

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REGULAR MEETING**  
**August 9, 2016**

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**THE WAYNESVILLE BOARD OF ALDERMEN** held a regular meeting on Tuesday, August 9, 2016 at 6:30 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 6:30 p.m. with the following members present:

Mayor Gavin Brown  
Alderman Gary Caldwell  
Alderman Jon Feichter  
Alderman Julia Freeman  
Alderman LeRoy Roberson

The following staff members were present:

Mike Morgan, Interim Town Manager  
Woody Griffin, Town Attorney  
Amie Owens, Assistant Town Manager/Town Clerk  
Joey Webb, Fire Chief  
Byron Hickox, Land Use Administrator  
David Foster, Public Services Director  
Rhett Langston, Recreation and Parks Director

The following media representatives were present:

Mary Ann Enloe, the Mountaineer  
Cory Vaillancourt, Smoky Mountain News

1. Welcome /Calendar/Announcements

Mayor Gavin Brown welcomed everyone to the meeting and noted the following calendar events including:

- August 9 - Groundbreaking for Chick-fil-A – the Mayor and three Aldermen attended. The goal is to be finished with construction and ready for opening in January 2017, employing approximately 100 people.
- August 22 – Haywood County Council of Governments meeting – Maggie Valley hosting

2. Adoption of Minutes

***Alderman Caldwell made a motion, seconded by Alderman Freeman, to approve the minutes of the July 7, 2016 special called meeting, the minutes of the July 20 special called meeting and the minutes of the July 26, 2016 regular meeting, as presented. The motion carried unanimously.***

### 3. Recognition of Newly Hired Fire Fighters

Mayor Brown made a change in the order of the agenda to recognize the newly hired fire fighters in advance of the other business at the meeting. He asked Fire Chief Joey Webb to introduce the four individuals and tell about the hiring process.

Fire Chief Webb explained that the initial posting was internally only with 10 applications received. Of those 10, eight went through an assessment center consisting of an oral interview, apparatus operations scenario where candidates had to pump and flow water and a physical agility test that included climbing a 75 foot ladder and a 150 lb. dummy drag for 50 feet, all while wearing a 45 pound vest that simulates the weight of fire gear and breathing air pack.

Chief Webb noted that each of the fire fighters have their EMT certification as well as driver operator credentials. He introduced the new fire fighters noting that there was one on each shift A through D.

- Shane Messer is on A shift and had been a volunteer fire fighter for Waynesville since 2012 and a Town employee in Streets and Sanitation for 14 years.
- Mark Yarborough is on B shift and had been a part-time fire fighter since 2011 and volunteer since 1997. He added that Mark is a third generation fire fighter.
- Gabriel Burch is on C shift and had been a part-time fire fighter since 2013 and a volunteer fire fighter in Haywood County since 1997.
- Jason Webb is on D shift and has been a volunteer fire fighter since 2010.

Mayor Brown led the applause for these newest members of the fire department and thanked the families of these men for their support. He noted that the Town could supply the resources for the job, but that family was a key to success.

## **B. PUBLIC HEARINGS**

### 4. Public Hearing to consider the withdrawal of a parcel from the Municipal Service District

Mayor Brown noted that a request had been received to withdraw a parcel from the Municipal Service District (MSD). Under the new statutes that became effective in October 2015, there is a procedure that must be followed if a municipality decides to remove a parcel from the MSD; it must be done by ordinance. He explained that tonight there was not an ordinance being brought forth, but rather a public hearing to gain input from citizens related to the matter. Then if it is decided that there should be a change in the existing MSD, then the ordinance must be presented and voted upon at two meetings.

Attorney Griffin noted the purpose of the public hearing to consider the withdrawal of a parcel from the MSD. **Attorney Griffin opened the public hearing at 6:38 p.m.** reminding audience members that if any one wishing to speak should raise their hand, be recognized and approach the podium providing their name and address for the record and limit comments to three (3) minutes.

