

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
AUGUST 25, 1998
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, August 25, 1998. Members present were Mayor Henry Foy, Aldermen Gary Caldwell, Kenneth Moore, Sam Wiggins and James Williamson. Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure and Town Attorney Michael Bonfoey. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of August 3 and August 11, 1998

Alderman Caldwell moved, seconded by Alderman Moore, to approve the minutes of the August 3, 1998 special meeting and the August 11, 1998 regular meeting as presented. The motion carried unanimously.

Public Hearing Regarding Proposed Ordinance Relating to Vacated and Closed Dwellings and Structures

In the current session of the North Carolina General Assembly, legislation was passed which authorizes the Town of Waynesville to adopt ordinances which are much firmer in dealing with vacated and closed dwellings and structures. At the previous meeting several Board Members expressed concern regarding the one year time frame from the date the notice is first served by the Town to the commencement of proceedings to demolish the dwelling or structure. There was also concern about how the value would be determined when the ordinance indicates that a building would have to be demolished if it cannot be repaired for less than 50% of the value of that building or structure. Attorney Bonfoey was instructed to research these concerns and report to the Board at the next meeting. A public hearing to consider the adoption of this ordinance was scheduled for tonight.

Attorney Bonfoey opened the public hearing, limiting each person's comments to four (4) minutes. Attorney Bonfoey reported that because it was part of the enabling legislation passed by the General Assembly, the one year time frame from the date the notice is first served by the Town to the commencement of proceedings to demolish the dwelling or structure cannot be reduced. Attorney Bonfoey also recommended that the following paragraph defining "current value" be added to both sections of the proposed ordinance if adopted:

c) For the purpose of this ordinance, the "current value" of a dwelling or structure shall be defined as the fair market value as determined by a certified appraiser or the current tax value on record with the Haywood County Tax Office, whichever is less.

Keith Plemmons, 20 Galloway Street, Waynesville, said that he personally did not have any buildings that would fall under the restrictions of this ordinance. Mr. Plemmons said that the proposed ordinance seemed to be an attempt by the Town to gain more power over the citizens. Mr. Plemmons agreed that some structures need to be torn down for safety reasons. However, he said that once private land rights are eroded they do not come back. Mr. Plemmons said that the property owner should have the right for the higher property value to be accepted when determining the value of the property as it relates to the requirement that the repair costs not exceed fifty percent (50%) of the value of the dwelling. Mr. Plemmons asked that the Board not adopt the proposed ordinance tonight, but that they table the issue for six (6) months or more for further consideration. Mr. Plemmons said that the cost to repair a structure is not the Town's business. Neighbors may not like it, but appearance should not be an issue, only safety issues should be addressed. If the property owner pays taxes he should not be under an obligation to do things to please his neighbors. Mr. Plemmons said that he not only spoke for himself but for many other people who were not present at the meeting.

Alderman Caldwell said that an ordinance was needed if a structure creates a harmful situation which affects adjoining property causing their values to be lower. Alderman Caldwell felt that the ordinance gives property owners adequate time to repair their property.

Alderman Williamson said that it was hard to tell a man what to do with his property, that requiring a person to clean up his property was different from tearing down a house.

John Burgin, 275 Wildcat Mountain Road, Waynesville, said that a lot of problems could be cleared up with better definitions in the ordinance. Mr. Burgin said that he would like to see a definition for "vacant" because he owns several structures which are empty that he uses for storage every day and that he does not consider them to be vacant. Mr. Burgin said that this leaves a lot to the opinion of the Board and the Mayor and the next Board may not be able to make a decision as clearly.

Alderman Caldwell said that the Building Inspector would determine which structures would be dealt with under this proposed ordinance.

Attorney Bonfoey closed the public hearing.

Alderman Wiggins said that the Board was not talking about people who were trying to maintain their properties, and if everyone would take a drive around Waynesville they would see some of the places that this Board is trying to improve. Alderman Wiggins said that there are properties which people have ignored for twenty to twenty-five years and that the Board is attempting to gain control over this type situation.

