

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
MARCH 8, 2005
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held its regular meeting on Tuesday, March 8, 2005. 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, Finance Officer Eddie Caldwell and Town Attorney Woodrow Griffin. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of February 22, 2005

Alderman Caldwell moved, seconded by Alderman Moore, to approve the minutes of the February 22, 2005 meeting as presented. The motion carried unanimously.

Public Hearing - Repeal a Portion of the Code Regarding Closed Abandoned Structures

In 1998, the Town was attempting to find ways to address substandard structures and unsafe buildings and to strengthen ordinances dealing with Minimum Housing Standards. The City of Lumberton got a local act passed to help deal with abandoned structures. Under State law at that time, an owner was only required to board up an abandoned building and make sure it was secure, and there was nothing else the local government could do. With the City of Lumberton bill the city could give a property owner a period of one year to have the building repaired or demolished and then the city could begin proceedings to have the building demolished. Waynesville gained approval to have its name added to the local bill. When the action passed in the General Assembly, about a dozen municipalities were authorized to incorporate this new legislation into their local ordinances. The Town of Waynesville began preparing an amendment, and it was passed by the Town Board on August 25, 1998. A problem has now been encountered with what was done at that time.

The amendment that was authorized by the General Assembly would have allowed the Town to amend subsection 37 of chapter 152 of the Town Ordinances dealing with the Minimum Housing Standards. This amendment was prepared and as noted, it was passed by the Town Board on August 25, 1998. For some reason, the Town Staff and Town Attorney also included an amendment to subsection 37 of Chapter 150 of the Town Ordinances which deals with Unsafe Buildings. This was in error.

The Town is only authorized to do what the General Assembly allows it to do. The General Assembly did not authorize the Town Board to change the manner in which it dealt with Unsafe Buildings, only with how it dealt with Minimum Housing Standards. In passing the amendment dealing with Unsafe Buildings, the Town was actually doing something it was not authorized to do. Secondly, for Unsafe Buildings at the present time, State Statute and the Town Ordinance allow the Code Enforcement Officer to deal with those situations after a 90 day notice period.

The Town would not want to have the hands of the Code Enforcement Officers tied by making them wait a year to deal with an Unsafe Building.

Both Town Attorney Woodrow Griffin and the General Counsel for the League of Municipalities have advised that since the amendment was adopted after holding a public hearing the repeal of that amendment would also require a public hearing. At the meeting of February 22, the date was set for a public hearing for this purpose on the repeal of Section 10-158(d), the number in the recodified Town Code, which was 150-37(D) in the old Code.

Attorney Griffin opened the public hearing. No one spoke; Attorney Griffin closed the public hearing.

Alderman Brown moved, seconded by Alderman Feichter, to repeal Section 10-158(d) (formerly 150.37(D)). The motion carried unanimously. (Ord. No. 5-05)

Public Hearing - Amendment to Section 154.108(B)(9)(b) Regarding Signs in the Dellwood Neighborhood District Along Russ Avenue: Increase From 16 Square Feet to 32 Square Feet

The Planning Board received a request from Dr. Brian Birthright that the size of the signs be increased fronting on Dellwood Road from just past K-Mart to the traffic light at the intersection of Highway 19, meaning that a 32 square foot sign would be permitted at each business location.

Planning Director Paul Benson did a survey and found that most of the existing signs in this district already exceed 16 square feet. Attorney Burt Smith, representing Mr. Birthright, pointed out that with the present posted speed limit of 50 miles per hour on Dellwood Road, the visibility and legibility of a 16 square foot sign would not be feasible. The request was made that only the signs for lots or businesses which front on Dellwood Road be increased in size.

Town Staff recommended the adoption of this amendment due to the higher speed limit in the district and the fact that it is not a pedestrian environment. The Planning Board unanimously recommended the following amendments to Section 154-108(B)(9)(b) Dellwood Neighborhood District, Sign Standards as follows:

Add the following text to bullet number three:

"except for properties fronting on Russ Avenue (US 276) where permitted signs shall be a maximum of thirty-two (32) square feet per face, two (2) faces per sign."

Add the following text to bullet number five:

"except for properties fronting on Russ Avenue (US 276) where the maximum height for signs is six (6) feet."

Add the following text to bullet number six:

"except for properties fronting on Russ Avenue (US276)."

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

Philan Medford said during the planning phase of these ordinances there was discussion about design issues for walkable communities. Andrew Powell spoke at great length about signs. Square footage and height for signs is pertinent to make it safer for people to walk. . Ms. Medford said we are not "advertising for airplanes".

Board Members explained that this amendment allows the height of the sign to remain the same, it is simply the square footage that increases and only in the area of Russ Avenue where the speed limit is 50 miles per hour.

Mib Medford said she has looked at signage in many other towns, comparing them to Waynesville's, and thinks that sometimes people have a misconception thinking that larger signs are more visible. Ms. Medford suggested that Board Members look at the signs in Candler and then go to Davidson or Cornelius and compare those signs. No one else spoke; Attorney Griffin closed the public hearing.

Alderman Brown moved, seconded by Alderman Feichter, to adopt the amendment to Section 154.108(B)(9)(b) as presented. The motion carried unanimously. (Ord. No. 6-05)

Public Hearing - Rezoning Request - 0.4 Acres Located at 1404 Brown Avenue From Hazelwood District to Hazelwood Town Center

Mr. and Mrs. Barron B. Clark own two parcels of property located at the triangle where Brown Avenue and Riverbend Street intersect. At present, the property is on the edge of a medium to high density residential area with industrial and low to medium density mixed use nearby. The property is surrounded by the Hazelwood Neighborhood District except to the northwest where it is diagonally opposite the Hazelwood Town Center District.

Although the property is adjacent to several residences, its prominent location in a triangle formed by Riverbend Street, an industrial access road, and Brown Avenue, a main thoroughfare linking business districts on Hazelwood Avenue and South Main Street, lends itself very well to its historical use as a neighborhood business. Therefore, town staff recommended that the requested zoning change be approved which would permit the redevelopment of the site. The Planning Board also recommended approval of this rezoning.

Attorney Griffin opened the public hearing and the following people spoke.

Noreen Langford spoke on behalf of Mr. Clark. Ms. Langford said she is trying to help Mr. Clark market his property and they have requested rezoning which is similar to the Haywood Vocational Opportunities property. The current use of the property is grandfathered; however, competition has crept up on him. In marketing the property they would also like to include uses such as manufacturing, cabinet building since they do not think it is marketable as a laundry. It seems that eventually all of this area will become part of the Hazelwood Town Center. Although

some properties are still occupied by owners, many are rental properties, some are vacant, several are used as storage and there are some "cottage businesses".

Debbie Shook, 1397 Brown Avenue, said she has been neighbors with Mr. Clark for years and he has always been a good neighbor and wishes he could stay there forever. Ms. Shook said she is one of the few neighbors who live there surrounded by rentals. She asked what other uses would be allowed if the zoning is changed. Attorney Griffin read the list of uses.

Barron Clark said when he met with the Town of Hazelwood and got permission to build he thought Hazelwood was going to incorporate other uses for him and he thought they did. He later found out that all he had was grandfather rights. He has been at this location for the past 29 years and improved the property from what was there originally.

Alderman Brown said there seems to be more concern about appearance and how functional the property is. It is possible to have a business such as a wood working shop at this location without increasing the traffic flow. Design standards provide better protection.

Alderman Brown moved, seconded by Alderman Feichter, to adopt the amendment to rezone the property located at 1404 Brown Avenue as presented. The motion carried unanimously. (Ord. No. 7-05)

Public Hearing - Land Development Standards Amendment - Sections 154.031 and 154.400 - Adopt the 2005 Model Flood Damage Prevention Ordinance

The 2005 Model Flood Damage Prevention Ordinance has been submitted to the Town by the Federal Emergency Management Agency (FEMA). The ordinance does not change any of the actual construction requirements, but it adds some definitions that clear up some gray areas of the current ordinance. According to Patrick Bradshaw, an engineer who serves as a member of the Planning Board, these rules are already being followed by FEMA. The Planning Board reviewed and voted to recommend that the Town Board adopt the 2005 Model Flood Damage Prevention Ordinance.

Attorney Griffin opened the public hearing. No one spoke; Attorney Griffin closed the public hearing.

Mayor Foy said considering all the flooding this area has had, he asked if this area will be restudied for the 100 year flood plain. Alderman Brown said this is being done in North Carolina now. This process began about two (2) years ago and studies in about one half of the Counties in North Carolina have now been completed.

Alderman Brown moved, seconded by Alderman Caldwell, to adopt the 2005 Model Flood Damage Prevention Ordinance as presented. The motion carried unanimously. (Ord. No. 8-05)Public Hearing - Land Development Standards Amendment to Sections 154.053 and 154.054 to Shift the Design Review for Projects Involving Historic Buildings From the Community Appearance Commission to the Historic Preservation Commission and to Provide the Historic Preservation Commission With Review of Demolitions of Historic Buildings

This amendment would shift the responsibility for review of alterations to older buildings or the demolition of those same buildings from the Community Appearance Commission to the Historic Preservation Commission. The change to Section 154.054 would give this responsibility to the Historic Preservation Commission by changing the powers and duties of that group. Section 154.053 which deals with the powers and duties of the Community Appearance Commission would be amended to restrict the right to review plans to the Historic Preservation Commission.

The recommendation that the Town Board adopt these amendments was approved unanimously by the Waynesville Planning Board.

Attorney Griffin opened the public hearing. No one spoke; Attorney Griffin closed the public hearing.

Alderman Feichter moved, seconded by Alderman Caldwell, to adopt the amendment as presented. The motion carried unanimously. (Ord. No. 9-05)

Public Hearing - Land Development Standards Sections 154.308(D)(3) to Reduce the Maximum Size of Real Estate Signs for Non-Residential Properties

The Planning Board discussed the issue of the size of real estate signs in any of the non-residential properties as some had become quite large. That Board asked Director of Planning Paul Benson to draft an ordinance to deal with the situation. The ordinance which was drafted for presentation to that Board is as follows:

Section 154.308 Signs
Signs Exempt from Permit Requirements
Real Estate Signs

" except that such signs may not exceed the maximum height and size for permanent signs within the district".

It was the unanimous recommendation of the Planning Board that the Board of Aldermen approve this amendment as presented.

Attorney Griffin opened the public hearing. No one spoke; Attorney Griffin closed the public hearing.

Alderman Brown moved, seconded by Alderman Feichter, to approve the amendment as presented. The motion carried unanimously. (Ord. No. 10-05)

Resolution Regarding Financing Agreement Approval for Two Million Gallon Water Tank on Reservoir Drive

Finance Director Eddie Caldwell said the existing, one million gallon water tank located on Reservoir Drive off East Street was constructed in 1925. It has served the Town and its water

customers quite well, but it is now experiencing deterioration and is in need of replacement. A two million gallon tank is being proposed for construction on a site adjacent to the existing site. In 2004, the Town concluded the purchase of this site from Mr. Joe Sam Queen.

It is estimated that this water reservoir may cost \$940,000 according to engineers, McGill Associates. It is recommended that this reservoir be financed through a lease-purchase agreement. Under North Carolina General Statutes, a project of this magnitude must be reviewed by the Local Government Commission to assure that the Town has adequate financial resources to be able to afford the lease-purchase payments. Finance Director Caldwell said a ten year loan is being requested and he felt that the Town could receive this loan with a 4 1/4 or 4 1/2 percent interest rate.

Manager Galloway said the Town is seeing growth occurring and additional growth is anticipated in the Asheville Road and Ratcliffe Cove Road areas. Water can also be fed through this tank to Russ Avenue if needed.

The first step in this process is for the Town Board to adopt a resolution which authorizes the filing of an application for approval of a financing agreement authorized by North Carolina General Statute 160A-20. Following approval, the Resolution, along with various other supporting documentation, will be submitted to the Local Government Commission for consideration at their meeting the first week of May, 2005.

Alderman Brown moved, seconded by Alderman Moore, to adopt a resolution as recommended. The motion carried unanimously. (Res. No. 2-05)

Continued Discussion of Increased Costs in Electricity

At the Board meeting of February 22, 2005, there was a lengthy discussion about the increase in the cost of electricity which the Town purchases from Progress Energy for resale to the 3,030 +/- customers on the Waynesville electric system. As noted, Finance Director Eddie Caldwell detected a rising expense for the electricity, finding that the cost per kilowatt hour has increased by nearly one-half of one cent per kilowatt hour over what the Town was paying just one year ago. For the month of February, 2005, the increase was even more, reaching .5531 of one cent higher than what was paid in February 2004.

In a lengthy report which Mr. Caldwell presented to the Board on February 22, he noted that through January, the Town had seen a decrease of \$361,983.04 in the reserves of the Electric Fund since June 30, 2004. If those monthly declines continued, he predicted that by the end of this fiscal year, on June 30, 2005, the reserves in the Electric Fund could dip to \$166,117. Since February 22, the Town has received the preliminary estimated invoice from Progress Energy for the month of February, and it appears that the reserves in the Electric Fund will drop another \$39,831, going from a decline of \$361,983.04 to \$401,814.04. Power cost comparisons for the first eight months of the year were sent to Board members to go along with the report distributed by Eddie Caldwell on February 22.

The majority of this increased cost is tied to the higher fuel adjustment charges which Progress Energy is passing along to its customers. It was pointed out that the price of natural gas has risen from \$1.80 to \$6.00 per decotherm and the price of coal has risen from \$28 to \$52 per ton. Progress Energy has no choice but to pass those increased costs along to their customers, and if the Town is to avoid operating at a deficit and still meet its commitment to transfer money from the Electric Fund to the General Fund, the increased fuel costs must be passed along to the Town's electric customers. Since the Board meeting of February 22, Eddie Caldwell and Manager Galloway met with representatives of Progress Energy to discuss the fuel charges that have been assessed to the Town. During that meeting, they asked the same questions that the Town Board has asked – what does the future hold in fuel costs? The Town's account representative, Ms. Linda Mann, did not paint a bright picture. She noted that the price of coal, like steel and concrete, has risen dramatically in the past year, and she explained that this was tied to exports to China. She reported that many coal companies have been able to sell coal to China for a price of \$100 per ton, and that had raised the cost of coal within our own country to the \$50 per ton level. This is the same information which was reported by the Town's electrical consultant, Kevin O'Donnell. On the natural gas side, Ms. Mann noted that there seemed to be little efforts to tap the known reserves or to attempt to locate new natural gas pockets.

It was Ms. Mann's feeling that as long as the demand outstripped the supply, the costs for coal and natural gas as well as other forms of energy would remain high. She indicated that energy specialists within her own company have been predicting that the cost of fuels would likely remain high at least until late in 2007. Other possibilities, like new nuclear plants, are not realistic solutions, since nuclear plants take years to get permitted and years to build, so there is no immediate relief there. Significant reductions in fuel costs do not appear to be on the horizon.

It was recommended that the Town Board add a fuel adjustment charge to the electric bill of each customer and that this increase take effect on all electric bills issued on or after April 1, 2005, with the rates adjusted on a quarterly basis. The Town simply cannot afford to withstand the losses seen the past year. A formula for this adjustment was presented to the Board recommending that the increase or decrease passed along to the Town's customers be the difference in the average cost per kilowatt in the previous quarter. Based upon this suggestion the April 1 rates would be based upon the change in the October-December quarter, with an increase of \$.005489 cents per kilowatt hour. This increase would raise the average residential bill of 800 kilowatts from the present \$67.21 per month to a new rate of \$71.73, an increase of \$4.52 or 6.73%. This would mean that the Waynesville residential electric customer using 800 kilowatts per month would be paying \$1.40 less per month, on an annual basis, than the same Progress Energy customer who pays \$73.13 per month.

Alderman Feichter moved, seconded by Alderman Brown, to approve a fuel adjustment charge to the electric bill of each Town of Waynesville customer to take effect on all electric bills after April 1, 2005, and that the rates should be adjusted on a quarterly basis. The motion carried unanimously.

It was the consensus of the Board that an article be included in the Town's next quarterly newsletter and updates be included in future newsletters. Manager Galloway will also speak with

the reporters so that articles can appear in the newspaper to inform customers of the increase beginning April 1.

Award of Paving Bid

On January 28, 2005, the Purchasing Department received bids on paving for the 2005 calendar year. Bids were requested on a price per square yard and a price per ton basis. On the opening date, only two bids were received. Under State Law, three bids are required for a contract of this size; consequently, it was necessary to readvertise and seek bids a second time. The second time bids were opened, only one bid was received, that of WNC Paving, for a total bid of \$137,975. Town Staff recommended that the bid of WNC Paving be accepted.

Alderman Caldwell moved, seconded by Alderman Moore, to accept the bid of WNC Paving in the amount of \$137, 975. The motion carried unanimously.

