

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF AUGUST 16, 2011

Town Board Present: Vice Mayor John Dotson, Commissioner Larry Rogers, Commissioner Gary Drake, Commissioner Amy Patterson and Commissioner Dennis DeWolf. Mayor David Wilkes was not present.

Also Present: Interim Town Manager Robert Zoellner, Police Chief Bill Harrell, Recreation Director Selwyn Chalker, Town Engineer Lamar Nix, Town Clerk Rebecca Shuler, MIS/GIS Director Matt Shuler, Interim Planning Director Josh Ward, Town Attorney William Coward and Recording Secretary Jane Capman.

1. Call to order

Vice Mayor John Dotson called the meeting to order at 7:03 p.m.

2. Public Comments

There were no public comments.

3. Adjust and Approve agenda

Commissioner Amy Patterson moved to approve the agenda, which was seconded by Commissioner Gary Drake and the vote was unanimous.

4. Approve Minutes of August 2nd regular meeting

Commissioner Dennis DeWolf moved to approve the Minutes of August 2, 2011, which was seconded by Commissioner Larry Rogers and was unanimously approved.

5. Reports

A. Mayor

There was no mayoral report.

B. Commissioners & Committee Reports

There were no committee reports.

Commissioner Larry Rogers commented on the good work done regarding the hemlock clean up.

Commissioner Gary Drake commented on the good work progressing regarding sign replacement.

6. Consent Agenda

A. Reports

i. Public Services Department

ii. Police Department

iii. Parks & Recreation Department

iv. Planning & Zoning Department

v. Treasurer's Report for Month Ended June 30,2011

vi. Monthly Calendar

vii. Grant Status Report

As there were no changes, Commissioner Amy Patterson moved to approve the Consent Agenda, which was seconded by Commissioner Gary Drake and was unanimously approved.

7. Red Flag Review

The following was presented to the Town Board for review and consideration:

CONTRACT FOR POLICY AND PROCEDURE MANUAL LEGAL UPDATE, LIABILITY REVIEW, AND REWRITE.

AGREEMENT

This agreement is made on August 16, 2011, between SMITH RODGERS Law Enforcement Legal Consultants and Attorneys at Law, PLLC (SRC), a professional limited liability company/law firm organized and existing under the laws of the State of North Carolina, and the Highlands Police Department.

SECTION ONE.

DESCRIPTION OF SERVICES

SRC agrees to conduct a legal update, liability review, and rewrite/ "red flag review" of certain portions of the Highlands Police Department Policy and Procedure Manual, and with respect to the following policy topics:

- * 217-11 – Records Management
- * 301-10 – Rules and Regulations
- * 302-10 – Personal Appearance
- * 303-10 – Agency Vehicles and Trailers
- * 306-10 – Use of Force

SRC also agrees to prepare draft policies with respect to the following policy topics:

- * Canine
- * Crowd Control
- * Media Relations

This contract is for specialized legal services with high-liability implications across a broad range of diverse legal topics, and additionally requires of SRC a command of law enforcement tort law principles and civil liability management skills. These services will be completed at the offices of SRC, but will also include on-site consultation between SRC and Police Department staff. SRC will work in conjunction with departmental staff, and will otherwise endeavor to ensure that the final policy product accurately and legally sets forth the policy objectives of Chief Bill Harrell and the Highlands Police Department.

SECTION TWO.

PAYMENT

The Highlands Police Department agrees to pay to SRC a flat legal fee, in advance, in the amount of Six Thousand Dollars (\$6,000). This fee is all-inclusive, and SRC will charge no additional fees or costs for the services provided. Travel expenses (if any) are included in this fee. Final manuscript preparation, copying and binding (if any) will be the responsibility of the Highlands Police Department. Under this flat fee agreement, the Attorneys agree to put forth their best professional effort in managing the various policy issues that presently exist or may emerge in the management of this project, within a maximum number of attorney hours set at 50. This fee is non-refundable, and is deemed earned upon receipt (i.e., hours will not be billed against fee in the nature of a retainer deposit).

SECTION THREE.

DELIVERY SCHEDULE

SRC will plan and schedule its services in a manner consistent with the firm's best professional judgment. SRC will commence the services described at Section One within fifteen days of the receipt of the legal fee. The completion of all services described at Section One will be within 365 days of the date the legal fee is received by SRC.

SECTION FOUR.

ENTIRE AGREEMENT

The parties agree that this constitutes the entire agreement and there are no further items or provisions, either oral or otherwise.

