

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
MARCH 28, 2006
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, March 28, 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, Tax Collector James Robertson and Town Attorney Woodrow Griffin. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of March 14, 2006

Alderman Moore moved, seconded by Alderman Caldwell, to approve the minutes of the March 14, 2006 meeting as presented. The motion carried unanimously.

Tax Collector James Robertson Request to Advertise Delinquent Taxes

During the spring of each year, tax collectors from across North Carolina go before elected officials of municipal and county government to seek their approval to advertise the names of property owners who have not paid their real estate taxes for the current fiscal year.

Mr. Robertson attended the meeting to present the list of delinquent property owners and to request that he be authorized to advertise this list on Friday, March 31. He reported that real estate and personal property tax collection rates at the end of the fiscal year were 95 ½%. This year tax collections are slightly ahead of schedule with 94.69% collected. A \$49,000 tax payment received today, brought the amount collected to slightly above 96%. A fee of \$3.50 will be added to each tax bill included in the delinquent advertisement list.

Alderman Brown moved, seconded by Alderman Feichter, to approve the advertisement of delinquent taxes for Friday, March 31. The motion carried unanimously.

Closing of Streets at Railroad Crossings

A public hearing was held in February on the request by Norfolk and Southern Railway to close three railroad crossings in Waynesville. This request came about due to the railroad company's requirement that for any new rail crossing approved, there must be three crossings closed. A shopping center development on the former site of Dayco has requested a new railroad crossing. After a good deal of study, the three crossings selected included the one on Shackford Street behind Wachovia Bank, one on Old Hickory Drive near the Waynesville Middle School and one located in the Town Park midway between Marshall Street and Vance Street used solely by vehicles belonging to the Town of Waynesville Recreation Department.

Under State law, a municipality may close roads at railroad crossings, and a property owner may file action to contest the closing. Under General Statute 160A-299, if a property owner were to appeal the closing to the Court, the Judge would consider whether the closing met the conditions of State statute. One of those conditions is that in closing the street (and rail crossing) the municipality may not land lock a property.

At the meeting in February, Town Attorney Woody Griffin pointed out that in the case of Shackford Street, three pieces of property have legal ingress and egress to Shackford Street and then southward to Boundary Street. While two of those properties use a private "street" known as Buffalo Lane, there is no legal basis for that or access to Buffalo Lane in any document. From their legal access to Shackford Street, the property owners could now travel northward and access Russ Avenue; however, in doing so, as Mr. Griffin noted, they cross private property. There is no right-of-way to Russ Avenue and vehicles cross a parking lot and driveway on private property on which Wachovia Bank is located. So if the Shackford Street railroad crossing were closed, the Town would need to assure that the three property owners, Karen Denty, Fred Spencer and Gene Ferguson, were not land locked but had access to public streets by some other means.

Haywood County Economic Director Mark Clasby reports that the five property owners abutting Buffalo Lane have been contacted and are in agreement with granting a right-of-way on Buffalo Lane. This right-of-way would be for the benefit of the general public but would assure that Denty, Spencer and Ferguson have legal ingress and egress to their property. Mr. Clasby indicates that prior to the Board meeting, the documents granting the right-of-way will likely have been signed.

At the February meeting, there was discussion on closing the Old Hickory Drive crossing, and there was some objection to the closing and some question about how ingress and egress could be provided when Killian Street must be closed due to flooding.

Prior to the meeting, the representative of the railroad had indicated that they would accept leaving Old Hickory Drive as being closed to vehicular traffic but open to pedestrians so students and the general public could have access to playing fields on the north side of the railroad track. Following the meeting, railroad officials met with Emergency Management Director Greg Shuping and Police Chief Bill Hollingsed to discuss ingress and egress to Hickory Hollow Apartments and Old Hickory Drive when Killian Street is flooded. In the aftermath of that meeting, the railroad representative indicated that a removable bollard would be acceptable with his company, with the Police, Fire or Emergency personnel provided a key to unlock the bollard and remove it in the event of an emergency. This would give residents an alternate outlet during an emergency.

