

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR MEETING
NOVEMBER 27, 2018**

THE WAYNESVILLE BOARD OF ALDERMEN held its regular meeting on Tuesday, November 27, 2018 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 Jon Feichter
Alderman LeRoy Roberson
Alderman Julia Freeman

The following staff members were present:

Amie Owens, Assistant Town Manager
Eddie Ward, Town Clerk
Bill Cannon, Town Attorney
Elizabeth Teague, Development Services Director
Bill Hollingsed, Police Chief
Brian Beck Police Captain
Byron Hickox, Land Use Administrator
David Foster, Public Services Director

The following media representatives were present:

Becky Johnson, the Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown welcomed everyone to the meeting. From the events calendar, the following were mentioned:

Friday November 30 – Community Christmas Tree Lighting -6:00 pm at Oak Park Inn
Monday December 3 – Waynesville Christmas Parade – 6:00 pm – Main Street
Saturday December 8 – A Night Before Christmas – 6:00 – 9:00 pm – Main Street
Sunday December 9 – Old Fashioned Appalachian Christmas – 4:00 – 7:00 pm - Shelton House
Friday December 11 – Employee Holiday Luncheon – 11:30 am – Waynesville Rec Center

Mayor Brown announced to everyone he had received a letter from the North Carolina Department of Natural Cultural Resources stating that the Dix Hill Cemetery has been placed on the study list for the National Historical Register. He said this is not a guarantee, but is a good indication that the cemetery could be eligible to be placed on the National Register, and could possibly hear something around the first of the year.

2. Adoption of Minutes

A motion was made by Alderman Gary Caldwell, seconded by Alderman LeRoy Roberson, to approve the minutes of the regular November 13, 2018 meeting with a correction of the date to read November 13, 2018. The motion passed unanimously.

B. PRESENTATION

3. Presentation – Senior Resource Center

Mr. John Chicoine, Haywood Senior Resource Center, gave a brief presentation about some of the services the Resource Center offers. Mr. Chicoine told the Board that the programs offered by the Center are designed to keep senior citizens in their own home, and is centered on services, education, and fun. These programs help keep seniors in their homes for as long as possible rather than having to move to a care facility. One of the programs that seniors are involved in is the Retired Senior Volunteer Program (RSVP) where seniors mentor students in school which helps students to set and obtain goals in education. Another program is senior companions that go into homes and help with cooking, grocery shopping, picking up prescriptions, and just generally getting them out of the house for a while. One of the largest programs is the meal program where a hot meal is provided to seniors once a day. Currently, Mr. Chicoine said the Center has 518 clients that receive the meals.

Mr. Chicoine thanked the Aldermen for the funding for the programs, and encouraged everyone to become familiar with the different programs that are offered.

C. NEW BUSINESS

4. Request approval of over-hire for Police Patrol Officer position

- Police Chief Bill Hollingsed

Chief Hollingsed explained to the Board that there have been five recent retirements from the Police Department and there has been a School Resource Officer position added at Shining Rock Academy. This has required the Police Department Patrol Squads to run short while newly hired Officers are trained for 19 weeks in the Field Training Program. In addition, the Criminal Investigations Division and the TAC Unit are also working one officer short until the new hires can complete the FTO process. This process will be completed by mid-December.

He said an officer has recently resigned to take another position and we have a Lieutenant scheduled to retire in April. These factors cause the officers to work short staffed at a time when calls for service make it impossible to even “stay even” with reports. The Chief has spoken with Finance Director Eddie Caldwell and due to open positions and paying for some of these trainees as Part-Time Employees instead of Full-Time Officers, the budget is currently 2% (approximately \$43,000) under budget in the Full Time Salary Line Item.

Chief Hollingsed requested that the department be allowed to “over hire” one officer position before this calendar year runs out so that he or she can be in the FTO program before our Lieutenant retires. He plan to hold a promotional process for the Lieutenant position, which will in turn create an open Sergeant’s

position. Because of the lengthy training process required for a Police Officer, this “over hire” would enable the department to be prepared for the retirement departure and, once again, not leave squads shorthanded.

The funding is available; however, as the board approves the number of positions for each department, approval by the Board of Aldermen is required for the addition of this position

A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter, to approve the addition of a position for Patrol Officer in an effort to ensure proper coverage for shifts. The motion carried unanimously.

