

REGULAR BOARD MEETING of May 6, 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, Jerry Cook, David Harris, Nin Bond, David Johnston, Lee Johnson, Lance Hollars, Alan Marsh, Rosemary Fleming, Linda Clark, Johnny Henry, Mark Meadows, and Curtis Hayes.

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

II. The Clerk asked the Board to consider adding two items to the agenda: (1) request from Mark Meadows concerning a structure on the right-of-way; and (2) discussion of a letter from Peter A. Paul, attorney for Finley Merry.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

III. The minutes of the April 22 Board Meeting had been distributed by mail.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES.

IV. Reports.

1. The Mayor reminded the Board that National Day of Prayer ceremonies were scheduled for March 7 at noon in the parking lot of the Town Hall, or at the Catholic Church in the event of rain.

2. The Mayor publicly recognized Johnny Henry on his retirement as Street Superintendent, expressed his appreciation to him on behalf of the Board for his many years of service to the Town, and presented a plaque to him; the Town had also presented him with a gift last week. Mr. Henry thanked the Mayor, and expressed his appreciation for the gift.

3. Comm. James reported that the Finance Committee had met with the Town Administrator on April 7 and April 29 to discuss the budget. The Board agreed to hold a Budget Work Session at the regular Board meeting of May 20.

4. Each Board member had received a copy of the Public Services Administrator's written report for the month. Lamar Nix also reported that plans for the Main Street Project were nearly complete; the Electric Department had been boring holes to test for rock, and the Water Department had been marking water lines. He also reported that he had met with Street Committee members Comm. Sossomon and Comm. McCall and reviewed street paving needs for the year. He recommended advertizing for bids for re-surfacing Mt. Lori Road, the parking lot behind the Town Hall, both ends of Sixth Street, and various repairs where water lines had been replaced, at an estimated cost of \$72,000; \$75,000 had been budgeted for the year.

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

5. Police Chief Jerry Cook gave an oral report on Police Department activities for the month of April.

6. Each Board member had received a copy of the Recreation Director's report for the month, including a list of proposed summer staff:

Summer Playground Program

Amy Keener	Kimberly Ammons
Wendy Ramey	Justin Taylor
Lacy Jane Schmitt	Kayla Owens

Pool

Sara Lindsay, Head  
Tish Lindsay  
Eric Bringleston  
Lindsay Viens  
Steven Zelenty

Josh Smith  
Vos Sanchez  
Jonathan Kerhoulas  
Marc Fatigati  
Holly Routh

He also reported that the Kubota tractor had been received and already appeared to be saving time in mowing.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE LIST OF SUMMER STAFF.

7. Each Board member had received a copy of the Zoning Administrator's written report for the month. The Mayor asked about an upcoming application from Jeff Krida; Eddie Madden explained that the request was for an extension of time on one of the conditions of a Special Use Permit issued last month. Comm. McCall asked about a sign variance granted to 4118 Investors, permitting a sign on the right-of-way. Mr. Madden explained that the Board had referred this request to the Zoning Board, and the Zoning Board had granted the variance; conditions had been placed on the variance, however, similar to the conditions in Revocable License Agreements recently approved by the Board.

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

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ACCEPT THE TREASURER'S REPORT.

9. Each Board member had received a copy of the Town Administrator's report for the month. Richard Betz also reported that W. K. Dickson Company consulting engineer Victor Lofquist was setting up a meeting with Julian Langston to discuss several remaining items to be completed at the Water Plant, including computer problems and a written warranty. Comm. James felt that no further engineering fees should be paid to W. K. Dickson until these matters are resolved. He also requested an accounting of engineering costs for the project.

#### V. Old Business.

1. Comm. McCall reported said that he would have more information on the antenna tower on Big Bearpen Mountain at the next meeting.

2. The Board again considered a request from David Hourdequin for a ham radio antenna at the Peggy Crosby Center. The Mayor reported that he had spoken to Susie Deville, Director of the Center, and she did not object. Some Board members expressed concern over the size and appearance of the antenna, however, as well as possible interference with television reception in the area. The Board agreed to request Mr. Hourdequin to submit drawings of the antenna, as well as the wire antenna to be placed in nearby trees; it also agreed that approval would be contingent on the antennas not interfering with television reception.

