

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR MEETING
October 23, 2018

THE WAYNESVILLE BOARD OF ALDERMEN held its regular meeting on Tuesday, October 23, 2018 at 6:30 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

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

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

The following staff members were present:

Amie Owens, Assistant Town Manager
Eddie Ward, Town Clerk
Bill Cannon, Town Attorney
Elizabeth Teague, Development Services Director
David Foster, Public Services Director
Preston Gregg, Town Engineer
Daryl Hannah, Street Superintendent

The following media representatives were present:

Becky Johnson, the Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown welcomed everyone to the meeting. From the events calendar, the following were mentioned:

- Wednesday October 31st – Treats on the Street- 5:00-7:00 pm – Main Street
- Wednesday October 31st – Trunk or Treat-5:30-8:30 pm First United Methodist Church – Academy Street
- Friday November 2nd – Art After Dark – 5:00-9:00 pm - Main Street
- Thursday – Saturday November 1st – 3rd – 8:00 am – Noon – Fall Mulch Sale
- Thursday – Saturday November 8th – 10th – 8:00 am – Noon – Fall Mulch Sale
- Monday November 12th – Veterans Day – Town Offices Closed

2. Adoption of Minutes

A motion was made by Alderman Gary Caldwell, seconded by Alderman Jon Feichter, to approve the minutes of the regular October 9, 2018 meeting as presented. The motion passed unanimously.

B. PROCLAMATION

Red Ribbon Week – October 23rd – 31st

Mayor Brown read a Proclamation for Red Ribbon Week which is October 23rd – 31st, and was established in 1988 by Congress to encourage a drug-free lifestyle and involvement in drug prevention efforts. It is named for the work of Enrique “Kiki” Camarena, drug enforcement Special Agent who was killed in the line of duty.

Mayor Brown encouraged everyone to wear a “red ribbon” to show their support for a drug free environment.

C. PRESENTATION

3. Selective Service

Area Office Coordinator LTC Chris Castro spoke to the Board about the Selective Service, and becoming a member of the Board of Selective Service. He said the Selective Service or Draft is currently not operational, but remains in place in case the draft has to be reinstated. He said Haywood, Jackson and Macon Counties share a five person local board, and are comprised of citizen volunteers. If the draft is ever reinstated, the Board would make decisions using the training provided, about who would receive deferments, postponements, and exemptions from military service. This is a very important role in a back-up capacity.

Mr. Castro asked the Board for assistance in recruiting members for two vacancies on the Selective Service Board in Haywood County. He said Board appointment is considered a Presidential Appointment and confirmed from the Governor’s Office. He said he would appreciate any assistance if the Board had recommendations or volunteers for the vacancies.

4. Hazelwood Drainage System Follow-up

Public Services Director David Foster gave a presentation concerning the drainage system in Hazelwood. Mr. Foster said that recently there had been several heavy rain storms that caused some flooding in Hazelwood, and during one of those storms he and Mr. Daryl Hannah, Street Superintendent, had been out taking inventory of the drainage system. He said that FEMA lists Hazelwood as an AE zone, which means that there is a 1 percent chance of an annual flood, and Hazelwood has been on track for what has been projected.

Mr. Foster said that the area, which was just over a square mile, had been cleaned and inspected prior to hurricane Florence, and an estimated 20 – 30 tons of debris, had been removed. During these inspections he and his staff found projects that can be improved with system upgrades, such as Brown

Avenue, Georgia Avenue, and at the railroad behind the Hazelwood Finance Office. He said some of the problem was pipes that were lower than others, and he said he would like to look at going in and raising those pipes that were put in many years ago.

Another problem they found was at Brown Avenue and Carolina where a drain goes under Brown Avenue and they found an impediment along where trees are located. It is possible that a tree has grown over the drainage pipe and it has collapsed. Solutions for opening the drain include rerouting the drain or removing the tree.

At Georgia Avenue and the railroad crossing, during the rain, the water never covered the tracks. Mr. Foster said the solution would be to work with the railroad and place a larger smooth pipe in that area to help the water flow better.