Mayor Brown recognized Byron Hickox, Land Development Administrator to provide background information related to this matter. Mr. Hickox explained that a written request to remove from the MDS was received from James and Sharon Earley. He read from the legislation that a property owner could request to remove property from the MSD noting that the request should “state with particularity the reasons why the tract or parcel is not in need of the services, facilities or functions of the proposed district.” Mr. Hickox added, from the legislation that, “if the city council finds the tract or parcel is not in need of the services, facilities or functions of the district to a demonstrably greater extent than the remainder of the city, the city council may, by ordinance, redefine the service district by removing therefrom the tract or parcel.”

Mr. Hickox continued noting that all board members had seen the map of the MSD. Mr. Hickox alluded to the original resolution that created the MSD in 1986, reading section 2; *“It is the intent of the town to establish the Municipal Service District to finance, provide and maintain a downtown revitalization program in the service district. The program will include but not be limited to promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare and convenience.”*

Mr. Hickox noted that before the board for consideration is a resolution to amend the MSD service boundary. He explained that, if passed, the board should be in agreement with the following findings from the resolution:

1. The Board finds that 180 Legion Drive does not need the services, facilities or functions of the Main Street Municipal Services District because:
  - a. The property is separated from Main Street topographically causing the structure on the property to be accessed from, addressed on, and fronting Legion Drive;
  - b. The property is not included as part of the National Register District and does not contain a structure that is part of the Main Street architectural context, nor does it benefit from the historic and architectural character of the MSD;
  - c. The property does not benefit from the MSD enhancements to the Main Street sidewalk, landscaping and lighting infrastructure;
  - d. The property, does not benefit from the activities hosted by the Downtown Waynesville Association as such activities appeal to a tourism and recreational customer base, while the current business as a Plumbing and Electrical Services company does not; and
2. This property is particularly unable to benefit from its inclusion in the MSD and therefore appropriate to be removed in accordance with State Statutes; and
3. If in the future the use and form of the property changes to benefit from the MSD, the Board could re-evaluate the MSD District boundary.

Alderman Caldwell asked Mr. Hickox if he felt that the Earley’s property fits in with the existing MSD. Mr. Hickox answered that from the review by the Development Services Staff and recommendation by the Planning Board that the parcel does seem to be separate from the Main Street district and not the same as other businesses downtown and such exclusion would be appropriate if the board were inclined to approve the request.

Alderman Roberson clarified that the MSD was established 30 years ago. Mr. Hickox confirmed it was 1986. Alderman Roberson followed with an inquiry as to when the Earley's built on their property. From the audience, Ms. Earley noted it was 2000 or 2001.

Attorney Griffin opened the floor for those who wished to speak on the matter.

John Keith, President of the Downtown Waynesville Association, and owner of property at 98 North Main spoke in opposition to removal of the property from the MSD. He reiterated that the Earley's purchased the property with the existing tax commitment in place and they could have built up to the Main Street level. He posed the question as to what would happen if a future owner elevated the property to Main Street and would the new owner be able to bring back in to the MSD. Mr. Keith explained that a concern is that if one individual leaves the MSD, then others may wish to follow. Mr. Keith noted that not all of the businesses in the MSD were tourism related but did benefit, as did the county as a whole, from individuals who become residents and use their services. Mr. Keith concluded by sharing it was his hope and the hope of the Downtown Waynesville Association to leave the MSD as it is currently and that the board denies the request for removal.

Teresa Pennington, business owner, 15 North Main Street, mentioned that she had moved her studio from Asheville to Waynesville. She noted that since her initial move to Church Street and then to Main Street that property values have gone up considerably. She likened the valuation to the efforts of the Downtown Waynesville Association (DWA) and the MSD which had provided many of the amenities such as street lighting and bricked sidewalks. Ms. Pennington added that the DWA provided support for all of those within the MSD through economic development activities. She explained that the concern is that if properties are allowed to be removed from the MSD, then it takes the lid off of Pandora's box and the efforts of the DWA and purpose of the MSD will begin to implode. Ms. Pennington asked to board to deny the request.

