

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF MARCH 2, 2011

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

Also Present: Town Manager Jim Fatland, Police Chief Bill Harrell, Town Engineer Lamar Nix, Interim Town Planner Mark Maxwell, Recreation Director Selwyn Chalker, 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. Swearing in of Auxiliary Police Officers

Magistrate Pat Taylor swore in Christopher Owen, Matthew Canzone and Jennifer Leandro as Auxiliary Police Officers.

3. Public Comments

Tony Potts, Thomas Craig, Alan Marsh, Pat Taylor, Jane Lewis, John Underwood, Ronnie Urban, Alice Nelson, and other voiced their concerns regarding the proposed revisions to the Town Ordinances for Consistency with Town Charter Amendment for Council-Manager Form of Government.

4. Approve Agenda

Although a Revised Agenda was presented to the Town Board of Commissioners for approval, which provided for the removal of item 15 (Revisions to the Town Ordinances for Consistency with Town Charter Amendment for Council-Manager Form of Government) as agreed at the 4:00 P.M. work session, Commissioner Amy Patterson requested that the original Agenda be approved as she wished to make a comment regarding that item.

Commissioner Amy Patterson, moved to approve the Agenda, was seconded by Commissioner Dennis DeWolf and was approved by a vote of 4 to 1. Commissioner Gary Drake voted no.

5. Approve Minutes of February 16, 2011 4:00 P.M. and 7:00 P.M.

Minutes of February 16, 2011 4:00 P.M.

Commissioner Amy Patterson moved to approve the Minutes of February 16, 2011 4:00 P.M., was seconded by Vice Mayor John Dotson and was unanimously approved.

Approve Minutes of February 16, 2011 7:00 PM Meeting

Commissioner Dennis DeWolf moved to approve the Minutes of February 16, 2011, 7:00 P.M., was seconded by Vice Mayor John Dotson and was unanimously approved.

6. Reports

A. Mayor

There was no Mayoral report.

B. Commissioners

There were no Commissioner reports.

Commissioner Amy Patterson inquired of the Town Manager as to the Town Clerk/Deputy Clerk. Mr. Fatland advised that he would bring that matter back before the Town Board at the next meeting.

Commissioner Gary Drake advised Town Engineer Nix that the wall at Third and Main Streets is in bad shape.

C. Committees

Commissioner Gary Drake discussed entrepreneurship in Macon County and advised that Advantage West is a regional economic development partnership and a member of the North Carolina Partnership for Economic Development that serves the 23 western counties of North Carolina. Commissioner Drake advised that their efforts are good for Macon County and the Town of Highlands.

D. Town Manager

Town Manager Fatland advised that the Main Street meeting is set for March 3, 2011.

7. Animal Control Ordinance

The following was provided to the Town Board for their review and consideration. The purpose is to delete redundancies.

AN ORDINANCE TO AMEND PORTIONS OF CHAPTER 3 OF THE CODE OF ORDINANCES FOR THE TOWN OF HIGHLANDS, NORTH CAROLINA. ADOPTED ON THE 2nd DAY OF March, 2011, BY VOTE OF 5 TO 0.

EXISTING CODE SECTIONS ARE SET FORTH, FOLLOWED BY *PROPOSED AMENDMENTS IN ITALICS.*

Sec. 3-1. Vicious animals prohibited.

It shall be unlawful for any person to keep or harbor a fierce or vicious animal. For the purposes of this chapter, the term "vicious animal" shall mean any dog or other animal that, without intentional provocation, bites or attacks humans or other animals, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated.

That section 3-1 of the Code of Highlands, North Carolina, is hereby repealed.

Sec. 3-2. Nuisance dogs.

(a) Definition. The keeping or maintenance of any dog which by prolonged and habitual barking, howling, or whining causes serious annoyance to neighboring residents and interferes with the reasonable use and enjoyment of the premises occupied by such residents, or with the reasonable use and enjoyment of the public streets, sidewalks, or other public areas, is hereby declared to be a public nuisance, and shall be abated as provided in this section.

(b) Complaint and notice. Upon receipt of a written detailed and signed complaint being made to the police department by any resident that any person is maintaining a public nuisance as described in subsection (a), the chief of police shall cause the owner or keeper of the dog in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating officer.

