

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
JULY 9, 2002  
TUESDAY - 7:00 P.M.  
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, July 9, 2002. Members present were Mayor Henry Foy, Aldermen Gavin Brown, Gary Caldwell and Libba Feichter. (Note: Alderman Kenneth Moore came in later at the meeting) Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure, Town Attorney Michael Bonfoey and Intern Josh Ray. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of June 25, 2002

Alderman Feichter moved, seconded by Alderman Caldwell, to approve the minutes of the June 25, 2002 meeting as presented. The motion carried unanimously.

Reappointment and Appointment of Planning Board and Board of Adjustment Members

Planning Board

The term of Planning Board Member Jim Freeman expired May 31, 2002. Mr. Freeman is a resident within the Town and has indicated a desire to be reappointed to the Board.

The term of Planning Board Member Jennings Plemmons also expired on May 31, 2002. Mr. Plemmons has served on this Board a number of years, but he now works in Arden and has had difficulty making it to the meetings as he does not get off work until 5:30. He has indicated that he would like to give up his seat on this Board.

Board of Adjustment

The terms of Board of Adjustment Members Mack Noland and Gail Crow expired May 31, 2002, and each has indicated a willingness to continue service.

The term of Alternate Member Robert Noland, a resident of the extraterritorial jurisdiction, also expired on May 31. Mr. Noland has indicated that he would not be able to continue to serve due to the time required.

Alderman Brown moved, seconded by Alderman Feichter, to postpone action until a later meeting. The motion carried unanimously.

## Request for Contributions from Town for Purchase of Dayco Property by Haywood Advancement Foundation

In April 2002, the Board heard a request from the Haywood Advancement Foundation for a contribution of \$650,000 to be used with an identical amount from Haywood County and used to fund a bid to the Bankruptcy Court for the property formerly occupied by Dayco. The Town Board approved the request and elected officials and staff have been awaiting the action by the Court on the bid submitted by Landmark (formerly Grand Ridge, formerly Enterprize Park, formerly Thermal Products), on the property. Now that the Courts have rejected the bid from Landmark, the Haywood Advancement Foundation is ready to proceed with an attempt to secure the property and move toward placing it into a situation where jobs might be generated for the citizens of Haywood County.

Since April, the legal counsel for Haywood Advancement Foundation has suggested that the Foundation might be in a stronger position by paying off the loan CHW made to Grand Ridge/Enterprize Park/Thermal Products. CHW is a Lexington, NC firm which made a \$750,000 loan to the failed "enterprise" and subsequently had to foreclose on the property. Legal counsel to the Foundation suggests that if the loan is paid off and assumed, the Foundation will have standing to foreclose on the property.

On April 9, 2002, the Town Board adopted Resolution 5-02, but since the plans for the use of those funds have changed, it is felt that a new resolution should be adopted that specifies the procedure outlined in a letter received from Jay Hinson, Executive Director of the Haywood Advancement Foundation.

On June 25, the Town Board voted to close the Capital Projects Account for the Recreation Center and to transfer the proceeds to the General Fund. This amounted to approximately \$550,000. In addition, when this matter is settled, the Town expects to receive over \$100,000 in unpaid property taxes. These would allow the Town to fund the \$650,000 grant to the Foundation.

Alderman Brown said paying off the loan to CHW places the Haywood Advancement Foundation in a better position for owning the property which could be bought by some responsible party. Alderman Feichter added that this could be an opportunity to do something with this property.

Board Members asked Alderman Brown his opinion on the lawsuit filed against the HAF. He said it is like an act of "terrorism" since it is a tactic to delay matters and try to make us run scared. The real figure in this matter is Mark IV. At some point in time they will have to come forward. Mark IV's concern is their potential liability since they have a two million dollar lien on the property. The Bankruptcy Judge has control over the lawsuit. Alderman Feichter said this is the best position the Town has been in. Alderman Brown said sometimes you have to spend money to make money. If the property can be purchased by some responsible party who can develop it, providing jobs for people in the area, everyone can benefit.

Alderman Brown moved, seconded by Alderman Caldwell, to adopt a Resolution to approve funding \$650,000 to CHW to purchase their mortgage on the former Dayco property. The motion carried unanimously. (Res. No. 14-02)

## Alcohol Sales During Festivals

Several years ago, the Town had an ordinance which restricted the open containers of alcohol on the streets of Waynesville. At some point there was a change in the ordinance, and it did not appear in the Town Code Book that was revised in 1987. The Town has been contacted by the Haywood County Arts Council, asking for the letter the Town normally gives them in support of their application to the State for a one day permit to sell alcohol. Manager Galloway advised the Arts Council representative that he wanted to discuss the matter with the Town Board first. The Arts Council members have asked that the matter be considered by the Board as soon as possible for they planned to sell alcohol on July 27 during International Day and they are looking at this as a revenue source in conjunction with the event.

Mayor Foy said several years ago the Altrusa Club began alcohol sales on Main Street and the Arts Council is making application to sell alcohol during International Day. Mayor Foy said a member of the Arts Council Board told him after International Day last year that they were not going to continue the alcohol sales on Main Street. Joe Sam Queen attended the meeting and said it was the general consensus of the Arts Council Board to have a booth to sell beer and wine. This event was planned into their budget. They requested that they be allowed to continue this year and would like to have some advance notice if this is not possible.

