

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
JANUARY 8, 2002  
TUESDAY - 7:00 P.M.  
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, January 8, 2002. Members present were Mayor Henry Foy, Aldermen Gavin Brown, Gary Caldwell, Libba Feichter and Kenneth Moore. 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 7:02 p.m.

Approval of Minutes of January 8, 2002

Alderman Brown moved, seconded by Alderman Feichter, to approve the minutes of the December 11, 2001 meeting as presented. The motion carried unanimously.

Presentation by Kevin O'Donnell - Representation on Electric Issues

While attending the N. C. League of Municipalities meeting in Asheville in October 2001, Mayor Foy, Alderman Feichter, Alderman Caldwell, Town Manager Galloway and Public Works Director Fred Baker met with Kevin O'Donnell, President of Nova Energy Consultants, Inc., of Cary, NC. Mr. O'Donnell serves as a consultant to a number of municipal governments which are independent from the State's municipal power agency organizations. Manager Galloway and Public Works Director Baker have been working with Mr. O'Donnell on various issues related to the status of electric deregulation. Manager Galloway asked that Mr. O'Donnell send a proposal for consulting services for the Town of Waynesville and present his proposal to the Town Board.

Mr. O'Donnell thanked the Board for inviting him to attend the meeting and present his proposal for energy consulting issues. He explained that Nova Energy Consultants, Inc., provided energy consulting services, as well as some economic development assistance, to independent electric municipalities in North Carolina. At the present time Nova Energy provides consulting services for Black Creek, Lucama, Stantonsburg, Dallas and Forest City, in North Carolina.

Mr. O'Donnell said that he received his Undergraduate Engineering Degree from NC State and his MBA from Florida State. He was employed by the Utilities Commission from 1984 until 1991. During that time he earned his CFA status. Mr. O'Donnell occasionally works with his family in their money management firm in the northern portion of the United States. In 1991 he was employed with a Raleigh based Engineering Company, and in 1995 he began his own business, Nova Energy Consultants, Inc.

Deregulation is one of the issues Waynesville will face in the future. Mr. O'Donnell said that he is favor of deregulation, has seen reduced rates, has seen it work and knows how it works. In the economic development aspect of the proposal Mr. O'Donnell explained that industries look for access to competitive power supplies. Part of this proposal includes digital photographs of locations for industries who may be looking for a location. Although some of these locations may not be

located on Waynesville's electric system, the location of any new industry would still have an impact on the area.

The proposal submitted by Mr. O'Donnell includes a retainer fee of \$2,500 per quarter, not to exceed \$10,000 per year plus all reasonable travel expenses, phone expenses, and mail expenses associated with the carrying out of the duties included in this project. Some of the energy consulting services to be provided to the Town include issue and analyze the responses to a Request for Proposals (RFP) for power supplies, update Waynesville on issues of concern at the Federal Energy Regulatory Commission (FERC) and the North Carolina Utilities Commission (FERC), and monitor and advise Waynesville of retail electric restructuring legislation at the state and federal levels.

Mr. O'Donnell said he would be in contact with the Town no less than once per month and any time there is any activity in Washington, Raleigh or Atlanta he will either E-Mail or FAX the Town Manager as often as necessary to keep the Town informed. He encouraged the Board to talk to the other Towns which he provides consulting services for.

There were several questions by the Board Members. Manager Galloway said he would like to look closer at some of the issues before the Town enters into an agreement. Manager Galloway pointed out that the Town has been an electric customer of CP&L's for seventy-five years and the Town's contract with CP&L expires in 2004. This item will be placed on the agenda of the Town's next meeting. Mayor Foy thanked Mr. O'Donnell for attending the meeting and for his presentation. No action was taken.

#### Municipal Bridge Inspection Agreement - N. C. Department of Transportation

For a number of years, the North Carolina Department of Transportation has offered a program by which they conduct inspections of bridges owned by the municipal government. Town Manager Galloway said this program was begun by the Federal Government as a result of problems with bridges during the 1980's. The State manages this program through the Federal Program. Each year the NCDOT inspects bridges on the Town's system. At the present time the Town has ten (10) bridges. The rehabilitation of the Boyd Avenue bridge, Hendrix Street bridge and Scates bridge were all part of this program. The federal government pays 80% of the cost, and the Town only pays 20% of the cost for both the inspections and the reconstruction.

Alderman Moore moved, seconded by Alderman Caldwell, to approve the municipal bridge inspection agreement with the N.C. Department of Transportation. The motion carried unanimously. (Cont. No. 1-02)

#### Resolution - Lead Regional Organizations Release of Funds for Region A

In the 1980's, the North Carolina General Assembly approved legislation which gave funds to the various Regions for economic development purposes. The portion that our own Region A is designated to receive is \$55,000, and it is divided up based upon the population of each municipal and county government in the region. The share of the \$55,000 which is allocated for Waynesville is \$2,543.39; however, the Town of Waynesville may not receive this money directly. The Town can only request that the funds be distributed by the State to Region A for their use in economic development purposes. If this is not done, the money goes back to the State for distribution in other areas.

