

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
JULY 8, 2003  
TUESDAY - 7:00 P.M.  
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, July 8, 2003. Members present were Mayor Henry Foy, Aldermen Gavin Brown, Gary Caldwell and Libba Feichter. Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure, Planner Andrew Powell and Interim Town Attorney Woodrow Griffin. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of June 24, 2003

Alderman Brown moved, seconded by Alderman Caldwell to approve the minutes of the June 24, 2003 meeting as presented. The motion carried unanimously.

Public Hearing - Expansion of Extraterritorial Jurisdiction for the Plott Creek Neighborhood District  
Public Hearing - Application of Zoning to the New Extraterritorial Jurisdiction Areas of the Plott  
Creek Neighborhood

For many years the Town of Waynesville did not extend its extraterritorial jurisdiction past the corporate limits in the Plott Creek Road area or outside of the Eagle Nest Area that was actually annexed into the town limits. The Town of Hazelwood provided water service along Plott Creek Road from a well and water tank off Ora Circle which is now abandoned. After the merger with Hazelwood, Waynesville took over the water lines and sewer service was extended as far as the Hazelwood Elementary School. With the school and new development occurring along Plott Creek Road, it is felt that the extraterritorial jurisdiction should now be extended beyond the present location.

Property owners within the area under consideration were notified of this hearing. The Planning Board unanimously voted to recommend the extension of the ETJ.

Planner Andrew Powell explained the boundaries of the proposed ETJ expansion area and how those boundaries follow definable natural boundaries. He said the area consists of approximately 400 acres. Alderman Brown asked why this extension was proposed. Mr. Powell said since the new Hazelwood Elementary School was built in this area the Town would like to see development occur in a manner which contributes to the area. Another concern is infrastructure growth. At the present time the water extends to Ora Circle and sewer does not extend past the Hazelwood School. Zoning for the area is proposed for high density. Very few uses are allowed other than residential. Mr. Powell read some of the allowed uses. At the same time, he said the Town also wants to protect farmlands. If water and sewer are extended into this area, this will encourage development.

Alderman Caldwell expressed concern that a minimum lot size of 7,000 sq. ft. may be too small and

asked what the minimum square foot lot size was for the Raccoon Creek Area. Mr. Powell said it is ½ acres.

Attorney Griffin opened the public hearing. The following persons spoke:

Beecher Phillips, 497 Sorrells Cove Road, said he realized this is the first step toward annexation and he was concerned because a lot of people who live in this area are either retired or on disability. He felt that this is the time to try to stop this from happening. Mr. Phillips wanted to know if this area is annexed what services the residents would receive and how long it took the Town to put this proposal in place.

Andrew Powell said the Town has been looking at this ETJ extension for about three and one half months. During that time it has been reviewed and recommended by the Planning Board.

Mr. Phillips said he pays about \$500 in taxes now and if this property is annexed at some time in the future he would like to know what services he would receive. He would like to see someone scraping snow or paving on Plott Creek Road. He added that he did not have anything against the Town of Waynesville but would like to have some more time to get used to this.

Mark Carden, 76 Heath Drive, said he would like to ask for confidence that annexation in this area would not happen because he does not know of anything the Town can do that would be effective for him if the Town does take the direction of annexation. Mr. Carden felt that the residents are afraid of annexation.

Alderman Caldwell said he did not feel that anyone would receive better service than those inside Waynesville. He added that the Town is not trying to annex this area. Attorney Griffin added that the Town also could not give up its right to annex at some point in the future.

Mayor Foy said if the Town did annex this area it would be required to provide services to the area.

Steve Winchester, 1785 Plott Creek Road, expressed concern that the tax structure would go up if the ETJ is expanded. Mr. Winchester said he owns 16 acres and he was glad to know that possible extension of the ETJ and zoning would not affect his farmland.

Alderman Feichter said some of the things she has enjoyed while serving on the Board have been hearing from the people who live here. She is proud of the fact that this board is willing to listen to what other people have to say. Without hearing what people have to say, the Board would not know what their concerns were. Alderman Feichter thanked everyone who was in attendance at the meeting.

Barbara Dias asked how the people in the ETJ would be affected. Andrew Powell explained that those living in the ETJ are under the Town's Land Use Regulations and zoning regulations. They would comply with the Town's subdivision regulations, road requirements and building permits. Ms. Dias asked if the Town could just build roads through people's properties. Alderman Brown said the Town could build roads through condemnations, but pointed out that the Town is not in the

road building business. Pat Burgin, said he owns property on Plott Creek but lives inside the Town's corporate limits. Mr. Burgin suggested that the Board postpone action on these proposals until the next meeting. Mr. Burgin said the ETJ is for the protection of the property owners. By having these land use regulations and zoning in place your neighbor can't just come in beside you and put in anything they want to. Haywood County is working on a land use plan but they do not have it in place at this time. Mr. Burgin said he was neither for nor against the proposals but would like to see the questions raised by the residents answered.

