

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
Regular Meeting
October 13, 2020

THE WAYNESVILLE BOARD OF ALDERMEN held a regular meeting on Tuesday, October 13, 2020 at 6:30 p.m. in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Gary Caldwell called the meeting to order at 6:30 pm with the following members present:

Mayor Gary Caldwell
Mayor Pro Tem Julia Freeman
Alderman Anthony Sutton
Alderman Jon Feichter
Alderman Chuck Dickson

The following staff members were present:

Rob Hites, Town Manager
Jesse Fowler, Assistant Town Manager
Eddie Ward, Town Clerk
Town Attorney William E Cannon, Jr.
Elizabeth Teague, Development Services Director
Autumn Lyvers, Finance Director
Police Chief David Adams
Jeff Stines, Public Works Director
Tom Maguire, Chief Building Inspector

The following media representatives were present:

Becky Johnson, The Mountaineer

1. Welcome/Calendar/Announcements

Mayor Gary Caldwell welcomed everyone and reminded everyone about the upcoming Apple Harvest Daze to be held on Saturday October 17th on Main Street.

2. Adoption of Minutes

A motion was made by Alderman Anthony Sutton, seconded by Alderman Julia Freeman, to approve the minutes of the September 8, 2020 regular meeting and the September 22, 2020 regular meeting. The motion carried unanimously.

B. PRESENTATION

- 3. TDA 1% Zip Code Funding Year End Report for 28785/86
 - Lynn Collins

Ms. Lynn Collins, TDA Executive Director, gave a brief overview of the 1% funding for the 28785/28786 zip codes. She said that even with the COVID pandemic, the 19/20 Occupancy Tax showed a big increase. In May 2019, Occupancy Tax was at 29%, and in May 2020 it was 70%. She explained that some of the 19/20 projects that were to be funded by the TDA did not happen because of the COVID. The money for those projects will roll over and will be available in the first half of 2021. In the Fiscal Year 2019-2020, marketing was delayed, but recently several billboard and digital advertising and content has taken place and have shown favorable response.

She told the Board that in Haywood County, more than 1,910 jobs in Haywood County were directly attributed to travel and tourism. Travel to Haywood County generated \$45 million dollars in payroll, and local tax revenues are \$7.62 million. Haywood County is # 28 in the state tourism expenditures and #5 in Western Prosperity Zone of North Carolina. Ms. Collins said that as a result of tourism, the tax savings per Haywood County resident, not household, is \$296.22.

Alderman Jon Feichter had been appointed earlier to the TDA to replace Amie Owens. Ms. Collins said that the term the Alderman Feichter had filled will be up soon and the Town will need to appoint someone again for the position.

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton, to reappoint Alderman Jon Feichter to the Waynesville Municipal seat on the TDA Board. The motion carried unanimously.

C. PUBLIC COMMENT

Town Attorney William E. Cannon, Jr. opened the Public Comment period at 6:52 pm.

**Jon Lynn McDermott
183 Mill Street
Waynesville, NC 28786**

Ms. McDermott said that she felt that syringes and needles on the ground would hurt the tourism in Waynesville more than the pandemic. She said she finds them almost daily in the area in which she lives in Frog level. She gave examples of things she has heard and seen in Hazelwood and asked the Board to help residents soon to make things better and clean up the areas of Frog Level and Hazelwood.

**Patricia Meyer
194 Meadow Street
Waynesville, NC 28786**

Ms. Meyer told the Board that she had lived here all her life and seen decline in Frog Level. She applauded the Police for the never-ending circumstances they must face in Frog Level and at Pathways. She expressed concern for the school children who walked to school every day and asked the Aldermen to halt the homeless people who are coming into Waynesville from other counties. Ms. Meyer also asked the Board about the small street beside Taylor Motor Company and asked if the pothole there could be repaired.

**Juan Camacho
275 Hyatt St
Waynesville, NC 28786**

Mr. Camacho said that he had lived here 22 years and he has seen a big difference in Frog Level. He said he realized the police was doing what they can, but it is getting worse every day. He asked the Board to allow the public to be able to vote on what can be allowed inside the city limits.

**Jonnie Cure
1458 South Main Street
Waynesville, NC 28786**

Ms. Cure stated the Town is suffering from an invasion, and unless you live in the area, you will not be aware of how bad it is. Now that an organization is forming on South Main Street, she can see that the homeless are moving in. She said there is a food truck there that feeds people every day and she asked the Board to stop allowing people to enter Waynesville that are homeless.