Sharon Earley, property owner of 180 Legion Drive and petitioner, explained that there is no Main Street access to the property owned by her and her husband James since 1998. The building is across from the Town of Waynesville Public Services building and the American Legion with no activities regularly occurring on the street. Ms. Earley commented that tourists love the town and its downtown area with flags that line the sidewalks, brick sidewalks and public art; there are festivals downtown and activities, but none of them occur on Legion Drive. She continued noting that people do not come to this area for Walmart come for historic Main Street. Since there is no interaction with other Main Street amenities and festivals, the property is one of a very few that could take advantage of the newly approved legislation. Ms. Earley added that there were not tons of people who would be asking to get out of the MSD, that theirs was a unique/unusual situation. Ms. Earley asked the board to consider approving their request.

Buffy Phillips, Executive Director, Downtown Waynesville Association spoke noting that Main Street should not be referred to as only for tourists. It is a destination for visitors and locals. In 1986, the MSD was created and the property owners agreed to tax themselves in an effort to revitalize the area. Downtowns were dying due to development with strip malls; merchants and property owners here taxed themselves and it worked. Ms. Phillips noted that the downtown is one of the best examples of the Main Streets program nationwide with many generations returning to Waynesville to visit downtown. Ms. Phillips explained that local plumbers who come in to the Development Services office are going to Ferguson Supply to get items for their jobs. Ms. Phillips noted that Ferguson Supply was a \$13 billion dollar national company with 70 locations in North Carolina, with a history of charitable and

community giving. She interjected that for \$692.00 annually she felt Ferguson Supply would not object to being part of the MSD. Ms. Phillips provided statistics as to the average daily cost to property owners under the MSD and provided a listing of the annual events. She explained that the boundaries of the MSD were well thought out in its development and that if picked apart, all of the MSD would lose. Ms. Phillips concluded by noting that the property was purchased for \$35,000 in 1998 and it is now worth \$135,000.00; this is the economic development that the MSD has incited. Ms. Phillips asked the board to deny the request.

There being no additional comments, **Attorney Griffin closed the public hearing at 7:00 p.m.**

Mayor Brown explained that the section that was added allowing the property owner to make the request does not change the board's existing authority. The board has always had the authority to change the MSD and allow properties to be excluded for any reason or no reason. The new section 160A-538.1 (a1) was added and allows the property owner to petition for removal if it has determined that "the parcel is not in need of the services, facilities or function of the proposed district". Mayor Brown noted that it did not have to be all three. What has changed in the statute is the ability for the property owner to petition for such removal.

Mayor Brown asked board members to share their thoughts on the issue before them.

Alderman Roberson explained that he was a business owner when the MSD was created; he voted for it and supported it. He acknowledged that he paid a tax for the MSD, but did not get a direct benefit from it. But he alluded to the indirect benefits such as a vibrant and beautiful downtown Waynesville. Alderman Roberson added that the reputation of the downtown has grown and is known state-wide. He noted that when individuals relocate to the area, the businesses throughout Waynesville benefit. Alderman Roberson also expressed that property values have gone up in the areas in and around the MSD; it has increased and helped to maintain the value of people's property. Alderman Roberson commented that the MSD created something vibrant with staying power and his hope would be to continue it as is without changing it.

Alderman Feichter began by agreeing with the Earley's in that they do not directly benefit from the MSD and noting that his business was similar in its perceived non-benefit of the MSD and from many of the activities that the DWA provides. He explained that his business is closed during these events. However, the benefit he receives is in working with those small local businesses that do benefit from DWA and MSD. Alderman Feichter provided some statistics about Tourism impact in Haywood County as of 2014. Tourism resulted in \$161.5 million in spending with \$33.09 million in worker income and pay checks for the area. In 2014, each of the 35,087 households in Haywood County paid \$549 less in local and state taxes due to tourism. While Alderman Feichter agreed with the Earley's argument of not receiving services of the DWA and MSD, he noted that they do benefit, as all Waynesville businesses do, indirectly by virtue of spending that is generated. Alderman Feichter stood opposed to the removal of the parcel from the MSD.

Alderman Caldwell voiced his agreement with the Earley's noting that they did not benefit from the lights, sidewalks and brickwork or decorations on Main Street. The business, Ferguson Supply, benefits from its proximity to the Waynesville Public Services building, but that DWA services do not go down Legion Drive. He argued that the building cannot be seen from Main Street and gains no walk in traffic. Alderman Caldwell supports the petitioner in the request for removal.

Alderman Feichter again commented that as he explained earlier, the indirect benefit was still worth the annual payment. He posed the question of, if we say yes to the Earley's request, what happens next when others request to be removed? Does the MSD then fail?

Alderman Freeman also expressed her sympathy with the Earley's predicament noting that the property does border Main Street. She agreed that they are not getting the bells and whistles of the district; however, the property was purchased knowing that it was within the district and the tax implications. Alderman Freeman posed the question, what if the building was to become a pool hall or a restaurant? If the use changes to something different and it has been excluded, then the property owner could reap the benefits of the Main Street traffic, but not have to pay its fair share of the funds to maintain the district. Alderman Freeman concluded that this could open up a box within the district where others can leave if they wish to and could be detrimental to the MSD.

Mayor Brown commented that Mr. Hickox had referenced the original resolution and its intent for the MSD. He asked the board to consider what the board was trying to do in 1986. Mayor Brown reminded those present that at that time, the downtown was falling apart and since that time has changed dramatically. He added that then, the Town asked to create the district to create activity resulting in the vibrant downtown of today. Mayor Brown indicated that the issue before the board had nothing to do with whether or not the Earley's business was similar or different from those in the MSD, the argument that it is not a downtown oriented parcel of land. Mayor Brown voiced his agreement with Alderman Caldwell and the Earley's, adding that redrawing the district did not bother him; he did not see that parcel being used as or benefiting from MDS/DWA. Mayor Brown concluded by noting that if the board approves the Earley's request, then the Town would move forward with an ordinance. If not, then the Board can revisit the issue if desired, at a later time, in accordance with section A of the statute.

***Mayor Brown made a motion, seconded by Alderman Caldwell to adopt the resolution to withdraw a parcel, 180 Legion Drive, PIN # 8615-25-5741, from the Town of Waynesville's Municipal Service District per the request from the owner.***

With a motion on the floor with a second, Mayor Brown asked if there was any further discussion.

Alderman Roberson commented that the argument had been made fore the benefit to the Earley's from an economic development standpoint in that their property value had increased significantly. Alderman Roberson added that he could appreciate what the Earley's stated, but still believes that the MSD is a vital part of what happens and it is spread out to many people. He noted that without this MSD and its supporting property owners, taxes would be increased for all citizens of Waynesville.

Alderman Caldwell interjected that the question was whether or not the Earley's were benefitting from the MSD and DWA. His answer was, No.

A request from the audience to speak was granted by Mayor Brown. James "Jimmy" Earley, property owner of 180 Legion Drive, addressed the Board. He noted that he maintains his property and pays additional \$1,500 annually for such upkeep. Mr. Earley denied knowing about the additional taxes at the time of property purchase and added that none of the activities that occur on Main Street have any impact on his property. Mr. Earley commented that Ferguson Supply, the occupants of the building

should not be a consideration related to the request. He acknowledged that while the property borders Main Street, it is fronting Legion Drive. Mr. Earley consciously moved off of Main Street to avoid having to close a business each time there was an event. He inquired where was the improvement on Legion Drive that he was contributing to through the additional tax.

Alderman Feichter answered that no one was disputing the fact that Legion Drive does not receive the same funding and activity as Main Street; he added that he still believed that the Earley's receive indirect benefit from the MSD as does everyone in the county.

