

PUBLIC HEARING and REGULAR BOARD MEETING of August 7, 1996, with Mayor Pro Tem H. N. James and Commissioners Mike McCall, Donnie Calloway, Ron Sanders, and Zeke Sossomon present.

Also present were Richard Betz, Lamar Nix, Shannon Baldwin, Victor Lofquist, Jim Sparks, J. Wiley Ellis, Clare Ellis, Derek Taylor, Lynn DeVille, Jack Mayer, Mark Meadows, Moyna Kendall, Ran Shaffner, Margaret Shaffner, Will Stolz, Ray McPhail, and others.

A. Public Hearing - 6:30 p.m.

Mayor Pro-Tem James called the public hearing to order at 6:30 p.m., and stated that the purpose of the hearing was to receive comments on a petition for annexation from J. Wiley Ellis, Trustee, of approximately 70 acres contiguous to the corporate limits. Notice of the hearing had appeared in The Highlander newspaper in accordance with the annexation statute. Comm. James opened the hearing to comments from those present.

J. Wiley Ellis reviewed the petition he had submitted to the Board at the July 3 Board meeting. He said that the property in question consisted of approximately 70 acres contiguous to the corporate limits and south of the recently-annexed DuPont property; access to the property was via two roads through that property. He presented the plat of the property which had been submitted with his petition, and also a site plan showing 17 lots and an approximately 25-acre "Reserved Area" along the eastern border of the property adjacent to the Fodderstack mountains; overall density would be approximately 4.5 acres per lot. He said that the site plan was a conceptual plan drawn by himself; although he had no intention of developing the property now, he felt that it would be appropriate for it to be annexed at this time. In reply to questions from persons present, he said that he wanted to be annexed in order to have access to water and power. He said that power from US-28 to the south would not be feasible, and he understood that a well had recently been drilled on the DuPont property and had failed to produce any water.

Lynn DeVille asked if the Town could adequately serve the property in question. Mayor Pro Tem James said that, with the exception of sewer, he felt it could.

Comm. Sanders asked if any of the lots had been approved for septic systems. Mr. Ellis replied that they had not.

Comm. Calloway asked if it was legal to place stipulations on property before it was annexed. He pointed out that, once annexed, property owners could argue hardship and apply for a variance, such as the recent request for a road width variance from Brad Bloomer.

Freeman Jelks said that he had known the Ellis family for years, and whatever they said they would do, they would do; they were honorable people.

Ran Shaffner asked if there was any difference between this petition and the DuPont petition. Comm. James said there was to him; Ray McPhail had presented a definite development plan and had proposed to install utilities at his own expense. He felt that this petition should be amended and that it should be stated that the property owner was willing to do the same. Mr. Ellis replied that he would be willing to say that installation of utilities would be at his expense, and also that no greater density than that proposed would be permitted.

Margaret Shaffner asked how the petition would impact the Fodderstacks. Mr. Ellis replied that none of the drainage from the proposed lots would impact them; he said that he would like to see the Forest Service take over the "Reserved Area" so that they would be protected.

Comm. Calloway wondered if, with all the studies done of future growth in Highlands, annexations such as this were in keeping with those

plans? It did not seem as if they were. He also asked if it was a good policy to say that if we do it for one, we have to do it for another. Comm. James pointed out that that may be a good question for the Land Use Planning Committee to discuss in the upcoming Land Use Plan update.

There being no further question, Mayor Pro Tem James closed the public hearing at 6:50 p.m. and called a brief recess.

During the recess, the Clerk pointed out that consideration of this petition was not on the agenda under new business. The Board consulted with Mr. Ellis, and it was agreed that this matter would be placed on the agenda for September 4.

B. Regular Board Meeting - 7:00 p.m.

I. Mayor Pro-Tem James called the meeting to order at 7:00 p.m.

II. The minutes of the July 17 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. SANDERS, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

Each Board member has received a copy of a letter from J. Wiley Ellis dated July 30, 1996, strenuously objecting to a statement in the minutes of the July 3 meeting that Mr. Ellis "was not certain if that [the right of ingress and egress] extended to water and electric utility rights-of-way." Mr. Ellis said that he had not said nor implied that; what he had said was that he did have the right to install utilities in the right-of-way, and if the Mayor had any doubts he could ask the Town Attorney to review the question. The Clerk felt that the minutes, which had been approved at the July 17 meeting, were correct; he stated that he remembered Mr. Ellis being asked by the Mayor if the right of ingress and egress included utility rights-of-way, and Mr. Ellis had replied that he "did not know." Mayor Pro Tem James and Comm. Sossomon agreed. The Board agreed to note Mr. Ellis's objections for the record.

