

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR MEETING
March 24, 2015

THE WAYNESVILLE BOARD OF ALDERMEN held its regular meeting on Tuesday, March 24, 2015 at 6:00 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 6:00 p.m. with the following members present:

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

The following staff members were present:

Marcy Onieal, Town Manager
Woodrow Griffin, Town Attorney
Amie Owens, Town Clerk
Paul Benson, Planning Director

The following media representatives were present:

Mary Ann Enloe, the Mountaineer
Becky Johnson, Smoky Mountain News

1. Welcome /Calendar/Announcements

Mayor Gavin Brown welcomed everyone to the meeting and asked Manager Onieal to provide calendar updates.

Manager Onieal noted the following calendar events:

- Today's ribbon cutting at the new Habitat Home Store was successful; the new facility is larger and easier to access.
- March 27, 2015 – Board Retreat at the Wells Event Center
- April 17, 2015 – Kiwanis Spelling Bee – the Mayor, Town Manager and Town Clerk will be participating as a team.
- April 28, 2015 – Board of Aldermen meeting has been canceled due to anticipated lack of quorum, as a result of board members' business/vacation travel schedules and the fact that the mayor and manager will be in attendance at a statewide Economic Development Summit on that date; the next regular board meeting will be on May 12, 2015.
- Budget workshops will begin in May/June and will be announced.

Mayor Brown noted the passing of Town of Clyde Alderman and Mayor Pro-Tem Carroll Mease; many officials from the various municipalities and county attended his memorial service on Saturday, March 21.

2. Adoption of Minutes

Alderman Caldwell made a motion, seconded by Alderman Roberson, to approve the minutes of the March 24, 2015 regular meeting as presented. The motion carried unanimously.

Mayor Brown asked about the charging station in the Montgomery Street parking area and whether signage would be placed to indicate the reserved spaces; he also inquired if the units were operational. Manager Onieal noted that there would eventually be signage at the electric charging stations indicating reserved spaces and directional signage installed to direct drivers to the parking lot. She explained that the DC fast charger is not yet operational, although the Level 2 charger is, and that the solar collector, which is part of the overall project has yet to be installed; the Town is awaiting completion by Brightfields, which is responsible for installation and will be providing assistance with signage, once the project is complete. Manager Onieal added that even though we have not yet advertised the EV station's availability, she has already received positive feedback from several customers who have discovered the station via the on-line smartphone applications and that they have had no trouble using the charger to re-charge while enjoying dining and shopping in the downtown area.

B. PUBLIC HEARING

3. Public Hearing to consider adoption of an ordinance regulating the use of tobacco and related products in the Town of Waynesville

Manager Onieal provided background information to the board and audience concerning the intent of the ordinance, research conducted and the need for revision to the proposed ordinance. She noted that the ordinance in its current form was not ready for approval, but that staff desired to get a first draft in front of the board and public to begin generating public comment and feedback to assist staff in further refinement of the ordinance. Manager Onieal explained there were four key drivers behind the proposed ordinance being brought forward at this time:

1. The town had previously acknowledged the public health implications associated with the dangers of unintended exposure to secondhand smoke by previously adopting administrative policy banning smoking and tobacco use in all town-owned buildings and vehicles. It is a natural extension of this policy to give policy the force of law and to extend the restrictions to all Town-owned property, where the public gathers (not just buildings and vehicles), as the town has an obligation to provide for health and welfare, not only of its own employees, but of all its citizens and visitors as well.
2. The town has increasingly received complaints about smoking in public spaces with high pedestrian traffic, especially with regard to family friendly events, where large multi-generational crowds gather, at special events, entries to businesses, parades, festivals, seating areas in downtown, sidewalks

3. Growth in public awareness of the health consequences of tobacco use and smoking have sparked a demand in the last decade for state and local governments to enact a increasingly restrictive statutes ordinances aimed at protecting public health in public spaces, and as of February 2014, there were only 7 counties out of 100 in NC that had failed to pass restrictive smoking or tobacco use ordinances, and even those seven had adopted administrative policies that in fact restricted smoking on public properties.

