



Town of Waynesville

AGENDA
REGULAR MEETING
BOARD OF ALDERMEN
TOWN OF WAYNESVILLE
TOWN HALL - 9 SOUTH MAIN STREET
APRIL 27, 2010
TUESDAY - 7:00 P.M.

Call to Order

1. Approval of Minutes of April 13, 2010
2. Presentation of Fiscal Year 2010 - 2011 Annual Budget
3. Mr. Alvin Wyatt
Concerns Regarding Town Services
4. Fire District Contract
Town of Waynesville and Haywood County
Waynesville Rural Fire Protection Service District
5. Adjournment

Additional information regarding this agenda is available at www.townofwaynesville.org

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TUESDAY – 7:00 P.M.

The Board of Aldermen of the Town of Waynesville held a regular meeting on Tuesday, April 13, 2010. Members present were Mayor Gavin Brown, Aldermen Gary Caldwell, Libba Feichter, J. Wells Greeley and LeRoy Roberson. Also present were Town Manager A. Lee Galloway, Assistant Town Manager Alison Melnikova, Town Clerk Phyllis McClure and Town Attorney Woodrow Griffin. Mayor Brown called the meeting to order at 7:00 p.m.

Approval of Minutes of March 23, 2010

Alderman Roberson moved, seconded by Alderman Caldwell, to approve the minutes of the March 23, 2010 meeting as presented. The motion carried unanimously.

Public Hearing – Amendment to Section 154.108(B)(8)(b) Dellwood Neighborhood District

An amendment was requested by Dr. Kristen Hammett to expand the permitted locations for Business, Professional and Personal Services in the Dellwood Neighborhood District to properties in that district which lie within 500 feet of the east side of Russ Avenue between Maple Grove Church Road and Great Smoky Mountain Expressway (US 23-74 Bypass).

At the present time, Business, Professional and Personal Services are permitted in certain areas within the Dellwood Neighborhood District. The properties must be within 500 feet of Russ Avenue, but there are limits. The use is allowed on all property within 500 feet of the west side of Russ Avenue, but on the east side of Russ Avenue, the use is limited to that area within 500 feet which lies between Jule Noland Road and Maple Grove Church Road.

Property on the east side of Russ Avenue located between Maple Grove Church Road and the Route 23-74 Bypass is restricted to residential use only. The applicant, Dr. Kristen Hammett, notes that the property she owns, located at the corner of Russ Avenue and Golf Course Road, lies in the area restricted to residential use. She feels that this is not the most desirable use of her property and wishes to expand the Business, Professional and Personal Services use.

In his report to the Planning Board, Planning Director Paul Benson noted that on both sides of Russ Avenue, there are 102 properties within 500 feet of the road in the Dellwood Neighborhood District. Of these there are 38 properties on the east side of Russ Avenue excluded from the Business, Professional and Personal Services uses. Mr. Benson noted that the Dellwood Neighborhood District is intended to develop as a low to medium residential district separating the commercial areas at either end of the district. According to the Land Development Plan, the district is also intended to permit low to medium mixed uses along the Russ Avenue corridor,

and that would include limited business and professional services. There seems to be a conflict between the Land Development Plan and Land Development Standards.

Manager Galloway said during 2000-2001, it was this section of roadway that was the driving force in the creation of the Land Development Standards. There was discussion of a corridor study to try and protect the appearance and traffic flow on the main corridors leading into Waynesville. The Town Board wanted to expend the funds and made the commitment to address all property within Waynesville, the Extraterritorial Jurisdiction and even the Urban Growth Boundary Area. There was concern that this particular section of road between K-Mart Plaza and Route 19, as well as the planned Asheville Road, could become a heavy commercial area such as Russ Avenue on the south side of the Bypass. So there were restrictions placed along Russ Avenue, trying to limit business development to the lower impact uses contained in the Business, Professional and Personal Services category.

The Planning Board felt that consistent treatment should be given to all property located along Russ Avenue in the Dellwood Neighborhood District. They voted unanimously to recommend approval to the Board of Aldermen of the change being requested.