5. Budget Amendment for ongoing project – light installation in Hazelwood

- David Foster, Public Services Director

Mr. David Foster, Public Services Director, explained to the Board that this proposed amendment is needed to extend or continue the lighting and landscaping improvements, etc. from the rail road crossing at Hazelwood Avenue to Elysina Avenue in the Hazelwood Area. This project was budgeted and approved, at \$45,210 last year by the Board on April 10, 2018 (Budget Amendment # 8 to the 2017-2018 Budget Ordinance and Amendment # 4 to the 2017-2018 Financial Operating Plan for Internal Service Funds). Mr. Foster said the Town spent \$12,470 on materials last year, but the boring contractor hit a snag and could not finish the project. He said that without this amendment the completion of the project in the current year will be delayed. The amendments referenced above and below are needed to move the unspent funds of \$32,740 (\$45,210 less \$12,470) from the prior year’s budget to the current year’s budget.

Revenues:	
Fund Balance Appropriation – General Fund	\$22,020
Water Fund	\$ 4,270
Sewer Fund	\$ 4,030
Electric Fund	\$ 2,420
Total Revenues	\$32,740
Expenditures:	
Public Facilities - Outside	
Capital Improvements	\$32,740
Total Expenditures	\$32,740

Alderman Gary Caldwell made a motion, seconded by Alderman Jon Feichter, to approve Amendment # 4 to the 2018-2019 Budget Ordinance and amendment # 2 to 2018-2019 Financial Operating Plan for Internal Service Funds. The motion carried unanimously.

Alderman Jon Feichter made a motion, seconded by Alderman LeRoy Roberson, to approve Amendment #2 to the 2018-2019 Financial Operating Plan For Internal Service Fund. The motion carried unanimously.

D. PUBLIC HEARINGS

- Assistant Town Manager Amie Owens

6. a. Public Hearing for Voluntary Annexation for property located off Willow Road (8614-07-7110 and PIN 8614-07-9412) to receive Town services.

Ms. Amie Owens, Assistant Town Manager, stated that this petition is being requested by Masi Homes LLC for the purpose of annexing to receive town services such as water and sewer in accordance with Town Policy. This property is contiguous to the Town's current limits and is currently in the ETJ. Services are already provided in this area.

Ms. Owens said that this property was recently purchased by Masi Homes LLC. The properties are not part of any subdivision, and Town services are already available in the area. The petition meets the requirements of the general statutes NCGS §160A-31 annexation of contiguous area and a public hearing is required prior to the Board voting on such annexation. The fee of \$200.00 for such petition was collected on November 6, 2018, and notice of the public hearing was published in the Mountaineer on Friday, November 16 and Friday, November 26, 2018 in accordance with the general statutes.

She explained to the Board that if approved, this voluntary annexation would not be effective until January 1, 2019. Information will be forwarded to the NC Secretary of State's Office and Haywood County Board of Elections as required under NCGS 163-288.1.

Tow Attorney Bill Cannon explained the protocols that were to be followed in a Public Hearing and opened the hearing at 6:53pm. He asked if anyone wished to speak.

No one spoke.

The hearing was closed at 6:54 pm.

A motion was made by Alderman Jon Feichter, seconded by Alderman LeRoy Roberson, to approve the voluntary annexation into the Town of Waynesville for town services for property off of Willow Road (PIN 8614-07-7110 and PIN 8614-07-9412). The motion carried unanimously.

b. Public Hearing for Voluntary Annexation for property located at 187 Secret Hollow Lane (PIN 8616-09-5980)

Ms. Owens explained to the Board that this petition is being requested by Julia Boyd Freeman for the purpose of annexing to receive town sewer services in accordance with Town Policy. This property is non-contiguous to the Town's current limits. Water service is already provided to this property utilizing an outside water rate.

Research done on this property shows that it is closer than 3 miles to the Waynesville Town limit; the property is not closer to another municipality's primary corporate limits than to Waynesville; the property is not part of any subdivision and Town services are already available in the area. Ms. Owens said the petition meets the requirements of the general statutes NCGS §160A-58.1 annexation of non-contiguous

area and a public hearing is required prior to the Board voting on such annexation. The fee of \$200.00 for such petition was collected on November 7, 2018.

Notice of the public hearing was published in the Mountaineer on Friday, November 16 and Friday, November 26, 2018 in accordance with the general statutes.

She said that because this property is in Haywood County, and there is no zoning in the County, this petition, if approved, will have to go before the Planning Board to have the proper zoning assigned to it. This voluntary annexation would not be effective until January 1, 2019, and information will be forwarded to the NC Secretary of State's Office and Haywood County Board of Elections as required under NCGS 163-288.1.

Town Attorney Bill Cannon opened the Public Hearing at 6:56 pm and asked if anyone wished to speak.

**Ken Hollifield
1228 Plott Creek Road
Waynesville, NC**

Mr. Hollifield expressed concerns about the annexation of this property and he felt like the adjoining property should be annexed also.

Mayor Brown explained to Mr. Hollifield that this was a voluntary annexation, and the adjoining property would only be annexed if the owner petitioned for the annexation.

Attorney Cannon closed the Public Hearing at 6:59 pm.

A motion was made by Alderman Gary Caldwell, seconded by Alderman Jon Feichter, to approve the voluntary annexation into the Town of Waynesville for property located at 187 Secret Hollow Lane (PIN 8616-09-5980) to receive sewer services in accordance with Town policy for receipt of sewer services. The motion carried with three yay votes (Alderman Gary Caldwell, Alderman Jon Feichter, and Mayor Brown) and one nay vote (Alderman LeRoy Roberson). Alderman Julia Freeman recused herself from the vote.

7. Public Hearings – Text Amendments

- Elizabeth Teague, Development Services Director
- Byron Hickox, Land Use Administrator

Ms. Elizabeth Teague stated that in August, the Board of Aldermen recommended that text amendments be reheard because of changes to the General Statutes. She said these amendments had been heard at the last Planning Board meeting and there are four that will be heard in this meeting.

- a. Sections 3.2.6 and 5.9 to clarify design standards for manufactured homes on individual lots and for those manufactured homes within manufactured home parks

Mr. Byron Hickox, Land Use Administrator, stated that in 2017, staff brought to the Planning Board a concern regarding Town Development Standards as they relate to Manufactured Homes within Manufactured Home Parks. The Board brought forward recommended text after meeting with a group of Manufactured Home Park owners and a manufactured home vendor.

He said the need for a text amendment initially came from how manufactured housing was listed under the table of permitted uses and how design standards should apply to Manufactured Housing on individual lots vs. Manufactured housing within Parks. In research and discussion with stakeholders, it became clear that it was time to update some standards to keep up with the manufactured home industry.

At their November 5, 2018 Special Called Meeting, The Planning Board unanimously voted that the proposed text amendments are consistent with the Comprehensive Plan and to recommend adoption of the proposed text amendments to the Board of Aldermen.

As staff comments Mr. Hickox stated that amendments to Sections 3.2 and 5.9 of the Town of Waynesville's Land Development Standards should be made as indicated on the attached recommended Ordinance with underlined italics and strike outs. This updates the guidelines to be current standards of manufactured housing and will encourage the replacement of newer homes into older home parks by eliminating some of the concerns with "pre-existing nonconformity that currently exist. The proposed amendments to setbacks apply to interior setbacks only and will not impact the overall exterior setback or density of existing homes.

Consistency with the 2020 Comprehensive Land Development Plan

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, the stated Land Use Goal is:

"Promote the orderly growth, development and enhanced land values of the Town of Waynesville by preserving and improving Waynesville's existing neighborhoods, creating more attractive commercial centers, maintaining a strong downtown area, taking steps to reduce urban sprawl and protecting the natural beauty of the community." (2020 LDP, p 4-2)

One objective under this goal includes:

"Address important community appearance issues in the land development regulations for Waynesville," and specify the development of "standards for manufactured homes and manufactured home parks." (2020 LDP, p. 4-5)

Based on the input of manufactured home park owners, Mr. Hickox said the text changes will facilitate the replacement of mobile homes with newer models and alleviate internal non-conformities to the ordinance. This will improve park appearance, safety and the availability of affordable rental units. Updates to the design guidelines for manufactured homes within manufactured home parks and clarification of how these guidelines are enforced, is therefore consistent therefore with the 2020 Plan.

