

AGENDA
REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
TOWN HALL
AUGUST 26, 2008
TUESDAY - 7:00 P.M.

The Board of Aldermen held a regular meeting on Tuesday, August 26, 2008. Members present were Mayor Gavin Brown, Aldermen Gary Caldwell, Kenneth Moore and LeRoy Roberson. Alderman Feichter was out of town and unable to attend the meeting. Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure, Town Attorney Woodrow Griffin, Assistant Town Manager Alison Melnikova and Public Works Director Fred Baker. Mayor Brown called the meeting to order at 7:00 p.m.

Approval of Minutes of August 12, 2008

Alderman Caldwell moved, seconded by Alderman Moore, to approve the minutes of the August 12, 2008 meeting as presented. The motion carried unanimously.

Public Hearing - Annexation Petition 4.4 Acres on Lickstone Road - Owner - Troy Muse

At previous Board meetings, a petition was received from Mr. Troy Muse for the annexation of a 4.4 acre tract of land he owns on Lickstone Road near its intersection with Pine Grove Drive. The Board adopted a resolution directing Town Clerk Phyllis McClure to investigate the sufficiency of that petition, and she found that it met all of the requirements of State law. The Board then set a public hearing date for the 26th of August to give any interested citizen the right to speak on the question of annexation.

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

Alderman Caldwell moved, seconded by Alderman Moore, to adopt an ordinance annexing the 4.4 acres on Lickstone Road as requested by Troy Muse. This annexation is to be effective August 31, 2008. The motion carried unanimously. (Ord. No. 24-08)

Request by Cedarwood Development for the Town to Accept the Dedication of Dayco Drive

When Cedarwood Development was working on plans for the Waynesville Commons Shopping Center, they wanted to construct a road from South Main Street into the shopping center site, but that required a new railroad crossing. Norfolk-Southern declined to allow a new crossing unless the Town agreed to close three other crossings, and the Town reached agreement on the three crossings to be closed (Town Park at Vance Street, Shackford Street and Old Hickory Drive.)

Cedarwood began their negotiations with Norfolk Southern about the new crossing which would be located behind the existing Hardees restaurant. Norfolk Southern took the position that they would be able to close the new crossing for any reason after giving the shopping center owner a 30-day notice. Cedarwood knew that such a provision could create a problem for WalMart, Home Depot or any other retailer, and they approached the Town seeking help with a solution.

Upon inquiry, it was learned that the 30-day closure notice was being required because the road leading from South Main Street into the shopping center would be privately owned thus making the railroad crossing a private crossing, owned by Cedarwood. It was also learned that if it were a publicly owned crossing, the railroad would not have such a requirement. As a result, Cedarwood approached the Town to ask if they would accept a portion of the street, subsequently named Dayco Drive, if they built the street to Town standards.

Public Works Director Fred Baker and Town Manager Galloway conferred and agreed to recommend that the Town Board accept the road under those conditions. A stipulation was added that the portion being dedicated to the Town must include an area on the west side of the railroad tracks in order for a truck to turn around if necessary. Cedarwood had their engineer draw the right-of-way of Dayco Drive to include the entrance from South Main Street as well as the turnaround area on the west side of the tracks.

David Scarnatti, representative of Cedarwood Development said he appreciated the consideration of the Board on this matter. Cedarwood Development paid for the railroad crossing and after acceptance the Town will pay the annual 10% maintenance fee. Mr. Scarnatti said construction has gone smoothly and it is hoped to be completed soon. Wal Mart is projected to open in early October and spaces in the small shops building should be turned over in early October. Construction of the Best Buy building is hoped to begin in early September.

Alderman Moore moved, seconded by Alderman Roberson, to accept the dedication of a portion of Dayco Drive to the Town of Waynesville as requested with the conditions recommended. The motion carried unanimously.

Mr. Leonard Lollis Regarding Issues in Frog Level

At the meeting of August 12, 2008, some Board members mentioned complaints they have received from merchants in the Frog Level area about vagrants and people under the influence of alcohol loitering in the public space around the Frog Level area. At that time, the Town Manager advised that the Assistant Manager, Alison Melnikova and Chief of Police Bill Hollingsed were researching the ordinances of other communities to see how issues such as this were handled.

