

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
FEBRUARY 14, 2006  
TUESDAY - 7:00 P.M.  
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, February 14, 2006. 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, Administrative Intern Alison Melnikova and Town Attorney Woodrow Griffin. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of January 24, 2006

Alderman Caldwell moved, seconded by Alderman Feichter, to approve the minutes of the January 24, 2006 meeting as presented. The motion carried unanimously.

Public Hearing to Consider Closing Portions of Three Streets at Norfolk-Southern Railroad Crossings

At the Board meeting of January 10, 2006, the Board heard a presentation from Gary O’Nesti of Cedarwood Developers regarding the possible redevelopment of the former Dayco Property. Mr. O’Nesti explained the tentative layout of the retail operations on the site and noted that the primary access would require a new railroad crossing which would lead from South Main Street into the property.

Others on hand from the Department of Transportation and from the Norfolk Southern Railroad explained that the rail company has a policy that in order to grant a new railroad crossing, they require that three other railroad crossings be closed. This is an effort of the rail company to reduce the number of vehicle-train collisions by reducing the number of opportunities for such incidents. According to the Safety Director from Norfolk-Southern, there had been five such collisions in Waynesville in the past six years.

Town Staff has worked with DOT and railroad representatives to determine three crossings that could be closed. The main criteria to select three crossings would be finding ones which would seem to have the least negative effect upon the public. Under North Carolina General Statute 160A-299, a municipality is empowered to close a street or portion of a street; however, the statute is very clear that in doing so, care must be taken to avoid creating a landlocked situation for a piece of property. According to Town Attorney Woody Griffin, if a municipality closed a street and the action resulted in a property being landlocked, under appeal to Superior Court, a judge would likely overturn the street closing. So the Town Attorney and Town Staff have worked diligently in an attempt to assure that any closing was in compliance with State statutes.

The three rail crossings proposed for closing are Shackford Street, Old Hickory Drive and the Town Park. As required by State statute, advertisements have appeared in the newspaper announcing the public hearing and adjacent property owners have been given mailed notice of the intention of the Town Board. In addition each of the three crossings has been posted with an announcement about the Board's intention. Citizens have been invited to appear to express their opinion on the closings.

#### Shackford Street

Attorney Griffin opened the public hearing regarding the consideration to close Shackford Street from the railroad crossing to the parking lot of Wachovia Bank. The following persons spoke:

Karen Denty, 145 Shackford Street, said the area proposed for closure is her access to the dwelling she bought in 1997. People have approached her about a possible alternate access using Buffalo Lane. Ms. Denty said she installed a fence because people were driving through her yard and feels that altering her property, taking away her access and putting in new parking or driving areas would decrease the value of her home. Her main concern is safety of herself and her children and she felt that Shackford Street has always been the legal access to her dwelling. She does not want to be landlocked nor inconvenienced and feels that another location should be considered. Ms. Denty said Shackford Street is maintained, lit and paved and Buffalo Lane is a "rut". She would not have an objection if Buffalo Lane were maintained. However, she feels that she would need compensation if her property values were decreased and someone would need to pay for taking her fence down.

Charles Thomas, 815 Tollwood Drive, Charlotte, a representative of Wachovia Bank, said he was not opposed to closing this portion of Shackford Street, but was concerned about closing the street and how this may affect further developments that may happen years from now. He was also concerned with access that may be necessary to reach Ms. Denty's property and felt that further information was needed.

Jason Field, NCDOT, works out of Raleigh and his responsibility is to increase railroad crossing safety. He said there are 3,500 public crossings in NC. Each year all public railroad crossings are evaluated and about 100 are programmed for improvements. A lot of this work has been done in Waynesville. Crash history between 2002 and 2005 reveals that there were 11,760 crashes in the US at railroad crossings resulting in 1,380 fatalities and 3,987 injuries. NC had 94 injuries and 24 fatalities. If this project is done with Federal money there are issues about direct access and it may be possible to pave Buffalo Lane, bringing it to the same elevation as Shackford Street. The issue of direct access needs to be discussed further, and the intent is to do the right thing. This closing is being considered because there has been a proposal to develop the property at the old Dayco plant and a high density railroad crossing would be needed. This redevelopment could create 600+ jobs for Waynesville. Norfolk-Southern as well as every other railroad in the nation has developed a policy that if you want to do a high density railroad crossing you have to give up three to reduce the number of crossings and efforts are being made to consolidate crossings. Their intent is to improve quality of life. If the project is approved, Federal money would be available to replace that entire traffic signal system and include a dedicated left turn signal at Wachovia Bank. The Public Works Director and Board of Aldermen have identified railroad

crossings that may be feasible crossings. Shackford Street is the only closure being considered that would involve closure for both vehicular traffic and pedestrian traffic.

