

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
APRIL 22, 2003  
TUESDAY - 7:00 P.M.  
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, April 22, 2003. 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, Acting Town Attorney Woodrow Griffin, District Attorney Michael Bonfoey, Zoning Director John Swift and Planning Officer Andrew Powell. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of April 8, 2003

Alderman Caldwell moved, seconded by Alderman Feichter, to approve the minutes of the April 8, 2003 meeting as presented. The motion carried unanimously.

District Attorney Michael Bonfoey

Michael Bonfoey, former Town Attorney, was sworn in as the District Attorney for the 30th Judicial District on Monday, April 28, 2003, replacing Charles Hipps who passed away in March. Mr. Bonfoey said he served as the Town of Waynesville's Attorney for 17 of the past 20 years and has attended more than 550 Town Meetings, which is more than any other person with the possible exception of Alderman Doug Worsham. Mr. Bonfoey said very few times has he heard praise for the work done by the Board and the employees of the Town. When he attended the Board's meetings he would hear citizens with complaints and could not say anything because he was the Town's Attorney, attending the meetings to give the Board legal guidance. Mr. Bonfoey said the Town has a good government and a strong team of employees demonstrating on a day to day basis that they are as hard working and diligent as anyone you would find anywhere. Mr. Bonfoey said he spoke almost daily with Town Manager Galloway and Town Clerk McClure who have made his job easier and the Board's job easier. Mr. Bonfoey said the Board is open and honest and listens to the opinions of the public, but is strong enough to stand by their convictions. He thanked the Board for allowing him to be a part of the success of Waynesville. There are people from all over the State coming to visit Waynesville and see what we are doing because Waynesville is a leader in this area. As District Attorney, he looks forward to continuing to work with the Board and the Town.

Mayor Foy said it was with both sadness and happiness to see Michael Bonfoey leave as the Town's attorney, but happy for him in his new appointment. On behalf of the Board, Mayor Foy expressed appreciation to Mr. Bonfoey for all his work and wished him the best.

Appointment of Interim Town Attorney

Mayor Foy said the Town has been fortunate to have Attorney Woodrow Griffin fill in when former Town Attorney Michael Bonfoey could not attend a meeting.

Alderman Caldwell moved, seconded by Alderman Feichter, to appoint Attorney Woodrow Griffin as the Interim Town Attorney. The motion carried unanimously.

Attorney Griffin said he looks forward to working with the Board.

#### Public Hearings - Zoning/Land Development Standards

When the present Board took office in 1999, one of the goals expressed at their first Planning Retreat was a desire to see a Land Use Plan developed and implemented within the Town and in the extraterritorial jurisdiction. Funds were provided in the 2000-2001 Budget to commence with this work. For the first one and one-half years, the Land Use Plan was developed, and during the past year, the Land Development Standards have been developed. There have been more than 100 meetings which were open to the public, and almost one half of those meetings were held specifically to solicit public input.

The Land Use Plan was adopted in 2002 and the Land Development Standards are now ready for consideration. These standards will forever change the manner in which property is zoned, for there will no longer be the traditional zoning districts. In the future, there will be more than 28 land development districts and two overlay districts in the new Land Development Standards, each with its own specific list of permitted uses. During the past month, Planning Director John Swift and Planner Andrew Powell held public information forums at Town Hall, providing citizens the opportunity to come and view the maps and discuss the proposed neighborhood districts. During those forums and during the public hearings before the Planning Board, some problems were identified, and attempts have been made to resolve those issues. At the meeting on Monday, April 14, the Planning Board voted to recommend the rezoning of all properties within the land use jurisdiction of Waynesville as well as adoption of the Land Development Standards manual by the Mayor and Town Board.

Rex Feichter, Planning Board Chairman and Chairman of the Land Use Committee said these committees have worked hard in developing these land use standards and it is with great pleasure to present them to the Board of Aldermen. Approximately two and one-half years ago, the Planning Board asked the Board of Aldermen for help because in some instances there were no guidelines, and it was difficult for the Planning Board to make decisions. The Board of Aldermen took under consideration their recommendation to study the US 276 Corridor and expanded that to include the entire land use jurisdiction. Mr. Feichter said the Land Use Development Standards will benefit the community for years to come and he encouraged the Board to adopt the standards. He added that Waynesville is a special place with special citizens and commended the steering committee and all the public input, Town Staff including John Swift, Andrew Powell, Fred Baker, and Julie Cogburn with Benchmark.