The railroad crossing in the Vance Town Park is used solely by Town vehicles and other alternatives are available to access the north side of the tracks for mowing and maintenance. As a result, recreational personnel would not object to this closing.

Mr. Clasby has worked closely with Mr. Gary O’Nesty of Cedarwood Development on trying to make the shopping center on the Dayco property a reality. They feel that they have done what is

needed and what was desired by the Board in order for the crossings to be closed and the shopping center development to move forward.

Alderman Brown said the legal issue is to determine whether property owners would still have reasonable access to their properties if the portions of the streets were closed. Shackford Street agreements have been signed and Jason Fields with NCDOT handled the agreements. Alderman Brown asked Ms. Karen Denty if she had agreed to sign and if she was satisfied with the efforts so far in this issue. Ms. Denty said that she was. A representative from Wachovia Bank was in attendance and said that it was in the best interest of the bank to close their parking lot to through traffic if this portion of Shackford Street was closed. The other four property owners have also signed agreements and it was felt that this situation was adequately dealt with.

On Old Hickory Drive adequate measures have been made so that a "gate type situation" will be created for emergency type situations and it will also help the school system. The Vance Street crossing is one that was offered for closure but is not a closing to vehicular traffic like the others. Shackford Street has been mentioned previously and is one that Norfolk and Southern has had an interest in closing for some time. These closings provide for the public safety as well as aid in the development of the old Dayco property. Alderman Brown said it was a "win-win situation" and does not feel that anyone is being unfairly treated. Developing the old Dayco site will help the western end of Waynesville immensely and will also be a service to the community.

Dale Burris, Construction Manager with Haywood County Schools, spoke on behalf of the Haywood County Board of Education. He said he received a letter showing that the school would be given a better crosswalk across the railroad track and he asked for some clarification on the changes in the parking lot area. NCDOT Representative Jason Fields said the only thing that would change is that the access for traffic would no longer be allowed to cross the railroad tracks at Old Hickory Drive. The grade where the street is now located would be changed to better fit with the parking area. Mr. Fields said the pedestrian access being used by the school for the field is an illegal and unsafe access as it is now and an ADA access is needed. Mr. Burris said the Haywood County School Board feels that these changes will improve the safety.

Mayor Foy said Old Hickory Drive has been there for more than one hundred years, even before the school and parking were there. He said there is a seventeen acre tract on Old Hickory Drive that has a convenient access to get out to Brown Avenue over this crossing and he cannot see closing Old Hickory Drive. He said he would like to see the Dayco property uniformly developed along with the business of closing the railroads. He asked that the railroads not be closed before the problems at the Dayco site have been resolved. Alderman Feichter said things change in one hundred years and it is a different place now than it was even twenty-five or thirty years ago. Attorney Griffin said all the properties on the other side of the railroad track on Old Hickory Drive have access to Old Hickory Drive. Alderman Caldwell said he agreed with the Mayor and was concerned with the residents of Hickory Hollow Apartments only having one access to Killian Street. Alderman Moore said he would not like to see the Town jeopardize 600 - 700 jobs because of a railroad crossing and added that the Town needs to make progress.

Alderman Brown moved, seconded by Alderman Moore, to adopt an ordinance in accordance with NCGS 160A-300 to close the area of Old Hickory Drive twenty (20) feet to the north of the

centerline of Norfolk and Southern Railroad to the intersection of Old Hickory Drive with Brown Avenue to vehicular traffic use and to retain pedestrian traffic access and emergency vehicular access across the tracks. The motion carried with three (3) ayes (Brown, Feichter and Moore) and two (2) nays (Caldwell, Foy). (Ord. No. 11-06)

Alderman Brown moved, seconded by Alderman Feichter, to adopt an ordinance in accordance with NCGS 160A-299 to close the Norfolk and Southern Railroad crossing to vehicular traffic at the Vance Street Park. The motion carried unanimously. (Ord. No. 12-06)