Philan Medford, 99 Pisgah Drive, said pictures are worth a thousand words. She felt that it is reasonable that the railroad or developer be required to produce a schematic plan showing how closing Shackford Street would visually fit into the Town's Russ Avenue redevelopment ordinances so that over time there would be grid work to move more people and goods. She said it is important that everyone provide multiple approaches for emergency response vehicles. Ms. Medford suggested two alternate closures. Blue Ridge Paper has two crossings within 75 feet of each other that could be consolidated and separated for delivery and employees. Also there are two crossings at the intersections of Killian Street and Richland Street that go to the same business and the property is owned by the same person. She suggested that schematic drawings be required as a courtesy before people weigh in for the last time.

Chuck Border, 148 Timothy Lane, said he and his wife own Sunburst Realty at 147 Walnut Street with egress and ingress to Shackford Street. He is opposed to closing that portion of Shackford Street because he felt that it would create a negative impact on their property. He felt that the Board has a challenge because of the high volume of traffic on Russ Avenue now which will continue to grow and he felt that closing any egress on Russ Avenue would be a mistake. Mr. Border said that Shackford Street is a through street which goes all the way to Russ Avenue not just to the Wachovia parking lot.

Fred Spencer, 525 Lookout Point, appraiser in Waynesville, said Karen Denty has worked for him for the past several years and her house was a major investment for her. He also has a personal vested interest because he bought the adjacent tract to Karen which was accessed from Shackford Street through her property. However, he uses Buffalo Lane as an access. There is a recorded plat of these three properties (formerly the Muse property) now owned by Denty, Spencer and Ferguson. Those transfers did not involve a lender but were financed by the owner. Mr. Spencer said he spoke with the Attorney who did the closing for him and he indicated that his legal access was from Shackford Street across Ms. Denty's property. This has worked well for his property but his major concern is that even if Buffalo Lane is improved and paved it will be a considerably different access for Karen Denty.

Don Overbay, 219 Walnut Street, said Shackford Street is a short street with very few curb cuts but it is a much traveled link between Boundary Street and Russ Avenue. From his office he has watched traffic over the past couple of weeks and about 1/3 of his customers use Shackford Street to access his business. If anyone has ever come out Boundary and tried to get to Walnut Street you will know that this is a very dangerous intersection and he asked that the Board consider this and not close Shackford Street. At one time he requested a traffic light and was told that traffic lights were not available just to access a business. He felt that closing Shackford Street will landlock Ms. Denty. This spring he planned to build an addition to his building and request widening of the access to Shackford Street so that left or right turns could be made without going out a steep area. It would be necessary for him to close this access if Shackford is closed and his customers do not like using the exit to Walnut Street because of the congestion. He suggested that Shackford Street be allowed to continue to the parking lot at Wachovia Bank and follow the property line at the traffic light. He felt this would stop the excess traffic through

the bank's lot, adding that occasionally people drive the wrong way through the bank's drive thru creating a highly dangerous situation. Mr. Overbay said he is opposed to closing Shackford Street.

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

Mayor Foy felt that this should be delayed until at least the next meeting in order to investigate some legal issues associated with the closing of Shackford Street.

Mayor Foy asked if there was a right-of-way through the Wachovia property. Attorney Griffin said he has researched this thoroughly and could find no right-of-way. Mayor Foy said the 1931 map he was looking at showed this as a driveway to the Shackford house which was once at this location before Russ Avenue was constructed. Attorney Griffin said he sees nothing at this time that would prohibit Wachovia from closing that drive that comes to their property. Mr. Thomas said he had site plans and drawings which may answer any questions the Board may have.

#### Old Hickory Drive

Attorney Griffin opened the public hearing regarding the consideration to close Old Hickory Drive from Brown Avenue to the railroad crossing. The following people spoke:

Jason Field, NCDOT, said this area is being considered for closure to vehicular access but not to pedestrian traffic. Plans would be to install better access to the school's sports field, including a better path going down an embankment for pedestrian traffic. The stairway that is currently there is not good and is not covered under any type of agreement which creates some concern. At Boyd Avenue the intent was to have sidewalks on both sides but this was missed somehow and is now scheduled to proceed. If the street at Old Hickory Drive is closed, bollards will be installed on both sides to block vehicular traffic with some type of planting structures to make it attractive. At the present time during school hours this area is closed off, which leads them to believe that the school thinks there is a risk.