Alderman Wiggins moved, seconded by Alderman Caldwell, to adopt the ordinance relating to vacated and closed dwellings and structures, with the addition of paragraph (c) in both sections as recommended by Attorney Bonfoey. The motion carried unanimously. (Ord. No. 26-98)

Public Hearing Regarding Annexation - Property on the Southeast Corner of Intersection of Allens Creek Road and Lickstone Road Owned by Ms. June Ray

A petition regarding annexation was received from Ms. June Ray for a 6-acre tract of property located at the intersection of Allens Creek Road and Lickstone Road. At the last meeting Town Clerk Phyllis McClure reported that the petition met all qualifications and the Board scheduled the public hearing for August 25, 1998.

Attorney Bonfoey opened the public hearing.

Keith Plemmons asked if this annexation extended the one mile extraterritorial jurisdiction (ETJ) and if the one mile ETJ extended exactly one mile in all directions. Town Manager Galloway said that the annexation did not extend the one mile ETJ and that the ETJ did not extend out exactly one mile in all directions. Town Manager Galloway added that in municipalities with a population greater than 10,000 the municipality has the right to extend the ETJ for two miles beyond the corporate limits.

Alderman Williamson moved, seconded by Alderman Moore, to adopt an ordinance annexing the six-acre tract located at the intersection of Allens Creek Road and Lickstone Road, effective August 25, 1998. The motion carried unanimously. (Ord. No. 27-98)

Group From Assembly Street/Howell Street

Approximately 30 residents from the Assembly/East/Howell Street areas attended the meeting to express their concerns regarding a proposed Family Care Home to be located on a vacant lot on Assembly Street.

Wendell Woods, spokesperson for the group, said that three weeks ago peace and harmony was the rule in this area. Mr. Woods presented to the Board a petition containing approximately 233 signatures of those persons opposed to a proposed group home facility to be located on Assembly Street. Mr. Woods said that this neighborhood is made up of scout leaders, law enforcement officers, retirees, and many other fine folks who have legitimate concerns. Mr. Woods said that he has attended all meetings regarding the closing of the unopened right-of-way between Assembly and Howell Streets. Mr. Woods said that on Saturday, August 22, 1998, approximately 54 people, including Town Officials and the press, met at the East Street Park to discuss this situation. Smoky Mountain Mental Health officials were invited to attend but they declined. Mr. Woods said at that meeting some of the Town Officials said that they would help, and he asked that the Board listen to the concerns of the neighbors.

Patri Woods thanked all the neighbors for coming to the meeting to show their support and concern for the neighborhood. Ms. Woods said that she was afraid and somewhat resentful of the proposed home. She stated that she felt that the people's voices were not being heard or respected. Ms. Woods felt that it was wrong for any government facility to be "shoved down their throats."

Jack Wadham thanked the Board for giving him the opportunity to speak. Mr. Wadham said that Social Services wants to make a statement that this group of people have a right to live in this area. Mr. Wadham said that when a person has to inform another person who is buying his property that this facility is there he will probably lose 15-20% of his profit from selling his property because this

facility will devalue his property. Mr. Wadham said that he asked Smoky Mountain Mental Health if there had been any problems with these facilities and they said no. Mr. Wadham said that adjoining counties have had problems with this type of facilities but it is difficult to find out what those problems have been. Mr. Wadham asked the Board if they did not want one of these facilities in their own neighborhood why would they put one in his neighborhood. Mr. Wadham said that the neighbors were told at the time that the unopened right-of-way was closed that a single family dwelling would be built on this property. He felt that the people were misled. Mr. Wadham said that Smoky Mountain Mental Health indicated that the proposed home was for schizophrenics. Mr. Wadham said that he asked Smoky Mountain Mental Health if this home could be changed to a home for children and he was told no. Mr. Wadham added that he was told that the Board of Aldermen knew that this facility was proposed when the right-of-way was closed. Mr. Wadham asked the Board to help the neighborhood by taking a look at this proposal to see what could be done to deal with the situation since a lot of single women and elderly live in this area.

