

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
FEBRUARY 10, 2004
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, February 10, 2004. 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 and Town Attorney Woodrow Griffin. Mayor Foy called the meeting to order at 7:03 p.m.

Approval of Minutes of January 27, 2004

Alderman Caldwell moved, seconded by Alderman Feichter, to approve the minutes of the January 27, 2004 meeting as presented. The motion carried unanimously.

Public Hearing - Amendment to the Land Use Plan to Change the Land Use Classification of Two Lots on Locust Drive From High Density Residential to Medium High Mixed Uses

Manager Galloway said the Town has once again discovered some property that was likely placed in the wrong land use when the land use plan was being reviewed in 2003. The two lots which were involved in this instance are located on Locust Drive, and they are primarily commercial operations, one being Blue Ridge Glass Company and the other being a motorcycle sales and repair facility. The land use classification of the two lots was originally set as high density residential. The use would more appropriately be medium high mixed uses.

The Planning Board has reviewed this matter and they have recommended that the Board approve a change in the land use plan to reflect that these two lots are medium high mixed uses.

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

Alderman Brown moved, seconded by Alderman Feichter, that action on this item be delayed until the public hearing to consider a request to rezone this property is conducted since the two items are tied together. The motion carried unanimously.

Public Hearing - Request to Rezone 2.28 Acres at 60 Locust Drive and 1.23 Acres at 82 Locust Drive From Plott Creek Zoning District to Hazelwood Town Center Lobo Properties and Gene and Brenda Lummus

Manager Galloway said this request to rezone the 2.28 acres at 60 Locust Drive and the 1.23 acres at 82 Locust Drive is directly related to the proposed amendment just discussed by the Board. In addition to the change in classification of these two lots it seems they would also fit better in the Hazelwood Town Center rather than in the Plott Creek Zoning District.

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

Alderman Brown expressed concerns with the property's close proximity to an elementary school and some of the uses which may be allowed if the property is zoned Hazelwood Town Center. It was felt that the present commercial uses are satisfactory. However, once the property is rezoned any use allowed in that zoning district would be allowed on this property and some of those uses may not be suitable beside an elementary school. Alderman Brown was concerned about making arbitrary lines that carry unforeseen circumstances.

Planning and Zoning Manager John Swift had considered an overlay district with no other uses. However, after further consideration and discussions with the Planning Board, it was recommended that the properties be rezoned to Hazelwood Town Center.

Alderman Brown said he would like for the public to know that these things are not arbitrarily done. Decisions are not made based on personality, but rather on the effect on the community at large.

Alderman Caldwell said on these properties at this time are two of the finest buildings in this area, and the Planning Board unanimously voted to change the zoning on these two properties. Alderman Brown pointed out that even the Planning Board had questions about whether it would be better to rezone or apply an overlay district.

Bob Morris with Blue Ridge Glass said he has studied the Town's Land Use Plan but feels that it will need to be refined as it goes along. Mr. Morris said there is a 45' right-of-way between his property and the school and there are two fences, one at the school property and another to fence in cattle.

Alderman Brown posed a scenario to Mr. Morris to assume twenty years from now that the fence could be taken down and a business which sells guns locating on his property. He said what if there is a business which sells alcohol, possibly a convenience store, how would this affect the school.

Bob Morris said as a businessman who borrows money, if this Board starts limiting his ability to borrow money on what is an existing business, his ability to conduct his business would be affected. He said he designed his business 90% as closely to the Town's Land Use Plan as possible. When he moved his business to this location, the property was improved by removing a mobile home park and septic tanks, which also increased the value of surrounding properties.

Alderman Feichter said the Board knew this plan would be revisited often and that it would be a "living plan". Bob Morris said he has seen a lot of hard work go into this plan.

Alderman Brown asked Mr. Morris to review the uses allowed in the Hazelwood Town Center area and if there were any uses which he would not want beside the school if his children attended the school. Mr. Morris said he did not see anything on the list which offended him. However, he added that he was not sure exactly what some of the allowed uses would allow. Mr. Morris said he believes he is making a difference in his community and also feels that he has made a difference by cleaning up the property and keeping it cleaned up. He added that his business feeds his family and employees 35 people. Gene Lummus' business, located beside him, feeds Mr. Lummus' family and

his 15 employees. In business you can't do wrong and fight a bad press. He said he and his neighbor Mr. Lummus have complied with the Town's regulations and there have been no complaints to the Police Department nor the Town. He feels that the Town is backing itself down if it does not allow the mixed uses in the various zoning districts which it is supposed to allow.

Alderman Brown moved, seconded by Alderman Caldwell, to approve the amendment to the Land Use Plan to change the land use classification of two lots on Locust Drive from high density residential to medium high mixed uses as recommended. The motion carried unanimously. (Ord. No. 2-04)

Alderman Brown moved, seconded by Alderman Caldwell, to rezone the properties located at 60 Locust Drive and 82 Locust Drive from Plott Creek Zoning District to the Hazelwood Town Center as recommended. The motion carried unanimously. (Ord. No. 3-04)

Public Hearing - Request to Rezone Several Properties Located Along Legion Drive From the Pigeon Street Neighborhood District to the Central Business District

The Planning Board received a request from Mr. Jimmy Early to rezone his property on Legion Drive from the Pigeon Street Neighborhood District to the Central Business District. In reviewing this request, the Planning Board felt that other properties along Legion Drive were also better suited for the Central Business District as opposed to the Pigeon Street Neighborhood District. The Planning Board recommended that the property on the north side of Legion Drive, between Bogarts and Pigeon Street be rezoned to the Central Business District.

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

Philan Medford, 99 Pisgah Drive, said the property is undeveloped across from the Public Works building. Ms. Medford said there were uses available in the neighborhood district which would allow for the land to be developed, but said she objects to encroaching into the neighborhood district and rezoning it to the Central Business District with the multiple uses which would be driven into the neighborhood. She would rather not see the gate open to allowing these uses to start moving down Pigeon Street.

Jeff Minick, 58 Pigeon Street, said he came to the meeting unprepared, but had questions regarding what is allowed in this zoning district. He owns property facing Pigeon Street.

Alderman Feichter said this does not place these properties in the municipal service district, which would increase taxes. The proposed rezoning is for the Central Business District. This is different than the municipal service district which is a self imposed taxed district.

Alderman Caldwell explained that this rezoning request was made when Mr. Earley who owns a business in this district came in to pick up a sign permit. At that time he discovered that he could not get what he needed since the property was located in the Pigeon Street Neighborhood District.

Chris Minick, 58 Pigeon Street, said she would not want the rezoning to have an effect on the nonprofit house on Legion Drive by allowing development.

No one else spoke; Attorney Griffin closed the public hearing.

Alderman Brown moved, seconded by Alderman Feichter, to rezone only the property located at 180 Legion Drive, .624 acres, (PIN #8615-25-5741) as requested by James B. Earley from Pigeon Street Neighborhood District to Central Business District. The motion carried unanimously. (Ord. No. 4-04)

It was the consensus of the Board to table any action on the recommendation to rezone the other properties along Legion Drive and Pigeon Street and ask that Planning and Zoning Manager John Swift and the Planning Board provide any additional information they may have.

Public Hearing - Proposed Amendment to Section 154.039(A)(2) Street Design Standards in the Extraterritorial Jurisdiction

Manager Galloway said during a review of a proposed subdivision in the extraterritorial area (ETJ), town staff discussed the present wording of the ordinance. For streets in the ETJ, the ordinance recommends, but does not require, that streets be built to Town standards. This would mean that at some point in the future, if the Town chooses to annex that area, the streets would not be built to Town standards. It is felt that for the benefit of the individuals who might locate along those roads and for the Town during future annexations, these roads should be developed based upon Town standards.

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

Alderman Brown moved, seconded by Alderman Feichter, to amend Section 154.039(A)(2) Street Design Standards in the Extraterritorial Jurisdiction as recommended. The motion carried unanimously. (Ord. No. 5-04)

Report From Town Clerk Regarding Petition For Annexation - Buck Ridge Developing Group LLC - 29.3 Acres Located at Hawks Crest Off US 276

At the Board meeting of January 27, a petition for annexation was received by Buck Ridge Developing Group, LLC, for the 29.3 acres they own at Hawks Crest off U.S. 276 South of Town. The Board passed a resolution directing Town Clerk Phyllis McClure to investigate the sufficiency of the petition. Ms. McClure has conducted her investigation and found that the petition meets the requirements of State law.

Alderman Brown moved, seconded by Alderman Feichter, to adopt a resolution setting a public hearing date on this request for Tuesday, March 23, 2004. The motion carried unanimously. (Res. No. 3-04)

Amendment to Personnel Policy - Add 401(K) Contribution

Manager Galloway said in December 2003, the Board approved some new fringe benefits for town employees. Ms. Margaret Langston, Human Resources Director, has prepared an amendment to the Town's personnel policy to cover the contribution made to the 401(k) retirement account.

Previously, only certified law enforcement personnel had received the benefit of the contribution to the 401(k) retirement account, and that was due to a State mandate that passed in the mid-1980's. In order to extend this benefit to other town employees, it is recommended that the following wording be added to the Town's Personnel Policy manual:

Retirement And Supplemental Benefits

"All full-time and permanent part-time employees are eligible from date of hire to make voluntary donations in the North Carolina Local Governmental 401(k) plan.

In addition, the Town provides 401(k) supplemental benefits for full-time and permanent part-time employees who are eligible to participate in the North Carolina Local Governmental Employees' Retirement System. Law enforcement officers shall receive 401(k) benefits as prescribed North Carolina State Law. General employees effective 01/16/04, may receive 401(k) supplemental benefits after successfully completing the Town's initial probationary period of 6 months, at a benefit level approved by the Mayor and Board of Aldermen.

Since the Town's level of contribution into the 401(k) plan for regular employees constitute a substantial expense to the Town's operating budget, the contribution level could be changed and/or suspended in any year, in part or in total at the discretion of the Mayor & Board of Aldermen, should in their opinion this benefit would create an adverse impact on the operating budget forcing the Town to face a budget shortfall or financial crisis."

Alderman Caldwell moved, seconded by Alderman Feichter, to amend the Town's Personnel Policy regarding 401(k) contributions as recommended. The motion carried unanimously.

Cancel Meeting of February 24, 2004

Alderman Caldwell moved, seconded by Alderman Brown, to cancel the meeting of February 24, 2004. The motion carried unanimously.

Resolution for 211th Military Police Unit of the N. C. Army National Guard

It was the consensus of the Board to adopt a resolution to be read at the return ceremony for the 211th Military Police Unit of the N. C. Army National Guard. They will return to Haywood County on Friday, February 13, 2004. A celebration is to be held at the Haywood Community College beginning at 3:00 p.m. The 211th MP Unit has been deployed twice in two years and the Town of Waynesville would like to express gratitude to them for their part in defending and promoting freedom throughout the world. (Res. No. 4-04)

Adjournment

With no further business, Alderman Caldwell moved, seconded by Alderman Feichter, to adjourn the meeting at 8:14 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor