A. CALL TO ORDER

1. Welcome/Calendar/Announcements – Mayor Gavin Brown

2. Adoption of Minutes

   Motion: To approve the minutes of May 14, 2013 (regular session) as presented [or as corrected].

B. PUBLIC HEARINGS

3. Public Hearing to consider amending Section 54-93 of the Code of Ordinances, regarding use of engine compression brakes (jake brakes) within town limits

   Motions:
   1) To open the public hearing.
   2) To close the public hearing.
   3) To adopt the amendment to Section 54-93 of the Code of Ordinances, prohibiting use of engine compression brakes (jake brakes) within town limits, as presented.

4. Public Hearing to consider amending Chapter 46 of the Code of Ordinances, regarding safety requirements at skate park facilities

   Motions:
   1) To open the public hearing.
   2) To close the public hearing.
   3) To adopt the amendment to Section 54-93 of the Code of Ordinances, requiring the use of safety equipment at municipal skate park facilities, as presented.
5. Public Hearing to consider the FY 2013-2014 Proposed Budget

Motions:
1) To open the public hearing.
2) To close the public hearing.
3) At Board’s discretion
   [the board may adopt the FY13-14 budget following the close of the public hearing, or may defer
   adoption until June 24, 2013]

6. Public Hearing to consider amending multiple Sections of the Code of Ordinances, regarding terms of office and discharge of duties for appointees to various boards and commissions

Motion:
1) To open the public hearing.
2) To continue the public hearing until June 24, 2013 at 7:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 9 South Main Street, Waynesville.

C. COMMUNICATIONS FROM STAFF

D. COMMUNICATIONS FROM MAYOR & BOARD OF ALDERMEN

E. CALL ON THE AUDIENCE

F. ADJOURN
THE WAYNESVILLE BOARD OF ALDERMEN held its regular meeting on Tuesday May 24, 2013 at 7:00 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Brown called the meeting to order at 7:00 p.m. with the following members present:
   Mayor Gavin Brown
   Alderman Gary Caldwell
   Alderman Julia Freeman
   Alderman Wells Greeley
   Alderman LeRoy Roberson

The following staff members were present:
   Marcy Onieal, Town Manager
   Woodrow Griffin, Town Attorney
   Alison Melnikova, Assistant Town Manager
   Eddie Ward, Deputy Clerk

Representing the media:
   Mary Ann Enloe, The Mountaineer

1. Welcome /Calendar/Announcements

   Mayor Brown welcomed everyone and asked the Board to refer to the calendar provided by Manager Onieal, and reminded everyone of the Haywood Council of Government meetings that have already been scheduled for August 28, 2013 with Haywood County hosting and October 29, 2013 with Town of Waynesville hosting.


   Mayor Brown read the proclamation and will be signing it on behalf of the town.

3. Minutes of April 9, 2013

   Alderman Caldwell made a motion, seconded by Alderman Greeley, to approve the minutes of April 9, 2013 as presented. The motion passed unanimously.
B. PUBLIC HEARINGS

4. Public Hearing to consider zoning a currently un-zoned 7.2 acre parcel, recently annexed into the Waynesville corporate boundary and located at 2170 Dellwood Road, (PIN # 8607-82-2478), as Dellwood Residential Medium Density (D-RM).

Manager Onieal stated that a 7.2 acre portion of the Queens property located at 2180 Dellwood Road (PIN # 8607-82-2478) was annexed upon petition of property owners, Lois P and James Richard Queen, in December 2011. The Planning Board held a public hearing March 18, 2013 and voted to recommend the area be zoned Dellwood Residential Medium Density (D-RM) in accord with planned use as indicated by the Town’s 2020 Land Development Plan, and the Town’s adopted Land Development Standards.

Town Attorney Griffin opened the Public Hearing for comments about the zoning designation. There were no public comments, and Attorney Griffin closed the public hearing.

