

REGULAR BOARD MEETING of February 18, 1998, with Mayor Buck Trott and Commissioners H. N. James, Mike McCall, Ron Sanders, Zeke Sossomon, and Amy Patterson present.

Also present were Richard Betz, Bill Coward, Lamar Nix, Eddie Madden, Selwyn Chalker, Sheriff Homer Holbrooks, Bob Scott, Dan Barker, Rosemary Fleming, Charles Cooper, Christy Kelly, Linda Clark, and Curtis Hayes.

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

II. The minutes of the February 4 Regular Board Meeting, the February 5 Special Board Meeting, and the February 11 Special Board Meeting had been distributed by mail.

Comm. James felt that the motion at the February 11 Board meeting should be clarified, and the Board agreed with Comm. Sossomon's suggestion that the words "with the exception of those items recommended in" be changed to "as amended pursuant by."

MOVED BY COMM. JAMES, SECONDED BY COMM. MCCALL, AND CARRIED TO APPROVE THE MINUTES AS CORRECTED. Comm. Sanders abstained because he had not attended these meetings.

III. Reports.

1. The Mayor reported that he had recently seen a briefing by Sheriff Homer Holbrooks and Bob Scott on the new Macon County jail, and he had asked Mr. Scott to present it to the Board tonight. Mr. Scott then presented a brief video program on the new jail, and he and Sheriff Holbrooks answered questions from those present.

2. The Mayor reported that he had received a Memorandum of Agreement from the League of Municipalities for providing retreat facilitation services through the MAPS Group at the Board Retreat scheduled for March 14; the consultant would be Rebecca Veazey.

MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPROVE THE MEMORANDUM OF AGREEMENT.

The Mayor asked each Board member to submit a list to the Town Administrator of topics they would like to discuss at the retreat so that an agenda can be prepared.

3. Town Attorney Bill Coward was present, and reported that arguments had been completed before the State Court of Appeals in the Dillingham/Mountain Shore case; Mountain Shore had appealed Judge Downs's granting of the Town's motion to be removed from the case. He expected a decision in 30 to 60 days.

4. Each Board member received a copy of the Parks and Recreation Department Monthly Report for the month of February. Recreation Director Selwyn Chalker reported that the Recreation Committee had met on February 12 and discussed several items. Informal bids were still being received on the tractor, and he expected to have this information by the next meeting. He recommended employing Jim Colvin, a retired Postal Services employee, to work on the front desk part-time. Comm. James said he would not object if the Committee recommended employing Mr. Colvin, and the Board agreed by consensus. He reported that the Committee was still reviewing fees and hours of operation, and also had agreed to re-laminate the front desk. The Committee had also agreed to begin developing a long-range plan for the next 4 to 5 years for the Recreation Park.

The following informal quotations had been received from Frank Henry for labor and materials for the following:

- Repairing the maintenance shed roof.....\$3240.75
- Removing, re-framing, & replacing the Old Jail roof.....2925.49
- Constructing two picnic shelters.....21,774.20

Mr. Chalker pointed out that, under LWCF rules, the Town was obligated to replace the picnic shelter removed two years ago.

Comm. James asked about the design and appearance of the shelters, which had been approved over one year ago. He also asked if Mr. Henry had a contractor's license, or workmen's compensation or other insurance. The Clerk reported that, although the Recreation Department was over budget for capital improvements due to the unexpected costs associated with the Tennis Court project, there were adequate contingency and capital reserve funds in the Department.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED FOR FRANK HENRY TO PROCEED WITH THE REPAIR OF THE MAINTENANCE SHED ROOF, THE JAIL ROOF, AND THE TWO PICNIC SHELTERS.

Comm. Sossomon expressed a concern over approving "cost-plus" work, and the Board agreed by consensus that Board approval would be required if the cost of any of the projects exceeded the quotations submitted.

5. The Clerk reported that he had obtained an estimate of \$3959.86 from Frank Henry for labor and materials for covering the rear deck at the Town Hall building. He understood that the Chamber of Commerce had agreed to reimburse the Town for half the cost, up to \$2500.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED FOR FRANK HENRY TO PROCEED WITH THE PROJECT. The Clerk was asked to determine if Mr. Henry carried worker's compensation or other insurance.

The Clerk had provided each Board member with a copy of the Personnel Manual adopted at the February 11 Special Meeting, as requested, for information.

The Clerk had provided each Board member with a copy of the draft Needs Assessment Report prepared by David Harris as a result of the public hearing held on February 4, for information.

#### IV. Old Business.

1. Each Board member had received a copy of a draft antenna lease agreement with WHLC several weeks ago, prepared by Town Attorney Bill Coward; Mr. Coward reported that he had based the lease on a model provided by David Harris of Custom Communications.

