

AGENDA
REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
TOWN HALL
OCTOBER 9, 2007
TUESDAY - 7:00 P.M.

The Board of Alderman held its regular meeting on Tuesday, October 9, 2007. Members present were Mayor Henry Foy, Aldermen Gavin Brown, Gary Caldwell, Libba Feichter and Kenneth Moore. Also present were Public Works Director Fred Baker, Town Clerk Phyllis McClure, Town Attorney Woodrow Griffin, Assistant to the Town Manager Alison Melnikova and Police Chief Bill Hollingsed. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of September 25, 2007

Alderman Caldwell moved, seconded by Alderman Brown, to approve the minutes of the September 25, 2007 meeting as presented. The motion carried unanimously.

Public Hearing - Amendment to Section 154.112(D) Hall Top Rural District Permitted Uses

At their meeting of September 17, 2007, the Planning Board considered a request that Animal Shelters be added as a permitted use in the Hall Top Rural District.

The Planning Staff indicated their appreciation for the need for this type facility; however, they pointed out that the Vision/Goals Statement in the Land Development Plan for the Hall Top Rural District was for residential uses. While the district does allow animal production and large animal veterinary services, the proposed use is not a farm or agricultural use and may not be compatible with adjacent residential uses. There are two other districts within the Town that would permit an animal shelter, but the Hall Top Rural District does not and the Planning Staff recommended against changing the permitted uses in that district to allow the animal shelters.

Representatives of Sarge's Adoption Center were present at the Planning Board meeting to explain their request. They have the opportunity to secure a 5.3 acre tract of land in the Hall Top Rural District and feel that this would be centrally located for the public to come to for adoption of pets.

In the end, the Planning Board voted unanimously to recommend approval of the proposed zoning text amendment to the Board of Aldermen with an additional requirement that in the Hall Top Rural District all properties used for animal shelters be on at least a three acre site.

Attorney Griffin explained that the amendment allowed animal shelters as a permitted use and also adds a minimum lot size of three acres for animal shelters within this district. Attorney Griffin opened the public hearing. The following persons spoke:

Tish O'Conner, a representative of Sarge's Adoption Center, said this amendment is requested because this location will be a better convenience for residents of Waynesville and Haywood County. The site is well suited for Sarge's Adoption Center. There is enough room to satisfy the buffering requirements and dogs and horses are currently being housed on the property. She presented photographs of the property and explained that their building would be a state-of-the-art sound proof building. Ms. O'Connell read the list of uses currently permitted in the Hall Top Rural District. She said last year the Haywood County Animal Shelter processed 3,502 animals and responded to 4,709 calls for service. This was all done by the Haywood County Animal Control with only six employees. Through a partnership with Sarge's Animal Rescue Foundation, 1,137 animals were adopted or redeemed at the shelter. Last year 2,365 innocent animals were euthanized. There were days when Haywood County Animal Control had to put out a closed sign because they had no more room and could not euthanize the animals fast enough. Sarge's will take the adoptable animals from the shelter and put them in their sound proof shelter, housing them until they can be adopted. This will give Haywood County Animal Control more time to concentrate on public safety and animal control.

Robert Hawk, 215 Hall Top Road, said Hall Top Road is a small street and he felt that the proposed animal shelter could create traffic problems. He asked why they could not expand their facility where it is currently located and why does it have to locate here.

Herb Trenka, said Sarge's Adoption Center currently does not have a facility. They only have a storage facility in Maggie Valley. There are 50 - 60 volunteers that are fostering cats and dogs in their homes to keep them from being euthanized. Sarge's works very hard every day, there is a need for this type of facility and this is a fantastic location. They have been looking for a location for more than one year.

Jodi Messer said she is one of the owners of the property and currently lives on this property. The property is not accessed from Hall Top Road, it is accessed from Russ Avenue. She did not feel that traffic would be an issue. The property is 5 ½ acres in size and she felt that it would be the perfect location for Sarge's Adoption Center.

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

Alderman Brown asked if Sarge's Adoption Center has looked for another location in a district that this use is allowed in. Ms. McConnell said property the size and price they can afford cannot be found. Alderman Brown said the Land Use Plan somewhat restricts uses such as this and this seems to be more of a humanitarian venture rather than a commercial use. He added that sometimes less expensive areas need to be opened up for services such as this.

Alderman Moore asked if this property is located close to the former Bargains building. Ms. McConnell said the property is located close to Barberville Baptist Church.