**A motion was made by Alderman Greeley and seconded by Alderman Roberson to adopt a zoning designation of D-RM (Dellwood Residential Medium Density) for the parcel located at 2180 Dellwood Road (PIN 8607-82-2478), as presented. The motion passed unanimously.**

5. Public Hearing to consider Amendment to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development.

Manager Onieal explained that following requests made by Citizen Philan Medford and the Board of Aldermen last fall, the Planning Board considered and is now recommending that he Board adopt amendments to Section 6.4.3 of the Land Development Standards which would require development of public transit shelters with commercial development in the following circumstances:

The amendment would:

1. Reduce the thresholds for where transit shelters are required from 100 to 50 residential units for multi-family developments, and square footage of commercial space from 100,000 s.f. to 50,000 s.f.

2. Add the requirement for “institutional” uses of 50,000 square feet or greater.

3. Delete the clause: “are adjacent to present or planned transit routes” to accommodate current on-demand public transit service

4. Require Town staff to work with Haywood Public Transit and the FBRMOP to develop a local transit plan as the basis of grant funding requests.

5. Require Town staff to work in partnership with Haywood Transit to develop transit projects eligible grant funding, and consider providing matching funds for projects such as the construction of transit shelters on public rights-of-way adjacent to priority transit destinations.
Attorney Griffin opened the public hearing and asked for public comments.

Philan Medford, 99 Pisgah Drive, Waynesville, NC read from a handout she prepared, explaining five major points of having a transit shelter, as per the attached comments which shall be part of these minutes.

A motion was made by Alderman Greeley and seconded by Alderman Roberson to adopt amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development, with standards and requirements as presented. The motion passed unanimously.

C. NEW BUSINESS

6. Special Event Request for Temporary Street Closing & use on Mini-Park - Main Street Mile, August 23, 2013 (request of Eric Yarrington/Jason Bodnar, Main Street Mile)

The 4th annual Main Street Mile “Run for the Children” footrace benefitting the Shriners Hospital in Greenville, S. C. is scheduled for Friday August 23, 2013 at 6:30 pm. Mr. Yarrington is requesting to close Main Street from 5 pm – 10 pm in order to set up the course, and hold a post race party with live music, foods, drinks, and children activities. The use of the Mini-Park is requested from 4pm on to accommodate race registration. The event has been held for the last three years with cooperation with the Waynesville Police Department and Downtown Waynesville Association.

A motion was made by Alderman Freeman seconded by Alderman Caldwell to approve the closing of Main Street on Friday August 23, 2013 from 5:00 pm – 10 pm for the Main Street Mile footrace and related fundraising events associated with the annual “Run for the Children, benefitting Shriners Hospital, Greenville, S.C. The motion passed unanimously.

7. NCDOT Municipal Agreement for Walnut Trail Bridge Repairs

The NCDOT Bridge Maintenance Division has completed replacement of timber handrails and wheel-guards on the bridge to the Wastewater Treatment Plant at a cost of $8,736. The NCDOT has requested the Town sign an agreement for the repair.

A motion was made by Alderman Greeley, seconded by Alderman Roberson to authorize the manager and/or the mayor to execute municipal agreement #4012 between the Town of Waynesville and the NCDOT for repair of the Walnut Trail Bridge. The motion passed unanimously.

8. Call for Public Hearing to consider amending Section 54-93 of the Code of Ordinances, regarding use of engine compression brakes (jake brakes) within town limits

Recently citizens in several areas of town, particularly Russ Avenue, have reported an increase in the use of engine compression (jake) brakes. This creates a situation of excessive noise and disturbance in areas adjacent to residential neighborhoods. The use of these brakes was prohibited on Allens Creek Road in 2006 and rather than creating a list of streets where the use of these brakes is prohibited, the staff recommended a ban inside town limits for the use of these brakes except in emergencies.
9. Call for Public Hearing to consider amending Chapter 46 of the Code of Ordinances, regarding safety requirements at skate park facilities

Manager Onieal stated that when skate parks became frequently requested in North Carolina, many local governments were hesitant to construct and operate skate parks due to increased liability and insurance risks (perceived and actual). Local governments now construct skate parks with regularity. In order to receive the protection outlined in Article 3 of North Carolina General Statute 99E, local governments must adopt an ordinance requiring participants to wear personal safety equipment on skate parks including helmets, elbow pads, and knee pads. With the Town’s skate park currently under construction, the Town would like to have an ordinance adopted. Appropriate signage will also be posted.

D. UNFINISHED BUSINESS

10. Call for Public Hearing to consider amending multiple Sections of the Code of Ordinances regarding terms of office and discharge of duties for appointees to various boards and commissions

Manager Onieal states that in the summer of 2012 the Board of Aldermen agreed to change appointees’ terms to run concurrent with the Town’s fiscal year (July 1 – June 30). Also, all appointees shall serve in office until their successions are duly appointed, and it was the intent of the Board that the 2 or 3 year terms for all boards and commission members should be staggered so that the same number of members are rotating on and off the board each year.

A motion was made by Alderman Freeman and seconded by Alderman Wells:

To call for a Public Hearing on June 11, 2013 at 7:00 p.m., or as soon thereafter possible, in the Board Room of Town Hall, 9 S Main Street, for the purpose of considering an ordinance amendment, which would prohibit use of engine compression brakes within town limits, except in the case of emergency.

To call for a Public Hearing on June 11, 2013 at 7:00 p.m., or as soon thereafter possible, in the Board Room of Town Hall, 9 S Main Street, for the purpose of considering an ordinance amendment, which would require the use of helmets, elbow and knee pads at skate park facilities.

To call for a Public Hearing on June 11, 2013 at 7:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 9 S Main Street, for the purpose of considering multiple ordinance amendments that would remove specific references to terms of office and discharge of duties in the Code of Ordinances, and replace those references with an annually reviewed and adopted Boards & Commissions Manual.

The motions were approved unanimously.
E. COMMUNICATIONS FROM STAFF

11. Town Manager – Marcy Onieal

Capital Project Updates

Manager Onieal said the plans for the skate park were going well in spite of the rain. As far as the park restroom project, Manager Onieal said the Town had already received revised plans, and that staff is still waiting on Reece, Noland, and McElrath to revise the P M & E drawings. As soon as those are ready the project will be put out for bids. Even with the extended delay caused by repeated failure of the previously contracted architect to deliver buildable plans, the Town expects to bid the project by the end of June and have work completed by early fall. The manager explained that although the previous architect failed to pay the engineers with whom he had contracted to assist with drawing the original plans, the Town was covering the costs of those subcontractors, the new designer was donating his services and the new engineers were providing their services at a deep discount in order to assist the Town in keeping the design work within the original approved budget.

Hyatt Trace Incentive Agreement

Manager Onieal wanted to clarify the terms of the loan for $106,700.00 over 20 years, previously adopted by the Board to support Hyatt Trace, an affordable housing apartment complex, prior to the developer submitting his final application to the Housing Finance Agency. The payback on the loan is expected to be very slow, and is dictated by a formula established by Housing Finance Agency rules, with no freedom to negotiate payback terms. Total payback over the 20 years is expected to be no more than $20,000, with the remainder due as a balloon payment. The money will be tied up for an extended period of time, but it will be very beneficial to the area. The developer’s application to the Housing Finance Agency is due by the end of May, 2013.

Mayor Brown acknowledged the Board’s awareness of the loan terms and by consensus confirmed their support for the project to move forward and their commitment of loan funds, contingent on the developer receiving approval of the Housing Finance Agency.

Bolin Easement Agreement

Mr. Kersten has forwarded a draft easement agreement which Attorney Griffin, Jason Rogers and Manager Onieal will look at, and will probably bring before the Board at the next meeting.

Greens Condo Association – Abandoned Pump House

The Town has a request from the Greens Condo Association on Willow road about an abandoned pump house. It is an unused, locked building, and they have asked the Town to remove it. The Town has no use now, or in the future, for the building. The equipment inside the building will be salvaged. The Association has agreed to share in the cost of disposal of the building. The value of the building is less than $30,000.00.
There is also an abandoned water tank in the general area also, and a similar request will be forthcoming for this water tank.

**Junaluska-Waynesville Merger Update**

Manager Onieal said the merger is still in a holding pattern with the legislature. May 16, 2013 is the crossover deadline, and the House has been very specific about not wanting to send any senate bills through committee until after the crossover deadline. The merger will most likely be in the House committee on May 23rd or May 30th for the next hearing.

Also, there have been meetings with the Planning Board and the Lake Junaluska Community Council concerning zoning for Lake Junaluska. One of the events planned with Lake Junaluska is a “meet the Town day”. Saturday August 10 is a tentative date planned for Waynesville to have key staff, trucks, vehicles, and equipment on hand for a “show and tell” with the residents of Lake Junaluska.

**Disposition of Town Printers**

Manager Onieal said all the old printers surplused after going to contract printing were donated in Town to a variety of other governmental agencies and non-profit organizations.

**Recreation Park Improvements**

The Town has recently added additional handicapped spaces at the request of Recreation Park patrons. Also the grass in the dog park has been replaced with a mulch surface. A fence has been removed to allow for more room for dogs to run about, which is important given the small size of the dog park, along with new landscaping, seating and shade trees. In the future, a water source and other amenities for both dogs and their owners are planned. The manager has encouraged the recreation staff to work with dog park users to create a “Friends of the Dog Park” type group that can assist with fund-raising and volunteer projects associated with enhancing the dog park. Manager Onieal also said that while construction is being done and before permanent parking is available at the adjacent skate park, the Town will temporarily allow parking on the grass & gravel area near the dog park.

**SOG/EDI Old Hospital Study**

Manager Onieal said the report from the School Of Government was ready for review, and that the consultants from the School of Government desired to present their work to a joint gathering of the Board of Aldermen, Haywood County Commissioners and Economic Development Commission. The Board decided to have the presentation at the next Council of Government meeting, if agreeable with the other entities.
Citizens Requests/ Concerns

Manager asked if there were any other requests or concerns to be brought before the Board. There were none.

Board Standards of Procedures

- Use of Consent Agenda
- Proclamations
- Resolutions vs. Motions
- COG Notice/Participation

There was discussion about the use of these items and the Board’s preferences.

Upcoming Ordinance Amendments

- Sign Ordinance
- Appointment process for Boards & Commissions
- Delegation of Authority from Boa to ZBA
- Delegation of Authority for special event request to staff

Manager Onieal discussed the upcoming ordinance amendments that will come before the Board in the near future.

Budget Preview & Workshop Topics

- Revenue Overview
- Business Privilege Licenses-Gross Receipts
- Personnel Considerations
- Assigned Vehicle Program – Police Department
- Unalaska Merger Considerations
- IT Master Plan
- Non-profit Allocations

Manager’s One-Year Evaluation

Manager Onieal requested that her first annual performance review be scheduled after the budget is adopted, due to the busy schedule for both staff and board throughout May and June. The mayor and board concurred that a review based on the fiscal year is ideal and will coincide with the manager’s plan to review workplans and performance with staff on a fiscal year basis.

12. Town Attorney Woody Griffin

Attorney Griffin had no communication for the Board.
F. COMMUNICATIONS FROM MAYOR & BOARD OF ALDERMEN

There were no communications from the Mayor and the Board of Aldermen

G. CALL ON THE AUDIENCE

- Mary Grace Lodico – Request to install audible signals at Haywood & Church

Mary Grace Lodico, 46 Central Street, Waynesville, NC spoke to the Board concerning placing an audible signal at Haywood St and Church St. Ms Lodico says she often travels from her home to about three blocks away to Waynesville. Being a blind person, Ms. Lodico states that she often uses the audible signal at Church and Main St. and would very much like to see one installed at the light at Haywood and Church Streets. She feels that the Audible sounds are very important and that it would be much easier for the blind pedestrians in Waynesville to cross safely if the audible signal were in place.

Tamara Watson, Waynesville, NC stated she felt the population was aging in Waynesville, and she, being a blind pedestrian also, would very much like to have an audible signal installed in this area.

Manager Onieal said she feels the Town as a whole is committed to making every facility accessible, and that is the only intersection controlled by the Town which does not currently have audible signals. She said the Public Works Director has a long range plan for that intersection, which includes adding a dedicated left hand turn lane and audible signals at the time work is completed. Easements will need to be obtained from adjacent property owners.

Ken Stahl, 44 Lamplighter Dr, Waynesville, NC stated he wanted to bring to the attention of the Board a concern that he has about a large tree that has grown in the roadway in a curve, and on a hill, with a ditch and a bank on the opposite side of the road. This tree is located on the property at 60 Scenic Circle near Mr. Stahl. He gave the Board members pictures of the tree to show the location and condition of the tree. Traffic coming down Scenic Circle Drive is forced to cross the road into on-coming traffic to avoid hitting the tree. Mr. Stahl feels this situation is dangerous and may cause a head on collision in the curve. He said the abandoned house located on the property on which the tree is located belongs to Nancy Norris Evans, of Raleigh, NC. Mr. Stahl requests that in the best interest of public safety, the tree needs to be removed.

Manager Onieal said that trees on private property are not the Town’s responsibility to maintain, noting that neither the Town nor DOT typically removes or trims trees from rights-of-way. She said it is the property owner’s responsibility to maintain the tree and comply with Town ordinance prohibiting trees from encroaching into the road bed. The next step will be to notify the owner of the violation and Manager Onieal will follow up with Public Works Department staff to see that the private property owner has been properly notified and given time to correct the situation before fines are applied.

H. CLOSED SESSION

A motion was made at 8:35 p.m. by Alderman Greeley, seconded by Alderman Roberson, to go into closed session, as permitted in NCGS 143-318.11(a)(5) for the purpose of negotiating the terms of a contract for property acquisition. The motion passed unanimously.
The board returned to open session at 8:59 p.m., without taking action.

There being no further business, on a motion by Alderman Greeley, seconded by Alderman Roberson, the meeting was adjourned at 9:00 p.m. The motion was approved unanimously.

ATTEST

________________________________  ________________________________
Gavin A. Brown, Mayor               Marcia D. Onieal, Town Manager

________________________________  ________________________________
Eddie Ward, Deputy Town Clerk       Marcia D. Onieal, Town Manager
TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: June 11, 2013

SUBJECT: Public Hearing to consider amending Section 54-93 of the Code of Ordinances regarding use of engine compression brakes (jake brake) within town limits

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 3-B
Department: Administrative Services
Contact: Marcy Onieal, Town Manager
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: Recently citizens in several areas of town, but particularly Russ Avenue, have called to report the increased use of engine compression (jake) brakes by large commercial trucks through town, which creates a situation of excessive noise and disturbance, particularly in areas adjacent to residential neighborhoods. The use of such brakes was prohibited on Allens Creek Road in 2006, after residents along that street complained of excessive noise. Rather than create a list of streets where the use of the brakes is and isn’t prohibited, staff is proposing a town-wide prohibition on the use of engine compression brakes within town limits, with signs posted appropriately at all gateway entrances. This ordinance would not prohibit the use of the brakes in the case of an emergency, nor does it ensure that every truck driver will comply, but it does provide a mechanism for addressing citizen concerns. Since adoption of the prohibition on Allens Creek Road, complaints have dropped dramatically. The Police Department has issued very few citations for this infraction and voluntary compliance is high.

MOTIONS FOR CONSIDERATION:

1) To open the public hearing.
2) To close the public hearing.
3) To adopt the amendment to Section 54-93 of the Code of Ordinances, prohibiting use of engine compression brakes (jake brakes) within town limits, as presented

FUNDING SOURCE/IMPACT: Minimal. Signage will be purchased using the current operations budget for the Streets and Sanitation Department.

ATTACHMENTS:
- Proposed ordinance X-13

MANAGER’S COMMENTS AND RECOMMENDATIONS: Adopt as presented.
ORDINANCE X-13

AMENDMENTS TO AND RESTATEMENT TO CHAPTER 54 OF THE CODE OF ORDINANCES OF THE TOWN OF WAYNESVILLE

WHEREAS, the Board of Aldermen of the Town of Waynesville desires to amend the Code of Ordinances as it relates to the Operation of Vehicles.

NOW, THEREFORE, BE IT ORDAINED BY THE Board of Aldermen of the Town of Waynesville, North Carolina that Chapter 54, Article III: Operation of Vehicles be amended as follows by deleting strikethrough areas and adding highlighted areas:

CHAPTER 2: TRAFFIC AND VEHICLES

ARTICLE III. Operation of Vehicles

DIVISION 1: GENERALLY

Sec. 54-93 - Engine compression brakes prohibited on certain town streets.

(a) No person shall use a motor vehicle on Allens Creek Road where the engine compression brake (jake brake) is in any way engaged or activated on such motor vehicle or any unit a part thereof, except for emergency situations for the purpose of avoiding a collision with another object, person or vehicle. Engine compression brakes are defined in section 54-1.

(b) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with section 1-8

Adopted this 11th day of June, 2013.

TOWN OF WAYNESVILLE

ATTEST:

________________________________________
Gavin A. Brown
Mayor

________________________________________
Eddie Ward
Deputy Town Clerk

APPROVED AS TO FORM:

________________________________________
Woodrow H. Griffin
Town Attorney
TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: June 11, 2013

SUBJECT: Public Hearing to consider amending Chapter 46 of the Code of Ordinances, regarding safety requirements at skate park facilities.

AGENDA INFORMATION:
Agenda Location: New Business
Item Number: 4-B
Department: Administrative Services
Contact: Marcy Onieal, Town Manager
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY:
When skate parks became a frequently requested facility in North Carolina, many local governments were hesitant to construct and operate skate parks due to the increased insurance risk (perceived or actual). State law was modified in 2003 to specify what steps local governments can take to limit liability, as well as the risks that individual participants assume when skateboarding, inline skating, and bicycling. Local governments now construct skate parks with some regularity, and in order to receive the protections outlined in Article 3 of North Carolina General Statute 99E, must adopt an ordinance requiring that participants wear personal safety equipment on skate parks, including helmets, elbow pads, and knee pads. The attached ordinance is consistent with those adopted by other North Carolina municipalities.

With the skate park currently under construction, we would like to have the ordinance adopted and the appropriate signage made and posted before the grand opening in July.

The skate park will be unsupervised, which is what allows us to build such a facility and operate it without charging a user fee. But this also means that there may be individuals who choose to use the skate park without wearing all of the protective equipment required. They will do so at their own risk of bodily harm, citation, and suspension of skateboarding privileges at the park.

MOTIONS FOR CONSIDERATION:
1) To open the public hearing.
2) To close the public hearing.
3) To adopt the amendment to Section 54-93 of the Code of Ordinances, requiring the use of safety equipment at municipal skate park facilities, as presented.