#### VI. New Business.

1. Revised copies of an Ordinance Consenting to the Cable Television Franchise Agreement with Highlands Cable Group had been distributed with the agenda, for the second reading; the first reading had been approved on April 1. David Harris, consultant from Custom Communication, was present; he had inserted a provision in Section 1(b) specifically referring to the Pole Attachment Ordinance currently under consideration, and had also provided the Construction Schedule which had been omitted from Appendix B at the previous meeting.

Town Attorney Bill Coward recommended adding the phrase, "or any other subject," to the first sentence of Section 1(b). Comm.

Patterson recommended replacing the words "this Franchise Agreement" with "the Ordinance" in Section 8(d). The Board agreed for these two changes to be made to both the Highlands Cable Group and the Northland Cable Television franchises. Comm. Patterson also questioned the requirement that information on insurance be provided on request, but the Town Attorney felt that the Cable TV Ordinance already adopted adequately addressed the issue.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ADOPT THE FRANCHISE AGREEMENT ON SECOND READING, AS AMENDED.

2. Copies of an Ordinance Consenting to the Cable Television Franchise Agreement with Northland Cable Properties Six Limited Properties d/b/a Northland Cable Television had been distributed with the agenda, for the first reading. As noted in the foregoing paragraph, the Board agreed that Section 1(b) and Section 8(d) should be amended. Comm. James asked about the 15-year term; he questioned where such a term, while necessary for Highlands Cable Group because they would be building a new system, should also be granted to Northland.

Lee Johnson was present, and explained that Northland would be rebuilding its system, but not to the extent of Highlands Cable Group; Northland was proposing a 550 MHz system, rather than 750 MHz, and he explained that he felt this would be adequate for a community the size of Highlands. David Harris discussed this matter with the Board at length; he said that he felt it would be in the Town's best interest to negotiate a 15-year term. The Mayor asked about the availability—and removal after a specified period of time—of Public Service Announcements on Northland's system, and also about authority to require an independent auditor. Mr. Harris also noted that the Performance Bond for Northland was \$25,000, rather than the \$50,000 for Highlands; he explained that because the Northland system was already built out, there were more assurances that the Bond would not be used. The Mayor also asked about "X-Press Service" (Section 7[c]); Mr. Johnson explained that this service was no longer available, but agreed to pursue negotiating for an alternate service. The Board agreed that the words "or like service" should be inserted in the paragraph.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE FIRST READING OF THE FRANCHISE AGREEMENT, SUBJECT TO THE FOREGOING CHANGES.

The Board agreed for the Clerk to place the second reading of this agreement on the agenda on a date at which Mr. Harris can be present.

3. Each Board member had been provided with a copy of a Pole Attachment Ordinance, and the Board discussed it at some length. Lee Johnson asked if existing cables would be "grandfathered," and the Town Administrator said that was his understanding. Bill Coward felt that paragraph (a) of Section 4 implied that that was the case, but Comm. Sossomon felt that the status of existing construction should be clarified. The Board agreed to add the following to the end of Section 4(a): "No applications shall be required for such existing construction, but all construction shall nevertheless be required to adhere to the standards of this Ordinance." The Board also discussed the need for a permit form and procedure; Lee Johnson offered to provide a model form to the Town Administrator. Comm. James felt that applications for pole attachment should include drawings and specifications.

4. Each Board member had received rough copies of a Cemetery Ordinance. The Clerk apologized for several errors in the copies, caused by a faulty printer, and agreed to provide corrected copies before the next meeting.

5. The Clerk reported that he had received a proposal from Lucas & Keener, P.A., to conduct the Town audit for FY 97-98, at a cost not to exceed \$13,000; the proposal specified that the audit report

would be issued no later than October 10, 1998.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ACCEPT THE PROPOSAL.

6. Each Board member had received a list of board and committee members whose terms were due to expire soon, including members of the Zoning Board, Planning Board/Appearance Commission, ABC Board, Scholarship Committee, and Advisory Committee for Scholarship Endowment Fund. The Mayor asked the Board to review the list before the next meeting.

Eddie Madden reminded the Board that several issues had been raised concerning appointments at the recent Board retreat, including a proposal to limit the number of terms, the statutory requirement that members of the Appearance Commission reside within Town, and the process for removal of members who do not attend meetings. He reported that an advertisement had been placed in the paper asking for volunteers to serve on these boards and committees.

The Board also discussed the effectiveness of the Appearance Commission in general, as well as a pending amendment to the Zoning Ordinance establishing standards for colors and exterior materials.

7. Lance Hollars was present, and presented a preliminary proposal for annual landscape maintenance for \$5800. The Clerk said that he had not had time to review the proposal, however, and requested that the matter be deferred until the next meeting.

8. Mark Meadows was present to request Town approval for construction of a retaining wall along the earthen bank behind the Dunfergot building on Church Street; the cost was to be shared by the two property owners involved. The proposal was to construct a tiered wall of concrete pylons with landscaped terraces, a small portion of which would encroach on the right-of-way of Church Street in order to keep the wall in line with the existing earthen bank; the property owners were willing to agree to a Revocable License Agreement for the encroachment. Copies of a drawing had been distributed to each Board member.

Lamar Nix had reviewed the proposal and did not object. Comm. Patterson said she also had no problem with the wall; she felt it would be beneficial to the Town, since the bank was eroding and unsightly. Comm. James felt the wall ought to be constructed on the 4118 Investors property; he also expressed some concern that surface water would be concentrated in one place. After additional discussion, Mr. Meadows agreed to construct the wall entirely on private property, and he withdrew the request.

9. The Clerk had distributed copies of a letter he had received dated May 6 from Peter A. Paul, attorney for Finley Merry. He explained that, following the previous Board meeting, he had informed Mr. Paul of the Board's denial of a request for an extension of time for removal of encroachments on Town property leased to the Highlands Biological Station. Mr. Paul had informed him that Mr. Merry intended to remove the encroachments, but to date only one stone column had been knocked down onto the Town property. The letter stated that the second column "will be coming down this week as soon as Mr. Merry is able to get a tractor which is able to tear the stone column down." It also stated that Mr. Merry claimed that he has the right to park on the area in question.

Bill Coward said that he did not understand the letter; it sounded as if Mr. Merry was claiming that he owns the property, or was a claim of adverse possession. The Clerk asked the Board if it wanted to proceed with removal and disposal of the encroachments, the cost to be billed to Mr. Merry, as Mr. Merry had been informed by letter of April 14. The Board agreed to authorize the Clerk to proceed with removal of the encroachments as he deemed fit, and also to inform Mr. Merry that the Board denies his contention that he can park on the property.

10. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO REVIEW APPLICATIONS FOR EMPLOYMENT FOR STREET SUPERINTENDENT, PURSUANT TO G.S. §143-318.11(a)(6), AND TO DISCUSS LEGAL MATTERS WITH THE TOWN ATTORNEY, PURSUANT TO G.S. §143-318.11(a)(3).

All those present left the meeting room except Town staff. Before leaving the room, Curtis Hayes objected to being asked to leave; he claimed that it violated his civil rights to be locked out of a public building.

A. The Board discussed applications for Street Superintendent with Public Services Administrator Lamar Nix. Mr. Nix recommended employing Eugene Ramey in the position.

B. The Board discussed a legal complaint with Town Attorney Bill Coward, and gave him instructions concerning its handling.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. Curtis Hayes was invited back into the meeting room.

11. MOVED BY COMM. PATTERSON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO EMPLOY EUGENE RAMEY AS STREET SUPERINTENDENT, BASED ON THE PUBLIC SERVICES ADMINISTRATOR'S RECOMMENDATION, AT SALARY GRADE 15, STEP 1 (\$22,621 ANNUALLY).

12. Lamar Nix reported that Dennis Wilson had expressed an interest in selling the Town a digger-derrick line truck similar to the Town's 1972 line truck; the vehicle consisted of a 1984 diesel chassis and very good equipment, both in better condition than the Town's vehicle. He recommended purchasing the vehicle and selling the old truck. The Clerk reported that there were adequate contingency funds in the Electric Department budget.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO PURCHASE THE VEHICLE AND SELL THE TOWN'S OLD VEHICLE.

VII. MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at approximately 9:40 p.m.

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Richard Betz, Town Clerk