(c) Abatement. If the written findings of the investigating officer indicate that the complaint is justified, then the chief of police shall cause the owner or keeper of the dog in question to be so notified in writing, and ordered to abate such nuisance within forty-eight (48) hours by destruction or removal of such dog, or by construction of a proper enclosure, as the case may necessitate. For the purposes of this section, the term "proper enclosure" shall mean a building or other structure from which a dog cannot escape, or an outside area enclosed by a fence at least six (6) feet in height secured to the ground in a manner so that a dog cannot escape. If the owner or keeper of the dog is unknown and cannot be ascertained, such notice and order, along with a general description of the dog, shall be posted for forty-eight (48) hours at the town hall.

(d) Impoundment; destruction. If any person being the owner or keeper of a dog described in subsection (a) shall fail or refuse to abate such nuisance upon order of the chief of police within the specified time, the chief shall cause the dog in question to be apprehended and impounded in a suitable place, and the

owner or keeper shall be notified in writing of such impoundment. If the owner or keeper shall so request, the dog shall be released to him upon his execution of a written agreement to comply with the abatement order. If no such request and execution is made by the owner or keeper within five (5) days after written notice, the chief of police shall cause such dog to be destroyed. If the owner or keeper of a dog is unknown, the chief shall cause apprehension and impoundment to be carried out if no one claims such dog within forty-eight (48) hours after the notice, order, and description have been posted. The chief shall cause a notice of impoundment, along with a general description of the dog, to be posted five (5) days at the town hall. If no request for release of such dog and execution of agreement to comply with the order of abatement respecting such dog is made within such five (5) day period the chief shall cause such dog to be destroyed.

(e) Penalties. If any person, being the owner or keeper of a dog respecting which an order of abatement has been issued, shall fail or refuse to abate the nuisance as ordered, he shall be guilty of a misdemeanor, punishable in accordance with the provisions of section 1-5. In addition, enforcement of this section may be by injunction, restraining order, or order of abatement in a court of competent jurisdiction, as provided by G.S. section 160A-175.

That section 3-2 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

a) Definition. The keeping or maintenance of any dog which by prolonged and habitual barking, howling, or whining causes serious annoyance to neighboring residents and interferes with the reasonable use and enjoyment of the premises occupied by such residents, or with the reasonable use and enjoyment of the public streets, sidewalks, or other public areas, is hereby declared to be a public nuisance, and shall be abated as provided in this section. Nuisance dogs, as defined herein, are declared to be nuisances under Chapter 8 of this Ordinance (“Nuisance”).

b) Complaint and notice. Repealed.

c) Abatement. Repealed.

d) Impoundment; destruction. Repealed.

e) Penalties. Repealed.

Sec. 3-4. Animal cruelty.

It shall be unlawful for any person to overdrive, overload, drive when overloaded, overwork, torture, deprive of necessary sustenance, cruelly beat, mutilate or kill needlessly, or to carry in any vehicle or otherwise transport in a cruel and inhumane manner, any animal, or to cause any of these acts or omissions to be done. It shall be unlawful for any animal owner to fail to provide such animal with proper food, drink, protection from the weather, and necessary medical treatment to prevent suffering, or to cause any of these acts or omissions to be done.

That section 3-4 of the Code of Highlands, North Carolina, is hereby repealed.

Sec. 3-5. Responsibility to control dogs.

(a) The owner or keeper of any dog shall be responsible for controlling said animal at all times, in order to prevent said animal from annoying or disturbing other pedestrians, destroying property, or disturbing trash placed for collection in suitable containers. Any dog which habitually engages in any of the foregoing activities is hereby declared to be a public nuisance, and shall be abated as provided in section 3-2.

That section 3-5(a) of the Code of Highlands, North Carolina, is hereby repealed.

END OF ORDINANCE

NOTE CONCERNING SECTIONS NOT AMENDED

The following sections of Chapter 3 are **not** amended:

Sec. 3-3. Immediate destruction.

Nothing in this chapter shall be construed to prevent the immediate destruction by a police officer of any vicious dog or other animal when less drastic methods, such as tranquilizing, are not available or effective and when neither a member of the police department nor the animal's owner is able to restrain or control the animal so that it might be impounded.

Sec. 3-5. Responsibility to control dogs.

... (b) The owner or keeper of any dog shall be responsible, if said animal shall defecate upon the public streets, sidewalks, or other public area, for collecting and properly disposing of said fecal matter. Any person, being the owner or keeper of any such dog, and who does not immediately so collect and properly dispose of said fecal matter, shall be guilty of a misdemeanor, punishable in accordance with the provisions of section 1-5. (See amendment of Sec. 3-5(a) above)

(c) It shall be unlawful for any person to willfully allow a dog to enter upon or remain within the Highlands Ball Park, on Hickory Street, at any time, for any purpose, whether leashed or unleashed. "Highlands Ball Park", as used in this section, shall mean the area enclosed with fencing and owned by the Town at 444 Hickory Street in Highlands. Violation of this section shall be a misdemeanor, punishable in accordance with the provisions of Highlands Code Section 1-5. Allowing a dog to run loose such that it habitually enters upon the Highlands Ball Park shall be included within the list of "nuisance" activities under other provisions of this Chapter.

NOTE CONCERNING WORDING OF AMENDMENTS

Sec. 1-4. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the board of commissioners.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific references to the section number of this Code in the following language: "That section ___ of the Code of Highlands, North Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Highlands, North Carolina, is hereby amended by adding a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions of the Code desired to be repealed must be specifically repealed by section, article, or chapter number, as the case may be.

As there was no discussion, Commissioner Amy Patterson moved to approve the Ordinance to Amend Portions of Chapter 3 of the Code of Ordinances, was seconded by Commissioner Larry Rogers and was unanimously approved.

8. Final Design for Sidewalk Improvements at Fourth and Main Streets

Town Engineer Lamar Nix advised the Town Board that the proposal for the project came in at \$66,302.00 for the sidewalk improvements at Fourth and Main Streets. Although the final amount is approximately \$2,300.00 over budget, Mr. Nix advised that he would look for ways to reduce expenditures.

Alan Marsh inquired of the Board as to the use of benches, being concerned for the safety of pedestrian foot traffic, and if the sidewalks would be sufficiently wide to include benches. Mr. Marsh also inquired if there was a "Bench Ordinance" and was advised that there was not one in place. The Town Board stated that they would consider a Bench Ordinance in the future.

Commissioner Amy Patterson moved to approve the Final Design for Sidewalk Improvements at Fourth and Main Streets up to \$66,302.00, and was seconded by Gary Drake.

Additional discussion was had as to the issue of benches and Vice Mayor John Dotson stated that he agreed with Mr. Marsh and the Planning Board should take a look at the benches that are on public property and that maybe there should be a bench ordinance.

Architect Hank Ross showed the Board a detailed rendering of the designed area and advised that benches were not in the budget but that the town would provide benches in front of the deli and showed that there was at least a six-foot clearance from the bench to the curb.

Mayor Wilkes advised that the bench issue could be addressed before they are actually put in place.

As there was no further discussion, a second motion was made by Vice Mayor John Dotson to approve the Final Design for Sidewalk Improvements at Fourth and Main Streets up to \$66,302.00, was seconded by Commissioner Amy Patterson and was unanimously approved.

9. Hudson Library Sidewalk Improvements

The Hudson Library Board is currently proceeding with approvals through the Zoning Board of Adjustment for enhancements to the exterior of the building as well as new landscape and hardscape.

In addition to enhancing the library's private property, the board would like to upgrade the public sidewalk from property line to property line with brick to match the existing sidewalks around town. In addition to bricking the sidewalk, the board would like to add a circular design to the sidewalk in order to provide a place for new signage, as well as, adding an area of planting.

It is recommended that the Town Board review the plan submitted by the Hudson Library Board and make a decision on the improvements to the public sidewalk.

Robert Smith, Library Board President Member and Paul Schmitt, Architect discussed the ongoing upgrades, bringing the site into compliance with the American with Disability Act, lighting, the need for better visibility of the library and pavers. Mr. Schmitt showed a rendering to the Town Board and discussed the color of the pavers.

Commissioner Amy Patterson moved to approve the Hudson Library Sidewalk Improvements, was seconded by Vice Mayor John Dotson and was unanimously approved and sent to the Planning Board for their review and consideration.

10. Greenway Construction Contract

Jay Calloway was awarded the construction contract for the Greenway project and was required to obtain a bond. Mr. Calloway advised that he was unable to obtain the bond and was looking to the Town Board to waive that requirement and advised that he would reduce his estimate by the bond amount.

Town Engineer Nix discussed the original costs and advised that he had spoken with the Town Attorney William Coward and McGill Associates about this issue. Mr. Nix further advised that he had spoken with the second highest bidder who stated that he had no objection if the Town Board waived the bond requirement.

After further discussion, Town Attorney William Coward advised that this matter needs to be discussed in closed session.

11. Donation of Generator for Civic Center

William Cheney donated a generator to Macon County, which was never used. Macon County is now donating the 250kw Onan generator through Warren Cabe, Director of the Macon County Emergency Services, to the Highlands Parks and Recreation Department. The generator itself, being free of charge, will require some additional funding to install. Prices for transportation and the concrete mounting slab will run approximately \$5,000.00 and we have been gathering estimates for the installation fee which will be presented in the near future.

The acceptance of the generator will allow the Highlands Parks and Recreation Department to operate in emergency disaster situations. The Department could also eventually be used as a shelter. It is recommended that the Town Board approve the acceptance of the gift of the generator from the County.

Recreation Director Selwyn Chalker discussed with the Town Board the necessity of the Board's approval to accept the generator. Also discussed was the pouring of the concrete slab for the generator. Mr. Chalker advised that he was still in the process of obtaining quotes for the installation fee.

Commissioner Larry Rogers stated that the generator was something that the Town of Highlands could use.

Vice Mayor John Dotson inquired as to the previous maintenance of the generator and was advised by Mr. Chalker that it was in good shape.

Commissioner Gary Drake made a motion to accept the Donation of the Generator for Civic Center, was seconded by Commissioner Larry Rogers and was unanimously approved.

12. Records Retention & Disposition Schedule.

(Approval of Municipal Records Retention and Disposition Schedule May 19, 2009)

The Town of Highlands has used the North Carolina Department of Cultural Resources Records Retention and Disposition Schedule throughout the years as a reference for our retention and disposition of Public Records. According to North Carolina General Statute Chapter 132, "no public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5 and G.S. 130A-99, without the consent of the Department of Cultural Resources." The Department of Cultural Resources creates and updates Municipal Records Retention and Disposition Schedules regularly and with each update there is an option to approve the recommended schedule until it is revised again via resolution. Without this approval, in house maintenance is not allowed without constant contact and permission from the Department of Cultural Resources. The most current copy of the schedule is located at the North Carolina Department of Cultural Resources Website.

As to the fiscal impact, approving the Department of Cultural Resources Records and Retention Schedule would bring the Town up to date and make the Town compliant with general retention and disposition practices in North Carolina. It is recommended that the Town Board of Commissioners approve the use of the North Carolina Department of Cultural Resources Municipal Records and Disposition Schedule.

Commissioner Dennis DeWolf moved to approve the use of the North Carolina Department of Cultural Resources Municipal Records and Disposition Schedule, was seconded by Commissioner Larry Rogers and was unanimously approved.

13. Post Vacancy to Zoning Board of Adjustment

At the regular Town of Highlands Board of Commissioners meeting on August 4, 2010, Alternate Eric Pierson was appointed to the Zoning Board of Adjustment to fill the July 1, 2010 expired term of past member Bill Rethorst. This left a vacant position for an alternate.

It is recommended that the Town Board approve the posting of the 2nd alternate vacant position on the Zoning Board.

Commissioner Amy Patterson moved to approve the posting of the vacancy to the Zoning Board of Adjustments, was seconded by Vice Mayor John Dotson and was unanimously approved.

14. Appointment to Town Committees

Interim Town Planner Mark Maxwell addressed the Town Board and discussed how many positions will be coming up after the expiration of the terms. The Commissioners discussed the situation of one person serving on two boards and that it may be in violation of an Ordinance. Mr. Maxwell stated that he would provide the Board with a list of all persons on the various board and their expiration dates.

