

REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
OCTOBER 12, 2004
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, October 12, 2004. 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 Woodrow Griffin. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of October 12, 2004

Alderman Caldwell moved, seconded by Alderman Moore, to approve the minutes of the October 12, 2004 meeting as presented. The motion carried unanimously.

Public Hearings

Amendment to Section 154.101(B)(6)(c) Access and Connectivity Standards Driveway Access in the Central Business District

In the Central Business District, the minimum separation between driveways is required on all streets except Wall and Montgomery Streets. On those streets, the minimum separation is fifty feet. With new development taking place on the back streets, it was necessary to revisit this issue and clarify the language in the ordinance. It is now proposed that the minimum separation between driveways and intersecting streets, alleyways or pedestrian alleyways is sixty feet. It has been recommended by the Planning Board that the first two bullets of Section 154.104(B)(6)(c) be deleted and replaced with the following paragraphs:

- ◆ A minimum separation between driveways of one hundred (100) feet is required in the Central Business District along all streets except Wall Street and Montgomery Street. Along Wall Street and Montgomery Street, the minimum separation is fifty (50) feet.
- ◆ A minimum separation of one hundred (100) feet is required between driveways and intersecting streets in the Central Business District except along Wall Street and Montgomery Street. Along Wall Street and Montgomery Street the minimum separation is sixty (60) feet between driveways and intersecting streets, alleyways or pedestrian alleyways.

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

Alderman Brown moved, seconded by Alderman Feichter, to adopt an ordinance amending Section 154.104(B)(6)(c) as recommended. The motion carried unanimously. (Ord. No. 30-04)

Proposed Map Amendment 203 Betsy Acre Lane/773 Russ Avenue (0.269 Acre Tract) From Love Lane Neighborhood District (LL-ND) to Russ Avenue Town Center (RA-TC)

A proposal has been received from developers interested in locating a CVS Pharmacy on Russ Avenue on a tract between Long John Silvers/A&W Rootbeer and McDonalds. Most recently a convenience store and Citgo Service Station were located on this property. Initially the boundary line of the Russ Avenue Town Center was set back a specific distance from Russ Avenue and then the Love Lane Neighborhood District would begin.

Developers have concluded that they need to have more depth to the tract of land to allow the CVS Pharmacy adequate space on the site. For that reason they have asked to have a small section of land, roughly 45 x 250 feet, from the Love Lane Neighborhood District and add it to the Russ Avenue Town Center. This request was recommended by the Planning Board and by Town Staff.

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

Alderman Brown moved, seconded by Alderman Feichter, to adopt an ordinance approving the map amendment to remove the area as requested from the Love Lane Neighborhood District and add it to the Russ Avenue Town Center. The motion carried unanimously. (Ord. No. 31-04)

Amendment to Section 154.128(B)(1) Regarding the Maximum Density Requirements in the South Waynesville Neighborhood District

There is a section of land which lies between the U.S. Route 23/74 Bypass and Balsam Road where the Autumn Care Nursing Home is located. There is a tract of undeveloped property adjacent to the Nursing Home and a developer is interested in the tract for apartments. AT the present time, the maximum density of the South Waynesville Neighborhood District (SW-ND) is six units per acre. The developer has calculated the maximum number of apartments that he will need to have in order to make the project feasible. But in order to build that number as well as meet the percentage of property on the site that must be left as green space according to the new Land Use Standards, it is necessary to go with two story units and the number will exceed the present allowance of six units per acre.

The Planning Board has recommended that the maximum density of the South Waynesville Neighborhood District remain at six units per acre, except in the area within the corporate limits bounded by the Great Smoky Mountains Expressway (US 23/74), the Old Balsam Road and Hyatt Creek Road, where the maximum density shall be twelve units per acre. The amendment proposed is as follows:

Section 154.128(B)(1) South Waynesville Neighborhood District Development Standards

Density/Lot Size Standards:

The maximum density in the SW-ND shall be six (6) units per acre, *except in the area within the corporate limits bounded by the Great Smoky Mountains Expressway (US 23/74), Old Balsam Road and Hyatt Creek Road, where the maximum density shall be twelve (12) units per acre.*

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

Patrick Bradshaw, with Bradshaw Engineering, representing Vantagepoint Investments in Montgomery, Alabama, the developer interested in this property. Mr. Bradshaw said the developer feels that a density of 12 units per acre was needed in order for them to develop this property. They do not have a site plan at this point. They have requested this amendment before spending the money to develop a site plan.