4. Haywood County is about to adopt an ordinance that will ban smoking on county properties, including the courthouse and justice center, which has been universally viewed as a problem location for exposure to secondhand smoke, due to the large number of smokers who congregate in that area. As a practical matter, if individuals cannot smoke at the Justice Center, if the Town does not address smoking on sidewalks in the Downtown area, then it is likely the Town will see the existing problem simply migrate further down the street.

Manager Onieal commented that the intent was to address issue of second-hand smoke in the public areas that we control, primarily on sidewalks and in commercial areas and the grounds such as parks, trails and recreation areas. The draft ordinance did not effectively establish the difference between publicly-controlled and privately-controlled “public” areas. Controlling smoking at festivals, parades, concerts, and similar events on a public space is also an area where further revision is required. Manager Onieal noted that the NC general statutes give the Town fairly wide authority to act in the protection of public health, and that an ordinance could restrict smoking in public spaces on on private property. Manager Onieal provided examples of several NC towns and counties that had successfully prohibited smoking in sports arenas, in service lines, bus stops, child care facilities, public restrooms and in the common areas of residential facilities, apartment buildings and shopping malls. She added that staff’s intent with the town’s first draft was to take a limited approach to just control those areas that belong to the town and address the public spaces in densely populated commercial areas where second-hand smoke has already proven to be a real problem.

Manager Onieal noted that from an enforcement standpoint, the goal is to make the ordinance more of an educational issue rather than a criminal issue or even a civil violation. While the ordinance provides for a civil penalty to be assessed, enforcement could be administered by any town employee or agent of the town (i.e. DWA, code enforcement, other employees), and the emphasis would be on community education, protection of public health, cooperation and co-existence. It is not the town’s desire to follow people with a ticket book, nor to make this a matter of police enforcement, except in the most extreme of cases.

Manager Onieal introduced Traci Clark, Regional Manager of Hi-Top Consortium, a program of the Tobacco Prevention and Control Branch of the NC Department of Health and Human Services, to speak regarding the state’s stance on smoking as a public health issues and the wide variety of ordinances across the state. Ms. Clark provided statistics and information on second-hand smoke and why local governments can and should be involved in this public health matter. She explained that she had assisted the Town of Canton with the development of their ordinance and had assisted with crafting policy and signage and media messages (social media). Ms. Clark reiterated that education is the main way to get the message out to the public and that is where the enforcement goes – educating town residents and visitors. Once the policy or ordinance is in effect, public education efforts are underway and signage is up, the public will generally adhere to policies and ordinances. Ms. Clark added that there have been no legal challenges to the multitude of ordinances which have been adopted across the state, even in those jurisdictions where public use of all tobacco products has been prohibited, and

virtually no complaint nor public outcry once the ordinances were adopted. She added that good public education and signage were keys to success in early compliance with the new laws.

Town Attorney Griffin opened the public hearing at 7:00 p.m. The following individuals addressed the board:

- 1) **David Young, 384 Thomas Park Drive, Waynesville, NC 28786** indicated that there were numerous issues with the ordinance as it was currently drafted, and if adopted as is, he would be against it. Mr. Young offered three alternative ideas, which could offer a compromise between smokers and non-smokers without banning smoking altogether.
 - a) have the ordinance in effect only during the normal operating hours of the majority of merchants in the designated commercial districts. An 8:00 a.m. to 5:00 p.m. smoking ban would keep smoke away from the majority of people without harming the bars and restaurants that typically serve a higher percentage of tobacco-using adults, who would frequent restaurants and bars in the evening.
 - b) Allow businesses to opt-in to the ordinance. Any business that wishes to participate in the ban could post a sign in their window and smoking could be prohibited within a set distance of the sign at their business during the regular operating hours of that business.
 - c) Exempt businesses with a public entrance located more than a set distance from the entrance of neighboring businesses. For example: if Bogart's wanted to allow smoking in their own parking lot, their customers should not be punished for smoking within 50 feet of the entrance.