Alderman Moore moved, seconded by Alderman Caldwell, to adopt the resolution authorizing the release of Waynesville's share of the funds, in the amount of \$2,543.39 to Region A. The motion carried unanimously. (Res. No. 1-02)

#### Request by Ron Fleenor to Hang Banners in the Frog Level Area

Mr. Ron Fleenor attended the meeting on December 11, 2001, to request that the Town reconsider hanging banners in the Frog Level area. Alderman Feichter asked if the proposal presented by the Board several months ago to have the merchants hang the banners on their buildings was presented to the merchants. Mr. Fleenor said it was. However, the banners could not be placed on the lower buildings and they would rather have the banners hung on the utility poles. Mr. Fleenor explained that the merchants were unable to hang the banners on the utility poles because the Town's bucket truck would be needed for this purpose. He felt that the banners should be changed approximately four (4) times per year, but he was not sure of the exact area where the banners should be hung, but he felt they should be hung on Depot and Commerce Streets, and not on Dellwood Road or all the way along Depot Street to the Courthouse.

Town Manager Galloway said the banners were donated by the Downtown Waynesville Association to the Frog Level Merchants. The Town got out of the business of hanging banners when the banners were no longer hung on Main Street. Manager Galloway said he did not recommend that the Town hang the banners because it takes time for the Electric Department to do this work, there are some safety issues involved and other reasons which he discussed with the Board this past summer.

It was the consensus of the Board to support the request. However, they asked Mr. Fleenor to bring a specific proposal for the Board to consider. Mr. Fleenor said he would present this to the Frog Level Committee and bring a proposal to the Board for further consideration.

#### Concern by Roscoe Wells Regarding Construction in the Brunswick Drive Area

Mr. Roscoe Wells expressed some concerns with a contractor hired by the Town to replace water lines in the Brunswick Drive area. He said that a backhoe has been broken down for two weeks, two trailers are parked in the area, the area is littered with coke bottles and rags, a load of gravel was in the middle of the road, hydraulic fuel was poured out on the street and about 45' of Ridge Road was torn up with a jack hammer. When it rained the red clay washed into Lake Junaluska. Mr. Wells said he spoke with Mr. Baker who was going to have someone look into the situation and Robert Hyatt has visited the site. Mr. Wells felt that this was a bad example for the Town to let a contractor handle construction in this fashion. Town Manager Galloway will look into the situation.

#### Update by Attorney Bonfoey Regarding Legal Matter

Attorney Bonfoey said a lawsuit was filed against the Town in 1994 by Trashay Messer involving smoke testing in the Town's sewer lines to try to detect illegal hook ups and leaks. Some smoke escaped into a home through a improper sewer connection in the house, and the lawsuit claimed that this action resulted in some injury. The first two times the plaintiff was represented by Attorney Scott Jarvis and then Hank Teich. Both attorneys took voluntary dismissal and the plaintiff had one year to refile. This time Ms. Messer hired Attorney Russell McLean to represent her. Attorney Frank Contrivo was hired to represent the Town. The case came up for motions on Monday, January

7 and trial the same week. However, Attorney Contrivo did not show up in court. It was discovered that Mr. Contrivo was intoxicated at home and unable to appear in Court. He has since been admitted to a 32-day substance abuse program in Charlotte. When this was discovered, the Judge reversed his rulings from January 7 and continued the matter indefinitely until the Town had legal representation, possibly by Mr. Contrivo's law partner.

#### Report by Alderman Brown - Lawsuit Regarding the Proposed Location of the Haywood County Justice Facility Outside the City Limits

Alderman Brown, who is also a private attorney in Waynesville, said he has been asked by several taxpaying citizens to bring a suit against Haywood County regarding their proposal to build a Justice Center outside the city limits, and he has worked on this matter for several weeks. Alderman Brown said if there is any sentiment on behalf of the Board that they intend to annex this property he would not embarrass himself or the Board by continuing with this lawsuit. He added that he would not do something which is contrary to the best interest of the Town. In this case, Alderman Brown said he does not see a conflict and does not feel that it is necessary for the Town to take any part in this suit. Alderman Brown said he does not get up on a white horse very often. However, this is a matter of principle and a matter of necessity. Alderman Brown said if any member of the Board has any questions or concerns please do not hesitate to contact him.

The other Board Members said they had no problems with Alderman Brown's efforts and Mayor Foy said that Alderman Brown has his "wholehearted support".

#### Board of Aldermen Tour of Town Facilities

The Board of Aldermen will tour the Town's facilities on Wednesday, January 16<sup>th</sup>. Everyone is to meet in the lower parking lot behind the Waynesville Police Department at 9:00 a.m.

#### Board of Aldermen Retreat

Town Manager Galloway will coordinate the date for the Board's Annual Retreat with staff from the Southwestern Commission. Possible dates suggested by the Board are February 28 and March 1, 2002.

#### Adjournment

With no further business, Alderman Caldwell moved, seconded by Alderman Moore, to adjourn the meeting at 8:45 p.m. The motion carried unanimously.

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Phyllis R. McClure  
Town Clerk

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Henry B. Foy  
Mayor