In addition, the Planning Board also voted unanimously to recommend to the Board of Aldermen that the Land Development Plan be amended to indicate low to medium mixed use along the Russ Avenue corridor within the Dellwood Neighborhood District.

Attorney Griffin opened the public hearing. The following persons spoke:

Tom Green said the family thought the property was commercial because for tax purposes it always appeared to be of a commercial status. When this road became a four-lane road, the property was more suitable for commercial use.

Dr. Hammett purchased the property from Ms. Strain in 2003 as a possible location for her veterinarian office and was surprised to learn that the property was residential. She said building a house on this property would not be suitable and it did not make sense for the property to be residential so she requested the change. Also building certain types of businesses on the property would not be suitable either.

Attorney Griffin closed the public hearing.

Philan Medford said she could remember that there was an intention to have small sections of residential, mixed uses in this area to avoid strip zoning. Manager Galloway pointed out that the only commercial property in this area on the same side of the road is Distinctive Log Homes and the Board could have originally zoned the area residential to limit the commercial property on this side of the road.

Alderman Roberson asked if there were any concerns raised by the Planning Board regarding entrances and exits to the property. Mr. Green said access to the property would be from Golf Course Road and Russ Avenue. Dr. Hammett said in conversations with the NC Department of Transportation she understood that the property would be limited to right turn only out of the property onto Russ Avenue. Mayor Brown pointed out that NCDOT has driveway limitations according to area speed limits. Tom Green said one of the things that makes the property

attractive is that it can be accessed from Russ Avenue and Golf Course Road. Dr. Hammett said NCDOT told her this is one of the areas under consideration for installation of a traffic light.

Alderman Feichter moved, seconded by Alderman Caldwell, to approve the request as presented. The motion carried unanimously. (Ord. No. 4-10)

Gov-Deals Report – Second and Third Quarters

As required in the Town's Purchase Policy, the Purchasing Supervisor is to make regular reports to the Mayor and Board of Aldermen on items which have been sold using Gov-Deals. This is an on-line auction where the items the Town wishes to sell are shown and bidders are allowed to look at pictures and read information about the equipment. The Town has sold large pieces of rolling stock such as garbage trucks and flat bed trucks, used dumpsters, oil filters, office furniture and surplus computer equipment, resulting in much better results from the sales on line than from auctions each May on the public works grounds.

Purchasing Supervisor Julie Grasty attended the meeting to present the report and answer any questions the Board may have. Thus far during the 2010 fiscal year, the Town has sold \$79,539 worth of goods on Gov-Deals, the majority coming from rolling stock. When equipment is sold in this manner, the Town may place a minimum acceptable bid on the items and choose to reject the bids if none reach an acceptable level. In the case of the 2003 Mack Side Load Container Truck, this is the third time it was on the auction block. The first time, bids reached the \$36,000 range, but there was a minimum bid of \$45,000. The second time, the minimum bid was lowered to \$40,000, but the bids only reached \$26,000. Finally, on the third try, the Town had a \$40,000 minimum and was able to get that much in the last bid.

Manager Galloway said some of the items are in high demand and generate a lot of bids, such as the 2003 Dodge Durango and the 1995 Ford Flat Bed Truck. But even used dumpsters, which received 70 bids, are popular items.

Local firms or individuals may also participate in the bidding process by registering on line with Gov-Deals. In the past, many locals bid on items, and some have registered and still participate in the bidding. But the prices generated have improved dramatically under Gov-Deals as the competition and interest are much higher.

No action was required on the report which is submitted to comply with the requirements of the Purchasing Policy of the Town.

Public Art Commission Recommendations Great Smoky Mountains National Park Railing Public Art Project at Mini-Park

Over the past few months, the Public Art Commission has been involved in soliciting and evaluating proposals for the next art project, a fence like structure in the mini-park at Main and Depot. The solicitation for proposals indicated that the fence must demonstrate the connection of the Waynesville Community with the Great Smoky Mountains National Park. It was planned in connection with the 75th Anniversary of the creation of this, the most heavily attended park in the National Park system.