Mr. Young further noted the difficulty in enforcing distances from entrances – that unless clearly marked, how would one know whether they were in violation of the ordinance?

- 2) **Megan Hauser, 152 Walnut St, Apt 7, Waynesville, NC 28786** noted that individuals shopping or walking downtown have no choice but to pass through cigarette smoke due to the narrow sidewalks and dense development in commercial areas. Many citizens are negatively impacted by second-hand smoke, not only as a matter of preference but as a genuine health issue. She expressed that the majority of individuals in Haywood County, based on data, do not smoke and she felt it was in best interest of the town to move forward with prohibiting public smoking. Ms. Hauser added that the restaurants and bars have not seen a loss in business since the statewide ban was implemented, and that statewide ban some years ago has not harmed Waynesville's economy in any way. Ms. Hauser concluded that the ordinance would not have a negative impact and was in favor of an ordinance restricting smoking in public spaces.

There being no one else from the audience who wished to speak, Town Attorney Griffin closed the public hearing at 7:07 p.m.

Following the close of the public hearing, the board posed the following questions.

Alderman Freeman inquired if there was any enforcement on state-owned streets and areas such as in between cars parked on those streets? Manager Onieal noted that the Town had the right to impose restrictions and enforce regulations on any space it owned, leased, controlled, maintained, or to which it had easements or rights-of-way. Ms. Clark indicated it could be plausible for the town to

exercise enforcement over state roads within the Town, but would get a formal opinion from legal counsel within her department.

Alderman Roberson noted a concern with enforcement and how to get the citizenry comfortable with enforcement. Mayor Brown commented that it would be an educational effort and would take cooperation with business owners to point out when someone is not complying. It will be a process.

Alderman Caldwell added that he was concerned that since restaurant law states individuals cannot smoke inside, then if they cannot smoke on the sidewalk, then they may not come back. He commented that the rights of the smoker should be considered as well.

Alderman Greeley added that there should be a clear definition of public and private areas. He added that anyone with private property can allow or disallow smoking on their property.

Mayor Brown charged Manager Onieal and staff with revising the ordinance to best meet the concerns noted and bring back to the board a revised ordinance.

By consensus, the Board authorized the manager to return a revised draft of the ordinance at the April 14th regular board meeting and to continue the public hearing to the regular board meeting of May 12th.

C. COMMITTEE AND DEPARTMENTAL REPORTS

4. Annual Report from Historic Preservation Commission

Paul Benson, Planning Director presented the annual report from the Historic Preservation Commission (HPC) on behalf of Bette Sprecher, Chairman. Mr. Benson recognized the members of the HPC and applauded their passion and commitment to historic preservation. He noted that there had been ten (10) regular meetings of the HPC since April of 2014.

Mr. Benson explained that the major focus for the HPC has been on Greenhill Cemetery and gathering information for application to be listed on the National Register. The HPC has submitted a grant application to assist with paying for a consultant to complete the application. Being on the National Register is an honorary designation and would not impact any town services but would recognize Waynesville's history. Mr. Benson added that the cemetery is an Interesting reflection of the Town's history and there have been multiple interesting stories discovered during this research.

Another project that the HPC completed in 2014 was working with residents of Love Lane and the Town to place a sign at the neighborhood entrance showing its designation as a historic district and the "Oldest Residential Street in Waynesville."

The ordinance that enacted the HPC puts them in charge of review of marquis signs. The group worked with the owners of the Strand Theater to maintain the historic look and enhance downtown.

Mr. Benson noted that three (3) new appointees had been added to the HPC and commission members were interested in specific training. The HPC is going through the *Handbook for Historic Preservation Commissions in North Carolina* a few chapters at a time to ensure that the entire group is familiar with NC, as well as Town, standards.