Jeff Ferree, 117 Old Hickory Street, said he and his wife have a bed and breakfast at this location and they are very much opposed to this closing, which he felt would disrupt traffic flow. Currently he gives tourists directions to reach his business from Brown Avenue at the school rather than Killian Street because they do not want to give tourists a bad impression of the Town. He said Killian Street has many code violations, including houses that are falling down, which would not make a good impression on a tourist industry-based town. Mr. Ferree said Killian Street is a narrow street and emergency vehicles may have difficulty passing vehicles parked on the street. Also, it is located in a flood plain which could create problems if it were closed. Mr. Ferree had concerns that there may not be adequate space to create a cul-de-sac large enough for a fire truck to turn around. He also felt that this may detract from the value of his property. He tried to get some information from an attorney in town to see if there is any precedent for recovery of compensation if his property values suffer damage if the road is closed. He said Philan has some good ideas for options for closure such as Killian/Richland or the Howell Mill Road with the overpass which is planned for the future. There are some private crossings at Vigaro Lane and side by side crossings at Blue Ridge Paper. With Dayco he felt that this may be

a private crossing and did not understand why private crossings would be traded for public crossings. He is very concerned with this closing and how it would affect his business.

Philan Medford, 99 Pisgah Drive, welcomed folks to use the public realm of her street and neighborhood for the movement of people and goods, especially during school events and to provide multiple options for emergency vehicles. All surrounding neighborhoods, including Old Hickory, provide a network and residents do not object to people parking on their street to attend school events. Without this grid work, parked cars can present a barrier to emergency vehicles getting to homes, but she is confident with residents having several options open that they are safe and that emergency vehicles can get to her if there is an emergency. The proposed closing could create more congestion in this area and there is a lack of traffic calming design present, presenting challenges. Ms. Medford said she expects the railroad to partner with the school board to share their right-of-way to provide ADA access. She expressed the need for schematic designs for Blue Ridge Paper, Killian/Richland Street, Vigaro and possibly other crossings, adding that the rest of the community deserves the courtesy of images for other alternatives to "comparison shop". Ms. Medford asked that data be made available to base this proposal on.

Nancy Wade, 63 Baby Spring Trace, owns 15 acres of the Burton Green property located south of Old Hickory Drive, and is currently in the process of purchasing the property at 107 Old Hickory Drive to access the other 15 acres beside the railroad track. She expressed concern regarding the closing and how it will affect her access and property values. Ms. Wade said she has heard some discussion about joining Killian Street with Westwood Circle through her property and would like to know how the proposed closure may affect this.

Darlene Letterman, 420 Killian Street, B 13, said she can see the traffic coming down Old Hickory and knows that there have been several false alarms when the fire trucks used Old Hickory rather than Killian Street. At a time when there was an evacuation she tried to go out Killian Street but it was flooded and she had to use Old Hickory. She asked what plans were available in case there was flooding again and Killian Street was closed.

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

Town Park

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

No action was taken. The proposed closings will be discussed further at a future meeting.

#### Public Hearings - Amendments to the Land Development Standards

##### 154.104(B)(9) Central Business District Sign Standards

The Planning Board received a request that the sign standards in the Central Business District be amended to allow the internal illumination of signs. At present, this is prohibited throughout the district. Chairman of the Planning Board, Rex Feichter, stepped down from his position

temporarily to present his request noting that there are twelve businesses located in the building he owns at 30-60 South Main Street. Two of these face Main Street and have adequate visibility, but the other ten are located on the side or rear of the building and lack good exposure. He felt an illuminated sign would be beneficial to the success of those businesses.

It was the recommendation of Town Staff that for the properties located in the National Register Historic District, the requirement remain that there shall not be any internal illumination. Properties within the Central Business District located outside of the National Register Historic District would be permitted to have internal illumination. The Planning Board unanimously recommended the following amendment to bullet 4 to the Town Board for Section 154.104(B)(9):

"Internal illumination of signage is prohibited within the boundaries of the National Register Historic District."

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

Roscoe Wells, 85 East Marshall Street, said there was an effort that went into the Land Use Planning to stop so many "spot amendments" and he cannot understand why there needs to be a back lit sign anywhere in Waynesville. Anyone coming into Town to look for a business will go to the telephone directory first to find the person they want.

Rex Feichter, said he requested the amendment, and served on the committee to develop this Land Use Plan from the beginning. The reason for the amendment is that the building beside Town Hall has individual units with a short space on Main Street for a monument sign. There is a potential of twelve businesses with four units located in the back with no visual space from Main Street. The total square foot area for the twelve businesses would be twenty-four square feet. He decided that rather than ask for an increase in the size of the sign, an internally lit sign may be easier to control than front lit signs. There are several signs on Main Street that are out of compliance such as Exxon, Police Department, Wells Funeral Home, furniture and lighting stores and BB&T. This particular building is not inside the historic district. Mr. Feichter said he is willing to comply with the standards for internally lit signs that are allowed in other districts and feels that this is far more tasteful. He needs to provide signage for his businesses. Mr. Feichter said he was willing to remove the State Farm sign and just have one single sign with provisions for twelve, with some type of side panels that could be moved in and out making it easy to maintain in the future.

