

REGULAR BOARD MEETING of October 7, 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, Lamar Nix, Eddie Madden, Bill Coward, Selwyn Chalker, Jerry Cook, Kim LeWicki, Alan Marsh, Victor Lofquist, Jim Graham, Dennis Wilson, Joanna Baumrucker, Lou Johnston, Clem Patton, Peter Jefferson, and others.

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

II. MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA.

III. The minutes of the September 16 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he had attended a meeting in Greensboro the previous week on a Community Oriented Policing System; used successfully in larger cities around the country, it was now being implemented in small municipalities. He said he had been discussing the concept with the Police Chief, and felt that it could be applied in Highlands at no additional cost; the system was based on solving problems together, with more involvement of the police in the community.

The Mayor also reported that he would be attending the North Carolina League of Municipalities Conference in Charlotte on October 16-20.

He also reported that, in conjunction with the Year of the Volunteer in North Carolina, "Make A Difference Day" would be held on October 24, with a photo of all community volunteers scheduled for 9:00 a.m. at the Ball Park.

2. Each Board member had received a copy of the Town Engineer/Public Services Administrator's written report for the month. Lamar Nix said that both the Many Road water project and the Bowery Road electric project were now complete. The Water Treatment Plant and the Wastewater Treatment Plant were both operating well.

3. Police Chief Jerry Cook gave a written report on Police Department activities for the month. He also provided each Board member with copies of proposed policies on In-Car Video Cameras and Body Armor, and said that he was still working on a Radar Use Policy.

He also requested that the Board consider employing auxiliary officer Gary Dalton full-time to replace Brett Ensley, who had submitted his resignation. Comm. James asked that this matter be discussed in Closed Session at the end of the meeting, and the Board agreed.

4. Each Board member had received a copy of the Recreation Director's written report for the month.

5. Each Board member had received a copy of the Town Planner/Zoning Administrator's written report for the month. Eddie Madden also distributed for the Board's review copies of a proposed Appendix C to the Zoning Ordinance regulating the appearance of commercial buildings, including color, materials, and other standards, although copies of the color chart were not yet ready. The appendix had not been approved by the Planning Board, but the Town Board had asked him to proceed with developing these standards at the July 15 meeting, and he had been meeting with a group of local architects weekly since then. The Board tentatively agreed to discuss the standards at the second meeting in November. Mr. Madden also reported that the Land Use Planning Committee had now completed all of its work.

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

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

7. Each Board member had received a copy of the Town Administrator's written report for the month. Richard Betz had also included with the agenda package a letter from the Highlands Playhouse dated September 25.

V. Old Business.

1. Highlands-Cashiers Hospital Chief Executive Officer Jim Graham was present to brief the Board on corrosion problems and sewer capacity at the hospital. He reported that the hospital had replaced its 5 h.p. pumps with 7.5 h.p. pumps earlier this summer, which had made possible a bypass of the Sherwood Forest Pump Station. In addition, the hospital proposed installing a chemical insertion system to help oxygenate the flow; he expected that the equipment would be in place within the next month, and its effectiveness could then be evaluated.

He also said that some concern had been expressed over whether the hospital's permitted discharge of 55,000 GPD would be exceeded. He said that the actual discharge was not being measured now; it was instead being billed by the Town using water usage records. The hospital proposed installing a sewer meter which would actually monitor the discharge; if it appeared that it was anywhere near the permitted limits, the hospital would have to look at alternatives when considering future building projects.

The Mayor asked about the additional nursing home beds which had been requested. Mr. Graham explained that, out of the 50 requested, 20 would be approved. The Mayor reiterated the Board's concern expressed at the previous meeting that the hospital would need to limit its future development based on design flow standards from the State. Mr. Graham said that with the ability to meter actual flow, the hospital would be able to more closely monitor the discharge. The design flow for the hospital itself, for example, was approximately 17,000 GPD, whereas the actual discharge was between 9,000 and 13,000 GPD. He suggested continuing to monitor what the hospital was actually sending the sewer system; then, if the projected design flow for new projects exceeded the limit, the hospital would have to re-evaluate those plans.

Comm. Patterson felt that the only way to limit development at Chestnut Hill and the hospital was through design flow, as opposed to actual flows; she said she would have to think about whether the method outlined was a legitimate way of evaluating flow. Comm. James agreed; he pointed out that average flow did not take peak flow into consideration, and that the projects already on the drawing board would exceed the design flow.

There were no further questions from the Board.

2. The Clerk had provided additional information on the request from Rhodes Brothers Paving for an antenna on Upper Brushy Face Mountain, including a drawing. The proposed antenna would be approximately two feet in height, and the Upper Brushy Face site would provide the best coverage to the Dillard area; Rhodes was willing to pay \$300 per year in rent.