Alderman Feichter said she has visited this area and looked at this land and felt that it is a perfect place for this type of facility. It is close to Town, accessible to the community and essentially

contained within this basin area. Alderman Feichter said she has rescued dogs herself, knows what a valuable service this is and felt that it should be encouraged.

Mayor Foy said he has two concerns. First the Planning Staff was reluctant to recommend this amendment to the Land Development Plan for the Hall Top Rural District, which was for residential uses. Secondly, a high end development plans to locate in this area next to K Mart. He felt that more people in this area should be made aware of the amendment before it is adopted.

Ms. McConnell said this area is nowhere near K Mart and Hall Top Rural District is not just for residential. Right now someone is interested in the property that raises hound dogs, hunting dogs and roosters and he could do this without any approval. This district currently allows veterinarian services, animal production services, warehouse and waste management, public and private parks, retail garden centers and nurseries, retail food and trade services.

Alderman Feichter asked what the difference would be between veterinarian services and animal rescue services.

Alderman Brown said Ms. McConnell came to him about two or three months ago and he told her that this wasn't a veterinarian service because medical care is not being provided and they were not licensed by the State. He added that she could ask for an interpretation of the ordinance, but that probably wasn't the appropriate way to do this. He told her that she should ask for an amendment and suggested that she tell the public and her neighbors what she was trying to do so that there was no hidden agenda.

Robert Hawk said this property can be seen from the property where the high end condos are being proposed. He felt that the property could also be accessed from Hall Top Road. Discussion revealed that this property is not accessed from Hall Top Road easily.

Mayor Foy felt that more people in this area need to be aware of what is being proposed. Although it looks like it is a fine facility, he felt that the Board should delay taking action on the request and the Land Use Plan should not be amended hastily.

Alderman Brown said public notice has been posted as required. He asked what the difference would be between a veterinarian office and this adoption center. They board animals and there seems to be some confusion in the Town's Ordinance with the differences of these uses.

Ms. McConnell said this facility is going to be a state-of-the-art facility. The facility is sound proof, will have no outdoor pens and will generate less noise than there is on the property now. The maximum number of animals housed at this facility at one time would be 24. She said all this facility will do is go to the Haywood County Animal Control facility to pick up adoptable animals and keep them in Sarge's facility until they can be adopted.

It was a general consensus of the Board that this may be a good facility. However, the next facility of this type may not be as good. There was discussion regarding whether this should be allowed as

a permitted use or a conditional use. The public hearing was advertised to allow as a permitted use. If the amendment is for a conditional use, another public hearing would need to be held.

Mayor Foy said he would feel better about the amendment if the Planning Staff showed more enthusiasm for the amendment. Alderman Feichter said the Planning Board voted unanimously for this amendment. Ms. McConnell said Byron Hickox told her this is a perfect location for this adoption center.

Jodi Messer said she lives in this neighborhood and this building would be an asset to this community.

Public Works Director Fred Baker said additional restrictions could relieve the concerns of Mayor Foy. Mr. Baker said there is a road bed that leads from Bradley Street to Hall Top Road but it is not easily accessible. He added that this is a good facility. However, the Board is not deciding on this facility. The decision to be made is on the proposed amendment to the Land Development Standards regarding the Hall Top Rural District to allow animal shelters as a permitted use.

Nancy Rhodes, a representative of Sarge's Adoption Center, said time is important and asked that the Board not delay their decision. If there is a delay, they could lose the property. They are under time constraints because they have an offer to purchase the property through a real estate agent and the Messers have placed an offer to purchase other property and their offer to purchase could also be affected. If they lose this property it could take years to locate another suitable location.

Ms. McConnell said she realized that the Board had concerns that another facility of this type could be requested but she did not feel that a lot of people would be trying to open an adoption center.

Alderman Brown moved, seconded by Alderman Feichter, to adopt an ordinance to amend Section 154.112(D) Hall Top Rural District to allow animal shelters as a permitted use with restrictions as recommended by the Planning Board. The motion carried with four (4) ayes (Brown, Caldwell, Feichter and Moore) and one (1) nay (Foy). (Ord. No. 27-07)

Request by Veterans Groups for Donation to Purchase Van

The Town was recently approached by Mr. Don Wells as a representative of several different Veterans Groups in Haywood County. He advised that the groups are conducting a fund raising drive toward the purchase of a van to be used to transport veterans to and from the Veterans Medical Center in Asheville. Mr. Wells stated that they are approaching a number of businesses and that they wanted to ask local governments to contribute as well.