Town Attorney Bonfoey said the Town only has an ordinance which prohibits alcohol on Town owned property, which does not include Main Street. The Town does not have an ordinance which prohibits the sale of alcohol on public streets. Alderman Brown added that there is no State Law against open containers. When an organization such as the Arts Council applies for a permit, it is granted by the ABC Board. However, the ABC Board requires permission from the Town.

Attorney Bonfoey explained that an old NC State Statute was overturned in the 1980's. The Legislature has allowed local governments to regulate or prohibit open containers under their police power and exceptions can be made for special events. Attorney Bonfoey said he spoke with the City of Asheville's Attorney Bob Oakes, who said that Asheville designates particular events, dates, specific areas where alcohol sales are allowed, what types of containers are permitted and permits certain entities to sell (501C3 Groups).

Mayor Foy said he has had some negative comments regarding alcohol sales on Main Street and he does not feel that the people in Waynesville would support this. Mayor Foy said he has tried to make this a family oriented community.

Alderman Brown said he knew the three Arts Council Board Members in attendance at the meeting and trusted their judgment. Alderman Feichter said this is a source of revenue for the Arts Council and at this point in their fiscal year their efforts should be made worthwhile and it is too late in the process to deny them this opportunity. Alderman Feichter felt that this is something the Board should investigate later on. Alderman Brown said this has not been a problem in the past and he would rather have an ordinance to produce more consistency than to prohibit the alcohol sales.

Manager Galloway said the Arts Council has asked that they be the only entity selling alcohol.

However in the past there have been others who have applied for permits and those permits were granted. Manager Galloway asked the Arts Council Members if it would be possible to contain or fence in the area for alcohol sales. Joe Sam Queen said this would not be very practical since various food booths are also on Main Street and people carry their drinks with their food.

Alderman Brown moved, seconded by Alderman Feichter, to direct Town Attorney Bonfoey to draft an ordinance addressing the regulation of the sale and consumption of alcohol on the streets in Waynesville. The motion carried unanimously.

Alderman Brown moved, seconded by Alderman Feichter, to authorize Town Manager Galloway to approve the request by the Haywood County Arts Council for a special permit to sell alcohol on International Day on Main Street in Waynesville. The motion carried with three (3) ayes (Brown, Caldwell, Feichter) and one (1) nay (Foy).

#### Announcement by Mib Medford - Plant and Vegetable Sale

Mib Medford announced that her Garden Club is planning a plant and vegetable sale at the Tail Gate Market in Waynesville on Saturday, July 13 from 8:00 a.m. until 12:00 noon. The money from this event is used to maintain the Welcome to Waynesville Sign. No action was necessary.

NOTE: Alderman Moore joined the other Board Members at this time.

#### Mr. Bob Hill - Request for Band Support

Mr. Bob Hill, a resident of the Balsam area, is interested in starting a community band. He has been in contact with Mayor Foy and has requested that the Town contribute \$100 for the purchase of sheet music for the band. Mayor Foy indicated that Mr. Hill intends to request this from each unit of government in the county.

Alderman Brown moved, seconded by Alderman Feichter, to contribute \$100 for the purchase of sheet music as requested by Mr. Hill. The motion carried unanimously.

#### Request to Close Virginia Avenue

A request was received from Jackie Bolden at Folkmoot and WLOS Channel 13 News to close Virginia Avenue between Mississippi Avenue and Kentucky Avenue on Friday, July 19 in order for WLOS to provide a live Folkmoot performance. They have requested that the far right lane (parking lane) be blocked off from 9:00 a.m. until 3:00 p.m. At 3:00 p.m., Channel 13 requests that the entire street (between Mississippi Avenue and Virginia Avenue) be closed until approximately 6:30 p.m. for live broadcasts.

Police Chief Hollingsed has indicated that there is only one driveway exiting onto Virginia Avenue and this homeowner is agreeable to closing the street during those times requested.

Alderman Feichter moved, seconded by Alderman Caldwell, to approve the street closing for

Virginia Avenue on Friday, July 19 as requested. The motion carried unanimously.

Closed Session to Discuss Real Estate

Alderman Moore moved, seconded by Alderman Caldwell, to adjourn to closed session at 8:00 p.m.

Alderman Brown moved, seconded by Alderman Feichter, to return to regular session at 8:20 p.m. Both motions carried unanimously.

Purchase of Property Located on Reservoir Drive

Alderman Moore moved, seconded by Alderman Caldwell, to purchase a 2.6 acre tract of land located south of the tract of land owned by the Town of Waynesville at the end of Reservoir Drive at a price of \$33,000. The motion carried unanimously. This property is needed for the construction of a new water tank on Reservoir Drive.

Adjournment

With no further business, Alderman Brown moved, seconded by Alderman Feichter, to adjourn the meeting at 8:30 p.m. The motion carried unanimously.

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Phyllis R. McClure  
Town Clerk

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Henry B. Foy  
Mayor