

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN

Regular Meeting

July 26, 2022

THE WAYNESVILLE BOARD OF ALDERMEN held a regular meeting on Tuesday, July 26, 2022, at 6:00 p.m. in the Town Hall Board Room located at 9 South Main Street Waynesville, NC.

A. CALL TO ORDER

Mayor Gary Caldwell called the meeting to order at 6:05 pm with the following members present:

Mayor Gary Caldwell
Alderman Anthony Sutton
Alderman Jon Feichter
Alderman Chuck Dickson

Mayor Pro Tem Julia Freeman was absent

The following staff members were present:

Rob Hites, Town Manager
Jesse Fowler, Assistant Town Manager
Eddie Ward, Town Clerk
Town Attorney Martha Bradley
Misty Hagood, Finance Director
Elizabeth Teague, Development Services Director
Sam Cullen, Code Enforcement Officer
Jeff Stines, Public Services Director
Joey Webb, Fire Chief
Chris Mehaffey, Assistant Fire Chief
Various members of the Fire Department
David Adams, Police Chief
Brandon Gilmore, Assistant Police Chief
Misty Hagood, Finance Director
Chris Snyder, Street Department

There was no media present.

A. CALL TO ORDER

1. Welcome/Calendar/Announcements

Mayor Gary Caldwell welcomed everyone and referenced the calendar on the upcoming Folkmoot Summerfest 2022, Friday night street dance, and Sarges Dog Walk.

B. PUBLIC COMMENT

Peggy Hannah, 268 Hemlock Street, expressed concerns about the lack of crime enforcement in the Town.

Janet Presson, 49 Lodgepole Pine Lane, commented on the appeal of the Preservation Way project.

Trudy Schmidt, 202 Harmonica Way, had comments concerning spending 25 million on the Wastewater Treatment Plant, and why was this project not done many years ago.

Sherry Morgan, 437 Boundary Street, asked for clarification on how to file an appeal on Preservation Way.

Scott Cason, 421 Park Drive, talked about cottage development and conservatory development.

Bob Clark, 416 Park Drive, spoke to the Board about zoning regulations, and the refusal to follow the law on the Preservation Way appeal.

Dan Schultz, 256 Woodland Drive, stated he has been a Parks and Recreation Commission Board for many years. He spoke in favor of the request to Haywood County to increase funding to the Recreation Center.

C. ADDITIONS OR DELETIONS TO THE AGENDA

Mayor Caldwell asked that Assistant Police Chief Brandon Gilmore speak to the Board and audience concerning crime statistics for the Town of Waynesville.

Chief David Adams explained how the Record Management System compiles the statistics. He said that there have been improvements in the time he has been in Waynesville, especially in the Frog Level area, and he realizes there is still more work to be done.

Assistant Chief Gilmore presented a power point of offenses compiled from the January – June period and is a comparison to the previous year 2021. He explained that the “coding system” with the software program utilized in the Police Department often lumps numerous types of offenses into one category. He said he hoped that statistics from the more common offenses that often arise, and are quoted in meetings, will give more insight to the crime in Waynesville.

Top 5 Offense Decreases:

Shoplifting: Down 42.94 %

All Other Offenses (Misdemeanor Possession of Stolen Property, Misdemeanor B&E of Motor Vehicle, Misdemeanor Assault on LEO, some traffic related Offenses not including DWI): Down 14.29 %

Trespass or Real Property: Down 52.27%

Damage/Vandalism of Property: Down 33.72%

Simple Assault: 21.13%

Top 5 Offense Increases:

OFA (Order for Arrest/Warrant Service): Up 74.4%

Stolen Property Offenses: Up 275.0%

Weapon Law Violations: Up 87.5%

Driving Under the Influence: Up 50%

Arson: Up 400.0%

Individual Statics Related to Certain Offenses:

Crimes Related to Children: 50 Offenses Up 22%

Aggravated Assault: 14 Offenses

Simple Assault: 49 Offenses

Breaking & Entering's: 20 Offenses

Shopliftings: 93 Offenses (Majority from Walmart)

Thefts from a motor vehicle, building or motor vehicle parts: 72 Offenses

Motor Vehicle Thefts: 7 Offenses

Damage/Vandalism of Property: 47 Offenses

Trespass: 41 Offenses

Assistant Chief Gilmore explained that the rise in offenses is an increase in pro-active work enforcement for the Police Department, and not an increase in crime. He reminded everyone that these statistics change daily.

He said that primarily due to COVID, there has been an increase in crimes related to children. We account for this by long periods of time, where children have been allowed unlimited amounts usage with these platforms and other inappropriate internet sites. Our plans are to host some educational forums with the community, as we move forward to better educate parents in what to look for and hopefully, how to avoid children becoming victims.

The pre-trial release program is a program that says if a person is arrested, and meets a certain set of standards, they can get a bond. If the standards are not met, sometimes the arrestee can be arrested multiple times. Recently the program has changed, and more people are starting to get bonds. So hopefully the trend of being arrested multiple times will be broken soon.

Assistant Chief Gilmore explained what steps the Police Department is currently taking to decrease the homeless, and crimes in the Town. He added that the Board has approved an app for phones that give data from the Police Department pertaining to crimes. He said it will help give citizens the information they have been asking for.

D. CONSENT AGENDA

All items below are routine by the Board of Aldermen and will be enacted by one motion. There will be no separate discussion on these items unless a Board member so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.

1. Adoption of minutes of the June 28, 2022 Regular meeting
2. Apple Festival Special Event Application
3. Church Street Festival Special Event Application

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton, to approve the Consent Agenda as presented. The motion passed unanimously.

E. PRESENTATION

2. Waynesville Fire Department Recognition of new Firemen
 - Joey Webb, Fire Chief

Fire Chief Joey Webb introduced Luke Palmer as a new engineer for the department. Chief Webb said Luke had joined the Department about one year ago as a part time firefighter, and he has since received all the required certifications for the job. The Board welcomed Mr. Palmer and wished him well.

3. Waynesville Housing Authority

- Tina Okenfuss, Director Waynesville Housing Authority

Ms. Tina Okenfuss, Director of Waynesville Housing Authority, introduced herself and said she wanted to let the Board know what her goals were in the future for the Housing Authority. She said they are currently seeking opportunities to add to the inventory of affordable housing. Ms. Okenfuss asked the Board to form an affordable housing adhoc committee in order to have everyone on the same page and move forward with housing. She gave examples of how homeless people can be helped by getting them into a life skill center to help them with functioning in the real world.

As director she is reorganizing and streamlining the housing and maintenance department, expanding, and managing other rental properties, and networking with other housing and town code staff for enforcement of rental housing. She welcomed everyone to come to the new office at 48 Chestnut Park Drive.

F. PUBLIC HEARING

4. Public Hearing to consider a zoning map amendment request to change the zoning of property located at 134 Belle Meade Drive, PIN 8605-81-6159, from Hazelwood Urban Residential (H-UR) to Hazelwood Business District (H-B 1

- Sam Cullen, Code Enforcement Officer

Mayor Caldwell opened the Public Hearing at 7:06 pm and gave instructions for the Hearing.

Sam Cullen, Code Enforcement Officer, presented the staff report as follows for the request to rezone the parcel at 134 Belle Meade Drive, PIN 8605-81-6159, from its current zoning of Hazelwood Urban Residential (H-UR) to Hazelwood Business District (H-BD).

The applicant states that this lot is “on the corner of Brown and Belle Meade which makes it an ideal commercial location” and it “sits within 75 feet of a commercial property, thus increasing its value.”

This lot originally held two residences. The applicant took down one of the houses and uses this lot for parking associated with his business across and up the street at Triangle Automotive or for automobiles which he personally owns and repairs separately from his business. A staff determination that outside storage of vehicles or as part of an automotive repair business was not an allowable use within the Hazelwood UR District. This zoning administrative decision was appealed by the applicant to the Town’s Zoning Board of Adjustment and the ZBA upheld the staff decision.

On May 16th the Planning Board heard a request for the rezoning of the subject lot. They voted unanimously to not recommend the rezoning of this lot. The Planning board expressed concerns about possible future uses that rezoning to a business district would allow and the impacts on a traditionally residential neighborhood that offers affordable home ownership. The Planning Board noted that rezoning this property would introduce the potential for other allowable business uses to encroach into a residential area.

The Land Development Standards (LDS) describes the purpose and intent of the Hazelwood Urban Residential District as follows:

The Hazelwood Urban Residential District (H-UR) is a traditional walkable neighborhood of mostly small, well-built housing in an area where sufficient urban facilities are available. It is a self-contained community with affordable housing, smaller well-kept lots, narrow tree-lined streets and distinct edges and centers. Major public spaces including a park and the "old" Hazelwood School are in this neighborhood. Since it is convenient to shopping and employment, the goal for Hazelwood is to encourage infill development and the rehabilitation of existing structures in keeping with the residential scale and character of the existing neighborhood. Limited non-residential uses supporting the community are permitted if contributing to scale, design and use to the area. Pedestrian amenities are to be enhanced with all new development as are the development of access points to different parts of Waynesville from the Hazelwood neighborhood. Parking on public streets is permitted and encouraged as an alternative to the development of new parking lots.

The LDS describe the purpose and intent of the Hazelwood Business District as:

The Hazelwood Business District (H-BD) is a small-scale center for business, retail and institutional activity serving the residents of Hazelwood, Plott Creek, Eagles Nest, and other surrounding neighborhoods. A broad mixture of uses is permitted, however, development in the future must be sensitive in design and provide for a high level of pedestrian safety and comfort. The large undeveloped tracts of land in this district must be well connected both to the neighborhood and the center as they develop. On-street parking is permitted and encouraged on many streets. Articulation in this area should occur at the scale of the pedestrian with buildings built at the scale of a neighborhood center. Connections among properties within this district and to surrounding districts are very important.

Surrounding Land Use Pattern

The subject property is surrounded by the following land use types: (1) To the north by single-family dwellings (2) to the south by single-family dwellings (3) to the east by single-family dwellings and (4) to the west by single-family dwellings and an agricultural produce stand. This neighborhood was historically zoned residential going back to the 1977 Hazelwood zoning map. The nearest commercially zoned lot is Triangle Automotive which is in Hazelwood Business District which is 75 feet away across Brown Avenue, and the produce stand across the street that is within the H-UR District.

This rezoning would extend Hazelwood Business District across Brown Avenue and into an historically residential neighborhood in a way that is not contiguous with the H-BD, creating a satellite portion of the commercial district within the historically residential neighborhood. The H-BD designation would allow – in addition to automotive services -- restaurants, kennels, retail, professional and personal services, outside sales, pawnshops, and other commercial uses found in central business districts.

Consistency with the 2035 Comprehensive Land Development Plan

Waynesville 2035: Planning with Purpose, or the “2035 Comprehensive Plan,” is intended as a reference document for the public at large and for those investing in land and development within Waynesville. According to the future land use map, this area is envisioned to remain residential of medium to high density. The types of development in this area would be single-family, duplexes, townhomes, or multifamily. Introduction of commercial uses allowed in the H-BD district would be inconsistent with the 2035 Plan and the surrounding zoning.

Staff Recommendation

In addition to the recommendation by the Planning Board against rezoning this lot, staff submits that the subject lot has historically been residential in nature and until recently held two single family homes. This parcel was also in the Town of Hazelwood until the merger in 1996 and the intent of Hazelwood's zoning was also to have the lot stay residential in nature. The rezoning of this lot to a business district would allow several commercial uses directly bordering single-family homes and would extend the business district in a way that is not contiguous. Although there is a small produce stand operation across the street, it is a pre-existing non-conformity that does not generate noise, odor, or vibration, that might be considered detrimental to a residential setting. The Comprehensive 2035 Land Use Plan shows this area as residential, medium to high density.

An automotive repair or storage operation, or other types of uses allowed in central business districts could impact residents. Staff submits that rezoning this property is not consistent with the long-standing established zoning, going back to the Town of Hazelwood, not is it consistent with the future land use map of the Comprehensive Land Use Plan.

Attorney John Sutton, representing the owner of the property, Mr. Travis Dustin Smith, spoke to the Board and said he had two points to make concerning the property at 134 Belle Meade. He said this property isn't being used as a residential property and has not been for some time. A dilapidated residence was taken down on the property in 2016, and no structure has been rebuilt there. Recently there was a violation of cars being parked on the property, and those cars have since been removed.

The proximity of the property is very close to the business district, and directly across the street there is a produce stand which is a non-conforming use. He said that property is being used as commercial. By allowing this amendment to become a commercial piece of property, it would not interfere with the other uses that are around 134 Belle Meade.

**Paula Morell
61 Allens Creek Road
Waynesville, NC 28786**

Ms. Morrell told the Board that she had been to the Triangle Automotive Business, and they were very helpful and friendly. She said she likes to support small businesses because that is the heart of the community.

Mayor Caldwell closed the Public Hearing at 7:22 pm and asked the Board for their comments.

Alderman Anthony Sutton stated that the property was not contiguous and asked if that would constitute spot zoning. Attorney Bradley said the rezoning had all the characteristics of spot zoning, but it would be up to a court based on the complaints of a neighbor. She said that the Town would have a tough time arguing that it is not spot zoning.

Alderman Jon Feichter said the biggest concern he had is the additional uses that could be created on that property. He stated that the area is a major thoroughfare and may be changing in the future. He said he felt

the area could go either way – business or residential. Currently the Town is trying to push for more housing rather than businesses.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Jon Feichter, to outright reject the rezoning of the property at 134 Belle Meade to Hazelwood Business District. The motion carried unanimously.

Mayor Caldwell asked for a break at 7:25 pm.

Aldermen returned from the break at 7:40 pm.

H. NEW BUSINESS

5. Award of Wastewater Treatment Plant Contract to Harper Corporation-General Contractors of Greenville, SC.
 - Rob Hites, Town Manager

Manager Rob Hites said that at the last Board meeting, a tentative award was given to Harper Corporation General Contractors of Greenville, SC in the amount of \$25,725,000.00. A \$5,000,000.00 loan request and a \$15,000,000.00 grant request before the Department of Infrastructure. The \$5,000,000.00 loan was approved, however the \$15,000,000.00 was turned down. He told the Board that at this time we are at the point where we can't wait any longer because of rising costs, and staff recommends that we move from a tentative award of contract to an award of contract to Harper Corporation General Contractors of Greenville, SC.

A motion was made by Alderman Chuck Dickson, seconded by Alderman Jon Feichter, to award the Wastewater Treatment Plant Construction Contract to "The Harper Corporation-General Contractors of Greenville SC" at a price of \$25,725,000. The motion was unanimously approved.

6. Approve amendment to the Capital Project Ordinance for the Wastewater Treatment Plant
 - Finance Director Mity Hagood

Misty Hagood, Finance Director, said the Board had adopted the original Ordinance for the Wastewater Treatment Plant in January of 2020, and the numbers needs to be updated to reflect the new construction and engineering fees. She stated that the total for contingency, closing costs, construction, engineering, and professional fees is \$29,631,150.00. The SRF loan proceeds \$24,545,900.00 leaving a gap of \$5,085,250.00. During the fall season, the Town will apply for another grant, and if that grant is not approved, the plan will be to go into the market for a loan with a 15-year term which will be approximately \$426,000.00 yearly payment.

A motion was a made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson, to approve amending the Capital Project Ordinance No. O-01-20 for Wastewater Plant improvements. The motion passed unanimously.

7. Recycle Truck
 - Jeff Stines, Public Services Director
 - Chris Snyder, Street Department Superintendent

Jeff Stines, Public Services Director, explained to the Board that with the transition to the tipper recycle cans, we need to add a recycle truck to our fleet, and it needs to be smaller so it can maneuver through the narrower and dead-end streets. This purchase will add an additional truck to help with the collection of recyclable materials as well as garbage collection.

Alderman Feichter asked Mr. Stines about the “One Armed Bandit” which is a truck that will pick up from the sides and does not require manpower. He said one of these truck costs about \$400,000.00.

Chris Snyder, Street Department Superintendent, said that he would like to invest in a snowplow that will fit this truck also because it will be very beneficial during snow events.

A motion was made by Alderman Chuck Dickson , seconded by Alderman Jon Feichter, to approve the purchase of a 6 Yd. recycle truck with rear tipper and snowplow for \$146,304.78 from the Street Department Capital line. The motion passed unanimously.

8. Proposal and request to Haywood County Commissioners for recreation funding
 - Luke Kinsland, Interim Parks and Recreation Director

Luke Kinsland, Interim Parks and Recreation Director explained to the Board that the Parks & Recreation Advisory Commission and department staff are proposing that Haywood County Commissioners reinstate an annual financial contribution to the Town’s Recreation Budget. Mr. Kinsland reported that prior to 2009 Haywood County made a yearly contribution to the Waynesville Recreations Center of approximately \$70,000.00 because of the high percentage of Country residents who are members of the Recreation Center. During the past ten years, a consistent pattern has been shown that Waynesville residents make up 40% of the membership and non-Waynesville residents make up 60%.

Waynesville Parks and Recreation has continued for years to provide quality recreation to the county. The recreation center and parks are utilized year-round by the County’s Basketball League, Senior Games, outdoor programming, and the greenway system that contributes to the Haywood County Greenway Coalition and Plan. Mr. Kinsland said that the Advisory Commission and staff are asking for guidance and support in approaching County Commissioners to reinstate this contribution.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson, to provide a written statement from the Board in support of the Town of Waynesville Parks & Recreation for Haywood County to reinstate an annual financial contribution to the department’s operating budget. The motion passed unanimously.

9. Rescue Equipment Purchase Approval (Capital Item), Sole Supply Source Approval
 - Chris Mehaffey, Assistant Fire Chief

Assistant Fire Chief Chris Mehaffey stated that the Department is adding an additional set of extrication equipment to match a previously purchased set. They would like to purchase the same brand, Genesis, for training and operational continuity and battery commonality. He asked the Board for approval for a capital purchase and sole supply source exemption and N.C.G.S. 143-129.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson, to approve purchase in the amount of \$37,695.06 ,and approve sole source exemption under NCGS 143-129. The motion was passed unanimously.

I. OLD BUSINESS

10. Rules and Procedures

- Martha Bradley, Town Attorney

Martha Bradley, Town Attorney, presented the Board with the final revision of the Rules and Procedures which included that only Budget Ordinances may be adopted on the date of introduction. Per the lengthy discussion concerning whether to hold Public Hearings for each proposed Ordinance, Ms. Bradley proposed three versions:

1. The original version that was introduced at the June 14, 2022 Board meeting
2. Language consistent with Alderman Feichter’s preference to hold a Public Hearing for all new Ordinances
3. Language to hold Public Hearing for all new Ordinances except for Budget Ordinances.

Alderman Feichter said he felt that to provide the highest level of transparency, a Public Hearing should be held on all new Ordinances, and any changes to an Ordinance.

Alderman Dickson stated he felt it was burdensome to staff and the cost of publication in the newspaper will be twice as much. He said he wanted transparency, but at the same time he doesn’t want to make things more complicated.

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton to adopt Rule number 33 to show that only Budget Ordinances be adopted on the date of introduction, and require a second reading for all other Ordinances, and on Rule number 36 to adopt the version that was presented at the June 14, 2022 Board meeting. The motion passed with three yays (Alderman Chuck Dickson, Alderman Anthony Sutton, and Mayor Gary Caldwell) and one no (Alderman Jon Feichter).

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton, to adopt the Rules and Procedures as presented. The motion passed with three yays (Alderman Chuck Dickson, Alderman Anthony Sutton, and Mayor Gary Caldwell) and one no (Alderman Jon Feichter.)

11. Planning Board and Zoning Board of Adjustment Selection

- Jesse Fowler, Assistant Town Manager

Assistant Town Manager Jesse Fowler stated that interviews had been held for the applicants for the Zoning Board of Adjustment and the Planning Board, and the Board of Aldermen had decided who they have chosen for the seats on these Boards. Town Attorney Bradley said that Alderwoman Julia Freeman would need to be present in order to submit her votes. After tallying the voting sheets Joshua Morgan was appointed to the Zoning Board of Adjustment. The appointments to the Planning Board include Jan Grossman, Peggy Hannah, John Baus, and Robert M. Blackburn.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Jon Feichter, to accept the ballots and approve the following appointments to the Zoning Board of Adjustment (Joshua Morgan) and the

Planning Board (Jan Grossman, Peggy Hannah, John Baus, and Robert Blackburn,) The motion passed unanimously.

J. COMMUNICATION FROM STAFF

Manager's Report

- Manager Rob Hites

Request by Mr. Dick Hoyle to waive the petition process and approve traffic calming devices for Virginia Avenue.

Town Manager Rob Hites stated that he had received a letter from Mr. Richard Hoyle asking that a traffic calming device be placed on Virginia Avenue. He resides at 15 Mississippi Avenue (corner of Mississippi and Virginia Avenues) and states in his letter that he is too old to gather petitions to install traffic calming devices on Virginia Avenue. He believes that J.M Teague's report stating that Virginia Avenue qualifies for such devices is sufficient for the Town Board to approve the devices. The study was requested by Mr. Hoyle.

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton, to not waive the petition process for Mr. Richard Hoyle. The motion carried unanimously.

16 Town Attorney Report

- Town Attorney Martha Bradley

Attorney Bradley would like to have a public presentation at the first meeting in August to discuss with the Board and public concerning her legal decision and the process in the Administrative Decisions. In addition, she asked that a closed session be scheduled for the second meeting in August to discuss possible litigation.

K. COMMUNICATIONS FROM THE MAYOR AND BOARD

There were no comments.

L. ADJOURN

A motion was made by Aldermen Chuck Dickson, seconded by Alderman Anthony Sutton, to adjourn the meeting at 8:47 pm. The motion passed unanimously.

ATTEST:

Gary Caldwell, Mayor

Robert W. Hites, Town Manager

Eddie Ward, Town Clerk