***Mayor Brown reminded the Board of the motion on the floor and called for a vote. Mayor Brown and Alderman Caldwell voted to the affirmative on the issue; Aldermen Feichter, Freeman and Roberson voted in opposition. The motion did not carry with a 2-3 vote in opposition; the property located at 180 Legion Drive will remain in the MSD.***

5. Public Hearing to consider the adoption of a Resolution Authorizing the Town of Waynesville to Enter into an Installment Purchase Contract of Approximately \$1,300,000.00 to finance the cost of the Public Works Building Improvements

Interim Town Manager Mike Morgan noted that financing will be required for the cost of the Public Works Building Improvements. Twenty-one (21) requests for proposals were sent out with a return date of August 5, 2016; there were only two qualified respondents – Home Trust Bank and BB&T. A third submission was received after the deadline from Integra Bank and was deemed not applicable. An analysis was completed on August 8, with a resolution drafted for presentation at this meeting following the public hearing to gain input from citizens on the matter.

Manager Morgan explained that BB&T was the most responsible bidder with a fixed rate of 2.09% for a period of 15 years with an annual payment \$101,409 and legal fees of \$3,900. BB&T utilized a 360 day amortization. Manager Morgan noted that debt would allocate equally to be paid annually from the utility enterprise (water, sewer, electric) and the general funds. Finance Director Eddie Caldwell as asked if he was satisfied with this financing agreement and the terms. He indicated that he was pleased with the rate over this term.

Alderman Feichter asked if the Town had other debts with BB&T and if so, were they easy to work with or had there been problems. Mr. Caldwell noted that the electric substation and other endeavors had been financed through BB&T with no issues encountered. Manager Morgan added that he had worked with them in the past and had been excellent to work with. He reminded members that it is necessary to have a public hearing on the matter. If approved, the financing packet will be forwarded to the Local Government Commission (LGC) for a September 6, 2016 meeting date.

Attorney Griffin noted the purpose of the public hearing to consider the adoption of a resolution authorizing the Town of Waynesville to enter into an installment purchase contract of approximately \$1,300,000.00 to finance the cost of the Public Works building improvements. **Attorney Griffin opened the public hearing at 7:39 p.m.** reminding audience members that if any one wishing to speak should raise their hand, be recognized and approach the podium providing their name and address for the record and limit comments to three (3) minutes.

No one addressed the Board on this matter.

Attorney Griffin closed the public hearing at 7:40 p.m.

*Alderman Freeman made a motion, seconded by Alderman Roberson to adopt a resolution authorizing the Town of Waynesville to enter into an installment purchase contract of approximately \$1,300,000.00 to finance the cost of the Public Works Building improvements. The motion carried unanimously.*

#### **D. NEW BUSINESS**

##### **6. Request Approval to Enter into a contract with Alfred Benesch & Company for Recreation and Parks System-wide Master Plan Professional Services**

Rhett Langston, Recreation and Parks Director explained that the Recreation Master Plan has been discussed for several years. Due to budgetary constraints, the design and planning was removed from the budget in previous years. However, with the increase in attendance to various recreation facilities and requests for additional services from patrons and visitors, the master plan was included and approved in the FY 16-17 budget.

Mr. Langston noted that a Request for Qualifications (RFQ) was advertised beginning on June 22, 2016. Information was received from six (6) vendors. A steering committee, comprised of the WPRD director, WPRD supervisors and Town of Waynesville Development Services Director reviewed qualifications/applications at two meetings and made their recommendation of Alfred Benesch & Company to the WPRD Advisory Commission. The commission met on July 13, 2016 and determined that Alfred Benesch & Company was the most qualified and requested a formal proposal to include rates and explanation of scope of services. The proposal was received on August 2, 2016 and is being presented for approval by the Board of Aldermen and contract execution.

Recreation Advisory Board Chairman Kenny Mull, reported that the Advisory Board had reviewed the RFQ, read and discussed supplemental materials and were impressed with the company and their experience with park and greenway master planning jobs in other communities. He noted that the Recreation Advisory Board was unanimous in the recommendation of Alfred Benesch & Company.

Mayor Brown explained that based on the letter from Alfred Benesch & Company that they would attempt to gain PARTF grant funding to assist in offsetting of costs. He inquired if there was a specific PARTF grant that they would be pursuing on behalf of the Town? Mr. Langston noted that there were several different grants that could be considered including on specific to the needs of veterans. Mayor Brown asked how the CAPRA certification was progressing.

