

## MINUTES OF THE TOWN OF WAYNESVILLE TOWN COUNCIL

### Regular Meeting

June 27, 2023

**THE WAYNESVILLE TOWN COUNCIL** held a regular meeting on Tuesday, June 27, 2023, at 6:00 pm. 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 6:06 pm with the following members present:

Mayor Gary Caldwell  
Mayor Pro Tempore Julia Freeman  
Councilmember Chuck Dickson  
Councilmember Jon Feichter  
Councilmember Anthony Sutton

The following staff members were present:

Rob Hites, Town Manager  
Jesse Fowler, Assistant Town Manager  
Martha Bradley, Town Attorney  
Candace Poolton, Town Clerk  
Police Chief, David Adams  
Misty Hagood, Finance Director  
Byron Hickox, Land Use Administrator  
Beth Gilmore, Director of Downtown Waynesville Commission (DWC)  
Jeff Stines, Public Services Director

Members of the media:

Payton Renegar, The Mountaineer

#### 1. Welcome/Calendar/Announcements

Mayor Gary Caldwell welcomed everyone and reminded everyone that Friday, June 30<sup>th</sup> is the Mountain Street Dance 6-8:30pm in front of the courthouse, 4<sup>th</sup> of July is the Stars and Stripes Kids parade on Main Street, Town Offices will be closed on the 4<sup>th</sup>, and July 7<sup>th</sup> is Art After Dark.

#### **B. PUBLIC COMMENT**

Phillip Gibbs-59 Babb St, Waynesville: Mr. Gibbs said he represented the Pigeon Street Community and asked the Council to reconsider having a unisex bathroom at Obama-King Park. He said he had questions about the lack of funding and size of the space in the Obama-King Park and he would like to see more funding. He added that he was against social districts.

Lula Leigh-144 Bryson Street, Waynesville: Ms. Leigh said that she also represented Pigeon Street Community. She requested male and female bathrooms for safety and sanitation reasons.

Sharon Cullens- 174 Hillside Road, Waynesville: Ms. Cullens said she is a volunteer member of the park development committee. Ms. Cullens said she would like two bathrooms at Obama-King Park for sanitary reasons. She said the community would like to help fund the bathrooms.

### C. ADDITIONS OR DELETIONS TO THE AGENDA

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to add item six (6), "End of Year Budget Amendments", to the consent agenda. The motion passed unanimously.***

***A motion was made by Councilmember Feichter, seconded by Councilmember Dickson, to move items seven (7), "Lease agreement for parking lot at intersection of Haywood and Church Streets", and eight (8), "Rate for EV Charging Stations", to the consent agenda. The motion passed unanimously.***

### D. CONSENT AGENDA

*All items below are routine by the Town Council 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.*

2.
  - a. June 13<sup>th</sup>, 2023 Regular Scheduled Meeting Minutes
  - b. Lowell Street Block Party Special Event Permit
  - c. End of Year Budget Amendments
  - d. Lease agreement for Parking Lot at intersection of Haywood and Church Streets
  - e. Set an electric rate of \$.35 per kWh for the Town's EV "Fast Charger" service and no charge for its "Level 2" Chargers

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to approve the consent agenda as amended. The motion passed unanimously.***

### E. PUBLIC HEARINGS

3. Public Hearing: Social District Implementation Recommendations within the Downtown Municipal Service District.
  - Jesse Fowler, Assistant Town Manager and Beth Gilmore, Downtown Waynesville Director

***A motion was made by Councilmember Dickson, seconded by Councilmember Sutton, to open the public hearing at 6:17pm. The motion passed unanimously.***

Director Beth Gilmore reported in September of 2021, Governor Cooper signed into law House Bill 280 – ABC Omnibus Legislation – giving municipalities the authority to establish "social districts" as designated areas

permitting the possession and consumption of alcohol in public spaces, under certain conditions. In July of 2022, Director Gilmore stated that House Bill 211 – Social District/Common Area Clarifications – was signed into law providing more detail concerning how social districts should be regulated. Together, she said that House Bills 890 and 211 allow cities and counties to create (and eliminate) a social district by ordinance. She said that the statutes require that social districts be restricted to clearly defined boundaries and operate under certain conditions, but it affords municipalities the discretion to decide specific details such as boundary lines, hours of operation, and procedural logistics.

Director Gilmore said that The Downtown Waynesville Commission (DWC) has taken several steps to better understand the Municipal Service District's (MSD) desires to either create or prohibit social districts within the MSD. Social district legislation was first introduced to the MSD during a public forum on May 25, 2022, and at a second public forum on September 15, 2022, where social districts were discussed as a primary agenda item. Since these two initial public forums, she reported that the DWC has distributed surveys throughout the MSD in order to hear more direct feedback from individuals who work, live, and own property and businesses within the district and received 100 responses in return. She added that the DWC has gathered anecdotal evidence from Municipalities across North Carolina to better understand the positive and negative effects of implementing social districts within their communities. Director Gilmore said that based on their findings through two public forums, district surveys, and communications with other social district communities, the Downtown Waynesville Commission voted at a special called meeting held on May 22, 2023, to recommend that the Town Council approve the implementation of a social district within the Downtown Municipal Service District (MSD) along the following parameters:

1. Time: The DWC recommends that a social district within the MSD be permitted during the hours of 10:00a.m. to 10:00 p.m., Monday through Sunday.
1. Logistics: The DWC recommends that a social district within the MSD function allowing ABC permit holders to sell alcoholic beverage in their own disposable cups with their establishment clearly identified on the cup, with the name of the social district clearly designated on the same cup with a sticker that is provided by the Town of Waynesville.
2. Location: The DWC recommends that a social district within the MSD be permitted from the intersection of Pigeon Street and Main Street to the intersection of Walnut Street and Main Street, including Church Street, Miller Street, and Depot Street from their intersections with Main Street to their intersections with Montgomery Street, further including East Street from its intersection with Main Street to its intersection with Wall Street, and further including Wall Street from its intersection with East street to its intersection with Wells Event Way.
3. State statute affords municipalities the ability to either permit or prohibit the consumption of alcohol purchased from one ABC licensed establishment within another separate ABC licensed establishment. The DWC did not vote upon a recommendation for the Town Council on this issue.

Councilmember Feichter asked for clarification on the boundary of the social district. Assistant Town Manager, Jesse Fowler, said the district would run from Pigeon to Walnut on Main Street, including side street, Church, Miller, and Depot, up to where they intersect with Montgomery. It would also include Wall Street from its intersections of East Street and to Wells Events Way.

Public Comment:

Trudy Schmidt-202 Harmonica Way, Waynesville: Ms. Schmidt said she works on Main Street and had questions about who will pay when customers spill alcohol on retail, who will clean up after people who vomit in the street, and if more police and trash cans will be provided.

Bob Cummings-229 Georgia Avenue, Waynesville: Mr. Cummings said he has worked with people who have addiction issues and knows what contributes to substance abuse, so he is against social districts. Mr. Cummings said that the recent rise in crime in Asheville is because it was designated as Beer City.

Bill Teague-105 Galloway Street, Waynesville: Mr. Teague said the shop owners on Main Street have no historical presence. He said the social district would be difficult to enforce and is against social districts.

Deannie Brooks-407 Boundary Street, Waynesville: Ms. Brooks said she is against social districts because of the possible increased crime rate. She asked that if Council votes yes, to please vote in a way that provides an out if the social district causes problems.

John Wadsworth-55 Buxton Street, Waynesville: Mr. Wadsworth said he drinks beer and wine. He asked Town Council what direction Waynesville is being taken and fears that Waynesville will end up like Asheville.

Malcom Spink-80 Fitzgerald Lane, Waynesville: Mr. Spink said he is from the United Kingdom and saw the negative impacts of 24-hour drinking being allowed, so he is against social districts.

Ellen Pitt-76 Blackberry Lane, Maggie Valley: Ms. Pitt said that drinking leads to a failure in judgement. She said she is against social districts.

Teresa Brothers-186 Water Rock, Waynesville: Ms. Brothers said that legislatures failed to put into place responsible policies that address public safety when they approved social districts. She said that social districts favor drinkers and are not inclusive to all members of the community.

Rick Johnson-95 Nye Way, Maggie Valley: Mr. Johnson said he works in town and is afraid that social district patrons will re-sell their cups to people.

Beth Johnson-95 Nye Way, Maggie Valley: Mrs. Johnson said she is afraid that people will park in the Presbyterian parking lot and is concerned that they will litter in the parking lot. She thinks allowing social districts in Waynesville will push tourists to go to Maggie Valley.

Kris Estep-479 Chambers Farm Lane, Canton: Mr. Estep asked Council to vote no on social districts. He cited bible verses that he said speak on the dangers of alcohol.

Janet Presson-49 Lodgepole Pine Lane, Waynesville: Ms. Presson said she owns residential and commercial properties in town limits but did not partake in the DWC survey. She said she is against social districts and that the town already has substance issues. She said that tourism is already booming, and social districts are not needed to bring people to Waynesville.