Attorney Bill Cannon opened the Public Hearing at 7:07 pm and asked if anyone wished to speak.

No one spoke.

Attorney Cannon closed the Public Hearing at 7:08 pm.

A motion was made by Mayor Gavin Brown, seconded by Alderman Jon Feichter, to approve the proposed text amendment and its consistency with the “Waynesville: Our Heritage, Our Future, the Town of Waynesville 2020 Land Development Plan because:

- 1. The Land Development Standards currently allows both manufactured homes and parks in our comprehensive land use plan. This update will improve appearances, safety of the parks, increase the amounts of affordable housing and allow parks to update homes and improve quality of homes. It also provides an attractive range of housing opportunities and encourages a variety of housing.***

The motion passed unanimously.

A motion was made by Mayor Gavin Brown, seconded by Alderman Gary Caldwell, to approve the proposed text amendment as it is reasonable and in the public interest because:

- 2. The text changes will facilitate the replacement of mobile homes with newer models and alleviate internal nonconformities to the ordinance. It will improve park appearance, safety and the availability of affordable rental units. This will clarify manufactured homes within manufactured home parks and clarify for the public how these are enforced. This is all consistent in the publics’ best interest and with the 2020 plan.***

The motion passed unanimously.

A motion was made by Alderman LeRoy Roberson, seconded by Alderman Gary Caldwell, to approve Ordinance O-25-18 to amend the text to clarify design standards for Manufactured homes on individual lots and for those manufactured homes within manufactured home parks in Sections 3.2.6 and 5.9. The motion carried unanimously.

- b. Sections 2.4.2 Table of Dimensional Standards and Section 3.10.4 Supplemental standards related to Monopole Towers within the Commercial-industrial District.***

Ms. Teague presented the background information for the Text Amendment and said that Mr. James Sorrells, owner of a lot in the Waynesville Industrial Park, known as 208 and 204 Industrial Park Drive, within the Commercial-Industrial (CI) District and Mr. Eric Bean, owner of a business within the CI District applied for two text amendments impacting the Commercial-Industrial Districts. The first had to do with the setback dimensional standards of the CI District and the second had to do with the minimum lot size of Monopole Cell Towers. To maximize the use of limited industrial space, the text amendment requests a reduction in the required interior setbacks within the district and reducing the lot minimum for Monopole Towers within the CI District.

She stated that In the Table of Dimensional Standards, the CI District Principle Setback is 15’ in the front and side yard, and 10’ at the rear. Accessory Structure setback is 5’. In other Districts, the setback is 0 to 10 feet and 5’ for accessory structures. Setbacks internal to the CI District are therefore more restrictive than in other Commercial Districts. Unlike other commercial districts however, there is not an aesthetic or public interaction reason for these setbacks.

She reminded the Board that from a Building Code standpoint, distances between buildings must comply with State building and fire safety codes which are based on the type of construction and the use of the building. A 5' side yard setback would provide at least a 10' separation between any new construction and would be built to the specifications of the code as necessary for the use (i.e. Fire separation walls, sprinkler systems, or construction materials). Therefore there is not a building or public safety reason for this interior setback that would not already be addressed with building codes.

The Town has limited industrial Space: the Industrial Park off of Asheville Highway, the Giles property in Frog Level, and the two industrial areas in Hazelwood, abutting the railroad track. Industrial development usually involves a mix of office, warehouse, manufacturing and outdoor storage activities, combined with truck traffic and employee parking needs which requires flexibility and maximum use of the limited space available.

Where a CI property abuts a property in a different zoning district, there are buffer requirements provided in Section 8.4 (below) that require setbacks of 25 to 40 feet with plantings exceeding the current 15' setbacks. This buffer requirement would apply to the perimeter of all CI Districts.

There exists a Monopole facility on the site with a 100 x 100 foot lease. The applicants have subdivided a 1.29 square foot lot in order to create a new .69 sf lot for their proposed development next to the cell tower lease (also owned by Mr. Sorrells). The Supplemental Standards for Monopole facilities does not distinguish among zoning districts and states that (LDS Section 3.10.4 (B) 2.):

“Monopole wireless communication towers may only be located on a lot of (1) acre in size.”

The applicants requested that “the current lot size requirement be reduced in the CI zoning districts to the typical 100' x 100' land lease size. This would free up the adjacent property to be subdivided thus allowing for more building options in the remaining industrial park space.”

Ms. Teague explained that while it would make sense to have a large lot requirements for monopoles in some other districts, staff feels that monopole facilities should be integrated into CI with minimal restrictions. An acre is a large area to take up within an industrial district. Other existing towers are on smaller lots (Mosaic Place is 0.5 Acres owned by the Town), or are incorporated into other development (EMS Building with tower is 3.92 acres). Staff would support a reduction in this provision for the CI, to allow for maximum use of acreage within CI Districts.

There has been much recent discussion of the importance of broadband and Wi-Fi service in Haywood County. The Town is participating in a regional study through the Land-of-Sky Regional Council to look at improving communications systems in WNC. There are regulations provided in 3.10 that restrict cell towers and their location and design. This text amendment would only change the minimum lot size for cell towers within the CI District, and would not change any other cell tower requirements. The result that it would create more flexibility for monopole towers to be integrated within Commercial-Industrial Districts without the restriction of lot size.

Buffer requirements would apply for any CI district perimeter or property boundary abutting another type of zoning district that would exceed the 15' side or front yard setback, and any new monopole tower would have to comply with all other tower requirements. These text amendments would create flexibility for maximum use of CI space and remove the one acre requirement.

Consistency with the 2020 Comprehensive Land Development Plan

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, the stated Goal for Economic Vitality is:

“Maintain and strengthen a broad-based economy in Waynesville comprised of vibrant and expanding manufacturing, retail, agricultural, services governmental and construction sectors.” (2020 LDP p. 4-19)

One objective under this goal includes:

“Designate and support the development of appropriate amounts of land to meet the needs of the different sectors of the economy.” (2020 LDP 4-19.)

“Expand and upgrade the community’s infrastructure systems and services with a focus on economic development impacts.” (2020 LDP p. 4-20)

These revisions will create flexibility within the CI District and allow monopole cell towers to integrate within the Town’s Most Commercial and Industrial Districts.

Attorney Cannon opened the Public Hearing at 7:17 pm and asked if anyone wished to speak.

No one spoke.

Attorney Cannon closed the Public Hearing at 7:18 pm.

A motion was made by Mayor Gavin Brown, seconded by Alderman Gary Caldwell ,to approve the proposed text amendment and its consistency with the “Waynesville: Our Heritage, Our Future, the Town of Waynesville 2020 Land Development Plan because:

1. Monopole towers are necessary for the growth of the community, provide quality coverage for the community and safety issues. Towers now have much smaller footprints and no longer need large tracts of lands to accommodate their uses and this new zoning also protects the appearance of surrounding properties.

The motion passed unanimously.

A motion was made by Alderman Gary Caldwell , seconded by Alderman Jon Feichter, to approve the proposed text amendment as it is reasonable and in the public interest because

2. The reduction of setbacks in the district allows for maximum use of commercial space without negatively effecting the established buffer requirements. Land use regulations should accommodate communication facilities to provide for enhanced Wi-Fi and broadband for the public.

The motion passed unanimously.

A motion was made by Alderman Jon Feichter, seconded by Alderman Gary Caldwell, to approve Ordinance O-26-18 to amend the text of Sections 2.4.2 Table of Dimensional Standards and

Section 3.10.4 Supplemental standards related to Monopole Towers within the Commercial-industrial District. The motion passed unanimously.

- c. Sections 3.2.6 and 5.9 to clarify design standards for Manufactured homes on individual lots and for those manufactured homes within manufactured home parks.

A lack of clarity in the Land Development Standards (LDS) regarding manufactured homes on individual lots in the Dellwood Residential Medium Density District (D-RM) was brought to staff attention when a request was made to place a manufactured home on a lot just off Mauney Cove Road.

The LDS indicates that within the D-RM, manufactured housing is permitted only in designated locations. In most instances, the allowance of a particular use at designated locations indicates that that use is permitted within a mixed-use overlay. The mixed-use overlay within the D-RM consists of a corridor, measured 500 feet from the east and west sides of Russ Avenue, running roughly through the center of the district. It seemed strange that manufactured housing on individual lots would be permitted in the portion of the D-RM district that had been created specifically to allow non-residential development, but not permitted within the more residential and rural portion of the district. From a land use planning perspective, the opposite seemed more reasonable.

The previous version of the LDS indicated that within the Dellwood Neighborhood District (forerunner of the D-RM) manufactured housing would be permitted as follows in Section 154.108(B)(8)(b):

“Dwellings, Manufactured Housing on Individual Lots” shall not be located on the east side of Russ Avenue or within five hundred (500) feet of the edge of the traveled way of the west side of Russ Avenue.

This location restriction for manufactured housing within the Dellwood Neighborhood District in the previous version of the LDS is similar to the D-RM mixed-use overlay on the current Land Development Map. There are still significant portions of the current district to the east of Russ Avenue that are not contained within the mixed-use overlay. Therefore, the previous location restrictions do not correlate precisely to the current Land Development Map.

At the February 19, 2018 meeting of the Planning Board, this matter was considered, with much of the discussion focusing on the historic pattern of development along the Russ Avenue corridor, in the neighborhood along Golf Course Road to the east, and in the rural area along Mauney Cove Road to the west. A motion was made, seconded, and confirmed unanimously to create a text amendment that would clarify any ambiguity in the LDS related to the placement of manufactured homes on individual lots in the D-RM.

Consistency with the 2020 Comprehensive Land Development Plan

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, one of the stated objectives under the Land Use Goal is to: “designate appropriate amounts of land to reflect desired development patterns and to accommodate the projected residential, commercial, industrial, institutional and recreational needs of the Town of Waynesville over the next twenty years.” (2020 LDP 4-2)

Other goals of the Land Use Plan are to:

“Provide an attractive range of housing opportunities and neighborhoods for all residents of Waynesville” (LDP, p. 4-6); and

“Encourage a variety of housing types for various income, age and ethnic groups throughout the planning area promoting housing alternatives in addition to the traditional single- and multi-family dwelling options.” (LDP, p. 4-7

This text amendment clarifies that manufactured housing is permitted on individual lots within the Dellwood Residential medium density district, thereby continuing the availability of that type of housing within a district that has traditionally had allowed it in the past.

Attorney Cannon opened the Public Hearing at 7:23 pm and asked if anyone wished to speak.

No one spoke.

Attorney Cannon closed the Public Hearing at 7:24 pm

A motion was made by Mayor Gavin Brown, seconded by Alderman Jon Feichter, to approve the proposed text amendment and its consistency with the “Waynesville: Our Heritage, Our Future, the Town of Waynesville 2020 Land Development Plan:

- 1. The Land Development Standards currently allows both manufactured homes and parks in our comprehensive land use plan. This update will improve appearances, safety of the parks, increase the amounts of affordable housing and allow parks to update homes and improve quality of homes. It also provides an attractive range of housing opportunities and encourages a variety of housing.***

The motion carried unanimously.

A motion was made by Mayor Gavin Brown, seconded by Alderman Gary Caldwell, to approve the proposed text amendment as it is reasonable and in the public interest because:

- 2. The text changes will facilitate the replacement of mobile homes with newer models and alleviate internal nonconformities to the ordinance. It will improve park appearance, safety and the availability of affordable rental units. This will clarify manufactured homes within manufactured home parks and clarify for the public how these are enforced. This is all consistent in the publics’ best interest and with the 2020 plan.***

The motion passed unanimously.

- d. Text Amendment to LDS 2.5.3 Table of Permitted Uses and LDS 3.2 Supplemental Standards to allow video-gaming as a permitted use with supplemental standards within the Regional Center District.***

Staff sought Planning Board guidance regarding video gaming machines last fall because a business providing video gaming machines had opened within the Mixed-Use Overlay District of the Love Lane Residential District on Dellwood City Road. The type of business in question was described by the business owner as selling “gift cards” which are used to purchase online “skill” or “nudge” games.

North Carolina General Statutes provide specified authority to local government, including the ability to regulate land use and have certain policing powers, in Chapter 160A. Towns cannot exert authority beyond what the General Statutes allow, nor can local government develop regulations which conflict with General Statutes. NCGS Subchapter XI., Article 37 provides police regulations involving “Lotteries, Gaming, Bingo and Raffles, and Chapter 14-306.1 Identifies “types of machines and devices prohibited by law.” The Planning Board was also made aware of House Bill 750 which may authorize State regulation of video lottery terminals and fantasy football leagues.