Mayor Foy felt that there may be some misconceptions about the ETJ. He explained that when the Town of Hazelwood was in existence, they had a right to this area and the ETJ was not extended.

Alderman Feichter said when the Land Use Plan was being developed, there were many meetings and participatory sessions in which people were involved. Some of the best information the Board received was from people who lived in these areas. She added that people have the right to speak on issues involving their communities.

John Burgin, 275 Wildcat Mountain Road, felt that the Board could adopt the ETJ extension but he would like to see the zoning regulations defined and know when they would take effect in the future.

Manager Galloway said Mr. Burgin had a valid point and he would like to see a community meeting before any action is taken.

Wayne Pressley, 36 Brody Drive, asked if this area was going to be annexed within the next three to five years. He said he has been lied to and had a lot of run arounds. He has served on the Saunook Fire Department for 22 years. He asked if the area is annexed if the fire protection would then be provided by Waynesville. Manager Galloway said this is what the Town has done in the past when areas outside Waynesville's fire protection area are annexed, the Town pays a portion of the fire department's debt and Waynesville provides fire protection. Mr. Pressley added that most of the people in Sorrells Cove Road are on disability or welfare, adding that he is on disability and it takes everything he has to pay his bills and taxes.

Attorney Griffin reminded everyone that annexation is not the issue to be considered tonight. Extension of the ETJ and zoning of that area are the items being considered. Attorney Griffin closed the public hearing.

Andrew Powell explained that other states also have ETJ areas. It is a way for Towns to have regulations beyond their limits so that if they annex in the future the regulations are in place and the Town would not inherit a list of problems. Mr. Powell showed a map outlining the Town's current ETJ limits. Alderman Brown pointed out that Towns with a population of 10,000 or less can extend this ETJ up to one mile outside their corporate limits.

Mr. Powell explained that Towns use annexation to 1) increase their tax base; 2) allow extension of water and sewer, and 3) to place regulations on quickly developing areas. Annexations keep cities alive. However, in the case of this area he felt that it would be a poor decision to annex the area into the Town at this time. The area would need to develop before it would be fiscally responsible for

the Town to annex. Mayor Foy asked if the Town could annex this area regardless of whether it was located in the ETJ. Mr. Powell said annexation was possible even if the area was not located in the ETJ.

Alderman Brown moved, seconded by Alderman Feichter, to table action on the expansion of the extraterritorial jurisdiction for the Plott Creek Neighborhood District in order for the property owners to attend meetings regarding the proposed changes. Manager Galloway is to establish the appropriate meetings and notify the residents. The motion carried unanimously.

#### Report Regarding Voluntary Annexation Petition for Council on Aging Located on Russ Avenue

At the last meeting, the Board adopted a resolution instructing Town Clerk Phyllis McClure to investigate the sufficiency of the petition for annexation. She has done so and found that the petition meets the requirements of the State Law.

Alderman Brown moved, seconded by Alderman Feichter, to adopt a resolution setting the public hearing date for Tuesday, July 22, 2003. The motion carried unanimously. (Res. No. 13-03)

At the meeting of June 24, 2003, requests were made by the Council on Aging for waiver of the water tap fee and the Town's portion of the impact fee subject to approval of the application by Manager Galloway and Mayor Foy. These requests have been reviewed and granted.

#### Request from Haywood Community College for Donation of a Police Car

Jeff Haynes, Director of the Basic Law Enforcement Training (BLET) School at Haywood Community College submitted a letter to the Town requesting that the Town consider donating one of its used police cars to the BLET Program at the College. Haywood County Sheriff Tom Alexander has agreed to make such a donation, and Officer Haynes is hoping that the Town will as well.

Under State Law, one governmental unit is allowed to make donations to another governmental unit of equipment or money, so legally, the Town may make transfer of a vehicle without going through an auction of surplus equipment.

At the present time the Police Department has a vehicle which has serious engine problems and 86,000 miles on the odometer. Any police car with that type mileage has much greater hours on the engine due to the number of times a vehicle might be parked with the engine running while the officer is working a wreck or conducting some type of traffic stop. It would cost the Town more than \$3,000 to replace the engine, and there is no way that the Town can justify that type expenditure on a vehicle that is virtually worn out.

Manager Galloway said when this request was first received, he thought about the vehicle that has engine problems, and suggested to Officer Haynes that perhaps the automotive repair program at the college could fix the vehicle and then the College could use it in its program. He has discussed this with the appropriate personnel at the college, and they feel this can work for the benefit of both

programs.

