

REGULAR BOARD MEETING of August 16, 2006, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, H. N. James, Dennis DeWolf, and Hank Ross present.

Also present were Richard Betz, Bill Coward, Lamar Nix, Larry Gantenbein, Sonjia Stewart, Kim Lewicki, Jim Lewicki, Adam Thompson, Griffin Bell, Mike Bryson, Mitch Gurganus, Hillrie & Beverly Quin, Don Leone, Kevin Nix, Bill Nellis, Victor Lofquist, Paul Schmitt, David Wilkes, Sam Woodley, Dennis Matthews, Ran Shaffner, Gary Wein, Rev. Brian Sullivan, Ann Trinkle, John Hammer, Debbie Grossman, and many others.

I. Call to Order.

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

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator reported that Town Attorney Bill Coward was present to confer with the Board on legal matters in Closed Session, and asked that the agenda be amended accordingly.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

III. Approval of Minutes.

Copies of the minutes of the August 2 Regular Board Meeting had been distributed by mail. An error was noted by Comm. James.

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

IV. Reports.

1. The Mayor reported that he was continuing to discuss siltation in the lakes with Senator Dole's office. He understood there was a 50/50 change of funding, but no decision would be made until after the elections in November; meanwhile he thought the Town should consider contingency plans. He also reported that the proposed closing of the landfill had prompted several inquiries about a recycling program for Highlands.

2. Comm. Marsh reported that he had talked to District Engineer Wesley Grindstaff, and he understood the D.O.T. was planning to pave Chestnut Street and that there might be sidewalk money available as well; he had been told there would be a meeting in Sylva on September 11 to discuss funding. The Town Administrator agreed to contact Mr. Grindstaff and find out about the meeting.

Comm. Ross said that he had looked at the planter in front of the ABC Store as requested by the Mayor at the previous meeting; he felt the Public Works Committee should discuss it.

The Public Works Committee agreed to meet at 8:30 a.m. on August 22 in the Conference Room.

3. The Town Administrator reported that the Recreation Committee had agreed to meet at 5:00 p.m. on August 17 in the small Conference Room to discuss the Conference Center; Comm. DeWolf said he also wanted to discuss the need to address the roof leaks. He also reminded the Board of the Special Meeting scheduled for August 23 at which Becky

Veazey would present the Salary Study. He also reported that an open house had been scheduled at the Wastewater Treatment Plant for August 31 from 11:00 a.m. to 2:00 p.m. Each Board member also received the Town Engineer/Public Services Administrator's report for August.

V. Old Business.

1. The Board discussed an application for Conditional Use Zoning presented by Bill Nellis at the July 5 Board meeting, a request for R-3 Conditional Use Zoning for a 4.423-acre parcel, the Crisp property or old Edwards property, on Harris Lake; it was reported that the Planning Board had voted four to three not to approve the request, which had been referred to them for preliminary review. Mr. Nellis was present and re-introduced the site plan, revised to show a 90-foot radius road instead of a 75-foot radius road, as well as two retention ponds which he said would be designed for a 25-year storm to treat stormwater from roof drains and roads, though not currently required by the Town. He also said that he would purchase a 0.8-acre parcel of property adjoining the site so that the total impervious area would comply with the limit of 24%. He also said that he would be willing to discuss reducing the density to three per acre.

He then reviewed the recent Town Board and Planning Board decisions in some detail, and presented quotations which he had transcribed from those meetings. Those voting against the project on the Planning Board had referred to it as a "wonderful job," so he concluded that the only reason for voting against the project was personal prejudice. Griffin Bell had said that he felt the "site-specific" areas referred to in the Land Use Plan for multi-family referred only to sub-standard properties like the Rogers property on NC-106, which he thought had nothing to do with the village concept of a walk to Main Street. Similarly, Comm. Patterson on the Town Board had expressed passionate views against more density, and had stated at the July 26 meeting that if you look too closely at a tree, you can lose sight of the whole forest. He felt that quotation was appropriate, and asked the Board to widen its focus to see the benefits of his project. He said he had attended many Board meetings and he felt this plan had much of what the Board wanted, and he asked the Board to consider welcoming families coming to Highlands as assets rather than burdens. He said that an alternate plan for this property would consist of nine half-acre lots, but he felt that the compaction of units in a multi-family plan created more green space, undisturbed forest, and a public park on the lake. He said that the bigger the lot, the bigger the house, and lots of this value would be developed with large houses like the Cooper house. Either way, the property would be developed in the next six to eight months, and he said in the future people would not care if there were nine lots or 15 lots, they would care how it looked. He asked the Board to put personal prejudices aside and discuss the project further.

Comm. James asked about two buildings shown at the northern end of the property; Mr. Nellis said the buildings had been re-arranged to preserve an original Kelsey apple tree. Comm. Ross asked about the current density and was told it was 3.6 units per acre, 16 multi-family homes and one single-family; he was willing to reduce the density to 14 multi-family homes and one single-family, which would make the density 3.0 per acre. He also said that he was not claiming credit for permeable pavement. Comm. Ross said that he felt the Board should consider a general policy of accepting some credit for permeable pavement in the future. Comm. Dewolf said that he felt the project made sense at a density of three per acre because it provided an area of increased density adjacent to a commercial area. He thought the plan had a lot of value, and felt the Board should consider it if the density was reduced. Comm. Patterson said that she did not have a prejudice against density, she had a bias against it, and that bias had stood the test of the voters. The only way she would consider the project was if the density was reduced to three per acre. She also expressed concern over the run-off going to the retention pond, and wondered how much this design would provide re-charging of the groundwater. Victor Lofquist replied that a portion would be returned to the ground. Comm. Patterson also said that she was not convinced that single-family development would look as bad as Mr. Nellis claimed it would on the property. Comm. James said he felt it was a good project, but he would prefer 12 multi-family homes. The Mayor said that he felt Mr. Nellis was asking if the Board would consider the project if the density was reduced to three per acre.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO SEND THE PROJECT TO THE PLANNING BOARD FOR REVIEW AND MORE INPUT, PROVIDED IT IS RE-DESIGNED SO THAT THE DENSITY DOES NOT EXCEED THREE PER ACRE NOR THE BUILT-UPON 24%

2. The Board discussed the amendments to the Town's noise regulations adopted on July 26. Comm. Ross said that

he felt the Board had rushed to judgement on the times for construction noise; he thought that 7:30 a.m. was more reasonable than 8:00 a.m. Comm. Patterson felt that ten hours was not an unreasonable length of time to make noise; construction work could go on longer, but not create loud noise. Mike Bryson, Sam Woodley, and Fire Chief James Manley all expressed opposition to the amendments; Mr. Manley pointed out that all of the Town's fire trucks used "jake brakes," and Mr. Woodley said that the restrictions would prolong projects. Ran Shaffner complained about the radio speakers on Town vehicles at the warehouse.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, TO LEAVE THE AMENDMENT AS IT WAS ADOPTED. The motion failed, with Comms. Marsh and Patterson voting "aye," and Comms. James, Ross, and DeWolf voting "nay."

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND CARRIED, TO CHANGE THE HOURS DURING WHICH CONSTRUCTION NOISE MAY BEGIN FROM 8:00 A.M. TO 7:30 A.M. The motion carried, with Comms. Ross, DeWolf, and James voting "aye," and Comms. Marsh and Patterson voting "nay."

3. Comm. James said that he had noted that the owners of Highlands Plaza had wanted the driveway from the end of Second Street closed, but were still using that street to access the rear parking lot behind the old Highlands Hardware building, which was being remodelled. Comm. Ross was concerned over the appearance of the closed driveway, consisting of several traffic cones; he wondered what the permanent plan was. The Mayor asked the Town Engineer to meet with Al Bolt and suggest appropriate ways to close off the driveway. Paul Schmitt asked if a plan had been submitted for the rear parking lot; Larry Gantenbein replied that a plan had not yet been reviewed by the Zoning Board, but when it was the parking lot and the issue of the rear entrance would be reviewed.

VI. New Business.

1. Dennis Matthews was present and had submitted a petition containing 22 signatures of residents of Wyanoak Road, asking if the Town would consider paving the section between Hickory Hill Road and Chowan; it had suffered years of neglect from heavy construction trucks. He said the residents all paid Town taxes and simply wanted a paved road, and with no increase in width. It was reported that the right-of-way of the road was only 30 feet, less than the Town's standard for acceptance.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO REFER THE MATTER TO THE PUBLIC WORKS COMMITTEE.

2. Hillrie Quin was present with several members of the Greenways Committee, and he gave a Power Point presentation of the Greenway Strategic Plan, reviewing the vision statement, overview, timeline, goals and objectives, potential partners, opportunities, potential threats, how we pay for it, and Town ordinance changes. He also reviewed a conceptual plan map in some detail, showing proposed routes for trails, and requested that the Board approve it conceptually.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ACCEPT THE CONCEPTUAL MAP AND STRATEGIC PLAN AS THE BASIS FOR FURTHER DISCUSSIONS, TO INVESTIGATE TOWN FUNDING FOR GREENWAY, AND TO REFER TOWN ORDINANCE RECOMMENDATIONS TO THE PLANNING BOARD AND GREENWAYS COMMITTEE.

3. King Young was present on behalf of the Pine Street Park Project, and said he had discussed with the Public Services Administrator the possibility of the Town digging up the asphalt and perhaps dealing with the concrete slab when the property was turned over to the Town. Due to the many items on the agenda he offered to defer further discussion.

4. Pursuant to advertisement as required by law, three sealed informal bids had been received for a piece of surplus Town equipment, a 1988 GMC Fire Truck that was no longer needed:

- J & J Lawn Service \$8,000.00
- Satolah Volunteer Fire Department 8,752.99
- William Hawkins 10,001.00

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ACCEPT THE HIGH BID FOR THE VEHICLE FROM WILLIAM HAWKINS.

5. Mitch Gurganus has submitted a petition signed by residents in Clear Creek and Horse Cove, requesting that these areas be withdrawn or removed from the ETJ established by the Town on November 16, 2005. He said that he believed the properties were not adjacent to the Town limits, and therefore the extension of ETJ did not meet the criteria of the Land Use Plan, which he said the Town must follow under G. S. §160A-360. Town Attorney Bill Coward suggested that the Board discuss this in Closed Session at the end of the meeting, and the Board agreed by consensus.

6. Each Board member had received a copy of the following proposed resolution supporting Chimney Rock State Park, which the Mayor of Lake Lure, had requested area municipalities to adopt:

* * *

RESOLUTION
OF THE BOARD OF COMMISSIONERS
TOWN OF HIGHLANDS, NORTH CAROLINA

Whereas Chimney Rock Park, a 1000 acre privately held natural preserve in Rutherford County, North Carolina, has been offered for sale, and

Whereas this extraordinary parcel has been well maintained and has benefited from, the sound ecological practices employed by the same family for 104 years, and

Whereas the Park is home to numerous state and federally listed rare species, and

Whereas the Park has contributed to the local and state economy by hosting 200,000 to 250,000 visitors annually, the great majority of those being out of area tourists, and

Whereas Chimney Rock Park is situated in Rutherford County which in 2005 had the third highest unemployment rate in North Carolina out of 100 counties (USDA Economic Research Service), and

Whereas Chimney Rock Park being operated as a tourist destination has traditionally employed 60 full and part-time individuals, and

Whereas Rutherford County ranked 26th in tourism impact out of the state's 100 counties generating tourism revenues of over 118 million dollars, and

Whereas Rutherford County tourism, greatly aided by tourism in the Chimney Rock/Lake Lure area, contributed state and local tax receipts in 2005 of 7.1 million and 3.75 million dollars respectively (NC Department of Commerce), and

Whereas the citizens of Hickory Nut Gorge strongly support continuation of park presence and facilities in the gorge area, and

Whereas the Rutherford County Daily Courier has opined that "It would be a disaster unprecedented in Rutherford County to see all that the Park has become and all that it still might be relegated to our memories." (Daily Courier 7/19/2006), and

Whereas the Asheville Citizen-Times has stated "Losing Chimney Rock Park to private development would severely

harm the economy of Hickory Nut Gorge and be a sad end to a remarkable legacy of family stewardship (Citizen-Times 7/21/2006), and

Whereas the North Carolina Division of Parks and Recreation, the legislators of Rutherford County, the General Assembly and Governor Easley have shown the desire, foresight and commitment to establish a state park in Hickory Nut Gorge, and

Whereas the 1000 acre Chimney Rock Park would be an addition of inestimable value to a new state park and such has been previously recognized by the North Carolina Division of Parks and Recreation and state officials, and

Now, Therefore, be it resolved that the Board of Commissioners of the Town of Highlands does hereby strongly urge and encourage the State of North Carolina through its various agencies, divisions, and legislative bodies, to do all that is possible and necessary to acquire Chimney Rock Park and add that acreage to the planned Hickory Nut Gorge State Park.

* * *

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING RESOLUTION.

7. David Wilkes was present on behalf of the ABC Board with a tentative plan, designed by Paul Schmitt, for expansion of the ABC building it leased from the Town. He said the construction would be funded from ABC distributions for this and succeeding years, but would require Town approval. It was reported that the lease for the building would expire in September of 2007. Mr. Schmitt reviewed the plans, which showed a 48 X 38 addition on the eastern end of the building, with space underneath, expanding the retail, warehouse, and rest room areas. The Mayor said he thought the plan should be part of the Town's overall plan for the Town Hall property. After some discussion, he appointed Comms. Dewolf and Ross to a Committee to review the plan and the site and report back at the next regular meeting.

8. Don Leone was present to discuss parking requirements for restaurants, which he said only applied to four restaurants in Town. He said his restaurant in Wright Square had eight spaces on-site and 11 spaces on Furniture South property across NC-106 per an agreement. He asked what would happen when his lease expired, and asked if it was the Town's intention to force him out of business. He pointed out that two years ago the Town had accommodated Main Street Inn so that no seating was required, and he felt that this was discriminatory. He also said that a local restaurateur was using this requirement to maliciously damage other restaurants in Town. He asked that the Board consider abolishing the Ordinance, or re-zoning his property.

Comm. Ross said he believed parking regulations as a whole needed to be reviewed, but pointed out that the Planning Board's plate was full. Rev. Brian Sullivan, Ann Trinkle, and Debbie Grossman spoke in favor of Mr. Leone. John Hammer said he felt the Town should consider trolley service to solve the parking problem. Comm. James suggested that the Board take this under advisement, and the Board agreed by consensus.

9. The Town Administrator reported that Finley Merry had met with the Mayor the previous week and wanted to know if there was any interest in a request for voluntary annexation in order to obtain water service for Highgate subdivision; there might be interest in sewer in the future, and the roads would remain private. There were 61 lots total, half of developed, with a tax value of \$40 million. The subdivision was served by wells and by a 22,000-gallon reservoir. Although it did not directly adjoin the Town limits, the Mayor said he understood there might be some interest on the part of Dog Mountain subdivision in annexation as well. The Town Engineer said that a six-inch line and pump station, preferably through Dog Mountain, would be required, as well as a minimum 75,000-gallon reservoir. Comm. James said he felt the reservoir should be 100,000-gallons to provide fire protection to Dog Mountain; he also asked about the road rights-of-way. After some discussion, the Board agreed that it needed more information before it could make a decision on the request.

10. Nine Burke, a resident on Satulah Mountain, was present and expressed concern over future water supply; she

said she was already experiencing water pressure problems at her residence.

11. MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY ON LITIGATION. All present left the room except the Clerk and the Town Attorney.

A. The Town Attorney briefed the Board on the Bowery Road litigation, and the Board also discussed other roads in Town that it would be beneficial to pave and the legal requirements for doing so.

B. The Town Attorney discussed the request by Mr. Gurganus earlier in the meeting concerning withdrawal of part of the property included in the extension of ETJ the previous November.

C. The Board discussed the need for a contract concerning the Town's \$300,000 commitment to the Pine Street Park Project.

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

12. MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ATTORNEY TO DRAFT A CONTRACT CONCERNING THE TOWN'S \$300,000 COMMITMENT TO THE PINE STREET PARK PROJECT.

VII. The Board agreed by consensus to adjourn.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:45 p.m.

Richard Betz, Town Clerk