Local regulations or land use policies do not change or challenge State laws that apply to certain types of gaming activities. However, the Planning Board’s concern is that if legal types of video-gaming businesses are to locate within Town, then they should be addressed within the Town’s zoning regulations as other businesses are. The desire in any land use decision is always to balance fairness to a specific business and/or property owner with the interests of other property owners within any zoning district and the Town’s Land Use Plan goals. The Board examined the question of where this type of business should be located with consideration for surrounding land uses and being consistent with the purpose and intent of zoning districts.

The direction 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, but not in mixed-use overlay or central business districts. Additionally, the Board considered supplemental standards of parking and buffer requirements between this type of use and any residential uses. As a result of this discussion, staff proposed the following text amendment to add a definition, standards and location within the Table of Permitted Uses for video or “skill” gaming operations.

LDS 2.5.3 Table of Permitted Uses identifies enumerated permitted uses by Zoning District. “P” indicates where certain uses are allowed and PS indicates when a use is allowed with supplemental standards. The proposed text amendment would allow video skill games as a new and uniquely defined use within the Table as a use with supplemental standards in accordance with LDS 3.2 Supplemental Standards and limited to the Regional Center Districts.

Within the Table of Permitted uses and in the Purpose and Intent Statements (LDS 2.3.7) of the Regional Center Districts, the Town’s Land Development Standards clearly designate the RC Districts as hubs for retail and mixed-use development that can accommodate shopping centers, drive-thrus, “big-box,” and other types of general commercial development. There are three Regional Center Districts: Russ Avenue, Dellwood/Junaluska, and Hyatt Creek.

Staff recommends:

1. Addition of a new definition, Chapter 17.3 Definitions, Use Type.

Video gaming parlor - Any use or structure intended to provide access to video games in which customers purchase retail gift cards or gain access to electronic games of skill or dexterity not otherwise prohibited by law, or other electronically simulated games approved and regulated by the State of North Carolina.

2. Addition of Use Type within 2.5.3 Table of Permitted Uses

<u>Use Types</u>	<u>Regional Center (RC)</u>		
Commercial	DJ-RC	HC-RC	RA-RC
Video gaming parlor	PS/SUP	PS/SUP	PS/SUP

3. Addition of/insert new paragraph within 3.5 Supplemental Standards – Commercial 3.5.11 Video Gaming or video gaming parlor.

- A. Wherever legal video gaming is provided within a use or is provided as a stand-alone use, a Type B Buffer Requirement or a 6’ privacy fence or wall between the use and any residential or mixed use district (RL, RM, NR, UR, NC) (See LDS Section 8.4).
- B. Parking must be provided for “All Other Commercial Uses” in accordance with LDs Section 9.2.1 Parking Use Category.
- C. Video Gaming within a bar or where alcohol is served shall have to be approved by SUP of the Town Planning Board.

Note that in a previous hearing before the Board of Aldermen, the Aldermen requested some provision to allow the continuance of any pre-existing machines already in use within gas/fueling stations as well. Staff agreed and this was incorporated into the attached ordinance.

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, one of the stated objectives under the Land Use Goal is to: “designate appropriate amounts of land to reflect desired development patterns and to accommodate the projected residential, commercial, industrial, institutional and recreational needs of the Town of Waynesville over the next twenty years.” (2020 LDP 4-2)

The stated Economic Vitality Goal is to:

“Maintain and strengthen a broad-based economy in Waynesville comprised of vibrant and expanding manufacturing, retail, agricultural, services, governmental and construction sectors.” (2020 LDP, p 4-19).

The objectives under this goal indicate that the Town desires to support local businesses and to “define and develop the tourism sector” of the economy. It is unclear what, if any, impact this business would have on the local economy or in attracting tourism. The Town desires to make decisions which accommodate new and existing businesses in a way in which various sectors do not conflict with each other. It would seem consistent with the Comprehensive Plan to define this use and to place it within the Regional Center District Zoning designation in which are designed to accommodate many types of commercial uses.

Town Attorney Cannon opened the Public Hearing at 7:27 pm and asked if anyone wished to speak.