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

Alderman Caldwell moved, seconded by Mayor Foy, to amend Section 154.104(B)(9) Central Business District Sign Standards as recommended. The motion carried with three (3) ayes; one (1) nay (Brown) and one (1) recuse (Feichter). (Ord. No. 5-06)

#### 154.117(B)(7) Hyatt Creek Area Recreation Open Space/Impervious Surface Standards

The Hyatt Creek Area requires a 40% impervious surface, and this is the only center district which requires such a high percentage of impervious surface or landscaped open space. The Hyatt Creek Area includes the former site of Dayco and other high density urban development along South Main Street. The Dayco site was pretty well developed with a minimal amount of impervious surface on the 34 acres which are a part of this property. While the goal of the Hyatt Creek Area Center is to preserve rural character and protect creeks and drainage areas, the Staff feels that the 40% requirement is too high. They have recommended a reduction to 20% and believe that it will still provide more pervious surface than many other districts.

In the case of the Dayco tract, as redevelopment occurs, Staff feels that the stormwater retention requirements, landscaping and requirements for open space along the floodplain will most likely result in greater than the 20% pervious surface anyway.

The Planning Board recommended that the Town Board approve the reduction in the requirement from 40% to 20% for pervious surface in the Hyatt Creek Area Center.

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

Alderman Brown moved, seconded by Alderman Caldwell, to adopt an ordinance amendment to Section 154.117(B)(7) Hyatt Creek Area Recreation Open Space/Impervious Surface Standards as recommended. The motion carried unanimously. (Ord. No. 6-06)

#### Hazard Mitigation Plan

Under State regulations, each County and municipality is to develop a Hazard Mitigation Strategy to deal with various emergency situations which might occur in the area. This might include anything from flooding to earthquake to massive fires to snow storms, but it is a plan to protect the public and to protect facilities.

Haywood County and the municipalities have worked together to develop a Hazard Mitigation Plan, and the State has provided the majority of the funding for this purpose. Police Chief Bill Hollingsed has been involved in the preparation of this Plan and has endorsed the concept. Chief Hollingsed and Greg Shuping, Director of Emergency Services for Haywood County, attended the meeting to present the plan.

Chief Hollingsed said in 2000, the Disaster Mitigation Act, enacted by the Federal Legislature to help minimize the impact of natural disasters, required each State to come up with a Hazard Mitigation Plan. In 2001 the NC General Assembly passed a bill requiring local governments to come up with a plan. This plan helps to identify hazards before they occur and a plan of action if they do occur. Such disasters include droughts, earthquakes, extreme heat, wildfires, floods, tornadoes, severe winter storms, erosion, landslides and hazardous materials. All municipalities and Haywood County have been working since 2001 to come up with this plan. Floods, severe winter storms and erosion and landslides have been issues dealt with in Haywood County. A task

force was formed to come up with a plan which has been approved by FEMA and the State of North Carolina. Another issue brought into the plan was terrorist acts. A check list has been compiled for each department in the Town to accomplish to satisfy the needs of the plan, which includes public information and brochures. A resolution of adoption from the Board is needed to adopt the plan. Its adoption would make Waynesville eligible for FEMA or State monies in case of a natural disaster. The Plan is approximately 75 pages and available at Town Hall for review.

Manager Galloway said the Police Chief has done a great job in putting this check list together and he and Police Chief Hollingsed intend to meet with the affected departments within the next few weeks to commence work on this process which will take some time to complete. He added that some of the items are already being dealt with such as the Hillside Development Ordinance.

Greg Shuping said in Haywood County everyone is proud that there is a unified process without overlapping services which was evident during the floods of 2004. He said natural disasters cannot be stopped but maybe we can be proactive by installing better stormwater systems, or stock piling items needed in case of severe winter storms, etc.

Alderman Brown moved, seconded by Alderman to adopt a resolution to accept the Hazard Mitigation Plan. The motion carried unanimously. (Res. No. 7-06)

#### Closed Session to Discuss Real Estate and Legal Matter

Alderman Caldwell moved, seconded by Alderman Moore, to adjourn to closed session at 8:20 p.m. to discuss a legal matter.

Alderman Feichter moved, seconded by Alderman Brown, to return to regular session at 9:05 p.m. Both motions carried unanimously.

#### Adjournment

With no further business, Alderman Brown moved, seconded by Alderman Caldwell, to adjourn the meeting at 9:07 p.m. The motion carried unanimously.

Phyllis R. McClure, Town Clerk  
Henry B. Foy, Mayor