

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
SEPTEMBER 21, 1999
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, September 21, 1999. Members present were Mayor Henry Foy, Aldermen Gary Caldwell, J. Kenneth Moore 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 24, 1999

Alderman Wiggins moved, seconded by Alderman Caldwell, to approve the minutes of the August 24, 1999 meeting as presented. The motion carried unanimously.

Public Hearing - Request of Enterprize Park Corporation for Rezoning of a 35+ Acre Tract of Land at the Intersection of Hyatt Creek Road and US 19 A/23 From I-2 to I-1

Enterprise Park Corporation is the owner of a 35 acre tract of land that was once the site of the Dayco Products industry. They have requested that the tract be rezoned to allow them more flexibility in terms of commercial uses of the property. On July 19, 1999, the Planning Board reviewed this rezoning request and unanimously recommended that the rezoning be approved.

Attorney Bonfoey opened the public hearing. No one spoke; Attorney Bonfoey closed the public hearing.

Mr. Bob Moody, representing Enterprize Park, attended the meeting and said that there are plans to make the old Dayco Plant a complete destination type mall for patrons, employees and local merchants. Phase I consists of 183,615 square feet and is scheduled to be completed by the year 2000. Mr. Moody said that Enterprize Park is also in negotiations for a Holiday Inn Motel on the adjacent 15 acres tract. Mr. Moody said that the I-1 Zone would allow the continued operation of a light manufacturing operation (75 employees per shift), such as Griffin Rubber which is currently located at the facility, as well as retail trade and the sales and rental of goods, merchandise and equipment as a permitted use.

Alderman Williamson moved, seconded by Alderman Moore, to rezone the property located at the intersection of Hyatt Creek Road and US 19 A/23, as requested by Enterprize Park Corporation, from I-2 to I-1. The motion carried unanimously. (Ord. No. 20-99)

Public Hearing - Amendment to Section 154.033 Permitted Use Table to Allow Restaurants as a Permitted Use in I-1 Zoning Districts

Enterprize Park Corporation has requested an amendment to the permitted uses table to allow restaurants as a permitted use in all I-1 Zoning Districts. The Planning Board reviewed this request

at their meeting on July 19, 1999 and unanimously recommended approval.

Attorney Bonfoey opened the public hearing. No one spoke; Attorney Bonfoey closed the public hearing.

Alderman Williamson moved, seconded by Alderman Moore, to approve the amendment as proposed. The motion carried unanimously. (Ord. No. 21-99)

Public Hearing - Amendment to Section 154.033 Permitted Use Table to Allow Motels, Inns and Hotels as Permitted Uses in all I-1 Zoning Districts

Enterprize Park Corporation has requested an amendment to the permitted uses table to allow motels, inns and hotels as permitted uses in the I-1 Zoning District. The Planning Board reviewed this request at their meeting on August 16, 1999 and unanimously recommended approval.

Attorney Bonfoey opened the public hearing. No one spoke; Attorney Bonfoey closed the public hearing.

Alderman Williamson moved, seconded by Alderman Moore, to approve the amendment as proposed. The motion carried unanimously. (Ord. No. 221-99)

Recommendation of the Waynesville Police Department on Entering an Agreement Regarding a Drug Dog

The Town has been awarded a grant to secure a dog which will detect drugs. Mr. Mike Davis, a resident living a few miles outside of Waynesville, knew of the Town's interest in a drug dog. Mr. Davis proposed to provide a dog at no cost to the Town. Mr. Davis has extensive experience in training these animals and provides dogs to the Department of Defense and the FBI for a fee of \$10,000 per animal. He has also trained dogs for area law enforcement agencies such as Macon, Clay, McDowell and Cherokee Counties, as well as the towns of Franklin, Marion and Andrews.

As a condition of Mr. Davis' offer, the Town would need to continually provide training to the officer to whom the dog is assigned. Mr. Davis would provide the initial two weeks of training, so that the dog and the officer learn to work together, and that would be at a fee of \$500. Subsequently, the Town would pay Mr. Davis \$150 monthly to work with the officer and dog to keep both of them at high quality performance levels in this type work. Over a five year period, this would have a cost of \$9,500 to the Town of Waynesville. Another condition regarding the donation of the dog is if the Town ceases to maintain the monthly certification of the officer and dog, or ceases to use the dog as it was intended, the animal would be returned to Mr. Davis. By doing so, he could retrain the dog and make it available for another law enforcement agency.

Police Chief Bill Hollingsed and Mike Davis were both available at the meeting to answer questions.

