

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR SESSION MEETING
APRIL 9, 2013**

THE WAYNESVILLE BOARD OF ALDERMEN held its regular meeting on Tuesday April 9, 2013 at 7:00 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Brown called the meeting to order at 7:00 p.m. with the following members present:

Mayor Gavin Brown
Alderman Gary Caldwell
Alderman Julia Freeman
Alderman Wells Greeley
Alderman LeRoy Roberson

The following staff members were present:

Marcy Onieal, Town Manager
Woodrow Griffin, Town Attorney
Alison Melnikova, Assistant Town Manager/Deputy Clerk
Eddie Ward, Administrative Assistant

Representing the media:

Mary Ann Enloe, The Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown welcomed everyone and said Manager Onieal had just received notice that the Lake Junaluska merger bill would be heard in the Senate Finance Committee the next morning on April 10, and she would be traveling to Raleigh immediately following the Board meeting. Because of this, the mayor suggested that Item D of the agenda (Communications From Staff), be deferred until the next regular board meeting.

Manager Onieal went over the Board Calendar, noting that Haywood Vocational Opportunities had received the EPA Region 4 Excellence in Site Reuse Award and that the Town would also be recognized as one of the principle development entities of the Riverbend property of HVO, at a recognition event on Wednesday April 17 at 1:30 P.m. Other announcements included Haywood Council of Governments meeting at Maggie Valley Town Hall on April 17, at 6:00 p.m. A tentative date for the budget workshop has been included in the calendar for May 30, and also for Mondays in June as needed. She anticipated the budget public hearing to be held on June 10th, with adoption scheduled for June 24th. She asked everyone to refer to the calendar provided for other events and workshops.

2. Proclamations

Mayor Brown read two proclamations, which he will be signing on behalf of the Town:

- In Celebration of Earth Day on April 22, 2013
- In Celebration of Arbor day April 26, 2013

3. Minutes of March 26, 2013

Manager Onieal stated that on page 2 Item B-3, the minutes of the March 26, 2013 regular board meeting stated Alderman Roberson seconded the motion. The minutes should read Alderman Caldwell seconded the motion.

Alderman Greeley made a motion, seconded by Alderman Freeman, to approve the minutes of March 26, 2013 as corrected by Manager Onieal. The motion passed unanimously.

B. NEW BUSINESS

4. Special Event Requests – 18 Temporary Street Closings, April – December 2013
(Request of Downtown Waynesville Association, Frog Level Merchants’ Association and Kids Advocacy Resource Effort)

Each year the Downtown Waynesville Association (DWA) and Frog Level Merchants’ Association make formal requests for temporary closure of streets to facilitate special events held in the downtown area from spring through the holidays in December. These events are designed to entice visitors, diners, shoppers, and families to downtown Waynesville. DWA’s 2013 event schedule includes the same events as in previous years, with the exception of one new event. DWA Director Buffy Phillips explained that the proposed “Light Up Main Street” countdown event is designed for all holiday and display lights to be lit simultaneously during a special ceremony with a variety of entertainment to usher in the holiday season on Friday November 22, 2013 from 5:00 pm - 10:00 pm.

The Frog Level Merchant’s Association sponsors a major street festival (Bloomin Festival) each year and requests that Commerce and part of Depot Streets be closed for this event. The Merchant’s Association has requested an earlier street closing (9:00 p.m.) in order for the merchants to set up. The Town will work with Giles Chemical to make sure truck deliveries are not impacted.

Ms. Julie Schroer, of Kids Advocacy Resource Effort (KARE), spoke about a new fundraising 5 K Road race and fun run planned for April 27, 2013. This event would start at the Courthouse on Main Street and go to Country Club Drive and return. This will be a rolling closure with police at the beginning in front of the runners and at the end behind the runners.

Alderman Roberson made a motion, seconded by Alderman Greeley to approve street closures as follows for:

- 1) Downtown Waynesville Association (DWA) – Main Street closures on 16 dates beginning May 25 and ending December 14, 2013, as presented;***
- 2) Frog Level Merchant’s Association – Commerce and Depot Streets on Saturday May 11, 2013 for the “Whole Bloomin’ Thing” Festival, as presented;***

3) Kid's Advocacy Resource Effort (KARE) – Main St from Courthouse to Country Club and return, rolling closures on Saturday April, 27, 2013 for a 5K Road Race & Fun Run beginning at 8:00 a.m.

The motion passed unanimously.

5. Special Event Request – Permission to Sell/Serve Beer/Wine on a Public Street or Sidewalk during Downtown Waynesville Block Parties on May 25, 2013 and August 31, 2013 (Request of Jon Bowman, Tipping Point Tavern)

Jon Bowman from Tipping Point Tavern, said his restaurant has served/sold beer and wine for several years during block parties on Main Street. One change this year will be the addition of a food tent on the street, and to have seated dining along with beer or wine.

Alderman Caldwell made a motion, seconded by Alderman Freeman to authorize the sale and service of Beer and Unfortified Wine, on a public street or sidewalk, in a controlled enclosure fronting the Tipping Point Tavern, 188-190 N. Main Street, on May 25 and August 31, 2013 from 6 pm until 10 pm, as requested, and as permitted by Section 42-4 of the Town of Waynesville Code of Ordinances. The motion passed unanimously.

6. Call for Public Hearing to Consider Initial Zoning for the Satellite Annexation Area located at 2080 Dellwood Road

A 7.2 acre portion of Queen Property located at 2080 Dellwood Road (PIN 8607-82-2478) was annexed upon petition of the property owner Lois P and Richard Queen, Jr. in December 2011. The Planning Board held a public hearing on the zoning at the regular meeting of March 18, 2013 and voted to recommend the annexation area be zoned Dellwood Residential Medium Density (D-RM) in accordance with the planned use as indicated in the Town's 2020 Land Development Plan. Manager Onieal said a public hearing is required for the zoning of this property.

Alderman Greeley made a motion, seconded by Alderman Roberson to call for a public hearing on May 14, 2013 at 7:00 pm, or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering initial zoning for the parcel located at 2080 Dellwood Road. The motion passed unanimously.

7. Appointment of Eddie Ward as Deputy Town Clerk

Manager Onieal announced that Development Services Administrative Assistant Eddie Ward had achieved her IIMC and NC Municipal Clerk certifications back in the fall, noting how fortunate the Town is to have had someone of her skills to fill in as clerk for the Board while the vacancy in the Town Clerk's position is being filled.

Alderman Greeley made a motion, seconded by Alderman Freeman to appoint Eddie Ward as Deputy Town Clerk, effective April 10, 2013, serving in that capacity until her successor is appointed.

C. UNFINISHED BUSINESS

8. Call for Public Hearing to consider Amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development.

Following requests by Ms. Philan Medford and the Board of Alderman last fall, the Planning Board began gathering information and public comments regarding a requirement to construct a transit shelter(s) in connection with commercial development. The Planning Board has recommended a change in the current ordinance that would require construction of a transit shelter at multi-family residential developments of 50 units or more and at commercial/institutional developments of 50,000 square feet or more. A public hearing is required.

A motion was made by Alderman Greeley, and seconded by Alderman Caldwell to call for a Public hearing on May 14, 2013, at 7:00 pm, or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering amendments to Section 6.4.3 of the Land Development Standards, requiring development of transit shelters in connection with commercial development. The motion passed unanimously.

9. Municipal Agreement with NCDOT Project # K-5002, Highway 23-74 Safety Rest Area – Water and sewer Improvements

The project scope consists of extending a 6" water line to the new rest area site on US Highway 23-74 toward Balsam and providing sewer service to the existing rest area and proposed new rest areas. The Town will contract for design and construction of the project and NCDOT will reimburse the Town for actual project costs.

A motion was made by Alderman Greeley, seconded by Alderman Roberson, to authorize the manager and/or mayor to execute the municipal agreement between the Town of Waynesville and NCDOT for Project # K-5002. The motion passed unanimously.

10. Property Conversion for NCDOT Project # U-4412 Howell Mill Road

As part of the road widening project on Howell Mill Road, NCDOT requires taking a small parcel of land at Vance Street Park (Recreation Park). Because the Vance Street Park site was purchased and developed in part through federal grant funding awarded under the Land and Water Conservation Fund, conversion of the property to non-recreational use requires approval from the NC Department of Parks and Recreation and National Park Service. NCDOT proposes to acquire 0.349 acre of park property and replace it with a 1.24 acre undeveloped natural site located at Killian Street on the north side of Dutch Fisher Park, along Richland Creek. The NC Division of Parks and the State Property Office agree that the replacement property is of at least equivalent value as the property being converted. The newly appraised value of both parcels is \$32,825. The site targeted for exchange is located in the floodway, but it has potential for development as a greenway with protected trout buffer along Richland Creek.

A motion was made by Alderman Greeley, Seconded by Alderman Freeman, to approve site selection and appraised property value for conversion of property required for completion of NCDOT Project # U-4412 at Howell Mill Road (Recreation Park), as proposed by NCDOT; and to authorize the town manager and/or mayor to execute the conversion agreement with NCDOT as presented,

contingent upon receipt of final approval of conversion by the National Park Service. The motion passed unanimously.

D. COMMUNICATIONS FROM STAFF

Postponed until next Board Meeting.

E. COMMUNICATIONS FROM MAYOR AND BOARD OF ALDERMEN

No communications from the Mayor and Board of Aldermen.

F. CALL ON THE AUDIENCE

- Jack Kersten – representing Cliff and Beatrice Bolin in easement extension request

Attorney Jack Kersten, representing Cliff and Beatrice Bolin, Waynesville, NC, asked to speak concerning his clients' request to extend an easement, granted by the Town in 1990 and set to expire in 2015, which would allow for the construction of a side access across public property to the Bolin building on the corner of Miller and Main Street. The Bolins are in the process of marketing the property for sale, do not desire to construct the access at this time, but would like to maintain the right to develop an access to the lower floor of their building beyond the scheduled easement expiration date. Upon questioning by the mayor, Attorney Kersten stated that he and his clients did not have a specific proposal prepared, but that he would prepare an amendment to the existing easement or propose a new easement altogether that extends the terms of the original easement, by defining and specifically limiting the type and location of access and structure(s) to be built, in return for an extension of time allowed for construction. The mayor directed Attorney Kersten to work with the Manager and Town Attorney to develop a mutually agreeable proposal to be presented to the Board for action at a future meeting.

G. CLOSED SESSION

Manager Onieal announced that the litigation to be discussed in closed session concerned parties Mueller v. Town of Waynesville.

A motion was made by Alderman Greeley, seconded by Alderman Caldwell to go into closed session at 7:50 p.m. to consult with the town attorney on litigation matters, as permitted in NCGS §143-318.11(a)(3). The motion was approved unanimously.

Upon a motion made by Alderman Greeley, seconded by Alderman Roberson, the board voted unanimously to return to open session at 8:05 p.m. without taking any action.

H. ADJOURN

Prior to adjournment, Manager Onieal asked to update the Board on the Recreation Park Restroom Renovation Project, which has been repeatedly delayed by failure of the architect to deliver buildable/biddable plans. In addition to simply being incomplete, the plans, in their current state, contain serious structural and code deficiencies and omissions, and have not been value-engineered to

accommodate the construction budget approved. Ms. Onieal noted that the \$12,000-13,000 contract with Bill Dechant Architecture had been initiated prior to her arrival in February of 2012 and that although a considerable amount of work had been done by Luis Quevedo, the firm's representative on this project, after over a year, the Town had little to show for its time or initial investment of approximately \$3,500 in the project, despite town staff's vigilance and persistence in trying to work with Mr. Quevedo to bring the matter to a resolution. Ms. Onieal requested permission to terminate the contract. She indicated that at least one of the architect's subcontractors, Reese, Noland and McElrath, who completed the PM&E drawings for the renovation last September have not been paid the approximate \$5000 they are due. While the Town is under no obligation to cover this expense, she noted that their work is virtually complete and it may be advantageous to work with them directly to finish the PM&E on the project.

Manager Onieal outlined three options for board consideration:

- 1) delay the restroom project temporarily, and combine it later with the proposed tennis court renovation and new construction for a larger project to be undertaken in Fall 2013 or Spring 2014, contingent on award of PARTF grant funding for the tennis court project.
- 2) start the restroom renovation design project over from scratch with a new architectural and engineering team. This option would likely cost approximately \$20,000, over and above what already has been spent and would take 4-6 months to complete, depending on the architect's schedule.
- 3) use a combination of volunteer and additional paid professional assistance to salvage the project within the existing budget and revised timeframe. This option would be the least expensive to the town and could be completed in approximately one month following cancellation of the existing design contract. Jimmy Lamm, of Smith Engineering & Design, has offered to complete the renovation plans, construction drawings and bid documents at no charge to the town, but would require the hiring of an independent structural engineer to complete structural design and seal the drawings at a cost of approximately \$2,500. Total cost of design and construction administration under this option, including amounts already paid to Dechant Architecture are not expected to exceed the original design budget for the project

After further discussion and careful consideration of all three options, upon a motion by Alderman Greeley, seconded by Alderman Freeman, the board voted unanimously to:

1) authorize the manager to cancel the existing contract with Bill Dechant Architecture, providing notice of non-performance as required by the contract;

2) engage the volunteer non-paid services of Jimmy Lamm, Smith Engineering & Design, to complete renovation plans, construction drawings and bid documents and to engage the services of an independent structural engineer to complete structural design and seal the drawings;

3) pay PM&E engineers Reece, Noland and McElrath, directly for the work already completed and delivered under their contract with Bill Dechant Architecture.

There being no further business, Alderman Roberson made a motion, seconded by Alderman Caldwell, to adjourn the meeting at 8:40 p.m. The motion was approved unanimously.

ATTEST

Gavin A Brown, Mayor

Marcia D Onieal, Town Manager

Eddie Ward, Deputy Clerk