The parking lot at the Finance Department has a box type drain, and the creek comes behind the finance office and passes under the railroad and then takes a ninety degree turn causing the water to back up and slow down, and affects the whole system. The solution to this would not be cheap with possible a ridge or open channel so the water can maintain velocity.

He explained that starting at the crosswalk going toward the railroad, there is about a 12 foot difference in elevation, and a new drainage collection system would create positive drainage from there.

Mr. Foster said he had met with an engineering firm that specializes in storm water to identify feeding drainage basins and possible work scope for the entire drainage basin. He explained the Hazelwood water shed basin goes to Hickory Drive off of Camp Branch, Eagles Nest basin is most of the golf course on the right side, and the Downtown Basin is Church Street at Main Street and South, and encompasses almost 1,900 acres. To do a full watershed assessment would be approximately \$120,000.00, and would include surveying and video inspection.

Mr. Foster told the Board that he did not want to present a false picture by saying that these improvements will prevent flooding, but these projects, and drainage assessment, he can say at what level event or threat should flooding be expected and residents can be warned.

Manager Hites explained that this could be a long term project where something could be done every year. He said it could be set up to study each basin independently, and a work plan could be set up for each basin in advance of doing a Storm Water Master Plan. Manager Hites would like to discuss the project at the winter Board retreat, and in the meantime, Public Services can do the maintenance items such as raising the pipes to the grade at Brown Avenue.

D. CALL FOR PUBLIC HEARING

5. Call for Public Hearing on a Text Amendment to the Land Development Standards LDS 2.5.3 Table of Permitted Uses, in regards to allowing multi-family within the Plot Creek- Neighborhood Residential (PC-NR) District

Ms. Elizabeth Teague, Development Services Director, stated that at the direction of the Board of Aldermen, the Planning Department is making application to allow Multi-family within the PC-NR District in order to address any procedural issues associated with an earlier text amendment application.

The proposal went before the Planning Board at their October 15th, 2018 meeting and the Planning Board voted 6-2 in favor that the amendment was consistent with the land use plan, reasonable and in the public interest and to recommend adoption of the text amendment. She added that she would be bringing forward a more in depth report and Statement of Consistency at the Public Hearing on November 13, 2018.

A motion was made by Alderman Julia Freeman, seconded by Alderman LeRoy Roberson, to call for a public hearing to be held on November 13, 2018 beginning at 6:30 pm. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street Waynesville, to consider a text amendment to add multi-family dwellings to the LDS Section 2.5.3, Table of Permitted Uses in the Plot Creek Neighborhood Residential District (PC-NR). The motion passed unanimously.

E. PUBLIC HEARING

6. Public Hearing to consider a Resolution to Close a named but un-opened portion of a right-of-way between 277 East Street (PIN # 8615-46-4688) and 24 North Hill Street (PIN# 8615-46-3776)

Assistant Town Manager Amie Owens explained to the Board that the Town received a petition from a single property owner to close a named but un-opened portion of right of way off of North Hill Street and East Street (map attached). Pursuant to State Statutes, the Board adopted a Resolution of Intent to Close the Right-of-Way at their September 25 meeting and subsequently provided public notice to surrounding property owners to hold a public hearing.

This Right of Way was named in 1966 when the development was created; however, there was never a street that was maintained or used. The Town does not have an interest in the right-of-way for public access and staff recommends closure in order to allow conveyance to the property owner whose two properties it bisects. There are no homes other than the petitioners on the right of way as all properties connect to Johnson Hill Drive and have addresses as such.

The Town Clerk advertised notice of the public hearing and provided the necessary documentation to the adjacent property owners. The notices were published in the Mountaineer on September 28, October 5, October 12 and October 19 and the letters with a copy of the resolution of intent to close the right of way were sent to adjacent property owners on September 26, 2018.

Town Attorney Bill Cannon opened the Public Hearing at 7:00 pm and asked if anyone wished to speak.

No one spoke.

Attorney Cannon closed the Public Hearing at 7:01 pm.