Alderman Williamson moved, seconded by Alderman Caldwell, to enter into an agreement with Mr. Mike Davis regarding the donation of the drug dog. The motion carried unanimously. (Contract No. 14-99)

Report by Police Chief Bill Hollingsed Regarding Flood Relief Efforts in Eastern North Carolina

Police Chief Bill Hollingsed reported that press releases have been given to the news media stating that the Waynesville Police Department will be collecting non perishable foods, bottled water, diapers, blankets, pet food, etc., to be taken to areas in need of assistance following the flooding in Eastern North Carolina caused by Hurricane Floyd. A trailer will be located at the Waynesville Police Department for this collection.

Report of Town Attorney on Regulations Pertaining to Parking in Handicap Spaces

At the last Board meeting, Mr. David Plemmons appeared to raise issues about the handicap accessibility of a number of commercial establishments in Waynesville. He also asked a number of questions about the enforcement of parking regulations in the Town, pointing out that the existing fine charged by the Town is \$5. Attorney Mike Bonfoey was asked to review the Town's existing ordinance, as well as State Law, to determine the process by which higher penalties could be assessed to those parking in spaces reserved for the handicapped. Town Manager Galloway, Mayor Foy and Attorney Bonfoey met with David Plemmons concerning some approaches to try to encourage the business community to make the business establishments accessible to the handicapped citizens.

Attorney Bonfoey recommended that the Board of Aldermen resolve to have the Waynesville Police Department issue citations for these violations using the State Law, using the \$50 minimum and \$100 maximum fines, rather than the Town's Ordinance. Attorney Bonfoey reported that these fines will increase as of January 1, 2000 to \$100 minimum and \$250 maximum. Attorney Bonfoey will draft an ordinance for presentation at the next regular meeting to allow civil enforcement by volunteers for these violations.

Mayor Henry Foy said that he would like for the Board to also approve the establishment of a Task Force comprised of five to seven people who will explore the needs of the disabled within the Town's limits. Mayor Foy said that this Task Force will report back to the Board of Aldermen of their findings and recommendations for improvements. Mayor Foy said that worldwide, disabled persons are the largest minority and that any person in the blink of an eye can become a part of this minority. Mayor Foy said that he would have the names available at the next meeting for appointment to this Task Force.

Alderman Williamson moved, seconded by Alderman Moore, to instruct the Waynesville Police Department to issue citations for violations regarding parking in handicapped parking spaces according to State Law Regulations. The motion carried unanimously.

Exchange of Property for Easement on the Nags Trail Pump Station

A number of years ago, a site for a pump station was needed along Eagle Nest Road at Nags Trail Road. A very small parcel was set aside for the pump station, but when the pump station was actually constructed, it was located at a different point. The owner of the land surrounding the pump station has discovered the matter, and he would like to resolve the issue. In order to do this, the Town would need to deed the incorrect lot back to the current property owners, Mr. and Mrs. Chuck Worrell.

Town Attorney Bonfoey said that he has been in touch with the owner's attorney. The owner has agreed to grant the Town an easement upon which the pump station is located and allow the Town to use the site as long as the pump station remains in operation.

Alderman Caldwell moved, seconded by Alderman Wiggins, to authorize the exchange of property to resolve the site of the Nags Trail Pump Station. The motion carried unanimously.

Code Enforcement Officer Jack Morgan Regarding Two Structures Located at 507 South Main Street

Code Enforcement Officer Jack Morgan attended the meeting to answer questions regarding two structures located at 507 South Main Street owned by Larry David Queen. One is a log structure and the other is an accessory building. The lot structure has been found to be dilapidated and the accessory building is actually a pigeon coop with a person living in it. Mr. Morgan has conducted the required public hearings on these structures, and notice was given for the demolition of the unsafe log cabin. The deadline for doing so has passed, and Mr. Morgan needs to request that the Town Board approve a demolition order for the two structures.

Mr. Morgan presented pictures of the two structures and reported that no one is living there at this time. He said that the hearing was conducted on July 7 with a deadline to remove the structures by August 19, 1999. Mr. Morgan said that an ordinance is required to be adopted by the Board in order for him to pursue demolition of the structures.