Shannon Moore, 310 Howell Street, said that she previously lived in California and that she loved the Town of Waynesville, mainly because it is safe. Ms. Moore said that a gentleman lived in California who used to stay at the Library and that he always talked to himself. She felt that she had to “walk on eggshells” when she was around him and that she did not want to have to do this at her home in Waynesville. Ms. Moore expressed fear that she could be attacked by someone living in the proposed group home who would not know what they were doing.

Mayor Henry Foy said that he had been told by Smoky Mountain Mental Health that this facility would not be for schizophrenics.

Mayor Foy, Aldermen and the Town Manager pointed out that the Board did not know that this facility was being proposed at the time that the unopened right-of-way was closed.

Mayor Foy said that Board of Aldermen closed the unopened right-of-way in order to create a buildable lot and generate some revenue. Without closing the right-of-way the lot was not large enough to build on.

Jack Wadham said that he is waiting on some paperwork which would give the Town the right to require that the Federal Government pay full value and taxes on property which they own.

Alderman Wiggins asked to go on record as being in support of the citizens. Alderman Wiggins said in his opinion there could have been deceit in acquiring the property for this proposed facility.

Alderman Williamson suggested that he would support the Town donating property it owns located in Shingle Cove for the location of this facility.

Alderman Moore said that the proposed facility would be located close to a child care center, boy scout meeting site, the Brian Center and one of the Town’s recreation parks. Alderman Moore said that the site should be investigated to make sure that it is in compliance.

Attorney Bonfoey said that State Law allows for local governments to adopt an ordinance which

prohibits family care homes from being located within one-half (1/2) mile of each other, and that the Board could consider this option for any future family care homes.

Alderman Caldwell said that the Association for Retarded Citizens (ARC) currently has four (4) group homes in Haywood County, all of which are very nice facilities. The clients who live there pay to stay and after so many years it pays off the facility. Alderman Caldwell said that some of ARC's group homes have more severe cases of mentally ill and mentally retarded persons than what is being proposed for Assembly Street. One of the facilities, located at Meadowood Circle, has not devalued the adjoining properties and there has never been a problem in the community. However, when the facility was being proposed the people living in the area were opposed, saying that the property was not suitable for that purpose.

Ms. McIntyre said that there is currently a water runoff problem from Assembly Street to Howell Street and that a lot of preparation will be needed before this lot can be built upon. Ms. McIntyre expressed concern that even when the property is developed a runoff problem may still exist.

Alderman Wiggins moved, seconded by Alderman Williamson, to instruct the Town Attorney to investigate the allegations regarding the closing of the portion of the unopened right-of-way adjoining Assembly Street as it relates to the possible deceit by the property owner in informing the neighborhood that a single family dwelling would be built. Town Manager Galloway was instructed to inform John Swift to withhold issuance of any building permits for this project as evidence that the Town has questions that it is currently investigating. It was required that Town Manager Galloway, Mayor Foy and Town Attorney Bonfoey travel to Raleigh, North Carolina to meet with Mr. John Tote, Executive Director of the Mental Health Association of North Carolina to discuss the Town's position regarding the proposed family care home. The Town Clerk was instructed to advertise for a public hearing in order for the Board to consider a moratorium that any family care home not be located within one-half (1/2) mile of another family care home, until the Board can adopt an ordinance prohibiting family care homes from being located within one-half (1/2) mile of each other. The motion carried unanimously.

Resolution Approving Terms of Financing \$5,000,000 With Clyde Savings Bank for the Recreation Center

Town Manager Galloway said that all of the paper work has now been completed on the financing of the new recreation center. The final step will be for the Board to adopt a Resolution approving the terms of the financing agreement.

Alderman Wiggins moved, seconded by Alderman Moore, to adopt the resolution approving the terms of financing with Clyde Savings Bank for the Recreation Center. The motion carried unanimously. (Res. No. 18-98)

Final Plat Approval - June Ray's "Swan Alley" Property at Southeast Corner of Allens Creek Road and Lickstone Road

June Ray owns a 6.301 acre tract of land at the corner of Allens Creek Road and Lickstone Road.