No one spoke.

Attorney Cannon closed the Public Hearing at 7:28 pm.

A motion was made by Mayor Brown, seconded by Alderman Jon Feichter, to approve the proposed text amendment and its consistency with the “Waynesville: Our Heritage, Our Future, the Town of Waynesville 2020 Land Development Plan in that the amendment because:

1. As a legal business, as per state laws, we need to provide areas for business growth in the community and allowance of this type of business.

The motion passed unanimously.

A motion was made by Mayor Gavin Brown, seconded by Alderman Jon Feichter, to approve the proposed text amendment as it is reasonable and in the public interest because

2. It is consistent with NC general statutes which allow for this use yet opposes buffer, parking, and other requirements that provide a balance between the uses in nearby property owner interests.

The motion passed unanimously.

A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter, to approve Ordinance O-28-18 to amend the text of Sections 2.5.3 Table of Permitted Uses and LDS 3.2 Supplemental Standards to allow video-gaming as a permitted use with supplemental standards within the Regional Center District. The motion passed unanimously.

E. COMMUNICATIONS FROM STAFF

8. Manager’s Report

- **Rob Hites, Town Manager**

Town Manager Rob Hites announced to the Board that Finance Director Eddie Caldwell will be retiring on December 21, 2018. He said that Mr. Caldwell will be available for consultation after 30 days for budget preparation and other items.

Manager Hites said that Mr. Caldwell was one of the best Finance Directors that he had ever worked with. He will be attending the December 11th Board Meeting and hoped that everyone would come by and wish him well.

Manager Hites told the Board that a “team” was being put together for the Waste Water Treatment Plant process. A contract has already been approved for the negotiation of a special order of consent with McGill and Associates, and they are using Forrest Westall as their expert. He said there are two other people that the Town will be associated with to help out with the process, Mr. Larry Pressley and Mr. Dennie Martin. Mr. Pressley is an experienced engineer from Asheville, and he will represent the Town in the design and construction of the Plant. He will be retained for the Town as an independent consultant Mr. Martin, formerly with Martin & McGill Associates, is now with Withers and Ravenel Associates. Mr.

Martin will be a consultant to the Town to help obtain financing for the project. Manager Hites said he felt these men would be a great asset to the Town in this long term project.

9. Attorney's Report

- Bill Cannon, Town Attorney

Attorney Cannon told the Board that in the Red Square litigation, a motion to dismiss has been filed. Attorney Cannon said he felt that the Town has a strong chance to get the case dismissed, and he expects that ruling soon. He said that with the Plott Creek litigation and the adoption of the Text Amendment, he looking to file to get that case dismissed also. In the Hazel Street case, he is still researching names that are associated with the property. He told the Board that he anticipates that research will be completed in the near future.

F. COMMUNICATIONS FROM THE MAYOR AND BOARD

There was no additional communication from the Board.

G. CALL ON THE AUDIENCE

No one spoke.

H. CLOSED SESSION

A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter, to enter into closed session at 7:47 pm to discuss:

a. Enter into closed session under NC General Statute §143.318.11(a) (2) to prevent disclosure of an award

b. Enter into closed session under NC General Statute §143.318.11(a) (5) for discussion regarding potential property acquisition

The motion passed unanimously.

The Board returned from closed session at 8:07 pm.

Upon returning to open session, Town Manager Hites explained that the Town of Waynesville would be submitting an offer to purchase the property at 167 Veterans Circle for the amount of \$95,000. The funding would be from the general fund with a budget amendment completed to be reimbursed from the Perpetual Care fund. Staff will work with the broker of record, Beverly Hanks on the transaction.

Mayor Gavin Brown made a motion, seconded by Alderman LeRoy Roberson to proceed with negotiation for the purchase of the property located at 167 Veterans Circle in an amount not to exceed \$95,000 for the purchase price. The motion carried unanimously.

I. ADJOURN

With no further business, a motion was made by Alderman LeRoy Roberson, seconded by Alderman Gary Caldwell to adjourn the meeting at 8:09 pm. The motion passed unanimously.

ATTEST:

Gavin A. Brown, Mayor

Robert W. Hites, Jr., Town Manager

Eddie Ward, Town Clerk