

Town of Wallburg, North Carolina
Town Council Meeting - Wallburg Fire Station
TUESDAY 7:00 P.M. AUGUST 12, 2008
2ND TUESDAY OF THE MONTH

MINUTES

APPROVED 09-09-08

PROCEDURAL ITEMS

Mayor Allen Todd called the council meeting to order at 7:00 p.m. Present were Mayor Todd, Council Members Steve Yokeley, Zane Hedgecock, Gary Craver, Lynn Reece, and Mark Swaim. Also present were Attorney Jay Wagner and Clerk Lynn McKinnie.

After a brief invocation by Mr. Yokeley, the Pledge of Allegiance was led by Mr. Reece.

MOTION FOR APPROVAL OF AGENDA

Discussion about the agenda was held due to the incorrect listing on the agenda of "Appoint Council Members as Wallburg Board of Adjustment Members". This should actually have read; "Appoint Planning Board Members as Wallburg Board of Adjustment Members".

Also, under the "Regular Monthly and Committee Updates" Mr. Dean Coe has stated there was no Planning and Zoning Updates so this item can be removed from the agenda.

The amended agenda was unanimously approved on a motion from Steve Yokeley and seconded by Lynn Reece.

MOTION FOR APPROVAL OF MINUTES

- JULY 8, 2008

The minutes of JULY 8, 2008 were unanimously approved by motion of Lynn Reece and seconded by Gary Craver.

PUBLIC SESSION

PLEASE SIGN UP WITH TOWN CLERK IF YOU WISH TO SPEAK

Public Session was opened at 7:03 p.m. with one speaker:

1. Leigh Gill
580 Oaklawn
Winston-Salem NC

Mr. Gill read a letter he had written to Mayor Todd. He spoke on zoning irregularities and the laws that apply to them.

Public Session was closed at 7:07 p.m.

BUSINESS TO BE DISCUSSED AND/OR ACTED UPON:

1. **FOR DISCUSSION AND/OR ACTION:**
PLANNING BOARD and BOARD OF ADJUSTMENT
 1. TO DISSOLVE CURRENT BOARD OF ADJUSTMENT
 2. TO APPOINT WALLBURG PLANNING BOARD MEMBERS
 - SET TERM OF OFFICE FOR
 - (1) PLANNING BOARD
 - (2) BOARD OF ADJUSTMENT

DISCUSSION:

This issue is to update the terms of the Planning Board members as well as to dissolve the current Wallburg Board of Adjustment.

Attorney Jay Wagner explained that the proposed move is to merge the Planning Board and the Board of Adjustment into one entity. The functional way of doing that is to essentially abolish the Board of Adjustment and fold it into the Planning Board. He said there are many jurisdictions in the state where the Planning Board functions as the Board of Adjustment, which essentially requires the board members to wear two hats. It works well and is done frequently in small communities. In speaking with other municipal attorneys, as well as other types of attorneys, Mr. Wagner said that most of them actually prefer it that way because it allows all of the folks in small communities to handle all those issues – makes for fewer meetings, etc.

The requirements for Boards of Adjustment and Planning Boards are typically three year terms for each member; however, in creating a new board (which is being done here) then the terms can be set for less than three years in order to “stagger” the terms for members. Mr. Wagner said that the town is combining two boards into one, with very distinctive and different functions; the Planning Board is primarily a legislative, or an “advisory” body.

The Board of Adjustment is considered “quasi-judicial” (with “quasi” meaning “sort of”) – so it essentially means that there are some aspects of ‘due process’ that have to be taken into account for Adjustment hearings. These typically include

- Testimony is provided under oath;
- A record is kept,
- There is a right of cross-examination witnesses at the hearing.
- Also, whatever action BOA takes, there is a right of appeal to Superior Court (there is not for Planning Board).
- No one can practice law without a license so at BOA hearings, people involved have to have an attorney represent them.

He said it might be a good idea if he writes up some ground rules and do some education to make sure that everyone is following the right procedures.

Mr. Yokeley informed the council that, to his knowledge, the Wallburg Board of Adjustment has never met – never made a decision on anything, which is a good thing. The Planning Board, he said, meets at least once a month, plus they have met in quasi-judicial situations. Mr. Yokeley thanked the Board of Adjustment for agreeing to serve on this board.

Mr. Hedgecock asked if the Planning Board heard a case, and there was an appeal, would the same Planning Board have to hear the same case again?

Mr. Wagner said it depends on the type of case – if it’s a rezoning case, then the Planning Board will hear that. If a “variance issue” (i.e.: setback for boundary line), then the Planning Board would take off their Planning Board “hat” and put on their BOA hat and function as the Board of Adjustment. Then all of those “due process” requirements apply at that point. He thought a session to set and learn the ground rules would be a good idea.

Mr. Wagner reiterated that the typical term of a Planning Board/BOA member would be three (3) years. There is a term limit – you can serve two three-year terms and then you have to get off for a while. The action taken tonight will in effect dissolve the old board and create a new board.