Mr. Benson explained that tax credits for historic landmarks expired in December, 2014. The historic rehab credit encouraged private investments in local communities and encouraged the reuse of existing buildings, which saved taxpayer money through reducing the need to expand public services and infrastructure. In an effort to reinstate tax credits for historic landmarks, cities and towns are drafting resolutions for support. If approved, the resolution would be forwarded to the NC General Assembly and Governor to show support for the reinstatement of this important tax credit. Mr. Benson commented that funerary artwork is part of historic preservation in Greenhill Cemetery.

Manager Onieal added that the Governor and House were in sync; however, the Senate wants to do away with all tax credits. This was discussed at Town Hall Day and while not in favor of bringing back the tax credit, the General Assembly would like a compromise and potentially have this as a grant program for communities who are active in historic preservation. She did note that the NC League of Municipalities is supportive of activities involving historic preservation and is aware of the resolutions of support that are being forwarded to the Legislature.

Alderman Roberson made a motion, seconded by Alderman Freeman to approve the Resolution of Support for the Reinstatement of the Historic Preservation Tax Credit as recommended by the Historic Preservation Commission, as presented. The motion carried unanimously.

5. 2014 Annual Report from the Waynesville Parks and Recreation Department

Manager Onieal explained that the Board had received the Recreation Advisory Council and Parks and Recreation department's annual reports already; however, with the department seeking specialized accreditation, formal documentation of approval by the Board is required. The Commission for Accreditation of Park and Recreation Agencies (CAPRA) standards for national accreditation provides an authoritative assessment tool for park and recreation agencies. Through compliance with the standards of excellence, CAPRA accreditation assures policy makers, department staff, the general public and tax payers that an accredited park and recreation agency has been independently evaluated against established benchmarks as delivering a high level of quality.

Manager Onieal noted that Waynesville's Parks and Rec are seeking CAPRA accreditation as a mark of excellence and it is an ambitious and lengthy undertaking on their part. CAPRA requires looking at the department's programs, processes, procedures and outcomes, then weighs them against best practices in service provision to ensure that we are meeting or exceeding the standards of other accredited programs across the country. CAPRA has 144 core standards and programs must meet 90% to be accredited.

Alderman Greeley commended Rhett Langston, Parks and Recreation Director, for his willingness to begin such a process. He added that this would be a feather in Waynesville's cap to achieve this accreditation.

Manager Onieal added that agencies often do not achieve accreditation the first time out when they seek such accreditation, but that the experience of going through such an intensive self-evaluation is an outstanding learning experience for the department in and of itself. Not only does the process lead to improvements for the Recreation Department, the process sets out high procedural standards, many of which are transferable or applicable to other departments as well. The accreditation process also requires a great deal of communication between the Recreation Department and other Town departments in order to complete. Manager Onieal expressed her appreciation and admiration for all Town staff involved and praised the Leadership Team for their willingness to push themselves to a higher level of achievement, especially in support of the Recreation Department in this endeavor.

Alderman Greeley made a motion, seconded by Alderman Roberson, to approve the 2014 annual report from the Waynesville Parks and Recreation Department, as presented. The motion carried unanimously.

D. NEW BUSINESS

6. Street Closure Requests

- a. West Haywood/Waynesville Relay for Life – Wine Race – Saturday, April 25, 2015 from 2:30 p.m. to 4:30 p.m. Miller Street Parking Area. Mark Scott, representing West Haywood/Waynesville Relay for Life, explained that the Wine Race was a great success during its inaugural year last year and they are planning on holding it again this year. Mr. Scott has already spoken with the two restaurants that are adjacent to the parking area (the Sweet Onion and Smoky Mountain Sub Shop), and they were agreeable to the closing of the parking area. One of the restaurants will have staff participating in the event.

Alderman Freeman commented that she had attended the event last year and that it was well received. Mr. Scott invited the Mayor and Board to attend the Wine Race, as well as the Relay for Life event on April 25 and thanked them, the Town and the merchants for their support.

- b. Haywood County Tourism Development Authority – Quilt Block Unveiling – Tuesday, April 14 from 12:15 p.m. to 12:45 p.m. Depot Street near Historic Courthouse. Manager Onieal explained that the new quilt block will be installed on the end of the Animal Hospital facing the Courthouse, so in order for people to view it and hear the speakers at the unveiling, they would need to stand in the street. This will be a short presentation – 30 minutes and then everyone will move into the building and the street would be re-opened.
- c. First Methodist Church Waynesville upcoming events –closure of Academy Street for three (3) events
 - i. Pig Pickin’ – Sunday, May 31 beginning at 4pm and ending at 8pm; request closure of street by 1pm.
 - ii. Back to School Bash – Sunday, August 30 beginning at 4 and ending at 7pm; request closure of street by 1pm.

- iii. Trunk or Treat – Saturday, October 31 beginning at 5pm and ending at 8pm; request closure of street by 3:30pm.

Manager Onieal explained that all of these church events had occurred in previous years and were approved.

Alderman Caldwell made a motion, seconded by Alderman Greeley, to approve the street closures for West Haywood/Waynesville Relay for Life, Haywood County TDA and the First United Methodist Church of Waynesville, as presented. The motion carried unanimously.

7. Municipal Record Retention Schedule Amendments

Town Clerk Amie Owens informed the board that there had been several revisions to the Municipal Record Retention Schedule including:

Standard 4 – Budget, Fiscal and Payroll Records – amending item 32, Escheat and Unclaimed Property file – this section reflects the change to the retention for those records filed prior to and after July 16, 2012 in compliance with NCGS 116B-60 and 116B-73.

Standard 9 – Law Enforcement Records – addition of item 136 – Law Enforcement Audio and Video Recordings - this new section meets the provisions of NCGS 132-1.4 and notes that these records may be destroyed in office after 30 days if not made part of a case file. If made part of a case file, these records must meet specific standards which are cross referenced in the disposition instructions.

Standard 12 – Personnel Records

- a. Item 1-A-Accreditation records – destroy in office one (1) year after accreditation is obtained, renewed or no longer valid.
- b. Item 19 – Employee Eligibility Records – mandatory retention of all I-9 forms for the duration of employment and after separation records may be destroyed in office three years from the date of hire or one year from separation, which ever occurs later.
- c. Item 42 Leave File – Any records concerning any type of leave (with or without pay, FMLA, sick, vacation, etc...) may be destroyed in office after the employee returns to work or termination of employment. This item (42) incorporates items 36 – FMLA leave and item 43 – Leave without pay; previously these were independent retention items.

Ms. Owens will seek clarification as to whether item 1-A – Accreditation Record pertains only to the certificate itself or materials collected in preparation of accreditation applications or reviewed for accreditation.

Alderman Greeley made a motion, seconded by Alderman Freeman, to approve the amendments to the Municipal Records Retention Schedule, as presented. The motion carried unanimously.

E. CALL FOR PUBLIC HEARING

8. Call for Public Hearing to consider the amendment of Section 3.10.4 of the Land Development Standards regarding minimum lot size, buffering and design for Monopole Wireless Communication Towers

Mr. Benson explained that applicant Prime Tower had requested an amendment to waive minimum lot size for cell towers in commercial areas. This request was reviewed by the Planning Board at their February 23, 2015 meeting and passed unanimously.

Mr. Benson noted that the Planning Board recommendation is to keep the one acre requirement for residential districts in keeping with lot standards for other commercial uses. Other recommendations included the buffering standards for cell towers and additional language about design to make it clear the range of finish and reflectivity of the paint and architectural design options.

Alderman Greeley made a motion, seconded by Alderman Freeman, to call for a public hearing on Tuesday, April 14, 2015 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, to consider the amendment of Section 3.10.4 of the Land Development Standards regarding minimum lot size, buffering and design for Monopole Wireless Communication Towers. The motion carried unanimously.