Alderman Brown moved, seconded by Alderman Moore, to adopt a resolution to close Shackford Street at a minimum of twenty (20) feet on either side of the center line of the Norfolk Southern Railroad, at such point in time of completion of the conditions set forth in the term sheet, including the terms of right-of-ways to ensure adequate access has been granted to meet the conditions of NCGS 160A-299, have been reached with the property owners, including Haywood Builders Supply Company, Barbara Muse, Bill Norris, Fred Spencer, Sr., and Karen Denty. The motion carried unanimously. (Res. No. 11-06)

Alderman Brown asked if Ms. Denty was satisfied that she had been treated fairly in this process and she said she was satisfied. Alderman Feichter expressed appreciation for Ms. Denty's attitude and willingness to work with the Town and others involved in this process. Mr. Fields said in working with Mr. Denty during this process one of her main concerns was the maintenance of her driveway. Manager Galloway said when the street is constructed by the NC Department of Transportation in compliance with Town standards, it will then be turned over to the Town for maintenance.

It was the consensus of the Board that the Town will accept dedication and take over maintenance of Buffalo Lane once the N. C. Department of Transportation constructs the street in compliance with Town standards.

Public Hearing Asheville Road Phase I Annexation Area

The process has begun on the annexation of 22.4 acres of land in east Waynesville as shown on enclosed maps. In recent years, the present and previous Town Boards had indicated that the area along the Asheville Road was the priority area for annexation into the Town. The main factor delaying the process was the completion of the improvements to the Asheville Road by the Department of Transportation. Approximately two years ago as the construction began drawing to an end, the Board directed Town Staff to begin work on phased annexation of this area.

In the past year, the Board directed Staff to proceed with developing an Annexation Report required by State Statutes. That report was completed and presented to the Town Board on January 24, 2006. Also, in following the State Statutes, a public information meeting was held on Thursday, March 2, 2006, and property owners within the area under consideration for annexation were sent notification of that meeting as well as notice of the time for public hearing scheduled for 7:30 p.m. on Tuesday, March 28, 2006. The notice sent to property owners also indicated that the annexation report of plans for extending services to the territory under

consideration for annexation has been available for public inspection at the office of the Town Clerk since January 24, 2006.

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

Paul Benson, Waynesville Planning Director, said this annexation is scheduled to be effective June 30, 2006. He explained the process as outlined in NC General Statutes. This annexation does not include the Hillside Terrace area because sewer would need to be extended, however, this area is scheduled to be included in a future phase. This is a slightly revised document from the plan that was approved in January and a few numbers have been changed. Upon conclusion Mr. Benson asked that the revised annexation plan be approved. Mr. Benson explained the various tests required in order for an annexation to meet certain qualifications required by the State.

The Phase I area is contiguous to the existing corporate limits. The required percentage is developed for urban purposes and meets the required tests. A small non urban area is included in the annexation area. Primary services include police, fire, water and sewer. Police protection will be formally added but is currently being received. This area is included in Waynesville's fire protection area but the charge for fire protection will be removed from utility bills and included in yearly tax bills. Solid waste collection will be added, including yard waste, residential garbage, bulky items and recyclable pickup. Felmet Street and Asheville Road are both maintained by the North Carolina Department of Transportation. Water and sewer services are already in place, however, there have been no additional requests received through this process. Ten new street lights are proposed at 180' intervals along the Asheville Road.

Mr. Benson said new property tax values for this area went up about 30%, from three million to almost four million. Water revenue loss of about \$4,000 is expected as well as the loss of fire protection fees. A net revenue of slightly over \$30,000 per year is expected. Mr. Benson said annexation extends a higher level of urban services to developing areas and benefits the residents living in the area and in the end it can be financially beneficial to the Town.

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

Alderman Brown moved, seconded by Alderman Feichter, to adopt the revised annexation services plan as presented by Mr. Benson. The motion carried unanimously.