On Saturday, March 27, the Public Art Commission and a number of invited citizens and elected officials participated in a review of the three finalists in the competition.

Mieko Thomson and Philan Medford, representatives of the Public Art Commission, attended the meeting to present its recommendation as to which art piece should be commissioned for installation in the mini-park.

Philan Medford said the Public Art Commission's focus is to commission original works of art to build a collection of public art that citizens consider to be their entitlement and legacy for future generations. The artwork will enrich public spaces and celebrate Waynesville's unique historical, cultural, natural and human resources. The mini park location for this art is special to celebrate the Town's connection to the Great Smoky Mountains National Park. This is the former site of the bank building formerly located on this property. The bank was headed by Jonathan Woody and Linton Palmer, both born at Cataloochee, an area within the Park. When the bank was demolished Mr. Woody and Mr. Palmer donated the property to the Town for public use.

After the Public Art Commission narrowed the 22 proposals received to three, a panel of forty people were involved in selecting the finalist. Critical staff support was received from Assistant Town Manager Alison Melnikova and Public Works Director Fred Baker. Artists submitting proposals included a blacksmith. Two of the artists proposed galvanized art that delays the onset of the rusting process. Maintenance of the art was an important factor. It was felt that the arch once over Main Street was important to the project. Only one artist incorporated it into their proposal, but they did not address maintenance. The selection panel voted unanimously on the proposal submitted by Ben Kastner and Richard Coley of Intracoastal Iron. Mr. Kastner is located in Wilmington, NC and is the only artist that visited the site before the meeting. He also visited and camped at Cataloochee. The redesign of the Mini Park has been on the mind of the Downtown Waynesville Association for quite some time.

Mayor Brown said this commission is doing a wonderful job. A fundraiser for this art project is scheduled at the HART Theater on June 24.

Manager Galloway said Richard Miller was aware that the Town was going to do this project and he produced money from a foundation that he oversees for the project. One of the things that has been dealt with is the large concrete item in the middle of the park which served as a water feature at one time and was the location of the vault when the bank was located on this property. The Bradford Pear trees have been removed and replaced with another type of tree. This area can be a performance area because it is flat and well landscaped. The area will be designed in a manner that will draw people in. Concrete paver units will be used. Mayor Brown added that students from Haywood Community College and Tuscola High School have been working with Horticulturist Jonathan Yates. He said it is good to see the community working on projects such as this.

Alderman Greeley said he and Alderman Gary Caldwell attended the Public Art Commission to hear the presentations and were very impressed with the art proposals.

Alderman Feichter suggested that a plaque with a photo of the arch that once hung over Main Street be included in the Mini Park. Alderman Feichter added that she has traveled to many

places but thinks there is something marvelous and unique about the mountains in this area, they wrap themselves around you with a very soft feeling.

The Board thanked the Public Art Commission for their work.

Alderman Roberson moved, seconded by Alderman Feichter, to accept the proposal submitted by the Public Art Commission for the artwork of Ben Kastner and Richard Coley of Intracoastal Iron to be placed at the Mini Park. The motion carried unanimously.

Resolution of Support Downtown Waynesville Association Grant

Town Staff in conjunction with the Downtown Waynesville Association requests the Board's approval to apply for a North Carolina Main Street Solutions Fund grant of \$300,000 for the rehabilitation of the Strand Theater by Richard Miller into a facility that will hold up to four small businesses.

The Town must make the application for funds which are then distributed to the businesses according to grant requirements. Funds are not distributed until the issuance of a Certificate of Occupancy for the building, and no local match is required.

The Main Street Solutions Fund is a new program established by the State of North Carolina which is intended to provide direct financial benefits to small businesses; retain and create jobs in association with small businesses, and spur private investment in association with small businesses. This first round of funding is considered a pilot program by the Department of Commerce, and only 7-12 awards are likely to be made.

DWA Executive Director Buffy Messer and Richard Miller attended the meeting to present the grant and answer any questions regarding the Main Street Solutions Fund and the Strand Project.

Richard Miller said the N. C. Governor has stimulated two million dollars to be made available to small Main Street districts and grants are awarded on projects. The purpose is to create businesses and jobs in the Main Street districts and grants range from \$20,000 to \$300,000. Mr. Miller said the grant is being leveraged with private money and it is felt that this could be a strong factor in Waynesville possibly receiving a grant. If approved, the grant will help with a lot of the interior improvements which will lower the cost and allow businesses to move into the Old Strand Theater building. It allows investors to have a fair return on their investments. DWA staff, Richard Miller and Kay Miller have been working on this grant application for about two weeks and the document is rather lengthy. The deadline to submit the grant application is Thursday, April 15.

DWA Director Buffy Messer said when this was initially presented the building that she thought could fit was the Strand Theater building because it is in the center of downtown. Buffy Messer said they have been working closely with Public Works Director Fred Baker. The proposed project increases the loading and unloading area on Wall Street but would also result in the loss of five parking spaces in that area.

Mayor Brown said the project requires some realignment of Wall Street and some parking will be lost. He added that no public money will be at risk.

Seven to twelve grants will be awarded regionally and it is felt that Western North Carolina has a good chance of receiving one of the grants. Buffy Messer said more points are awarded toward the grant when it is a public and private project. Richard Miller said there are three businesses that are qualified and ready to begin at this location.

Alderman Greeley moved, seconded by Alderman Feichter to adopt a resolution to authorize Town Manager Galloway, and successors so titled, to execute and file an application on behalf of the Town of Waynesville with the State of North Carolina for grant funding from the Main Street Solutions Fund. The motion carried unanimously. (Res. No. 3-10)

Report by Town Manager Galloway Regarding South Main Street Improvements by NCDOT

Manager Galloway said he attended a meeting this afternoon with the engineering firm AECOM, the company that was hired by the NC Department of Transportation to do the work on South Main Street. A public hearing was held last spring about the different traffic counts from Pigeon Street to Hyatt Creek Road to the by pass. Some possibilities regarding proposed changes in the design of South Main Street were presented at this meeting. Manager Galloway this was the first meeting to solicit some reaction from the Town regarding the proposed designs. Mayor Brown added that one of the things he has learned is that NCDOT projects are designed for twenty or more years. No action was needed.

Upcoming Budget Meetings

Manager Galloway said a preliminary document has been prepared and it is hoped that the budget can be distributed to the Board at their next meeting, April 27. There are still some pending issues, but final numbers will not be available until the end of April. The first budget workshop could be scheduled on April 29.

Mayor Brown said he spoke to Rotary this past Friday and people are interested in Waynesville and appreciative of what has been done in Waynesville in the past.

Adjournment

With no further business, Alderman Greeley moved, seconded by Alderman Feichter to adjourn the meeting at 8:05 p.m. The motion carried unanimously.

Phyllis R. McClure
Town Clerk

Gavin A. Brown
Mayor

ITEM 2. PRESENTATION
2010-2011 ANNUAL BUDGET

Over the past several weeks, a great deal of time has been invested in the development of the proposed 2010-2011 annual budget. At the meeting on Tuesday evening, the proposed document will be presented to the Board. In the following weeks, we will propose budget work sessions as we work our way through the document and work toward making it the Town Board's budget and not just the budget of management or the Finance Director. Your copies of the proposed budget will be distributed on Tuesday evening.

ITEM 3. MR. ALVIN WYATT
CONCERNS REGARDING TOWN SERVICES

Mr. Alvin Wyatt, West Farley Street, has requested time on the agenda to speak to the Town Board about concerns he has regarding Town services.