Mayor Foy thanked Mr. Feichter for all his efforts.

Julie Cogburn, Benchmark representative said this is a product of many hours of work. The Steering Committee used the Land Development Plan adopted about one year ago. Ms. Cogburn said the Board will be taking two separate actions tonight. The first will be zoning. It was the feeling of the Steering Committee that the zoning in use by the Town was not appropriate; that it should also reflect the character of Waynesville. In the Land Development Standards there are 28 separate land development districts each with a name and separate vision for that area. Tonight's public hearing

has been advertised for the past four weeks and all the meetings have been open to the public. There have also been two separate opportunities for the public to come in and review the plan. Ms. Cogburn said the zoning map will change the zoning for the entire community.

### Zoning

Attorney Griffin opened the public hearing regarding zoning, allowing each speaker three (3) minutes. The following persons spoke.

Philan Medford, 99 Pisgah Drive, Waynesville, said some people feel that actions by Federal, State and Local Governments are done behind closed doors. However, Waynesville's process has been open and all workshops have been well advertised. Ms. Medford thanked the Board for funding this effort and commended the staff and committees who worked on the plan.

Tom O'Brien, 28 Golf Course Road, Waynesville, said he has concerns about the zoning of the Dellwood neighborhood both on the east side and west side. He would like to see the east side stay single family dwellings, adding that he felt it would be inappropriate to locate multi family dwellings at the entrance to Golf Course Road. Mr. O'Brien said he did not attend any of the neighborhood meetings.

David Vance, 160 John Vance Road, in the Bethel Community, said he represented the Fortner family regarding one lot at the corner of Bradley Street and US 276. He is in the process of leasing the property from the Fortner family for a used car lot. Stanley Fortner has been in several job changes and did not realize what was going on until he got into discussions regarding the lease. He was told as it stands now a used car lot would not be allowed on the property. Mr. Vance said behind this lot is property owned by Jack James which is used for repair and antique tractors. S & S Auto is located on the other side and an auto parts store is also behind this property. Mr. Vance said he is not opposed to beautification projects, but this is the only piece of property in this block which is not retail and would not be suitable for residential.

Ron Muse, Waynesville, said he owns property on Richland Street which he has tried for years to get rezoned to commercial. He feels that the proposed zoning is a little too strict because the property is beside the railroad tracks, is swampy and feels that to switch to residential would be a mistake. Mr. Muse said he also owns a triangular shaped lot on Eagle Nest Road joining the four lane where a commercial business has been located for years. Under the proposed land development standards the property is proposed to be residential. He felt that the lot should be included in the Hazelwood district because if it is zoned residential the current use would be considered a nonconforming use.

Mike Ferguson, 55 Grove Park, Waynesville, said he has property beside the Best Western Motel off of Hyatt Creek, located between the four lane By-pass and Anderson Auto. He said he has spoken with Town Manager Galloway and Zoning Director John Swift regarding the 27-acre tract and has been assured that it will be switched back to the Hyatt Creek district. He attended tonight's meeting to make sure that this was made part of the record and followed through with.

No one else spoke. Attorney Griffin closed the public hearing.

Zoning Director John Swift said some of the concerns heard should be considered under the Land

Development Standards rather than the zoning map. Planner Andrew Powell responded to the comments made by Mr. Vance regarding the property at Bradley Street. Mr. Powell said the proposed commercial zone stopped at the K Mart lot. Between that point and the property spoke of by Mr. Vance there are two commercial uses and one vacant lot.

Alderman Brown moved, seconded by Alderman Feichter, to amend the zoning map to include the depth of those lots joining on Russ Avenue between the K Mart lot and South of Bradley Street in the Russ Avenue Town Center (RA-TC). The motion carried unanimously.