III. Reports.

1. Victor Lofquist was present representing W. K. Dickson Company, the Town's consulting engineers, and reviewed with the Board in some detail Change Order No. 2, which he had discussed at the May 1 meeting.

The changes included a deduct for a change in the drain system; replacement, rather than rebuilding, of pumps; modifications to the chemical feeds; changes to the entrance paving, fencing, and parking; an additional bypass line to provide flexibility and make startup operations easier; an additional chemical feed for future use; rock excavation due to a change in elevation of pipe; miscellaneous items involving the chemical feeds; deduct from the allowance for upgrading the lab; office furniture in the lab; a curb around the chemical feed room; and an additional sampling point. The grand total was a deduct of \$17,558.19, and an addition of 35 days, which Mr. Lofquist felt was reasonable. Including the 75-day extension already granted, the completion date would be September 3; if acceptable, the change order would be executed and forwarded to the contractor.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPROVE CHANGE ORDER NO. 2.

Mr. Lofquist also reported that the Hickory Hill Road water line and sewer line project was complete, and the line along US-64 to Mirror Lake Road was 90% complete. The Little Bearpen Water Tank site had been graded, and some of the line along US-64 East had been installed; he anticipated that job would be completed within 30 to 45 days, which was ahead of schedule. He also reported that Ray McCall from the Public Water Supply Section had informed the Town that another CT Tracer Study would have to be conducted in order

to determine that the new plant would meet the State's CT requirements; Tinker Poteet would be conducting such a study during testing of the plant this month.

2. Public Works Director Lamar Nix reported on routine maintenance in the public works departments. He also reported that repairs had been required at the Sherwood Forest Pump Station, and work was continuing on the items identified in the I/I study. An underground primary power line had been installed at the Old Mill subdivision at the property owner's expense. The Water Plant was pumping approximately 700,000 GPD, and the Wastewater Treatment Plant was pumping approximately 200,000 GPD.

He also reported that Ronnie Evans from the UNC Center for Public TV had informed him that the site on Big Bearpen was only temporary, and that he was still working on obtaining rights-of-way for an overhead power line to the desired site on Satulah Mountain. He had requested that Mr. Nix prepare plans of the line in order to assist efforts to negotiate right-of-way acquisition from property owners. The power line would have to be extended approximately 2600 feet, and the Center for Public TV had proposed reimbursing the Town for its installation.

Wiley Ellis felt that one of the property owners would not be in favor of overhead power lines; he felt it would not be a wise use of public money to develop plans if the right-of-way could not be obtained. The Board agreed.

Comm. James said that he had received a report that some trimming needed to be done at the Highlands Social Club, and Mr. Nix was asked to investigate.

3. Copies of the Zoning Administrator's report for the month of July had been distributed prior to the meeting. Town Planner and Zoning Administrator Shannon Baldwin highlighted items from the report. He also reported that the preliminary plat for Ravenel Ridge, which was on the agenda for later in the meeting, had been reviewed by Mr. Nix, and had been approved by the Planning Board subject to septic tank approval for two lots and a requested variance on the shoulder of the road, which it had recommended granting. He also said that David McDonald from the Department of Transportation would be in Highlands on August 20 to meet with the Planning Board on the US-64 by-pass, a recommendation of the recent Planning Board study.

4. Copies of the Treasurer's Report for the month of July had been distributed prior to the meeting.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE TREASURER'S REPORT AND ACCOUNTS PAYABLE FOR THE MONTH.

5. The Clerk distributed copies of a letter addressed to the Board from Sam Harrison and an article from The New York Times on Sausalito, Californi, provided for the Board's information.

As requested at the July 17 meeting, the Clerk distributed copies of the Lake Ordinance and Reservoir Recreation Plan for Lake Sequoyah.

He understood that the next step in the process of reclassifying the lake was a Lake Study to be conducted by the Public Water Supply Section, but he had thus far been unable to reach Harold Saylor at the Western Regional Office to see when the study would be conducted.

The Board asked that this matter be placed on the agenda of the next Board meeting.

The Clerk reported that Town Attorney Bill Coward and Doug Wilson from McGuire, Wood, and Bissette would both be attending the next meeting to discuss the Allison Outdoor Advertising case.

The Clerk said that he had conferred with the Public Works Director, and felt that the Stage I Water Shortage Condition could safely be lifted; the Board agreed.

The Clerk reported that Town Attorney Orville Coward Jr. had prepared, at the property owner's expense, a quitclaim deed releasing an easement for an abandoned water line across property owned by Mr. & Mrs. Robert Sanderson, as agreed to by the Board at the June 5 meeting.

The Clerk reported that the League of Municipalities Pay and Classification Study had begun, with initial questionnaires to be completed by all full-time Town employees. Interviews would be conducted in September, and the final report to the Board was scheduled to be completed by November 6.

#### IV. Old Business.

1. A joint meeting between the Board of Commissioners and the Planning Board to discuss the Planning Study, originally scheduled for July 31, had been cancelled. The Board agreed to re-schedule the meeting for August 28 at 7:00 p.m.

2. The Board agreed to defer adoption of the proposed amendment of the Police Policy and Procedures Manual dealing with secondary or off-duty employment until the next meeting when the Police Chief could be present.

3. The Board again considered a Junk Car Ordinance, copies of which had been distributed prior to the meeting, and also a voluntary towing program discussed at the previous meeting. Zoning Administrator Shannon Baldwin explained that under the towing program a 30-day grace period would be provided during which property owners would not be assessed for the cost of towing; this would provide a level playing field. He said that he had discussed such a towing program with Tom James Wrecker Service, but Mr. James had requested some compensation from the Town for the cost of removing the vehicles. He had not yet had the opportunity to determine if the vehicles could be disposed of at the Macon County landfill. The Board asked him to obtain this information by the next meeting if possible.

#### V. New Business.

1. Ray McPhail and Will Stolz were present with a preliminary subdivision plat for Ravenel Ridge Development, which it was reported had been approved by the Planning Board at their meeting of July 22. Mr. Stolz said that he was also present to make a formal request for a variance from the shoulder width requirement of the subdivision standards, from four feet to two feet, as recommended by the Planning Board. He said that the variance was being requested for aesthetic reasons in order to prevent having to excavate into the bank along Laurelwood Road, although the road width of 18 feet would be met. He also explained that all of the 31 lots in the development except two had been approved for septic systems by the Macon County Health Department; additional testing would be required on one of those lots, and the other lot might have to be re-combined. He requested approval subject to the decision of the Health Department.

Mayor Pro Tem James and Comm. Calloway expressed some concerns that variances had been requested for both this property and the property annexed immediately preceding it.

Public Works Director Lamar Nix said that all of the utilities and roadway plans met Town specifications, and he also felt that the plans for the water system would be approved by the State. He pointed out that the road width and ditch width would both meet Town standards.

Since the road was a private one, it would not present any maintenance problems to the Town. Mr. McPhail stated that he had no object to the minutes recording that, while he intended for the roads to remain private, if the developers ever wanted the Town to take over maintenance of the roads, the shoulder would first be widened at their expense.

Moyna Kendall asked what would happen if the Forest Service would not be able to purchase the Fodderstacks. Will Stolz reviewed the status of his negotiations with several land conservancies and the Forest Service.

Margaret Shaffner reported that she had heard a rumor that Ms. DuPont had lifted the restrictions on the Fodderstacks. Mr. Stolz explained that there were currently no restrictions on those mountains, but that the proposed contract between Ms. DuPont and himself would contain restrictions; those restrictions would consist of no home sites on Big Fodderstack Mountain, and three home sites on Little Fodderstack Mountain. If the Fodderstack property were conveyed to a land conservancy directly, however, it would be conveyed as it existed today, with no restrictions.

The Board then reviewed the conditions for granting a variance as set forth in Section 206 of the Subdivision Regulations. Comm. Calloway said that he would have difficulty approving the variance under those conditions, and other Commissioners agreed.

Mr. Stolz and Mr. McPhail offered to withdraw their request for a variance at this time, but retain their right to come back at a later date with a request for a variance.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE PRELIMINARY SUBDIVISION PLAT FOR RAVENEL RIDGE DEVELOPMENT, SUBJECT TO MACON COUNTY HEALTH DEPARTMENT APPROVAL OF ALL OF THE SEPTIC SYSTEMS BEFORE THE FINAL PLAT IS APPROVED, AND SUBJECT TO THE PROVISION OF FOUR-FOOT RATHER THAN TWO-FOOT SHOULDERS ON THE ROAD.

2. The Clerk requested permission to advertise for bids for the vehicles in the Electric Department and the Street Department, as identified in the FY 96-97 budget.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR BIDS FOR THESE VEHICLES.

3. Margaret Shaffner was present, and explained to the Board that the septic system at her residence had failed. She said that she had obtained a price of \$7000 to repair the system, but had been told by a sanitarian with the Macon County Health Department that if the lot was a new one it would be turned down. She provided the Board with estimates she had obtained from Stillwell Enterprises for connecting to the nearest Town sewer, which was located on Fifth Street 898 feet from her back door. The prices were \$13,500 for an individual grinder pump station and 1½" PVC line; \$16,500 for a 4" gravity PVC line including nine cleanouts; and \$23,500 for an 8" gravity line large enough to connect neighboring properties and three manholes. She said she was unwilling to force her neighbors, many of whom were elderly women on fixed incomes, to connect. Although no other property owners would agree to share the cost of the line, two others had agreed to connect and pay the \$2500 connection fee. She pointed out that her property drained into the headwaters of a creek that children play in and eventually into Lake Sequoyah, a drinking water supply. She was concerned that there was no incentive to encourage her to connect to the sewer, and in fact the cost of installation and the high connection fee discouraged efforts to clean up Town water resources. She reminded the Board that the sewer bond referendum several years ago had indicated that the voters wanted to see water cleaned up in Highlands.

Comm. Calloway agreed that the situation was a unique one, in that there was an urgent problem and the houses in the neighborhood were close to the street and could therefore be connected easily by gravity. He pointed out that the Board had not completed discussing its sewer extension policy, nor resolved issues such as mandatory connection. But he felt that if the Board were going to set a precedent, this would be a good place to start. The Town had taken the question of cleaning up water resources to the voters and been

given an answer. He asked if Mr. Nix could prepare plans for State approval; Mr. Nix said he could. Victor Lofquist reported that under new regulations, a permit could be obtained before plans were approved.

The Board agreed for Mr. Nix to make preliminary measurements and begin preparing an application for a permit, and meanwhile to review its sewer extension policy; the matter was to be placed on the agenda for the next Board meeting.

4. Fred H. Jones, President of Macon County Habitat for Humanity, has requested that the Board consider adopting a resolution declaring September 2-8 Macon County Habitat for Humanity Week.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING RESOLUTION:

**RESOLUTION DECLARING SEPTEMBER 2-8, 1996  
AS MACON COUNTY HABITAT FOR HUMANITY WEEK**

**WHEREAS**, it is recognized that the citizens of Macon County are worthy, as a matter of conscience, of a simple, decent place in which to live; and

**WHEREAS**, Macon County Habitat for Humanity is a non-profit organization whose purpose is to assist Macon County citizens to achieve the goal of owning their own home through the provision of a zero-interest loan and the assistance of volunteer labor in the construction of a Habitat dwelling; and

**WHEREAS**, with the cooperation of non-profit organizations, community volunteers, local businesses and churches, civic groups and the support and encouragement of local governments, decent, affordable housing can become a reality for all residents of Macon County; and

**WHEREAS**, Habitat for Humanity International is celebrating its 20th anniversary and the goal of providing housing to Macon County citizens may be advanced by the designation of a week during the year to recognize and appreciate the efforts of those contributors, volunteers, and Habitat families whose efforts combine to create a revolving fund of assets available in Macon County while seeking to eliminate sub-standard housing conditions in the County

**NOW, THEREFORE, BE IT RESOLVED** by the Town of Highlands Board of Commissioners duly assembled in regular session on the 7th day of August, that the week of September 2-8, 1996, be designated as "Macon County Habitat for Humanity Week" to initiate a community-wide effort to support Macon County Habitat for Humanity and to promote activities and events that will educate the public and further the ambition of providing housing to our citizens, and to honor the efforts of those involved in this activity.

**TOWN OF HIGHLANDS**

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John Cleaveland, Mayor

**ATTEST:**

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Town Clerk

5. A memo had been received from School Principal Larry Brooks, on behalf of the Scholarship Committee, stating that he had received additional applications for scholarships; the Committee recommended

awarded \$600 scholarships to Jeff Williamson, Gail Ledford, Seth Stottlemeyer, and Rebecca Vinson, as well as an additional \$200 to Carl Zoellner.

Comm. James was concerned that these applications had apparently been received after the April 15 deadline. He felt that approval was not fair to those who had met the deadline, and could mean that the Town would receive applications 12 months out of the year.

MOVED BY COMM. SANDERS, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO AWARD THE SCHOLARSHIPS AS RECOMMENDED, BUT TO INSTRUCT THE CLERK TO WRITE TO THE SCHOLARSHIP COMMITTEE REQUESTING THAT THE DEADLINE BE MET IN THE FUTURE.

6. Comm. James said that he believed each Commissioner had seen a copy of a statement that had been drafted to clarify the record concerning the proposed Performing Arts Center. He requested that the statement be entered into the record, as follows:

A STATEMENT TO CLARIFY THE RECORD  
CONCERNING THE PROPOSED PERFORMING ARTS CENTER

The news that the anonymous donor had withdrawn funding for the proposed Performing Arts Center, announced by Mayor Cleaveland on July 17, 1996, was received with much disappointment by the Board of Commissioners. Many in the community are also saddened by the loss of this generous gift. From subsequent news report and letters to the editor in The Highlander newspaper, it appears that there is considerable confusion on what action the Board of Commissioners took at their meeting of July 3.

The Board has never questioned the anonymous donor's intention to fund this project. At the inception of this project, both the Board and the anonymous donor—as expressed in a letter of intent between the two parties dated December 5, 1994—shared common concerns as to the location of the proposed facility and adequate parking. However, these concerns were resolved to the mutual satisfaction of both parties, as evidenced by the Board's action of February 23, 1995, accepting an amended letter of intent. On March 20, 1996, architects from Howell Rusk Dodson presented final plans to the Board for the Performing Arts Center, and bids were received by the Town on June 26, 1996.

The Board wants to make it clear that the Town of Highlands is required under State law to have adequate financing in place before it can award a contract. Although financing arrangements were not in hand on July 3, 1996, when the contract was on the agenda to be awarded, Mr. Eddie Redmon, project architect, informed the Board that final arrangements would be transmitted to the Town Attorney on the following day. Based on that assurance, the Board of Commissioners voted at the July 3 meeting, four to one, to award the contract to the low bidder, Ellis-Don Construction, subject to the approval of the Town Attorney of final financial arrangements. The Board was eagerly anticipating the beginning of construction after months of planning.

There has been much time and effort invested in this project by all parties, including demolition of a picnic shelter at the proposed site, relocation of a maintenance building, repairs to the swimming pool, and beginning of construction of an additional gravel parking lot at the Recreation Park. The architects for this project have also spent many months designing a building that complements the Recreation Park.

The Board regrets if there has been a misunderstanding

about its enthusiasm for this project, for whatever the reasons. We want to make it clear that we have supported the Performing Arts Center from the beginning. We want to thank the anonymous donor for her interest, and hope that she will not lose interest in our community.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING STATEMENT.

7. MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS LEGAL MATTERS AND POLICE PERSONNEL MATTERS.

- A. The Clerk updated the Board on a report he had received from Town Attorney Bill Coward concerning the Dillingham litigation.
- B. The Clerk briefed the Board on a discussion he had had with the Town Attorney concerning its Recreation Department Discipline Policy.
- C. Public Works Director Lamar Nix reported that Junior Ramey was unable to continue working for the Town and was filing for disability retirement; when the retirement was approved, he would advertise for another lineman.
- D. The Board discussed a police personnel matter with Assistant Police Chief Williston Houston.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION AND ADJOURN.

VI. Meeting was adjourned by consensus at 9:15 p.m.

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Richard Betz, Town Clerk