

REGULAR BOARD MEETING of December 4, 1996, with Mayor John Cleaveland and Commissioners H. N. James, Mike McCall, Ron Sanders, Donnie Calloway, and Zeke Sossomon present.

Also present were Richard Betz, Lamar Nix, Selwyn Chalker, Jerry Cook, Shannon Baldwin, Bill Coward, LaDonna Keener, Brett Millis, Robert Barnes, Kathy Finley, Gary Finley, Ralph Morris, Derek Taylor, Tinker Poteet, Steve Lucas, Alan Marsh, Pete Walsh, and Karol Walsh.

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

II. The minutes of the November 6 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

III. Reports.

1. The Mayor reported that Leroy Evans Jr., Manager of Administrative Services for the U. S. Postal Service office in Greensboro, had agreed to meet with him at 1:30 p.m. on December 5 in the Conference Room, as discussed at the previous meeting; he invited any interested Board members to attend.

2. The Mayor reported that, according to the Clerk, no business had been placed on the agenda for the December 18 Regular Board Meeting; the Board agreed by consensus to cancel the meeting. The Clerk also reminded the Board that the Regular Board Meetings in January had already been re-scheduled for January 8 and January 22 due to the first Wednesday falling on New Years Day.

3. The Mayor reported that he had received letters from both Senator Jesse Helms and Congressman Charles Taylor offering their assistance in arranging a meeting with an official from the Environmental Protection Agency concerning the Wastewater Treatment Plant; he had not heard from the official to date.

4. Tinker Poteet, representing W. K. Dickson Company, the Town's consulting engineers, was present. He reported that the engineers had still not finalized Change Order No. 2 for the general contract for the Water Treatment Plant, which had been approved on August 7. He reported that several additional items needed to be added to the general contract change order, including additional painting in the old part of the Plant, installation of a new basement door in the filter gallery, a new door for the Big Creek raw water pump station, new pressure reducing valves, additional manual control dampers, a heater in the pump station at Big Creek and the pre-clarifier, a visual sight gauge on the caustic tank in the chemical room, toe boards along the catwalk between the two treatment units as required by OSHA, a slope drain, and a gate at the raw water pump station. In addition, the electrical contractor was preparing a change order on that contract. He estimated that the total on the general contract change order would be about \$25,000, including items approved in August, and the total on the electrical contract change order would be about \$11,000. He pointed out, however, that the Little Bearpen Tank/Water Line project was still about \$65,000 under budget, so the combined projects would be a net total of about \$25,000 under budget. He pointed out that the Town could get by without the change orders, but the improvements would make for a better Water Plant. Public Works Director Lamar Nix verified that all of the items were justified, with the possible exception of the heaters. Mr. Poteet added that, although State officials would be on site and the Plant would be producing water tomorrow, it could not become fully operational until the State was satisfied. The Little Bearpen Water Tank would also be filled and sanitized this week.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPROVE THE ADDITIONAL CHANGE ORDERS.

Mr. Poteet said that the final change order would be prepared in writing and presented to the Board at a later date.

5. Public Works Director Lamar Nix reported on routine maintenance in the Electric, Street, and Water departments. He reported that the Ford F-350 4X4 dump truck had been received for the Street Department, and the snow plow would be installed as soon as possible.

The Water Department had been inspecting the installation of the water lines in Ravenel Ridge Subdivision on a daily basis. The Wastewater Treatment Plant had gone into storm mode during the recent heavy rains and its operation had not been affected. The 1996 Sewer Line Replacement Project would begin soon; a notice to proceed would be issued after approval of the contract documents by the Town Attorney. He also reported that he had met with Comm. James concerning several in-house projects for the Water Department; they would include water lines on Hickory Street, the top of Holt Knob, Mill Creek Lane, and Sixth Street. It was also reported that the culverts on Fifth Street had done well during the heavy rains.

6. Police Chief Jerry Cook gave an oral report on Police Department activities for the month of November. He reported that he would be looking at a new computer system for the coming budget year which would provide better data collection and comply with upcoming State requirements. He also said that he intended to introduce the new temporary police officers to the Board when their shifts permitted, as requested at the previous meeting.

7. Recreation Director Selwyn Chalker provided a sample of the material to be used in the partitions in the Bath House rest rooms, and said that the architect was also considering providing them in the Civic Center building. The retaining wall at the swimming pool had been poured by Mick Henry Concrete Pumping, was being backfilled with gravel, and the deck was being constructed. He had asked Frank Henry for revised estimates on the concrete slabs for the picnic shelters, and had been given a price of \$3750 for both slabs, bringing the total price for the picnic shelters down to \$17,150. Mr. Chalker also reported that he had received some information on the Parks & Recreation Trust Fund, and he planned to attend a workshop later this month to be eligible for grant money from the \$5 million available in the State; the applications would be due by the end of February, and he felt that the new tennis courts, discussed in previous meetings, would be a good project. Finally, he had received an informal proposal of \$6648 from Alan H. Shaw Company, Inc., of Asheville, to replace steel doors damaged by vandalism in the rear of the gymnasium.

MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ACCEPT THE PROPOSAL ON THE STEEL DOORS.

8. Each Board member had received a copy of the Zoning Administrator's written report for the month of November. Shannon Baldwin was present, and he reviewed with the Board the Little Flower Shoppe appeal recently heard by the Zoning Board, involving the construction of a "greenhouse" or "greenhouse structure" in the Town's fire district. The Zoning Board had upheld the appellants' argument in accordance with the Special Use Permit issued, and had overturned the notice of violation issued by Mr. Baldwin. He said that at the hearing Bill Cook, Chief Building Inspector for Macon County, had said that the use of the structure did not qualify as a greenhouse, and it would therefore not be exempt in the fire district. Moreover, no Zoning Certificate had been obtained from the Town as required. Moreover, although a Macon County building permit had been issued, no Certificate of Occupancy had been issued.

The Mayor felt that it was important to pursue the matter. Comm. James agreed; he pointed out that any business could erect a greenhouse in the fire district, and then occupy it for other uses.

He also felt the Planning Board should review the definition of a "temporary structure" in the Zoning Ordinance.

After additional discussion, the Mayor asked Town Attorney Bill

Coward to contact Bill Cook and find out what enforcement action he intends to take.

Mr. Baldwin also reported that the Planning Board had reviewed Section 405.1(A) of the Zoning Ordinance, as requested by the Town Board, regarding special sale sign provisions; they had recommended reducing the size from 32 SF to 16 SF, requiring a minimum of 30 days between each permit, and doubling the permit fee to \$10.00 per day or a minimum of \$50.00. The Planning Board had also recommended adopting the proposed amendments to the Subdivision Ordinance, which placed responsibility for certifying improvements in subdivisions on the subdivider's engineer instead of the Town Engineer. This item was on the agenda under Old Business later in the meeting.

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

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

10. The Clerk reported that he had arranged to recycle Town cardboard with Asheville Waste Paper Co. Inc., instead of continuing the current arrangement with J. P. Sanitation and Webster Enterprises in Sylva, in order to increase cardboard revenue and reduce transportation costs.

He also reported that a rough draft of the Personnel Manual and preliminary job descriptions, as prepared by Bob Crowder of the League of Municipalities, had been received and was being reviewed. Mr. Crowder would be in Town to discuss the policy with staff on December 11, and hoped to be able to make a final presentation of the Pay and Classification Study to the Board on January 22.

He also reported that he would be meeting with Steve Eller and Bill Gibson with the Southwestern North Carolina Planning and Economic Development Commission at 9:30 a.m. on November 10 concerning possible funding for capital projects; he invited any interested Commissioners to attend.

He also reported that Buck Trott had invited any interested Commissioners to attend a symposium sponsored by the Mirror Lake Improvement Association at the Highlands Conference Center at 10:00 a.m. on December 12. The symposium would include several State and Federal representatives, and would focus on the restoration of Mirror Lake and improvement of wetland habitats.

11. The Mayor reported that he had been asked if the Town would be interested in permitting another Cable TV company, competing with Northland Cable TV, to operate in Highlands. It was pointed out that the current Cable TV franchise might exclude such competition, and would not expire until 1999; however, the consensus was that the Board would not object if it was legal. The Mayor also pointed out that Northland had never cleaned up its site on Big Bearpen Mountain as promised several years ago; he offered to contact the company about this matter and see if he could get it resolved.

IV. Old Business.

1. The Board agreed to scheduled a public hearing for 6:45 p.m. on January 22 to receive comments from the public on the proposed Subdivision Ordinance amendments discussed at the previous meeting, as well as Zoning Ordinance amendments recommended by the Planning Board discussed earlier in the meeting relating to temporary signs. A proposal to amend the Fee Schedule would also be included in the hearing.

2. The Board again discussed the installation of a sidewalk at Highlands Plaza to the new U. S. Post Office facility. The Clerk reminded the Board that he had written to the property owner, Margaret

Mitchell O'Donnell, on April 25, 1995 and July 21, 1995, requesting that a sidewalk be installed along US-28 from Third Street in accordance with Paragraph 10, Appendix A, of the Zoning Ordinance.

Town Attorney Bill Coward pointed out that the general rule exempted property owned by or leased by the U. S. Postal Service from the Zoning Ordinance under the Supremacy Clause of the U. S. Constitution; he thought the exemption applied because use of the property by the Post Office triggered the responsibility to construct the sidewalk.

Comm. McCall pointed out that the provision in the Ordinance referred to the "property owner," not the lessee; he felt that it was her responsibility to install the sidewalk, and pointed out that other sidewalks had been installed in Town under the same authority. Comm. James maintained that he did not agree that the Post Office should be exempt from the Ordinance, and the Mayor said he understood that it had never specifically sought exemption under the supremacy clause. After considerable discussion, the Board took this matter under advisement, and asked Mr. Coward to review the Town's authority to enforce this provision of the Ordinance.

V. New Business.

1. LaDonna Keener was present representing Lucas and Wood, PC, the Town's auditors, to review the FY 95-96 audit. She said that the audit had gone well, and an unqualified opinion had been given.

She felt that Town personnel were utilizing the computer system better than before and were generating better information, and she was pleased with the quality of the personnel. Internal controls had improved, and the office was doing as well as it could as far as segregation of duties, considering the number of people in the office. She pointed out that the Town was still doing accounting on a cash basis, but it was reported in the audit on an accrual basis, which created some problems.

2. The Southwestern North Carolina Planning and Economic Development Commission had again requested that the Town adopt a resolution requesting the release of its share of State funds to the Region A Regional Council.

MOVED BY COMM. JAMES, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO ADOPT THE RESOLUTION. A copy is attached hereto and made a permanent part of this record.

3. The Clerk reported that a request had been received from Robert Barnes to access the Town Sewer by means of a 2" pressure line connecting to the private line installed by the Assembly of God Church, approved on April 5, 1995, on Sixth Street; the line would be less than 60 feet in length. The property in question was a re-combination of six lots into five lots, and had been approved by the Planning Board last month, contingent on written permission from the Church, which had been received. Robert Barnes was present and stated that he intended to construct five two-bedroom residences on the property.

Town Engineer Lamar Nix said that the 2" lines would be adequate to serve the property under State specifications, and could serve up to 35 additional residences in the area. Comm. Calloway asked about the Town's policy on pressure lines; he thought that lines such as the one serving the Highlands Smokehouse restaurant should be avoided whenever possible. The Mayor pointed out that it was not always possible to serve the Town by gravity lines in accordance with the Master Sewer Plan adopted in 1989. Mr. Nix reported that he had surveyed the line, and the property could not be served by gravity. Comm. McCall asked if the line would be large enough to serve everybody on Smallwood Avenue; he also asked if others who connected would also have to receive permission from the Assembly of God Church. Mr. Nix said that, at present, the 2" line would just be serving Sixth Street, which was not included on the Master Sewer Plan; he recommended that the Town assume ownership of the Assembly of God sewer line. Comm. James said that he would not object

to the request if it was clear that, if the Town were to install a sewer line in the future, this property as well as other property served by the sewer line would be subject to assessments.

MOVED BY COMM. SANDERS, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST, PROVIDED THE SEWER LINE IS INSTALLED TO TOWN SPECIFICATIONS AT THE OWNER'S EXPENSE, AND LIMITED TO FIVE CONNECTIONS IN THE SUBDIVISION.

4. A request had been received from Earle Young for permission to construct a roof overhang on his building under construction on Oak Street, which would encroach approximately three feet on the right-of-way of that street. The Clerk presented a drawing provided by Mr. Young, and reminded the Board that a revocable license agreement had been approved on June 21, 1995, permitting a retaining wall footing to encroach on the same right-of-way; he said Mr. Young had agreed to enter into a similar agreement which would provide that the overhang could be removed at the Town's pleasure within 30 days. Comm. Calloway said that he had understood when the footing encroachment was approved that no other part of the building would encroach on the right-of-way.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO DENY THE REQUEST.

5. MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPROVE THE FOLLOWING CHRISTMAS BONUSES FOR FULL-TIME TOWN EMPLOYEES:

Less than one year of service.....	\$ 50.00
Between one year and ten years of service.....	\$100.00
More than ten years of service.....	\$150.00

It was also agreed that part-time employees should be given hams.

6. Kathy Finley was present to request permission to hold a crafts show at the Highlands Civic Center on the Friday and Saturday after Thanksgiving next year. She said the show, currently being held at Sassafras Gap Campground, was a juried one and was listed as one of the top 200 in the country; nothing but hand-crafted items were sold. She felt that most of the merchants in Highlands were behind the shows because they drew people into the area, which benefitted all of them. She also pointed out that she was a member of the Highlands Chamber of Commerce, and said that she intended to donate 25% of the proceeds from entry fees to the Fire Department, in addition to the fee for use of the facility. According to the Clerk, a policy had been established by the Board on September 18, 1985, "not to approve events of a commercial nature which were not in the interests of local merchants at the Civic Center building." The Board agreed to take the matter under advisement, ask Derek Taylor who was present from the Chamber of Commerce to check with merchants in Town to see how they felt about the show, and consider this matter again at the January 8 meeting.

7. The Clerk reported that he had received a letter dated December 2 from Del Roberts, requesting that the speed limit on the US-28 be reduced from 35 mph to 20 mph from Mitchell's Motel to Nick's Calico Cottage, due to traffic and congestion at the Post Office. Police Chief Jerry Cook was present, and he recommended that the speed limit in the area in question be reduced to 25 mph. Comm. James felt that the current speed limit was adequate.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND CARRIED TO REQUEST THAT THE STATE DEPARTMENT OF TRANSPORTATION ADOPT A CONCURRING ORDINANCE REDUCING THE SPEED LIMIT TO 25 MPH. Comms. Calloway, Sanders, McCall, and Sossomon voted "aye;" Comm. James voted "nay."

8. MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND CARRIED TO APPROVE THE ELECTION OF MIKE MCCALL AS FIRE CHIEF FOR 1997. Comm. McCall abstained.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO RE-APPOINT OLAN VINSON AS THE TOWN'S REPRESENTATIVE ON THE FIREMAN'S RELIEF FUND.

9. A letter dated December 2 had been received from Dennis DeWolf concerning use of the gazebo on Macon Savings Bank property on Pine Street, as discussed at the previous meeting. The letter indicated that the bank would be responsible for all of the events that are scheduled, but suggested that the Town contribute to the project by reimbursing the \$100 temporary service charge, or providing underground electric service but waiving the monthly minimum charges.

The Board discussed the matter at some length, but the consensus was that assistance from the Town could not be approved while questions remained concerning use of the facility. Derek Taylor was asked if the Highlands Chamber of Commerce would consider scheduling events; Mr. Taylor agreed to talk to Mark Isabelli about the matter.

10. Pete Walsh was present with his wife Karol. He said that he had written a letter to the Clerk concerning water service, and as a result there would be a legal claim that will follow US Statute 18 from 1983. He then asked for the resignation of Mayor Cleaveland and Councilman Sossomon. He also asked for permission to borrow or buy a copy of the Town Charter.

The Clerk offered to provide the Board and the Town Attorney with a copy of the letter he had received from Mr. Walsh.

11. MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS A PERSONNEL MATTER AND A LEGAL MATTER.

- a. Lamar Nix briefed the Board on applications for a Water Plant Operator to replace James Keener. It was agreed that this position would be advertized in The Asheville Citizen.
- b. The Board discussed legal implications of the recent appeal before the Zoning Board by the Little Flower Shoppe with the Zoning Administrator and the Town Attorney.
- c. The Board asked the Town Attorney to review the possibility of adopting an amendment to the Zoning Ordinance that would require commercial buildings to be completed within a specific period of time.
- d. Ron Sanders discussed a recent incident of open burning. Comm. James pointed out that a State Statute prohibited open burning of material that did not originate on the same property. He felt that a local ordinance was also needed to address the problem.

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

VI. Meeting was adjourned by common consent at approximately 9:30 p.m.

Richard Betz, Town Clerk