

AGENDA
REGULAR MEETING
TOWN OF WAYNESVILLE
TOWN HALL
OCTOBER 28, 2008
TUESDAY - 7:00 P.M.

The Board of Aldermen held a regular meeting on Tuesday, October 28, 2008. Members present were Mayor Gavin Brown, Aldermen Gary Caldwell, Elizabeth Feichter, Kenneth Moore and Leroy Roberson. Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure, Town Attorney Woodrow Griffin, Assistant Town Manager Alison Melnikova, Tax Collector James Robertson and Accounting Technician Lisa Burnett. Mayor Brown called the meeting to order at 7:00 p.m.

Approval of Minutes of October 21, 2008

Alderman Caldwell moved, seconded by Alderman Feichter, to approve the minutes of the October 21, 2008 meeting as presented. The motion carried unanimously.

Public Hearing - Amendment to Land Development Standards - Request by Tim Shook to Rezone Seven Acres at 333 Howell Mill Road From Howell Mill Neighborhood District to Russ Avenue Town Center

The Town received a request from Mr. Tim Shook to rezone the 7 acres at 333 Howell Mill Road from the Howell Mill Neighborhood District to the Russ Avenue Town Center. When the 2020 Land Development Plan was adopted, it was indicated that the planned use for the Howell Mill Road Neighborhood District should be "Residential, Low to Medium". This classification is recommended on areas where utility services are provided but roads are such that higher density development is not recommended. Development included in this classification is single family residential at lot densities of 3 units per acre and residential support uses such as churches, schools and small parks. The Howell Mill Neighborhood District is essentially a residential district with no commercial uses permitted.

The Planning Board met Monday, September 15, 2008, at which time that group held a hearing on the request. There were arguments in favor of the rezoning and against the rezoning, but in the end, the request to rezone failed on a vote of 3 in favor and 4 opposed.

Under the terms of the Town's Land Development Standards, an individual may appeal a decision of the Planning Board to the Board of Aldermen. In this case, the Planning Board did vote in opposition to the requested rezoning, and the applicant, Mr. Tim Shook, has filed an appeal to the Mayor and Board of Aldermen.

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

Tim Shook said he was requesting that the Board consider commercial zoning for this property. The property is listed for sale and he felt that commercial zoning would be to his advantage for

the highest and best use for the property. The property touches a commercial zone on the front portion and the Ingles property on another. The power for the Town of Waynesville's substation was installed across his property. There are several parcels involved in this seven acres, including a house on the hill that belonged to his grandfather. Several other family members sold their properties to his parents. Mr. Shook said he lived on this property from the time of his birth until 1969, moved away and has been living on the property again since 2003.

Mayor Brown said he has reviewed the minutes of the Board of Aldermen meeting when Associated Packaging moved into the area and at that time the neighbors weren't promised, but were told that the Board would attempt to keep the area residential.

Thomas M. Moody, 249 Fairway Hills Drive, said he owns four properties across the street. These properties are also listed for sale and he felt it would stand to reason if someone bought the Shook property they would be interested in purchasing his property as well. Mr. Moody has no objection to Mr. Shook's property being zoned commercial.

Chuck Brown, Commercial Real Estate Broker for 28 years with the last twenty years in Waynesville, said he has the property in question listed for sale. There has been discussion about the highest and best use for this property and making Waynesville a walkable community. There is not a lot of property this large available close to the Russ Avenue corridor. Mr. Brown said it is very difficult to cross the street in this area. Something of a commercial nature might be a positive thing since the property already has commercial neighbors.

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

Alderman Roberson said he visited the site before the meeting and the residential area would be looking at the commercial property in their front yard and the commercial area would continue to spread. Alderman Roberson said he did not think commercial zoning would be the best use for this property, but perhaps residential condominiums or something of that nature would be better.

Alderman Moore said at this time no one knows what the NC Department of Transportation is planning with the Howell Mill Road widening project and how it would affect this property. He would like to study the issue further before taking action on the request.

Alderman Caldwell said he did not want to turn the request down. He would like to see the plans for widening Howell Mill Road and study the issue further before making a decision.

Alderman Feichter said she was reluctant to make changes during the midst of a massive evaluation of the Town's Land Development Standards document. She pointed out that the Planning Staff and Planning Board both recommended against this zoning change.

Attorney Griffin said if the request is denied the petitioner cannot bring the issue back to the Board of Aldermen for twelve (12) months. However, the Board of Alderman could waive this exception with a 3/4 vote.

Mayor Brown said there is more than one issue to be considered. This property is located within the extraterritorial jurisdiction, giving the Board of Aldermen authority to regulate the use of the

property without the property owner having the privilege of voting. Mayor Brown said it bothered him that commercial districts adjoin residential districts without a buffer between the two districts. The Town's obligation is for the highest and best use for this property. It is not known how this area of Waynesville will develop in the future, but the widening of Howell Mill Road by NCDOT will result in a residential type road with sidewalks. A use for this area could be added to the current zoning without rezoning the property, giving a buffer area that is needed.

There was some discussion the possibility of a commercial type village with mixed use residential for this area. Chuck Brown said he did not think the terrain of the area would lend itself to development such as a strip mall.

Alderman Feichter moved, seconded by Alderman Moore, to table the request at the present time, giving the petitioner time to study the issue further, add comments and present to the Board for further consideration at a later time. The motion carried unanimously.

Tax Collector James Robertson and Accounting Technician Lisa Burnett Fact Act Privacy Law

Under new federal regulations, every organization must take steps to safeguard a customer's personal information during its collection, recording and handling and to develop an Identity Theft Detection and Prevention Program. In establishing this program, the Town must use the guidelines set forth in the FACT Act (2003).

Tax Collector James Robertson and Accounting Technician Lisa Burnett attended the meeting to explain the proposed program and to answer questions. Mr. Robertson said the Federal Trade Commission determined that all utility companies that deal with sensitive information such as social security numbers and driver license numbers adopt the Fair and Accurate Credit Transaction Act (FACT ACT) policy by November 1, 2008. A six-month extension has now been granted. However, if the policy is not in place at that time, there is a possibility that those companies could receive fines. Mr. Robertson said the number one area for stolen identity is credit card fraud and following at number two is utility fraud.

A Privacy Committee will meet once or twice per year and each year the auditors will review what is being done to make sure the policy is being followed. Mr. Robertson said several years ago it was determined that utility information is not public. The Town already has several methods in place to maintain sensitive utility information. Customer representatives log off their computers when leaving their desk and the fax machine is not accessible to the public. Once the policy is in place, employees will be trained and shredders will be placed in various locations.

Lisa Burnett said this was originally aimed at banks and financial institutions, but utility and telephone companies were added. Some utility companies that are not members of ElectriCities were not aware of the new regulations. For example, the Town of Clyde is not a member of ElectriCities, so Waynesville sent the template for this document received from ElectriCities to the Town of Clyde so they could also adopt a policy.

Manager Galloway said Waynesville hopes to take payments by credit and debit cards in the near future. Ms. Burnett said responsibility for confidential information is held by a third party when payments are made by credit and debit cards. James Robertson said once the policy is

adopted, it is important to make sure that each employee handling sensitive information is trained.

Alderman Moore moved, seconded by Alderman Feichter, to approve the Identity Theft Detection and Prevention Program Policy. The motion carried unanimously.

Animal Control Ordinance

More than 20 years ago, the Mayor and Board of Aldermen of the Town of Waynesville voted to allow the Haywood County Animal Control to have jurisdiction within the town. Several years ago, in light of the increasing number of vicious animals and attacks by those animals, meetings were held with the County and various towns in the county to discuss the ordinance and ways in which it might be improved.

On July 21, 2008, the Haywood County Commissioners approved some revisions to the Animal Control Ordinance. Ms. Jean Hazard, Director of Animal Control, provided a copy of the revised ordinance and asked that the Town Board approve these revisions so that the County may continue to enforce the Animal Control Ordinance within the town limits.

In looking at the Town's present Code Book, Section 6-1, Town Attorney Griffin pointed out the wording "The amended county animal control ordinance shall have jurisdiction within the Town." Mr. Griffin feels that the present wording would permit the revised county ordinance to continue in effect within the Town; however, if the County wishes to have the Town Board's approval of the revisions to the county ordinance, he sees no problem with the Board adopting a motion to that effect. The other municipalities in Haywood County are doing so as well.

Alderman Moore moved, seconded by Alderman Feichter, to confirm and affirm the Town of Waynesville's approval of the Haywood County Animal Control Ordinance as amended and adopted in July 2008, and that the ordinance shall have jurisdiction within the Town of Waynesville. The motion carried unanimously.

Financial Status

Manager Galloway said he met with Finance Director Eddie Caldwell and Assistant Town Manager Alison Melnikova this morning and so far Waynesville remains in a good financial position. Tax collections are behind \$45,000 from last year, but last year's tax bills were mailed out three weeks earlier. As a precaution, it was felt that it would be prudent and wise to ask department heads to hold three percent of their budget in abeyance. In March or April 2009, the financial situation could again be reviewed and determine whether the 3 percent should be spent. As an example of how this would work, the Building Inspection Department has a vacancy and they have decided not to fill this vacancy until spring. Alderman Moore said he did not have a problem as long as it doesn't interfere with services.

Manager Galloway said sales taxes were up 11% in July 2008 over July 2007. Food sales in grocery stores are up which could mean that more people are buying food to prepare at home rather than eating out at restaurants.

Supply of Road Salt

Alderman Roberson asked what the Town's status was for road salt. Manager Galloway said Waynesville bought 50 tons through the Town of Canton. The cost for the salt was \$189 per ton; last year the cost was \$59 per ton.

Police Department/Development Office

Manager Galloway said the contractor is one month ahead of schedule in the construction of the Police Department/Development Office building.

Adjournment

With no further business, it was the consensus of the Board to adjourn the meeting at 8:30 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Gavin A. Brown
Mayor