Alderman Wiggins moved, seconded by Alderman Caldwell, to adopt an ordinance directing the building inspector to remove or demolish the two structures located at 507 South Main Street described as unfit for human habitation and directing that a notice be placed on the structures that they may not be occupied. The motion carried unanimously. (Ord. No. 22-99)

Appeal of Lorna J. Barker to Deadline by Building Inspector for House at Corner of Cherry and Hazel Streets

For some time the Town has been dealing with the condition of the property of Mr. and Mrs. O. T. V. Barker at the corner of Cherry and Hazel Streets. The property includes a large house and separate apartment houses. Two of the structures have been damaged as a result of fires.

A hearing was held on the structures during early July. At that time, the owners advised Mr. Morgan that there was a tentative offer to purchase the property and that the potential owners planned to demolish the outside building and renovate the large structure into a bed and breakfast. Mr. Morgan wanted the windows of the property boarded up to prevent access to the structures. The owners asked that they be allowed to leave the plywood off the windows while the property is being shown for sale so that interested parties have enough light to see the interior. Mr. Morgan agreed to allow them until October 4, 1999, to produce a contract for sale of the property or to board up the windows. Ms. Lorna J. Barker filed an appeal on this decision on August 26, 1999.

Mr. Jack Morgan presented a packet of information to the Board consisting of the following:

- 1) Hearing for Unsafe Structure, dated July 8, 1999, regarding property at 303 Cherry Street (PIN #8615-49-6321). This document outlines the hearing held on July 8, 1999, at 10:00 a.m. Present at the hearing were Jack Morgan, Waynesville Code Enforcement Official, Mr.

and Mrs. OTV Barker, Pat Barker Mauldin, Steve Barker, Betty B. Henderson and Sue Allyn Barker.

- 2) Finding in Fact and Order, dated July 12, 1999, regarding property at 303 Cherry Street. This document outlined all items ordered by the Code Enforcement Official requiring the property owners to close all openings on first and ground floor level within thirty (30) days (August 11, 1999) and to maintain this covering for a period of ninety (90) days (October 4, 1999). If by the date of November 3, 1999, no contract to buy this property has been provided to the Code Enforcement Official, an order will be issued ordering that the structure remain in its boarded up condition for a period of one year. If by the end of that one year period, by November 3, 2000, a renovation or demolition project is not well under way on this structure, a request will be presented to the Board of Aldermen that an Ordinance be issued to the effect that this structure be brought to current North Carolina Code standards or be demolished within ninety (90) days of the date of the enacting of said ordinance.
- 3) Hearing for Unsafe Structure, dated July 8, 1999, regarding garage apartment behind 303 Cherry Street (PIN #8615-49-6321). This document outlines the hearing held on July 8, 1999, at 10:00 a.m. Present at the hearing were Jack Morgan, Waynesville Code Enforcement Official, Mr. and Mrs. OTV Barker, Pat Barker Mauldin, Steve Barker, Betty B. Henderson and Sue Allyn Barker.
- 4) Finding in Fact and Order, dated July 12, 1999, regarding garage apartment behind 303 Cherry Street. This document outlined all items ordered by the Code Enforcement Officer requiring the property owners maintain the structure in its present boarded up condition for a period of ninety (90) days from the date of the order. If by or on the ninetieth day, October 4, 1999, the structure is still standing and no contract to buy the property has been provided as evidence to the undersigned Code Enforcement Official an order will then be issued by the Waynesville Inspection Department that the structure be demolished and all debris removed from the property by a date no later than the 3rd day of December, 1999.

Code Enforcement Officer Jack Morgan said that as of September 21, 1999, he has not received a contract of sale for either of the properties.

Mr. O.T.V. Barker and Mrs. Lorna J. Barker attended the meeting. Mrs. Lorna J. Barker did not speak regarding the matter. Mr. O.T.V. Barker said that he had the property sold until September 19, when the person decided not to buy. Mr. Barker said that he did not want to file an appeal, that he wanted to comply with the order of the Code Enforcement Official and intended to comply with the dates given in the order, therefore, the appeal was dismissed. Dismissal of the appeal did not require any action by the Board of Aldermen

Minor Subdivision Plat - Ms. Jackie Haynes, Mauney Cove Road

Ms. Jackie Haynes owns an 11.07 acre tract of land which abuts Mauney Cove Road. She is subdividing the tract to transfer a 1.2164 acre lot to her daughter, Sherrye Rhodes. The property is zoned "R-1" and the plat meets Town standards. Town staff recommends approval of the plat with the following condition:

1. Submit a soil evaluation report for a septic tank.

Alderman Williamson moved, seconded by Alderman Moore, to approve the minor subdivision plat for Ms. Jackie Haynes on Mauney Cove Road, subject to submission of a soil evaluation report for a septic tank. The motion carried unanimously.