Manager Galloway said prior to coming to Waynesville, Mr. Benson was employed by the City of Asheville and was primarily responsible for Asheville's annexation reports. The Board thanked Mr. Benson for his presentation and commended him for the excellent job he is doing. At the next meeting the Board can vote to approve the annexation.

Ms. Victoria Young and Ms. Patsy Dowling Mountain Projects Robert Wood Johnson Foundation Grant Application

During the fall of 2005, representatives of the Council on Aging appeared before the Town Board to seek funding to put toward matching funds to secure a grant from the Robert Wood

Johnson Foundation. The original request was for funding of \$11,000 for the current fiscal year, and it was indicated that the Town would be asked to contribute a similar amount for a five year period for a total of \$55,000. At that time, the Council on Aging did not have a current audit and in fact, had not had an audit done since the fiscal year ending on June 30, 2003. As the Town Board has a policy of requiring an audit for any agency which receives more than \$5,000 in Town funds, the pledge to the Council on Aging was for no more than \$5,000. The Town had already pledged \$3,000 to the Council on Aging in the 2005-2006 budget, so the actual contribution of \$5,000 would only have been \$2,000 more than what was already planned. As it turned out, the Council on Aging could not produce the documents the Town Board requires of an agency that receives funding up to \$5,000, so neither the initial \$3,000 nor the subsequent \$2,000 has been paid to the Council on Aging.

The Council on Aging has encountered a host of problems, and the Robert Wood Johnson Foundation has indicated that another organization in Haywood County would need to become the lead agency for the county to remain under consideration for a grant from the Foundation. Mountain Projects has agreed to become the lead agency, and Ms. Victoria Young is working with Mountain Projects to continue pursuit of the grant. A few weeks ago, Manager Galloway was approached by Ms. Young about whether the Town would still contribute toward the Grant. He advised that he could not speak for the Board, and noted that it was his impression that neither the Town Board nor Town Staff had a very clear idea of the purpose of the grant or how the Town's contribution would be used. Ms. Young advised that she would gladly appear before the Town Board to explain this matter.

Ms. Young said she came before the Board last October to request match funding for the grant from the Robert Wood Johnson Foundation. She said this grant involved equipping, training and empowering people in our community to help one another so that we can live in our homes and community for as long as possible. The past few months have been very painful and very challenging. She received a telephone call from Community Partnership for Older Adults to ask her why she had resigned. Ms. Young said she is currently a volunteer. They were very kind and supportive and asked her to send them all the recent newspaper clippings. Yvonne Gould, the new grant coordinator, and she are still working closely together. The Community Partnership for Older Adults said if they could come up with a new fiduciary or lead agency for this grant they would still like to come for a site visit. The partnership agreed to ask Patsy Dowling with Mountain Projects to take on this responsibility. This site visit has now been made and she felt that they liked what they saw. They asked for new letters of support and so far Haywood County and the Towns of Clyde, Canton and Maggie Valley have submitted new letters of support. Ms. Young asked that the Waynesville Board of Aldermen submit a new letter of support for the \$5,000 first year contribution toward this grant.

Ms. Young said they plan to proactively mobilize a large volunteer base in this community and to purchase equipment and train them to meet the needs of the aging community. They hope to hire a total of four staff members and Ms. Young hopes to be the director. The Council on Aging is closing and they will be looking for centrally located office space with handicapped accessibility. United Way has received a \$25,000 grant for the 211 project to help people get information on services available in North Carolina and they will be connecting to this service.

They will also be designing software and a web site and will be working closely with Mountain Projects.

Patsy Dowling, Mountain Projects Director, said Mountain Projects will be responsible for the financial aspects of this project. Ms. Dowling said they have agreed to do this because they believe in the value of the project. When she looked at this concept it reminded her of a program years ago that impacted her life in the Head Start Program. Mountain Projects has office space available but there are accessibility issues. She said many hours have been dedicated in order to get the grant submitted. This year they are only asking for a one year commitment, but will be back next year to request the next year's contribution based on their performance.

