

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REGULAR MEETING**  
**May 24, 2016**

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**THE WAYNESVILLE BOARD OF ALDERMEN** held a regular meeting on Tuesday, May 24, 2016 at 6:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

**A. CALL TO ORDER**

Mayor Pro Tem Gary Caldwell called the meeting to order at 6:30 p.m. with the following members present:

Mayor Pro Tem Gary Caldwell  
Alderman Jon Feichter  
Alderman LeRoy Roberson  
Alderman Julia Freeman

Mayor Gavin Brown was absent due to a health issue.

The following staff members were present:

Mike Morgan, Interim Town Manager  
Amie Owens, Town Clerk  
Woody Griffin, Town Attorney  
Elizabeth Teague, Development Services Director  
Joey Webb, Fire Chief  
Shannon Morgan, Assistant Fire Chief

The following media representatives were present:

Mary Ann Enloe, the Mountaineer  
Becky Johnson, Smoky Mountain News

1. Welcome /Calendar/Announcements

Mayor Pro Tem Gary Caldwell welcomed everyone to the meeting and asked Town Clerk Amie Owens to highlight additions to the calendar including:

- May 25 - Groundbreaking Ceremony tomorrow at the Haywood County EMS/Emergency Management Base – 4:00 p.m.
- May 31 – Special Called Meeting to go into closed session for second screening of applicants at 4:00 p.m. in the Municipal Building
- June 4th – Haywood Pathways Open House from 1:00 p.m. to 5:00 p.m. with dedication ceremony at 3:00 p.m.

2. Adoption of Minutes

***Alderman Roberson made a motion, seconded by Alderman Feichter, to approve the minutes of the May 10, 2016 regular meeting, the minutes of the May 17, 2016 special called meeting, and the closed session minutes from the May 17, 2016 special called meeting, as presented. The motion carried unanimously.***

**B. CALL FOR PUBLIC HEARING**

3. Call for Public Hearing to consider a zoning map and text amendment request to reclassify an area as the Howell Mill Road Urban Residential District

Elizabeth Teague, Development Services Director explained that the call for public hearing at the next regular meeting would be to consider a zoning map and text amendment request to reclassify an area as the Howell Mill Road Urban Residential District. Ms. Teague presented a graphic of the three properties in question, noting that they are immediately behind the Ingle's on Howell Mill Road.

Alderman Roberson asked how much of an impact would be felt by those residents on Calhoun Road. Ms. Teague explained that a community meeting was held at the Waynesville Recreation Center to discuss the future of Howell Mill Road. Original rezoning was for commercial, but after the meeting property owners have worked with staff to develop an urban residential district to allow professional offices but would keep the residential character in terms of architecture. Ms. Teague noted that it was a positive meeting which lead to this compromise.

***Alderman Roberson made a motion, seconded by Alderman Freeman to call for a public hearing to be held on Tuesday, June 14, 2016 at 6:30 p.m. or as closely thereafter as possible, in the Town Hall Board Room located at 9 South Main Street, Waynesville, to consider a zoning map amendment request to reclassify an area as the Howell Mill Road Urban Residential District. The motion carried unanimously.***

**C. NEW BUSINESS**

4. Street Closure Request – Main Street Mile

Interim Town Manager Mike Morgan noted that a request had been received for a street Closure for the Main Street Mile to benefit Shriners Hospital in Greenville SC. This is the 7th Annual event. The closure of Main Street would be on Friday, August 26th from 5:00 p.m. until 10:00 p.m. There are no conflicts between this event and others and is on the Downtown Waynesville Association calendar.

***Alderman Roberson made a motion, seconded by Alderman Freeman to approve the closing of Main Street on Friday, August 26, 2016 from 5:00 p.m. until 10:00 p.m. for the Main Street Mile footrace and related fundraising activities associated with the annual "Run for the Children", benefitting Shriners Hospital in Greenville, SC. The motion carried unanimously.***

## **D. PUBLIC HEARING**

### **5. Public Hearing to consider a zoning text amendment of Chapter 4.6 of the Town Code regarding mobile food vendors as temporary uses**

Ms. Teague provided an overview of the question that had come before the Planning Board and their actions related how to best manage food trucks, monitor compliance with health department standards and work in harmony with existing restaurants. She noted that this proposed change did not impact special events and festivals; there is already a process in place that is working well for one-time events.

Ms. Teague explained that the proposed text amendment would address the food vendors not associated with events (i.e. those operating for extended periods of time). She noted that there are four goals for the proposed amendment to ensure that mobile vendors operating within town limits:

- Are compliant with health department requirements and are duly permitted;
- Do not disrupt the character of any zoning district or diminish the appeal of any neighborhood;
- Are present within the Town at the permission of property owners, or at the invitation of nearby businesses who have requested this use in an identified public space; and
- That they do not create trash, a hazard for traffic, or other safety issue to the public or workers that staff them.