Alderman Caldwell indicated that one of the businessmen in that area asked him to go on a tour of the area to see the problems. Alderman Caldwell asked that the Police Chief join them on the tour, and they met with some business people on Tuesday, August 19.

Mr. Leonard Lollis, owner of Junque Room II and Ball and Chain Photography, attended the meeting to discuss the problems in the Frog Level area. Mr. Lollis said there are problems with drunks and he presented some photographs of men without shirts and an individual passed out in the

doorway of the Open Door. He said he has been threatened and someone acted like they were pointing a rifle at him. Mr. Lollis said Waynesville does not have laws regarding public intoxication, vagrancy or loitering. He asked Perry Heinz with the Open Door to develop a zero tolerance policy at the Open Door and do things such as move the benches so people don't just hang around after hours. Mr. Lollis said he has seen police officers drop people off in front of the Open Door. He said this hurts every business in Waynesville. People are camping along the creek behind these buildings and there are no restroom facilities.

Mr. Lollis said the Police Department told him there was nothing they could do unless someone was disruptive. Mayor Brown asked if Mr. Lollis understood that you can't arrest someone for being drunk. Alderman Caldwell said a meeting is scheduled Thursday at 2:00 p.m. with District Attorney Bonfoey to seek help in finding a solution. Alderman Caldwell plans to attend this meeting, along with Police Chief Hollingsed, Mayor Brown and several business owners from Frog Level. Mayor Brown pointed out the number of arrests in Frog Level, adding that this is a social problem. Alderman Caldwell said he would like to see if more could be done than just a "slap on the wrist".

Attorney Griffin said Waynesville does not have anything on its books regarding these issues and there are court cases ruling that loitering ordinances could violate constitutional rights.

Alderman Roberson said several years ago, Main Street experienced similar problems. With changes in the economy and development of the Main Street area, this eventually changed.

Alderman Moore said he would like to delay this issue until after the meeting with District Attorney Bonfoey.

Charlie Burgin said he has been in Frog level his entire life and it has been this way the entire time. He would like to see something done to improve the area.

Scott Burgin said there is an area behind the Open Door and he suggested that a park area be developed where people could congregate rather than in front of the businesses. Mr. Burgin said he is not opposed to what Perry Heinz and the Open Door are trying to do in their ministry. The problems are occurring with the same people over and over again.

Leonard Lollis said he has suggested to the Open Door that when they are closed they should have a "No Trespassing" sign for after hours. He said one person assaulted a female volunteer and they are still allowing him to come to the Open Door. Mr. Lollis felt if someone causes trouble they should no longer be allowed to come to the Open Door.

Mayor Brown said the Board will be reviewing the issue to see what can be done.

Request for Financial Support Haywood County Agricultural and Activity Center Board

In 2007, the Haywood County Agricultural and Activity Center Board approached the Town Board to seek sponsorship of a concert held in conjunction with the Haywood County Fair. The Town Board authorized a contribution of \$2,500 as a Level II Sponsor for the event.

A request was received from the Haywood County Agricultural and Activity Center Board that the Town Board once again be a sponsor for the concert. The letter of request and other information about the plans for the 2008 Haywood County Fair were distributed to the Board Members. The Fair Board plans to have Luke Bryan, a country music singer, perform on Saturday, September 27, and they are asking for sponsorships ranging from \$250 to \$5,000.

Manager Galloway pointed out that while preparing the 2008-2009 budget, the town did not receive a request from the Fair Board for funding, so there is no money designated in the budget for this purpose. Any contribution made by the Town Board would have to be in addition to what has already been allocated for contributions to other agencies and non-profits.

Ms. Christy McLean attended the meeting to present the request, adding that the event has a good economic impact on Haywood County, bringing in people from several states.

Alderman Caldwell moved, seconded by Alderman Moore, to contribute \$1,500 to the Haywood County Agricultural and Activity Center Board. The motion carried unanimously.

Alderman Caldwell suggested to Ms. McLean that the Haywood County Agricultural and Activity Center Board present a request to the Board of Aldermen next year between January and March 2009 for consideration in next year's budget.

Discussion Regarding Water Situation

Manager Galloway said in recent weeks, there has been a good deal of publicity about the drought conditions in the region and about water restrictions being implemented in other communities. Town staff has attempted to keep the Board informed about the water level in the Town's reservoir at the head of Allens Creek. A recent report noted that a full pond is at 32 feet and as of Wednesday, August 20, the water level was 27 inches below the full pond.