Request for Street Closings for 2005 - Downtown Waynesville Association

A memorandum was received dated March 1, 2005 in which Ron Huelster, Executive Director of the Downtown Waynesville Association, has requested a number of street closings for the 2005 year. These closings range from the traditional Folkmoot Parade, International Day, Church Street Art and Craft Show and Apple Harvest Festival to some new and special events for 2005.

A Block Party Street Dance is planned on Saturday, May 28, to kick off the summer season. The very successful Latino Street Dance, held for the first time in 2004, is planned again in 2005, for Friday, June 10. On Friday, June 17, plans are being made for the Heroes and Heritage Days Street Dance in conjunction with the Civil War Weekend which was quite popular last year.

Town personnel will work with the Downtown Waynesville Association in staging these events and every attempt will be made to hold down the overtime costs for public works and law enforcement employees.

Alderman Caldwell moved, seconded by Alderman Moore to approve the street closings for 2005 as requested by DWA. The motion carried unanimously.

Watershed Plan for French Broad River Watershed

A letter was received from Ms. Karen Cragolin, Executive Director of Riverlink in Asheville, in which she requested the support of the Town of Waynesville in the development of a watershed plan for the French Broad River watershed. This effort is a result of the massive floods which hit our region in September, 2004, and the hope is that resources and funding options might be found to help predict as well as mitigate future flooding. According to the information from Ms. Cragolin, the first effort will be directed toward the Swannanoa, Pigeon and Hominy Creek areas. Over time, the effort will be expanded to the rest of the watershed.

Ms. Cragolin supplied a sample letter which she requested that the Town submit in a show of support for this effort and to request that funding be secured for field studies of these three water sources. There is no commitment of funds being requested from the Town.

Alderman Feichter moved, seconded by Alderman Brown, to support the development of a watershed plan for the French Broad River watershed. The motion carried unanimously.

Resolution of Endorsement for the 2005 Bond Referendum for Haywood County Schools

Alderman Kenneth Moore presented a copy of a resolution which was approved by the Tuscola High School Athletic Boosters Club endorsing support for the 2005 Bond Referendum. He asked that this matter be placed on the agenda for the Town Board meeting in hopes that the Town will adopt a similar resolution of support.

Alderman Moore moved, seconded by Alderman Feichter, to endorse the resolution of endorsement for the 2005 Bond Referendum for Haywood County Schools. The motion carried unanimously. (Res. No. 3-05) Proclamation - Association of Retarded Citizens

Alderman Gary Caldwell presented a resolution in support of the Association of Retarded Citizens (ARC) of Haywood County. He asked that the Town Board go on record as supporting this Proclamation.

Alderman Caldwell moved, seconded by Alderman Moore, to adopt the proclamation in support of the Association of Retarded Citizens (ARC) of Haywood County. The motion carried unanimously.

Bob Armstrong - Paving of Cardinal Lane

Bob Armstrong said at the October 12, 2004 meeting the Board discussed the paving of Cardinal Lane. At that time it was pointed out that the Town tries not to resurface streets after mid October. Mr. Armstrong said he heard that the asphalt plants were opening April 1st and asked that the Town give Public Works Director Fred Baker the green light to go ahead with paving Cardinal Lane.

The Board explained that the BST method of paving was used for Cardinal Lane rather than traditional paving and the policy used by the Town regarding the BST method of paving is scheduled to be on the agenda for discussion at the Board's upcoming retreat, not only for Cardinal Lane but for all other streets in Waynesville.

Dates for Upcoming Retreat

Manager Galloway said April 8 and April 15 are dates to consider for the Annual Retreat. Vickey Greene with Region A has indicated that she would be available for either of these dates. It was the consensus of the Board that April 8 should be the date scheduled for the Retreat. Special Meeting - March 29

Manager Galloway said a special meeting will be scheduled for Tuesday, March 29 to discuss renovations to the Police Department and Town Hall Buildings. Manager Galloway said he has spoken with the U. S. Department of Rural Development regarding grants and loans which can be extended for a longer period than other long term loans. If the loan could be paid back over a forty year period for the Fire, Police, Public Works and Town Hall construction and/or renovation the price could be reduced to \$326,000 per year. Manager Galloway said the Town is still looking for potential sites for the construction of a new Fire Department.

Adjournment

With no further business, Alderman Brown moved, seconded by Alderman Moore, to adjourn the meeting at 8:38 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor