

REGULAR BOARD MEETING of August 5, 1998, with Mayor Buck Trott and Commissioners H. N. James, Mike McCall, Ron Sanders, Zeke Sossomon, and Amy Patterson present.

Also present were Richard Betz, Lamar Nix, Eddie Madden, Bill Coward, Derek Taylor, Kim LeWicki, Charles Arwood, Russell Bowling, and Charlie McDowell.

I. Mayor Trott called the meeting to order at 7:00 p.m.

II. The Mayor felt that the discussion of a proposed policy on pay increases drafted by the Town Administrator should be deferred until early next Spring; the Board agreed.

The Clerk asked the Board to consider adding several items to the agenda:

- A Resolution declaring the week of September 14-20 Macon County Habitat for Humanity Week.
- Closed Session to confer with the Town Attorney on the Town v. Edwards et.al. case.
- Closed Session to confer with the Town Attorney on another matter.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

III. The minutes of the July 15 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS CORRECTED.

#### IV. Reports.

1. The Mayor reported that he, Comm. McCall, Comm. Patterson, and the Town Administrator had met with Highlands-Cashiers Hospital officials Jim Graham, John Bauknight, John Schiffli, James Neal, and Jack Calloway on July 31 to discuss problems with the Sherwood Forest pump station and other matters. He said that consulting engineers for the Town and the Hospital were planning to meet together to further discuss corrosion problems at the pump station; the Clerk said he understood that such a meeting had been scheduled for August 11.

2. The Mayor reported on behalf of vacationing Recreation Director Selwyn Chalker that the cleaning of the flues and duct work at the Civic Center had been completed.

3. Each Board member had received a copy of the Town Engineer/ Public Services Administrator's written report for the month. Lamar Nix said that the Many Road water project was progressing, and that the Electric Department had begun the Bowery Road project, installing additional phases to accommodate future growth in the area. The Sanitation Department had collection 171 tons of commercial trash and 78 tons of residential trash last month. The Water and Sewer Plants were operating well, with the Water Plant treating in excess of one million gallons per day on two recent occasions.

4. The Mayor read the monthly report for Police Chief Jerry Cook, who had not been able to attend the meeting. He also reported that, in response to reports of speeding, the Police Department had parked unoccupied police cars at several locations with the blue light flashing, with good results.

5. Each Board member had received a copy of the Town Planner/ Zoning Administrator's written report for the month; Eddie Madden reviewed the report with the Board. Among the items reviewed were approval of a subdivision plat for lots in Brushy Face South subdivision

contingent on the water line meeting current state requirements; copies of a memo dated July 31 providing the Town Engineer's recommendations were distributed, but the Board agreed to defer discussion until the August 19 meeting. Mr. Madden also reviewed recommendations of the Appearance Commission concerning a building owned by Doug Reynolds on Fifth & Pine Streets, and a building owned by Dr. C. H. Chen on Fourth & Church Street.

6. Each Board member had received a copy of the Treasurer's Report for the month.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ACCEPT THE TREASURER'S REPORT.

7. Each Board member had received a copy of the Town Administrator's written report for the month. Richard Betz also reported that he understood that Froehling & Robertson had begun work on the geotechnical report of the proposed tower site on Big Bearpen Mountain.

#### V. Old Business.

1. The Board again considered a Preliminary and Final subdivision plat for Charles F. Arwood, previously discussed at Board meetings on July 1 and July 15. A revised plat dated August 4 had been submitted, indicating a "driveway" off Clear Creek Road and that it was both a Preliminary and a Final Plat. Each Board member had also been provided with a copy of a letter from John N. Randolph dated July 24 and a copy of a letter from Town Attorney Bill Coward dated August 3.

Comm. McCall asked Zoning Administrator Eddie Madden if a 20-foot right-of-way was required from the subdivided property if a shared driveway between the Arwood and Randolph property was used for access; Mr. Madden replied that in his opinion it was not, because the subdivided property had access off Clear Creek Road.

Comm. Patterson said she felt that if the property owner subdivided the property and used the shared driveway for access, then that made it a subdivision road.

Russell Bowling, an attorney from Franklin representing John and Natalie Randolph, asked to speak to the Board. He provided copies of two maps showing the history of the property prior to the current subdivision, and a 1960 deed recorded as R6/366. He said that the Arwood property shown on the subdivision plat consisted of two different properties; the 1960 easement had been conveyed to the predecessors in title appurtenant to that property, and Mr. Randolph's family would object to use of the easement other than by the property served initially. He said his clients felt that the Town's subdivision regulations applied in the this case, and they would ask that the plat not be approved unless it was contingent on access being provided from Clear Creek Road. He said that his client was willing to negotiate with Mr. Arwood with regard to the easement.

Eddie Madden reminded the Board that the Planning Board had approved the subdivision plat, agreeing that the Ordinance had been satisfied by the applicant providing access from Clear Creek Road; the Planning Board had not felt it was necessary to intervene in a private matter involving the shared easement.

Bill Coward reiterated the opinion set forth in his August 3 letter; he said that by indicating that Parcel B had access to a public road, the plat met the requirements of the Ordinance.

Comm. James said that his concern was that "access" should mean access that can be used; the plat showed a driveway that can be used. If the portion of the lot touching Clear Creek Road was a cliff and impossible to get down, then it would not be access. Mr. Madden

added that he had inspected the driveway earlier in the day, and the section shown on the plat, approximately 100 to 150 feet long, had been roughed in such that he had been able to drive up, turn around, and come back down.

Mr. Coward said that he had discussed this matter with John Randolph, and had asked him under what legal theory he would be able to object if the Town approved the plat; he had been told that Russell Bowling would fashion a theory, and that his family was prepared to involve the Town in a lawsuit.

Comm. James made a motion to approve the subdivision plats contingent on providing access to Clear Creek Road; he felt that if the property had access to Clear Creek Road, that was the Board's only concern.

Comm. Patterson disagreed; she felt that the access to Clear Creek Road was a loophole, and the subdivider was not meeting the spirit of the Ordinance. She felt that Mr. Arwood did not have to provide the right-of-way over the shared driveway, but that if he did, then that made it a subdivision road, regardless of whether or not he had access off another road.

Mr. Coward asked the Mayor to ensure that everyone present had had the opportunity to be heard. Mr. Arwood spoke, apologizing for the hubbub over the plat; he pointed out that, when constructed, the house on the subdivided parcel would not be visible from either his property or Mr. Randolph's property. He also alleged that at one time there had been an agreement to add some of his property to some of Mr. Randolph's property, and Mr. Randolph was then going to sell to Mr. Martin; he wondered how Mr. Randolph had intended to provide access.

Russell Bowling reiterated his earlier contention that the subdivision regulations did apply. He said that if the property had access to Clear Creek Road, his client has no objection; otherwise, they do object.

The Mayor asked Eddie Madden to read Section 402.1 of the Subdivision Ordinance, which states, "All lots to be platted within the subdivision regulation jurisdiction of the Town of Highlands shall have access to a street."

The Mayor ruled that, because there had been no second to Comm. James motion, it had not carried. He said that he also felt that, if the shared driveway was used, it was a subdivision road. He pointed out that subdivision regulations were intended to provide for adequate roads for emergency equipment. Comm. James felt that Clear Creek Road met that requirement; it was the property owner's responsible to construct an adequate driveway from the road.

Comm. McCall asked Mr. Arwood if he would be willing to provide a 20-foot right-of-way from the centerline of the shared driveway. Mr. Arwood said that he felt that if he conveyed property, he had the legal right to use that property.

Comm. Patterson asked Mr. Arwood if he would be willing to remove the shared driveway from the plat. Mr. Coward felt that the road represented a property interest; he did not feel the Town should ask him to relinquish that interest. He reiterated his opinion that the driveway was not a subdivision road because there is access to Clear Creek Road.

Russell Bowling asked how asking the subdivider to relinquish the right to use the driveway could be taking property, since the property had access from Upper Clear Creek Road.

Mr. Coward felt that the Ordinance needed to be strictly construed by the Town. He said that he had been asked by the Board to give his opinion on what "access" meant; it had both legal and practical meaning, and in this case both were satisfied.

Comm. Patterson asked why subdivision plats came to the Board for approval, if not for the Board to interpret the spirit of the law.

Comm. James commented that his interpretation of the spirit of the law might be different from hers.

MOVED BY COMM. SANDERS, SECONDED BY COMM. JAMES, AND CARRIED TO APPROVE THE PLAT WITH THE DRIVE OFF CLEAR CREEK ROAD, AND WITH ONE HOUSE ON THE PROPERTY. Comms. Sanders, James, and McCall voted "aye;" Comm. Patterson voted "nay;" Comm. Sossomon abstained due to a conflict of interest, as requested at the July 15 meeting.

#### VI. New Business.

1. The Mayor said he understood that the people of Highlands wanted to have a celebration of the millennium on December 31, 1999, at the Highlands Civic Center, and he proposed establishing a Committee to see what the Town would like to do.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO AUTHORIZE THE MAYOR TO NAME BETWEEN THREE AND FIVE PERSONS TO SUCH A COMMITTEE.

2. Joann Hall had requested being placed on the agenda to address the Board concerning the paving of Wyanoak Drive, but was not present at the meeting.

3. The Mayor said a request had been received to close Pine Street on August 8 for a street dance like those held last year.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPROVE THE CLOSING OF PINE STREET FOR A STREET DANCE ON THAT AND ANY OTHER REQUESTED DATES THIS SUMMER.

4. MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING RESOLUTION:

#### **RESOLUTION DECLARING SEPTEMBER 14-20, 1998 AS MACON COUNTY HABITAT FOR HUMANITY WEEK**

**WHEREAS**, it is recognized that the citizens of Macon County are worthy, as a matter of conscience, of a simple, decent place in which to live; and

**WHEREAS**, Macon County Habitat for Humanity is a non-profit organization whose purpose is to assist Macon County citizens to achieve the goal of owning their own home through the provision of a zero-interest loan and the assistance of volunteer labor in the construction of a Habitat dwelling; and

**WHEREAS**, with the cooperation of non-profit organizations, community volunteers, local businesses and churches, civic groups, and the support and encouragement of local governments, decent, affordable housing can become a reality for all residents of Macon County; and

**WHEREAS**, Habitat for Humanity International is celebrating its 22nd anniversary, and the goal of providing housing to Macon County citizens may be advanced by the designation of a week during the year to recognize and appreciate the efforts of those contributors, volunteers, and Habitat families whose efforts combine to create a revolving fund of assets available in Macon County, while seeking to eliminate sub-standard housing conditions in the County.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of the Town of Highlands duly assembled in regular session on the 5th day of August, 1998, that the week of September 14-20, 1998 be designated as "Macon County Habitat for Humanity Week," to initiate a community-wide effort to support Macon County Habitat for Humanity and to promote activities and events that will educate the public and further the ambition of providing housing to our citizens, and

to honor the efforts of those involved in this activity.

The Town of Highlands

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Allen L. Trott, Mayor

(TOWN SEAL)

ATTEST:

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Richard Betz, Town Clerk

5. MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO REVIEW APPLICATIONS FOR EMPLOYMENT PURSUANT TO G.S. §143-318.11(A)(6), AND TO DISCUSS TWO MATTERS WITH THE TOWN ATTORNEY PURSUANT TO G.S. §143-318.11(A)(3). All those present left the meeting room except for Town staff.

A. The Board reviewed employment applications from Darren Worley, Trimming Crew employee Dale MacMahan, and Steven Bryson with the Public Services Administrator; Mr. Bryson does not have a Commercial Drivers License, but has passed the written test.

B. The Public Services Administrator discussed an attendance problem with Clyde "Bo" Brown and John Smith with the Board. The Board agreed for Mr. Nix to meet with Mr. Brown and inform him that his employment with the Town is to be terminated for any unexcused absence, taking of vacation leave without two weeks prior notice to the Department Head, or taking of sick leave for one day without a physician's certificate.

C. The Board conferred with and gave instructions to the Town Attorney with regard to the Town of Highlands v. Edwards et. al. case.

D. The Board conferred with the Town Attorney on the possibility of retaining an additional law firm to provide legal services to the Town.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

6. MOVED BY COMM. PATTERSON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO EMPLOY DARREN WORLEY IN THE TRIMMING DEPARTMENT AS A "SWING MAN" AT SALARY GRADE 10, STEP 1 (\$18,113); TO TRANSFER DALE MACMAHAN TO THE WATER DEPARTMENT AS A WATER & SEWER MAINTENANCE WORKER II AT HIS EXISTING SALARY OF \$18,566, NEW PAY GRADE 9, STEP 3-A; AND TO EMPLOY STEVEN BRYSON IN THE TRIMMING CREW ON A PROBATIONARY BASIS AT THE BEGINNING HOURLY WAGE OF \$8.46, TO BE INCREASED AFTER THREE MONTHS TO SALARY GRADE 10, STEP 1 (\$18,113) UPON OBTAINING HIS CDL.

VII. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:55 p.m.

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Richard Betz, Town Clerk