ITEM 4. FIRE DISTRICT CONTRACT
TOWN OF WAYNESVILLE AND HAYWOOD COUNTY
WAYNESVILLE RURAL FIRE PROTECTION SERVICE DISTRICT

During early 2009, Haywood County worked with the municipalities and the volunteer fire departments in the county on redoing the fire districts. Prior to that time and dating back to at least 1990, there was an agreement between the Town of Waynesville and Haywood County covering three fire districts (South Waynesville, Big Cove and Camp Branch). The Waynesville Fire Department would respond to properties within those districts and the County would collect a 6 cent per \$100 fire tax from those districts and pay Waynesville to provide that service.

There were other areas outside of those three fire districts to which the Waynesville Fire Department provides fire service. One major area is Lake Junaluska Assembly area, and the Town has a separate fire service agreement with the Assembly. The Assembly collects a fee on utility bills they send to properties on their utility system and pays the Town a fee per household for providing fire service.

But there were still other areas that received fire service from the Waynesville Fire Department. If those properties were on the Waynesville Water System, they were billed a monthly fire fee. If they were not on the Waynesville Water System, they paid nothing but received the service free. The new Fire Service Contract with Haywood County merges most of the outlying areas into a new fire district called the Waynesville Rural Fire Protection Service District with a fire tax of 6 cents per \$100 collected by the County and paid to the Town. This contract is attached and has been hashed out with the County over the past several months. We ask your approval.

There are still areas outside of the town that are not included in the new fire district and for which the Town is not receiving compensation to provide fire service. Fire Chief Joey Webb is working with Haywood County to try and resolve that issue, and we hope to have a fix in place before long.

NORTH CAROLINA
HAYWOOD COUNTY

AMENDED AND RESTATED
CONTRACT

THIS AGREEMENT, made this _____ day of _____, 2009, by and between the COUNTY OF HAYWOOD, herein referred to as "County" and the TOWN OF WAYNESVILLE, a municipal corporation, herein referred to as "Town".

WHEREAS, by agreement dated October 9, 1990, County and Town entered into a contract for the purpose of Town providing fire protection in the "South Waynesville", "Camp Branch" and "Big Cove" fire districts with County agreeing to levy and collect an ad valorem property tax up to 6 cents per one hundred dollars valuation for the purposes of paying Town for said services; and

WHEREAS, due to the passage of time and changes in circumstances County and Town desire to amend and restate said contract as set forth herein.

NOW, THEREFORE, in consideration of ten dollars (\$10.00) each to the other in hand paid, and in consideration of the mutual promises and covenants set forth herein, County and Town do hereby agree as follows:

1. The County contracts and agrees that it will cause to be assessed or levied a special tax of up to \$0.06 per \$100.00 valuation of all taxable real and personal property in the Waynesville Rural Fire Protection Service District, unless otherwise limited by law and/or a vote of the people, and will collect said tax as a part of the ad valorem taxes of the county.
2. A special or separate fund shall be maintained by the County for funds collected as a result of said special tax.
3. Provided the terms and provisions of this Agreement are complied with by Town, County shall remit all taxes collected for the Waynesville Rural Fire Protection Service District to the Town of Waynesville on a monthly basis, to be paid no later than thirty (30) days after the last calendar day in the month in which said taxes were collected.

4. Prior to the adoption of this agreement, County was collecting a Fire Service Tax in the Big Cove, Camp Branch and South Waynesville Fire Districts on behalf of Town and remitting taxes collected to the Town. As delinquent Fire District taxes are collected for these three districts for years prior to the 2009-2010 fiscal year, County shall remit the Fire District taxes for those districts to Town in the manner set forth in the preceding paragraph 3.