There was some question whether this would be an expenditure that is authorized by the statutes of the State of North Carolina. Prior to making any type commitment to the veterans, Manager Galloway urged the Board to have the Town Attorney and Finance Director research the request and determine if making such a contribution is legal under State law.

Dick Woody, a twenty-two year Veteran with service in Vietnam, attended the meeting to present the request. Mr. Woody said the Veterans Group would like to purchase a Ford Windstar van in the amount of \$12,500, with the Colorado Trust and Ford Motor Company picking up the rest of the costs. This van will be used to transport vets to the VA Hospital. Oteen will maintain the vehicle and provide a gasoline card. There will be about twenty drivers, each volunteering one day per month to transport Veterans if needed. The American Legion will build a carport to house the van. They have requested donations from local businesses and plan to approach the Haywood County Commissioners and other local governments in Haywood County as well.

Alderman Brown asked who would own the van. Mr. Woody said the van would be titled in the name of the Veterans Administration.

Mayor Foy moved, seconded by Alderman Brown, and by acclamation of the Board, the request for a donation of \$5,000 to purchase a van to be titled in the Veterans Administration was unanimously approved.

Congratulations to Police Chief Bill Hollingsed

The Mayor and Board of Aldermen congratulated Police Chief Bill Hollingsed on his recent appointment by Governor Mike Easley to the North Carolina State Criminal Justice Partnership Advisory Board.

Discussion Regarding Ordinance to Prohibit Registered Sex Offenders From Public Parks

Police Chief Hollingsed said he and Attorney Griffin have been discussing the issue of registered sex offenders in public parks and other Town property for about one and one half years. With the recent court case in the Court of Appeals, they have been revisiting the issue. Waynesville's issues are a little different than Canton's because of Waynesville's Recreation Center versus outdoor parks.

Attorney Griffin said this became an issue when the Town of Woodfin and other Towns adopted ordinances. There has been a ruling by the Court of Appeals and he has obtained copies of the briefs that were filed on both sides, both with strong arguments. This was a panel of three Judges with a 2-1 decision. The ruling decision was about three pages long and the descending opinion (Greer) was about nine pages long. The next step is the N. C. Supreme Court. Attorney Griffin spoke with the Woodfin Town Attorney and he anticipates that it will be appealed. In the briefs that were filed, he felt that both sides had backing organizations. The ordinances that were passed were broad and if Waynesville adopts an ordinance, he would like to see issues addressed more specifically with Waynesville's concerns other than what the generic ordinances contain. There is also the issue of how do you deal with the Recreation Center. Attorney Griffin said the Town needs to be very careful and do a thorough job with any Ordinance developed for Waynesville.

Watershed Protection Ordinance

Alderman Brown said Charles Miller brought up at a recent meeting issues about Waynesville's Watershed. Alderman Brown asked Attorney Griffin if he has had time to research or speak with Town Manager Galloway about this issue to make sure we are in compliance. Attorney Griffin said he has spoken with Public Works Director Fred Baker and Waynesville's Watershed is covered by Haywood County's Water Protection Ordinance. The Town of Waynesville Watershed is located outside the corporate limits and the extraterritorial jurisdiction, but is within Haywood County's jurisdiction. In the mid 1990's the Haywood County Watershed Protection Ordinance was adopted. Attorney Griffin said his reading is that Waynesville is in compliance. Waynesville's Watershed has a WS-1 rating and commercial and residential development is not allowed. There are activities that are allowed, but the primary things that are addressed are mining, commercial and residential development, no junk yards. Agriculture and silviculture are allowed.

Alderman Brown said one of Fred Baker's arguments early on in adopting the conservation easements was that the Town was already protected.

Public Works Director Fred Baker said when the State passed the Watershed Protection Act there was no stipulation about whether it could be privately or publicly owned. They put out a model ordinance and it said no residential and non residential uses were allowed except silviculture, agriculture, limited road access, water withdrawal and power transmission lines. Public hearings were held regarding the WS-1 rating and another public hearing could be held regarding the WS-1 rating. The Town has an easement as a back up. The State amended the WS-1 rules to include the condition of "public ownership" but did not require that the ordinance be changed. There are eighteen acres that could be developed with restrictions, but this area is located three miles away from the water intake.

Adjournment

With no further business, Alderman Caldwell moved, seconded by Alderman Brown to adjourn the meeting at 8:08 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor