

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF JULY 20, 2011

Town Board Present: Mayor David Wilkes, Vice Mayor John Dotson, Commissioner Larry Rogers, Commissioner Gary Drake, Commissioner Amy Patterson and Commissioner Dennis DeWolf.

Also Present: Police chief Bill Harrell, Recreation Director Selwyn Chalker, Town Engineer Lamar Nix, Town Attorney William Coward and Recording Secretary Jane Capman.

1. Call to order

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

2. Public Comments

There were no public comments.

3. Approve agenda

Prior to approval of the revised agenda, Town Attorney William Coward requested an additional closed session item be added in order to discuss possible settlement in the last Bowery Road case.

Commissioner Gary Drake moved to approve the Agenda, as revised, which was seconded by Vice Mayor John Dotson and was unanimously approved.

4. Approve minutes of July 6, 2011

The July 6, 2011 Minutes are amended as follows:

Section 7 (Consider Change in Town Board Meeting Day), third paragraph, last sentence is amended to read as follows:

Commissioner DeWolf stated that he was not opposed to the idea of one meeting a month but would prefer two and not on Tuesday because of other meetings being held at 4:00 pm.

Section 14 (Proposed Ethics Policy for Town Employees), second to last paragraph, is amended to read as follows:

After further discussion, it was decided that certain employees of the Town would be sent for ethics training, namely the Town Manager, Planning Director/Administrator, all department heads and all new hires for those positions. For existing employees in those positions, ethics training would take place every four years. It was further agreed that Section 18 of the personnel manual would be amended to include this new information.

Vice Mayor John Dotson moved to approve the Minutes of July 6, 2011, as amended, which was seconded by Commissioner Amy Patterson and was unanimously approved.

5. Reports

A. Mayor

There was no mayoral report.

B. Commissioners & Committee Reports

Commissioner Gary Drake discussed the Tourism Development Committee and sales tax generated in Highlands.

Commissioner Larry Rogers read the following statement into the record:

“As a commissioner to the Town of Highlands, it is my job to listen to any concerns that the townspeople may have and present those concerns to the other commissioners. Tonight, I have a problem in regards to the ETJ ordinance that is currently in place. I feel that the ETJ has divided our people and left many with little voice in the town’s government. At the present time, the county has two people to represent the ETJ and I feel that this is the county’s responsibility to govern these areas that are outside the city limits. Shouldn’t we be focusing the majority of our efforts on improving areas inside the city limits, instead of trying to control areas that are already in the county’s jurisdiction? “

“At the ETJ meeting that was held at the Rec Park, the townspeople were told that the laws for the ETJ areas would be less stringent than the laws were in the city limit. That is not correct. At this meeting, 98% of the people were against the ETJ ordinance. My concern about the ETJ is the fact that the people in these areas are not being treated equally. Just because HFCC (Highlands Falls Country Club) and Cullasaja Club have their own homeowner’s rules and regulations, it shouldn’t exempt them from obtaining a permit from the town for any building construction that will take place. There are people in other developments in the ETJ that have rules also, but they still must obtain a permit from the town, just as if they were in the city limits. I completely understand why people are very upset with this ordinance, it’s not fair. Properties, in the ETJ that have always been commercial would be changed if ownership changes, this is not right either.”

“I am suggesting, as a commissioner of the town board, that this ordinance be abolished.”

Mayor Wilkes thanked Commissioner Rogers and advised that if the Town Board wishes to consider this matter, it can be added to the agenda during a regularly scheduled meeting.

6. Consent Agenda

Commissioner Dennis DeWolf moved to approve the Consent Agenda, which was seconded by Commissioner Larry Rogers, and was unanimously approved.

7. Approve Revised 2011 Regular Meeting Schedule for Tuesday Meetings

At the Town Board Meeting on July 6, 2011 the Town Board of Commissioners voted to change the regular Town Board meeting nights to the first and third Tuesdays at 7 p.m. starting in August. There has generally been one meeting in December. It is recommended that the Board approve the following meeting schedule for the rest of 2011.

Month	Date
August	2 nd , 16 th
September	6 th , 20 th

October	4 th , 18 th
November	1 st , 15 th
December	6 th

Vice Mayor John Dotson moved to approve the revised 2011 regular meeting schedule for Tuesday meetings, which was seconded by Commissioner Amy Patterson and was unanimously approved.

8. Radio Read Meters for Water System

A. Public Hearing

Mayor Wilkes opened the public hearing.

Town Engineer Lamar Nix addressed the Town Board and public present. Mr. Nix advised that the Board and staff had determined that a radio read water meter system would enhance the accountability of the town of Highlands water distribution system. This system would provide for accurate water accountability and leak detection for the user. The economic benefits include increase revenue from water sales and savings on meter reading expenses.

Mr. Nix advised that there are four components of budgets for the project:

- A. Radio Read Meters/Reading Devices/Software;
- B. Contract for installation services;
- C. Water Dept. supplies for remaining installations; and
- D. Contingency (10%).

On July 18, 2011, bids were received for the Radio Read Meters and those bids were presented to the Town Board for review. The informal proposal for contract installation was received, staff estimates were completed for the supplies and then the 10% contingency (for unknowns) was calculated.

The budget is as follows:

Project Budget

Item	Amount
Meters/Readers/Software	\$480,593.84
Contract installation	\$ 88,655.00
Water Dept. supplies	<u>\$173,949.84</u>
Subtotal	\$743,198.69
10% Contingency	<u>\$ 74,319.87</u>
Total	<u>\$817,518.56</u>

It is recommended that the Town Board approve the proposed resolution approving the financing contract for the purchase and installation of radio read meters for the water system; direct staff to work with the local government commission, local bank, and finance committee to complete the loan documents and direct staff to complete installation of the radio read water meters.

Mr. Nix, the Board and the public present discussed replacement of the old meters, justification of

the costs to be expended, increased revenue, potential savings and the ability to provide homeowners with a history of water usage should there be any questions or concerns.

Town Attorney William Coward advised the Board that the proposed Resolution regarding financing is to be tabled in order to obtain additional information.

Gary Drake moved to close the public hearing, which was seconded by Vice Mayor John Dotson and the vote was unanimous.

Commissioner Gary Drake moved to table the Resolution until the August 2, 2011 Town Board meeting, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

Commissioner moved to direct staff to work with the Local Government Commission, local bank, and finance committee to complete the loan documents and direct staff to complete installation of the radio read water meters once the Resolution is adopted by the Town Board, which was seconded by Vice Mayor John Dotson and the vote was unanimous.

9. Keener Road Right of Way

The Mayor and Town Engineer were approached by homeowners at the end of Keener Road about the possibility of Town maintenance being extended to an intersection where the sanitation trucks and other Town utilities are located. The current condition of the 200' of roadway is gravel and the sanitation truck further complicates the erosion of the unpaved roadway. The roadway was surveyed and all utilities and property owners were identified and contacted. The property owners are willing to give the Town a Right-of-Way to the existing roadway for maintenance.

It is recommended by the Public Works Committee and Town Engineer that the Town Board accept the Right-of-Way for Keener Road to be extended as surveyed for Town Maintenance, contingent upon easements and final survey to be prepared in accordance with the Town Attorney's approval. The Town Board reviewed a survey and was advised that there are only two homeowners affected.

As to the fiscal impact, the estimate to pave the proposed extension of Keener Road is \$10,500. The road may be maintained in its present state until paving of roadway is approved by the Town Board.

Commissioner Amy Patterson moved to accept the Right-of-Way for Keener Road contingent upon easements and final survey to be prepared in accordance with the Town Attorney's approval, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

10. Emergency Generator for Civil Center

Recreation Director Selwyn Chalker addressed the Town Board regarding the generator hook up. The Board was presented with the cost of the switch for the generator of \$19,822.50 from Allan Dearth and Sons (Generator Sales & Service, Inc.). There is a six to 10 week lead time for this device and staff feels that the order for the switch should be made now to be ready for installation. Estimates on installation are in process. The County will fund half the cost up to \$25,000.00.

Discussion was had as to the potential down time at the recreation park and Mr. Chalker advised that he would schedule this matter for when there is not a lot of activities scheduled at the facility.

Commissioner Dennis DeWolf stated that this matter was important and is a positive move.

Commissioner Larry Rogers moved to approve the expenditure for the generator switch and proceed with installation, which was seconded by Commissioner Gary Drake and was unanimously approved.

Due to another pressing matter, Mayor David Wilkes recused himself from the remainder of the meeting. Vice Mayor John Dotson presided for the remainder of the meeting.