Ms. Teague continued to explain that mobile vending units are regulated by Section 15A of the North Carolina Administrative Code. She noted that there are specific requirements of mobile food units and pushcarts under this code including that *“any pushcart or food truck or food trailer that are regulated by the Health Department as mobile units must have approved “commissaries” to provide servicing areas and support for that unit”*.

Ms. Teague provided the definitions of commissary, food establishment, mobile food unit, pushcart and temporary food establishment. She noted that a food truck or trailer is licensed by the DMV as a vehicle or trailer for roadway travel and commercial use.

As with any change to text, the information must be found consistent with the 2020 Land Development Plan. Ms. Teague noted that the plan called for the town to “provide design guidelines to control development in appropriate areas and incorporate design criteria into the Town’s development ordinances.” She explained that regulation of how and where food vendors can set up and how the area is maintained (i.e. litter control, signage, smell, noise, traffic, safety and appearance) are also important. Provided that the town can manage these types of uses with the balance for positive economic impact, safety and sensitivity to a location’s surroundings, then the accommodation of mobile food vendors as temporary uses is consistent with the 2020 Plan.

Ms. Teague provided the staff recommendation that mobile food vendors could add diversity and interest to commercial areas as well as convenience, and service to nearby businesses. Therefore, expanding the Temporary Use Chapter to allow mobile food trucks to operate for extended periods of time makes sense and as long as they are there at the invitation of the underlying property owners and are not detrimental to other existing businesses.

Ms. Teague read through the proposed text amendment highlighting the various new sections and calling specific attention to section D3. From her staff report she noted, the Planning Board reviewed in March, and determined that the ordinance accommodated all of the food vendors that the Town has already permitted except for Ma's Kitchen at Mad Anthony's. This particular owner wanted to be allowed to operate their mobile food unit on an on-going basis, without time limit, on the Mad Anthony's property. At the April meeting, the owners of Mad Anthony's and Ma's kitchen asked that paragraph D3 be added to the proposed ordinance to allow them to maintain a mobile food trailer on the Mad Anthony's property on a permanent basis and the Planning Board supported their request.

This raised the question for staff as to when something that was "mobile" became permanent under the Town's building codes or zoning ordinance, and the accompanying design guidelines, landscaping, setbacks, parking and other regulations that are part of developing permanent structures. In seeking clarification on how to manage this request under building codes from the NC Department of Insurance, staff was informed by Chief Building Code Consultant Mike Hamm, P.E. of the Manufactures Building Division that:

*"There are no HUD or Modular Building Codes that regulate Mobile Food Units or Mobile Kitchens. These units would be regulated by the NCDMV and the local Health Department. The Manufactured Building division would only be involved if an approved modular manufacturer built a permanent structure for use as a modular food or kitchen unit that was 3rd party inspected in the manufacturing plant and labeled with a NC modular validating stamp. An existing mobile food or kitchen unit that is converted to a permanent structure would be regulated by the NC Building Codes subject to local inspection and approval." (April 8, 2016).*

The placement of a food truck or trailer permanently at a location would require that the truck or trailer be converted into a permanent structure, and this could happen with some creative engineering and structural enhancements that bring it into compliance with Health Department requirements and state building codes. In that case, the resulting structure would also have to comply with all of the Town development regulations as much as any building or addition would, including setbacks, landscaping, signage, and other rules that may apply. They would also have to be de-licensed from the NCDMV. The Chief Building Inspector, Tom Maguire, had done additional research on how to convert food trucks to a permanent structure. This information was provided to the board members.

Ms. Teague concluded her report by noting her appreciation for the staff at Mad Anthony's and their willingness to work with the Development Services staff as they were a valued asset and business in the community. Ms. Teague opened the floor to questions from the board.

Alderman Feichter asked if the \$50.00 application fee was for mobile food vendors at special events. Ms. Teague answered that only those that were independent mobile food vendors would be subject to the fee. Those who would be part of a special event would have to follow the current process already in place.

Alderman Roberson inquired if a mobile food vendor was over the 180 days that could be approved for a temporary permit, would it then have to meet the permanent state building codes. If not, then it seemed to be creating a temporary structure that would not comply. Ms. Teague answered that Mr. Maguire's research on converting something like this could allow work within the temporary structure and allow them as much flexibility as possible.

Ms. Teague addressed the 180 day rule for the temporary use timeframe. She noted that the intent was for the mobile food units to be seasonal. Looking at half of the year is a fairly good rubric for a temporary threshold. She explained that if a vendor were to only use their truck on Friday and Saturday nights, then the 180 days would suffice for one year since that only equates to 104 days.