Vice Mayor John Dotson moved to appoint Linda Clark to the Planning Board, was seconded by Commissioner Gary Drake was unanimously approved.

Vice Mayor John Dotson moved to appoint Dixie Barton to the Appearance Commission, was seconded by Commissioner Gary Drake was unanimously approved.

It was decided amongst the Board member to hold off on the appointment of Thomas Craig to the Appearance Commission until it is determined whether or not any ordinance prohibits appointees from serving on more than one board at the same time.

15. Revision to Town Ordinances for Consistency with Town Charter Amendment for Council-Manager Form of Government

ORDINANCE AMENDMENTS

Pursuant to an affirmative vote of ___ to ___ by the Board of Commissioners of the Town of Highlands at its regular meeting on the ___ day of _____ 2011, and an affirmative vote of ___ to ___ by the Board of Commissioners at its regular meeting on the ___ day of _____ 2011 the following ordinances are hereby

AMENDED:

General statutory reference and authority:

§ 160A-67. General powers of mayor and council. Except as otherwise provided by law, the government and general management of the city shall be vested in the council. The powers and duties of the mayor shall be such as are conferred upon him by law, together with such other powers and duties as may be conferred upon him by the council pursuant to law. The mayor shall be recognized as the official head of the city for the purpose of service of civil process, and for all ceremonial purposes.

§ 160A-146. Council to organize city government. The council may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the city government and generally organize and reorganize the city government in order to promote orderly and efficient administration of city affairs, subject to the following limitations:

- (1) The council may not abolish any office, position, department, board, commission, or agency established and required by law;
- (2) The council may not combine offices or confer certain duties on the same officer when such action is specifically forbidden by law;
- (3) The council may not discontinue or assign elsewhere any functions or duties assigned by law to a particular office, position, department, or agency.

§ 160A-147. Appointment of city manager; dual office holding. (a) In cities whose charters provide for the council-manager form of government, the council shall appoint a city manager to serve at its pleasure. The manager shall be appointed solely on the basis of the manager's executive and administrative qualifications. The manager need not be a resident of the city or State at the time of appointment. The office of city manager is hereby declared to be an office that may be held concurrently with other appointive (but not elective) offices pursuant to Article VI, Sec. 9, of the Constitution....

§ 160A-148. Powers and duties of manager. The manager shall be the chief administrator of the city. He shall be responsible to the council for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

- (1) He shall appoint and suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the city attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the council may adopt.

(2) He shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the council, except as otherwise provided by law.

(3) He shall attend all meetings of the council and recommend any measures that he deems expedient.

(4) He shall see that all laws of the State, the city charter, and the ordinances, resolutions, and regulations of the council are faithfully executed within the city.

(5) He shall prepare and submit the annual budget and capital program to the council.

(6) He shall annually submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of the fiscal year.

(7) He shall make any other reports that the council may require concerning the operations of city departments, offices, and agencies subject to his direction and control.

(8) He shall perform any other duties that may be required or authorized by the council.

§ 160A-162. Compensation.

(a) The council shall fix or approve the schedule of pay, expense allowances, and other compensation of all city employees, and may adopt position classification plans; any compensation or pay plan may include provisions for payments to employees on account of sickness or disability. In cities with the council-manager form of government, the manager shall be responsible for preparing position classification and pay plans for submission to the council and, after any such plans have been adopted by the council, shall administer them. In cities with the mayor-council form of government, the council shall appoint a personnel officer (or confer the duties of personnel officer on some city administrative officer); the personnel officer shall then be responsible for administering the pay plan and any position classification plan in accordance with general policies and directives adopted by the council.

(b) The council may purchase life, health, and any other forms of insurance for the benefit of all or any class of city employees and their dependents, and may provide other fringe benefits for city employees.