Alderman Moore moved, seconded by Alderman Caldwell, to adopt an ordinance amending Section 154.128(B)(1) as recommended. The motion carried unanimously. (Ord. No. 32-04)

Debbie Bucklaew - Request for Horse & Carriage Rides in Downtown Waynesville

Prior to the meeting Ms. Bucklaew called Town Clerk Phyllis McClure to request that this item be withdrawn from the agenda. She indicated that she may request to be on the agenda at a later time.

Residents of Cardinal Lane Regarding Resurfacing of Street

On September 14, 2004 a large group of residents of the Cardinal Lane and Wrenn Way area of Laurel Ridge appeared at the Board meeting to express dissatisfaction with the BST method of road resurfacing used on their streets. The spokesman for that group was Mr. Robert Armstrong.

At that time, Alderman Brown was assigned the task of arranging a meeting between representatives of the neighborhood, town staff and some representatives of the North Carolina Department of Transportation. The purpose of the meeting was to review the work that was done and to solicit an opinion from the DOT about the quality of the work, since DOT had contracted with the Town to perform the BST or chip seal street resurfacing.

On Monday, September 27, a meeting was held at the work area with Mr. Reuben Moore and Mr. Bill Parris of the DOT. Mr. Parris oversees all BST work done for the DOT in the Division 14 area, and Mr. Moore is an assistant to the Division Engineer. Following the meeting, Mr. Moore issued a letter indicating that it was the opinion of the DOT that the work performed was at or above average.

Mr. Armstrong asked that his group be allowed time on the agenda for the meeting on October 12 to reiterate their request that the Town Board authorize an asphalt overlay of the streets involved rather than the BST method of resurfacing.

Mr. David Lutz attended the meeting since Mr. Armstrong was out of Town. He thanked the Board

for the time they have devoted to this issue. He summarized the events regarding this issue and read an e-mail from Mr. Armstrong with additional information that the tire tracks in the BST pavement were caused by the contractor driving over and allowing people to drive over the street before sufficient time had been given for the road to stabilize. He said the residents request that the Board authorize a 1 ½" cap over the paving they now have. They felt that this will improve the surface and appearance and will make a safe surface to walk on by eliminating the gravel which is there now. He added that the group understood that at this time of year it may not be possible for this work to be done and may need to be delayed until spring. He added that the group felt that the Board would take into account the best interest of the citizens of Waynesville.

Alderman Brown said the Board is looking at two issues; 1) the paving job and 2) a cure. Alderman Brown moved, seconded by Alderman Feichter, to table action on this issue until the Board has their retreat in February or March, 2005, in order to allow time for the Board to revisit the BST Paving process and the policy adopted by the Board regarding this process. The motion carried with three (3) ayes (Brown, Feichter, Foy) and two (2) nays (Caldwell, Moore).

Alderman Moore said he can understand to a certain point but questioned why the Town would delay repaving the street until Spring. Alderman Moore said he felt that the Town should go ahead now, adding that the Town has created the problem and should fix it. Manager Galloway responded saying that the Town tries not to refinish any streets after October 1. After October 1 paving does not bond well and will not last or hold as well as streets paved earlier in the paving season. He added as an example Legion Drive which was paved late in the season and did not last as well as it should have.

Alderman Moore said it bothered him and he felt that the people in the Cardinal Lane area should have the same treatment and he did not understand why the Town would wait to correct the problem.

Alderman Feichter added that if you want a first class job the paving should be done when the conditions are optimal. If paving does not bond well at this time of the year, the Town should wait.

Watershed Conservation Easements

On April 27, 2004, the Board held a public hearing on Conservation Easements regarding the property the Town owns in the Allens Creek Watershed. Throughout the afternoon of April 27, representatives from the Conservation Trust of North Carolina, the Southern Appalachian Highlands Conservancy, the Little Tennessee Land Trust, the Department of Geosciences and Natural Resource Management of Western Carolina University and Town Staff were on hand to answer questions the public might have about the two conservation easements.

Following the public hearings on April 27, the Board continued to allow time on each agenda for regular meetings in May and June when citizens could comment on the conservation easements. The Board decided to cease taking comments after the meeting of July 13, although the Board continued to allow input during the public comment portion of the Board meeting.