Alderman Brown moved, seconded by Alderman Caldwell, to donate the police vehicle to Haywood Community College for use in their BLET Program. The motion carried unanimously.

#### Audit Contract

Manager Galloway said for a number of years the firm of Ray, Bumgarner, Kingshill & Associates has performed the annual audit for the Town of Waynesville. Traditionally, the Town has been in a three-year contract with that firm. It is now necessary to enter into a new agreement, and the Town has requested a proposal from the same firm.

This contract would be for the audits in the three fiscal years ending June 30, 2003, 2004 and 2005 and represents an increase of approximately 5% annually. (Year ended 06/30/03 - \$23,000; year ended 06/30/04 - \$24,150 and year ended 06/30/05 - \$25,350.) In addition, there will be some major changes this year with the implementation of the Governmental Accounting Standards Board (GASB) Statement No. 34 reporting requirement. This will lead to some significant additional work in writing the financial statements, and the firm has indicated a rate of \$65.00 per hour during the first year and a maximum of \$6,000 in the second year. This compares with the charge of approximately \$5,700 last year. The GASB standards, which have been discussed with the Board a few times, will lead to values being placed on all the assets of the town, from streets to sidewalks to storm drainage pipes.

Finance Director Eddie Caldwell and Manager Galloway have discussed the auditing work and both are very pleased with the performance of this firm for many years. Bruce Kingshill, the partner in charge of the Town's account, has always been readily available to assist the Town in any financial related matter. It is their recommendation that the firm of Ray, Bumgarner, Kingshill and Associates be awarded the contract for the audit of town records for the fiscal years ending on June 30, 2003, 2004 and 2005.

Alderman Feichter, moved, seconded by Alderman Caldwell, to approve the audit contract for fiscal years ending on June 30, 2003, 2004 and 2005 to Ray, Bumgarner, Kingshill and Associates as recommended. The motion carried unanimously. (Cont. No. 7-03)

#### Closed Session to Discuss Property Purchase

Alderman Brown moved, seconded by Alderman Caldwell, to adjourn to closed session at 8:10 p.m. to discuss a property purchase. Alderman Brown moved, seconded by Alderman Caldwell to return to regular session at 8:35 p.m. Both motions carried unanimously.

Mayor Foy noted that there was no action resulting from the closed session.

#### Discussion of Town Attorney's Position

The position of Town Attorney became vacant when former Town Attorney Michael Bonfoey was appointed District Attorney in April, 2003. Since that time, Woodrow Griffin, an attorney in the firm

of Brown, Ward and Haynes, has been serving as Interim Town Attorney. As he has applied for appointment to the post, Attorney Griffin asked the Board for permission to be excused during discussion of the applicants for the Town Attorney's position. The Board gave approval of his leave by consensus.

Mayor Foy noted that there were four applicants for the position, Woodrow Griffin, Bill Millar, Jeff Norris and Burton Smith. Alderman Brown opened the discussion, indicating that all four candidates were more than capable of performing the work of the Town Attorney. He noted that Mr. Griffin has the resources available through his firm for most any type of legal situation in which the Town is involved and that he has served well during the interim and during times when Mr. Bonfoey was unable to attend meetings. Alderman Brown felt Mr. Millar was very intelligent and had some of the more relevant experience for a municipal attorney's position. He noted that both Mr. Norris and Mr. Smith were more involved in the area of litigation, and did not have so much experience in the municipal area. Alderman Brown pointed out that Mr. Griffin has excellent support in Mark Jenkins, Steve Ellis and Frank Queen and was the most qualified for the post.

Mayor Foy concurred with this opinion, expressing the view that it would be a slap in the face to Mr. Griffin if the Town did not hire him after the outstanding job he has done while serving as Interim Town Attorney.

Alderman Caldwell agreed, noting that his research had led him to support Mr. Griffin, particularly with the back up he has in his office.

Alderman Feichter stated that she felt all four were very professional and qualified, but she felt that Mr. Griffin is the best suited.

Mayor Foy advised that Alderman Kenneth Moore was in the hospital and unable to attend the meeting; however, Mr. Moore had contacted him and asked that his support of Mr. Griffin for the Town Attorney's position be noted at the meeting.

Alderman Brown moved, seconded by Alderman Caldwell, that Woodrow Griffin of Brown, Ward and Haynes be appointed as Town Attorney under the terms of the proposal Mr. Griffin submitted to the Town Board. This motion carried unanimously.

### Adjournment

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

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Phyllis R. McClure  
Town Clerk

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Henry B. Foy  
Mayor