The State requires that every community have a Response Plan in the event of a water shortage or water emergency. In the Town's plan, there are three different levels of severity. Under the first level, once the water level has dropped 48 inches or four feet below a full pond, the public is asked to begin voluntary water restrictions. Under the second level of severity, if the water level drops to 96 inches or 8 feet below a full pond, mandatory restrictions are implemented. At the third level of severity, if the water drops to 168 inches or 14 feet below a full pond, there are more severe measures to force the conservation of water.

The Maggie Valley Sanitary District draws its water from two sources, Campbell Creek and Jonathan Creek. In recent weeks, the level of Campbell Creek has dropped to the point that they may no longer use that creek as a water source. As Jonathan Creek has some limitations, the MVSD began thinking about what they might do to secure additional water for their customers. Waynesville may be a possibility.

The Town of Canton draws its water from the Pigeon River, and in recent weeks, a number of news media sources have reported on the low flows in that water source. The Town of Canton is beginning to look at what they might do to secure additional water for their citizens and Waynesville

may be a possibility.

The Water Shortage Response Plan does not call for voluntary restrictions until the reservoir drops 48 inches below full pond; however, that policy was written around Waynesville providing water to its own customers as well as to Lake Junaluska and the customers of the Junaluska Sanitary District. It was not drafted with thought given to assisting the neighboring communities of Maggie Valley and Canton, the latter also serving the Town of Clyde.

Now that these other systems are starting to experience water shortages and may need to look to Waynesville for water, it was suggested that the Town Board may want to revisit the Policy and consider voluntary restrictions a bit sooner.

Manager Galloway said it is not known whether the Maggie Valley Sanitary District or the Town of Canton will actually reach a point where seeking water from Waynesville may be a necessity. But should that be the case, it was suggested that the Town of Waynesville might want to implement voluntary restrictions earlier, which may put Waynesville in a better position to be able to help its neighboring Haywood County towns should they need Waynesville's help with providing water.

If the Board is supportive of this, Manager Galloway suggested that the Mayor be authorized to call for a Water Shortage when the water level in the reservoir falls to 36 inches below full pond. With 7/10ths of an inch of rain on Saturday, August 16, the level of the reservoir continued to drop faster.

On Monday, August 25 it began to rain and on Tuesday, August 26 at 2:00 p.m. the water level gained 15". This level was reached with 3" of rainfall and is expected to rise even more with rain continuing to fall.

Jim Francis, representing the Junaluska Sanitary District attended the meeting and said they could purchase water from Waynesville and provide water to Maggie Valley through their system. Public Works Director Fred Baker said Maggie Valley is at a higher elevation than Waynesville. Water could be delivered but it would not have the same pressure. It would be more difficult to serve Canton. Junaluska Sanitary District could pick up Clyde and the existing 6" and 8" lines could provide supplemental water to help them get through the water shortage situation.

In 1991 there was a joint study done regarding water and sewer, but there have been a lot of changes since that time. A new line is currently being constructed between Canton and Clyde. It was suggested that the McGill engineering firm do some research, because this plan may no longer have value.

It was the consensus of the Board that Waynesville provide assistance to other communities during water shortages and felt that it was important to have a plan in place for those situations. The Board asked Manager Galloway to continue investigating the issue.

Utility Relocation Agreement on Plott Creek Road With North Carolina Department of Transportation

A few years ago, the North Carolina Department of Transportation developed plans to reconstruct

and widen Plott Creek Road in an area from Hazelwood Elementary School eastward to Richland Creek. There were a number of public meetings, and after the initial opposition, the DOT did some redesign work to reduce the impact of the road and overcome some of the objections.

The Plott Creek Plan has lingered for some time, but now it appears that the DOT is starting to move forward with the project. Because of the construction, it will be necessary for the State to relocate a water line, but since the water line was already in place, the DOT will pay for the relocation out of the project costs. For this to occur, the Town Board would need to authorize an agreement between the Town and the DOT under which the Town would either perform the relocation of the water line through its own forces or through an outside contractor, with the DOT reimbursing those costs.

Alderman Caldwell moved, seconded by Alderman Moore, to accept this agreement and authorize Mayor Brown to sign the document on behalf of the Town. The motion carried unanimously. (Cont. No. 20-08)

Consideration of Reappointment/Appointment Alcoholic Beverage Control Board

At the meeting of August 12, the expiration of the term of Wick Medford on the Alcoholic Beverage Control Board was discussed. It was noted that Mr. Medford now lives outside of the corporate limits of the town and there seemed to be a feeling on the Town Board that membership on the ABC Board should be limited to individuals who live inside the corporate limits.

Mayor Brown asked that Town Staff seek the assistance of the news media in soliciting applications from individuals interested in serving on this particular Board. As a result, an excellent article appeared in the Mountaineer, and there have been five applications submitted for the Board's consideration. Mayor Brown also asked that the Aldermen think of other individuals who might make suitable members of the ABC Board.

Alderman Caldwell moved, seconded by Alderman Moore, to appoint Jack Swanger to serve a three-year term on the Alcoholic Beverage Control Board. This term would expire August 15, 2011. The motion carried with three (3) ayes (Caldwell, Moore and Brown) and one (1) nay (Roberson). Alderman Roberson added that he is not opposed to Jack Swanger serving on this Board, but he had spoken with another applicant about serving.

Alderman Moore moved, seconded by Alderman Caldwell, to appoint Earl Clark to serve as Chairman of the Alcoholic Beverage Control Board. The motion carried unanimously.

Town Board Meetings of September 23 and October 14

During the new two months, there are some conflicts with two of the Board meetings which are scheduled. Manager Galloway wanted to mention these situations to the Board to see if there might be an interest or willingness to reschedule those meetings.

September 23, 2008

The meeting of September 23, 2008 falls during the time of the International City and County Managers' Conference in Richmond, Virginia. Manager Galloway customarily attends these conferences primarily for the educational benefit they provide and would especially like to attend the conference for 2008, since he will be receiving an ICMA Service Award for his 35 years in local government.

Manager Galloway said with five Tuesdays during the month of September, the meeting might be rescheduled to Tuesday, September 30. If the Board would rather not reschedule that meeting, he asked that he be excused from attending in order to attend the ICMA Conference in Richmond and Assistant Manager Alison Melnikova could fill in for him at the meeting.

It was the consensus of the Board to keep the regular schedule of September 23 and ask Assistant Town Manager Alison Melnikova to attend the meeting.

October 14, 2008

The North Carolina League of Municipalities will be holding its Annual Conference in Charlotte on October 11-14, 2008. The League will be celebrating its 100th Anniversary, and a great deal of work has gone into making this one of the finest conferences ever. The Carolina Municipal Association was created by 22 "founding members" at a meeting held in Charlotte in 1908. It was renamed the North Carolina Municipal Association in 1922 and the North Carolina League of Municipalities in a change of its constitution in 1934. Today, more than 540 municipalities in North Carolina are members of the League of Municipalities.

The League's Conference runs until about 3:00 p.m. on Tuesday, October 14, cutting it a little close for a return to Waynesville for a Board meeting at 7:00 p.m. on that date. Manager Galloway asked if the Board might be interested in rescheduling the Town Board meeting to Tuesday, October 21 or some other date in October to avoid the conflict with the League's 100th Conference.

Alderman Roberson moved, seconded by Mayor Brown, to reschedule the October 14 Board Meeting until October 21. The motion carried unanimously.

Request for Records Regarding Downtown Waynesville Association

Manager Galloway said the Town and Downtown Waynesville Association have received a letter of request for public records by a property owner in the Municipal Service District. The request included a three-page list of various documents, some possessed by the Town of Waynesville and others possessed by the Downtown Waynesville Association. Manager Galloway said the Board of Aldermen appoints members to Boards such as the Planning Board and Board of Adjustment but not to the DWA. This makes DWA a different type of organization and they may not be subject to the same public records law as the Town. Although DWA handles festivals and other activities inside Waynesville, the Town does not have direct oversight. It was recommended that the DWA seek legal council. There are a number of documents that will be supplied by the Town and these will be submitted before September 11 and will be in compliance with the public records law.

Adjournment

With no further business, Alderman Caldwell moved, seconded by Alderman Roberson, to adjourn the meeting at 8:25 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Gavin A. Brown
Mayor