

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
SPECIAL MEETING  
November 28, 2017**

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**THE WAYNESVILLE BOARD OF ALDERMEN** held a special meeting on Tuesday, November 28, 2017, 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  
Mayor Pro Tem Gary Caldwell  
Alderman Julia Freeman  
Alderman Jon Feichter  
Alderman LeRoy Roberson

The following staff members were present:

Rob Hites, Town Manager  
Martha Bradley, Town Attorney  
Amie Owens, Assistant Town Manager  
Eddie Ward, Town Clerk  
Elizabeth Teague, Development Services Director  
Rhett Langston, Recreation Director  
James Robertson, Tax Collector  
Bill Hollingsed, Chief of Police  
Tyler Trantham, Police

The following media representatives were present:

Becky Johnson – The Mountaineer  
Cory Vaillancourt – Smoky Mountain News

1. Welcome /Calendar/Announcements

Mayor Gavin Brown welcomed everyone and reminded them of the following events on the calendar:

- Friday Dec. 1<sup>st</sup> – Annual Employee Luncheon and food drive
- Friday Dec. 1<sup>st</sup> – Art After Dark and Christmas Tree Lighting
- Friday Dec 1<sup>st</sup> – Recycle Your Art Out
- Mon. Dec 4<sup>th</sup> – Waynesville Christmas Parade
- Sat. Dec. 16<sup>th</sup> – Reach Holiday Gala

Mayor Brown asked the Board to delay discussion on the Local Preference Purchasing Policy until the next Board of Alderman meeting which will be held on December 12, 2017. The Board agreed.

2. Adoption of Minutes

***Alderman Gary Caldwell made a motion, seconded by Alderman Jon Feichter to approve the minutes of the November 14, 2017 meeting as presented. The motion carried unanimously.***

**B. NEW BUSINESS**

3. Request from Parks and Recreation Advisory Commission

- Kenny Mull, Chairman

Mr. Kenny Mull, Chairman of the Recreation Advisory Commission explained to the Board that in the past the Haywood County Board of Commissioners allotted \$70,000.00 per year to the Town for recreation expenses for the County. That money from the County had gradually been decreased, and eventually stopped. Mr. Mull told the Board that the Town of Waynesville carries the bulk of recreation for the County. He said that 65% of the people who use recreation facilities within the Town live outside the city limits. The Recreation Center is currently building a state of the art inclusive playground for everyone's use, and the Recreation Center is looking at some big expenditures in the future and receiving money from the County would help with these expenses.

Mr. Mull asked for advice from the Board and Manager Hites on how to move forward with asking the County Commissioners to reinstate the allotment for recreation. Mayor Brown suggested that Manager Hites meet with County Manager Joel Mashburn and possibly have a joint meeting with the other towns in the County and approach the Commissioners so it will be equitable. The Board agreed that this is the approach that should be taken.

**C. PUBLIC HEARINGS**

4. Public Hearing on a staff initiated text amendment to clarify design standards for Manufactured Homes on individual lots and for those manufactured homes within Manufactured Home Parks. LDS Sections 3.2.6 and 5.9.

Development Services Director Elizabeth Teague told the Board that at the June meeting of the Planning Board a concern was brought to their attention regarding Town Development Standards relating to manufactured homes and manufactured home parks. After meeting with a group of manufactured home owners and vendors, it became clear that it was time to update some of the standards to keep up with the manufactured home industry. In November the Planning Board unanimously voted to adopt the proposed text amendments.

Ms. Teague explained to the Board that based on the input of the manufactured home park owners, these text changes will facilitate the replacement of mobile homes with newer models and alleviate non-conformities to the ordinance. These updates will improve park appearance, safety, and availability of rental units. The updates are consistent therefore with the 2020 Plan.

Ms. Teague reviewed the text amendment changes and Ordinance with the Board, and recommended the Board adopt the text amendment.

Acting Town Attorney Martha Bradley opened the Public Hearing at 6:55 pm, and asked if anyone wished to speak. No one came forward. Attorney Bradley closed the Public Hearing at 6:55.

***Motion: Alderman Jon Feichter made a motion, seconded by Alderman LeRoy Roberson to find that updates to the Manufactured Home Guidelines are consistent with the Comprehensive Plan. The motion passed unanimously.***

***Motion: Alderman Gary Caldwell made a motion, seconded by Alderman Julia Freeman to recommend approval of changes to the Land Development Standards text as provided. The motion passed unanimously.***

5. Public Hearing on a staff initiated text amendment to include a new zoning classification, supplemental standards, and a definition for “nudge or skill games” of electronic or video types. LDS Sections 2.5.3, 3.5, and 17.3.

Ms. Teague said that at the Planning Board Meeting in October, staff sought guidance regarding video gaming machines because of a business providing video gaming machines had opened in the Mixed-Use Overlay District on Dellwood City Road. This type of business was described by the owner as retail because gift cards are purchased and then used to buy online “skill or nudge” games.

The Planning Board had much discussion concerning if legal types of video gaming business are to locate within the Town, where should they be located, and how should they be permitted within the Town’s Zoning Ordinance. Their desire was to balance fairness to business/property owners with the interests of other business/property owners, and the Town’s Land Use Plan.

The direction given to staff from the Planning Board was that this use was most appropriate in the Regional Center District where the land use intent is to accommodate general commercial uses. The Board did not support this use in Mixed-Use Overlay Districts where this business had located. The Board considered the issues of parking, hours of operation, noise, and traffic.

Ms. Teague said that staff had heard from a small business owner who had similar machines in limited number within a convenience store, and also several other stores have the same type of machines. Ms. Teague said staff would recommend for the Board to consider an exemption in the definition so these types of uses may continue as they are now.

The proposed text amendment would allow video skill games as a new defined use within the Table of Uses as a use with supplemental standards in accordance with Land Development Standards 3.2 Supplemental Standards.

Ms. Teague told the Board that is unclear what impact this business would have on local economy, or in attracting tourism, and it would seem consistent with the Comprehensive Plan to define this use and to place it within the Regional Center District Zoning. This District is designed to accommodate many types of commercial uses.

Ms. Teague said that a zoning action has been issued by the Town on the current business where it is located now. That issue will be heard by the Zoning Board of Adjustment as its own particular issue.

After reviewing the text amendments and ordinance with the Board, Ms. Teague recommended that the Land Development Standards be amended.

There was much discussion concerning on-site alcohol consumption in businesses where video gaming is allowed, and Mayor Brown proposed language that was added in Section 3 - 1.5.11 – C. *Alcohol Sales for on-site consumption within video gaming parlors are expressly prohibited.*

Acting Town Attorney Bradley opened the Public Hearing at 7:24 pm and asked if anyone wished to speak.

**Mark Melrose**  
**Attorney representing business owner Tammy Nicholson**

Attorney Melrose said he was “wearing three different hats” in that he represented Ms. Nicholson and her business “Nudge City”, he was a business owner in Waynesville, and he was a homeowner and taxpayer of Waynesville. Mr. said he felt that the Town ought to be pro economic growth, and this was a business that was employing people, and paying taxes. He said the state law does not define this business as gambling. He asked the Board to consider this business as a lawful business because it is not prohibited by state law.

Mr. Melrose said he felt this was a good location for the business where it is now, and if it is placed in a different Zoning District, the video gaming parlor will be placed in a more heavy traffic zone. He asked the Board if they preferred the business to be in a high profile place with a sign rather than where it is located now with minimum traffic flow. He said it made more sense to leave the business as it is now rather than to have it move to another location.

Mr. Melrose said he felt this is a solution looking for a problem, and the Board is rushing with this issue. He contends that an exemption is confusing and could create problems in the future, and put these video gaming businesses in a more visible location. He suggested that the Board study this amendment and get more information before making a decision.

Acting Town Attorney Bradley closed the Public hearing at 7:28 pm.