Mr. Langston reported that in the 10 requisite categories, the Waynesville Recreation Department was approximately 50% complete with some additional implementation of polices and procedures required. Chairman Mull took the opportunity to compliment Mr. Langston on the fine job he was doing at the helm of the Recreation Department and working with the Recreation Advisory Board.



Attorney Griffin cautioned Mr. Langston on the wording of the attachment to the proposed contract of general conditions. The fees are not based on a not to exceed, but rather on an hourly basis; these fees are based on expectations, but this project needs to be monitored to prevent cost escalation.

Manager Morgan added that prior to voting whether or not to proceed with the contract signing, a budget amendment needs to be completed as the funds for this project were allocated in the previous fiscal year. As it did not occur then, funds went back into the general fund and in accordance with the North Carolina Local Government Fiscal Control Act, funds must be available prior to entering the contract.

***Alderman Caldwell made a motion, seconded by Alderman Feichter to approve a budget amendment to the Fiscal Year 2016-2017 budget for \$55,000.00 for the purpose of contracting to complete a system-wide master plan project for Recreation and Parks. The motion carried unanimously.***

***Alderman Roberson made a motion, seconded by Alderman Feichter to authorize the Town Manager to execute the contract with Alfred Benesch & Company for System-wide Master Plan/Site Specific Master Plan Proposal for Professional Services, as presented. The motion carried unanimously.***

**E. COMMUNICATIONS FROM STAFF**

10. Manager's Report - Interim Town Manager Mike Morgan

Manager Morgan had no additional report.

11. Attorney's Report – Acting Town Attorney Chase Wells

Town Attorney Griffin had nothing to report.

**F. COMMUNICATION FROM THE MAYOR AND BOARD**

Alderman Roberson asked if there was some way to have signage on Church and Miller Streets indicating that large trucks could not turn on to Main Street. The traffic signal pole closest to the Municipal Building was hit by a truck turning right on to South Main requiring the NC DOT to come and fix the pedestrian signals. Public Services Director, David Foster noted that he could work with NC DOT to implement some traffic control measures.

**G. CALL ON THE AUDIENCE**

Dick Young noted that the NC DOT had confirmed that Pigeon Street was due for resurfacing in 2017, he asked the Town to be ready to assist with necessary improvements in order to move the project along.

**G. CLOSED SESSION**

***Alderman Freeman made a motion, seconded by Alderman Feichter to enter into closed session for the purpose of discussion of personnel matters (applicants for the Town Manager position) as permitted under NCGS §143.318.11(a)(6). The motion carried unanimously.***

**The Board entered into closed session at 7:59 p.m.**

**The Board returned from closed session at 8:12 p.m.**

Mayor Brown reminded the Board and audience that a great deal of effort and time had gone into the selection of a new manager for the Town of Waynesville. That being said, he announced the Board's desire to offer a contract with an annual salary of \$125,000 to Robert Hites, Jr. with a start date of August 22, 2016.

***Alderman Caldwell made a motion, seconded by Alderman Freeman to offer the position of Town Manager to Robert Hites, Jr. for an annual salary of \$125,000 with a start date of August 22, 2016. The motion carried unanimously.***

The contract was signed by Mayor Brown and Mr. Hites. Mayor Brown added that he would leave a transition plan up to Mr. Morgan and Mr. Hites.

Mayor Brown concluded by thanking Mr. and Mrs. Hites for attending the meeting and hopes that they find the community to be engaging. He added that the board felt they had found the individual who will fits the town and the Board.

Mr. Hites commented that he was extremely impressed with this board that Waynesville impressed him and the staff has impressed him.

**H. ADJOURN**

***There being no further business to discuss, Alderman Caldwell made a motion, seconded by Alderman Feichter to adjourn the meeting at 8:23 p.m. The motion carried unanimously.***

ATTEST

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Gavin A. Brown, Mayor

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Michael J. Morgan, Interim Town Manager

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Amanda W. Owens, Town Clerk