Alderman Brown said he feels comfortable that this is being overseen by an institution with a good track record. Alderman Feichter said she serves on the Mountain Projects Board and knows the fiscal responsibility that Mountain Projects exhibits year after year and how much money in Federal and State funds passes through this organization each year. Patsy Dowling said they have a ten and one-half million dollar budget and have had seven years of unqualified opinions in their audits. Mayor Foy said he also served on the Mountain Projects Board and feels totally confident in the situation of Mountain Projects being behind this project.

Ms. Dowling said this is an opportunity for Haywood County to be one of eleven organizations across this Country to be awarded this funding. This is an honor for Haywood County and the opportunity is too valuable to pass up. This will only enhance our ability to change this community. A breakdown of how the Town's contribution will be spent was given to the Board Members. Manager Galloway said the Town has always had a good working relationship with Mountain Projects.

Alderman Feichter moved, seconded by Mayor Foy, to provide Mountain Projects with a letter of support, and to authorize the contribution of \$5,000 by the Town of Waynesville as a first year contribution if the Robert Wood Johnson Foundation grant is awarded. The motion carried unanimously.

Annexation Petition LMK Real Estate Company 9.4 Acres at Shingle Cove

At the Board meeting of March 14, 2006, an annexation petition was received from LMK Real Estate Company for a 9.4 acre tract of land at Shingle Cove. At that time, the Board adopted a resolution directing Town Clerk Phyllis McClure to investigate the sufficiency of that petition. Ms. McClure has investigated the sufficiency of the petition for annexation and found that it complies with State statute.

Alderman Brown moved, seconded by Alderman Caldwell, to adopt a resolution to set the date for a public hearing for April 11, 2006 regarding the annexation petition submitted by LMK Real Estate Company for a 9.4 acre tract located at Shingle Cove. The motion carried unanimously. (Res. No. 10-06)

Dick Young - Questions Regarding Land Use Regulations

Dick Young attended the meeting and asked the Board if an ordinance was legal and binding to be used on properties in Waynesville. His question involved a property on Goodyear Street where a house is currently being constructed by Habitat for Humanity and a public hearing is scheduled before the Board of Adjustment on Tuesday, April 4. Mr. Young asked why they would be allowed to violate an ordinance when no one else could. No action was taken and the Board of Aldermen said they would need additional information.

Philan Medford - Comments on Development

Philan Medford said it is not so much that the Board know the tenants for a development site but that a rendering from an architect can show how the development is designed and that everyone is connected with an internal sidewalk. Ms. Medford said she can't depend on having a safe place to park and would like to have ADA sidewalks. She said the developer proposing the development at the old Dayco site is from the same town as the developer who drew the architectural design that she showed the Board on the Gerber site.

Manager Galloway - Personnel Report

Manager Galloway reported that Joey Webb was hired as Assistant Fire Chief. Mr. Webb began work in the Town of Waynesville in 1978 and was later employed by Borg Warner. He is a long time Clyde Fire Chief.

All the interviews have now been completed for the Parks and Recreation Director, to replace Mike Smith who will soon retire. A total of 63 applications were received and seven individuals were interviewed.

Manager Galloway said the Town is also taking applications for Code Administrator to replace Alex Corbin who recently retired.

Alderman Moore - Questions About Hunter's Crossing

Alderman Moore asked if the Town had additional information regarding the Hunter's Crossing development. Manager Galloway said the Town Attorney has been doing some work on this project. The water meter for this development is located at Lickstone Road and a private water line extends into the development. The water lines are twisted and the land appears to have shifted. Mayor Foy said a representative from Senator Dole's office was in Waynesville to visit with him and he gave the representative a letter received by the Town regarding Hunter's Crossing as well as a recent newspaper article. Alderman Feichter said this just seems to be further ammunition to limit construction on steep slopes.

Adjournment

With no further business, it was the consensus of the Board to adjourn the meeting at 8:46 p.m.

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