Manager Galloway said the majority of the people who have spoken support a conservation easement

on the watershed. The only issue within the easement which has been questioned is that portion which permits forestry management. There seems to be a perception that if this easement is passed, there would be clear cutting or intensive logging in the watershed. This has never been planned nor discussed, and in fact, the manner in which the easement is written would assure that could not occur.

Forestry management may lead to some timbering in the watershed, but the regulations on watersheds administered by the State Department of Environment and Natural Resources permits silviculture or forestry activities in a WS-1 watershed. Best Management Practices are required by the State in doing any forestry management, and this is clearly specified in the conservation easement on the larger tract in the watershed.

Approximately 70 - 75 people were in attendance at the meeting. Mayor Foy explained that this is not a meeting to receive public comment. Public comment was received at previous meetings. This is time for the Board to discuss the issue.

Charles Miller questioned whether the Board had conducted public hearings on the issue. Manager Galloway said a public forum was held on April 27, 2004, followed by public comments that evening, and subsequent meetings on May 11, May 25, June 7 and June 22. At that time, the Board decided not to place the item on future agendas, but allowed any person wishing to speak to do so at all meetings since that time.

Alderman Brown moved, seconded by Alderman Feichter, to adopt the easement as written for the 690 acre tract of property (Barnett, Lanning and Mining Tract) at the Waynesville Watershed. The motion carried with three (3) ayes (Brown, Feichter, Foy) and two (2) nays (Caldwell, Moore).

Charles Miller again questioned whether a time for public comment and a public hearing are the same thing. Manager Galloway said easements for the watershed were not an item which required a public hearing. Attorney Griffin said not all actions by the Board require public hearings. This is one of the areas that does not require a public hearing. The consideration of the easements is a requirement from a 1997 grant and agreement with the State of North Carolina.

Several members of the audience were disruptive, making comments, laughing and insisting on speaking although the Mayor and Board of Aldermen were trying to discuss the watershed easements. It was requested that a police officer be asked to join the meeting.

Mayor Foy said this Board has given the public every consideration regarding this conservation easement. The easements being proposed do allow timber harvesting mentioned in the easement. However, the harvest timber is allowed now without any easement. The WS-1 rating of the Watershed allows for the harvesting of timber.

Alderman Brown moved, seconded by Alderman Feichter, to approve the conservation easement on the 6,000+ acre tract of the Waynesville Watershed, contingent upon obtaining the finalized survey to determine the exact acreage and excluding the water treatment and reservoir areas in which the Town works.

Alderman Moore moved, seconded by Alderman Caldwell, to cease all discussions and actions on the Town's Watershed Easement and Optional Timber Management Plan until an option to sell the monetary development and timber rights on the entire Waynesville Watershed has been fully explored, explained and evaluated in public forum. The motion failed with two (2) votes in favor (Caldwell, Moore) and three (3) opposed (Brown, Feichter, Foy).

At that time a vote was called for the original motion by Alderman Brown, seconded by Alderman Feichter, to approve the conservation easement on the 6,000+ acre tract of the Waynesville Watershed, contingent upon the finalized survey to determine the exact acreage and excluding the water treatment and reservoir areas in which the Town works. The motion carried with three (3) ayes (Brown, Feichter, Foy) and two (2) nays (Caldwell, Moore).

Alderman Feichter said she has spent more time reading, studying and talking with others about this issue than any other single issue since she has been on this Board and she is satisfied that this easement will protect the watershed. Alderman Feichter added that since this past April she has listened politely to comments made by individuals regarding the Watershed Easements and has gone to other locations and spoken with many people regarding this issue. Just because the easement was approved tonight does not mean that the Town intends to begin cutting timber.

Alderman Caldwell said he does not have any problem with anything in the easement other than the logging portion, and he is opposed to this part. All other parts of the easement are fine.

Alderman Moore said he felt the Board was making a big mistake, but hopes that everything comes out alright.

Alderman Caldwell asked what happened about limiting the easement to a number of years. Mayor Foy said he looked into this possibility but it was not an option. Mayor Foy said he felt that the Town is protected and the easements place the Town in a far superior position than it was in previously.

Closed Session to Discuss Real Estate Matter

Alderman Feichter moved, seconded by Alderman Brown, to adjourn to closed session at 7:45 p.m. to discuss a real estate matter. Alderman moved, seconded by Alderman to return to regular session at p.m. Both motions carried unanimously.

Phyllis R. McClure
Town Clerk

Henry B. Foy
Mayor