

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR MEETING
September 8, 2015

THE WAYNESVILLE BOARD OF ALDERMEN held a regular meeting on Tuesday, September 8, 2015 at 6:30 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Brown called the meeting to order at 6:30 p.m. with the following members present:

Mayor Gavin Brown
Alderman Gary Caldwell
Alderman Julia Freeman
Alderman J. Wells Greeley
Alderman LeRoy Roberson

The following staff members were present:

Marcy Onieal, Town Manager
Woodrow Griffin, Town Attorney
Amie Owens, Town Clerk
Elizabeth Teague, Development Services Director
David Foster, Public Services Director
Preston Gregg, Town Engineer

The following media representatives were present:

Mary Ann Enloe, The Mountaineer
Lindsay Curtin, The Mountaineer
Becky Johnson, Smoky Mountain News

1. Welcome /Calendar/Announcements

Mayor Gavin Brown welcomed everyone to the meeting.

Mayor Brown asked Manager Onieal to update regarding calendar events. Manager Onieal called attention to several upcoming events including:

- September 11 – the 5th annual Clyde Fire Department 9/11 Memorial Ceremony beginning at 6:00 p.m.
- September 19 – Flag Raising for the Haywood Community College 50th Anniversary celebration at 2:00 p.m.
- September 24 – Leaders in the Creek – sponsored by Haywood Waterways and Leaders in the Creek, sponsored by Haywood Waterways with the Unveiling of the New Generation Leaders' Greenway & Trail Signage Project from 2:00 p.m. to 5:00 p.m. at the Canton Recreation Park

Manager Onieal noted that she will be part of a local celebrity ice cream eating contest as part of the Mountain State Fair on Tuesday, September 15 at 6:00 p.m. She also reminded members that deadline for early registration for the NCLM annual conference is this week.

2. Adoption of Minutes

Alderman Caldwell made a motion, seconded by Alderman Freeman, to approve the minutes of the August 25, 2015 regular meeting, as presented. The motion carried unanimously.

Alderman Caldwell made a motion, seconded by Alderman Greeley, to approve the February 10, 2015, June 9, 2015 and July 28, 2015 closed session minutes, as presented. The motion carried unanimously.

3. Proclamations

a. National Day of Service and Remembrance – September 11, 2015

Alderman Greeley read aloud the Proclamation Recognizing Friday, September 11, 2015 as National Day of Service and Remembrance in the Town of Waynesville



b. Constitution Week – September 17 – 23, 2015

Mayor Brown read aloud the Proclamation observing September 17 through September 23, 2015 as Constitution Week.

**Proclamation
Constitution Week
September 17-23, 2015**

WHEREAS, September 17, 2015 marks the two hundred twenty-eighth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate the occasion, and


WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

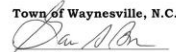
NOW, THEREFORE, I, Gavin A. Brown, by virtue of the authority vested in me as Mayor of the Town of Waynesville, North Carolina do hereby proclaim the week of September 17 through 23 as

Constitution Week

and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedom guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town to be affixed this 8th day of September, of the year of our Lord two thousand fifteen.

ATTEST:

Amie Owens
Town Clerk

Town of Waynesville, N.C.

Gavin A. Brown
Mayor



C. PUBLIC HEARING

4. Public Hearing - Rezoning

Elizabeth Teague, Development Services Director noted that Premier Magnesia, LLC (aka Giles Manufacturing) has submitted a request to rezone its property located at 75 Giles Place as a commercial industrial conditional district. The plan was approved unanimously by the Planning Board at their August 17, 2015 meeting.

Ms. Teague explained that the subject property consists of approximately 8 acres with a storage facility and an office building currently utilized by Giles Chemical. Giles Chemical would like to expand their usage of the site, add office and warehouse space and make multiple site improvements to the parking lot, driveway, loading, and outdoor storage and utility areas according to the specified major site plan which was approved by the Planning Board on June 15, 2015. She added that in that decision, the Planning Board affirmed that the site plan met the five general findings required for major site plan approval:

1. Compliance with the adopted plans and policies of the Town;
2. Compliance with applicable requirements;
3. Existence of adequate infrastructure;

4. Conformity with the neighborhood; and
5. The application will not substantially injure property values of adjoining or abutting property, nor be detrimental to the use and development of adjacent properties or other neighborhood uses.