Alderman Roberson stated that he was in favor of the amendment, and that it was well written. He said he was not ready to change the use in a Historical and Residential District. He said that amendments could be made later if need be.

Alderman Feichter said that he was in favor of this type of business being located in a Regional Center District. He added that if this type of business was not restricted to Regional Center Districts, what would stop other video gaming businesses from opening in Mixed Use Districts.

Alderman Caldwell said he felt it was best for the residential and historical area in the Mixed Use Overlay District of the Love Lane Residential District that video gaming businesses be placed in Regional Center Districts.

Alderman Freeman said she was pro business, but she agrees that it would be a positive move to place video gaming into Regional Center Districts. She said she appreciated the time that the Planning Staff and Planning Board had put into this issue.

***Motion:*** Mayor Brown made a motion, seconded by Alderman Gary Caldwell to find that updates to the Land Development Standards regarding Video Gaming Parlors are consistent with the Comprehensive Plan. The motion passed unanimously.

***Motion:*** Alderman Feichter made a motion, seconded by Alderman Freeman to recommend approval of changes to the Land Development Standards text as provided and amended to read in Section three 3.5 Supplemental Standards – Commercial- C. Alcohol sales for on-site consumption within video gaming parlors are expressly prohibited. The motion passed unanimously.

**D. PRESENTATION**

**6. Electric Rate Schedule**

Finance Director Eddie Caldwell presented information as a follow up to the presentation given by UTEC, Louis Davis and Jay Foster, at the October 10, 2017 regular meeting. Mr. Caldwell highlighted that the UTEC numbers were correct; however, there were several assumptions made in their calculations including the purchase of a 2MW generator and inclusion of the annualized depreciation costs for the full 10 year contract. These calculations resulted in a proposed 13% increase. Upon considerable review and in keeping with the most conservative avenue, Mr. Caldwell proposed a 9% increase based on a three year projection and continuing lease of the generator. Mr. Caldwell explained that it is difficult to project so many years into the future based on economic trends from today and the board had not approved the purchase of the generator.

Mr. Caldwell provided detailed information related to the current rates of the Town versus that of Duke Energy to help illustrate what impact an increase would have on customer electric bills. Based on a 9% increase, the change in the average residential customer bill would be minimal. He also noted that the proposed increase could be done incrementally with a 5% increase in January and review to see when the additional 4% increase would occur in the next fiscal year. Mr. Caldwell reminded the Board that the reason for such an increase was two-fold: the first being to keep the rates competitive with Duke Energy so that all citizens, no matter their provider, were paying essentially the same rates and the other being the need to continually maintain the electric infrastructure including the lines, poles and substations.

Mr. Caldwell explained that a rate stabilization fund would be set aside to prevent large “true ups” that have in the past been over \$1M dollars. This would allow for funds to be available to cover any increased demand costs in the event of multiple inclement weather events during the year (i.e. snow storms or hurricanes). This will prevent the changing of rates which would be passed to customers and allow for stability in the overall electric fund.

Mayor Brown thanked Mr. Caldwell for his presentation and explained that the Board would take some time to process the information presented and would like to obtain public input at the December 12 meeting. This would not be a public hearing. The Board members agreed by consensus.

**F. COMMUNICATION FROM STAFF**

8. Manager's Report

Manager Hites did not have anything to report

9. Attorney's Report

Acting Town Attorney Bradley did not have anything to report.

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

The Mayor and Board had nothing to report.

**H. CALL ON THE AUDIENCE**

Ms. Lois Hollis said she understood about the electric rate increase, but she does not think the Board should approve it until the Town of Waynesville's Public Utility Company gets their house in order as far as rules and regulations.

**G. ADJOURN**

***Motion: With no further business, Alderman Caldwell made a motion, seconded by Alderman Freeman to adjourn the meeting at 8:25 pm. The motion passed unanimously.***

ATTEST

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Gavin Brown, Mayor

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Eddie Ward, Town Clerk

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Rob Hites, Town Manager