**Peggy Hannah
268 Hemlock Street
Waynesville, NC 28786**

Ms. Hannah expressed many concerns about the homeless in Frog Level, Hazelwood, and the Bethel House on South Main Street. She welcomed the Board to come to any of these places at night to see what goes on. She asked them to please start listening to the citizens of Waynesville.

Attorney Cannon ended the Public Comment period at 7:16 pm.

Mayor Caldwell asked Ms. Buffy Phillips, DWA Director, to talk about the upcoming event on October 31, 2020.

Ms. Phillips said that because the event “ Fall for Waynesville” on October 10 was cancelled due to rain. She would like to reschedule an event for Saturday October 31. It will be the same set up as before with North Main Street being closed at 8:00 am at Well’s Way, South Main Street at Church Street and East Street. Depot Street at Montgomery, and Miller Street will be closed at the top on North Main Street to allow vehicles to come in for parking at the bottom on Montgomery.

There will two extra Porta Johns at UC Bank parking lot and extra trash cans on Main with a DWA crew for garbage detail. Restaurants are again encouraged to come out into the street with tables and chairs. Businesses may have a display of their merchandise in front of their shop with only items that are sold in their shop being allowed.

Because it is Halloween and the Treats on the Street event is cancelled, store employees may dress up and hand out candy in their shops. Musicians and entertainment will be located throughout the Main Street area from 10:00 a. – 5:00 pm. There will be two tents set up with Pumpkins to paint, led by Teresa Pennington.

D. CALL FOR PUBLIC HEARING

4. Call for a Public Hearing to consider a request for Annexation for three parcels of property along Dellwood Road and Ivy Hill: 1778 Dellwood Road, PIN 8617-10-6618; “Lot 75” of Ivy Hill Subdivision, PIN 8617-10-6745; and “Lot 77”, PIN 8617-10-7527.

- Elizabeth Teague, Development Services Director

Elizabeth Teague, Development Services Director explained to the Board that the Town received a “Petition for Annexation of Non-Contiguous ‘Satellite’ Areas,” from Roy Rodriguez, President of Big Rods Investments, Inc. a North Carolina Corporation that owns the property. This property is outside of the Town’s Extraterritorial Jurisdiction and lies within proximity of the Dellwood Junaluska Regional Center District to the west and east. The Planning Board will consider a recommendation for zoning at their next regular meeting on October 19.

A motion was made by Alderman Jon Feichter, seconded by Alderman Chuck Dickson, to call for a public hearing on Tuesday, October 27, 2020 beginning at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street, Waynesville. The purpose of the meeting is to consider a request for Annexation for three parcels of property along Dellwood Road and Ivy Hill: 1778 Dellwood Road, PIN 8617-10-6618; “Lot 75” of Ivy Hill Subdivision, PIN 8617-10-6745; and “Lot 77”, PIN 8617-10-7527. The motion carried unanimously.

5. Call for a Public Hearing for a Land Development Standards Text Amendment to Section 13.5 – Nonconforming Uses and Structures.

- Elizabeth Teague, Development Services Director

The Land Development Standards addresses nonconformities and categorizes them as one of three types: nonconforming lots, nonconforming uses, or nonconforming structures. These are defined as lots, uses, or structures which existed prior to the adoption of the Land Development Standards. In the LDS Section 13.5, “uses” and “structures” are found in the same subsections and are used interchangeably, leading to confusion. Ms. Teague said that the Zoning Board of Adjustment requested a text amendment to rectify this situation and avoid future complications.

The Planning Board considered this issue at its September 21, 2020 meeting and voted to recommend to the Board of Aldermen the proposed text amendments to LDS Section 13.5.

A motion was made by Alderman Julia Freeman, seconded by Alderman Anthony Sutton, to call for a public hearing on Tuesday, October 27, 2020 beginning at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street, Waynesville. The purpose of the meeting is to consider a Land Development Standards Text Amendment to Section 13.5 – Nonconforming Uses and Structures. The motion carried unanimously.

6. Call for a Public Hearing for a Land Development Standards Text Amendment to Section 2.5.3 – Table of Permitted Uses and Section 17.3 – Definitions, Use Type.

- Byron Hickox, Land Use Administrator

At its August 25, 2020 regularly scheduled meeting, the Board of Aldermen directed Development Services staff and the Planning Board to “refer to the definition of “Recreation Facilities, Outdoor” for review and re-wording because potential problems that could arise because of the current overly broad definition.

The Planning Board considered this issue at its September 21, 2020 meeting and voted to recommend to the Board of Aldermen four proposed amendments to the LDS:

1. Adopt the proposed amended definition of Recreation Facilities, Outdoor.
2. Adopt the proposed definition of Golf Course/Country Club and permit this use only in Low Density Residential Districts.
3. Adopt the proposed definition of Campground and do not permit this use in any zoning district.

A motion was made by Alderman Julia Freeman, seconded by Alderman Anthony Sutton, to call for a public hearing on Tuesday, October 27, 2020 beginning at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street, Waynesville. The purpose of the meeting is to consider text amendments to Land Development Standards Section 2.5.3 – Table of Permitted Uses and Section 17.3 – Definitions, Use Type. The motion carried unanimously.

7. Call for a Public Hearing for a Land Development Standards Text Amendment to Section 4.3.4(F) – Encroachments, Handicapped Ramps.

- Byron Hickox, Land Use Administrator

Mr. Hickox told the Board that in the Land Development Standards Section 4.3.4(F) states that handicap ramps and fire escapes may encroach into any required yard but may not be closer than 3 feet to any property line. For lots on which the principal structure is located close to a public sidewalk and depending on the exact location of the property line, this encroachment standard could prevent an accessibility ramp

from connecting to the sidewalk. This could potentially complicate the design and construction and increase the cost of such a ramp. The proposed amendment can be read in the attached staff report. At its September 21, 2020 meeting the Planning Board voted unanimously to recommend to the Board of Aldermen the proposed amendment to this section of the LDS

A motion was made by Alderman Anthony Sutton, seconded by Alderman Julia Freeman, to call for a public hearing on Tuesday, October 27, 2020 beginning at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street, Waynesville. The purpose of the meeting is to consider a request for Land Development Standards Text Amendment to Section 4.3.4(F) – Encroachments, Handicapped Ramps. The motion carried unanimously.

8. Call for the Board of Aldermen to hear an appeal of an Administrative Decision

- Jesse Fowler, Assistant Town Manager

Mr. Jesse Fowler, Assistant Town Manager, stated the Mr. Jon Nowakowski has appealed the decision of the Chief Building Inspector, Tom Maguire, regarding an inspection of the property identified as 101 East Street, PIN # 8615-36-6895. This is a call for a hearing of the Board of Aldermen to be held on Friday October 16, 2020 at 2:00 pm in the Board room of Town Hall.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson for the Board of Aldermen to hear the appeal of an administrative decision at an appeal hearing on Friday October 16, 2020 at 2:00 pm. The motion carried unanimously.

E. PUBLIC HEARING

9. Public Hearing to consider a Community Development Block Grant (CDBG) application for utility infrastructure improvements in Hazelwood.

- Joel Storrow, McGill and Associates

A motion was made by Alderman Anthony Sutton, seconded by Alderman Julia Freeman, to open the public hearing at 7:35 pm. The motion carried unanimously.

Mr. Storrow read a prepared Public Hearing Script from the State of North Carolina Department of Environmental Quality. He also provided prepared Public Hearing Meeting minutes, both of which are included in these minutes.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson, to close the Public Hearing at 7:46 pm. The motion carried unanimously.

A motion was made by Alderman Jon Feichter, seconded by Alderman Jon Feichter, to approve CDBG Grant Application for sewer line improvements as presented. The motion carried unanimously.

F. NEW BUSINESS

10. Clarification on the naming of the park located at 10 Calvary street as “Obama/King Park”.

- Jesse Fowler, Assistant Town Manager

Assistant Manager Jesse Fowler explained to the Board that at the last meeting it was not clear on the name for the Calvary Street Park and he would like some clarification on the correct name.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson, to name the park located at 10 Calvary Street as “Obama-King Park”. The motion carried unanimously.

Town Manager Hites announced to the Board that Jesse Fowler has been named the new Assistant Town Manager. He said that he had received many applications, and that Mr. Fowler had scored high on two interviews and he has been very impressed with him as a Planner in the Development Services Department. He welcomed him to the Administration staff.

Mr. Fowler told the Board that he was “pumped” and excited to be a part of the team.

G. COMMUNICATIONS FROM STAFF

11. Manager’s Report

- Rob Hites, Town Manager

Draft of SOC and Engineering Report (ER), formerly PER)

Manager Hites said that for the past year the Town and McGill Engineers has been negotiating a “Special Order of Consent” with both DENR’s Asheville Regional Office and its Raleigh headquarters. He said we are close to completion of our negotiations. The SOC is a civil contract with DENR that sets the term of a waste- water infrastructure project as well as the chemical limits that the plant must meet to remain in compliance. If a governmental unit violates the SOC they receive a \$1,000 fine for violating the interim limits, \$1,000 for exceeding the construction schedule, \$1,000 for missing progress reports (fine doubles with each subsequent assessment for late reports).

The Town’s current permit limits have been modified in two areas, (1) Total Suspended Solids permit: 30 mg/L. Modified limit 45 mg/L. Current Weekly average for Fecal Coliform 400 mg/L. Modified Fecal Coliform 600 mg/L. Current monthly average for Fecal Coliform 200 mg/L. Modified Fecal Coliform 200 mg/L (no change).

The project schedule is roughly four years. Increments are set in months rather than dates so DENR approval of milestones will not be counted against the project schedule. The Town has been given 155,000 gallons per day of additional flow to account for new development. If we need more than that we will request it on a case by case basis.

Manager Hites explained to the Board that the Town owes a total of \$22,500 in assessed fines. We will pay DENR \$4,129 upon signing of the SOC. The remaining \$16,516.48 will be held in abeyance until the end of the project. If the project has not been completed or there are material violations of the SOC the entire \$16,516.48 will be due. If not, the fees will be waived.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Julia Freeman, to approve the draft SOC. The motion carried unanimously.

A motion was made by Alderman Jon Feichter, seconded by Alderman Anthony Sutton to accept the Wastewater Treatment Engineering report. The motion carried unanimously.

12. Town Attorney Report

- Town Attorney William E Cannon, Jr.

Town Attorney William E, Cannon, Jr. was instructed at the last Board meeting to design a draft Ordinance to mandate face coverings. Attorney Cannon said that in doing so he discovered that the Town's enabling statute's code section was revised years ago and has been replaced by a newer Emergency Management Act. He said the Ordinance he has drafted will correct that and authorize the Mayor, Mayor Pro Tem, and the Board of Aldermen to declare a State of Emergency, along with restrictions that are deemed necessary.

A motion was made by Alderman Jon Feichter to update the Ordinance, Chapter 22 Article II of the Town of Waynesville Code of Ordinances.

Alderman Feichter rescinded his motion.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Jon Feichter, to call for a public hearing on Tuesday, October 27, 2020 beginning at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street, Waynesville. The purpose of the meeting is to consider an update to and Ordinance, Chapter 22 Article II of the Town of Waynesville Code of Ordinances. The motion carried unanimously.

Attorney Cannon said he had been contacted by the Attorney for Junaluska Sanitary District to discuss contact renewal. Since the contract has not been updated in many years, Attorney Cannon said he would like to update the contract.

The consensus of the Board was to authorize Attorney William Cannon, Jr., Public Services Director Jeff Stines, and Town Engineer Preston Gregg to review the updated contract.

H. COMMUNICATIONS FROM THE MAYOR AND BOARD

I. CLOSED SESSION

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton to enter closed session at 8:18 pm to consult with Attorney to preserve Attorney client privilege, and to discuss matters relating to the location or expansion of industries or other businesses G. S. §143-318.11(a)(3)(4). The motion carried unanimously.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Julia Freeman, to enter back into open session at 8:45 pm. The motion carried unanimously.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Julia Freeman, to call for a public hearing on Tuesday, November 10, 2020 beginning at 6:30 p.m. or as closely thereafter as possible in the Town Hall Board Room located at 9 South Main Street, Waynesville. The purpose of the meeting is to discuss input on a proposal to offer tax incentives based on G.S. .

J. ADJOURN

With no further business, a motion was made by Mayor Caldwell, seconded by Alderman Chuck Dickson, to adjourn the meeting at 8:40 pm. The motion carried unanimously.

ATTEST:

Gary Caldwell, Mayor

Robert W. Hites, Jr. Town Manager

Eddie Ward, Town Clerk