Ms. Teague continued by explaining the underlying property is under the unified control of Premier Magnesia, LLC which plans to utilize the site for manufacturing and warehousing according to the approved Master Plan. The current zoning is Commercial Industrial (CI). The purpose and intent of this district as established by the Land Development Standards, Section 2.3.8A, is:

*The **Commercial Industrial District (CI)** is an area designed to accommodate research and development, industrial and manufacturing uses, administrative facilities and limited supporting commercial services. While a broad mixture of uses is permitted, the principal focus in this area shall be on industrial development. High design and performance standards will be important for future development as this district is highly visible not only from a usage standpoint but also because of its location at one of the major entrances into Waynesville. Connectivity within the district is required to create an industrial campus feel within this area.*

The purpose and intent for a Conditional Overlay District as established by the Land Development Standards, Section 2.7, is:

***Conditional Districts** are districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the Board of Alderman in accordance with G.S. 160A-382. Conditional Districts provide for orderly and flexible development under the general policies of this Ordinance without the constraints of some of the prescribed standards guiding by-right development. Because Conditional District developments are constructed in a comprehensive manner, they establish their own building, street, block, and lot pattern which may be unique from other surrounding blocks or neighborhoods. This Conditional District may be used in any district but is not intended to relieve hardships that would otherwise be handled using a variance procedure.*

Ms. Teague added that information was posted on the site beginning on July 29, 2015 and updated following the planning board hearing. Notice of the Public Hearing was mailed to adjacent property owners on July 31, 2015 and submitted to local media for the Planning Board Hearing on August 17, 2015 and for this hearing on Wednesday, August 26, 2015.

Ms. Teague relayed the Planning Board's unanimous recommendation for approval of this Conditional District to allow the applicant to implement the site plan and specified improvements for their needs, while asking for flexibility in the ordinance as explained. Because of the site location along the railroad track and set back from the main thoroughfare, and because of the current conditions of the site, the elements of the Conditional District request are in keeping with the industrial and commercial character of the underlying district while accommodating for the specific context of this area. She commented that this site plan will allow Giles Chemical to expand their operation while improving the existing buffering, infrastructure and overall look of the site.

Ms. Teague called upon Patrick Bradshaw, Engineer from Civil Design Concepts, who had completed the application on behalf of Giles Chemical. Mr. Bradshaw covered the various areas where conditions were requested for adjustment including:

- **Chapter 2, Table 2.4.2.3.d**- Pervious Surface (min) 20%, be reduced 5% minimum.
- **Chapter 4, 4.3.1** -All Lots to Front on Public Street, Civic Space or Approved Driveway, **remove.** The applicant asked for flexibility for this standard as there is already an easement agreement for the greenway at the creek.
- **Chapter 5, 5.11** -Industrial Building Design Standards, remove 5.11.1, 5.11.2 and 5.11.3
- **Chapter 6, 6.8**- Pedestrian Facilities, remove - with the exception of those facilities as shown on the Master Plan.
- **Chapter 8, 8.4.2.A** Buffer Yard Types, remove the wall or berm reference and replace the same with a requirement that all planting densities be doubled (i.e. 4 evergreen trees becomes 8 evergreen trees, etc...). In addition, remove the requirement that the developer provide screening against both the railroad track and the adjacent parcels that are zoned as Hazelwood Business District with the exception of the parcel known as PIN# 8605-72-5769 at the northeast corner of the subject property. In addition, it should be noted that the developer will make every effort to not adversely affect the existing smoke stack that exists on the subject parcel during the installation of the same.
- **Chapter 8, 8.6**- Parking Lot Landscaping- allow the developer to flexibility to provide the same number of plantings. but remove the specificity of location with relationship to parking spaces
- **Chapter 8, 8.7**-Screening of Dumpsters, Loading docks, Outdoor Storage Area and Utility structures, remove - with the exception of those areas that are covered by 8.4.2.A buffer yard areas.
- **Chapter 9, 9.4.3** Connectivity, remove
- **Chapters 9, 9.4.4 Pedestrian Corridors in Parking Lots, remove.** As this is an industrial location with minimal traffic and limited visitation, the pedestrian corridor would not be as applicable for this location.