Comm. James said he did not know whether this was a reasonable rent for an antenna; he asked the Clerk to obtain information on what the Town should be charging. Comm. McCall was concerned over a lack of policy for permitting antennas such as this; he noted that the Town was spending \$40,000 to clean up the Big Bearpen site, yet had no policy on these antennas. The Clerk said that he had been discussing a possible Telecommunications Tower Ordinance with Town

Planner Eddie Madden; they both agreed that the present Zoning Ordinance provision giving the Board authority to permit such antennas was not as comprehensive as it should be, and Mr. Madden reported that a consultant was available to assist municipalities in confronting this issue. The Board agreed that a policy needed to be developed for such requests.

Comm. James felt that a term should be specified if the Board approved this request. Comm. Sanders made a motion to approve the request at a term of four years and an annual rent of \$300; the motion was seconded by Comm. Patterson. Comm. Sossomon suggested that the motion be amended to specify a shorter term, in view of the desire of the Board to pursue a policy on antennas. Comm. Sanders agreed to amend his motion, and Comm. Patterson to second the amendment.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND CARRIED TO APPROVE THE REQUEST, AT A ONE-YEAR TERM AND AN ANNUAL RENT OF \$300. Comms. Sanders, Patterson, James, and Sossomon voted "aye;" Comm. McCall voted "nay."

## VI. New Business.

1. The Public Services Administrator reported that, due to the recent rains, Town officials had decided that the water shortage imposed at the previous meeting could now be lifted.

Comm. Patterson asked about reports she had heard of soil erosion and diesel fuel outside Town in the Big Creek watershed. The Clerk reported that the Town had also received these reports; Mr. Nix said that he planned to meet with officials from the Public Water Supply Section in the morning to investigate the reports, and the Clerk said that Mr. Madden had forwarded the report on Soil Erosion to the Asheville Regional Engineer's office.

2. W. K. Dickson consulting engineer Victor Lofquist was present to discuss the cost overrun on engineering at the Water Treatment Plant. He provided each Board member with a copy of a description of the change orders, additional start-up, testing, and trouble-shooting time, which had added a total of 39½ months to the original 12-month estimated time. Comm. James said he felt the engineers should have come before the Board with a change order for the additional engineering.

Mr. Lofquist also described his efforts to resolve the "Year 2000" or "Y2K" problems with the Water Treatment Plant's computers. Both operating systems and customized software were possibly vulnerable, at a total cost of between \$25,000 and \$30,000; negotiations were continuing, however, and he felt that it might be possible to achieve Y2K compliance for \$10,000. He provided each Board member with a letter from general contractor Langston Construction Company proposing to pay up to \$10,000 to bring the computer software into compliance, and also providing the warranty for the remainder of the five-year warranty period, excluding lightning damage. He pointed out that the Board was still holding almost \$220,000 of the contractor's money.

Comm. Sossomon asked why the Board was discussing the matter at all; he thought that was what bid bonds and performance bonds were for.

Comm. James agreed; he felt the Town should not have to pay, and he suggested that the cost be deducted from the general contractor's retainage. After additional discussion, Comm. Sossomon agreed that Mr. Lofquist should continue moving forward with the negotiations; the Board agreed.

3. The Clerk had prepared a memorandum of renewal of lease between the Town and Highlands Community Theater Inc. for the Highlands Playhouse for another five-year term, from January 1, 1999, until December 31, 2003; like previous renewals, the terms and conditions of the original November 2, 1978 lease would continue in effect in the new lease.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE LEASE RENEWAL FOR A FIVE-YEAR TERM.

4. The Clerk reported that, pursuant to formal invitation, bids had been opened at 2:00 p.m. on the Main Street Project, as follows:

- Ronnie Ledford Utilities.....\$499,852
- Hobson Construction Co. Inc.....580,023
- Stillwell Enterprises Inc.....690,522

In tabulating the bids, however, it had been discovered that the low bid from Ronnie Ledford Utilities had included a cost on one pay item, brick sidewalks, which was over \$120,000 lower than the other two bids, and it was possible that an error had been made. He had attempted to contact Mr. Ledford since the bid opening but had been unable to do so. In the event that an error had been made, the Statutes provided a procedure for the withdrawal of a bid within 72 hours. The USDA Rural Development agent who had been present at the bid opening had recommended that this matter be tabled pending Town staff drawing this matter to the attention of the low bidder and providing the opportunity for a withdrawal of the bid if an error had been made.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO TABLE THIS MATTER.

5. The Clerk reported that the following informal bids had been opened at 12:00 noon for the Fire Department's 14-passenger 1985 Ford Club Van, minimum bid of \$2000:

- Scaly Mountain Church of God.....\$2501.00
- MEI Construction.....2300.00
- James A. Bryson.....2200.00

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO SELL THE VEHICLE TO THE HIGH BIDDER, SCALY MOUNTAIN CHURCH OF GOD.

6. The Clerk reported that only one informal bid had been received for construction of two (2) picnic shelters at the Recreation Park; the bid, from Dwelling Place Construction Company, was \$49,800. He pointed out that only \$20,000 had been budgeted for both shelters, and he recommended rejecting the bid because it exceeded available funds. He proposed re-evaluating the project with the Public Services Administrator and the Recreation Director, possibly using Town forces for part of the construction.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO REJECT THE BID.

7. The Clerk reported that, pursuant to the approved budget, bids would be advertized for a motor grader in the Street Department, pickup trucks in the Water Department and for the meter reader, and a maintenance building at the Town Warehouse; plans for the latter were reviewed.

8. Comm. James said he understood a building proposed by Blair Heinlein south of Spring Street had gone to the Appearance Commission; it showed parking located on private property behind the Town right-of-way for the entire length of the property, with a private sidewalk behind the parking. He pointed out that the Master Sidewalk Plan calls for a sidewalk to be constructed along this right-of-way, with diagonal parking installed by the Town; he felt that a letter should be directed to the Zoning Board informing them of the Town's plans.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO NOTIFY THE ZONING BOARD OF THE TOWN'S PLANS FOR SPRING STREET, INCLUDING THE SIDEWALK SHOWN ON THE MASTER SIDEWALK PLAN

AND THE DIAGONAL PARKING, AND POINTING OUT THAT THE PRIVATE PARKING FOR THIS PROJECT WOULD HAVE TO BE ACCESSED IN SOME OTHER WAY.

9. Comm. McCall reported that the Street Committee had been reviewing the parking along the south side of Oak Street between Fourth and Third. They felt that there was a danger caused by trucks unloading in the traffic lane, and they recommended making the entire south side of the street an unloading zone, from the Texaco Station to a point opposite the Fire Department, until after 5:00 p.m.

MOVED BY COMM. MCCALL, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO DESIGNATE THIS AREA AN UNLOADING ZONE UNTIL AFTER 5:00 P.M.

10. Each Board member had received with the agenda package a copy of a Resolution in Support of the Proposed State Bond Issue for Water, Sewer, and Natural Gas, which the League of Municipalities had asked local governments to adopt. Comm. James said he did not know whether he favored the resolution; he reminded the Board that the Town had not met funding qualifications for a recent State grant. The Board took no action on the request.

11. Dennis Wilson was present representing the Highlands Chamber of Commerce. He said that the Chamber was proposing to locate twelve portable toilets in the downtown area during the month of October to accommodate the expected number of visitors and to relieve the public rest rooms behind the Town Hall. He asked if the Board would be opposed to locating four toilets on private property at Wright Square, as well as some other toilets on Town property, such as along Oak Street or adjacent to the existing rest rooms, at no cost to the Town.

Comm. Sanders said he had no problem with the proposal. Comm. McCall said he would not like the appearance of the portable toilets all over Town; he proposed offering businesses a 50% reduction in their sewer bills for the month if they let customers use their rest rooms.

Comm. James said this was a preview of what was to come; he felt the merchants ought to provide rest rooms. Comm. Patterson asked what incentive businesses would have to provide rest rooms in the future if these toilets were approved; she felt the Board would be approving something that would adversely affect the appearance of the Town for the sake of visitors, rather than people who lived here permanently who did not need them. Comm. Sossomon was concerned over possible vandalism, and he also wanted to know specifically where they would be located. After some discussion, Mr. Wilson agreed that three would be placed at the end of Oak Street near First Street, two in the parking lot adjacent to the existing rest rooms, and the balance on private property.

MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND CARRIED TO APPROVE THE REST ROOMS AT THESE LOCATIONS THROUGH THE END OF OCTOBER.

Comms. Sanders, Sossomon, and James voted "aye;" Comms. Patterson and McCall voted "nay." Comm. James said he would only vote "aye" this one time, and commented that the plan was too little, too late.

12. The Mayor asked for a motion to go into Closed Session to discuss a Petition for Writ of Certiorari filed by the Episcopal Church of the Incarnation with the Town Attorney, as shown on the agenda, as well as the employment of Gary Dalton as a police officer requested earlier in the meeting.

Comm. Patterson asked why a Closed Session was required for the first item. The Mayor explained that the Town Attorney had requested it in order to discuss legal strategy and give him instructions.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND CARRIED TO GO INTO CLOSED SESSION FOR THE AFORESAID REASONS, PURSUANT TO G.S. §143-318.11(a)(3) and (6), RESPECTIVELY. Comms. Sossomon, McCall, James, and Sanders voted "aye;" Comm. Patterson voted "nay." All present left the meeting room except Town staff.

- A. The Board discussed the qualifications of Gary Dalton with the Police Chief.
- B. The Board discussed the Petition for Writ of Certiorari filed by the Episcopal Church of the Incarnation with the Town Attorney.

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

13. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO EMPLOY GARY DALTON AS A FULL-TIME POLICE OFFICER, ON RECOMMENDATION OF THE POLICE CHIEF, AT THE BEGINNING SALARY, GRADE 11, STEP 1 (\$19,030 ANNUALLY).

14. The Board briefly discussed the matter of capacity at Highlands-Cashiers Hospital which had been discussed earlier. Comm. James thought that it should be made clear that development at the Hospital and Chestnut Hill should not exceed 55,000 GPD, as determined by design flow.

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

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Richard Betz, Town Clerk