

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REGULAR SESSION MEETING  
NOVEMBER 12, 2013**

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**THE WAYNESVILLE BOARD OF ALDERMEN** held its regular meeting Tuesday, November 12, 2013 at 7:00 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

**A. CALL TO ORDER**

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

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  
Phyllis Rogers, Acting Town Clerk  
Paul Benson, Planning Director

Representing the media:  
Mary Ann Enloe, The Mountaineer

1. Welcome/Calendar/Announcements

Mayor Gavin Brown welcomed everyone to the meeting and mentioned that Waynesville's Christmas Parade is December 9 and the Employee Appreciation Luncheon is December 13.

2. Presentation by Haywood County Tourism Development Authority

Ms. Lynn Collins, Executive Director of the Haywood County Tourism Development Authority presented an update for 2012 – 2013. The Haywood County Tourism Development Authority is funded by a 4% Occupancy Tax on short-term rentals of less than 90 days. 3% of the Occupancy Tax goes to the Haywood County Tourism Development Authority for the purpose of marketing

Haywood County as a tourism destination. The remaining 1% goes back to the Zip Code area where it is collected for the purpose of promoting each of those areas. The 1% funds are allocated through a grant process. Applications are reviewed by appointed Zip Code Subcommittees who make recommendations to the Haywood County TDA Board for funding of the 1%. Waynesville represents approximately 32% of the occupancy tax collections for Haywood County.

The past year got off to a rocky start, with some areas in Haywood County being worse than others, but the TDA has been able to pick some of this up. As the economy improved, the year was finished at 9% ahead of budget. Monies collected through this program increase tourism, resulting in reduced taxes paid by Haywood County residents.

The 1% collected is used to advertise for Haywood County events, including street dances and several new festivals, trade shows, the Strand Theatre and Beer Fest. When the Legislation was adopted in 2007, it was set up so that a subcommittee could be established to determine how these funds would be spent. The TDA approached the Haywood County Commissioners to amend the guidelines so that any area collecting more than \$50,000 annually could appoint a five member subcommittee. This amendment was made last month and now Waynesville can appoint a five member subcommittee. The current three member subcommittee consists of Buffy Phillips, Roy Gast and Betsy Boyd. The subcommittees have term limits with a maximum of three two-year terms so a new subcommittee will need to be appointed by Waynesville within the next month. This subcommittee will need to include representation from the 28786 and 28785 zip code areas.

Ms. Collins outlined some of the accomplishments for the past year. Work has been coordinated with Bicycle Haywood, a growing sport in the area, to produce the first bicycle brochure for Haywood County. The Haywood County Quilt Trail Program began through the Haywood County Arts Council but has now been taken over by TDA. They hope to have 50 quilt blocks in place by spring 2014. Many visitors request the Quilt Trail Brochure and travel to many areas in Haywood County to view the quilt squares. TDA also works with Buy Haywood and The Blue Ridge Parkway remains one of the TDA's biggest partners.

Mayor Brown requested that board members bring names of individuals to consider for appointment to the subcommittee to the November 26 meeting for discussion and hopefully for a vote at the December 10 meeting. Mayor Brown thanked Ms. Collins for attending the meeting and presenting the information to the Board. Ken Stahl, TDA Board Member thanked the Board of Aldermen for their support of the TDA.

## **B. PUBLIC HEARINGS**

### **3. North Main Street Complete Streets Study**

Last year the Town was awarded a grant through the French Broad River Metropolitan Planning Organization to undertake a study of how the intersection of North Main Street and Walnut Street could be improved for all modes of transportation including motor vehicles, bicyclists and pedestrians. The firm of J. M. Teague Traffic Engineering was hired to prepare a plan; this plan is now complete. The staff is requesting that the plan be adopted by the Board of Aldermen so that the project may be added to the State Transportation Improvement Plan for funding.

Planning Director Paul Benson explained that this project began last year to address the problem with connecting the only missing link in the Haywood County Greenway walking trail by incorporating a sidewalk from Marshall Street to the new Fire Station and to improve the intersections. A public hearing was held by the Planning Board in October 2013 to solicit public input and to review the plan. The Planning Board recommended approval of the plan. Information, including road user data, motorists, pedestrians and bicyclists was collected by J. M. Teague Engineering. One of the heaviest area movements was pedestrians crossing the street at Duvalls Restaurant. Roadway geometrics were also collected to determine right-of-ways, sidewalk and lane widths, and street grades. Adjacent land use descriptions were reviewed and community involvement workshops were conducted in May and July 2013.

Mark Teague with J. M. Teague Engineering explained the methods used for analyzing safety operations for the area, identifying challenges for existing layout, intersection angles and areas not desirable to have drivers backing onto the roadway. Alternatives considered included “no-build”, major realignment of Walnut Street, minor realignment with less impact and inclusion of a round-about. The round-about was felt to be too large and did not fit well in the area. Multiple “tee” intersections were also considered. After these alternatives were analyzed, the recommendation was for a major realignment, with a 90 degree intersection which would create many advantages. The major goals would be met to support a better connection to the Recreation Center and Howell Mill Road. The total number of independent intersections would be reduced. Bridge Street would become a right-in/right-out only. Additional parking would be created which was one of the concerns heard at the community meetings. Public space could be added, including a stream restoration project. Cost estimates for this project are 3.2 million dollars.

Mayor Brown asked how the decision was made for a major realignment. Mr. Teague said it was mainly due to the improved connection to Howell Mill Road which was felt to be important to the Town and the additional parking it would create. Mayor Brown added that this area was at one time considered a major thoroughfare and asked Mr. Teague where the project might be considered as a priority with NCDOT. Mr. Teague said it would probably fall in the lower tier. However, NCDOT is always looking at smaller projects when filling in gaps which may be an advantage with this project since it is on a smaller scale.

Alderman Roberson mentioned that two businesses would be affected and would need to be relocated. Mr. Teague agreed that the project would affect two properties and three structures. Mayor Brown added that this is a State Road with the improvements mainly funded by the State.

Alderman Freeman stated that she drives through this area daily and very rarely sees congestion. She asked if this is a 30 year plan. Mr. Benson explained that the area was reviewed for a complete needs study and the plan extends to 2035. Alderman Roberson said the plan would make pedestrian and bicycle traffic safer.

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

**Bill Norris**, adjacent property and business owner, did not agree with the recommendations for the project and asked if any thought has been given to what will happen to the area businesses which he felt would be destroyed if the project is approved. Additional parking will not be needed if the businesses are gone and he did not see any big problems in the area now, adding "if it is not broke don't fix it". Mayor Brown asked Mr. Norris how he felt about additional sidewalks. Mr. Norris said there are very few pedestrians in the area and he felt most people travel in their vehicles. He does not remember this street ever being realigned. Mr. Norris added that businesses in West Waynesville are fragile and should be protected.

Alderman Roberson said parking would help area businesses and the plan would improve the area for bicycle use.

**Maleah Pusz, 650 East Street**, spoke in favor of the project, but hopes that Duvalls Restaurant can still be located there. Ms. Pusz lives in the area and frequently walks her dog.

***With consensus of the Board of Aldermen, Attorney Griffin continued the public hearing until the next meeting on November 26, 2013.***

4. Public Hearing to Consider Adoption of an Amendment to the Sign Ordinance (Chapter 11 of the Land Development Standards)

In response to a number of issues with the Town's sign regulations identified by staff and business owners, the Planning Board has recommend adoption of a comprehensive amendment to Chapter 11 of the Town's Land Development Standards. Significant changes proposed by this amendment include permitting small portable signs in the Central Business District and adding a provision for temporary banner signs for commercial special events or promotions. Other notable changes include permitting a larger area of temporary window signage, and increased maximum sign heights and sizes for some types of signs, including a new provision for Facsimile Signs. The amendment also makes a number of more minor changes to the ordinance for the purpose of clarity and organization.

Planning Director Paul Benson presented the proposed amendments, beginning by explaining the history and decline in businesses shown since adoption of the revised Land Development Standards (LDS) in 2003. When the LDS was revised again in 2010 changes were made recognizing that districts are different. Several requests have been received since that time for additional provisions. The Planning Board has reviewed the proposed amendments for the past several months, including participation in a presentation by Roger Brooks and appointment of a citizen subcommittee. The Planning Board conducted a public hearing in October to receive additional public comments and recommended approval of the proposals submitted to the Board of Aldermen tonight.

Some of the issues reviewed included:

No provision for temporary banners for sales, etc.

No provision for portable signs downtown – a lot of towns allow and the signs are not necessarily bad, but there are some sidewalks in Waynesville that are narrow.

Size, height and maximum number of signs is sometimes too restrictive.

The format and clarity of the Town's ordinance needed improvement.

Mr. Benson outlined some of the following changes:

- Increases the window area sign since the current standard of 16 square feet doesn't match industry practice.
- Defines permissible and prohibited vehicular signs.
- Permits "ball field fence signs" which are currently not permitted.
- Adds provisions for temporary display of promotional/special events signs – 30 days/twice per year with issuance of a permit. At the current time these signs are allowed only for non-profits and the citizen group felt that non-profits and commercial

should receive the same treatment. The Planning Board felt that non-profits should be allowed additional signage benefits and the only change proposed was to allow a larger sign.

- A provision was added for temporary sign users to have signage under the same terms as promotional/special event signs.
- A provision was added for additional signs in residential districts.
- Master identification signs were added for properties more than two acres in neighborhood commercial and business districts and allowed increase in ground signs from 24 square feet to 48 square feet.
- Increase in sign height from 6' to 8' in RC and CI districts.
- Adds flexibility for neighborhood entrance and business district signage.
- Increases projection of attached signs from 3' to 4' for downtown signage.
- Decreases the required clearance of pedestrian signs from 8' to 7'.
- Adds allowance for portable signs in Central Business Districts under provisions to limit size and prevent blocking sidewalks. Signs must be within three feet of the building entrance and maintain five feet of clear zone.
- Exempts balloons under 12" in diameter.
- Permits facsimile signs in regional commercial districts on the same terms as promotional/special event signs.

Alderman Roberson asked about liability if a customer or pedestrian is injured by signage. Attorney Griffin explained that signage must be with the Town's regulations and a permit must be issued. If there is a danger and the Town is aware and continues to allow there could be some liability.

Alderman Caldwell said he has spent quite a bit of time reviewing the proposed changes and they look good.

Alderman Freeman expressed appreciation for the work, time and effort by Paul Benson, the Planning Board and others that have worked on the proposals being submitted to the Board.

Alderman Greeley requested additional time to review the many changes before taking action.

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

**Kevin Sandefur, 130 Frazier Street**, owner of Bear Waters Brewery, expressed appreciation for the work the Town is doing. Lack of street front signage makes it difficult for people to locate his business and frustrating for business owners. He requested additional consideration for off

premise signs, or way finder signs similar to the Town of Sylva and distributed information he compiled for the Board Members to consider. Mr. Sandefur asked that a provision be added for off premise, attractive signs made of durable material for the community that could direct more people to their business.

**Lorraine Conard** attended the meeting to hear the discussion and learn more about changes being proposed and hopes the changes would encourage small businesses and downtown development. There was also a question about the signage for the Strand Theatre, owned by Rodney and Lorraine Conard. Ms. Conard said there has been interest in rebuilding the upper part of the sign and she questioned whether it could be grandfathered and reinstalled. She would like to have this done correctly and in a manner to add historic character to the building.

Mayor Brown said this could be a question of whether the old sign would be considered a sign or part of the building. Paul Benson said there were discussions with the former owner, Joey Massie, with an agreement that the sign could be reinstalled and grandfathered in, but this was not done. In keeping with this agreement, Mr. Benson said town staff would work with the owners of the Strand Theatre regarding the sign.

**Fred Waring, Waynesville Automotive**, thanked Mr. Benson and his group for their work on the proposed amendments. Mr. Waring has been in business since 1972, increasing the number of employees from 32 to 85. Balloons have been allowed in other communities and although he doesn't necessarily like them, he occasionally uses signs such as the large gorilla to attract business.

**Richard Miller, 20 Church Street**, President of Downtown Waynesville Association, has spoken with many people on Main Street and they do not like signs such as the large gorilla and would like to keep this type signage off Main Street. He supports off premise signs and uses them to attract customers to Church Street. This can be done tastefully and feels that it hurts businesses when off premise signs are not allowed. Mr. Miller asked the Board to be cautious about wording involving signs that are grandfathered in.

**Maleah Pusz, 650 East Street**, is an employee of Bosu's Wine located at Miller Street. Ms. Pusz said it is very difficult for people to see businesses other than those on Main Street without additional signage and she spoke in favor of off premise signs.

***With the consensus of the Board, Attorney Griffin continued the public hearing until the next meeting.***

Manager Marcy Onieal asked that if Board members were interested in the staff and Planning Board pursuing the items related to marquee signage and off-premise signs spoken about during the public hearing, please let her know so this can be added to the next Planning Board and Board of Aldermen agendas.

***It was the consensus of the Board that staff prepare additional language to incorporate provisions for marquee signage for theatres or other entertainment venues and for off-premise signage.***

5. Consideration of Adoption of an Ordinance Amending Section 26-51(b) of the Waynesville Town Code to Change the Clearing Zone Standard for Overgrown Lot Regulations

Manager Marcy Onieal presented the proposed amendment. A recurring case of an overgrown property located off Westwood Circle has provided an example of how the existing ordinance regulating overgrown lots may present an unreasonable and unnecessary hardship in the case of large properties. The existing standard of clearing to a distance of 300' from another occupied home or business when applied to a typical residential lot may require the clearing of up to a quarter of an acre, but in this case with applied to a 15 acre property it requires the clearing of approximately 70,000 square feet (1.6 acres).

The intent of the ordinance is to correct unsightly conditions and to remove habitat for undesirable animals such as rats and venomous snakes from close proximity to occupied homes or businesses. This goal can be reasonably accomplished by a standard requiring less clearing. The proposed draft ordinance would reduce the clearing area to a width of 50' measured from the property line rather than the structure; this distance represents the minimum lot width under the Town's Land Development Standards.

Manager Onieal noted that our ordinances do not require a public hearing in order for the board to adopt amendments, but in the interest of transparency and public awareness, it has become her custom to schedule a public hearing for any ordinance changes. Attorney Griffin opened and closed the public hearing with no comment from the audience.

***Alderman Greeley moved, seconded by Alderman Roberson to adopt an ordinance amending Section 26-51(b) of the Waynesville Town Code to change the measurement of overgrown lot clearing zone from 300' to 50'. The motion carried unanimously. (Ord. No. O-12-13)***



6. Consideration of Ordinance Adoption Rezoning Property Located at 33 Bennett Street

The subject property consists of 1.3 acres and is located adjacent to the Norfolk Southern railroad north of Hazelwood Avenue and west of Brown Avenue. It does not front Brown Avenue but is connected to Brown Avenue via Bennett Street to the north and Carolina Avenue to the south of the property. It has long been in commercial use for Pearson Roofing and more recently for U-Haul trailer rentals.

The Planning Board considered this rezoning at their September 2013 meeting and held a public hearing at their October 2013 meeting and voted to recommend that the property be rezoned from Hazelwood Business District (HBD) to Commercial Industrial (CI).

Planning Director Paul Benson explained that this rezoning was recommended for approval by the Planning Board. This property is located adjacent to the railroad and would be a legal spot zoning since it is consistent with the Town's LDS. Commercial Industrial zoning is allowed along railroads.

Alderman Roberson asked if the property owner has submitted a plan for development of the property. Mr. Benson said although this is not a requirement to be considered for rezoning, the property owner has indicated plans for construction of mini-warehouses on the property.

**Attorney Griffin opened the public hearing.**

**Mr. Miller, the owner of the property at 33 Bennett Street,** thanked Mr. Benson and the Planning Board for their review of this request. Mr. Miller said he plans to place 20 – 30 mini-warehouses on the property. He owns similar mini-warehouses and maintains strict operating standards for this business.

Attorney Griffin closed the public hearing.

***Alderman Caldwell moved, seconded by Alderman Freeman to rezone the portion of the property indicated on the Exhibit A Map located at 33 Bennett Street, from Hazelwood Business District (HBD) to Commercial Industrial (CI). The motion carried unanimously. (Ord. No. O-12-13)***

7. Consideration of Ordinance Adoption Rezoning Property Located at 2566 Asheville Road

Planning Director Paul Benson presented the request. The subject property consists of 4 acres and has 400' of frontage on Asheville Road/US Business 23 in the ETJ northeast of the corporate limits. It is adjacent to a large area of Commercial Industrial zoning that includes the Hi-Tech Center. It has long been in commercial use formerly for Plemmons Plumbing and more recently for David's Home Entertainment.

The Planning Board considered this rezoning at their September 2013 meeting and held a public hearing at their October 2013 meeting and voted to recommend that the portion of this property fronting Asheville Road be rezoned from Raccoon Creek Neighborhood Residential (RC-NR) to Commercial Industrial (CI), and that the 2020 Land Development Plan be amended accordingly to maintain consistency with that Plan.

**Attorney Griffin opened and closed the public hearing, with no comment from the audience.**

***Alderman Freeman moved, seconded by Alderman Caldwell, to amend the 2020 Plan, specifically Map 13, to indicate the frontage of the subject property as "Mixed Use, Medium to High" and to rezone the portion of the property indicated on the Exhibit A Map from Raccoon Creek Neighborhood Residential (RC-NR) to Commercial Industrial (CI). The motion carried unanimously. (Ord. No. O-13-13)***

8. Consideration of Amendments to Chapter 64, Article II, Division II of the Code of Ordinances, to Comply with New Carry and Conceal Measures Adopted by the N. C. State Legislature

In compliance and uniformity with the newly adopted North Carolina House Bill 937, the Town of Waynesville considered making changes to its current firearms ordinance. The changes to be made will be limited to where an individual of whom holds a conceal and carry permit can carry said firearm. As a directive of the State, permit holders can now carry firearms in non-athletic public parks including: greenways, biking or walking paths, outdoor recreation areas, and playgrounds. The law also specifies that a municipality can only prohibit those holding permits from carrying firearms to athletic fields during a formal authorized sporting event scheduled for use by the town. At this time there are no more applicable violations of the Town's firearm ordinance with State law.

**Attorney Griffin opened and closed the public hearing, with no comment from the audience.**

***Alderman Greeley moved, seconded by Alderman Caldwell, to adopt an ordinance to amend Chapter 64, Article II, Division II of the Code of Ordinances, to comply with the new carry and conceal measures adopted by the N. C. State Legislature. The motion carried unanimously. (Ord. No. O-14-13)***

### **C. COMMUNICATIONS FROM STAFF**

Manager Marcy Onieal reported that the audit will be available to the Board at the meeting of November 26 and will be placed on the agenda for presentation at the December 10 meeting.

The purchase of a new vehicle for the Planning Department was not included in this year's budget, but was planned for purchase in the following fiscal year. In addition, the Toyota Prius in Administration must be replaced due to damage sustained in an accident. It is requested that the purchase of these two replacement vehicles be moved up to FY14 and that the financing of these replacement vehicle be combined with the financing of new police and fire vehicles already approved in the budget for FY14. The first payment on these vehicles will not be due until FY15.

***By consensus, the Board approved the purchase and financing of these two additional vehicles in FY14 rather than in FY15.***

The tentative date for the Board's Annual Retreat is scheduled for January 17, 2014. Due to a board member conflict, it was requested that the manager try to schedule the retreat for January 24 or 31 instead.

### **D. COMMUNICATIONS FROM THE MAYOR AND BOARD**

No comments.

### **E. CALL ON THE AUDIENCE**

No comments.

### **ADJOURN**

***There being no further business, Alderman Freeman made a motion, seconded by Alderman Caldwell, to adjourn the meeting at 9:05 p.m. The motion passed unanimously.***

ATTEST

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Gavin A. Brown, Mayor

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Marcia D. Onieal, Town Manager

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Eddie Ward, Deputy Town Clerk

Prepared by:

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Phyllis R. Rogers, Acting Town Clerk