F. COMMUNICATIONS FROM STAFF

9. Town Attorney

Town Attorney Griffin had no business to discuss.

10. Town Manager

Town Hall Day Report

Manager Onieal reported that Town Hall Day was well attended and that she would forward information from the League of Municipalities. This General Assembly has made some progress, but is stuck on the gas tax. She noted that the atmosphere is more congenial with new leadership and that Tim Moore is a warm and open leader. Manager Onieal added that it is early in the session to see much progress being made. Specific areas that Manager Onieal will be monitoring is the replacement of revenues from loss of business privilege license tax – all looking at huge loss with nothing on the table to replace that. Projections have not come up to what they'd hoped and with the state not making its own revenue projections, there is no way to avoid the \$150,000 loss.

Manager Onieal noted that use of sales tax still very much in play and how it is distributed. Currently, discussion surrounds the imbalance between rural and urban and how to redistribute no universal agreement about this.

Manager Onieal added that Senate Bill 141 (Waynesville/Lake Junaluska Annexation Referendum) is still in the senate operations and rules committee. She noted that all municipalities and the county have signed the joint resolutions of support, and that other agencies such as DWA, TDA, Chamber of Commerce and EDC have expressed support and will

have the joint resolution on their upcoming board agendas. Manager Onieal explained that Senator Davis is ready to move the bill.

Employee News

Manager Onieal announced that the Public Services Employee of Month for February was the entire public services department for their efforts during the recent inclement weather.

Constituent Request

Manager Onieal reported that Hughes Roberts, Jack Bishop and others have renewed their efforts to bring an assisted living/continuing care retirement center into Haywood County. They have also discussed the possibility of obtaining a Certified Retirement Community designation from the NC Department of Commerce for the Town of Waynesville with Andre Nabors, of the Economic Development Partnership of North Carolina. Both the Mayor and Manager Onieal have met with the group and are planning a future meeting to discuss. They have requested an opportunity to address the Board of Aldermen, and that is tentatively scheduled for the regular meeting of April 14.

Board Retreat

Manager Onieal explained that there would be three major discussion topics for the board retreat and if time allows, some pre-budget proposals around capital items in the Public Services Department:

- Watershed– discussion of studies and long-term use, access and legal issues related to the conservation easement. Manager Onieal explained that there are currently 600 acres not included in the conservation easement; however, this land cannot be accessed without going through the existing easement.
- Facility Needs – pre-budget review of departmental facility needs, with particular focus on Fire, Public Services, Municipal Building and Town Hall, including co-location of the Downtown Waynesville Association, Tourism Development Authority and Chamber of Commerce; the movement of the Development Services office and related capital needs.
- Electric/Energy Services contract – energy services contract proposals from UTEC and Nova Energy Consultants and electric operations assessment report from UTEC
- Departmental Budget items – water/sewer capital construction crew proposal and solid waste commercial collection fee restructuring

Manager Onieal explained that routine budget discussion will be held in May and June, unless there are other specific topics the board wished to address at this time.

G. COMMUNICATIONS FROM MAYOR AND BOARD OF ALDERMEN

Alderman Greeley noted that the Wells Event Center had received an award from NC Main Street Program, for economic restructuring in the Best Business Retention category at the association's annual conference this past month in Morganton.

Manager Onieal added that the Town of Waynesville had received the Gold Award by Blue Ridge Country Magazine for the Best Little Town off the Blue Ridge Parkway. Maggie Valley received a Silver Award.

H. CALL ON THE AUDIENCE

No one addressed the board.

I. ADJOURN

There being no further business to discuss, Alderman Caldwell made a motion, seconded by Alderman Greeley, to adjourn the meeting at 8:00 p.m. The motion carried unanimously.

ATTEST

Gavin A. Brown, Mayor

Marcia D. Onieal, Town Manager

Amanda W. Owens, Town Clerk