11. Highlands Playhouse Assessment

Highlands Playhouse requested a roof and other repairs to winterize the building. After looking at the Playhouse, there needs to be a full assessment of the entire building. This assessment would be used for short and long range planning to maintain this building. The assessment would include; structural support, mechanical systems, plumbing, wiring, exterior inspection for water intrusion, siding, roofing, etc. Paul Schmitt was contacted in reference to a structural audit that was done some years back. Mr. Schmitt said the scope of the audit was specific to the installation of steel roof trusses and was conducted about 10 years ago. Mr. Schmitt recommended that the Town move forward with a new comprehensive assessment.

Summit Architecture, PA was contacted for an estimate and the same was presented to the Town Board for review and consideration. The Playhouse staff would like to plan any construction to begin immediately after the final performance of the normal season, which ends October 9th and finish this construction in time to have a Christmas show.

As to the fiscal impact, the estimate is \$4,000 and would be capped at \$5,000.

It is recommended that the Town Board approve Summit Architecture to move forward with the assessment and report all findings back to the Board.

Tina Rogers, a Playhouse employee, addressed the Town Board and advised that she would like to see the improvements take place and make the Playhouse a year round venue.

Commissioner Dennis DeWolf stated that this needs be done and recommended approval.

Commissioner Dennis DeWolf moved to approve Summit Architecture, PA to perform the assessment at a cost of \$4,000 not to exceed \$5,000, which was seconded by Commissioner Gary Drake and was unanimously approved.

12. Ordinance/Policy for Appearance Commission

The Town Board agreed that a public hearing would be needed and set the same for the second meeting in August, 2011.

Commissioner Gary Drake moved to set the public hearing for the regular meeting set for August 16, 2011 for the Amendment of the Zoning Ordinance, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

13. Amendment to Personnel Manual for Ethics Training Requirements

The Town Board was presented with the below Resolution for review and approval. After discussion, the following words were added to the Resolution and is reflected below: *for said positions* in paragraph "b".

RESOLUTION

MAKING ETHICS REQUIREMENTS APPLICABLE TO CERTAIN TOWN EMPLOYEES

WHEREAS, North Carolina General Statutes §160A-86 requires the adoption of a code of ethics by the governing boards of cities and other local government units, and the Board of Commissioners of the Town of Highlands has adopted a code of ethics as required by said statute;

WHEREAS, the Board of Commissioners believes its code of ethics should be applicable to certain key town employees;

WHEREAS, the Board of Commissioners believes that the ethics education program required under §160A-87 will have beneficial results on certain key town employees;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HIGHLANDS THAT THE PERSONNEL MANUAL OF THE TOWN SHALL BE AMENDED TO ADD A NEW SECTION (18) TO ARTICLE VI:

Section 18

- a. The Town Manager, Planning Director, and all department heads of the Town shall comply with N.C.G.S. §160A-86, including any amendments thereto.
- b. The Town Manager, Planning Director, and all department heads of the Town shall be required to receive the ethics education required by N.C.G.S. §160A-87, provided however, that the two year requirement shall be four years, and that all new hires for said positions shall take the required training as soon as possible after being hired. Training under this section shall be online if that is available.
- c. The Town Clerk shall maintain a record verifying receipt of the ethics education by said employees.

Commissioner Amy Patterson moved for the adoption of the foregoing resolution.

Commissioner Gary Drake seconded the motion and, upon vote, the same was adopted.

This the 20th day of July, 2011.

Commissioner Amy Patterson moved to approve the Resolution Making Ethics Requirements Applicable to Certain Town Employees with the additional language of “*for said positions*”, which was seconded by Commissioner Gary Drake and was unanimously approved.

14. Discuss and approve employee Health Insurance Proposal

The Town of Highlands contracts yearly for Employee Health Insurance. The Finance Committee met with Wayah Insurance on July 14, 2011 and reviewed the annual proposal for employee health insurance. Documentation was presented to the Board for review and consideration.

It is recommended that the Town Board consider and approve Employee Health Insurance Coverage at will of the board.

The following renewal analysis was presented to the Town Board for consideration:

**TOWN OF HIGHLANDS
EMPLOYEE MEDICAL PLAN
9/1/2011-8/30/2012 RENEWAL ANALYSIS**

- 2010-2011 Plan year medical expense reimbursements to employees for their \$10,000 deductible are estimated to exceed \$160,000. Approximately \$90,000+ more than expected.
- Expenses are approximately one-third for employees and two-thirds for dependents.
- 100% In-Network preventive care benefit will be added 9/1/2012.
- BCBSNC Renewal premium offer was a 13.4% increase.
- The consultant, Wayah/Eben Concepts, has negotiated the increase down to 9.6% - a \$50,000 increase.

	<u>2009-2010</u>	<u>2010-2011</u>	<u>2010-2011</u>	<u>2011-2012</u>
	UHC	UHC proposed	BCBS/PHPC	BCBS/PHPC
TOTAL	\$723,162	\$849,163	\$680,293	\$729,230
	ACTUAL	ESTIMATED	ESTIMATED	ESTIMATED
HRA Claims	\$60,000	\$60,000	\$162,583	\$162,583
HRA Admin	\$0	\$0	\$9,450	\$9,450
Premium	\$663,162	\$789,163	\$508,260	\$557,197

- 2010-2011 will end up below the cost of 2009-2010, and about \$150,000 less than proposed by UHC’s renewal last year.
- 2011-2012 is estimated to be only slightly higher than 2009-2010.
- UHC has offered a much lower premium rate.

	# ee's	BCBS	UHC
EE	11	\$ 302.80	\$ 257.48
ES	21	\$ 688.54	\$ 585.49
EC	4	\$ 551.07	\$ 468.59
FAM	27	\$ 979.21	\$ 832.67
	63	\$ 46,433.09	\$ 39,484.02
		\$557,197.08	\$473,808.24
			\$ (83,388.84)

- However, UHC's network is not as good as BCBS's, leaving a large out-of-pocket exposure to employees and families, and potentially the Town. UHC's Tier 3 Prescription co-pay is \$10 higher.
- The recommendation of the consultant, Wayah/ben Concepts, is to remain with BCBS for 9/1/2011-8/30/2012.

Commissioner Gary Drake discussed with the Town Board premium increases, medical expenses and the budget being passed without knowing medical expenses.

Commissioner Amy Patterson moved to approve the Employee Health Insurance Coverage renewal and stay with Blue Cross/Blue Shield as underwritten by Wayah, which was seconded by Commissioner Gary Drake, and the vote was unanimous.

15. Discuss and approve Property and Liability Insurance Renewal

The Town of Highlands contracts yearly for Property and Liability Insurance. The Finance Committee met with Wayah Insurance on July 14, 2011 and reviewed the annual renewal proposal. A premium summary was presented to the Town Board for review and consideration.

It is recommended that the Town Board approve the Finance Committee's recommendation to renew the policy accepting the premium summary with the quote option incorporating the \$2,500.00 deductible for general liability and auto liability which will reduce the premium \$3,979.00 and lowering the total property and liability quote for 2011-2012 to \$97,360.00, which is under budget.

After a discussion regarding deductibles, Commissioner Gary Drake moved to approve the Property and Liability Insurance renewal, which was seconded by Commissioner Amy Patterson and the vote was unanimous.

Commissioner Gary Drake moved the Town Board into Closed Session, which was seconded by Commissioner Amy Patterson and the vote was unanimous. The Town Board moved into Closed Session at 8:20 p.m.

16. Closed session for Personnel under NCGS 143.318.11(a)(3) & (6)

The Town Board discussed a litigation matter and personnel matters.

No action was taken.

Commissioner Gary Drake moved the Town Board back into Open Session, which was seconded by Commission Amy Patterson and the vote was unanimous. The Town Board returned to Open Session at 9:03 p.m.

Commissioner Gary Drake made a motion to hire Robert A. Zoellner as Interim Town Manager at the rate of \$30.00 per hour, on an as needed basis, while the Town seeks a permanent replacement, which was seconded by Commissioner, and the vote was unanimous.

Commissioner Amy Patterson made a motion to settle the last Bowery Road litigation case (Kathryn B. Hendricks), which was seconded by Commissioner Gary Drake and the vote was unanimous.

Town Attorney William Coward made the following statement regarding Jim Fatland:

- Kevin P. Kopp, Esq. was retained to represent Mr. Fatland;
- A release agreement was drafted in which the Town would be released from all possible claims;
- Mr. Fatland agreed to sign the release;
- Mr. Fatland did not meet the reasonable expectations of the board as to his overall job performance as Town Manager," as opposed to a detailed list.
- The statement will be placed in his personnel record;
- There was no severance pay given to Mr. Fatland;

17. Adjourn

As there were no further matters to come before the Board of Commissioners, Commissioner Gary Drake moved to adjourn, which was seconded by Commissioner Amy Patterson Dotson and upon unanimous vote the Town Board adjourned at 9:10 p.m.

Rebecca Shuler
Town Clerk

Jane J. Capman
Recording Secretary

Mayor David Wilkes

Vice Mayor John Dotson