

SPECIAL MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
SEPTEMBER 5, 2006
TUESDAY - 7:00 P.M.
TOWN HALL

The Board of Aldermen held a special meeting on Tuesday, September 5, 2006. Members present were Mayor Henry Foy, Aldermen Gary Caldwell, Libba Feichter and Kenneth Moore. Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure, Town Attorney Woodrow Griffin and Administrative Intern Alison Melnikova. Mayor Foy called the meeting to order at 7 p.m.

Approval of Minutes of August 8, 2006

Alderman Caldwell moved, seconded by Alderman Feichter, to approve the minutes of the August 8, 2006 meeting as presented. The motion carried unanimously.

Release/Refund of Tax Overpayments - William Clark 1000 East Street
Tax Collector James Robertson has been working with the County Tax Assessor's office regarding the property owned by William Clark at 1000 East Street. It appears that the property is split by the corporate limit line, with the majority of the property and value located outside of the town. As a result, a release/refund is requested in the amount of \$1,035.02. Under State law, a maximum release/refund of five years is permitted, and once the taxes have been billed, only the elected officials are empowered to grant any relief from tax liability.

Alderman Moore moved, seconded by Alderman Caldwell, to release the \$1,035.02 in taxes billed and paid by William Clark at 1000 East Street. The motion carried unanimously.

Appointment of Public Art Commission Member

There is a vacancy on the Public Art Commission which the Town Board recently appointed. One of the members, Margaret Langston, resigned due to a meeting schedule conflict. After soliciting applicants from those who might be interested, Ms. Kaaren Stoner has applied for appointment to this Board. Ms. Stoner is the co-owner of Twigs'n Leaves Gallery in downtown Waynesville.

Alderman Feichter moved, seconded by Alderman Caldwell, to appoint Kaaren Stoner to serve the unexpired term of Margaret Langston. This term expires May 31, 2008. The motion carried unanimously.

Appointment of Watershed Committee Members

During the month of August, a list of potential members for the Watershed Committee was distributed for consideration by the Board of Aldermen. These eight individuals have shown an

interest in the watershed and most have attended one or both of the day-long seminars held this summer on the important values to be considered in the development of the Forestry Management Plan. The members are as follows: Jack Swanner, Gordon Small, Marc Pruett, Bill Skelton, Karen Kaufman, Dave Dudek, Bill Yarborough and Pat Maier. Manager Galloway said he has received confirmation from everyone except Marc Pruett, but he has expressed interest in serving. The Board felt that all those proposed members would bring a great deal of expertise to the committee.

Alderman Moore moved, seconded by Alderman Feichter, to appoint the members as presented. The motion carried unanimously.

Discussion Regarding Pancake House Property

Manager Galloway said the Town received the deed for the property at 59 Depot Street (formerly the Pancake House) from Haywood County earlier this year. The Board discussed the desire to market this property, and there has been some interest expressed in the lot and/or the building.

In the past, the Town has not had much success when trying to auction or market property. It seems that when the Town wishes to buy property, the Town is viewed as having deep pockets and should pay premium prices to purchase; however, when the Town tries to sell property, in most cases, potential purchasers feel that the Town should accept much less than the market price.

Management Intern Alison Melnikova has done some research into the State laws regarding how governmental units may dispose of real estate, with her primary source of study being “Local Government Property Transactions in North Carolina” by David Lawrence of the School of Government in Chapel Hill. Town Attorney Woody Griffin and Manager Galloway also reviewed the matter, and Manager Galloway has been in contact with Dr. Lawrence to discuss the procedures to follow.

Manager Galloway said they felt the Town might do better by allowing someone in the commercial field to generate potential bidders and would like to place the property in the hands of a real estate agent. Under State law, the general statutes allow local governments some discretion in establishing the terms of sale of property, and the Board would need to consider several issues in order to establish any terms. These are or could include the following:

- The nature of the sale, for example, sealed bid, auction, upset bid, etc.
- A minimum sale price, if any;
- The need for and amount of any deposit;
- Whether payment will be by cash or on some other basis;
- Whether employees may bid on the property;
- Time of closing;
- Whether the property is sold “as is”.

Once a real estate agent (or anyone else) brings an offer to the Town which the Board feels reasonable, the Board would need to adopt a Resolution of Intent to accept the amount offered.

