

Dear Board:

As always I hope this packet finds you in good health and spirits. I apologize for the size of this packet but there is much business before the Board this month and I felt the need to provide you a great deal of supporting information in order to assist you in deliberation of these matters. As always please contact me if you should have any questions or concerns related to this packet or any other matter before the Town. My home number is 645-9678, cell phone 253-4887, and of course work is 253-4887.

Yours truly,

Jason

**Town of Woodfin
Board of Aldermen Meeting
March 15, 2005
6:30 P.M.**

Pre-Meeting-During the Pre-Meeting the Board of Aldermen will informally review the various issues on the agenda for purposes of clarification.

Meeting

Meeting Call to Order

Invocation

Approval of Consent Agenda

Public Forum-*Citizens may address the Board concerning various topics after being recognized by the Mayor.*

Consent Agenda

- I. Approval of Agenda
- II. Approval of the Minutes
- III. Approval of the Check Register

New Business

- I. Public Hearing on the Matter of Proposed Zoning Districts for Areas Recently Annexed into the Town of Woodfin.

This is the last hearing of this matter before the Board may officially zone the areas annexed into the Town on December 17, 2004. We have taken a very slow and open process with multiple public meetings at the Planning and Zoning Board stage and we have advertised this matter in accordance with the law. I have had a few (less than 10 phone calls)

related to this matter and I do not anticipate that we will have a large crowd come out, but you can never tell with these sorts of things as we have seen in the past.

- II. Consideration of an Ordinance Amending the Zoning Map of the Town of Woodfin.

Should it please the Board, after the conclusion of the Public Hearing on this matter the Board may consider the attached ordinance which will legally amend the zoning map to reflect the establishment of the various zoning classifications proposed on the attached maps. These maps are unchanged from the full color copies that were distributed with last month's packet. If you need a replacement map, please contact me.

- III. Resolution Declaring "Spring Clean Up" Week in Woodfin.

This resolution would mark the return of the popular spring clean up week, set for April 17-23. Citizens can bring anything except hazardous materials and building debris to the curb that week for pick up.

- IV. Consideration of A Resolution Opposing the State's Plan to Allocate Homeland Security Funds towards the VIPER Radio System.

The attached resolution is similar to one recently passed by Buncombe County and it takes issue with the State's effort to allocate funds towards an expensive and unworkable statewide radio system that should in fact be allocated to local governments for homeland security. It is our understanding that approximately 50% of the state's federal allocation for "local" government would be redirected to this state radio system under this scheme.

- V. Consideration of a Petition for Voluntary Annexation of a Tract of Land Contiguous to the Town of Woodfin.

This petition is for the voluntary annexation of approximately 60 acres located off of Baird Cove Road. This property is contiguous to the Town and the owner proposes to develop it for residential purposes that appear harmonious to surrounding development. I believe that acceptance of this petition would be advantageous to the Town.

- VI. Consideration of a Resolution Directing the Town Clerk to Investigate a Petition Received Under G.S. 160A-31.

As you may remember from the last round of voluntary annexations, this resolution is a formality required by state law. Its purpose is to ascertain that the petition is valid.

VII. Presentation of a Certificate of Sufficiency to the Board of Aldermen in the Matter of a Voluntary Annexation Petition.

Again, this is a formality required by state law. It requires no action by the Board other than to receive it.

VIII. Consideration of a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G. S. 160A-31.

This resolution sets a date for a public hearing on the proposed voluntary annexation.

IX. Administrator's report on Code Enforcement within the Town of Woodfin.

I will make this report available to the Board on Tuesday evening.

X. Consideration of a Request by the Woodfin Water District to Waive Fines Assessed in a Matter Concerning a Street Cur Permit on Springbrook Road.

This matter will require a little explanation. You will find attached to your agenda packet a fair volume of correspondence between myself and Woodfin Water Director Joe Martin over the last several months. I have included them because they illustrate our efforts to communicate with Woodfin Water about issues related to street cuts and proper permitting for excavations.

As you will recall in October of last year the Board approved increases to the fines and fees associated with street cut permits as part of an effort to ensure that the Town's street system (our largest and most valuable single asset) were properly protected from improper cutting and patching in order to prevent their deterioration. Woodfin Water District Trustee James Latimore attended that meeting and encouraged the Board not to pass this ordinance. After passage of the ordinance I notified Woodfin Water and other organizations (such as MSD) about the change. Mr. Martin requested additional information about our policy and the Town limits which was provided in a timely fashion.

Shortly before passage of the recent fire hydrant ordinance I contacted Mr. Martin about a failed street patch on Springbrook Road that the Water District had put in sometime last year. At that time I requested that the Water District examine the failed patch and re-contact me shortly. Having not heard back from Mr. Martin I sent a letter reminding him of the matter and received a letter back from him last Friday

advising that the street had been re-excavated and patched on the 24th of February.

While pleased that the street had been fixed I was distressed to discover that - as with the original excavation -no permit was obtained prior to excavation. On the following Monday I called Mr. Martin and faxed him a letter advising him of the need to obtain a permit for the unauthorized street excavation immediately and advising him that the Water District owed fines if \$500 a day from the 24th forward, a total of \$5,500 as of that day. Mr. Martin returned my phone call later that day and I related that I did not have statutory authority to waive these fines and that I would contact the Mayor who was traveling at the time to see how he would like to proceed with this matter. The Mayor indicated to me that we should put this matter before the Board for your consideration if Joe Martin would present himself before the Board personally. I attended this past Tuesday's meeting of the Woodfin Water District Trustees and related this offer to the Trustees and they enthusiastically agreed to send Mr. Martin to address this matter in front of the Board.

As I understand it Mr. Martin's position is as follows:

- A. He did not think that a permit was required because they were repairing a patch that had been originally placed prior to their being notified of the increase in fees, but not before the Town of Woodfin instituted a street cut permit requirement which has been on the books for several years.
- B. He thought that because the Town raised the issue of the failed patch then the additional notification of a permit would not be required.

My position in this matter is as follows:

- A. The law requiring a street cut permit has been on the books, although perhaps at times laxly enforced for years.
- B. The notification sent to Mr. Martin was more than sufficient to advise Woodfin Water that street cut permits needed to be obtained for any and all excavations.
- C. Nothing in my call or letter to Mr. Martin was suggestive that the Water District was in any way being authorized to take action without discussing the matter with the Town. Indeed, had Mr. Martin contacted me after determining for himself that a repair needed to be made – as I requested in both the call and letter – I would have advised him of the need to obtain a permit prior to any work.

With that said, however, I would advise the Board that I think it may be in the Town's interest to waive the fines in the interest of illustrating that

the Town is not trying to “bully” the Water District. The purpose of the fines is to ensure that no entity takes it upon itself to cut into the Town’s roads without our consent, not to make money for the Town. If Mr. Martin –and I suspect he will be joined by some members of the Woodfin Water District Trustees – makes clear to the Board that he understands the importance of this issue then I believe that the lesson will have been just as effective as imposing the fine. Additionally, if in the future we are the victims of unauthorized excavations then no one can say that the Board has not acted with the utmost patience in this matter and the full weight of any fines accrued may be levied.

Another option might be to hold the fines in abeyance for one year –at which time they will be waived if no additional unauthorized street cuts are conducted by the Woodfin Water District. This method may be preferable because it would act as a significant sword dangling over the Water District to ensure that it adheres to the letter of the law in this matter. Should they fail to follow our policies and procedures in this matter the Board could move to re-impose the fines and make them due immediately in addition to any other fines accrued.

Of course, if the Board wishes to do so you may obviously decline to waive the fines as there has been a clear violation of the law. It may be that you will wish to examine the spirit in which Mr. Martin approaches the Town prior to deciding this matter for yourselves.

I have done my best to briefly write down my version of the events in question. In order to assist you in making up your mind about this matter I have included all of the letters that have passed between Mr. Martin and myself in this matter for your review. Of course, I am also available to answer any questions related to this or any other matter at your convenience.

Reports

- I. Police Report
- II. Parks and Recreation Report
- III. Public Works Report
- IV. Administration Report

Adjournment