Appointment/Reappointments to Recreation and Parks Advisory Commission

The terms of three of the members of the Recreation and Parks Advisory Commission will expire on September 30, 1999. Those members are Lee Starnes, Dortha Evans and David Steppleton. Lee Starnes and Dortha Evans have been contacted and both indicate that they would like to remain on the Commission. A number of attempts were made to reach David Steppleton, but the recreation personnel were not able to talk with him. Mr. Steppleton now lives in the Bethel area.

Alderman Williamson moved, seconded by Alderman Moore, to reappoint Lee Starnes and Dortha Evans and to appoint Wallace Messer to replace David Steppleton. All three are to serve three (3) year terms to expire September 30, 2002. The motion carried unanimously.

Mayor's Report on Appointment to The Waynesville Housing Authority

There are five members of the Waynesville Housing Authority, and under State law, each of the members is appointed by the Mayor of the town. The terms for the five Commissioners is five years. This year the term of Harry McCracken, 251 Longview Drive, will expire on September 30. The Mayor has spoken with Mr. McCracken and he has agreed to serve another term. Mayor Foy reported the reappointment of Mr. Harry McCracken to serve a five year term to expire on September 30, 2004.

Petitions for Annexation - Phase II South - Laurel Ridge

The Town has received a package of annexation petitions signed by the owners of the 21 lots on Phase II South of Laurel Ridge. These 21 lots and 64.462 acres of land are accessed from Scenic Circle and Eagle Fork Road. Included in this area is the tract where the new water tank, jointly funded by Laurel Ridge and the Town, is under construction.

It was a consensus of the Board that action be delayed on this matter until all property owners are notified that the Town is not obligated to provide sewer services to this area because of its location and the steep slope of the property. Town Attorney Bonfoey said that the annexation petitions should be amended to include the signatures of all property owners stating their understanding that the Town would not be obligated to provide sewer to their property.

Agreement Between Town of Maggie Valley and Town of Waynesville Concerning Wastewater Along Route 19

Town Manager Galloway said that the sewer line between the Junaluska swimming pool and the top of Dellwood Hill has been completed. Haywood County and the Town of Waynesville jointly funded the line between the pool and Queen's Farm and it now belongs to Waynesville. The County and the Town of Maggie Valley jointly funded the line between Queen's Farm and Dellwood Hill, and it now belongs to Maggie Valley.

The portion of the sewer line owned by Maggie Valley discharges into the sewer line owned by Waynesville; therefore, there must be an agreement between the two towns. Such an agreement will address issues such as the rates Maggie Valley will be charged, the proper maintenance and care of the Maggie System so as to prevent damage or problems to Waynesville's and the participation in future enlargement of the system if such becomes necessary. The Town of Maggie Valley has already approved the agreement and it is recommended that the Board of Aldermen also approve the agreement.

Alderman Caldwell moved, seconded by Alderman Moore, to approve the agreement between the Town of Maggie Valley and the Town of Waynesville concerning wastewater along Route 19. The motion carried unanimously. (Cont. No. 15-99)

Use of Sidewalks in Downtown Waynesville

Town Manager Galloway reported that the Downtown Waynesville Association has been attempting to work on a compromise on the use of the sidewalks for dining purposes. Manager Galloway said that they met on Thursday, September 16 and suggested the following:

1. That during the month of October, sidewalk dining be allowed with a few restrictions (maintaining a minimum of five feet of passage space, no alcoholic beverages on the sidewalk);
2. That during the winter, the DWA and the Town work together to develop a café ordinance to regulate the sidewalk dining;
3. That only dining and no merchandise sales will be permitted on the sidewalks of the Town;
4. That there be two additional days allowed for sidewalk sales during the summer, preferably on Memorial Day Weekend.

Alderman Wiggins moved, seconded by Alderman Caldwell, to adopt an ordinance to regulate the use of the sidewalks by restaurants and cafes for the purposes of providing dining services during the month of October, 1999, until an ordinance can be drafted which addresses the sidewalks year round. The motion carried unanimously. (Ord. No. 23-99)

Taxes to Be Paid by Enterprize Park Before Building Permits Issued

Melissa VanNoppen asked questions regarding the proposed development by Enterprize Park at the former Dayco Building located at the intersection of Hyatt Creek Road and US 19A/23, and the status of the overdue taxes that were owed. Town Manager Galloway said that those taxes have not been paid.