Alderman Feichter asked if the total days was 180 or 270. Ms. Teague explained that it was an initial 90 day period with a one-time renewal of 90 days. This is done for the calendar year and is specific to a location. For example if someone had multiple food trucks, a permit would be required for each. Ms. Teague added that the permit is not transferrable to another location. The example provided was that if someone was permitted for Frog Level, they could not set up in Hazelwood with the same truck.

Mayor Pro Tem Caldwell commended Ms. Teague and the Planning Board for their very thoughtful review of this issue and for their diligence.

Town Attorney Woody Griffin **called the public hearing to order at 7:08 p.m.** and reminded those who wished to speak to provide their full name and address for the minutes and to limit comments to three minutes.

David Young, 384 Thomas Park Drive, Waynesville addressed the board and explained that as co-owner of Mad Anthony's, he was frustrated as this issue is going into fourth month and this should be a big city problem, not one for Waynesville. He alluded to seeing mobile food vendors in Franklin, Sylva, Boone, Canton, Brevard and Asheville that were not moved for months at a time. He added that this is not an unsolvable problem – there is a compromise. Mr. Young noted that the concerns seem to be about having a permanent structure. He explained that there are any number of ordinances that can be enforced related to cleanliness, dangerous structure, etc... He commented that what Mad Anthony's is asking for is to allow the food truck to serve as the kitchen and prevent the moving of the vehicle from one side of the property to the other to be in compliance.

Alderman Roberson asked about those mobile food trucks in the other areas and the lack of movement; shouldn't they have to adhere to building codes? Mr. Young answered that none of them have moved since being put there. Alderman Roberson argued that if they are not moving at all then they are not mobile and should have to comply with building codes.

Mr. Young noted that powers already exist related to monitoring and compliance. Alderman Feichter attended the Planning Board meetings and read something that the Beer Garden experience is what people are doing these days. He inquired if Mr. Young had a timeframe of how to do food service in the long term, say five years. Did he plan on keeping this mobile unit forever? Mr. Young answered that he could not project five years in the future and that there were limitations on creating a commercial kitchen due to the fact that certain modifications are not allowed in his historical building.

Alderman Feichter asked if the information that the building inspector has presented to the Board related to conversion was plausible. Mr. Young answered that it was not part of the future plan at this time since, at this point, converting the trailer into a permanent structure would be an onerous and insurmountable task for them.

Jon Catton, 420 Killian Street, Waynesville wished to have a hotdog cart in downtown Waynesville. He explained that it would have been a service to the community and visitors and that he wanted to be able to do this. He acknowledged concerns about blocking the walkways and wanted to start his hot dog cart at the mini-park across from the courthouse. Instead he located in Sylva where he said they were open to positive growth. Mr. Catton added that the Downtown District has become “too unique” and Waynesville splitting hairs about permanent structures is disheartening. Mr. Catton concluded by noting that he hoped that the board will seriously consider everything that he has said and to make it possible to have unique businesses like his here.

Glenna Young, 670 Mountain Lake Drive, Waynesville, co-owner of Ma’s Kitchen addressed the board and echoed the sentiment of Mr. Catton in the hopes that the Board will allow this change. She explained that her husband works about 12 hours a day to keep the food truck running and there is too much invested in it to only work 180 days a year. She noted that the food truck is still readily movable and will keep under the DMV rules. On Branner Avenue where there are nice residential and professional buildings, she and Mr. Young have made the trailer color match to the building and made it as pleasing to the eye as possible. Ms. Young referenced a letter that was sent to the Board when she was having issues getting the permit renewed and outlined in that letter every objection that the zoning and codes and presented a solution to each one. Ms. Young likened the food truck to an RV park, it takes time to unhook, provide for storage, etc... just as it takes time to get their mobile unit mobile, but is still mobile when you are ready to go. Ms. Young noted that the Town has to have rules and regulations, but that there should be room for creativity, diversity and innovation as well. She acknowledged that the plan is if the ordinance is approved, then they could fence around the food truck and put plantings around it to make it even nicer.

Town Attorney Griffin asked if anyone else would like to address the Board. With no other individuals coming forward, **Attorney Griffin closed the public hearing at 7:27 p.m.**

Mayor Pro Tem Caldwell asked the Board if they had any further questions or comments.

Alderman Freeman commented that Waynesville is a unique community and business owners are trying to utilize old structures for alternate uses. If the unit is in the rear and very non-descript, it is reasonable to be more flexible with what could be done with these structures.

Alderman Roberson asked about the permanency of the structure – where did the Young’s see the business in five years. Mr. Young answered that at this point they were not sure what would happen in five years.

Alderman Feichter asked Ms. Teague if there were staff concerns about section D3. Ms. Teague reiterated that she had been in touch with the NC Department of Insurance related to how to handle mobile food trucks such as the one at Mad Anthony’s under existing building codes. She added that it again is dependent upon whether or not the unit will be under DMV guidelines or those for related to structures. Ms. Teague explained that the Land Development Standards and design guidelines for any new development or addition of a building are another consideration. She provided an example of Shining Rock Academy and the restriction of mobile homes and trailers to certain parts of town.

Alderman Feichter clarified that the mobile food truck does not meet modular codes. Ms. Teague confirmed and reminded the Board of the email from Mike Hamm from the NC DOI. Alderman Feichter added that he would be interested in working with Mad Anthony’s for permanency.

Attorney Griffin interjected that as a first reading of an ordinance, a 2/3 vote would be required for passage. Three votes would only constitute 60% and would not be sufficient for carrying the approval. If the ordinance change were to pass, it would require a unanimous vote.

***Alderman Roberson made a motion, seconded by Alderman Freeman to table a vote on this issue until the full Board is present. The motion carried unanimously.***

**E. COMMUNICATIONS FROM STAFF**

9. Manager's Report - Interim Town Manager Mike Morgan

Town Manager Search

Manager Morgan noted that the special called meeting on May 31 at 4:00 p.m. would be for the purpose of closed session for additional review of candidates for the Town Manager position.

FY 16/17 Budget

Manager Morgan reminded the Board that the revised budget documents would be available online Friday, May 27<sup>th</sup>. The public hearing for the proposed FY 16/17 budget will be on June 7<sup>th</sup>.

Public Services Building Renovation

Manager Morgan reported that the ads for bids for the Public Works facility will be posted tomorrow and Manager Morgan has entered into a contract with Martin McGill for \$6,000 to assist with development of the financing package for the facility.

10. Attorney's Report - Town Attorney Woody Griffin

Town Attorney Woody Griffin had nothing to report.

**F. COMMUNICATION FROM THE MAYOR AND BOARD**

Alderman Feichter explained that he has been representing the Town on the West Next Generation Steering Committee which was formed to improve the fiber gigabit accessibility. The committee is modeling Greensboro and seeks to partner with telecommunications providers by leveraging municipalities including pole build out. Part of the consideration is the Dig Once which entails placing conduit in the ground anytime there is work done. This will make running fiber cheaper in the future. Alderman Feichter noted that he would like to explore the feasibility of implementing the plan in Waynesville which would require procedures and land use regulations.

Manager Morgan asked if he could meet with Ms. Teague and David Foster, Public Services Director and bring any comments/recommendations back at the next meeting.

**G. CALL ON THE AUDIENCE**

No one addressed the Board.

#### H. Fire Fighter Promotion Ceremony

Fire Chief Joey Webb explained that four individuals were being promoted to Captain. He thanked the Board for allowing the ceremony to be part of this meeting. Chief Webb explained that historically, there were no ranking officers within the Fire Department other than the Chief and Assistant Chief. With the inception of Career Track, there is now that opportunity to have a captain on each shift. An assessment center was held which included a fire scenario where the individual was in command, a role play exercise and an interview process. The assessors were brought in from various regional fire departments large and small including Asheville, Shelby and Dana. Chief Webb added that the assessors commented about the closeness of the fire fighters who were competing when each was asked what makes you the best person for the job, the responses were that all were capable of doing the job.

Chief Webb asked each of the captains to come forward and be pinned by their family members. The four fire fighters are: Darrell Calhoun, Demetrius Massey, Ricky Mehaffey and Allen Stewart. Also, each of the fire fighters were presented with their new helmets. Chief Webb explained that the color of the helmet identified the position – black for firefighters; red for captains and white for chiefs.

Chief Webb thanked the fire fighters and their families and the volunteer fire fighters who help to provide service to the citizens of Waynesville.

Mayor Pro Tem Caldwell invited the audience to attend a reception following the meeting. He addressed the Boy Scouts from Troop 370 and said that he hoped they learned something from this meeting, and thanked the Waynesville police and fire fighters for being shining examples for them.

#### G. ADJOURN

***There being no further business to discuss, Alderman Feichter made a motion, seconded by Alderman Roberson to adjourn the meeting at 7:54 p.m. The motion carried unanimously.***

ATTEST

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Gavin A. Brown, Mayor

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Michael J. Morgan, Interim Town Manager

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Amanda W. Owens, Town Clerk

Waynesville Board of Alderman Minutes  
Regular Meeting May 24, 2016