Charles Cooper was present, distributed copies of the draft lease containing comments he had made, and asked permission to review the document; Mr. Coward had not seen the comments. Mr. Cooper then proceeded to recommend the following:

- Section 3: Relocation to be filed with FCC, rather than completed, within 30 days.
- Section 4: Franchise not needed for broadcasting lease.
- Section 6(a): The new rent to begin upon commencement of operation of the new tower.
- Section 6(c): Proposed rate of \$100/month for each additional antenna.
- Section 6(d): Legal costs to be paid by the Town.
- Section 7: Add the word "and" between "antenna" and "facilities" in first sentence.
- Section 8: Recommend deleting painting requirement; Mr. Cooper said that the galvanized color would be preferable.

Mr. James suggested that Mr. Cooper meet with Mr. Coward and discuss the details of the lease, rather than attempting to discuss all of the particulars at this meeting. Mr. Coward agreed, but said that the Board needed to give him some guidance on some of the specific lease provisions. The Board agreed by consensus to the following:

- Section 26(g)(ii): The Board agreed that \$1 million, rather than \$10 million, general liability insurance should be required.
- Section 26(g)(iv): The Board agreed to delete this section, as Mr. Cooper would be using the Town's tower contractor to erect his antenna.
- Section 30: The Board agreed to waive the security deposit.

Comm. Patterson asked why the previous lease with WHLC had not been used as a model. Mr. Coward said he felt the lease under consideration was much more comprehensive, contemplating more than one user and many more contingencies; he felt it would better protect the Town.

Dan Barker was present, and asked who was paying for the tower. The Mayor explained that the Town would purchase and construct the tower, and then lease it to WHLC and other users on Big Bearpen Mountain, as agreed in November. Comair had already agreed to vacate its tower, and it and the two utility poles would be removed.

MOVED BY COMM. JAMES, AND UNANIMOUSLY CARRIED, FOR THE TOWN ATTORNEY AND THE TOWN CLERK TO WORK WITH MR. COOPER ON REVISING THE LEASE, AND TO BRING IT BACK FOR REVIEW AT THE NEXT MEETING.

2. The Board then discussed the related issue of erection of a tower on Big Bearpen for the WHLC antenna. The Clerk explained that the Board could either accept an offer Mr. Cooper had made to have the informal bids he had received in November updated, or proceed with requesting formal bids.

Mr. Cooper explained that he could obtain a trade discount by requesting informal bids through his consultant; he asked permission to have the bids received last November re-submitted directly to the Clerk. The time frame for completion of construction was between 3 and 6 months.

Dan Barker asked about wind and ice loading specifications. Mr. Cooper explained that his engineer had recommended designing the tower for 125 mph winds and a one-quarter inch ice load. Mr. Barker then cautioned the Town that, in his experience with large towers in his profession, the ice load was insufficient; he felt it should be designed for at least a 3-inch ice load. Comm. Sossomon felt that the Town needed to be assured that the tower had been properly engineered.

Comm. Sanders made two motions, which were not seconded, to permit Mr. Cooper to proceed with FCC approval for moving his antenna site and to construct the tower; the Board discussed the matter at some length. Comm. James then suggested that the Board first vote to ask for bids, then to proceed with construction if the price was acceptable. Comm. Patterson agreed with Comm. Sossomon that a determination should be made by an engineer concerning wind and ice load before the Town receives bids.

MOVED BY COMM. SANDERS, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO PROCEED WITH ADVERTIZING FOR BIDS FOR AN 80-FOOT TOWER, AFTER DETERMINING THE APPROPRIATE WIND AND ICE LOAD FOR SUCH A TOWER.

3. The Board again discussed the Highlands Thoroughfare Plan Technical Report prepared by E. D. McDonald from the D. O. T. Statewide Planning Branch. Comm. James felt that the Board should consider adopting the plan in order to obtain funds when they became available; he felt that many of the recommendations in the plan were good ones,

such as proposed improvements of Maple Street, NC-106, and Mirror Lake/Hicks Road. He felt that the proposed bridge across the Recreation Park property might also need to be considered if there was no other alternative.

Comm. Patterson agreed; she felt that the proposed in-Town bypass would be more acceptable than a by-pass some distance from the downtown area.

Mayor Trott said that he did not like the idea of the bridge.

The Board agreed for the Clerk to contact Mr. McDonald and arrange a meeting with Town staff, as well as any interested Board members, to further discuss the plan.

4. The Clerk had obtained specifications for a 4-wheel-drive, 4-door, 4.0-Liter, 6 cylinder Jeep Cherokee or equivalent for the Police Department, as discussed at the previous meeting.

MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADVERTIZE FOR BIDS FOR THIS VEHICLE.

5. The Clerk reported that he and Lamar Nix had met with Steve Pierson and discussed a water line easement for a section of Bowery Road; the project had been budgeted for the current fiscal year, but was on hold pending receipt of the easement. The Clerk reported that Mr. Pierson had expressed some concerns over some of the language in the standard easement form used by the Town that indicated he could not recover any damages as a result of problems with the installation. He had also objected to the width of the 60-foot easement. Mr. Nix said that he had met on site with Mr. Pierson, and Mr. Pierson had explained to him that he was concerned over the destruction of trees and shrubbery; he had requested that the water line be installed in the shoulder of the road, or in the road itself.

His attorney had prepared an easement containing alternate language, and he had asked that the Town Attorney discuss the easement with his attorney.

Comm. Patterson felt that a right-of-way was a right-of-way, and the Town should not feel it must negotiate the location of a water line within that right-of-way. Comm. James agreed; he felt the Town should ask for an easement that would include the entire 60 feet shown on the map Mr. Pierson had provided. The Board agreed by consensus. Comm. James also stated that he felt that, if this project did not proceed soon, the Board should consider moving the \$182,000 budgeted to another project.

The Clerk was instructed to convey this decision to Mr. Pierson.

#### V. New Business.

1. The Board discussed at some length a Resolution Agreeing to Assume Operation of the Highlands Cemetery. Mr. Coward reported that the Cemetery Company was planning to meet next week and proceed with a Resolution of Dissolution, which would become effective a couple of weeks after that. The Clerk briefly reviewed his proposal last November concerning fees and incorporation of the Cemetery's operation into the Town's budget. He said he had proposed assuming operation of the cemetery on July 1, with the new fiscal year; however, the Town could amend its budget if it chose to and begin operation before then, since the Cemetery's assets would be transferred to the Town.

Comm. Patterson had not received a copy of the report prepared by the Clerk on November 5, and the Clerk offered to provide her with a copy. She asked if the Town could continue to restrict the cemetery to residents of Highlands Township. Mr. Coward pointed out that a general statute regulated the Town's operation of the cemetery; in his opinion, nothing would prohibit the Town from continuing to operate the cemetery in accordance with the policies of the Cemetery

Company. He proposed amending the resolution accordingly, and the Board agreed by consensus to incorporate the amendment.

The Clerk reported that Eddie Madden had agreed to administer the cemetery on a trial basis, and had been meeting on-site with Bud Potts when grave sites were needed. However, no specific guidelines beyond the fee increases proposed in the November report had been developed, and the Clerk offered to provide those guidelines by the next meeting.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION AGREEING  
TO ASSUME OPERATION OF THE HIGHLANDS CEMETERY

**WHEREAS**, the Board of Directors of the Highlands Cemetery Company, Inc., a non-profit corporation, has requested that the Town of Highlands take possession of the assets of the Highlands Cemetery Company, Inc., and assume operation of the Highlands Cemetery; and

**WHEREAS**, municipalities are empowered to establish, operate, and maintain cemeteries under G. S. § 160A-341 et. seq.; and

**WHEREAS**, the Board of Commissioners of the Town of Highlands recognizes that it would be in the best interests of the public health and safety to assume operation of the Highlands Cemetery.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners of the Town of Highlands, upon dissolution of the Highlands Cemetery Company, Inc., does hereby agree as follows:

(1) To take possession of the assets of the Highlands Cemetery Company, Inc., consisting of all deposits, investments, and cash;

(2) To assume all liabilities of the Highlands Cemetery Company, Inc.;

(3) To acquire title to all real property owned by the Highlands Cemetery Company, Inc.; and

(4) To operate and maintain said property as a municipal cemetery for the benefit of the public in accordance with the General Statutes of the State of North Carolina, and in accordance with the practices, policies, and procedures of the Highlands Cemetery Company.

This resolution is adopted this 18th day of February, 1998.

The Town of Highlands

\_\_\_\_\_  
Allen L. Trott, Mayor

(TOWN SEAL)

ATTEST:

\_\_\_\_\_  
Richard Betz, Town Clerk

2. The Clerk reported that a written request had been received from Derek Taylor, George Schmitt, and Gary Schmitt, that the Town consider removing a large maple tree within the right-of-way of Fourth Street opposite the Town Hall, the health of which was in question. He said that he had asked Bill Wykle, the consultant at the Highlands

Biological Station who had prepared the Town's tree inventory several years ago, to examine the tree; Mr. Wykle had indicated that it was almost dead and recommended that it be removed.

MOVED BY COMM. MCCALL, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO REMOVE THE TREE.

Comm. Sanders pointed out that the maple trees in the planters on Main Street needed to be pruned.

3. The Clerk submitted copies to each Board member of a list of unpaid taxes that were liens on real property, in accordance with G. S. §105-369(a). He advised the Board that it needed to set a date between March 1 and June 30 for advertizing the tax liens.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ADVERTISE TAX LIENS ON JUNE 9.

4. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS THE ACQUISITION OF REAL PROPERTY PURSUANT TO G.S. §143-318.11(A)(5), AND TO DISCUSS THE 4½/POPLAR STREET DECLARATORY JUDGEMENT PURSUANT TO G.S. §143-318.11(A)(3). All present left the meeting room except Town staff.

A. The Clerk reported that the owner of the property, the acquisition of which had been discussed at the last meeting, was not interested in selling at this time.

B. The Board discussed the 4½/Poplar Street Declaratory Judgement with the Town Attorney.

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

VI. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at approximately 9:45 p.m.

---

Richard Betz, Town Clerk