MOTIONS THAT APPLY:

#1

MOTION: TO DISSOLVE THE CURRENT TOWN OF WALLBURG BOARD OF ADJUSTMENT
BY: STEVE YOKELEY
SECOND: GARY CRAVER
VOTE: MOTION PASSED UNANIMOUSLY

#2

MOTION: TO APPOINT THE TOWN OF WALLBURG PLANNING BOARD MEMBERS, WITH THE EXCEPTION OF THE PLANNING BOARD CHAIRPERSON, THE AUTHORITY TO SERVE AS A FIVE-MEMBER WALLBURG BOARD OF ADJUSTMENT
BY: STEVE YOKELEY
SECOND: LYNN REECE
VOTE: MOTION PASSED UNANIMOUSLY

#3

MOTION: TO SET TERMS OF THE BOARD OF ADJUSTMENT AS FOLLOWS:
START AT THE END OF CURRENT TERM AND EXPIRE DECEMBER 31, 2009:
1. JACK CRAVEN
2. JERRI RUSSELL
START AT THE END OF CURRENT TERM AND EXPIRE DECEMBER 31, 2010:
3. BRENT MARTIN
4. WAYNE WALL
5. VAN REECE
ALL SUBSEQUENT TERMS SHALL BE THREE-YEARS TERMS.
ALL TERMS RUN JANUARY 1ST THROUGH DECEMBER 31ST
BY: STEVE YOKELEY

SECOND: ZANE HEDGECOCK
VOTE: MOTION PASSED UNANIMOUSLY

#4

MOTION: TO RE-APPOINT DEAN COE TO PLANNING BOARD BEGINNING WITH THE END OF CURRENT TERM AND EXPIRING DECEMBER 31, 2009:
BY: STEVE YOKELEY
SECOND: MARK SWAIM
VOTE: MOTION PASSED UNANIMOUSLY

RECAP:

- The Planning Board and Board of Adjustment terms will run from January thru December.
- The length of time to serve, on both boards, is a three year term.
- A board member may serve two three-year terms and then must take a hiatus from serving.
- The term for the **Planning Board** members listed below is effective immediately and ends December 31, 2009:
 1. Dean Coe
 2. Jack Craven
 3. Jerri Russell
- The term for the **Planning Board** members listed below is effective immediately and ends December 31, 2010:
 4. Brent Martin
 5. Wayne Wall
 6. Van Reece
- The term for the **Board of Adjustment** members listed below is effective immediately and ends December 31, 2009:
 1. Jack Craven
 2. Jerri Russell
- The term for the **Board of Adjustment** members listed below is effective immediately and ends December 31, 2010:
 3. Brent Martin
 4. Wayne Wall
 5. Van Reece

(The reason for different ending dates is to **stagger** terms.)

- At the end of their terms, or for any member's resignation or removal, the Town Council will have the choice to re-appoint the above members for a new three year term, or to appoint new members.

- Alternate members are not required so none are appointed.

Mayor Todd swore in the following BOA members who were present at the council meeting:

- Wayne Wall
- Jerri Russell
- Brent Martin

The remainder of the members will be sworn in at the next Planning Board or Board of Adjustment meeting.

REGULAR MONTHLY AND COMMITTEE UPDATES

(COMMITTEE UPDATES MAY NOT BE AVAILABLE IF MEETING WAS NOT HELD)

1. Planning and Zoning UpdatesDean Coe
NO MEETING UPDATES TO REPORT
2. Finance UpdateMark Swaim
Mark Swaim gave a brief overview of the town's finances:
 - Checking Account \$337,631.33
 - Money Market \$492,424.70
 - Building Fund \$659,361.59
 - Capital Fund \$213,165.10
 - Reserve Fund \$ 79,659.13
 Mr. Swaim said the current CD's will mature this month and the Finance Committee will move some of that money over into the CDs per the July budget.
3. **MPO** - High PointLynn Reece
NO MEETING TO REPORT ON
4. **MPO** - Winston-SalemMayor Todd
NO MEETING TO REPORT ON

OTHER:

1. Mayor Todd reported that Ledford High School Band will be hosting their 25th annual Festival of Bands on September 27th and has asked the Town of Wallburg to consider supporting their festival by purchasing an advertisement congratulating them. Everyone is invited to the festivities. Any business in the area was also asked to support this function.

MOTION: TO SUPPORT THE 25TH ANNIVERSARY OF THE FESTIVAL OF BANDS BY PURCHASING A FULL-PAGE AD FOR \$100 TO THE LEDFORD HIGH SCHOOL PANTHERS

BY: STEVE YOKELEY

SECOND: GARY CRAVER
VOTE: MOTION PASSED UNANIMOUSLY

(This money can be taken from Education Subsidy or Economic Development subsidy.)

Clerk Lynn will write up the ad and include the town seal in the ad.

2. Mark Swaim asked for a brief report on the land and where we are at with the Fire Department. Steve Yokeley said he had spoken to Mark today and everything was prepared as far as burning the house goes and at the next meeting they're going to try and set a time to burn the house. It will probably happen next month. Energy United has cleared the land.

ANNOUNCEMENTS:

- **TOWN COUNCIL MEETINGS:** (2ND TUESDAYS)
7:00 p.m. at the Fire Station on:

CALENDAR 2008:

SEP 9
OCT 14
NOV 11
DEC 9

- **PLANNING BOARD MEETINGS** (2ND THURSDAYS)
7:00 P.M. AT WALLBURG VOLUNTEER FIRE DEPARTMENT

ADJOURNMENT:

MOTION: TO ADJOURN MEETING AT 7:40 P.M.
BY: STEVE YOKELEY
SECOND: ZANE HEDGECOCK
VOTE: MOTION PASSED UNANIMOUSLY

VISIT THE TOWN'S WEBSITE:

www.townofwallburg.com

ATTEST:

TOWN OF WALLBURG:

Lynn McKinnie
Town Clerk

Allen L. Todd
Mayor