval.

Alderman Caldwell moved, seconded by Alderman Moore, to approve the minor subdivision for Beth Eden Baptist Church on Hendrix Street as requested. The motion carried unanimously.

Town Attorney Regarding Mental Health Association of North Carolina

Attorney Bonfoey said approximately two years ago, the Mental Health Association of NC and Community Housing Authority of Haywood County were considering the construction of a family care home on a lot on Assembly Street. The Town Board, at their meeting on October 13, 1998 amended the ordinance requiring a one-half mile separation between family care homes. The Mental Health Association of NC has considered filing a lawsuit against the Town for discrimination and damages, since they were unable to obtain a building permit with the new requirement of a one-half mile separation between family care homes. The two-year statute of limitations for filing a lawsuit will soon expire, and they are now requesting that the Board approve a 90-day extension (until January 31, 2001) for them to consider filing a lawsuit. Town Attorney Bonfoey said that it was his opinion that the Town has not discriminated against anyone or caused damages. Alderman Brown said that by giving an extension of time, it will allow time for them to review the ordinance adopted by the Board tonight which reduces the one-half mile separation requirement to 2,000 feet.

Attorney Bonfoey added that when the Town closed the unopened street between Assembly and Howell Streets, a lawsuit was filed against the Town by one of the property owners, Ms. Groves. This case was dismissed and is in the Court of Appeals at this time. A complaint of discrimination was made on the Federal level by the Mental Health Association. An appeal was filed with the Board of Adjustment who ruled in favor of the Mental Health Association.

Alderman Brown moved, seconded by Alderman Caldwell, to grant an extension of thirty (30) days be granted until November 15, 2000 and to strike some language from the agreement. The motion carried unanimously. (Cont. No. 14-00)

Tillman Nowlin - Request for Reversal of Decision on Variance

Mr. Tillman Nowlin, on behalf of Patricia Buccilla, who he described as a lady friend and former business woman in Town, asked that the Board overturn a decision made by the Board of Adjustment to deny their request for a variance. Ms. Buccilla requested a variance at the Board of Adjustment Meeting on October 2, 2000. Mr. Nowlin said that he was told by his neighbor and former Hazelwood Alderman Charles McDaniel that the Board of Aldermen could reverse that decision. Mr. Nowlin felt that it was unfair that another variance was granted on the same night because someone wanted to make extra income. Mr. Nowlin said that the variance was requested so that an addition could be made to the home located at 255 Brook Street in order for Ms. Buccilla's mother to move in, since she is losing her eyesight. Ms. Buccilla's mother helped to pay for this home originally. Mr. Nowlin said that any addition done to the house would enhance its value.

Mr. Nowlin said that the Town's Architect visited the site and made a couple of recommendations for revisions to his plan which could be made without the granting of a variance. However, Mr. Nowlin felt that the variance should be granted so that he could use the original plan which was designed by an architect from Moorehead City. Mr. Nowlin said that he came to see the Town Manager on two occasions but was unable to see him.

Board Members and Town Attorney Bonfoey informed Mr. Nowlin that the Board of Aldermen could not reverse a decision made by the Board of Adjustment. Appeals for their decision would need to be taken to Superior Court. Mr. Nowlin said that this was explained to him at the Board of Adjustment Meeting and he was in the process of following this procedure. Mayor Foy pointed out that this plan required the granting of three separate variances and suggested that the plan be revised in a manner which would only require one variance request or that an addition may be possible with no variances at all. No action was necessary.

Ron Fleenor - Noise/Taxi Cabs/Sidewalk Dining

Ron Fleenor said that he would like to see the Board take action on the following issues:

- 1) Adoption of an ordinance dealing with cars with loud noise, boom boxes, radios, etc., at the Car Wash on Depot Street. Town Manager Galloway said that an ordinance is currently being reviewed.
- 2) Adoption of safety standards for taxi cabs. Town Manager Galloway said that an ordinance is currently under review for taxi cabs and a meeting will be held with taxi cab owners.
- 3) Adoption of regulations for sidewalk dining. Alderman Feichter said that when an ordinance is adopted it will need to be designed in a manner which is fair for everyone.

Request for Funding Lake Junaluska's Sediment Removal

Alderman Brown said that Attorney Bonfoey's memo regarding funding by the Town of Waynesville to remove sediment at Lake Junaluska confirms that the Town could not legally use public money for this purpose. According to the memo, Attorney Bonfoey contacted David Lawrence at the Institute of Government, and Mr. Lawrence's opinion was that municipal corporations cannot

provide funds for non-public purposes. Alderman Feichter pointed out that the Town could work on areas inside their jurisdiction to avoid adding to the sediment problem at Lake Junaluska in the future. No action was necessary.

Report by Town Manager Regarding Projects for Waynesville

Town Manager Galloway said that there are a number of projects which are ongoing or close to the point of beginning in Town. Some of those projects include a sludge belt press, \$750,000 in sewer line rehabilitation, the Maple Grove sewer line project, purchase of property for the Chlorine Contact Tank, Knollwood Drive water line, relocation and upgrade of the water line from 14" to 20" at Allens Creek, and the Boyd Avenue bridge. These projects total 3.4 million. No action was necessary.

Mayor Foy - Waynesville's Watershed Containment Lake

Mayor Foy said that Waynesville currently serves approximately 17,000 water customers, but has the capability to serve 60,000 persons. According to the size of the dam, the Town is permitted to draw 13 million gallons per day, emptying 2 million gallons per day into Allens Creek for protection of the wildlife. The Town currently uses 3.5 million gallons per day. Mayor Foy added that the watershed is an asset for Waynesville and the Town has the capability of selling a lot more water.

Adjournment

With no further business, Alderman Brown moved, seconded by Alderman Moore, to adjourn the meeting at 7:56 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor