

REGULAR BOARD MEETING of October 2, 1996, with Mayor John Cleaveland and Commissioners Mike McCall, Donnie Calloway, Ron Sanders, and Zeke Sossomon present. Comm. James was out of Town.

Also present were Richard Betz, Lamar Nix, Selwyn Chalker, Jerry Cook, Brett Ensley, Bill Coward, Charlie McDowell, Jim Sparks, Georgia Allen, Tom Shaffner, Jack Shaffner, Ran Shaffner, and Margaret Shaffner.

I. Mayor Cleaveland called the meeting to order at 7:00 p.m.

II. The minutes of the September 18 Regular Board Meeting had been distributed by mail.

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

III. Reports.

1. The Mayor reported that he would be out of Town and therefore unable to attend the October 16 Regular Board Meeting.

2. The Mayor reported that the Board had received a letter from the Mountain Garden Club explaining that it would no longer be able to maintain the 27 flower beds between the Town Hall building and the ABC store along Oak Street. The Board agreed to extend its appreciation to the Garden Club for the nice job they have done over the years on these flower beds, and to include this area in its annual landscaping maintenance contract, which is awarded each Spring.

3. Each Board member had received an invitation from the Macon County Board of Commissioners to the ground-breaking ceremony for the Macon County Jail and Law Enforcement Center to be held on Monday, October 7, at 11:00 a.m. adjacent to the Macon County landfill.

4. The Clerk reported that Tinker Poteet, representing W. K. Dickson Company, the Town's consulting engineers, had been unable to attend the meeting. He had informed him, however, that the Water Treatment Plant project was nearing completion; meetings with the different manufacturer's representatives were scheduled for the week of October 14, and the required 3-day "trial run" under State observation was scheduled for the week of October 28. Notification had also been received from the State Soil Erosion office that the job site's soil erosion controls were now in compliance.

5. Public Works Director Lamar Nix reported on routine maintenance in the Electric, Street, and Water departments. He also reported that the boat ramp had been improved at Lake Sequoyah along US-64. Plans had been submitted to the State for the Highlands School sewer line replacement, and a permit had been received. He also reported that Gene Earnhardt, a field specialist with the North Carolina League of Municipality's Risk Management Services, had performed an OSHA compliance inspection for the Town; with the exception of a few minor problems, the Town appeared to be in compliance with OSHA.

6. Police Chief Jerry Cook gave an oral report on Police Department activities for the month of September. The Mayor asked him about some recent vandalism problems caused by youth in the community; the Chief said that he was looking into some programs that might be available to youth, but he felt the main problem was lack of parental supervision. Comm. Calloway asked the Chief if in the future he would introduce to the Board new part-time officers who had recently been sworn-in, and the Chief agreed to do so; he introduced Brett Ensley, who was present with him. Comm. Calloway also asked if the Town was still carrying the certification for former police officers Tim O'Brien and David Finn, who had recently resigned; the Chief said that he was carrying the certification so that they would not lose credit for their training. The Board agreed that certification should not be held for resigning police officers for longer than two weeks, and asked the Chief to notify the officers accordingly.

7. Recreation Director Selwyn Chalker reported that the foos-ball and ping-pong tables were continuing to be used at the Civic Center. The annual Trick-or-Treat on Main Street was scheduled for October 31 between 6:00 p.m. and 8:00 p.m. The annual lighting of the Town Christmas Tree was scheduled for November 29, and Mr. Chalker asked for permission to close Main Street between Fourth and Fifth Streets for the events.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO CLOSE MAIN STREET AS PROPOSED.

Mr. Chalker also discussed reconstruction of the picnic shelter with the Board; he proposed constructing two smaller 32' X 24' shelters side-by-side in the location where the previous shelter had been removed, and the Board agreed. He offered to obtain an updated price on the shelters. He also reported that, although the Town's present amplifier would work with the upgraded sound system, an additional \$800 piece of equipment would make it more effective. The Board approved purchasing the equipment.