The parties have executed this agreement at Greensboro / Highlands the day and year first above written

SMITH RODGERS
Law Enforcement Legal Consultants
and Attorneys at Law, PLLC

By: _____

HIGHLANDS POLICE DEPARTMENT (or the Town of Highlands)

By: _____

Chief Bill Harrell advised that there was nothing new to add regarding this matter that was not discussed at the August 2, 2011 regular meeting of the Town Board.

Town Attorney William Coward advised that although the payment arrangement is a flat fee. The Town should be made aware of how much time was actually spent expended in this matter. Town Attorney Coward stated the agreement should contain an accountability clause in that the SRC will maintain

detailed records of all time (to .10 hr) expended on the project and all expenses associated with the project, and will provide the Police Dept. with a record upon the conclusion of its work on the project.

As there was no further discussion, Commissioner Amy Patterson moved to approve the Red Flag Review/Contract for Policy and Procedure Manual Legal Update, Liability Review and Rewrite, with the addition of an accountability clause to be approved by the Town Attorney, which was seconded by Commissioner Gary Drake and the vote was unanimous.

8. Approve Closing a Portion of 4 ½ Street on September 13, 2011 from 5 to 8pm

Rick Siegel of The 4 ½ Street Inn and Chris Alley of the Colonial Pines Inn presented the following request to the Town on July 17, 2011:

On behalf of the 4 ½ Street Inn and Colonial Pines Inn, we request permission to close off a portion of 4 ½ Street between the two Inn buildings for a joint anniversary celebration on Tuesday, September 13, 2011 from 5 to 8 pm.

The area we are requesting to be closed falls from just North of the Fouts driveway to just South of the 4 ½ Street Inn driveway. This closure would not block any private driveways, and would create a corridor for safe flow of pedestrians back and forth between the two Inns during the celebration.

This matter was originally on the agenda for August 2, 2011 however the same was postponed until tonight's meeting to afford the representatives an opportunity to appear before the Board and to provide the Board with letters from neighbors advising of no objection to the closing of a portion of 4 ½ Street.

Rick Siegel and Chris Alley appeared before the Town Board and discussed the upcoming celebration advising that their neighbors have given their blessings and of no objection to the closing of 4 ½ Street.

The Town Board along with Chief Bill Harrell discussed which properties would be affected, access for emergency vehicles and the use of proper signage.

Commissioner Gary Drake moved to approve the closing of a portion of 4 ½ Street on September 13, 2011 from 5:00 p.m. to 8:00 p.m. with the stipulation of obtaining proper signage from the Highlands Police Department, which was seconded by Commissioner Dennis DeWolf and was unanimously approved.

9. Discuss Ordinance Forbidding Firearms on Town of Highlands Recreational Property

Commissioner Gary Drake discussed the different types of ordinance forms received and discussed the definition of weapons. Police Chief Harrell along with Town Attorney William Coward discussed the Town's recreational properties, which also need proper definition, and the pending Ordinance needs to include, for example, Pine Street Park. Commissioner Drake advised that the Ordinance should provide definitions of the types of weapons. Town Attorney Coward advised the Town's Ordinances mentions weapons prohibition is in several places but it should be contained in one place.

The Town Board and Chief Harrell also discussed "storing" weapons within a vehicle. Chief Harrell advised that cannot be policed.

The Town Board directed Town Attorney Coward and Chief Harrell to work together to draft the Ordinance and that this matter is tabled until the next regular meeting.

10. Discuss Increase in Fees of Parking/Unloading Zone Violations

Police Chief Bill Harrell addressed the Town Board advising that there are repeat offenders parking in loading/unloading zones. Presently the ticket for illegal parking is \$10.00 per offense. Chief Harrell advised that the first offense should be \$10.00 and that the Town should raise repeat offenses to the state maximum of \$50.00 for each offense thereafter. The Board discussed this matter and saw no reason not to raise the fee for repeat offenses.

Commissioner Amy Patterson made a motion to increase the ticket fee in the loading/unloading zone to \$10.00 for the first offense and \$50.00 for each offense thereafter, which was seconded by Commissioner Gary Drake, and the vote was unanimous.

11. Discuss/Approve Amendment to Pole Attachment Ordinance

ORDINANCE AMENDMENTS

Pursuant to an affirmative vote of 5 to 0 by the Board of Commissioners of the Town of Highlands at its regular meeting on the 16th day of August, 2011, and an affirmative vote of ___ to ___ by the Board of Commissioners at its regular meeting on the ___ day of _____ 2011 (if necessary) the following ordinances are hereby AMENDED:

EXISTING CODE SECTIONS, FOLLOWED BY *PROPOSED AMENDMENTS IN ITALICS, SHOWING CHANGES.*

I.

