

**Regular Meeting Minutes of the Town Board of Commissioners Meeting of October 15, 2015 at the Highlands Community Building, 71 Poplar Street, Highlands, North Carolina.**

**Town Board Present:** Commissioner Eric Pierson, Mayor Pro Tempore Brian Stiehler, Commissioner Amy Patterson, Mayor Patrick Taylor, Commissioner Donnie Calloway, and Commissioner John Dotson.

**Also Present:** Town Manager Bob Frye, Town Clerk Rebecca Shuler, Town Attorney Jay Coward, Public Works Director Lamar Nix, Police Chief Bill Harrell, Lieutenant Ronnie Castle, MIS/GIS Director Matt Shuler, and Parks and Recreation Director Lester Norris.

**1. Meeting Called to Order**

Mayor Taylor called the meeting to order at 6:59pm.

**2. Public Comment Period**

Mindy Green read a letter requesting the town's assistance in helping them get better internet service at Wolfgang's.

Hank Ross spoke in regards to the Intake structure and the landscape project. Ross then moved to the hydroelectric project and how that would affect the vegetation even further.

**3. Adjust and Approve Agenda**

Commissioner Patterson moved to approve the agenda as presented, which was seconded by Commissioner Calloway and the vote was unanimous.

**4. Approval of the September 17, 2015 Regular Meeting Minutes**

Commissioner Patterson asked that under the correction of the August 20, 2015 regular minutes that Page 2, Section 4 Parks and Recreation Matters: that the minutes reflect the agreed upon rental charge of \$100.00 be changed to Broadband Service Request: that the minutes reflect the agreed upon internet charge of \$100.00 a month for the mountain. Patterson also request that on Page 8 under the installation of electric car charging station at the Ugly Dog to be corrected to allow the charging station and one reserved parking space. Commissioner Patterson made a motion to approve the regular meeting minutes of September 17, 2015 with the before mentioned corrections, which was seconded by Commissioner Pierson and the vote was unanimous with Commissioner Calloway abstaining as he was absent at the September meeting.

**5. Reports**

**A. Mayor**

Mayor Taylor thanked Mayor Pro Tempore Stiehler, Commissioner Calloway and Town Clerk Shuler for their work on the 2015 Scholarship Tournament. Taylor also made a call to citizens to make a donation to the scholarship fund.

Taylor informed every one of his knee injury and thanked Town Manager Frye, Town Clerk Shuler and the rest of the staff for their support during this time.

## **B. Commissioners and Committee Reports**

Mayor Pro Tempore Stiehler thanked Town Clerk Shuler, Civic Center Coordinator Ramey and Parks and Recreation Director Norris for the great success with the Highlands Own Arts & Craft Show and HomeTown Day events.

Stiehler also announced that the 2015 Scholarship Golf Tournament raised approximately \$20,000.00. Stiehler thanked Wildcat Cliffs Country Club, Town Clerk Shuler and Commissioner Calloway for all their help to make this event successful.

Stiehler also thanked Officer Castle for his participation in leading the DARE program for our youth at Highlands School.

Commissioner Calloway thanked Mayor Pro Tempore Stiehler and Town Clerk Shuler for all their hard work with this year's golf tournament.

## **C. Town Manager**

Manager Frye informed the board that repairs were to be made on the leaking panels and the motor to open and close the pool dome.

Frye also informed everyone there had been miscommunication between the Town and Highlands Cable Group. He wanted to clarify that the Town was not impeding their progress that Highlands Cable had only requested pole attachment to approximately the Bascom.

## **6. Consent Agenda**

Public Works Department  
Police Department  
Parks & Recreation Department  
Planning & Development Department  
Treasurer's Report

Commissioner Dotson had a question on the cost of the maintenance and repair –auto line item of the revenue and expenditure statement. Manager Frye informed Dotson it was for tires and an overall maintenance checkup on the Escape that had not been completed in several years.

Commissioner Pierson moved to approve the consent agenda as presented, which was seconded by Commissioner Dotson and the vote was unanimous.

**7. Financial Matters: Budget Amendment: Recognize Revenue for Parks and Recreation**

The A. L. Williams Foundation has donated \$200,065 to the Town for an ice rink. An additional \$34,977 for ice skates and a storage building have been donated. The cost breakdown is as follows:

Ice Rink - \$200,065.00  
Ice Skates & Sharpener - \$10,677.00  
Storage Building - \$24,300.00

The Town needs to appropriate the funds already received for the ice rink and the funds to be received for the ice skates and storage building. The total amount is \$235,042.00.

Commissioner Patterson made a motion to approve the budget amendment recognizing the \$235,042.00 and creating an expenditure account to record the purchases, which was seconded by Commissioner Pierson and the vote was unanimous.

**8. Public Works Matters**

**A. Road Paving Request**

Town Manager Frye was approached by a resident of Many Road that wanted permission from the Town to pave a portion of the road along the property owned by Paul Trulock and Fred Woolridge. The proposal is to triple coat chip seal 850 LF of Many Rd at a width of 11 feet.

After a couple of questions in regards to exact location, snow maintenance and travel lane size, Commissioner Patterson made a motion to approve the request at the owners expense, which was seconded by Mayor Pro Tempore Stiehler and the vote was unanimous.

**B. Discussion: Intake Project Landscaping**

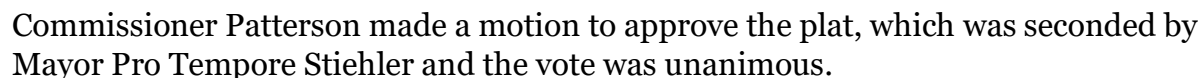
The landscaping allowance for the Intake project was \$10,000.00 as mandated by McGill & Associates with the understanding that the issue would be addressed as needed at the end of the project.

Staff, consultants and contractor agreed that a berm of sufficient height and adequate native planting would provide the optimum coverage to restore this construction site to a natural setting.

1. Grading	\$35,990.91
2. Landscaping	<u>\$36,598.13</u>
	\$72,589.04

## 9. Planning Matters

The Board received a request for a property subdivision with the lot in question being zoned R-2 and on 1.02 acres. The owner would like to divide it into two .5 acre parcels. The Planning Board has reviewed the plat and recommends approval.



## **B. Planning Director Interview Dates**

The Town is in the process of receiving applications for the Planning Director's position. The Planning Advisory Committee has met and reviewed the applications and has selected several promising candidates.

Manager Frye informed the board he would like to start the interview process and would like to suggest either Wednesday October 21st or Wednesday October 28th as the interview date. Interviews would be held in the Police Department conference room.

Frye also mentioned it would be a two day process where he would bring the candidates in on the day before the interviews so that Staff, Planning and Zoning Boards would have a chance to meet the prospective candidates.

It was decided to hold the interviews on Wednesday, October 28, 2015.

## **10. Parks and Recreation Matters: Ballfield Flagpole Donation and Plaque Request**

The American Legion Post 370 Highlands, NC has donated a new flagpole and American flag for the Town ballfield. The pole is to be placed on the bank behind the outfield fence in center field. The Boy Scouts Troop 207 will install the new flag pole with the help of the Town Electric Crew.

In recognition of the donation the Boy Scouts Troop 207 would like permission to place a 9"x 12" plaque near the base of the flag pole. The plaque will be attached to a small concrete base. The plaque will be bronze with gold lettering.

Commissioner Patterson made a motion to accept the donation and grant permission for the plaque with the inclusion of the date, which was seconded by Mayor Pro Tempore Stiehler and the vote was unanimous.

Commissioner Patterson then questioned the location of the interviews and the reception for the Planning and Development Director. Manager Frye informed her the interviews would be at the Police Department with the reception at the Community Building.

## **11. Update: Duke Energy Contract Modification for Coal Ash**

Kevin O'Donnell was on hand to present more information to the board on the Coal Ash recovery as well as recommend the securing of a FERC attorney to render a recommendation to the board as to how to proceed.

Mayor Pro Tempore Stiehler made a motion to accept the recommendation and hire the attorney along with the other towns under similar circumstances with Duke. Commissioner Patterson seconded the motion and the vote was unanimous.

## 12. Miscellaneous Matters: Ordinance Amendment for Background Checks Sec. 2-49

The Town of Highlands has an ordinance authorizing it to conduct background checks on certain town employees. Lieutenant Ronnie Castle recently had some updates that he, as the Terminal Agency Contact/Point of Contact for DCI/SBI, had received from the Department of Safety in order for the town to get approval and be in compliance from the SBI to perform Criminal History's on prospective employees.

To recommend the changes, Town Clerk Shuler got in contact with the Department of Safety as well and received a checklist of things that needed to be changed:

- ❖ Sec. 2-49 (a) the Town needed to be specified as the Town of Highlands throughout this section.
- ❖ Sec. 2-49 (f) the Highlands Police Department needed to be specified as the criminal justice agency conducting our criminal history checks.
- ❖ Sec. 2-49 (f) there needed to be a line added showing the Highlands Police Department would be giving the results of criminal history to the Town Manager or their designee.
- ❖ Sec. 2-49 (i) and a brief line in (b) were deleted as the Town does not have the authority to background check current employees according to NCGS §160A-164.2.

The proposed Ordinance is as follows:

Code of Highlands ~ Chapter 2: Article III. Officers and Employees Sec. 2-49. Background checks for certain town employees.

### ORDINANCE AMENDMENT

Pursuant to an affirmative vote of \_\_\_\_ yeas to \_\_\_\_ nays by the Board of Commissioners of the Town of Highlands at its regular meeting on the \_\_\_\_\_ day of October, 2015, and an affirmative vote of \_\_\_\_ yeas to \_\_\_\_ nays by the Board of Commissioners at its regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_. 20\_\_\_\_\_ if required, the following ordinances are hereby AMENDED:

(EXISTING CODE SECTIONS, FOLLOWED BY PROPOSED AMENDMENTS IN RED ITALICS, SHOWING CHANGES.)

Sec. 2-49. Background checks for certain town employees.

- (a) Purpose and intent. The purpose and intent of this section is to provide a procedure for conducting background checks in conjunction with all applications for employment with the ~~town~~ *Town of Highlands, hereinafter referred to as the "town"*, where the nature of the employment involves safety or security and thereby to limit its risk of hiring unsuitable employees and to safeguard its assets, current employees and the public.

- (b) Applicability. Except as otherwise specifically stated herein, this section shall apply to all persons who apply for initial employment ~~or promotion to a permanent employment position~~ (whether full, part-time, intern, or volunteer) of the town having any one (1) or more of the following (herein referred to as "security/safety position"):
- (1) Significant duties of supervision and management of other employees;
  - (2) Access to any valuable property of the town, including cash;
  - (3) Access to private information about other employees, including credit card and Social Security numbers;
  - (4) Access to information about bank accounts, credit card accounts, or other financial information of the town or other town employees;
  - (5) Access to computer data files of the town;
  - (6) Access to health information or other confidential records of other town employees;
  - (7) Duties relating to driving town vehicles and/or equipment; or
  - (8) Positions involving the care or instruction of children.
- (c) Exempt positions. This section shall not apply to persons serving on volunteer committees of the town (unless they are also employed in a security/safety position), ~~the~~ elected officials of the town, the town attorney and applicants who have not received a written conditional offer of employment where such offer is normally extended to such applicants.
- (d) Noncriminal history check. This section shall not impair or impede the rights of the town to investigate other matters relevant to an applicant's suitability for employment and verify the truth of items in an applicant's application. Such other matters may include, by way of example, employment history, verification of Social Security number and identity, education, credit history reports, motor vehicle records and national sexual offenders' registry.
- (e) Employment application procedure. All applicants for employment for any security/safety position shall be required to provide a completed fingerprint card, birth certificate, Social Security card and driver's license. Applicants will be required to sign a release on a form provided by the town for this purpose. The release shall contain such provisions as the town may from time to time deem appropriate, but in any event shall contain a provision specifically authorizing the activities of the town under this section. All employment opportunity announcements and advertisements of the town will include a statement, if applicable; that the procedures provided for herein will be required.
- (f) Criminal history check (CHC) requirements. The town, through ~~its town manager, police chief, or other entity~~ *the Highlands Police Department*, designated by the board of commissioners, shall conduct a criminal history check of any applicant for a permanent full-time or part-time security/safety position with the town. Any CHC conducted shall include a search through the division of criminal investigation (DCI) of the state bureau of investigations (SBI) pursuant to agreements between

the town and the SBI. *Any CHC conducted will be given to the Town of Highlands Town Manager or their designee by the Highlands Police Department once completed and verified.* Background checks will be conducted in compliance with all federal and state laws and regulations, including Fair Credit Reporting Act and the American Disabilities Act.

- (g) Verification of CHC. The town shall not consider the results of a CHC unless the results have been verified. Verification shall consist of a certified true copy of a public record from the jurisdiction where the conviction was obtained, and the determination by the SBI that the fingerprints of the applicant belong to the person convicted as shown by said public records.
- (h) Use of verified CHC in employment decisions. If a verified CHC shows that the applicant has been convicted, pled guilty to, or pled nolo contendere to a felony, or a misdemeanor involving controlled substances, gambling, or any misdemeanor involving violence against another person, the town will normally deny the applicant's employment request. Factors that may be considered by the town as to any or all convictions discovered include the nature and the circumstances of the conviction (including pleas of guilty/nolo contendere), the date of the conviction, the age of the applicant at the time, the elements of the offense, the probation/parole status of the applicant, whether the offense arose out of an employment situation, patterns of offenses, and whether the conviction is reasonably related to the essential job functions of the position for which the application has been submitted. The applicant shall be notified, confidentially, of any use by the town of the CHC.
- ~~(i) Background checks of current employees. The town shall have the right to conduct a background check of any current employee in a safety/security position, whether or not that employee is applying for a promotion, based upon reasonable suspicion that such check may be necessary to determine whether the employee may be compromising the safety or security of the town or its citizens. Employees will be notified in writing of any results of such checks. Verified CHCs will be used as described above.~~
- (j) No contract of employment. Nothing in the section shall be construed as a contract of initial employment or continued employment with the town. Except as specifically set forth in a written contract of employment, all employees of the town are employed "at will" and may be terminated at any time, for any reason or no reason at all.
- (k) Other laws. This section shall not be construed to abrogate any state statutes, regulations, or codes pertaining to police officers, and in the event of a conflict between this section and a state requirement, the state requirement shall control. This section shall not be construed to violate any state or federal constitutional rights related to gender, race, disability, national origin, marital status or religion. This section shall be construed where possible to complement the town's personnel manual.
- (l) Retention of records. All records obtained under this section shall be retained pursuant to relevant state requirements and other ordinances of the town as may be adopted from time to time.



- (m) Confidentiality of records. Release of records obtained under this section shall be governed by state statutes, including G.S. § 160A-168.
- (n) Town to maintain agreement with SBI/DCI network regulations and fee payment terms. The town will maintain an agreement with the state bureau of investigations (SBI) division of criminal information (DCI) and fee payment terms as will enable the town to obtain CBC's under this section.

(Ord. No. 2011-10-Ord, 9-6-11)

**State Law reference**— G.S. §§ 160A-11, 160A-12, & *160A-164.2*

Commissioner Patterson made a motion to approve the ordinance amendment for background checks sec. 2-49, which was seconded by Commissioner Calloway and the vote was unanimous.

### **13. Closed Session: Pursuant to NCGS §143.318.11(a)(4) Expansion of Industries**

Commissioner Pierson made a motion to go into Closed Session pursuant to NCGS §143-318.11(a)(4) at 7:44pm to discuss expansion of industries, which was seconded by Commissioner Patterson and the vote was unanimous. Once discussion was held, Commissioner Patterson moved the Board back into open session at 9:29pm, which was seconded by Commissioner Dotson and the vote was unanimous.

No action was taken.

### **14. Adjournment**

As there were no further matters to come before the Board of Commissioners, Commissioner Dotson moved to adjourn, which was seconded by Commissioner Patterson and upon a unanimous vote, the Town Board adjourned at 9:29pm.

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Patrick Taylor  
Mayor

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Rebecca R. Shuler, CMC, NCCMC  
Town Clerk