

REGULAR BOARD MEETING of October 15, 1997, with Mayor John Cleaveland and Commissioners H. N. James, Mike McCall, Ron Sanders, and Zeke Sossomon present.

Also present were Richard Betz, Lamar Nix, Eddie Madden, Victor Lofquist, John Smith, Bob & Jane Clair, Dennis DeWolf, Alan Marsh, Al Bolt, Kimila Wooten, Buck Trott, Jim Ramsdell, Steve Chenoweth, King & Janet Young, Dave Clary, Georgia Allen, Moyna Monroe, and Curtis Hayes.

I. Mayor Cleaveland called the meeting to order at 7:00 p.m. He reported that Comm. Donnie Calloway had told him he would be unable to attend the meeting.

II. The minutes of the October 1 Regular Board Meeting had been distributed by mail. The Clerk reported that he had made a typographical error in the minutes as distributed, but had corrected it in the minute book.

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

III. Reports.

1. Mayor Cleaveland reported that he had attended the County Commissioners meeting of October 14; the Commissioners had agreed to extend the Water Supply & Wastewater Treatment Improvements Fund agreement between the County and the Town for an additional five years at \$300,000 per year on a matching basis.

2. The Mayor reported that Highway Commissioner Ron Leatherwood would be meeting with Town officials at a luncheon meeting on October 21 to discuss Town needs, especially the schedule for re-paving Main Street, as agreed to by the previous Commissioner; Board members were welcome to attend.

3. The Mayor reported that the Highlands Land Trust Inc. had informed him that it was in the process of negotiating to acquire the Hobson Subdivision property from Ann Haack, and had asked the Town to consider extending the deadline of February 15 for installation of improvements.

Highlands Land Trust representative Moyna Monroe was present, and explained that negotiations had progressed; however, the Haacks wanted to ensure that they had a fall-back position in the event that the sale did not occur.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO EXTEND THE DEADLINE FOR INSTALLING IMPROVEMENTS IN THE HOBSON SUBDIVISION AN ADDITIONAL THREE (3) MONTHS, PROVIDED THE BOND REMAINS IN PLACE.

4. The Mayor reported that, at the September meeting of the Highlands Land Trust, he had discussed the possibility of the Town conveying the northern end of Fifth Street beyond its intersection with Poplar Street, where the Kelsey Trail was believed to be located. According to a map recently prepared by surveyor W. Edward Hall, copies of which were distributed to the Board, the trail did lie within that right-of-way. He pointed out that the Town had no need for that portion of Fifth Street.

Moyna Monroe said the Land Trust was interested in preserving the property containing the Kelsey Trail. Regardless of how the 4½/Poplar Street Declaratory Judgement is resolved, she said the Edwards family intends to sell a 3-acre park to the Land Trust, and a donor wants to donate funds before the end of the year; if the Town prevails in the Declaratory Judgement, she asked that it convey whatever interest it has in that portion of Fifth Street. The Land Trust is not permitted to sell the land, and it would remain in a natural state except perhaps for park benches. The Mayor felt that a condition of the conveyance should be that the Land Trust would

acquire the entire 3 acres; Ms. Monroe agreed.

By consensus, the Board authorized Town Attorney Bill Coward to draft the necessary legal instrument conveying any interest the Town might have in the north end of Fifth Street beyond Poplar Street to the Highlands Land Trust.

5. Public Works Director Lamar Nix reported that the Street Committee had met last Tuesday on Carolina Way, and had agreed that the trees which are proposed to be planted within the right-of-way of that street are to be maintained by the property owners of Carolina Way, but may be trimmed or removed if necessary by the Town in order to maintain a safe sight distance. The Committee had also agreed to install a three-way stop sign on Laurelwood Lane; to re-located a handicap parking space on the north side of Main Street so that it is adjacent to a curb cut; and to designate several parking spaces along Oak Street. The Mayor reported that it was unclear that the handicap parking space in front of Highlands Pharmacy is a single parking space, and asked Mr. Nix to see if it could be better delineated.

6. Town Attorney Bill Coward reported that an order had been ordered on October 6 in the case of Edward Forrest and Randy Paxton, d/b/a The Little Flower Shoppe, vs. the Department of Insurance. The judgement found that the interpretation of Section 305 of the N. C. State Building Code by the Department was in error; there was no requirement in the Code that a greenhouse be used for a particular purpose, and the interpretation that 100% of a greenhouse be used for the cultivation of plants was unreasonable. The decision had therefore been reversed. Mr. Coward said he did not agree with the decision.

The Mayor expressed some concern about the validity of the State's own rules on fire districts. He said that it seemed unfair that some businesses pay the extra cost of fire-zone construction, while others could circumvent these rules; he felt it put the Town in a bad position. Comm. James agreed, and asked if there were any grounds for the Town to get involved. Comm. Sossomon felt that the League of Municipalities might be able to provide some pressure. The Clerk suggested that the Building Code Council could be petitioned to amend the Building Code to better define a greenhouse. Bill Coward felt that perhaps a letter from the Town and/or the League might encourage the Department of Insurance to appeal the decision.

The Board agreed by consensus for the Clerk and the Town Attorney to discuss this matter with League of Municipalities consultants and see if the Department of Insurance can be convinced to file an appeal.

7. Victor Lofquist of W. K. Dickson Co., the Town's consulting engineer, was present to update the Board on the Water Treatment Plant. He said that he was very pleased with the performance of the new plant, which was producing a higher quality water on an order of ten times in terms of finish water turbidity. Several punch list items were being addressed by Langston Construction, the biggest item being the computer system, which had delayed the completion of the work. The system had originally been furnished by Hi-Ran Controls, which had gone bankrupt and had been purchased by G. E. Controls; G. E. Controls had not agreed, however, to go beyond the standard one-year warranty and honor the five-year warranty in the Plant specifications. Mr. Lofquist said that Langston had indicated it would honor the five-year warranty, and responding to a question from the Mayor, indicated that the only way to guarantee it would be with a bond; however, he felt that Langston would ask for compensation for such a bond. Comm. Sossomon felt that the Performance Bond would cover this situation; the Water Treatment Plant was not complete until the warranty in the specifications had been honored.

Comm. James requested a summary of the costs on the entire project. He also felt that the contractor ought to be responsible for

inspection fees incurred after the contract completion date. Mr. Lofquist agreed to provide a summary of costs when the change orders were finalized; he felt, however, that some of the costs were due to normal start-up problems.

8. The Clerk had distributed with the agenda copies of a letter from Fire Chief Mike McCall to Warren Cabe, Director of Macon County Emergency Services, requesting that Highlands area residents be given first consideration for any openings at the Highlands EMS Station.

The Clerk reported that letters addressed to the Board had been received from Robert L. Harrison and from Elizabeth Austin, opposing any change in zoning along US-64E across from the Ball Park.

The Clerk reported that Police Chief Jerry Cook had informed him that he had the opportunity of acquiring a 1½-ton four-wheel-drive truck from the N. C. Department of Crime Control and Public Safety, Law Enforcement Support Services, at no cost to the Town, similar to one that had been obtained several years ago; the truck had 11,000 miles, and the Town's only obligation was not to sell it for two years. The Board agreed by consensus to sell the old truck, and acquire the new one.

The Clerk reported that copies of the audit had not yet been prepared by the auditors, but would be ready by October 17; he agreed to deliver copies to each Board member as soon as they were available.

IV. Old Business.

1. Each Board member had received a copy of a memo dated October 9 from Dennis DeWolf on behalf of the owners of the "Carolina Way City Block," together with an invoice from Rhodes Brothers Paving Inc. for \$37,082.40; the invoice included additional costs of \$1134.00 for crosswalks connecting Town sidewalks. \$35,850 had been received from the property owners along Carolina Way and forwarded to the Town Treasurer for deposit. Mayor Cleaveland noted that the memo seemed to be saying that the property owners would prefer pruning of the trees by themselves, instead of by Town personnel, if needed.

Comm. James asked if a deed or release had been received from Walter Shepherd and Bob Searle, the original owners of the subdivision; Comm. Sossomon felt that, since the subdivision plat indicated that Carolina Way was a private road, some kind of conveyance would be required.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED THAT THE TOWN ACCEPT CAROLINA WAY, CONTINGENT ON SUCH ADDITIONAL CONVEYANCES AS ARE NECESSARY.

The Mayor asked the Board if it would consider paying the additional cost of installing the two crosswalks.

MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED THAT THE TOWN PAY THE ADDITIONAL COST.

The Mayor and several Board members commented for the record that the property owners had done a beautiful job improving the road. Janet Young offered her thanks to Dennis DeWolf on behalf of all of the property owners.

2. Copies of the third draft of a "Proposed Ordinance Regulating Open Burning," as discussed at the previous meeting, had been distributed with the agenda. Town Attorney Bill Coward pointed out that the Administrative Code contained a provision on open burning which had a different time limit—8:00 a.m. until 6:00 p.m., rather than 8:00 a.m. until 8:00 p.m.—than the proposal; he suggested that the Board consider changing the time. Zoning Administrator Eddie Madden and Fire Chief Mike McCall concurred with the suggestion.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING ORDINANCE:

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Section 5-18. Ordinance Regulating Open Burning.

(a) General.

Burning in the Town of Highlands must comply with all air pollution laws, regulations, and ordinances, as well as State and Federal forest fire laws.

In order to protect the property of the residents of Highlands and to maintain a healthful and pleasant environment, the following additional requirements are imposed.

(b) Permitted Burning.

Open burning of leaves, tree branches, or yard trimmings originating on the premises of private residences or on privately owned undeveloped lots will be permitted under the following conditions:

(1) Burning must be done by the owner or occupant or by a person hired by or under contract to the owner or occupant. The fire must be attended by such person at all times until the fire is extinguished. An adequate water source must be provided in order to extinguish the fire. Before leaving the site of the fire, appropriate measures must be taken to ensure that the fire is completely extinguished.

(2) All open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous in the opinion of either the Chief of the Highlands Fire Department or the Macon County office of the North Carolina Forest Service.

(3) Open burning shall be done between the hours of 8:00 a.m. and 6:00 p.m..

(c) Non-permitted Burning.

(1) Burning of materials other than those specifically permitted in the aforementioned provisions is prohibited. The burning of garbage, rubber products, petroleum products or other materials which produce heavy smoke or noxious fumes is not permitted.

(2) Burning within the Town of Highlands Fire District is prohibited.

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3. Kimila Wooten was present on behalf of Margaret O'Donnell, along with Al Bolt, Ms. O'Donnell's son. Ms. Wooten reported that Ms. O'Donnell had been unable to attend the meeting on doctor's orders due to chemotherapy she was undergoing for cancer through the end of the year. She said she realized the question of the construction of a sidewalk to the U. S. Post Office at Highlands Plaza had been an ongoing process; that a lot of work had been done by her, Ms. O'Donnell, and the Town Attorney; and that she felt she had a resolution acceptable to all. She said that a D. O. T. encroachment permit had been applied for, and she expected it within fourteen (14) days; upon receipt of the permit, Ms. O'Donnell had agreed to accept a proposal from Buchanan Concrete Contracting Company for installing a sidewalk along US-28 for the sum of \$12,640, unless another proposal could be obtained before the encroachment permit was approved. She said that Ms. O'Donnell had tried for months to get Carbone Construction Company to the table, but had succeeded in obtaining only a "paltry" sum of money; her plan was to take Carbone

to court, but in the meantime she had agreed to pay the cost of the sidewalk. Ms. Wooten asked the Board to delay assessing any fines until such time as work can begin on the sidewalk, and also decline to enforce any criminal penalties.

Comm. James asked if any plans had been submitted. Ms. Wooten said that she would forward plans to Town Engineer Lamar Nix. Comm. Sossomon said that he felt a good faith effort was being made.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO STAY ISSUANCE OF CITATIONS, PENDING COMPLETION OF THE SIDEWALK.

V. New Business.

1. The Clerk reported that the contract for operation of the Wastewater Treatment Plant by Culligan Operating Services, which expires on November 1, had not yet been finalized. He understood that a 2.5% cost of living increase would be proposed, but that Culligan had agreed to honor the existing agreement until the new contract was approved.

2. The Fire Department had asked the Town to receive bids on the 1973 Chevrolet Fire Truck; the minimum bid would be \$8000.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADVERTIZE FOR BIDS ON THE 1973 FIRE TRUCK.

VI. Work Session.

The Mayor announced that the Board would be reviewing proposed revisions to the Personnel Manual for the remainder of the meeting in a work session, and several members of the audience left the meeting room.

The Clerk had prepared a summary of the major changes proposed by Bob Crowder, consultant with the League of Municipalities, as presented to the Board originally on February 19, 1997, as part of a comprehensive Pay & Classification Study. The Board then reviewed the proposed changes in some detail. The Clerk pointed out that the proposal included four changes in benefits: an amendment of the schedules for accrual of vacation and sick leave, a recommendation that the death benefit be doubled from \$10,000 to \$20,000, and a recommendation that a deferred income plan be offered to all employees with the Town matching the employee's contributions. He recommended that the Board defer action on these specific changes in benefits until next year when salaries and benefits are reviewed.

Comm. Sossomon objected to a provision on Page 74 of the manual which defined a positive alcohol test as an alcohol concentration greater than 0.04; he felt that the limit should be zero. The Clerk said that he thought the standard was part of the Omnibus Transportation and Employee Testing Act of 1991, but agreed to see if it could be changed.

The Board agreed to take the proposed revisions of the Personnel Manual under advisement until the November 19 meeting.

VII. MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADJOURN. Meeting was adjourned at approximately 9:00 p.m.

Richard Betz, Town Clerk