A motion was made by Alderman Gary Caldwell, seconded by Alderman Julia Freeman, to adopt the Resolution closing a named but un-opened portion of Right of Way between 277 East Street (PIN # 8615-46-4688) and 24 North Hill Street (PIN# 8615-46-3776). The motion passed unanimously.

F. **NEW BUSINESS**

7. Special Event – Holiday Market – November 10, 2018

Assistant Town Manager Amie Owens said that a request for a new event in the Town had been received. The Special Events Committee has reviewed the application, discussed any concerns noted and spoken with event organizers.

The Frog Level Merchant's Association (FLMA) has requested a Holiday Market on November 10, 2018. This event would utilize the same footprint as the Whole Bloomin' Thing Festival. The FLMA will be including the merchants in Haywood Square in this celebration.

A motion was made by Alderman Jon Feichter, seconded by Alderman Julia Freeman, to approve the special events permit application and direct Town Manager to execute special event permit. The motion passed unanimously.

8. Award of contract to JM Teague Engineering for engineering - ADA Transition Plan

Town Engineer Preston Gregg explained to the Board that the NCDOT has been mandated by the US Department of Justice and Federal Highway Administration to ensure that all sub-recipients of State and Federal funds comply with the Americans with Disabilities Act in which any municipality in receipt of Federal or State aid (Powell Bill funds) with over 50 employees possess an ADA Transition Plan.

This plan inventories Town assets to include: sidewalks, signals, buildings, parking lots, rest areas, mixed us trails, linkage to transit, etc.

NCDOT is requiring the Town produce such plan at no particular timeframe. Mr. Gregg has been in contact with JM Teague Engineering, and they have provided a scope and fee estimate to perform the work for \$26,800.00.

Town Attorney Bill Cannon stated that in reference to the JM Teague Engineering and Planning Contract, he had some recommendations as follows:

1. The second page of the contract document entitled "Client and Engineer Professional Services Agreement" insert the word "By" as shown on the attached Exhibit B to indicate the person executing the contract is acting on behalf of the Town.

2. Paragraph (4) (C) of the Standard Provisions be delete and the following substituted therefore:

"If either party to this Agreement initiates legal proceedings arising out of a breach of the Agreement, the prevailing party shall be entitled to recovery its reasonable attorney's fees, reasonable expert's fees, and other reasonable expenses related to the proceeding."

3. Paragraph (10) of the Standard Provisions should be deleted as it is covered in the modification of paragraph (4) (C).

4. Paragraph (16) in the Standard Provisions should be modified as shown in attached Exhibit C.

Alderman Gary Caldwell made a motion, seconded by Alderman Julia Freeman to enter into a contract with JM Teague Engineering for engineering services for ADA Transition Plan at a fee not to exceed \$26,800.00, subject to the Town Attorney's recommendations. The motion passed unanimously.

9. Award of Contract for Engineering Service for the Rehabilitation Design of Hwy 276 (Pigeon St.) to Mattern & Craig

Mr. Gregg said that The Town has been discussing ideas for the rehabilitation design of Highway 276 (Pigeon St) for about 2 years. The Public Services Department has met with NCDOT onsite to discuss options, plans, and funding. One of the things that DOT would like to see is a set of plans and cost estimates to address the pavement and Town utilities on that street.

The Public Services Department advertised for a request for qualifications for engineering services in the rehabilitation design of Pigeon St. The proposed project limits have been defined as between Main St. and the bridge over Shelton Branch adjacent to the Hart Theatre. This proposal of work will include design plans and engineering estimates that will allow the Town to start conversations with NCDOT on being a financial partner for the project.

Manager Hites explained that this had been an ongoing conversation with many residents asking about the condition of Pigeon Street would be done. The issue is the shallow utilities along the street that prohibit the repaving of the street. These utilities will have to be lowered before paving can be done. He stated this will be a complicated project, and all design documents will have to be approved by NCDOT. He said that after the engineer provides the engineering designs, then the Town will know the cost estimate of the entire project.

A total of six engineering firms submitted RFQs: Bell Engineering, Vaughn & Melton, Mattern & Craig, Withers Ravenel, The Wooten Co., and McGill. Of these listed, Town staff selected three firms to short list and interview: McGill, Mattern & Craig, and Vaughn & Melton.

Town staff selected Mattern & Craig to provide a scope fee of the work. The estimate was \$130,000.00 to provide engineering plans, and cost estimates in order to communicate with NCDOT concerning funding such a project. They have put together a well rounded, experienced team with an aggressive timeline for completion of the work, in which staff has full confidence in.

Town Attorney Bill Cannon stated that in reference to the Mattern & Craig Engineering Services Contract, he had some recommendations for changes as follows:

1. The last sentence in paragraph (4) of the Standard Provisions be deleted. Expenses should be reimbursed, but there should not be a mark-up.
2. Paragraph (10) of the Standard Provisions should be modified as shown in Exhibit A.
3. The language in the Contract should state that it has been pre-audited.

Alderman Jon Feichter asked about the firm of Vaught & Melton submitting a RFQ, and then being a subcontractor for much of the work in the contract. Mr. Gregg said that he felt that in the scoring of the RFQ's, Vaughn & Melton was doing all the work in house, and with Mattern & Craig he felt that he was getting the best of both companies.

Alderman Jon Feichter made a motion, seconded by Alderman LeRoy Roberson, to award contract to Mattern & Craig for engineering services for the rehabilitation design of highway 276 (Pigeon Street), subject to the Town Attorney's recommendations. The motion passed unanimously.

10. Lighting options for improved Russ Avenue widening project

Mr. Gregg stated that staff is currently working with NCDOT on the electric relocation plans for the upcoming U-5839 Russ Avenue widening project. A design has been provided back to NCDOT for the relocation of all overhead utilities to underground on the Walnut St. portion of the project. Included in this design is the layout of new proposed street lighting through the "Historic" section which spans from Main Street to the bridge at the intersection of Walnut & Russ. These new proposed lighting fixtures will be brought back before the Board for approval on style of fixture, color, etc. at a later date.

Presently, staff is working to design the new layout of overhead utilities from the bridge at the intersection of Russ & Walnut back to Howell Mill Rd. Town electric infrastructure is located all through this area with main feeders running along the right side of Russ Avenue (heading towards the bypass). Current lighting through this section of corridor varies between high pressure sodium bulbs and LED lighting. Lighting fixtures through this section of roadway are the plain standard wooden poles with galvanized horizontal arms.

Mr. Gregg explained to the Board that every piece of electric infrastructure along the corridor must be "touched" in some fashion, which means it must be relocated or removed all together. Prior to staff getting "elbow deep" in the new design, we would like direction from the Board to see if there is interest in making roadway lighting improvements that are more aesthetically appealing and energy efficient on this section of road leading into town. These fixtures are not a "decorative style fixture" like you see downtown, they are much taller in height, serve the purpose of lighting up the roadway and are intended to match the look and style of the new signal mast arms that are part of NCDOT's project. He referred the Board to pictures included in their packets.

Depending on the type fixture selected and the photometric / lumen output from each roadway fixture, he estimates approximately \$2,000 per pole/fixture. The photometric layout with each fixture will dictate the spacing requirement needs but I would estimate around 25 poles needed from Howell Mill Rd. to Boundary St. and would estimate \$10,000 for directional bores required under Russ Ave. Town staff would install these new poles / fixtures. Total costs estimated at \$60,000. Specifics of pole type, fixture type, color, etc. all to be presented back to the Board at later date.

Alderman LeRoy Roberson made a motion, seconded by Alderman Julia Freeman, to direct Town staff in consideration for lighting improvements as part of the NCDOT Russ Avenue widening project. The motion passed unanimously.

11. Request to Approve a Resolution to Abandon a Purported Utility Easement

Attorney Burton Smith stated he is representing Kim Ferguson, from Kim's Pharmacy, and Ms. Ferguson is purchasing the old Greystone Automotive and the adjoining lot owned by Bob Breese. Mr. Smith said a plat of a utility easement in the middle of the property had been discovered. It is abutted by no one else, and was on record for two hours and twenty-two minutes. A subsequent plat was recorded and that utility easement was never opened or recorded. Mr. Smith said his client filed a petition to abandon the utility easement, and the proposed Resolution will fulfill that petition.

A motion was made by Alderman LeRoy Roberson, seconded by Alderman Gary Caldwell, to approve a Resolution to Abandon a Purported Utility Easement at 479 Dellwood Road and authorizing execution of a Deed of Release. The motion passed unanimously.

F. **PUBLIC COMMENT**

12. Public Comment regarding trimming of items in the Town Rights of Way

Mayor Brown asked if anyone had any comments regarding trimming of items in the Town Rights of way. There were no comments.

Manager Hites said that at the last meeting concerns had been raised about the trimming of vegetation and trees, and the Board had asked for options for the rights-of-way pruning and trimming. Manager Hites presented options for the Board's consideration.

The Town would conduct an annual right-of way pruning program for vegetation that extends beyond the curb lines along state highways, arterial and collector streets.

The pruning would be conducted after notice would be published in the newspaper, posted on our website and mailed by postcard to residents thirty (30) days before pruning commences.

Pruning of right of way on non arterial and collector streets would only be carried out on a case by case basis when a condition is reported by a citizen or an area of vegetation is observed by Town staff to pose a hazardous condition. The staff would send a written request of the property owner to cut the vegetation back behind the curb line thirty (30) days before it is removed by the Town. The staff will consult with the Town horticulturalist on proper pruning techniques.

Attorney Bill Cannon recommended to the Board not to delay in correcting hazardous conditions within the right-of-way that poses an unnecessary risk to the Town. He said it was the responsibility of the land owner to keep their vegetation out of the right-of-way.

There was discussion concerning methods of notifications to property owners before the pruning takes place. Manager Hites suggested sending letters to those in horticulture so they can plan that mature growth is free from curb line.

The consensus of the Board was that Manager Hites will write a more formal policy and bring back to the board for approval.

F. COMMUNICATION FROM STAFF

13. Manager's Report

Acts Prohibited on Town Property

Manager Hites said there is an increasing problem of homelessness in the Town, and they are coming from other states thinking there is free room and board in the Homeless Shelter. When they find out the Shelter is full they are going to areas and living in tents. Town staff has been cleaning some of these camps out at Town parks and other areas in Town. He said that in order to trespass these people off of Town property, there has to be an Ordinance in place that unless otherwise posted, states that any Town facilities or property will close at 9:00 pm. This will prohibit camping or living on the property, and will enable the Police Department to arrest anyone who resists being vacated. He presented Ordinance O-21-18 for a first reading amending Chapter 42, Article I, Section 42-5 Acts Prohibited on Town Property.

Call for Public Hearing on Ordinance O-21-18 - Amending Chapter 42-5, Article I of the Town of Waynesville Code of Ordinances be amended to include the following: Sec. 42-5 Acts Prohibited on Town Property.

A motion was made by Alderman Julia Freeman, seconded by Alderman LeRoy Roberson, to call for a public hearing to be held on November 13, 2018 beginning at 6:30 pm. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street Waynesville, to consider Ordinance O-21-18 - Amending Chapter 42-5, Article I of the Town of Waynesville Code of Ordinances be amended to include the following: Sec. 42-5 Acts Prohibited on Town Property. The motion carried unanimously.

14. Attorney's Report

Attorney Cannon stated that a motion had been filed to dismiss the lawsuit pertaining to Red Square properties. He said he expects the opposing brief to be coming in within two weeks. He said that Ms. Elizabeth Teague had been dismissed personally from the suit.

H. COMMUNICATIONS FROM THE MAYOR AND BOARD

No one spoke

I. CALL ON THE AUDIENCE

Mr. Dick Young complimented the Board for starting to move ahead with the Pigeon Street projects.

J. ADJOURN

With no further business, Alderman Julia Freeman made a motion, seconded by Alderman Gary Caldwell, to adjourn the meeting at 7:53 pm. The motion passed unanimously.

ATTEST:

Gavin A. Brown, Mayor

Robert W. Hites, Jr., Town Manager

Eddie Ward, Town Clerk