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:
- Ordinance No. X-13: Amendment to Chapter 46

MANAGER’S COMMENTS AND RECOMMENDATIONS: The Town’s liability insurance carrier insists that such an ordinance be adopted prior to opening the skate park for use and has approved the language of the proposed ordinance, which is consistent with ordinances adopted by many other NC municipalities. Adopt as presented.
ORDINANCE X-13

AMENDMENT TO CHAPTER 46 OF THE CODE OF ORDINANCES OF THE TOWN OF WAYNESVILLE

WHEREAS, the Board of Aldermen of the Town of Waynesville desires to amend the Code of Ordinances as it relates to the Use of Public Places.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville, North Carolina that Chapter 46 is hereby amended to read as follows by adding Article III:

CHAPTER 46: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE III. Use of Public Places

Sec. 46 – 92 Hazardous recreational activities.

(a) The town has provided recreational areas for the enjoyment of hazardous recreational activities, including but not limited to skateboarding, inline skating, and freestyle bicycling. Any person who participates in or assists in hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or other persons or property that result from these activities.

(b) The town does not provide regular supervision of hazardous recreational activity facilities.

(c) Any person riding a skateboard at a municipal skate park facility shall wear the following safety equipment:
   (1) Helmet
   (2) Elbow pads
   (3) Kneepads

(d) Signs shall be posted at the facility, affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and kneepads.

(e) In addition to the penalties provided for in Section 1-8, any person who violates the provisions of the subchapter may be subject to sanctions imposed by the town including, but not limited to temporary suspension or permanent revocation of the privilege to skate anywhere within any town parks or recreation areas.

State law reference – Authority to regulate the use of skateboard parks, G.S. 99E-23.
Adopted this 11th day of June, 2013.

TOWN OF WAYNESVILLE

ATTEST:

_________________________________________
Gavin A. Brown
Mayor

Eddie Ward
Deputy Town Clerk

APPROVED AS TO FORM:

_________________________________________
Woodrow H. Griffin
Town Attorney

Marcia D. Onieal
Town Manager
Article 3.
Hazardous Recreation Parks Safety and Liability.


The purpose of this Article is to encourage governmental owners or lessees of property to make land available to a governmental entity for skateboarding, inline skating, or freestyle bicycling. It is recognized that governmental owners or lessees of property have failed to make property available for such activities because of the exposure to liability from lawsuits and the prohibitive cost of insurance, if insurance can be obtained for such activities. It is also recognized that risks and dangers are inherent in these activities, which risks and dangers should be assumed by those participating in the activities. (2003-334, s. 1.)


The following definitions apply in this Article:

(1) Governmental entity. –
   a. The State, any county or municipality, or any department, agency, or other instrumentality thereof.
   b. Any school board, special district, authority, or other entity exercising governmental authority.

(2) Hazardous recreational activity. – Skateboarding, inline skating, or freestyle bicycling.

(3) Inherent risk. – Those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding, inline skating, and freestyle bicycling. (2003-334, s. 1.)

§ 99E-23. Duties of operators of skateboard parks.

(a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and kneepads.

(b) For any facility owned or operated by a governmental entity that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements under subsection (a) of this section are satisfied when all of the following occur:
   (1) The governmental entity adopted an ordinance requiring any person riding a skateboard in the facility to wear a helmet, elbow pads, and kneepads.
   (2) Signs are posted at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and kneepads and that any person failing to do so will be subject to citation under the ordinance under subdivision (1) of this subsection. (2003-334, s. 1.)

§ 99E-24. Duties of persons engaged in hazardous recreational activities.

(a) Any person who participates in or assists in hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself or other persons or property that result from these activities. Any person who observes hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself that result from these activities. No public entity that sponsors, allows, or permits skateboarding, inline skating, or freestyle bicycling on its property is required to eliminate, alter, or control the inherent risks in these activities.

   (b) While engaged in hazardous recreational activities, irrespective of where such activities occur, a participant is responsible for doing all of the following:
(1) Acting within the limits of his or her ability and the purpose and design of the equipment used.
(2) Maintaining control of his or her person and the equipment used.
(3) Refraining from acting in any manner that may cause or contribute to death or injury of himself or herself or other persons.