Alderman Caldwell moved, seconded by Alderman Wiggins, to withhold the issuance of all building permits until all unpaid taxes owed by Enterprize Park Corporation are paid. The motion carried unanimously.

Ms. VanNoppen asked if the Town has considered runoff from the proposed project and the impact that the additional traffic will have. Town Manager Galloway said that the Town has been talking with the NC Department of Transportation regarding the traffic.

Bobby Joe McClure - Subdivision Located off Buchanan Cemetery Road

Bobby Joe McClure attended the meeting regarding a subdivision located off of Buchanan Cemetery Road which was approved twenty years ago. Mr. McClure said that a water system was installed years ago and that since that time 68 - 78 water taps and sewer taps have been made in this subdivision. Mr. McClure said that the water system had become overloaded and that he had volunteered to give the Town a lot on which to place a new water system. Mr. McClure said that the Town is running a water line from Camp Branch to avoid putting in this system. The current system would have operated fine if the Town had installed adequate size pumps. He said that the estimate to install a new water system was \$42,000 by the Town Engineer. Mr. McClure said that he had done some research and found that material for the project would cost less than \$5,000 and labor would cost approximately \$15,000. He felt that this was a discrepancy in the cost estimates. Mr. McClure said that he had given the Town enough pipe to finish the project and had a commitment from the Town years ago to do so, but he had no guarantee.

Town Manager Galloway said that the Town is running a water line from Camp Branch in order to eliminate the pump station. Bobby Joe McClure said that the new water line will solve the water problem.

Bobby Joe McClure said that Jim Stevens graded the property to the middle of the road to get his driveway lower. Mr. McClure said that he had spent \$2,200 to get the road back into shape. Mr. McClure said that the Town had written Mr. Stevens a letter telling him not to do this anymore; however, Mr. Stevens has done this twice. Mr. McClure said that this road should be a Town maintained street since it was incorporated into the Town several years ago. Mr. McClure also said that Mr. Stevens built a porch on the front of his house and was infringing on the subdivision setback requirements and that nothing was done about it.

Town Attorney Bonfoey will investigate the possibility that the road for this subdivision should be a Town maintained street and report at a later meeting.

Jack Faulkner, 134 Park Drive, Waynesville - Leaf Pickup - Storm Drain Grate

Mr. Jack Faulkner, 134 Park Drive, Waynesville, said that there have been rumors that the Town will require that residents bag their leaves for pick up. Town Manager Galloway said that this was not true. The Town will prepare a news release to inform the public.

Mr. Faulkner said approximately two years ago, the storm drain culvert was replaced on Park Drive, but the Town's crew failed to install the grate over the storm drain. Town Manager Galloway said that a work order will be written to complete this work.

Dick West - Water Line - Ratcliffe Cove Road

Mr. Dick West attended the meeting to inform the Board of a problem he has been experiencing for over one year with leaks in his water line. Mr. West plans to install a new water line, however, an easement is needed to cross his neighbor's property. Mr. West has been working with the Town's Engineer to resolve this issue. No action was necessary.

Concerns of Alderman Williamson - Giles Chemical Corporation/Lights at Dutch Fisher Park

Alderman Williamson said that he has received complaints regarding a yellow, slick substance on Commerce street in front of Giles Chemical Corporation. Town Manager Galloway will look into the matter.

Alderman Williamson asked about the status of the lights at the ball field at the Dutch Fisher Park. Town Manager Galloway said that the Town plans to install the lights this winter before softball season begins. Alderman Caldwell said that he spoke with Terry Grasty, who will be helping Electric Superintendent John Yarborough install the lights, and that Mr. Grasty informed him that he would not be available to help Mr. Yarborough until he has finished some ongoing projects.

Request by James Robert Moore - Status of Skateboard Park

James Robert Moore asked Alderman Caldwell what has been happening with his work on a skateboard park for Waynesville. Alderman Caldwell explained he is continuing to work on this project, and is not sitting still. The first possible location for the skateboard park did not work out and he is currently looking for another site. Alderman Caldwell said that he met with School Principal Keith Wyatt regarding using the concrete pad behind the Hazelwood Elementary School, but Mr. Wyatt said that this is still being used by the school. Alderman Caldwell also said that he has been working with the First Methodist about the skateboarders using their parking lot again. Alderman Caldwell said that he has visited other skateboard parks and continues to gather information. No action was needed.

Adjournment

With no further business, Alderman Williamson moved, seconded by Alderman Wiggins, to adjourn the meeting at 8:50 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor