

AGENDA
REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
TOWN HALL
APRIL 14, 2009
TUESDAY – 7:00 P.M.

CALL TO ORDER

ITEM 1. APPROVAL OF MINUTES OF MARCH 24, 2009

ITEM 2. ADMINISTRATION OF OATH OF OFFICE FOR ALDERMAN J. WELLS GREELEY

At the meeting of March 24, the Mayor and Board of Aldermen selected Mr. J. Wells Greeley as the candidate to replace Alderman J. Kenneth Moore who passed away on March 2, 2009. Alderman Greeley would complete the unexpired term of Alderman Moore, and that term was to extend until the new board is seated after the municipal elections on November 8, 2011.

Judge Richlyn Holt, former Town Attorney for the Town of Waynesville, has agreed to attend the Town Board meeting and administer the Oath of Office for Mr. Greeley. This will take place as the first order of business and then Mr. Greeley will take his seat as Alderman Greeley.

ITEM 3. PUBLIC HEARING
AMENDMENT TO SECTION 154.109 EAGLE NEST RURAL DISTRICT
(B) DEVELOPMENT STANDARDS
(8) DESIGN AND OPERATION STANDARDS
(a) BUILDING HEIGHT, MASSING AND ARTICULATION

The amendment to this section would delete the provision that non-residential buildings must be built to a residential scale.

The applicant in this case is JE Golf, LLC, on behalf and regarding the new clubhouse of the Laurel Ridge Country Club. The Planning Board Staff Report is attached for your review, and you will see that the recommendation of staff was in support of the requested change. This request came to the Planning Board at their March meeting and that body also recommended approval of this text change to the Board of Aldermen.

ITEM 4. PUBLIC HEARING
ANNEXATION REQUEST OF GRANDVIEW LODGE
2.207 ACRES LOCATED AT 466 LICKSTONE ROAD

At the Board meeting of March 24, Town Clerk Phyllis McClure reported on her investigation into the sufficiency of the petition of Grandview Lodge for satellite annexation into the

corporate limits of the Town of Waynesville. The Town Clerk indicated that the petition met the requirements of state law. At that meeting, Mr. Terry Ferguson, the owner of the establishment appeared to explain the reasons for the annexation.

The Board of Aldermen then set the public hearing date on the annexation petition for Tuesday, April 14. In addition, it was recommended that a new policy be established in that the property be posted, as is done with rezoning requests, to indicate that annexation of the property is under consideration. Finally, the Board directed that town staff send out notification to the property owners in the area surrounding the Grandview Lodge, notifying them of the request by Mr. Ferguson for annexation of this property into the Town.

A sign format was developed and prepared and has been placed on the property as notification that the property is under consideration for annexation. In the future, we will use similar signs to post any property that is under consideration for annexation. In the case of the Grandview Lodge, letters were mailed to the property owners within a specific number of feet of the property, advising them of the request for annexation and notifying them of the time and date of the public hearing.

ITEM 5. PUBLIC COMMENT PERIOD FOR WATER SHORTAGE RESPONSE PLAN REVISIONS

While the Town of Waynesville has had a Water Shortage Response Plan in place for several years, the first time it was necessary to implement the plan was during 2008. At that time, a drought which had been ongoing for three years led to a noticeable drop in the level of the Town's reservoir at the head of Allens Creek. Going through the experience of implementing the steps called for in the Plan led Town Public Works Director Fred Baker to realize that some amendments were desirable to the Plan.

With that in mind, Mr. Baker prepared a new Water Shortage Response Plan and will be on hand Tuesday to present the new Plan and seek the Board's approval. As required by State Law, the Town must give a minimum of a 30 day review period for adoption of a Plan. To meet this requirement, the Plan has been posted on the Town's web site for that period and the public has been invited to make comment. In addition, a note about the plan was placed on all utility bills mailed to customers of our utility system. I know that we have received at least one comment on the plan, and Mr. Baker will address any comments he may have received as well.

As you review this document, if you have questions, please do not hesitate to contact Mr. Baker so that he might answer your questions in advance of the meeting on Tuesday.

ITEM 6. CEMETERY REGULATIONS

At the Board's Annual Retreat in January, town staff presented a set of revised rules and regulations pertaining to the Green Hill Cemetery which is operated by the Town of Waynesville. With the approach of the summer season and the time when there will be the seasonal increase of maintenance to the property by town personnel, we would like for the

Board to consider and adopt the new regulations. These will certainly make it easier for town personnel to conduct their work in the maintenance of this property.

Obviously, with his background as the operator of a funeral home and with some degree of experience in dealing with cemeteries, it is likely that Alderman Greeley will bring much to the table in terms of the issue of cemetery operations. We have provided him with a copy of the regulations on the cemetery so that he might have the opportunity to review the document.

ITEM 7. EDDIE CALDWELL, FINANCE DIRECTOR
REPORT ON TOWN FINANCES THROUGH MARCH 31, 2009

As the Town reaches the 75% point of the fiscal year, Mayor Brown has asked that Finance Director Eddie Caldwell present a status report of the Town's finances. With all of the publicity on finances, at the federal and state levels as well as in county and municipal governments, it is fitting that town staff keep the Town Board well informed of where the Town is at this stage. At the meeting on Tuesday evening, Mr. Caldwell will be presenting this information for your review.

At this point, we have completed 9 months of the fiscal year in terms of expenditures. On the revenue side, some of our income is based upon nine months of the year, but other revenues, such as the Sales Taxes and Franchise Taxes, both major amounts, are something less than 9 months. The Sales Taxes run three months behind, so as of March 31, the Town has received six months of sales tax receipts. What is received in July, August and September of 2009 will actually be backed up into the 2008-2009 fiscal year, and if there are significant fluctuations, it makes it extremely difficult to budget correctly.

The Franchise Tax is received in quarterly payments, and comes in around the middle of the last month of each quarter for the prior quarter. So at this point of the fiscal year, the Franchise Tax for the July–September quarter was received in the middle of December. The Franchise Tax for the October–December quarter was received in the middle of March. As with the Sales Taxes, the revenues which are received September, 2009, for the April-June, 2009 quarter, will be backed up into the current 2008-2009 budget making it extremely difficult to budget with any degree of certainty.

I explain this so that you will understand that while expenditures for the 2008-2009 fiscal year will stop on June 30, 2009, some of the revenues for the 2008-2009 fiscal year will not be received until up to three months later.

The other thing I would say is that the Town's finances are in good shape. You will learn that when you hear Eddie's report. We began taking steps early in the fiscal year to deal with the crisis situation we knew might be coming. Our department heads have responded beautifully, cutting their budgets by 3% as we requested last fall and holding down the expenditures of the funds with which they have been left to operate their departments. Initially, we estimated that the Town would need to take \$800,000 from the fund balance of the General Fund in order to

achieve a balanced budget. Now it appears that no more than \$130,000 will be needed from the fund balance of General Fund.

We will continue to monitor this situation closely through the end of the fiscal year, and unless there are dramatic changes in our economic conditions, we believe that the Town will end up as soundly as we were on June 30, 2008.

ITEM 8. EAGLE NEST WATER SYSTEM
 REPORT ON PROJECT FUNDING
 AWARD OF BID

For some time, we have been dealing with the issue of the Eagle Nest Water System, working with our neighbors to find a way to assure that they are connected to an approved public water supply. A State grant became available to the Town for the project, with the grant being in the amount of \$1,000,000. In addition, there is a no interest loan to the Town from the State in the amount of \$300,000. The estimated cost of the project was \$1.3 million, but the Town Board made it clear that since this was outside of the corporate limits, the Town would not invest direct funds into the project. This meant that the homeowners would have to raise \$300,000 as the local match on the project. Much of the time spent in this work has been on trying to figure out a way to fairly and equitably assess the property owners for the local share of the project costs.

Since the property is located outside of the corporate limits, the Town is not empowered to assess the property for the project costs. A number of options were considered, but the homeowners felt like the fairest way was for their group to assess each property owner a share of the cost. Since the HOA or Homeowners Association is empowered to do this, that seemed like the best way to proceed. In sending out annual statements, the HOA added a charge to each lot owner, and everyone was asked to make their payment by April 1, 2009. Earlier this week, the HOA reported that they now had in excess of the \$300,000 required to pay for the local share of the project cost. We had indicated to the HOA that unless the money was in hand, we would not be in a position to recommend that the Mayor and Board of Aldermen award a bid on water system improvements.

Town Attorney Woody Griffin has been working on an Escrow Agreement under which the HOA would place \$300,000 on deposit with an Escrow Agent. This deposit would then guarantee that funds would be available each year when the Town must make its annual payment on the \$300,000 loan. That agent would issue a \$30,000 payment to the Town of Waynesville no less than 30 days before the Town's payment was due to the State, and the Town would then make its payment to the State in a timely manner. The balance of the \$300,000 would remain on deposit with the Escrow Agent and at the end of the ten year period, all interest earnings would be provided to the Homeowners Association.

While the escrow document is not in final form, Mr. Griffin has provided a draft of the agreement to Attorney Steve Martin who represents the HOA. He is reviewing the document and needs to provide Mr. Griffin with a letter of assurance that the HOA is authorized to enter

such an agreement and that it will be binding upon the HOA into the future. Based upon the completion of those documents, and because the HOA has the \$300,000 required, we feel comfortable recommending to the Mayor and Board of Aldermen that this project proceed.

BID OPENING

On Tuesday, April 7, 2009, at 2:00 p.m., representatives of AECOM/HSMM engineering firm were on hand to open the bids on this project. With utility work slow, it seemed like an ideal time to open bids on this \$1.3 million dollar project, and based upon the number of bidders and the results, that certainly seemed to be the case. Twelve firms contacted the engineers to discuss the project and pick up plans and bid documents on the work. Nine of those firms submitted bids to perform the work.

The project calls for the installation of just over 12,500 feet of four inch and two inch water lines, the construction of two pump stations and two water tanks and providing new utility connections (to the new system) to all lots abutting the water system. In preparing the bids, there was one alternate included to the base bid. The base bid called for installation of a 43,000 gallon water storage tank at the lower level and a 30,000 gallon water storage tank at the top. The alternate called for upsizing the lower tank to 81,000 gallons as well as replacing 850 feet of 4 inch water line with 6 inch water line and the installation of a fire hydrant. This would provide the neighborhood with fire flows, and the HOA had expressed an interest in having that included.

The bids, including the alternate, ranged in price from an apparent low of \$965,710 to an apparent high of \$1,475,550. The average of the nine bids was \$1,190,494. The engineers took the various proposals with them to check for any mathematical errors and to be sure that all bid bonds and performance bonds were included and that there were no discrepancies in the bidding process. On Wednesday afternoon, the engineers called and indicated everything was in order. They will send a letter making a recommendation on the project award, and a summary of the bids will be available at the meeting on Tuesday evening.

At this point, the apparent low bidder was Buckeye Construction Company of Canton, and this is a firm that has done a good bit of work within the town and for the Town of Waynesville over the years. They are familiar with our personnel and Mr. Baker and the Water Department has worked with this firm a number of times over the years.

Assuming there are not glitches that arise and the Board is able to approve an award at the meeting on Tuesday evening, there are some documents that must be completed to meet the requirements of the federal and state grant/loan. These pertain to the efforts to secure minority business involvement in the bidding and to meet the goals of awarding at least some portion of the work to minority bidders. It is hoped that the award of the bid and approval by the State may occur so that work may commence in early May. The time of completion is 180 days, and I am sure that most contractors would like to be finished this project and off the mountain before the return of winter in November, 2009.

ITEM 9. RESOLUTION REGARDING LEGISLATION RELATED TO ALCOHOLIC BEVERAGE CONTROL IN THE NORTH CAROLINA GENERAL ASSEMBLY

In the current session of the General Assembly, some bills have been introduced which could dramatically change the way that Alcoholic Beverage Control stores operate in North Carolina. These bills would change the fundamental oversight of these stores, eliminating the individual ABC Boards in each town and replacing them with one ABC Board for a county and possibly even for a region. This certainly alters the way the stores were established initially, which was through the approval of voters within a particular municipality or a county. The legislation raises all sorts of questions about the ability of the local government to control the stores and the distribution of the assets, including the profits, of the stores.

In March, Mayor Brown and town staff members met with the local ABC Board and a representative of the local store to discuss the situation. As a result, it was requested and recommended that the Town Board adopt a resolution in opposition to the proposed legislation, which are Senate Bill 839 and/or House Bill 768. As it turned out, the North Carolina League of Municipalities had already developed a sample resolution in opposition to these bills, and Town Clerk Phyllis McClure has developed a resolution for the Town Board to consider.

ITEM 10. RESOLUTION ON FILING OF APPLICATION FOR WASTEWATER SYSTEM IMPROVEMENTS

You will perhaps recall that at a March meeting of the Board, town staff asked that approval be given for a resolution in which the Town was seeking funding for water improvements under the American Recovery and Reinvestment Act. I believe we indicated to you that at a later date, we would be asking for approval of a similar resolution for wastewater system improvements. We are in hopes that some of the Stimulus money will trickle down to areas such as Waynesville so that we may undertake some of those projects on that list of \$31 million in water and sewer needs that have been identified.

ITEM 11. RESOLUTION SUPPORTING THE CONTINUED OPERATION OF THE HAYWOOD CORRECTIONAL CENTER

At a meeting in March, Board members expressed support for maintaining the Haywood Correctional Center. In the budget of Governor Perdue, there are plans to close the facility here in Haywood County as a cost savings measure; however, there is some question about the actual savings, since the Haywood Correctional Center operates with a 'cost per-inmate' below the average of all correctional facilities in North Carolina.

Because of the past support for the Correctional Center, a resolution of support for the continued operation of the Haywood Correctional Center has been developed for your consideration.