(c) Failure to comply with the requirement of subsection (b) of this section constitutes negligence. (2003-334, s. 1.)

§ 99E-25. Liability of governmental entities.

(a) This section does not grant authority or permission for a person to engage in hazardous recreational activities on property owned or controlled by a governmental entity unless such governmental entity has specifically designated such area for these activities.

(b) No governmental entity or public employee who has complied with G.S. 99E-23 shall be liable to any person who voluntarily participates in hazardous recreation activities for any damage or injury to property or persons that arises out of a person's participation in the activity and that takes place in an area designated for the activity.

(c) This section does not limit liability that would otherwise exist for any of the following:

   (1) The failure of the governmental entity or public employee to guard against or warn of a dangerous condition of which a participant does not have and cannot reasonably be expected to have had notice.

   (2) An act of gross negligence by the governmental entity or public employee that is the proximate cause of the injury.

(d) Nothing in this section creates a duty of care or basis of liability for death, personal injury, or damage to personal property. Nothing in this section shall be deemed to be a waiver of sovereign immunity under any circumstances.

(e) Nothing in this section limits the liability of an independent concessionaire or any person or organization other than a governmental entity or public employee, whether or not the person or organization has a contractual relationship with a governmental entity to use the public property, for injuries or damages suffered in any case as a result of the operation of equipment for hazardous recreational activities on public property by the concessionaire, person, or organization.

(f) The fact that a governmental entity carries insurance that covers any activity subject to this Article does not constitute a waiver of the liability limits under this section, regardless of the existence or limits of the coverage. (2003-334, s. 1.)


§ 99E-29. Reserved for future codification purposes.
TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: June 11, 2013

SUBJECT: Public Hearing on Proposed FY 2013-2014 Annual Budget for the Town of Waynesville

AGENDA INFORMATION
Agenda Location: Public Hearings
Item Number: 5B
Department: Administrative Services/Finance
Contact: Eddie Caldwell, Finance Director
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: In accordance with the adopted budget calendar, the manager’s proposed operating budget for FY 2013-2014 was presented to the Board of Aldermen on June 1, 2013. At that time copies of the proposed budget were made available for public review in the Clerk’s office at Town Hall, at the Waynesville Public Library, and on the town’s website. Also at that time, a tentative schedule of public budget workshops was announced and the date and time for the required Public Hearing on the budget was announced for Monday, June 11, at 7:00 pm at Town Hall. On June 3, 2013, the finance director and town manager presented a report of the Town’s financial condition and economic forecast, and an overview of the recommendations included in the manager’s proposed budget. On June 10, 2013, the board will meet in a budget work session to discuss specific topics presented in the proposed budget. At the regular meeting on June 11, there will be a brief recap of the highlights of the proposed budget, followed by public comment on the proposed budget, after which the board may adopt the FY13-14 budget. By statute, the annual operating budget must be adopted no later than June 30.

Additional budget work sessions have tentatively been scheduled as follows, if needed:

- Monday, June 17, 2013, 5:30 pm (Municipal Building Conference Room)
- Monday, June 24, 2013, 5:30 pm (Municipal Building Conference Room)
- Tuesday, June 25, 2013, 7:00 pm (adoption of budget at regular board meeting, Town Hall Board Room)

RECOMMENDED MOTIONS AND REQUESTED ACTIONS:
1) To open the public hearing.
2) To close the public hearing.
3) At the board’s discretion
   [The FY13-14 Annual Operating Budget may be adopted as presented, or as amended, at any public meeting regularly or specially called no later than June 30, 2013].

FUNDING SOURCE: General Fund, Water/Sewer/Electric Funds

ATTACHMENTS: The proposed budget was delivered electronically and in hard copy to the Board on June 1, 2013.