

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF APRIL 6, 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, Fire Dept. Administrator Bobby Houston, 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. **Public Comments**

Discussion was held as to the Town Board's consideration of passing a lower budget this year.

3. **Approve agenda**

Commissioner Gary Drake requested that Item 10 of the Agenda be moved before Item 9. Commissioner Drake also requested that Item 11 be pulled however, Commissioner Amy Patterson requested that it remain on the Agenda for discussion.

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 March 9 (4PM); March 16 (4PM & 7PM)**

Minutes of March 9, 2011 (4:00 PM)

Commissioner Gary Drake moved to approve the Minutes of March 9, 2011 (4:00 P.M. meeting), which was seconded by Commissioner Dennis DeWolf and was unanimously approved.

Minutes of March 16, 2011 (4:00 P.M.)

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

Minutes of March 16, 2011 (7:00 P.M.)

Section 2, Public Comments, second paragraph of the Minutes of March 16, 2011 (7:00 P.M.) is amended to read as follows: Richard Delaney, Steve Day, Dick Hills, and Brian Buckley spoke in favor of changing the Ordinances to conform them to the Town Charter.

Commissioner Dennis DeWolf moved to approve the Minutes of March 16, 2011 (7:00 P.M. meeting), as amended, which was seconded by Vice Mayor John Dotson and was unanimously approved.

5. **Reports**

A. **Mayor**

Mayor Wilkes commended all the people who worked on the corner of Main Street and Fourth Street for the wonderful job done.

B. **Commissioners**

Commissioner Amy Patterson inquired of Town Attorney Coward if the Town Charter conformed to the Ordinances. Town Attorney Coward advised that it is the opinion of A. Fleming Bell at the UNC School of Government that they did not conform and further explained the forms of government. After much discussion and further explanations, it was agreed to extend an invitation to A. Fleming Bell of the North Carolina School of Government to come before the Board and explain whether or not the Town's Charter complies with State statutes.

C. **Committees**

The Finance Committee will discuss the proposed FY12 Special Revenue Fund Budgets during tonight's meeting.

D. **Town Manager**

Town Manager Jim Fatland advised that the deadline for the non-profit organizations had now passed, that 14 applications have been submitted and that matter will be brought before the Town Board for consideration at a later date.

6. A. **Public Hearing: Gaming Machines**

Public Hearing: Gaming Machines

The Town Board requested that the Planning Board create an amendment to the Zoning Ordinance regulating Electronic Gaming Operations. Mark Maxwell addressed the Town Board and directed the Board to the amendment unanimously recommended for approval by the Planning Board. Total exclusion of the gaming operations is a questionable practice, so it was decided to allow the use as a principle or accessory use in nonresidential zoning districts through the issuance of a Special Use Permit. Some examples of other special uses are craft fairs, nonprofit visual art centers, multi-family dwellings, indoor theaters, hotels, motels, restaurants, and churches. The amendment would regulate new gaming uses by regulating their hours of operation, number of machines allowed, parking, and distance from residentially zoned districts and other uses such as churches and parks.

Mayor Wilkes opened the public hearing at approximately 7:45.

Elaine Johnson addressed the Town Board and stated that she did not want the Town of Highlands to become the "Las Vegas of the Smokies". Ms. Johnson also inquired as to age restrictions and monitoring of identification. Mayor Wilkes advised that these things would be the gaming establishments' responsibilities.

Police Chief Bill Harrell advised Ms. Johnson and the Town Board that the Town of Highlands has been commended for taking the time to "get a handle on the gaming situation" and taking a pro-active position.

Cynthia Strain voiced her concerns about the number of machines that will be permitted and questioned why so many (10). Ms. Strain inquired if 4 or 5 machines wouldn't be better. Ms. Strain also inquired as to the cost and procedures of obtaining a Special Use Permit.

The Board heard further abundant comments and engaged in lengthy discussion as to restricting the number of machines, distances between establishments (which the Planning Board did not include in the proposed amendment) the necessity of obtaining a Special Use Permit and square footage requirements, the cases presently in the Court of Appeals concerning whether the ban on electronic gaming is partially unconstitutional and the necessity to have an Ordinance in place for when and if the games become legal.

Town Attorney William Coward discussed with the Board what other municipalities have done and their requirement for distances between the gaming establishments.

Bobby Smith, owner of Deuces Wild in Franklin, voiced support for gaming, and stated that he never had a problem with patrons. He stated that bingo and scratch-off lottery tickets are also "gambling" and that everyone there would participate if given the chance.