Mr. Bradshaw thanked the members for allowing him to cover the requests made by Giles Chemical and indicated that he was happy to take any questions. There being none, he asked Matt Haynes, Director of Operations, Giles Chemical to the podium.

Mr. Haynes provided an overview of the organization including a history in Waynesville that began in 1950. He presented comparative statistics between 2004 and 2014 that illustrate the financial contribution and impact that Giles Chemical has made in Waynesville including:

Local Employment	Water	Electric	Property Tax
2004 – 20 ees	2004 - \$83,950	2004 - \$122,734	2004 - \$32,405
2014 – 168 ees	2014 - \$160,513	2014 – \$364,506	2014 - \$62,746

Mr. Haynes announced that the corporate offices for Premier Magnesia, LLC will be located in Waynesville and that there would be the potential for additional employees in accounting and finance with continued growth expected in the retail sector.

Mayor Brown thanked Ms. Teague, Mr. Bradshaw and Mr. Haynes for sharing information in advance of the public hearing and called on Town Attorney Woody Griffin for the opening of the hearing.

Mr. Griffin explained that once the Public Hearing was called to order, anyone wishing to address the board should raise their hand and be recognized and approach the podium providing their name and address for the record.

Mr. Griffin called the Public Hearing to order at 7:04 p.m.

Mary Ann Enloe, former Mayor of Hazelwood, was asked by Mayor Brown to address the board. She commented that Giles Chemical had been a good neighbor to the town since their inception and that new jobs were always welcomed.

Mr. Griffin closed the Public Hearing at 7:07 p.m.

Mayor Brown asked if a provision alluding to the preservation of the smoke stack could be included in the conditional permitting. He cited the historical significance of the smoke stack. Mr. Bradshaw noted that a structural study would be required, but that the client was amenable to this provision. Mayor Brown commented that he felt the various requests from Giles Chemical were appropriate given that this is a legislative process and there was some give and take by both parties.

Alderman Roberson asked, given the proximity to the creeks, were there any concerns about maintaining them safely. Mr. Bradshaw answered that all efforts will be made including a 30 foot buffer that is included in the site plan.

Alderman Greeley added that since this area had historically been predominately industrial, he saw no issues with maintaining the location as such.

Alderman Caldwell commented that he grew up in Hazelwood and remembered when Hazelwood was the industrial area in the county. He added that it was good to see something come back there.

Alderman Freeman noted that this was a great use for an underutilized area which will bring additional commerce and industry to Hazelwood.

Alderman Caldwell made a motion, seconded by Alderman Greeley, to adopt Ordinance (O-7-15) to rezone property at 75 Giles Place from Commercial-Industrial, to a Commercial-Industrial-Conditional District (CI-CD), with the additional item K. to read as follows: K. In the Master Plan, and as a proviso to the rezoning, the Board of Aldermen requests that all reasonable efforts be made to preserve the historic smokestack that is located on the parcel. The motion carried unanimously.

Manager Onieal added that Giles Chemical was also a sponsor of the upcoming Cycle North Carolina event and thanked them for providing Epsom salt sample packs for the 1100 riders as part of their welcome to Waynesville gift bags.

D. UNFINISHED BUSINESS

5. Wholesale Power Contract Negotiations Update & Authorizing the Engagement of Outside Legal Counsel

Manager Onieal explained that contract negotiations with Santee Cooper (Santee) were coming to a close and she was pleased to introduce three individuals from Santee: Mike Brown, Vice President, Wholesale & Industrial Services; Mike Cool, Manager, Wholesale Markets and Jennifer Wadford, Director, Wholesale Power Contract Administration.