§ 160A-163. Retirement benefits. (a) The council may provide for enrolling city employees in the Local Governmental Employees' Retirement System, the Law-Enforcement Officers' Benefit and Relief Fund, the Firemen's Pension Fund, or a retirement plan certified to be actuarially sound by a qualified actuary as defined in subsection (d) of this section, and may make payments into any such retirement system or plan on behalf of its employees. The city may also supplement from local funds benefits provided by the Local Governmental Employees' Retirement System, the Law-Enforcement Officers' Benefit and Relief Fund, or the Firemen's Pension Fund.

(b) The council may create and administer a special fund for the relief of members of the police and fire departments who have been retired for age, or for disability or injury incurred in the line of duty, but any such funds established on or after January 1, 1972, shall be subject to the provisions of subsection (c) of this section. The council may receive donations and bequests in aid of any such fund, shall provide for its permanence and increase, and shall prescribe and regulate the conditions under which benefits may be paid.

(c) No city shall make payments into any retirement system or plan established or authorized by local act of the General Assembly unless the plan is certified to be actuarially sound by a qualified actuary as defined in subsection (d) of this section.

(d) A qualified actuary means an individual certified as qualified by the Commissioner of Insurance, or any member of the American Academy of Actuaries.

(e) A city which is providing health insurance under G.S. 160A-162(b) may provide health insurance for all or any class of former employees of the city who are receiving benefits under subsection (a) of this section or who are 65 years of age or older. Such health insurance may be paid entirely by the city, partly by the city and former employee, or entirely by the former employee, at the option of the city.

(f) The council may provide a deferred compensation plan. Where the council provides a deferred compensation plan, the investment of funds for the plan shall be exempt from the provisions of G.S. 159-30 and G.S. 159-31. Cities may invest deferred compensation plan funds in life insurance, fixed or variable annuities and retirement income contracts, regulated investment trusts, or other forms of

investments approved by the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan.

(g) Should the council provide for a retirement plan, a plan which supplements a State administered plan, or a special fund, any benefits payable from such plan or fund on account of the disability of city employees may be restricted with regard to the amount which may be earned by the disabled former employee in any other employment, but only to the extent that the earnings of disability beneficiaries in the Local Governmental Employees' Retirement System are restricted in accordance with G.S. 128-27(e)(1).

§ 160A-177. Enumeration not exclusive. The enumeration in this Article or other portions of this Chapter of specific powers to regulate, restrict or prohibit acts, omissions, and conditions shall not be deemed to be exclusive or a limiting factor upon the general authority to adopt ordinances conferred on cities by G.S. 160A-174.

§ 160A-281. Policemen appointed. A city is authorized to appoint a chief of police and to employ other police officers who may reside outside the corporate limits of the city unless the council provides otherwise.

§ 160A-282. Auxiliary law-enforcement personnel; workers' compensation benefits.

(a) A city may by ordinance provide for the organization of an auxiliary police department made up of volunteer members.

(b) A city, by enactment of an ordinance, may provide that, while undergoing official training and while performing duties on behalf of the city pursuant to orders or instructions of the chief of police of the city, auxiliary law-enforcement personnel shall be entitled to benefits under the North Carolina Workers' Compensation Act and to any fringe benefits for which such volunteer personnel qualify.

(c) The board of commissioners of any county may provide that persons who are deputized by the sheriff of the county as special deputy sheriffs or persons who are serving as volunteer law enforcement officers at the request of the sheriff and under his authority, while undergoing official training and while performing duties on behalf of the county pursuant to orders or instructions of the sheriff, shall be entitled to benefits under the North Carolina Workers' Compensation Act and to any fringe benefits for which such persons qualify.

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

I.

Highlands Code, Sec. 2-47. Other officers and employees.

(a) Such other officers and employees that are deemed necessary shall be appointed annually by the board. All officers and employees shall serve at the pleasure of the board and receive such compensation as from time to time may be prescribed by the board.

(b) The board may adopt or provide for rules and regulations or ordinances concerning but not limited to annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, hours of employment, holidays, working conditions, service award and incentive award programs, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and honest career employees.

That section 2-47 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

Sec. 2-47. Other officers and employees.

II.

That the Code of Highlands, North Carolina, is hereby amended by adding a NEW section, to be numbered 2-48, which shall read as follows:

The Town Manager shall consult with the Board of Commissioners, in closed session, prior to the termination of any employee, unless circumstances require immediate termination.