Commissioner Amy Patterson requested clarification of paragraph E of the proposed amendment as to the last sentence which states, "No alcohol is to be sold for consumption in the establishment." Interim Planning Director Mark Maxwell explained.

Seeing there were no further comments from the public, Commissioner Dennis DeWolf moved to close the public hearing, which was seconded by Vice Mayor John Dotson and carried unanimously. The public hearing was closed at approximately 8:15 p.m.

The Town Board conducted a lengthy discussion about the proposed amendment.

Commissioner Gary Drake requested that the following language be added to paragraph E: ...or any alcohol consumed in the establishment. Commissioner Amy Patterson stated that there

was an error in paragraph D of the proposed amendment in that the conditional use permit should read as Special Use Permit.

Vice Mayor John Dotson stated that due to the amount of questions the Town Board had and that the answers were not readily available made a motion to place a 60 day moratorium on any and all approvals of permits for new electronic gaming operations, as defined in House Bill 80 (N.C.G.S. §14-306.4 and N.C.G.S. §14-306.1a), which was seconded by Commissioner Gary Drake.

Mayor Wilkes stated that this matter needs to be brought back to the Town Board as quickly as possible and to have this matter sent back to the Planning Board for distance recommendations, the number of machines that will be permitted, incidental use and primary use and the need to determine the areas within the Town of Highlands that would be available for the gaming machines. Commissioner Dennis DeWolf stated that he preferred five machines. Commissioner Larry Rogers stated that this would be "legalized gambling" on Sunday as the establishments would be open seven days a week.

Town Attorney Coward read into the minutes a portion of House Bill 80 (2009 session):

AN ACT TO BAN THE USE OF ELECTRONIC MACHINES AND DEVICES FOR
SWEEPSTAKES PURPOSES.

The General Assembly of North Carolina enacts:

Whereas, the 1791 General Assembly determined that "all public gaming-tables are destructive of the morality of the inhabitants of this State, and tend greatly to the encouragement of vice and dissipation" (Law of 1791, Chapter 5); and

Whereas, the State of North Carolina has continuously prohibited public gaming in North Carolina since 1791; and

Whereas, the State of North Carolina specifically prohibited the use of slot machines in 1937; and

Whereas, the State of North Carolina specifically prohibited the use of video poker machines in 2000 and again in 2006; and

Whereas, the State of North Carolina has previously determined that such purpose should be carried out to prevent the operation of bingo by professionals for profit, prevent commercialized gambling, prevent the disguise of bingo and other game forms or promotional schemes, and prevent participation by criminal and other undesirable elements; and

Whereas, any federally recognized Indian tribe may conduct such video poker games in accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8; and

Whereas, the State of North Carolina has previously determined that no video poker machine may be utilized for play under Chapter 18C of the General Statutes; and Whereas, since 2006, companies have developed electronic machines and devices to gamble through pretextual sweepstakes relationships with Internet service, telephone cards, and office supplies, among other products; and

Whereas, companies using electronic machines and devices for sweepstakes have sought, and received, declaratory relief from the courts; and

Whereas, such electronic sweepstakes systems utilizing video poker machines and other similar simulated game play create the same encouragement of vice and dissipation as other forms of gambling, in particular video poker, by encouraging repeated play, even when allegedly used as a marketing technique; and

"Whereas, it hath appeared to this General Assembly that the before recited acts hath not that good effect which was intended"...

Commissioner John Dotson moved to amend his motion to place a 60 day moratorium on all new gaming establishments, as defined in and prohibited by House Bill 80 (2009), based on the

findings in that bill and the concerns addressed before, with directions to the Planning Board and staff to bring back recommendations for distances, the number of machines that will be permitted, the issue of incidental use versus primary use, and the need to determine the areas within the Town that would be available for the gaming machines. This motion to amend, which was seconded by Commissioner Gary Drake, was approved unanimously and the Board passed the 60-day moratorium by unanimous vote.

7. **Bear Smart Initiative**

Jackson-Macon Conservation Alliance

Mission Statement

The goal of the Bear Smart Initiative is to promote safe coexistence between bears and humans by fostering appreciation for bears, addressing the root causes of bear-related incidents, and teaching principles for living safely with bears.

Overview

As more people build homes in bear habitat, more conflicts have arisen between humans and bears. As a result of the improper storage of garbage, the easy availability of bird seed, and the intentional feeding of bears, some bears become habituated to human food sources and become a nuisance to us. Occasionally bears can become a serious threat to human safety and must be destroyed.

“Problem” bears are the result of human carelessness and indifference. Therefore, the responsibility to manage bear/human conflicts and to learn how to live in harmony with them rests with the entire community.

The Bear Smart Initiative is a collaborative effort of non-profit groups and community members coordinated by the Jackson-Macon Conservation Alliance. Bear Smart community programs originated in British Columbia, and similar efforts have been initiated in several communities across North America. J-MCA plans to follow the principles and guidelines provided by the Get Bear Smart Society (see www.getbearsmart.com) and other published materials.

The group will engage local, county and state agencies, as well as other organizations and groups as the scope of the project develops.

A comprehensive “Bear Hazard Assessment” will be overseen by a certified wildlife biologist. This is an important step for identifying specific problems and geographic areas where bears are known to travel, feed and den, which will help the group find effective solutions through a subsequent “Community Action Plan.”

Community outreach efforts will include a variety of informational programs and materials for the general public, schools, community groups, and housing associations/country clubs. A Mountain Black Bear Festival is planned for June 10th and 11th 2011 in Highlands. In addition, the group will participate in Wilderness Wildlife Days in Sapphire Valley in July.

Educational materials include publishing a leaflet specifying bear-safe principles, as well as distributing other materials such as brochures and DVD’s. The J-MCA website will have extensive information and links to resources, and we will share information with other organizations for their websites.

Trained volunteers will also be available to provide assistance (advice and information) on a one-on-one basis when people report problems with bears.

The group’s initial focus will be limited to communities in and around Jackson and Macon Counties. J-MCA and the Bear Smart Initiative committee plan to establish this initiative as a model program that can, and with hopes, will be adapted in other communities.

The current Bear Smart Initiative Committee members include:

The Jackson-Macon Conservation Alliance—Debbie Lassiter (Administrative Director), Cynthia Strain (committee chair), Mary Osmar, Dan Allen and Robert E. Smith (board members)

WildSouth -John Edwards (Outreach Coordinator) and Ben Prater (Associate Director)

The American Bear Association -Bill and Klari Lea

Appalachian Bear Rescue—Anne Allison and Kathy Sherrard

Highlands Plateau Audubon -- Russ Regnery

Town of Highlands Police -- Chief Bill Harrell

At Large Members

Cynthia Strain addressed the Town Board and stated that there is great concern regarding the increased instances of bear problems in our community and that this program is to educate the public and government officials in safety issues. Also discussed were bear hunters and property owners. Ms. Strain passed out a flyer for the Board's review. Town Manager Fatland requested that the information be added to the Town's website. The Town Board agreed and to also have flyers available at Town Hall.

Mayor Wilkes applauded the initiatives in education of this issue.

8. Resolution to Sell Surplus Fire Department Equipment

The Town of Highlands has in the past placed surplus equipment and vehicles up for sealed bids to the public. In order to for a department to proceed the Board of Commissioners has to approve advertisement of these items for sale.

Approving the sale of surplus vehicles for the Highlands Fire & Rescue Department will generate extra revenue and cut expenses to maintain the vehicles.

It is recommended that the Town board of Commissioners approve the advertising of sealed bids for the surplus vehicles of the Highlands Fire & Rescue Department.

Resolution Authorizing the Advertisement for Sealed Bids for the Sale of Surplus Vehicles

WHEREAS, the Highlands Fire & Rescue Department of the Town of Highlands desires to dispose of certain surplus vehicles;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Town Board of Commissioners that:

1. The following described vehicles are hereby declared to be surplus to the needs of the Highlands Fire & Rescue Department:

a. 1999 Ford F350 4WD Pick-up, Diesel, Dual Rear Wheels, 15,513 miles. Minimum bid of \$10,000.00.

b. 1999 Jeep Cherokee MP, 4WD, 115,241 miles. Minimum bid of \$5,000.00.

2. The Chief of the Highlands Fire & Rescue Department is authorized and directed to receive on behalf of the Highlands Town Board of Commissioners sealed bids for the purchase of the property described above.

3. Sealed bids may be submitted to the Town of Highlands' Clerk's Office and the Highlands Fire & Rescue Department no later than 12 p.m. noon on Tuesday, May 3, 2011. Bids will be opened at the May 3, 2011 Highlands Fire & Rescue Department business meeting.

4. The Town of Highlands' clerk shall cause a notice of this resolution to be published in accordance with G.S. 160A-268.

5. The Town of Highlands Board of Commissioners reserves the right to reject any or all bids.

Adopted this 6th day of April, 2011.

David Wilkes, Mayor

Jim Fatland, Town Clerk

As there was little discussion on this matter, Commissioner Amy Patterson moved to approve the Resolution Authorizing the Advertisement for Sealed Bids for the Sale of Surplus Vehicles, which was seconded by Vice Mayor John Dotson and was unanimously approved.

The notice will be published in accordance with G.S. 160A-268.

9. Proposed FY12 Special Revenue Fund Budgets

North Carolina and the nation are still struggling to climb out of the worst economic down-turn since the 1930s. This has led to increasing pressure on the state budget since tax collections are down. The state of North Carolina will have to make difficult choices in balancing its 2011-2012 budget. In doing so, proposals to reduce local revenues are likely to resurface late in the budget process. In light of the potential of reduced local revenues, the Finance Committee offers the following recommendation for Town Board consideration.

It is recommended that the Town Board of Commissioners direct the Town Manager to prepare the 2011-2012 Budgets without salary increases for Town Employees. However, we are requesting that the Town Manager prepare the fiscal impact of cost of living and merit pay increases including the increased employer share of Social Security Taxes and North Carolina State Retirement. The employer share of Social Security/Medicare taxes remains unchanged at 7.65%. However, the North Carolina Retirement employer contributions have increased to 6.88% from 4.80% just two years ago. The employer contributions for law enforcement officers have increased to 7.35% from 4.86% just two years ago.

A. Report from Finance Committee

Vice Mayor John Dotson addressed the Town Board and the public present and advised that the Finance Committee met with the Fire Department and the Recreation Department and based upon the information provided, all is in good order for the coming year. The Finance Department recommends approval of the budgets as presented. Also discussed were reserve funds, the proposed mini pumper and the hiring of a second full time fire fighter.

B. Fire Department Special Revenue Fund Budget

As there was no further discussion, Commissioner Amy Patterson moved to approve the First Department Special Revenue Fund Budget, which was seconded by Commissioner Dennis DeWolf and was unanimously approved.

C. Recreation Department Special Revenue Fund Budget

Town Manager Jim Fatland discussed the Town's request of \$500,000 in funds, through agreement, from Macon County. Also discussed was the newly acquired generator and the progress made to date as to installation. Commissioner Patterson inquired that since the generator will be for the emergency shelter, could the generator be removed from the budget or placed elsewhere within the budget. Mayor Wilkes discussed the requirements needed to be fulfilled for a site to be considered an emergency shelter. It was finally agreed that the generator would be moved to a different part of the budget, that the Town would request \$500,000 from Macon County and an additional \$48,000 for the generator. Recreation Director Chalker stated that if it was not approved by Macon County, the generator would be put back into the budget.

Commissioner Gary Drake moved to pass the Recreation Department Special Revenue Fund Budget, as amended in discussion, was seconded by Commissioner Dennis DeWolf and was unanimously approved.

10. Authorize Advertisement for Bids for Mini Pumper for Fire Department

The Highlands Fire & Rescue Department Town of Highlands would like to receive sealed bids for the purchase of a Mini Pumper.

It is recommended that the Town Board of Commissioners approve the advertising to receive sealed bids for the purchase of a Mini Pumper for the Highlands Fire & Rescue Department.

Resolution Authorizing the Advertisement for Sealed Bids for the Purchase of Mini Pumper for The Highlands Fire & Rescue Department

WHEREAS, the Highlands Fire & Rescue Department of the Town of Highlands desires to purchase a mini pumper;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Town Board of Commissioners that:

1. The Chief of the Highlands Fire & Rescue Department is authorized and directed to receive on behalf of the Highlands Town Board of Commissioners sealed bids for the purchase of a mini pumper.
2. Sealed bids may be submitted to the Town of Highlands' Clerk's Office and the Highlands Fire & Rescue Department no later than 12 p.m. noon on Tuesday, May 3, 2011. Bids will be opened at the May 3, 2011 Highlands Fire & Rescue Department business meeting.
3. The Town of Highlands' clerk shall cause a notice of this resolution to be published.

Adopted this 6th day of April, 2011.

David Wilkes, Mayor

Jim Fatland, Town Clerk

The Town Board was advised that the mini pumper could be used as a first responder vehicle.

As there was no further discussion, Commissioner Amy Patterson moved to approve the Resolution Authorizing the Advertisement for Sealed Bids for the Purchase of Mini Pumper for The Highlands Fire & Rescue Department, which was seconded by Commissioner Gary Drake and was unanimously approved.

11. Proposed Tower Lease

Highlands Computers (Owner: Chris Cutshaw) has recently sold its wireless infrastructure to Highlands Electronics and Internet (Owner: Nick McCall). Highlands Electronics is requesting a contract with the Town of Highlands for continued use of existing tower space on Satulah Mtn. and Upper Brushy Face. Recent removal of the old water tank at Satulah Mtn. has left McCall's tower in need of additional support. McCall has retained Chris Hanners, P.E. to design and certify the support of his tower. This support will consist of the use of guy wires. McCall agrees to take whatever measures necessary to ensure the integrity of this tower. This lease will be contingent upon support being installed within thirty days of the approval date.

It is recommended that the Town Board of Commissioners approve the lease for three years.

LEASE AGREEMENT dated April 6, 2011, by and between TOWN OF HIGHLANDS, a North Carolina municipal corporation (herein called "Lessor"), Post office Box 460, Highlands, North Carolina, 28741, and HIGHLANDS ELECTRONICS & INTERNET (herein called "Lessee"), 22 Oak Street, Highlands, North Carolina, 28741.

WITNESSETH

In consideration of the rents to be paid and the covenants and agreements to be performed, the Lessor hereby leases to the Lessee the following premises in Highlands, North Carolina:

See Attached Exhibit "A"

1. Term. The term of this lease shall be for a period of two years 8 months and 27 days, commencing on April 6, 2011, and continuing through Jan 1, 2014. This lease will be reassessed by the Town of Highlands in Dec. 2013 for the purpose of renewal.

2. Rent. The lessee shall pay \$1,650.00 per location as described in Town of Highlands Zoning Ordinance Section 903 (A)(2).

3. Use of Premises. The premises shall be used solely for purpose of installing, maintaining, repairing, and replacing certain television/radio/communications equipment. The Lessee shall have access to the premises on a 24-hour per day, seven days per week, basis, provided however that Lessee's use shall not in any way interfere with Lessor's reasonable needs related to the use, repair, replacement, and maintenance of the water tower, nor shall Lessee's use in any way interfere with radio or television transmissions of or frequencies assigned to any third party.

4. Insurance, Indemnification, and Hold Harmless Agreement. The Lessor has advised the Lessee that the Lessor already has liability insurance covering the premises sufficient to protect the Lessor's interests. The Lessee shall bear the risk of loss regarding damage to or destruction of the equipment during the term of this lease or any renewal thereof. The Lessee is responsible for liability insurance and property damage insurance, if any, protecting the Lessee's interests.

5. Compliance. The Lessee warrants that the proposed transmitter has been approved by the Federal Communications Commission ("FCC"), and is in compliance with all federal, state, and local regulations. If, for any reason, the transmitter is determined to be out of compliance, the Lessee agrees, at its own expense, to put the transmitter in compliance as soon as reasonably possible. All improvements to the premises shall be in compliance with all applicable FCC standards and ordinances of the Town of Highlands.

6. Non-Transferability. This lease is non-transferable. If Lessee ceases to own and control the above mentioned structures for any reason including, but not limited to sale, gift, or death this shall terminate this lease.

7. Maintenance of Premises. Lessee shall keep the premises clean and free of materials, trash, and debris related to its use of the premises.

8. Integrity of Structure. Lessee shall ensure the integrity of all structures erected on any the above mentioned premises. The Lessor may at its convenience inspect any structure belonging the Lessor. If any structure is found to be unsafe, unstable, etc.. The Lessee will have not more than thirty days to resolve the issue. If after the time allotted the structure has not been made safe or secure, the Town of Highlands will remove the structure and this lease is terminated.

9. Additional Improvements. The Lessee shall not construct outbuildings, storage sheds, or other facilities beyond such as may be specifically described herein without the express written approval of the Lessor.

10. Termination of Lease. This lease may be terminated by the Lessor upon determination that any of the foregoing agreements or covenants have been breached by the Lessee or for such other just cause as may be determined by the Lessor.

11. Conflicting Ordinances. This lease shall not abrogate or relieve Lessee from any duties imposed by any other ordinance of the Town of Highlands, and in the event of a conflict between this lease and a Town Ordinance, the more strict provision shall apply.

IN WITNESS WHEREOF, the parties have signed this Lease as of the date first written above.

LESSOR:

TOWN OF HIGHLANDS

(Seal) By: _____
David Wilkes, Mayor

Attest: _____
Jim Fatland, Town Clerk

STATE OF NORTH CAROLINA
COUNTY OF MACON

I, _____, Notary Public, do hereby certify that Mayor David Wilkes personally appeared before me this day and acknowledged that he is the Town Manger of Highlands, North Carolina, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by the Mayor, sealed with its corporate seal, and attested by Jim Fatland as its Town Clerk. Witness my hand and official seal this ____ day of _____, 2011.

(NOTARY SEAL) Notary Public

Date My Commission Expires

LESSEE:

HIGHLANDS ELECTRONICS & INTERNET
By: _____

(SEAL) Attest: _____

STATE OF NORTH CAROLINA
COUNTY OF MACON

I, _____, Notary Public, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is the Secretary to HIGHLANDS ELECTRONICS & INTERNET, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by he/she as its Secretary.

Witness my hand and official seal this ____ day of _____, 2011.

(NOTARY SEAL) Notary Public

Date My Commission Expires

EXHIBIT "A"

Description of Premises

Attached to Lease between TOWN OF HIGHLANDS and HIGHLANDS ELECTRONICS & INTERNET

This Lease is for a portion of certain premises at the Town of Highlands' Tower Site located on Satulah Mountain, in Highlands, North Carolina, and a second site at the Town of Highlands' Water Tank located on Upper Brushy Face Mountain, at Highlands County Club, in Highlands, North Carolina said portion being the sections of such aforesaid tower as are necessary for the installation, use, maintenance, and replacement, when necessary, of certain transmitting equipment, including antennas, cabling and radios.

The Town Board was advised that Nick McCall would not be assuming the prior lease and that all funds owed by Chris Cutshaw would be his responsibility. Town Engineer Lamar Nix addressed the Town Board and discussed the water tank on Satulah, the removal of the old tank and finding out that the tower that was attached to the tank was not the county's. Also discussed was the disparity of rents being charged. Town Attorney Coward inquired how the figure of \$1,650.00 as referenced in paragraph 2 of the Lease was calculated, as it is not referenced in the Ordinance. There was discussion amongst the Board members and at its conclusion, Mayor Wilkes advised that there needs to be a consistent policy. Also discussed was Exhibit "A" of the Lease and the "second site" on Upper Brushy Face Mountain. Town Manager Fatland stated that he would set up a monthly rent figure. It was ultimately decided that the rent would be

\$275 per month (\$3,300 per year) for both sites and that rent will be due and payable on a monthly basis.

As there was no further discussion, Commissioner Dennis DeWolf moved to approve the Lease with Highlands Electronics & Internet, with the change of rent from annually to monthly, which was seconded by Vice Mayor John Dotson and was unanimously approved.

12. Main Street Sidewalk at Hudson Library

The Town Board at its regularly scheduled meeting held on March 2, 2011 reviewed the proposed sidewalk improvements proposed by the Hudson Library. Subsequently, the Hudson Library Board has made a request that the Town of Highlands contribute a portion of the Sidewalk improvement cost. Staff has prepared a cost estimate to do a brick sidewalk to replace the existing concrete sidewalk. The estimated cost is \$14,900.

It is recommended that the Town Board consider the following:

1) that the Town Board consider approval of contributing \$14,900 to the Hudson Library Board to offset a portion of the sidewalk project.

2) that the Town Board consider approval of replacing the existing concrete sidewalk between the Episcopal Church and the Hudson Library at a cost of \$7,300.

Commissioner Amy Patterson inquired how the Town would pay for this project and was advised by Town Manager Fatland that the funds could come from the street budget.

As there was no further discussion, Commissioner Dennis DeWolf moved to approve the Town of Highland's contribution of \$14,900 to the Hudson Library Board to offset a portion of the sidewalk project and approve the replacing of the existing concrete sidewalk between the Episcopal Church and the Hudson Library with a contribution up to \$7,300, which was seconded by Vice Mayor John Dotson and was unanimously approved.

13. Resolution Proclaiming April as Earth Stewardship Month

PROCLAMATION

Earth Stewardship Month

WHEREAS, the first Earth Day was celebrated on April 22, 1970, with the goal of inspiring environmental awareness and encouraging the conservation, protection, and appreciation of our nation's natural resources; and

WHEREAS, citizens of The Town of Highlands and the surrounding area have held an Earth Day Celebration for several years to remind citizens and keep them aware of the beauty that surrounds us and the need to protect it; and it is the duty and responsibility of all citizens to safeguard the environment, by recognizing that all life depends upon the Earth and upon the interactions of millions of different kinds of animals, plants, and microscopic organisms to provide food, oxygen, and medicine; and

WHEREAS, several area organizations: Highlands Biological Foundation, Highlands-Cashiers Land Trust, Highlands Plateau Greenway, Jackson-Macon Conservation Alliance, The Mountain Retreat & Learning Center, and The Wilderness Society have joined together to plan and carry out activities for an Earth Stewardship Month during the month of April; and

WHEREAS, these organizations seek the involvement of all citizens to join them in their activities; The Town of Highlands proudly recognizes all who work hard to protect the environment during Earth Stewardship Month and every day, for their dedication to taking a proactive role in shaping the future of the environment and in protecting Highlands' precious natural resource; and The Town of Highlands also is proud to recognize organizations and groups who celebrate and educate the populace about stewardship matters, not just during the month of April but throughout the entire year; and

WHEREAS, citizens in The Town of Highlands are encouraged to make a personal and collective

commitment to take steps to protect and preserve diversity in the natural environment through education, partnerships, and positive actions; and

WHEREAS, the citizens of The Town of Highlands are encouraged to realize that global problems do have local solutions and to “think global and act local”; and

WHEREAS, The Town of Highlands’ citizens, staff, and elected officials are encouraged to work together to develop and implement regulations, ordinances, and programs specifically designed to preserve and improve Highlands’ fragile ecosystems and the quality of life therein:

NOW, BE IT THEREFORE RESOLVED THAT I, David Wilkes, Mayor of The Town of Highlands, North Carolina, do hereby proclaim April as EARTH STEWARDSHIP MONTH. I urge all citizens to take special note of this observance by participating in many activities and events in April that will add to their enjoyment and understanding of the importance of everyday being Earth Day.

This the 6th day of April, 2011.

David Wilkes, Mayor of the Town of Highlands

As there was minimal discussion, Vice Mayor John Dotson moved to approve the Resolution Proclaiming April as Earth Stewardship Month, was seconded by Commissioner Gary Drake and was unanimously approved.

14. **Board Appointment(s)**

The Town of Highlands has established several Boards and Committees to assist and advise the Town Board of Commissioners on various topics including, but not limited to, the Zoning Board, Planning Board, Appearance Commission, ABC Board, Scholarship Committee, Advisory Committee for Scholarship Endowment Fund, and the Cemetery Committee.

There have been ordinances and policies created to in regards to the appointment, reappointment, terms, etc. We have current and upcoming vacancies for the following Town Boards and Committees:

Zoning Board
Appearance Commission
ABC Board
Scholarship Committee
Cemetery Committee

We have received the following applications for the vacancies:

Board Applicant’s Name Proposed New Term

Zoning Board Jack Peay 03/11 - 07/14

Zoning Board or Appearance Commission

Charles Dasher 03/11 - 07/14

Also, several current members’ terms expire in 2011. The following current members have requested to be reappointed.

Board Member New Term

Zoning Board David Rohrer 07/11 - 07/14

Planning Board Thomas Craig 06/11 - 06/14

Appearance Commission Bill Nellis 06/11 - 06/14

Scholarship Committee Bud Potts 07/11 - 07/14

It is recommended that the Town Board of Commissioners reappoint the above mentioned

board members to fill their proposed 2nd terms. Consider and appoint new applicants at will of Town Board of Commissioners.

Commissioner Amy Patterson discussed the need for the Zoning Board alternates.

Vice Mayor John Dotson moved to appoint Jack Peay as an alternate to the Zoning Board, which was seconded by Commissioner Amy Patterson and the vote was unanimous.

Vice Mayor John Dotson moved to appoint Charles Dasher as an alternate to the Zoning Board, which was seconded by Commissioner Amy Patterson and the vote was unanimous.

Commissioner Dennis DeWolf moved to reappoint David Rohrer to the Zoning Board (7/11 – 7/14), Thomas Craig to the Planning Board (6/11 – 6/14), Bill Nellis to the Appearance Commission (6/11 – 6/14) and Bud Potts to the Scholarship Committee (7/11 – 7/14), which was seconded by Commissioner Larry Rogers and was unanimously approved.

15. Set Public Hearing for Highlands Methodist Church Conditional Zoning

The Highlands United Methodist Church is petitioning the corner lot bordering Spring Street & South 3rd Street to be rezoned conditionally from B-3 to B-1 CZ. The Church recently purchased the corner lot and would like to add this property to the existing property adjacent, currently zoned B-1 Conditional. The Church came before the Town Board in February 2010 petitioning for a B-1 Conditional Zoning of the lot directly behind the Church, which was granted with the following conditions:

- 1.) The use must be church related and if the use was to change the zoning would convert back to B-3.
- 2.) The development must leave 30% greenspace.
- 3.) Single curb cut on Spring Street.
- 4.) 10 foot side setbacks, but the allowed B-1 zero setbacks on the front and back bordering the streets.
- 5.) Minimum of 10 parking spaces to be provided.

It is recommended that the Town Board of Commissioners vote to set the public hearing for the Highlands United Methodist Church Conditional Zoning for the May 4th Town Board Meeting.

Commission Amy Patterson moved to set the public hearing for the Highlands United Methodist Church Conditional Zoning Request for May 4, 2011, which was seconded by Vice Mayor John Dotson and was unanimously approved.

16. Set Joint Meeting with Planning Board to Review Uniform Development Ordinance

Mark Maxwell was asked to coordinate a meeting between the Town Board and Planning Board to discuss the proposed UDO. Due to the schedule of regular Town Board meetings and work sessions, it is recommended that a joint meeting of the two Boards be set for Wednesday, April 27th at 5:30 pm.

Vice Mayor John Dotson moved to set April 27, 2011 (5:30 P.M.) for the joint meeting for the Town Board and Planning Board to discuss the proposed UDO, which was seconded by Commissioner Amy Patterson and was unanimously approved.

17. Staff Report on Form of Government

The Board of Commissioners at their regularly scheduled meeting on March 16, 2011 approved ordinances whereby the Police Chief and Planning & Development Director report to the Town Board of Commissioners.

The Town Manager, Police Chief and Interim Planning & Development Director met to discuss the approved ordinances and the impact on the day to day operations of the Town. The following recommendations are presented to the Board for consideration.

(1) Establish Public Safety Committee consisting of Police Chief, Fire Chief, Town Manager and Two (2) Town Board Commissioners;

(2) Amend Job Descriptions for Police Chief and Planning & Development Director;

(3) Utilize Board Approved Grievance Procedure for employees under supervision of Police Chief and Planning & Development Director;

(4) Follow Board Approved Employee Personnel Manual for Employee Evaluations for employees under supervision of Police Chief and Planning & Development Director;

(5) Town Board shall conduct annual evaluations for Town Manager, Police Chief and Planning & Development Director;

(6) Continue weekly meetings of Town Manager and all Department Heads including Police Chief and Planning & Development Director.

Town Manager Fatland reviewed the above recommendations with the Town Board advising that everyone needs to work together in whatever form of government the Town has. Police Chief Harrell stated that a Public Safety Committee had previously been formed but failed due to a lack of interest by the prior administrator. Mayor Wilkes advised that a Public Safety Committee is a good to have. Town manager Fatland stated that the weekly meetings with the Department Heads, Police Chief and Planning Director have been working out well.

As to item four above "Follow Board Approved Employee Personnel Manual for Employee Evaluations for employees under supervision of Police Chief and Planning & Development Director", revisions will be made and will be brought back to the Board for review.

No vote was taken.

18. Set Date for Employee Meeting

Mayor Wilkes stated that he felt the Town employees need to have a better understanding of the drug policy and grievance procedures that are now in place. Mayor Wilkes further stated that he wanted a meeting to explain to all of the employees what policies are in effect and why they were put into effect. Better communication with employees, department heads and the Town Manager is needed. Vice Mayor John Dotson suggested two meetings namely, an informational meeting to discuss the policies in effect and another meeting for employees to voice their opinions.

Town Attorney William Coward made a presentation which included an Organizational Chart of the form of government showing who reported to whom. Mr. Coward suggested that the chart should be included in the personnel manual. At the conclusion of said presentation, Mayor Wilkes stated that the Police Chief does not report to him and that he is merely a liaison for communication purposes only. Mr. Coward advised that the chart would be revised. Mr. Coward further reviewed with the Board a list of responsibilities of the Town Manager, the Town Board, Department Heads and Supervisors, based upon the personnel manual.

No vote was taken.

19. Adjourn

As there were no further matters to come before the Board of Commissioners, Commissioner Gary Drake moved to adjourn, which was seconded by Vice Mayor John Dotson and upon unanimous vote the Town Board adjourned at 10:15 p.m.

James R. Fatland
Town Manager

Jane J. Capman
Recording Secretary

Mayor David Wilkes