The property is zoned "R-4" and Ms. Ray is subdividing the tract into 15 lots. The subdivision plat meets Town standards and Town Staff recommends approval with the following conditions:

1. Provide State permits for the water system, sewer system and the Sediment and Erosion Control Plan.
2. Provide surety bond in the amount of 125% of the estimated costs for water, sewer, drainage and street improvements.

Alderman Caldwell moved, seconded by Alderman Williamson, to approve the final subdivision plat for Ms. June Ray for the "Swan Alley" property located at the southeast corner of Allens Creek Road and Lickstone Road, subject to compliance with the two conditions as recommended by Town Staff. The motion carried unanimously.

Minor Subdivision Plat - George Escaravage for Property in the Waynesville Industrial Park

George Escaravage owns a 8.508 acre tract of land in the Waynesville Industrial Park. The property is zoned "I-1" and he is subdividing the property into 3 lots. The lots meet or exceed Town standards, and Town Staff recommends approval with the following condition:

1. Provide surety bond for 125% of the cost of the 20 foot paved road and expansion of public water line.

Alderman Moore moved, seconded by Alderman Wiggins, to approve the minor subdivision plat for George Escaravage for property located in the Waynesville Industrial Park, subject to the condition as recommended by Town Staff. The motion carried unanimously.

Minor Subdivision Plat - Country Club Real Estate of WNC, Inc.

Country Club Real Estate is subdividing a 3.133 acre parcel which abuts Hickory Drive at the top of Ridgewood Estates. The property is zoned "R-1" and the plat meets Town standards. Town Staff recommends approval of the Plat.

Alderman Moore moved, seconded by Alderman Williamson, to approve the minor subdivision plat for Country Club Real Estate of WNC, Inc., for property abutting Hickory Drive as recommended. The motion carried unanimously.

Annual Tax Settlement Statement

Town Manager Galloway said that State Law requires that the Tax Collector of a local government supply the governing body with a report of the collections during the previous fiscal year. Manager Galloway pointed out that Waynesville has collected 95.53% of the taxes billed by the Town. Haywood County collected only 79.4% of the motor vehicle taxes which they billed for the Town. When these two figures were combined, it pulled Waynesville's total collection rate down to 93.95% which is far below the average that the Town would like to achieve. No action was necessary.

Award of Bid for New Roof at Recreation Center (Old Armory)

Town Manager Galloway said that bids have been received on August 20, 1998, for replacement of the roof at the Recreation Center (old Armory). It was discovered that the low bidder, Bethel Roofing & Construction, was not licensed and that being licensed was a requirement for this purpose. Those bids were as follows:

Pearson Roofing, Inc.	\$105,846.00
Bethel Roofing & Construction	\$ 72,500.00
C. J. Deans, Inc.	\$ 86,466.00
Construction Advantage, Inc.	\$ 97,327.00

Alderman Williamson moved, seconded by Alderman Moore, to award the bid to C. J. Deans, Inc., in the amount of \$86,466.00. The motion carried unanimously.

Fire Truck Delivery

Town Manager Galloway reported that the newest fire truck was scheduled to be delivered on Thursday, August 28 or Friday, August 29, 1998. No action was necessary.

Housing Code Priority List - Property Located on Leatherwood Street

Alderman Caldwell thanked Attorney Bonfoey for investigating the ownership of a lot located on Leatherwood Street. It was discovered that the property is owned by Mr. Angel and is currently being used for storage for Angel Monument Company. Board Members felt that there were items being stored on this property which were in violation of the Town's Code of Ordinances. Town Manager Galloway will speak with Code Enforcement Officer Jack Morgan to see if violations do exist on this property and take appropriate action.

Farewell to Enterprise Mountaineer Reporter Heidi Van Dine

Board Members thanked Ms. Heidi Van Dine for her work as a reporter for the Enterprise Mountaineer in covering news from the Board's meetings. Board Members wished her good luck in her new job with the Haywood County Sheriff's Department, adding that she will certainly be an asset to the Sheriff's Department.

Adjournment

With no further business, Alderman Williamson moved, seconded by Alderman Moore, to adjourn the meeting at 9:10 p.m. The motion carried unanimously.

Phyllis R. McClure

Henry B. Foy

Town Clerk

Mayor