5. Town, through its Fire Department shall provide the necessary equipment and personnel for furnishing adequate fire protection as determined by the North Carolina Department of Insurance, consistent with an ISO class 9 or better for all property located within the Waynesville Rural Fire Protection Service District, and, subject to the conditions herein, it will furnish said fire protection free of charge to all persons and individuals located in said Service District in an efficient and workmanlike manner by dispatching, upon call of any person within the Service District, the equipment necessary to answer the call with adequate personnel to operate the equipment. In case of fires occurring simultaneously, the Fire Chief or his designee, shall determine whether there is adequate equipment and/or personnel to dispatch to respond to a call in the Service District. If, in the opinion of the Fire Chief or his designee, there is not adequate equipment and/or personnel, the Fire Chief or his designee shall look to the mutual aid agreement to seek assistance³ from another fire department or fire departments in responding to other calls. For purposes of this contract the Waynesville Fire District shall be defined as the Waynesville Rural Fire Service District. Furthermore, the parties expressly acknowledge that due to terrain, road conditions, weather, and other factors, certain properties and areas located within the Waynesville Fire District may be either wholly or partially inaccessible to the fire department of Town, and that the services called for herein may not apply to those properties and areas. The determination as to accessibility shall be totally in the judgment and discretion of the Fire Department of Town.

6. The Fire Chief or his designee on duty from time to time is hereby vested with the discretion of determining when, and under what circumstances, equipment may be removed from the district pursuant to a Mutual Aid Agreement entered into between the various fire departments of the County, and pursuant to the request of the Haywood County Fire Marshall. The Fire Department, under the Mutual Aid or Automatic Aid Agreements, shall not be responsible for affording fire protection where the Fire Chief or his designee on duty determines that life or structures are not endangered.

7. All funds paid to Town by the County shall be used to provide fire protection, fire safety education expenses and emergency medical care pursuant to the First Responder Program under the Haywood EMS System Plan, rescue and/or ambulance services (EMS), and to any other legitimate fire protection expenses.

8. The effective beginning date of this contract is July 1, 2009, and continue until June 30, 2010. The contract shall then be automatically renewed on a year to year basis unless written notice is given by either of the parties to the other of their intention to cancel same not less than sixty (60) days prior to January 1 of any calendar year. In the event such notice is given of intent to cancel, this agreement shall terminate at midnight on June 30 next following; providing however, that this Agreement may not be terminated by the County if Town has any indebtedness pertaining to the operation of its fire department which is outstanding during the term of this Agreement.

9. In connection with Town's agreement to provide fire service in the Fire Service District, the Town of Waynesville agrees to maintain general civil liability insurance to cover the Town, all of its employees, officers, agents and volunteers, as to negligent acts and omissions resulting in fire loss and other casualty loss, or personal injury or death, and to indemnify the County, it agents, officers, and employees, against all such liability, as well as any liability violations of federal and statutory laws and to provide an investigation and defense of all such claims and suits on behalf of the County, at the expense of the Town or its insurance carrier. The Town shall maintain the required workers compensation, vehicle liability insurance and physical damage coverage, commercial general liability insurance, including premises/operations, contractual liability and completed operations of not less than \$1,000,000 combined single limits. A certificate of insurance shall be provided to the County which certifies the coverages required by this Agreement.

10. Nothing in this agreement shall be construed to vest in any third party any right or cause of action against Town or County, or their agents or employees for the failure of Town or its employees to furnish protection, or any right or cause of action against such parties arising out of the manner in which their protection is furnished or activities within the contemplation of this agreement are carried out.

11. The fire department of Town will complete and submit all fire reports to the State Department of Insurance on at least a quarterly basis. The Fire Marshall will obtain these reports from the State Department of Insurance to fulfill the fire incident reporting as required by NCGS 61-1 and NCGS 143A-52 of the General Statutes of North Carolina.

12. This contract is a restatement of that contract dated October 9, 1990 and replaces all of the terms and conditions as set forth in said contract.

IN TESTIMONY WHEREOF, County has caused this instrument to be executed by the Chairman of the Board of County Commissioners, and attested by the Clerk of the County Board of Commissioners, and Town has caused this instrument to be signed by its Mayor, attested by its Clerk, and its town seal hereto affixed.

HAYWOOD COUNTY

By: _____
Chairman of Commissioners

Attest:

Clerk

TOWN OF WAYNESVILLE

By: _____
Mayor

Attest:

Town Clerk