III.

Highlands Code, Sec. 10-1. Organization.

The board shall, at such time as it deems proper, elect a chief of police, for the town, to serve for such time as the board may decide upon, and to receive such salary as the board may prescribe. The board shall also elect such other policemen or assistants as it may deem proper, to serve for such time and receive such compensation as the board may prescribe.

That section 10-1 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

IV.

Highlands Code, Sec. 10-2. Board to have control.

The board shall have general supervision over the police department. The board may suspend for cause any member of the police department until the next regular meeting at which time final disposition shall be made.

That section 10-2 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

V.

Highlands Code, Sec. 10-4. Chief of police.

The chief of police shall have control over the police department under the supervision of the board. He shall be responsible to the mayor. The chief of police shall keep the mayor informed of the department's activities. The mayor shall advise the chief of police of any directives from the board, and the chief of police shall in turn advise the other policemen. The chief of police shall perform such other duties as may be required of him by the board.

That section 10-4 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

VI.

Highlands Code, Sec. 10-56. Auxiliary police division established.

There is hereby established within the town police department, as a division thereof, an auxiliary police division. The auxiliary police division shall be a volunteer organization, composed of as many members as may from time to time be determined by the board. Each appointment to the auxiliary police division shall be approved by the board.

That section 10-56 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

VII.

Highlands Code, Sec. 10-57. Chief of police to control; appointments and removals.

(a) The auxiliary police division shall be under the direct control of the chief of police, acting under the general supervision of the board. All appointments and removals of members of the auxiliary police division shall be made in the same manner and under the same policies and procedures as may from time to time be established for appointment and removal of regular police officers.

(b) The auxiliary police division shall have no commanding officer, nor any officers, and all members shall bear the rank of patrolman. Each member of the auxiliary police division shall take the oath of office of a regular policeman. The chief of police shall provide for adequate training of members of the auxiliary police division, and of candidates for membership.

That section 10-57 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

VIII.

Highlands Code, Sec. 10-58. Duties.

(a) The duties of the auxiliary police division, subject at all times to the direction, supervision and control of the chief of police, shall be to assist the regular members of the police department in the enforcement of law and the maintenance of peace and order when called to active duty by the chief of police. The chief of police shall by order establish rules and regulations to govern the auxiliary police division, to fix the specific duties of its members, and to provide for the maintenance of discipline. Members of the auxiliary police division shall obey the instructions of regular police officers in carrying out their duties.

(b) The chief of police may prescribe other duties than those mentioned herein to be performed by the auxiliary police division, with approval of the board.

That section 10-58 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

IV.

STORMWATER ORDINANCE

ARTICLE 3: ADMINISTRATION AND PROCEDURES

300 GENERAL

The Town of Highlands will administer this Ordinance. The Town Board will designate a Stormwater Administrator. In addition to the powers and duties that may be conferred, the Stormwater Administrator shall have the following powers and duties under this Ordinance:

A. To review and approve or disapprove applications for approval of plans pursuant to the requirements of this Ordinance.

B. To make determinations and render interpretations of the requirements of this Ordinance.

C. To establish application requirements and schedules for submittal and review of applications and appeals and to review and approve applications.

D. To enforce the provisions of this Ordinance in accordance with its enforcement provisions.

E. To make records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this Ordinance.

F. To provide expertise and technical assistance to the Town of Highlands.

G. To carry out the technical duties outlined in this Ordinance, the Stormwater Administrator may contract such services to another local government or private entity.

H. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

I. To take necessary actions to administer the provisions of this Ordinance.

That the Town of Highlands Stormwater Ordinance is hereby amended to read as follows:

AMENDMENT OF ZONING ORDINANCE

Upon the submission of the amendments set forth hereinbelow to the Planning Board for recommendation and comment, and having received the comments and recommendations of the Planning Board, and the Board of Commissioners having adopted a statement describing why the Board considers the action taken to be reasonable and in the public interest (such statement being set forth separately in the minutes of the meeting of _____) and upon a public hearing held on _____, duly advertised as required under Section 709(C), and an affirmative vote of ___ to ___ by the Board of Commissioners of the Town of Highlands at its regular meeting on the ___ day of _____ 2011, and an affirmative vote of ___ to ___ by the Board of Commissioners at its regular meeting on the ___ day of _____ 2011, the following sections of the Town's Zoning Ordinance are hereby AMENDED:

X.