Then, the upset bid process would take over, with other bidders being allowed to submit offers on the property in accordance with the procedures in State law. The upset bid process can last for a considerable amount of time, or the first individual's bid might be enough to gain acceptance by the Town Board with no further bidders.

With the unique laws which apply to local governments attempting to sell real estate, a standard agreement with a real estate agent might not be the best way to go. According to Mr. Lawrence, the Town can negotiate the agreement with the agent and include terms which try to take into account the unusual circumstances of the upset bid.

In talking with the Town Attorney, Manager Galloway said they agreed that he should check with other communities to see how they have handled agreements with real estate agents who have marketed property for a governmental unity. The Town Attorney and Town Manager would like Board approval to begin negotiating an agreement with a real estate agent on handling the property the Town owns. Such an agreement would need to come back to the Town Board for final approval.

Attorney Griffin advised the Board to be cautious about putting too many restrictions on the property. Mayor Foy suggested that the building be demolished and the area used for parking, possibly renting the parking spaces, until the property is sold. Manager Galloway said Assistant County Manager Rick Honeycutt received a cost estimate of \$30,000 - \$50,000 to demolish and remove the debris.

Manager Galloway said this past January the property was appraised at \$324,000. It may be possible to sell the property at a lower value if it is used for economic purposes and the Town can always reject any offer received. Attorney Griffin suggested that the Town get a property value with the building and without the building.

It was the consensus of the Board to direct Manager Galloway and Attorney Griffin to proceed with obtaining the value of the property with the building and without the building.

Declare CASE Backhoe Surplus

Under State law, in order for the Town to sell an item which has become surplus, if the property has a value in excess of \$5,000, approval must be given by the Town Board. At present, the Town has a Case Backhoe from the mid-1980s which has become obsolete, and it was the recommendation of the Public Works Department that the unit be declared surplus and sold.

Manager Galloway said it would be the Town's intention to market this piece of equipment on the Gov-Deals web site. The Dodge Intrepid and Street Sweeper were sold at much better prices than they would have at public auction. The Town Board must declare the unit surplus before it can be advertised on the site. As with the other pieces of equipment, anyone locally who is interested in this backhoe or other pieces of equipment may register as a bidder on the Gov-Deals network and participate in the bidding.

Alderman Moore moved, seconded by Alderman Feichter, to declare the Case Backhoe to be surplus and allow town staff to market it to the public through Gov-Deals. The motion carried unanimously.

Alderman Moore - Flooding Concerns in the Westwood Circle Area

Alderman Moore was contacted by Albert Arrington regarding flooding in the area of Westwood Circle. Alderman Moore asked if the Army Corp of Engineers could give permission for the creek to be dredged to divert the water away from the former Hazelwood Town Hall area. He asked if it would be possible to divert the water from Carolina Avenue underneath the railroad tracks and through the Dutch Fisher Park. Mr. Baker has pointed out before that this is a low area and if it is dug too deep the area will be lower than Richland Creek and could create more flooding. Manager Galloway will speak with Mr. Baker regarding this matter.

Alderman Moore - Ordinance to Prohibit Pedophiles From Town Parks

Alderman Moore asked why Waynesville could not adopt an ordinance to prohibit pedophiles from being allowed on Town owned Parks since the Towns of Canton and Woodfin have adopted similar ordinances. Attorney Griffin said although a Superior Court Judge has ruled in favor of the Ordinance the case is not over yet and will probably be taken before the Court of Appeals. He added that Waynesville is different from Canton and Woodfin and the Board should consider how such an ordinance would apply to the Recreation Center and how the ordinance would be enforced. The towns that have adopted these ordinances are just waiting to see what the outcome will be. No action was taken.

Discussion Regarding Parades

Alderman Feichter expressed concern with the Town's liability during parades. A small boy escaped serious injury in the Canton Labor Day Parade when he was run over by the trailer he was riding on. This will be mentioned to the Downtown Waynesville Association. No action was taken.

Adjournment

With no further business, Alderman Caldwell moved, seconded by Alderman Moore, to adjourn the meeting at 7:50 p.m. The motion carried unanimously.

Phyllis R. McClure, Town Clerk
Henry B. Foy, Mayor