Manager Onieal wanted to provide an update regarding this issue and tell where we are today and what has occurred since the initial contract negotiation began following approval at the March 27, 2015 Board Retreat. She noted that UTEC has worked diligently with Santee Cooper officials to conclude contract negotiations, but has run into a snag with Duke Energy in regard to completing the separate transmission contract that will be necessary in order for Santee Cooper to serve Waynesville. Manager Onieal asked Ted Orrell and Louis Davis, Utility Technology Engineers-Consultants (UTEC) to provide their update, noting that she was presenting two alternatives for board consideration with regard to moving forward with negotiations on the transmission contract and that the only decision point for the board this evening was to seek permission to hire outside counsel to assist the manager and consultants in completing the final drafts of the contracts.

Mr. Orrell recapped the timeline of events beginning in January 2014 when UTEC was retained to assist in the review of proposals from vendors for wholesale power supply to current contract negotiation with Santee. Mr. Orrell reminded the board that while Santee generates the power, the transmission lines are still Duke Energy lines and details related to the transmission of electricity are included in the contract negotiation. During due diligence for these negotiations, a capacity issue was discovered. Due to the fact that there will be too much wattage on the lines, capacitor banks will need to be installed to prevent outages; installation will take until at least August 2016. This will delay the start of the contract with Santee by one year. Mr. Orrell noted that this was not Santee's problem, but that Santee is willing to work with Duke Energy to provide the best solution for Waynesville customers.

Mr. Orrell presented two alternatives for correcting this issue:

Alternative A - sign a one year power supply contract with Duke Energy to allow for installation of capacitors. Santee Cooper has indicated a willingness to delay effective start date of service to Waynesville until January 1, 2017, while still guaranteeing the original terms and pricing of the approved proposal. Duke has also agreed to installation of a generator to allow for 1,000 kW (1 mega watt total) of peak clipping generation. This will help to offset electric demand during the monthly peak hour and reduce overall costs to the Town. Santee Cooper has agreed to allow 2 megawatt of peak clipping generation, once the contract is in place.

Alternative B - continue to utilize the Duke Transmission lines without the new capacitors, with Duke assigning Santee the necessary transmission reservation and begin contract with Santee on

January 1, 2016. In the event that re-dispatching is required through Duke to handle Waynesville's power needs, the Town would be subject to the additional costs incurred, which are estimated to be as much as \$1.2 million annually.

The manager and UTEC consultants made the following recommendation to the board:

- Move forward with the Duke/Santee Cooper Alternative A; which has already been approved by the Santee Cooper Board of Directors at their August 24, 2015 meeting
- Move forward with a 1-year power purchase agreement with Duke Energy and a 10-year Transmission Contract with Duke Energy to coincide with the effective dates of Santee Cooper's initiation of service to Waynesville
- To authorize the manager to engage the services of outside council to review the power supply contracts / transmission agreement.

Mayor Brown asked the board if they understood what the capacity issue was and about the two alternatives presented. All indicated they understood.

Alderman Roberson asked if there would still be "true ups" with Santee. Louis Davis with UTEC answered that there would still be true ups.

Mr. Orrell added that Santee was agreeable to a delay in the contract effective date of January 1, 2017 and that the \$2 million dollar cost for the capacitor banks, although initially fronted by Santee Cooper, would be socialized, or shared among all transmission customers. The increase would be minimal, and would cost the Town of Waynesville nothing in direct costs since costs of transmission are shared by all customers..

Mike Brown, Santee Cooper, explained that construction continues on the nuclear plant in South Carolina and it appears that a final completion date will be known soon with costs coming in within budget and construction within the timeframe presented.

Alderman Greeley inquired if there was any potential for Duke to have to extend their proposed one year contract by using the excuse that further improvements need to be made. Mr. Orrell answered that there will be assurances included with the contract to ensure this will be completed within the contract term. Mayor Brown asked whether there is a remedy if they fail to meet the obligation. Mr. Brown answered that Santee believes that Duke will meet the schedule. There is a buffer of time included if any problem arises and Santee and UTEC would be in close communication with Duke. If a delay is not warranted, then there is an option to go to FERC in Washington, DC for a decision. Mr. Davis added that as all are agreeable to the current proposal, he believes like there is every likelihood this will be completed on time without foreseeable delays, particularly since neither party desires to become embroiled in a FERC regulatory decision.

Alderman Roberson asked if the current discussion in the news about Duke Energy building new transmission lines through Western North Carolina was related or would impact this project. Mr. Orrell answered that while both projects are needed to improve Duke's system in western North Carolina they are completely unrelated and one will not affect the other. Mayor Brown questioned whether the transmission is a systemic problem for Duke. Mr. Orrell noted that Duke has had overall system delivery challenges from east to west for several years. Mayor Brown asked the pointed question, is the Town

protected from anything that Duke may be facing related to transmission. Mr. Orrell confirmed, yes, the Town would be protected.

In order to finalize contract drafting and due diligence, Manager Onieal requested permission to proceed with hiring outside legal counsel, since this was a specialized field of endeavor, and asked whether the Board had any preference for a particular firm.

Hearing none, Manager Onieal provided profiles of five firms for the Board to review. She noted that she has spoken with two of the firms, Cauley and Pridgen and Poyner Spruill, with whom she has worked previously on electric system contracts in a previous municipal posting. The remaining three firms, located in Washington, DC and Virginia, were recommended to her and/or UTEC as being qualified specialists in the field of utility regulation and contract negotiation. Manager Onieal explained that the fee structures varied drastically among the firms, but that she felt the Town could be well represented by any of the firms. She added that due to the short time frame under which we are working, she could immediately interview several of the firms and determine who is most readily available, and who would be agreeable to review the contracts on a not to exceed basis; the intent is to bring back the final draft of contracts for board approval within the next month or two.

Mayor Brown commented that Manager Onieal could be authorized to interview these firms, understanding the proclivity of not spending fund unnecessarily, and report back to the board with her recommendation. He noted that in addition to obtaining legal counsel, there were three agreements for execution.

Alderman Greeley made a motion, seconded by Alderman Roberson, to authorize the town manager to engage the services of outside legal counsel to assist in reviewing and finalizing the 10-year wholesale power purchase agreement with Santee Cooper as drafted, in accordance with the previously adopted proposal by Santee Cooper of March 27, 2015, with an effective date of January 1, 2017, and a one-year power purchase extension agreement with Duke Energy and a ten-year transmission agreement with Duke Energy, in accordance with the negotiated proposals, as presented. The motion carried unanimously.

Mayor Brown thanked the representatives from Santee Cooper for coming to the meeting and for taking an interest in the Town. He was appreciative of the cooperation and collaboration that has been shown.

Manager Onieal also thanked Mr. Orrell and Mr. Davis, as well as Santee Cooper, for their work in getting to this point. She commented that this was a great deal for the Town of Waynesville and a partnership from which the Town and citizens will benefit from for many years to come.

E. COMMUNICATIONS FROM STAFF

6. Town Manager – Marcy Onieal

Manager Onieal had no additional business to discuss.

7. Town Attorney – Woody Griffin

Attorney Griffin had no business to discuss.

F. COMMUNICATIONS FROM MAYOR & BOARD OF ALDERMEN

Alderman Greeley expressed his personal disappointment with an unfortunate graffiti tagging incident on his and other buildings over the holiday weekend. He added that it is disheartening when it happens after so much work has gone into the rehabilitation of buildings only to have them disrespected. Alderman Greeley has spoken with the Police Chief, but, unfortunately, it is difficult to find the individuals involved. Alderman Greeley noted that his business will pay to get it fixed, but it is sad that this is occurring in Waynesville.

G. CALL ON THE AUDIENCE

No one addressed the board.

H. ADJOURN

There being no further business to discuss, Alderman Caldwell made a motion, seconded by Alderman Greeley, to adjourn the meeting at 7:52 p.m. The motion carried unanimously.

ATTEST

Gavin A. Brown, Mayor

Marcia D. Onieal, Town Manager

Amanda W. Owens, Town Clerk