Stephanie Sutton-140 Valley View Terrace, Waynesville: Ms. Sutton said that she owns a business in Town and wants a family-friendly Waynesville. She said an online petition showed 403 signatures against social districts.

Sherry Morgan-437 Boundary Street, Waynesville: Ms. Morgan said she is against social districts. She said she spoke with 18 households who were against social districts, and only one said they were in favor. She said that she is afraid that social districts will make Waynesville less safe and have more litter.

Paula Eachus-700 Laurel Ridge Drive, Waynesville: Mrs. Eachus said she is a representative of the High-Country Republican Women's Club. She said she polled their membership and they unanimously voted no. She said she wants to see Waynesville stay family friendly.

David Eachus-700 Laurel Ridge Drive, Waynesville: Mr. Eachus said he is against social districts and doesn't think the sales tax revenue is worth it.

Kelly Teague-274 David Edwards Road, Waynesville: Ms. Teague said she understands the need for economic development but doesn't feel that social districts are the way to go about it. She has presented in D.C. on social districts and said there can be unintended consequences.

***A motion was made by Councilmember Freeman, seconded by Councilmember Sutton, to extend the public hearing at 7:16pm. The motion passed unanimously.***

William Kelley-480 Auburn Road, Waynesville: Mr. Kelley said he is against social districts and that drinking should be done in people's homes. He said he thinks Waynesville has sold out to tourism.

Charles Trump-66 North Main Street, Waynesville: Mr. Trump said he owns a business on Main Street, and it has been successful because it's ran on Christian principles. He said he's against social districts. He said he is concerned about who will clean up trash.

Joseph Lapari- 156 Johnson Hill Drive, Waynesville: Mr. Lapari said that he doesn't drink and doesn't want to be around people who drink, so he is against social districts.

Ted Carr-1812 Crooked Creek Road, Bethel: Mr. Carr said he doesn't drink, and right now he can choose to go to places that don't serve alcohol, but if this passes, he won't have a choice whether to be around alcohol or not.

Kim Walser-118 Jarvis Street, Waynesville: Ms. Walser said she is against social districts and thinks that Waynesville can do other things besides having a social district to boost the economy.

Jeremy Stevens-301 Cedar Park Drive, Waynesville: Mr. Stevens said that he heard a lot of demonizing and accusations that drinking is evil. He said he wants to hear logic, not opinions based heavily on emotion. He said the petition that private citizens did was very biased. He stated that Town Council appointed members of the DWC because Council trusts their recommendation. He asked Town Council to look at data, not emotion. He said that if data shows social districts are not a good idea, then do not vote for it.

Roy Kilby-441 Morgan Road Candler: Mr. Kilby said that he is against social districts because he thinks there will be more promiscuity and sexual inuendo.

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to close the public hearing at 7:40pm. The motion passed unanimously.***

Councilmember Dickson called a point of order and asked Mayor Caldwell to ask the audience to refrain from interrupting.

Councilmember Feichter said the Town Council should decide one way or another, regarding implementing a social district.

***A motion was made by Councilmember Anthony Sutton, seconded by Councilmember Chuck Dickson, to postpone indefinitely. Councilmembers Dickson, Freeman, and Sutton, and Mayor Caldwell voted in the affirmative. Councilmember Feichter voted nay. The motion passed.***

A recess was called at 7:44pm.

4. A Public Hearing to consider an Application for Text Amendment to Land Development Standards Section 5.10.2, Mixed-Use/Commercial Building Design Guidelines, Façade Materials
  - Byron Hickox, Land Use Administrator

***A motion was made by Councilmember Dickson, seconded by Councilmember Sutton, to open the public hearing at 8:03pm. The motion passed unanimously.***

Land Use Administrator Byron Hickox reported that an applicant who purchased 494 Pigeon Street, has proposed a text amendment to section 5.10.2 of the Land Development Standards to add the phrase “*metal panels and siding*” to this list of permitted materials. Mr. Hickox read the section verbatim to Town Council. He added that the applicant asserts that the quality and appearance of metal siding has significantly improved since the adoption of the Land Development Standards and is now widely used in high quality applications and settings. Mr. Hickox said that at its meeting on May 15, 2023, the Planning Board voted unanimously that the proposed amendment is reasonable and in the public interest and voted unanimously to recommend approval of the text amendment as presented to the Town Council.

Councilmember Sutton asked if any “type” of metal would be allowed. Mr. Hickox said there must be complimentary materials, articulation, change in materials, and windows and doors-so the visible façade would not just be a giant metal wall.

Councilmember Feichter said he was curious about metal being used in the Historic District. Mr. Hickox said the ordinance could be adjusted so that use of metal in the Historic District would have to be approved by the Historic Preservation Commission with the issuance of a Certificate of Appropriateness. Mr. Hites added that architectural metal is defined and is of a higher quality than standing seam tin. He said they could prohibit standing seam tin in the ordinance.

Mr. Steve Coffey, the architect retained by applicant, said that the applicant was hoping to turn an existing building into a contemporary looking structure that looks cohesive. He said that he is going to use contemporary materials in a contemporary way. Mr. Coffey described in detail what his architectural plan is for the structure.

Councilmember Feichter asked what the life span of the metal material is that he planned on using. Mr. Coffey said 25-50 years, but he can find out specifically. He added that the wood composite material they plan on using as well has a lifespan of 45 years.

There was no public comment.

***A motion was made by Councilmember Dickson, seconded by Councilmember Freeman, to close the public hearing at 8:31pm. The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman to find that the proposed text amendment is consistent with the 2035 Comprehensive Plan, in that it is reasonable and in the public interest, specifically meeting the following Comprehensive Plan goals;***

***Goal 1: Continue to promote smart growth principles in land use planning and zoning.***

- Create walkable and attractive neighborhoods and commercial centers.***
- Encourage infill, mixed-use, and context-sensitive development.***

***Goal 5: Create opportunities for a sustainable economy.***

- Promote the growth of existing local businesses and Waynesville’s “maker economy.”***
- Encourage creatively designed, mixed-use, walkable centers and commercial districts that appeal to residents and visitors.***

***The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to approve the proposed text amendment as modified, so that:***

- Metal panels and siding may be used as a facade material only on commercial buildings located within Neighborhood Center, Business, and Regional Center Districts.***
- Such metal panels and siding must consist of architectural-grade metal without a high-gloss finish. Standing seam metal panels may not be used as a façade material.***
- The use of metal panels and siding as a façade material within a National Register Historic District or Local Historic District must be approved by the Historic Preservation Commission with the issuance of a Certificate of Appropriateness.***

***The motion passed unanimously.***

## **F. OLD BUSINESS**

### **5. Annual Paving List**

- Rob Hites, Town Manager**

Town Manager Rob Hites reported that staff presented the annual paving contract at the last meeting and presented a list of streets to be paved. During the discussion, Mr. Hites said that the Council requested that

staff present a list of streets that were paved last year. Councilmember Feichter requested that staff study a portion of Sulfur Springs Street and report on its condition. Mr. Hites said the Town contracts with an engineering firm to rate the Town's streets in order of paving needs. He added that the Town will be allocated an estimated \$350,000 in Powell Bill paving funds from the State's gas tax. Mr. Hites said that when choosing the streets to be paved, the staff reviews the condition of the street, the traffic flow, and the cost in comparison with other streets on the list. As an example, Mr. Hites said the street may appear on the priority list but may only serve four dwellings, so the cost of repairing it versus a similar street with twenty dwellings is considered.

Mr. Hites said the reason that Woody Lane was not on the paving list was that it took up 18% of the total paving budget for a road that only has 20 houses on it. He recommended that the Council could vote to chip seal it.

Councilmember Feichter asked the staff to review the condition of Sulphur Springs Road from the bridge to Boyd Avenue. Mr. Hites reported that unlike the streets on the paving contract, Sulphur Springs Road carries a high traffic volume. He said that the condition of most of the street is rated as an "83" out of "100" with "100" being best. The section of Sulphur Springs Street from Smathers to Blink Bonnie is estimated to cost \$2,765 to repave. Given the cost, Mr. Hites said it could be switched with another street on the list.

***A motion was made by Councilmember Freeman, seconded by Councilmember Dickson, to accept the staff's recommendation. The motion passed unanimously.***

## **G. NEW BUSINESS**

### **6. Scheduling interviews for the ABC Board applicants**

- Jesse Fowler, Assistant Town Manager

Assistant Town Manager Jesse Fowler reported that the Waynesville ABC Board has one vacancy and both Mr. Jonathan Sears and Mr. Alex McKay have submitted applications to serve on the ABC Board. He said that according to the Boards and Commissions Rules and Procedures, Town Council must interview ABC Board applicants before appointing new members.

Councilmembers Dickson and Freeman agreed to interview the ABC applicants.

### **7. Council vote to determine ABC Board Chair**

- Jesse Fowler, Assistant Town Manager

Assistant Town Manager Jesse Fowler reported that according to the Town's Boards and Commissions Rules and Procedures, the Town Council is responsible for voting to determine the Chair of the ABC Board. The current members of the ABC Advisory Board are as follows:

- Raymond Ezell
- Danny Wingate
- CeCe Hipps
- Katherine Smith



***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to appoint Danny Wingate as the Chair of the ABC Board. The motion passed unanimously.***

8. Appointment to the Waynesville Recreation Advisory Commission
- Jesse Fowler, Assistant Town Manager

Assistant Town Manager Jesse Fowler reported that the Waynesville Recreation Advisory Commission has four vacancies. If appointed, he said that Mr. Sears' term would begin July 1st, 2023, and end June 30th, 2026. He added that while not required, Mr. Sears does live in town.

***A motion was made by Councilmember Feichter, seconded by Councilmember Dickson, to appoint Johnathan Sears to the Waynesville Recreation Advisory Commission. The motion passed unanimously.***

9. Interview Logistics for Renewing Zoning Board of Adjustment and Planning Board Members
- Jesse Fowler, Assistant Town Manager

Assistant Town Manager Jesse Fowler reported that at the regular scheduled meeting of the Town Council on June 13, the Council voted to interview all the applicants who wished to renew their terms on the Zoning Board of Adjustment and the Planning Board. He asked for clarification as to which Council members wish to conduct the interviews, as well as the most convenient time to conduct them. He said that the members who need to be interviewed are as follows:

- Tommy Thomas (Planning Board)
- Stuart Bass (Planning Board)
- Robert Herrmann (Zoning Board of Adjustment)

Councilmembers Feichter and Sutton volunteered to interview Mr. Thomas, Mr. Bass, and Mr. Herrmann.

## **H. COMMUNICATION FROM STAFF**

10. Manager's Report
- Town Manager, Rob Hites

Town Manager Rob Hites asked for input on from the Council on the family restroom for Obama-King Park. He said that the Obama-King Park is a neighborhood park, and the only one in the town where they have restrooms, and no others have restrooms. He said what makes Vance Park different is that it is a regional park, so the comparison is inaccurate. Mr. Hites said that there will have to be a re-design for two restrooms. He said that a retaining wall will also have to be built. Mr. Fowler said that he had been advised by the community that a request for two bathrooms would also be accompanied by a request for a gazebo, moving the horseshoe pits, and covering the horseshoe pits. Mr. Fowler said they're starting to run out of space. He said he's not sure if closing the road would provide enough space. Councilmember Feichter said that Walter Bryson has indicated that he would sacrifice some of his property to extend on street parking. Councilmember Dickson said if they expand the restroom building, it would take away from the area they'd like to add the other requests. Councilmember Sutton suggested having a community meeting to show options of what can

be done. Mr. Fowler said there have been multiple community meetings where it was demonstrated that all the buildings and structures desired at Obama-King Park would be unable to fit. Councilmember Feichter said he met with Mr. Gibbs and he would like to see two bathrooms, so he would like staff to re-design for two bathrooms, send it out to bid, and then Council would at least know the cost. Mr. Fowler said that staff would need the lot surveyed and site planned because they would need a retaining wall to accommodate two bathrooms.

11. Town Attorney Report

- Town Attorney, Martha Bradley

Town Attorney Martha Bradley said that with the Russ Avenue widening project, some businesses will have to relocate their signs. She added that many of those signs do not conform to Town ordinances and need to be updated. She said one of those businesses may file an appeal to administrative decision. She said Council may see more of those appeals as the project progresses.

**I. COMMUNICATIONS FROM THE MAYOR AND COUNCIL**

Mayor Caldwell reminded Town Council of a meeting in Clyde at 120 Charles Street that's required for a county grant.

Councilmember Feichter said someone who lives on West Marshall Street contacted him and said that when the Russ Avenue project starts, he was concerned about drivers cutting through. Councilmember Feichter said that this person asked if the Town could pre-emptively install speed slowing measures. Mr. Hites said he will talk to the fire marshal and talk to Preston Gregg.

Councilmember Freeman thanked the Police Department, Public Works, and Jesse Fowler for helping with the Main Street Mile event.

**J. ADJOURN**

***A motion was made by Councilmember Freeman, seconded by Councilmember Dickson, to adjourn at 9:06pm. The motion passed unanimously.***

ATTEST:

\_\_\_\_\_  
Gary Caldwell, Mayor

\_\_\_\_\_  
Robert W. Hites, Jr. Town Manager

\_\_\_\_\_  
Candace Poolton, Town Clerk