Alderman Brown moved, seconded by Alderman Caldwell, to amend the zoning map to include Ron Muse's lot on Eagle Nest Road in the Hazelwood District. The motion carried unanimously.

Alderman Brown moved, seconded by Alderman Moore, to adopt the zoning map as amended. The motion carried unanimously.

### Land Use Development Standards

Julie Cogburn said this is a completely new set of Land Development Standards. Overriding principles were used in the development of this document and she outlined several focal points.

- 1) It was time to create new development standards for the Town. The original document has been amended many times.
- 2) There was interest coming out of the Land Development Plan to create standards which supported how growth and development would take place in the future according to the Land Development Plan.
- 3) This brings all development standards into one comprehensive document which is more user friendly.
- 4) Overall the document is intended to improve development in Waynesville and focuses more on design and environmental issues. Inter connectivity including pedestrian and vehicular traffic has been included in this document.
- 5) The document is true to the varied character of the different parts of this community.
- 6) General improvement in general development. The document includes 28 districts all with development standards to fit in with the character of that district. It is felt that this will give folks living in these areas a greater sense of pride and that they will want to be included in any changes made in their district.

The permitted uses section is felt to be more comprehensive. Draft stormwater management is included and federal regulations were considered when any changes have been made.

Ms. Cogburn said it has been a pleasure to work with the Steering Committee and Town Staff. They have put in a lot of hours. It has also been a treat to work on something that is so unique to North Carolina and the community.

Attorney Griffin opened the public hearing. The following persons spoke.

Rebecca Campbell, 82 Sunburst Drive, Waynesville, said she is the "Walmart Warrior from Asheville". She spoke in favor of the Land Development Standards, adding that if something like this had been in place in Asheville they would not have had to go through the torture that they did.

Ms. Campbell said Darlene Lackey wrote “who would stand forward to protect the land”. She said we must all stand forward to protect the land. Ms. Campbell said she would like to write an article to explain Waynesville’s document and she commended the Board for what they have done. She would also appeal to the public officials their need for such a plan. Ms. Campbell thanked the Board for the work they have done.

No one else spoke. Attorney Griffin closed the public hearing.

Alderman Brown said single family use has been restricted to six areas. Zoning Director Swift said the area on Golf Course Road addressed by Mr. O’Brien is predominately single family residential. Mr. O’Brien said traffic is a major component. If multi family dwellings are put on the property at the entrance to Golf Course Road it would not fit in with the area. Alderman Brown said this particular property has a drainage easement for the DOT which would eliminate some of the property’s use. He added that certain uses are allowed on this property which could create more traffic than multi family dwellings.

Zoning Director Swift said those commercial uses are only allowed on the east side. Alderman Brown asked if the Planning Board could address issues such as this at a later time. At this particular time it is difficult to try to work through these types of changes. This is a growing process which needs to be addressed by the Planning Board.

Mayor Foy added that he would like for the Planning Board to review Bed and Breakfast establishments and Inns.

Alderman Brown moved, seconded by Alderman Moore, to adopt Chapter 154 Land Use Development Standards, as presented. The motion carried unanimously.

Alderman Feichter said this is a document which she believes is reflective of this community that the Town will be proud of for many years. The document manages to maintain the character of the community. She said she was proud to be associated with John Swift, Andrew Powell, the community and this document. Mayor Foy said the Board is very proud of this document which has received many favorable comments and he feels the document will guide the Town into the 21<sup>st</sup> Century.

Alderman Brown expressed appreciation to everyone involved with the Land Use Development Standards including John Swift, Andrew Powell, Julie Cogburn, Rex Feichter, and all the community participation.

#### Appeal by Stanley Williamson Regarding Structure Located at 53 Walnut Street

For a number of years, the house located at 53 Walnut Street has been allowed to deteriorate. Due to neglect, it was easily accessible to the public, and vagrants using the structure set it on fire several times. It has remained open to the elements and continued to deteriorate as a result. A few years ago, one of the sons of the former owners presented a plan for rehabilitating the house. He secured approval as a local historic structure and devised a plan and schedule for bringing the house up to code. Since gaining that designation, little has happened to the house. When Jason Rogers was hired as Code Enforcement Officer in August 2002, this was one of the structures which was on his list of issues to be addressed.