8. Each Board member had received a copy of the Zoning Administrator's written report for the month of September. Comm. Calloway asked why Mr. Baldwin was not present at the meeting, and the Clerk explained that, as reported at the last meeting, he was taking some finance courses on Wednesday evenings and would not be able to attend several meetings. Comm. Calloway felt that attendance at Board meetings should be required of the Zoning Administrator, and that in future Mr. Baldwin should request permission from the Board to be absent for attending educational courses not directly related to his job duties. The Board agreed, and asked the Mayor to speak to him about this matter.

9. Each Board member had received a copy of the Treasurer's Report for the month of September.

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

10. The Clerk reiterated that the OSHA compliance inspection conducted earlier in the day had been very successful, and he credited the Town's good report to much hard work on the part of Public Works Director Lamar Nix and Deputy Clerk Connie Sparacino.

IV. Old Business.

1. The Clerk reported that, at the Board's direction at the previous meeting, he had forwarded the pertinent information on the U. S. Post Office at Highlands Plaza to Town Attorney Bill Coward for a legal opinion.

Dean Cosper, who reportedly had leased the old First Union Bank Building at the shopping center for use as a real estate office, was present. He informed the Board that he planned on opening the real estate office this week, and that traffic would be routed one-way from the Highlands Plaza parking lot.

Mike McCall asked about the size of the building, and was told it was only 120 SF; he wondered if this was legal, since it was less than the required minimum of 800 SF in area. The Clerk pointed out that, pursuant to the amendment of the Zoning Ordinance last December, existing buildings were now "grandfathered" for permitted uses, even if they were less than 800 SF in area. Comm. McCall felt that it was not right to grandfather existing buildings where there was a change of use, while requiring new buildings to meet the minimum size.

Town Attorney Bill Coward arrived. He said that in his opinion the Town could not regulate the U. S. Post Office. Although there was

no case in North Carolina, several cases in other states indicated that local governments could not regulate federal buildings; he said that David Owens at the Institute of Government had also concurred with this opinion. He felt this was a political issue, not a legal one. He added that it made no difference if the property was owned or leased by the Post Office; the supremacy clause of the U. S. Constitution pre-empted regulation by lower levels of government.

He agreed, however, that the Town has the right to compel the owner of the building to obtain approval from the Town before another tenant occupies the building, unless the tenant is a federal agency.

The Mayor said that he felt the Board's best action would be to oppose renewal of the lease, which he understood would expire in 3½ years, and push for a new Post Office facility. He pointed out that both the Town and the owner of the shopping center had not been told the truth by the Post Office, and felt that the facility was already outdated, could not be expanded, and was not safe. He had learned in April that the former branch bank building would not be torn down and used for parking because the Post Office had decided it was too expensive to lease the parking. He also reminded the Board that a sidewalk had never been installed along US-28 from Third Street to the new facility as requested.

V. New Business.

1. Three sealed bids had been received pursuant to invitation for bids for this time and place for a 1996 International Model 4800 or equivalent 4 X 4 chassis, and transfer and rebuilding of all equipment mounted on the existing chassis of a truck in the Electric Department. The Mayor opened the first bid from Eusco, Inc., which stated that the company would not be able to submit a bid. The Board therefore agreed to re-advertize for this vehicle for October 16, 1996, and to return the other two bids to the bidders unopened.

2. Five sealed bids had been received pursuant to invitation for bids for this time and place for a 1996 Ford F-350 or equivalent 4 X 4 chassis with 8-foot dump bed. The Mayor opened the following bids:

• Jim Brown Chrysler/Plymouth/Dodge Inc.....	\$27,731.00
• Edwards Auto Sales Company.....	28,127.00
• Bill Holt Ford & Mercury.....	29,400.00
• Ken Wilson Ford Inc.....	26,975.00
• Matthews Ford Inc.....	26,100.00 (1996); 27,658.00 (1997)

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO PURCHASE THIS VEHICLE FROM THE LOW BIDDER, SUBJECT TO REVIEW OF SPECIFICATIONS BY THE PUBLIC WORKS DIRECTOR.

3. The Clerk reported that he had been informed by Ladonna Keener that all of the work on the FY 95-96 Financial Audit had been completed, but the information had not yet been collated. He would be able to provide copies to all Board members at the next regular meeting.

4. Each Board member had received a copy of a proposed revision of the Town's Sewer Connection Policy, second draft, dated October 2, with the agenda package. The Clerk explained that he had prepared a first draft of the policy pursuant to the previous Board meeting, and it had been reviewed by the Utilities Committee—Comms. James & Sossomon—on September 25.

Charlie McDowell was present, and he said he had received copies of both the existing policy, adopted March 6, 1996, and the proposed policy. He pointed out that Section 15-248(b) of the previous policy had required that sewer line assessments be levied against "property owners whose property abuts" the extension, but the new policy exempted property owners who were already connected even though the extension may abut their property. He said he knew of only one case that this situation fit, and he characterized this as the

"mother-in-law clause." He said if the Board was going to exempt anyone, he wanted it to exempt him. He then submitted a written proposal of his own entitled "A Proposal for the Extension of the Public Sewer Lines to Residential Property." The proposal essentially required the Town to extend the public sewer to residential property where failed septic systems occurred, with the property owner charged only the standard connection fee; it would not apply to "commercial ventures, lots that won't perk, multi-family dwellings, or bed and breakfast dwellings." Money from connection fees would be used to create a fund for this purpose. He then pointed out that he owned three lots on Hickory Street and one lot on Fifth Street, and would therefore be charged for four hook-ups if the recent petition submitted by Margaret Shaffner was approved.

Ran Shaffner said he had received a copy of the proposal, and he asked the Board to consider the two methods of financing under the assessment authority, as shown in the Table on Page 12: one method required a petition from 50% of the property owners on an extension, and shared the cost 25%/75%, with the 75% funded equally by special assessment; the other method required a petition from only one property owner where the public health was endangered, also shared the cost 25%/75%, but required the 75% to be funded by the petitioner, to be reimbursed by special assessment from the other property owners over a period of time. He pointed out that this policy would discourage individuals with problems from coming forward since they would have to bear so much of the cost, while it should be even more in the Town's interest to address a potential public health hazard. He suggested that the funding in such cases should be the same—equal assessments—as in those cases where a petition from 50% of the property owners was received; then an individual would not be as hesitant to bring the problem up. In his own case, for example, the estimated cost of \$26,000 would be shared several ways.

Mr. McDowell then pointed out that four other lots along the east side of Fifth Street had a right-of-way through two lots abutting on Fifth Street; he felt these lots would have access, too, and it was not fair to permit them to come to the sewer for free.

Comm. Sossomon pointed out that, if the Town had the money, the proposal would be wonderful. However, almost no Town in the state provides sewer service free; the most common approach is to propose an extension and fund it through assessments against those who can be served. The legislature had given towns the clear authority to assess if they want to, and there were several different variations on funding, such as those contained in the Charlotte-Mecklenburg Utility District policy, which had been distributed to the Board last month.

Mr. McDowell pointed out that the Public Works Director had been surveying a further extension of the proposed line along Hickory Street, up to 4½ Street. It was pointed out that Comm. James had requested this in order to ascertain if other properties, such as 4½ Street Inn, could be served by this same gravity line.

Margaret Shaffner had prepared a chart for the Board indicating the advantage to property owners in the cost of assessments, and to the Town in connection fees, by sharing the cost among more property owners. She also reiterated her comments at the previous meeting, encouraging the Board to spread out the term for the assessment to four or five years.

Georgia Allen asked about the public hearing for assessments, and it was explained to her that this procedure was required by the General Statutes.

Margaret Shaffner asked about properties such as the Whittle property on Fifth Street, which had access to the Town sewer system now but were not connected. It was explained to her that such residences were not required to connect unless their septic tanks failed.

The Board agreed to take this matter under advisement until the next regular meeting. Comm. Calloway felt that a work session before that time would be beneficial.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO CALL A SPECIAL MEETING FOR 7:00 P.M. ON OCTOBER 9 FOR THIS PURPOSE.

5. The Clerk asked the Board, on behalf of the Highlands School P.T.O., for permission to hold the 14th annual Highlands 5-K Run on Town streets on October 26 at 9:00 a.m.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO PERMIT THIS EVENT ON TOWN STREETS.

6. The Clerk reported that Jimmy Mull had accepted employment in the Street Department, as approved by the Board at the September 4 Regular Board Meeting.

VI. Meeting was adjourned by common consent at approximately 8:30 p.m.

Richard Betz, Town Clerk