

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REGULAR MEETING  
February 12, 2019**

**THE WAYNESVILLE BOARD OF ALDERMEN** held its regular meeting on Tuesday, February 12, 2019, at 6:30 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

**A. CALL TO ORDER**

Mayor Gavin Brown called the meeting to order at 6:30 p.m. with the following members present:

Mayor Gavin Brown  
Mayor Pro Tem Gary Caldwell  
Alderman Jon Feichter  
Alderman LeRoy Roberson  
Alderman Julia Freeman

The following staff members were present:

Rob Hites, Town Manager  
Amie Owens, Assistant Town Manager  
Eddie Ward, Town Clerk  
Bill Cannon, Town Attorney  
Jesse Fowler, Planner  
Elizabeth Teague, Development Services Director  
David Foster, Public Services Director  
Dean Trader, Interim Finance Director

The following media representatives were present:

Becky Johnson, the Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown reminded the Board of the following calendar events:

- Ribbon Cutting – Waynesville Publix Super Market – Wednesday February 13 – 6:45 am – 124 Frazier Street
- Haywood Pathway's First Annual Empty Bowl – Thursday February 21 – 5:30 – 7:30 – Hart Theater
- Pancake Day – Tuesday, February 26, First United Methodist Church – 6:30 am – 7:30 pm – 566 South Haywood St.
- Commission for a Clean County 2018 Community Pride Award – Wed. Feb. 27 – Waynesville Inn- 12:00
- Board Retreat – Friday March 1 – Public Services Training Room – 8:30 am

2. Adoption of Minutes

***A motion was made by Alderman Gary Caldwell, seconded by Alderman Jon Feichter, to approve the minutes of the January 22, 2019 regular meeting as presented. The motion passed unanimously.***

## B. PUBLIC HEARINGS

### 3. Public Hearing to be held on February 12, 2019 to consider a Petition for Annexation of a Non-Contiguous Satellite Area for property located at 77 Sutton Loop (PIN 8616-29-7639)

- Assistant Town Manager Amie Owens

Assistant Town Manager Amie Owens explained to the Board that this petition is being requested by Haywood Christian Academy, located at 77 Sutton Loop (PIN 8616-29-7639), for the purpose of annexing to receive additional town services in accordance with Town Policy. She said that this property is non-contiguous to the Town's current limits, and water and sewer service is already provided to this property utilizing outside rates. An annexation would allow for garbage collection and police and fire protection through the Town of Waynesville.

#### Clerk's Certification:

Upon investigation, the property is found to be closer than 3 miles to the Waynesville Town limit; the property is not closer to another municipality's primary corporate limits than to Waynesville; the property is not part of any subdivision and Town services are already available in the area. Ms. Owens stated that the petition meets the requirements of the general statutes NCGS §160A-58.1 annexation of non-contiguous area. The fee of \$200.00 for such petition was collected on January 7, 2019.

The notice of public hearing was published on February 1 and February 8 in the Mountaineer. Ms. Owens stated that if approved, the annexation would be effective April 1, 2019.

Town Attorney Bill Cannon opened the Public Hearing at 6:35 pm and asked if anyone wished to speak.

No one spoke.

Town Attorney Cannon closed the Public Hearing at 6:36 pm.

***A motion was made by Alderman Gary Caldwell, seconded by Alderman LeRoy Roberson, to approve the voluntary annexation into the Town of Waynesville for property located at 77 Sutton Loop (PIN 8616-29-7639) to receive additional town services in accordance with Town policy. The motion passed unanimously.***

### 4. Public Hearing to consider modification of the Town of Waynesville Code of Ordinances Section 6.6 Animals at street fairs, festivals or parades.

- Assistant Town Manager Amie Owens

Ms. Owens said that in October 2017, a moratorium was passed to suspend enforcement of the ordinance prohibiting animals at street fairs, festivals or parades. At that time, it was determined that in order to properly consider this issue, data was required related to the number of animals at the three largest festivals, the number of issues encountered, and the number of attendees. The Waynesville Civilian Police Volunteers used a stickering system to more adequately count the number of animals at the festivals in July and October.

She went on to give the statistics of the data gathered:

**Folkmoot International Day:** We had 117 animals either on leashes, carried by owners or in carriers. This is about a 60:1 human to animal ratio. There was one reported growling and snarling incident between animals – but no biting or scratching of dogs or humans. We had one irresponsible owner who allowed a dog to defecate in the mini park at Depot and N. Main. There were two reports of dog owners who were looking at the vendors wares and the dogs were behind them on a full 6’ leash and the leashes could have tripped others. (approx. 7000 attendees)

**Church Street Fair:** We had 141 dogs that were counted/stickered which is about an 80:1 human to dog ratio. She said there was one case of a “dog fight” (growling and barking – no biting) that scared a young child. There were approximately 11,000 attendees with a total of 252 animals stickered for this festival. No incidents (bites, trips, etc.) were reported with no poo on the sidewalks noted.

**Apple Harvest Festival:** We had a total of 252 animals stickered for this festival. There was approximately 20,000 attendees and that was a ratio of 80:1 human/animal. There were no incidents (bites, trips, etc.) were reported with no poo on the sidewalks noted.

Ms. Owens stressed to the Board that the problem of enforcement of animals at festivals is the issue of comfort animals and ADA regulations.

The notice of public hearing was published in the Mountaineer on February 1 and February 8.

Attorney Bill Cannon Opened the Public Hearing at 6:39 p.m. and asked if anyone wished to speak.

No one spoke.

Attorney Cannon Closed the Public Hearing at 6:40 p.m.

***A motion was made by Alderman Jon Feichter seconded by Alderman Julia Freeman, to approve the modification to the Town of Waynesville Code of Ordinances section 6.6 Animals at street fairs, festivals or parades. The motion passed unanimously.***

5. Public Hearing to consider modification of Sections 26-31, 26-32 and 26-35 of the Town of Waynesville Code of Ordinances Article II – Nuisances

- Attorney Bill Cannon

Attorney Cannon stated the he had suggested this modification after concerns regarding folks that were living on the Muse property. He said there were different ways to handle the situation, but adding this language will add specific activities that constitute a nuisance, and increase the likelihood of enforcement of the ordinance. One of the concerns was the language regarding tents. Attorney Cannon said he had added language about a tent being used as an “abode.” In the legal sense an abode is defined as someone’s permanent dwelling.

Mayor Brown added that the modified language would allow the Town to seek relief in the court system by seeking an injunction. He said that this would solve the problem most of the time. Attorney Cannon

agreed and said it would be a safer route to be able to use the court system to remove items from personal property.

Attorney Bill Cannon opened the Public Hearing at 6:46 pm. and asked if anyone wished to speak.

**Tom Owens**  
**Executive Director of the Open Door**

Mr. Owens stated that he thought the Ordinance was well worded, but it is the specific language that he is concerned with. He said the language succeeds in making it easier to outlaw the existence of unsheltered individuals in the Town of Waynesville. That is problematic because it can successfully remove individuals who don't have shelter, and this will exasperate the problem. It will force folks to be on the outskirts, and not only will they not have access to food and shelter, but they won't have access to jobs. He told the Board they would be surprised at how many individuals who are unsheltered and they do work. He stated that about 25% of the people who he encounters at the Open Door are working individuals.

Another concern Mr. Owens had is though it would seem that it would make their jobs a little easier, it makes it harder to reach the folks that their organization was designed to reach. They would have to go further to deliver meals. The problem of unsheltered individuals does not go away, they are just moved further out to the rural areas of the Town and County. Also, pressure would be placed on surrounding places including churches and private residences.

Mr. Owens stated that there are several social leaders that exist in unsheltered conditions, especially this time of year. These individuals stand over and above the rest when it comes to issues of disturbance and addiction, and these folks would be greatly impacted by the change in this Ordinance.

Attorney Cannon closed the Public Hearing at 6:51 pm.

Mayor Brown pointed out that this was not an issue about homelessness, but rather an issue about nuisances. He said that the Town cannot be allowed to become a dump. The modification will address the difficulties that arise with the enforcement of this Ordinance.

Alderman LeRoy Roberson brought up that there is a drainage area near where the tents are located on this property. He expressed his concerns about human waste being in that drainage, and how this is affecting the neighborhood.

Alderman Jon Feichter stated he was concerned with the plight of the homeless people in our Town, and he would like to see some kind of conditions that would accommodate individuals who have need of a temporary shelter. Alderman Feichter said that he felt that both sides of the issue are valid.

Alderman Gary Caldwell said the area of the problem was a residential area, and those residents were worried about the health issues and their safety. He expressed concerns about a fire from the tents getting out of control and moving through the neighborhood. Alderman Caldwell said he felt that the obligation was to the neighborhood. He went on to express concerns about the Pathway facility becoming a rehabilitation center or a halfway house. He said that is taking away beds that could be occupied by homeless people.

Alderman Julia Freeman said there was a growing homeless population in our community. She said her family had worked with Longs Chapel 26 years ago to allow the Open Door to be opened in Frog Level. With the Open Door being there, they had taken a lot of grief over the years with crime and solicitation, and it has been difficult to house the Open Door there. She said that is her mother's legacy and it will remain in Frog Level.

Alderman Freeman said that after many years of dealing with hungry people and people who need shelter, she realizes that they need somewhere to go. She said she does not see that a personal individual property such as the Muse property should be used as an encampment for homeless people because of the health and safety issues. This problem needs to be addressed on a much bigger scale. Alderman Freeman said she supported the modification to the Ordinance.

Attorney Cannon stated that this does not criminalize homelessness. This is aimed at a property owner that permits a nuisance condition to exist on their property. He said it is very hard to balance between the rights on the neighbor and the homeless, and municipal government is the least equipped to deal with homelessness. People can cross state and county lines easily and most municipalities do not have the resources to provide sufficient shelters, and provide the additional police power needed. Attorney Cannon stated it is a national problem, and it is being handed down to the local governments.

***Alderman Gary Caldwell made a motion, seconded by Alderman LeRoy Roberson, to approve the modification to the Town of Waynesville Code of Ordinances Sections 26-31, 26-32 and 26-35, Article II – Nuisances. The motion passed unanimously.***

## **C. NEW BUSINESS**

### **6. Authorization to install pedestrian signals at Church and Haywood Intersections**

- David Foster, Public Services Director

Mr. Foster told the Board that the Town has attempted to install a requested pedestrian signal at the intersection of Church and Haywood Streets for a few years. A previously approved plan required a new guy wire and support system to install additional hardware on the existing signal pole. Mr. Foster said that without this guy support system, the new hardware that is needed would cause the existing signals to sag too low. He explained that the adjacent property owner has declined to allow a guy anchor to be placed on their property, so an alternate system was sought.

Mr. Foster stated that Mattern and Craig recommended the concrete pole solution at a cost of \$22,500.00. He requests direction and possible approval to hire Mattern and Craig to design and install a new concrete signal pole and pedestrian signal at the intersection of Church Street and Haywood Street.

***A motion was made by Alderman Julia Freeman, seconded by Alderman Gary Caldwell, authorizing Town staff to proceed with Mattern and Craig bidding and installing a concrete pole at the Church and Haywood intersection. The motion carried unanimously.***

### **7. Budget Amendment to establish a capital project account**

- Elizabeth Teague, Development Services Director

Ms. Teague stated that the Town of Waynesville has received a gift of \$102,269.20 from Philan Medford in coordination with the WNC Community Foundation for the acquisition and installation of a multi-use bridge at Waynesville Recreation Park. Ms. Teague explained that staff is requesting the Board to approve a budget amendment to establish a project account with these funds that will be dedicated to accomplishing this task, and to raise additional resources through other donations and grants.

As part of the project, the Town will seek engineering assistance with floodplain permitting and bridge design.

***A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter, to establish a capital project account for the Greenway Bridge at Recreation Park. The motion carried unanimously.***

8. Discussion of New Bridge across Richland Creek at Recreation Center

- David Foster Public Services Director

Mr. Foster said that as Ms. Teague had indicated earlier, the Town has recently been gifted approximately \$102,000 and was specifically earmarked for a bridge between the Recreation Center and the recently acquired Schulhofer property. This generous gift came with a stipulation that it be used within one year. Mr. Foster said that in order to meet this deadline, and comply with state regulation, many items have to be completed in advance of requesting a permit to build a bridge. One of the items that will need to be done is a hydraulic study which will help to determine the feasibility of bridging Richland Creek at the desired location and to assess the necessary bridge span. Mr. Foster said the study will be conducted with a goal of achieving a no-rise condition if possible.

The Board was presented with the hydraulic study proposal by Bell Engineering, with the cost estimate of \$7,500.00.

***A motion was made by Alderman Jon Feichter, seconded by Alderman Gary Caldwell, authorizing Town staff to proceed with hiring Bell Engineering to complete the preliminary hydraulic study at a cost of \$7,500.00 to determine the feasibility of bridging Richland Creek with a new bridge. The motion passed unanimously.***

9. Authorization to advertise 2017 Delinquent Property Taxes

- James Robertson, Tax Collector

Mr. Robertson said that the tax levy for the year 2018 was just over 5.5 million dollars. He said that he did a comparison on January 31 each year to see how tax collections were compared to the previous year. Over the past four years the 2018 tax collection rate has increased by about 2 percentage points. He stated that at the same time in 2017 the tax collections were at 91.07 percent, and in 2018 the tax collection rate is 93.47percent. As of now, Mr. Robertson said that out of about 7,800 tax statements, there were about 625 late advertisements which amounts to \$371,000.00 still outstanding.

Mr. Robertson said that he is requesting requests that authorization be granted to advertise all 2018 delinquent property taxes in the local newspaper, The Mountaineer, as required by NCGS §105-369. These are taxes that were billed on property values as of January 1, 2018, which became due as of September 1, 2018 and became delinquent as of January 6, 2019. After the approval of the Board, a target date of early March has tentatively been set for the delinquent ad. This date may change due to scheduling with the newspaper.

***A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter, to authorize staff to advertise all 2018 delinquent property taxes in The Mountaineer in early March, as required by NCGS §105-369. The motion carried unanimously.***

#### **D. COMMUNICATION FROM STAFF**

##### 10. Award of contract to Utility Technology

- David Foster, Public Services Director

Mr. Foster explained to the Board that when the Town's substation located off of Calhoun Road was constructed in 2008, the substation was built without voltage regulators for cost savings and other unknown reasons. These voltage regulators help to maintain a constant voltage across the system in which voltage is either raised or lowered to provide a steady stream of power. This regulation is not only important to the Town and the end users, but is also crucial to the Town's two largest industrial users (Giles and Sonoco). These two businesses depend on a consistent load to produce their respective products. Mr. Foster stressed to the Board that without voltage regulation at the Calhoun substation, the Town is left vulnerable. A scenario could be that the Calhoun substation be required to carry the entire load of the Town and under high loads such as cold weather.

Mr. Foster noted that a call for projects for engineering quotes was sent out, and four responses were received. One quote for \$19,900.00 to do the design of the voltage regulators came from UTEC who is familiar with the Town's system. The installation of the regulators will be bid out at a later time.

***A motion was made by Alderman Jon Feichter, seconded by Alderman Julia Freeman, to award the design services for voltage regulators at Calhoun Substation to Utility Technology for the amount of \$19,900. The motion carried unanimously.***

##### 11. Manager's Report

###### a. Forest Stewards Annual Contract for Managing the Watershed

- Rob Hites, Town Manager

Manager Hites explained that Forest Stewards Inc. has been providing sustainable forest management services to the Town for a number of years. In connection with Western Carolina University they conduct surface water quality testing, controlling non-native species plant populations, introduce native species of shelter wood to harvested areas, conduct field days and tours of the watershed. Manager Hites said that Forest Stewards has proposed a contract of \$42,000 for 2019, an increase of \$2,000 from the previous years. These funds are included in the current budget.

***A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter to approve the annual Forest Stewards Contract the amount of \$42,000.00 for 2019. The motion passed unanimously.***

11b. Contract to conduct a financial analysis of the water and sewer fund in order to recommend funding sources and rate increases over the life of the loan for the waste water treatment plant. Draft the application for grants or loans for funding improvements to the waste water treatment plant

- Manager Rob Hites

Manager Hites told the Board that one of the most critical elements of the waste treatment plant improvement project is the funding of the project. The funding agencies want to see a well thought out, long term plan to pay for the project which includes a rate analysis. The plan would show the agencies the current finances, fund balances, and future rate increases necessary to carry the debt. The State Revolving Loan and US Dept. of Agriculture has different formats for demonstrating a Town's financial plan. The contractor will draft the application (s) that best suits the Town after presentation and approval by the Board. The contractor will conduct the financial analysis while the Preliminary Engineering Report is being conducted so that both are substantially complete at the same time. Our goal would be to meet funding deadlines for either USDA or State Revolving Loans in April.

***Alderman LeRoy Roberson made a motion, seconded by Alderman Jon Feichter, to approve the contract with Dennie Martin of Withers and Ravenel for a lump sum not to exceed contract of \$18,000 to conduct a financial analysis of the water and sewer fund in order to recommend funding sources and rate increases over the life of the loan for the Wastewater Treatment Plant. The motion carried unanimously.***

**F. COMMUNICATIONS FROM THE MAYOR AND BOARD**

There was no additional communication from the Board.

**G. CALL ON THE AUDIENCE**

There were no additional comments from the Audience

**J. ADJOURN**

***There being no further business to discuss, Alderman Gary Caldwell made a motion, seconded by Alderman LeRoy Roberson to adjourn the meeting at 7:40 p.m. The motion carried unanimously.***

**ATTEST:**

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Gavin A. Brown, Mayor

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Robert W. Hites, Jr., Town Manager

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Eddie Ward, Town Clerk