On March 12, 2003, Mr. Rogers held a hearing to determine what actions the owner intended to take regarding the structure which the Code Enforcement Officer had found to be unsafe and constitutes a fire and safety hazard and is dangerous to life, health and other property. Following that hearing, Mr. Rogers ordered that the owner of the structure demolish it and remove all related material and debris from this location by a date no later than May 19, 2003. Copies of the "Finding in Fact and Order" were provided to the heirs of the Williamson Estate. Mr. Stanley Williamson of Santa Cruz, California, a son of Malcolm and Mary Williamson, has filed an appeal to the "Finding in Fact and Order". The appeals date has been set for tonight's meeting. The following persons were sworn under oath to speak.

Code Enforcement Officer Jason Rogers, 21 Allison Acres, Waynesville, said an appeal has been received from Stanley Williamson regarding his order regarding the property located at 53 Walnut Street. Mr. Rogers outlined events regarding this order. On October 31, Town Manager Galloway had a discussion with him regarding various issues in Waynesville, including the condition of the vacant Williamson house located at 53 Walnut Street. On December 6 he took photographs of the Williamson property and began conducting his research. On January 30 a hearing was scheduled, but for some reason Mr. Malcolm Williamson did not receive notification of the hearing until January 31. The hearing was continued until March 12. At that hearing George Williamson was represented by Attorney John Kersten. Also in attendance was Shawn Leatherwood. Mr. Rogers asked for permission at that time to enter the structure to continue his inspection of the interior. This permission was granted. On March 18 a notice to demolish the structure by May 19, 2003 was issued.

Mr. Rogers said the structure has previously been on fire three (3) times. It was determined that the structure had been occupied recently because one photograph shows a log lighter. The structure is very open and full of combustible materials. If the costs to repair the structure exceed more than 50% of the value an order is issued to repair or demolish within sixty (60) days. The value of the structure is \$2,372 on the current tax bill and it would take much more than \$1,186 (50%) to repair. The land is valued at \$159,186 (.3215 acres).

As part of the appeal it is requested that the Code Enforcement Officials's decision be put in abeyance in order that a plan and time line be presented. Mr. Rogers said that Mr. Jack Morgan, former Code Enforcement Officer, also dealt with this issue and has received time lines on two separate occasions. Mr. Rogers said he has not seen any action other than cleaning the structure out.

Jack Morgan began this process in 1999 with Stanley Williamson and a hearing was held on June 8, 1999. The structure also received local historic landmark designation.

Tim Welch, 207 Columbine Drive, Waynesville, said he tried to buy the house in 1989 but was unsuccessful. Mr. Welch said this house involves three brothers, Malcolm, Jr., George and Stanley, who could not agree from then until now on what to do with the house. Malcolm Williamson, Jr., was named the administrator of their parent's estate. One of the brothers, George Williamson, is willing to spend the money to renovate the house for \$250,000 and has retained Mr. Welch to complete this work. Mr. Welch said this is a unique house and he would like to see it stay there. Mr. Welch said he did not realize that there had been more than one promise to restore the house. Mr. Williamson has indicated to Mr. Welch that he is willing to sign a contract with Mr. Welch when a stay is issued by the Board of Aldermen. Mr. Welch said the first thing he plans to do is construct a fence around the area next week. The entire project is expected to be completed in nine

months. Mr. Welch suggested that the Board require that a bond be posted. Mr. Williamson would not want to lose the house if work has begun and it still is ordered to be demolished.

Mr. Williamson will deposit a 10% mobilization fee and Mr. Welch will begin the project immediately. Mr. Welch said the house has a lot of character. He has renovated two historic homes in Savannah, and has information on how to get replacement items such as the wavy glass windows. Mr. Welch plans to secure the property, install a fence, install locks on the house, get a truck on the property and remove all the furniture, papers, etc., repair the foundation on the upper west corner, shore up the porch on the front and then begin the restoration.

Alderman Feichter said if people can see that work is being done on the structure they will accept it. A Certificate of Appropriateness is required from the Planning and Zoning Department since the structure is a local historic landmark. The Board of Aldermen can review the progress made at the May 13, 2003 meeting. At that time it will be at the discretion of Code Enforcement Officer Jason Rogers to lift his order and allow the restoration.

Alderman Brown moved, seconded by Alderman Moore, to deny the appeal by Mr. George Williamson, and affirm the order of Code Enforcement Officer Jason Rogers. Progress made on the property will be reviewed at the May 13, 2003 meeting. The motion carried unanimously.

#### Don Wells - Request for Funding for Korean War Memorial

Mr. Don Wells attended the meeting to request funding for the erection of a monument to honor those from Haywood County who gave their lives in service during the Korean War. The project is jointly supported by the American Legion Post 47 and the VFW Post 5202.

Alderman Moore moved, seconded by Alderman Caldwell, to donate \$1,000 for the erection of the Korean War Memorial Monument. The motion carried unanimously.

#### Subdivision Plat - Ladd Furniture

The 27.85acre tract of land where Lea Industries was located is being divided into two lots. Tract one is 10.02 acres and Tract 2 is 17.83 acres. Both tracts meet or exceed Town standards and town staff recommends approval. There were several conditions regarding approval of this plat. However, they have all been met except one. Zoning Director John Swift said a 30' easement for the greenway area along Richland Creek is needed. Surveyor Brian Bartlett attended the meeting to answer questions. He said the closing on the property is scheduled for tomorrow. He can include the needed easement and have a new mylar ready for signature tomorrow morning.

Alderman Brown moved, seconded by Alderman Moore, to approve the minor subdivision plat, subject to the addition of the 30' greenway easement. The motion carried unanimously.

#### Charles Street Railroad Crossing Agreement With the NC Department of Transportation

The North Carolina Department of Transportation has approached the Town offering to share in funding the installation of automatic warning devices at the railroad crossing on Charles Street. This is a crossing with a lot of traffic, and since the crossing abuts the operation of the Haywood Builders Supply, there is a lot of heavy truck traffic.

Under this agreement, the total estimated cost of the devices is \$120,000, and the Town is required to pay 10% of that cost, approximately \$12,000. Under the terms of the agreement with the DOT, the Town will have three years in which to reimburse the local share, with one-third budgeted each year. In addition, the Town must share in the annual maintenance cost of these devices.

Alderman Moore moved, seconded by Alderman Brown, to enter into an agreement with the NCDOT to install a railroad crossing at Charles Street. The motion carried unanimously. (Cont. No. 5-03, Res. No. 7-03)

#### Approval of Surplus Items for Auction

A list of surplus items recommended for disposal at the annual auction on Saturday, May 3, 2003, was presented for the Board's approval. This auction will be held jointly with Haywood County since this generates a greater interest when there is a larger volume of goods to sell. One of the items included is a 1978 Ford Fire Truck. This unit came from the Town of Hazelwood and has had limited use. For almost two years, the truck has been in the hands of Slagle Fire Equipment of South Carolina, and they have been unsuccessful in attempting to market the truck for the Town. Also included are a 1995 Ford side loading garbage truck, a 1998 Ford Explorer, a 1980 Champion Road Grader and an Onan 180 kw generator formerly used at the wastewater treatment plant.

Manager Galloway also asked that the Board grant him the discretion to remove equipment from the list, if it is determined that another department finds a need for that equipment. Additional items of small value may be added as it is determined that they should be declared as surplus equipment.

Alderman Moore moved, seconded by Alderman Caldwell to approve the list of surplus items for disposal at the annual auction on May 3, 2003. The motion carried unanimously.

#### Settlement for Burton Green Estate vs. Town of Waynesville Case

Alderman Brown moved, seconded by Alderman Moore, to pay an additional \$1,750.00 to the Haywood County Clerk of Court's Office, for a total of \$9,500.00 settlement for the Burton Green Estate vs. Town of Waynesville case. The motion carried unanimously.

#### Adjournment

With no further business, Alderman Moore moved, seconded by Alderman Feichter to adjourn the meeting at 9:12 p.m. The motion carried unanimously.

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Phyllis R. McClure  
Town Clerk

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Henry B. Foy  
Mayor