701.1. Appointment and removal.

The Board of Commissioners of the Town, shall, by vote of a majority of its members, appoint a Zoning Administrator, who shall be duly sworn in. The Zoning Administrator shall serve at the pleasure of the Board of Commissioners and may be removed from office without cause at any time upon the affirmative vote of a majority of the members of the Board.

That section 701.1 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

XI.

701.6. Availability for duty.

The Zoning Administrator shall be available to receive applications during each regular business day. The Board of Commissioners shall have the authority to appoint a Deputy Zoning Administrator to serve in the place and stead of the Zoning Administrator for those times that the Zoning Administrator shall be on leave of absence.

That section 701.6 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

XII.

Section 704 Watershed Administrator

704.1. Appointment and removal.

The Board of Commissioners of the Town, shall, by vote of a majority of its members, appoint a Watershed Administrator, who shall be duly sworn in. The Watershed Administrator shall serve at the pleasure of the Board of Commissioners and may be removed from office without cause at any time upon the affirmative vote of a majority of the members of the Board.

That section 704.1 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

NOTE CONCERNING WORDING OF AMENDMENTS

(Town of Highlands, Code) Sec. 1-4. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the board of commissioners.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific references to the section number of this Code in the following language: "That section _____ of the Code of Highlands, North Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Highlands, North Carolina, is hereby amended by adding a section, to be numbered _____, which said section reads as follows: . . ." The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions of the Code desired to be repealed must be specifically repealed by section, article, or chapter number, as the case may be.

As stated above, a Revised Agenda was presented to the Town Board of Commissioners for approval, which provided for the removal of this agenda item at the 4:00 P.M. work session, however, Commissioner Amy Patterson requested that this Agenda item remain as she wished to make a comment.

Commissioner Amy Patterson discussed what changes/deletions should be made and made a motion as to the Amendment for Council-Manager form of Government to keep Sections 10-1, 10-2, and 10-4, delete Sections 10-56, 10-57 and 10-58 and as to the Amendment to the Zoning Ordinance, to include the words "Zoning Administrator/Planning Director".

Mayor Wilkes stated that he was hesitant on voting on this matter until the final language was written. Commissioner Gary Drake suggested that the amendments should be written up both ways (as suggested by Commissioner Patterson and Commissioner Drake).

Commissioner Patterson restated her motion to keep Sections 10-1, 10-2, 10-4, delete Sections 10-56, 10-57 and 10-58 and as to the Amendment to the Zoning Ordinance, to include the words "Zoning Administrator/Planning Director" and was seconded by Commissioner Dennis DeWolf. The vote was 3 to 2 with Commissioners Gary Drake and Larry Rogers voting no.

Commissioner Gary Drake then made a motion to bring back the Ordinance changes as agreed to at the 4:00 P.M. meeting and was seconded by Commissioner Larry Rogers. The vote was 3 to 2 with Commissioners Dennis DeWolf and Amy Patterson voting no.

16. Closed Session

At 8:36 p.m., Commissioner Gary Drake moved the Town Board into closed session, was seconded by Commissioner Larry Rogers and the vote was unanimous.

No action was taken.

The Town Board returned to open session and the following action items took place:

- Town Board approved on 4-1 vote (Amy Patterson opposed) to award Greenway Construction Contract to Tate Landscaping. Tate Landscaping has 20 days to submit performance bond. As you heard earlier in the presentation, Jay Calloway was unable to meet the performance bond requirement.
- Town Board proposed having an Employee Meeting to present recently approved Board policies. Grievance procedure, Drug Policy, Form of Government. Since Board Members will be attending, the meeting will be properly noticed.

17. Adjourn

As there were no further matters to come before the Board of Commissioners, Commissioner Amy Patterson moved to adjourn, was seconded by Commissioner Larry Rogers and the Town Board adjourned at 10:16 p.m.

James R. Fatland
Town Manager

Jane J. Capman
Recording Secretary

David Wilkes
Mayor