7. Permit Fee. The amount of the fee to be paid for an initial permit shall be based upon the total number of attachments the Licensee has. Attachments that are more than 12" apart shall be counted separately.

That Section 7 of the Pole Attachment Ordinance is hereby amended to read as follows:

7. Permit Fee. The amount of the fee to be paid for an initial permit shall be based upon the total number of poles to which the Licensee will be attached.

II.

12. Technical Requirements. In addition to the requirements of the Rules, as defined above, the following further technical requirements shall apply to all Licensees: ...

(b) All existing attachments and facilities shall be consistent with NESC standards. Whenever a new pole is required, attachments and facilities shall be placed no less than fifty-two inches from all power lines.

That Section 12(b) of the Pole Attachment Ordinance is hereby amended to read as follows:

12. Technical Requirements. *In addition to the requirements of the Rules, as defined above, the following further technical requirements shall apply to all Licensees:*

..... (b) All attachments, attachment clearances and all associated facilities shall comply in all respects, and at all times, with all statutes, codes, rules, ordinances, regulations, policies, and all other requirements however named, as promulgated by the IEEE Association (the National Electric Safety Code), the Federal Government, the State of North Carolina, the North Carolina Department of Transportation, the County of Macon, the Town of Highlands, and any and all other regulatory authority with jurisdiction over such matters, and including all divisions, agencies or other subordinate entities of such authorities. It shall be the responsibility of all Licensees to inform themselves of all amendments to the statutes, codes, rules, ordinances, regulations, policies and other requirements, as such amendments may be made, and to make changes as required by such amendments, and it shall be no defense to any action taken by the Town under this Ordinance that the Licensee was unaware of such amendments.

General statutory reference and authority: N.C.G.S. 160A-311; N.C.G.S. 160A-312

Town Engineer Lamar Nix advised the Town Board that an issue had come up and that the proposed Ordinance presented at tonight's meeting requires additional amending. Mr. Nix advised that paragraph 12(b) should be amended to conform to the National Electrical Safety Code (NESC) guidelines. Also, discussed was clearance for new entities and concern was raised by Vice Mayor John Dotson that companies coming into the area in the future, offering multiple services, may run out of space for attachment to poles. Matt Shuler advised that when a pole runs out of space, a larger pole would be needed and that cost would be borne by that entity.

Commissioner Gary Drake moved to approve the Amendment to Pole Attachment Ordinance, as amended, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

12. Discuss/Approve Changing next year's renewal back to July 1st for employee health insurance

At the August 2, 2011 regular meeting of the Town Board, this matter was tabled for further clarification. The Town Board was presented with the below from Michael Norris of Wayah Insurance:

I apologize for leaving out an important word - "offer".

Renewing effective 01 July 2012 will not be automatic. Your written request to stop the plan benefit period 30 June will generate a renewal OFFER, binding on BCBSNC, but not binding on the Town.

This renewal offer will be generated in April and will allow us to compare it with the other bids we solicit.

The Town is never required to accept a renewal offer.

We have communicated the change in waiting period for new employees to BCBSNC and Guardian.

Again, I apologize for the confusion.

As the Board received the clarification needed, Commissioner Amy Patterson moved to approve changing next year's renewal back to July 1st for employee health insurance, which was seconded by Commissioner Gary Drake and the vote was unanimous.

13. Discuss/Approve Resolution Methodist Church proposed rerouting portion of Church St. Alley and set public hearing for Oct. 4th, 2011

This matter has been postponed until the next regular meeting of the Town Board on September 6, 2011.

14. Discuss Town of Highlands Property Evaluations for Insurance Purposes

Town Clerk Rebecca Shuler was contacted by Wayah Insurance and was advised that the Town is underinsured as to its owned properties. Town Clerk Shuler has come before the Town Board for direction as to how to proceed. Discussion was had as to square footage, replacement values and the Board was advised that the Town is underinsured by a factor of 3.

Vice Mayor John Dotson directed staff to obtain updated information as to values of the Town's buildings. Commissioner Gary Drake advised that he would furnish that information to the Finance Committee for review and consideration.

15. Adjournment

As there were no further matters to come before the Board of Commissioners, Commissioner Gary Drake moved to adjourn, which was seconded by Commissioner Larry Rogers and upon unanimous vote the Town Board adjourned at 7:49 p.m.

Rebecca Shuler
Town Clerk

Jane J. Capman
Recording Secretary

Vice Mayor John Dotson

Robert Zoellner
Interim Town Manager