

REGULAR BOARD MEETING of July 19, 2000, with Mayor Buck Trott and Commissioners Amy Patterson, Zeke Sossomon, H. N. James, Mike Cavender, and Ron Sanders present.

Also present were Richard Betz, Lamar Nix, Maureen Lackey, Kim LeWicki, Larry Rogers, Lynn McCall, Ken Locke, Cindy Locke, Sharon Anderson, Bill Hogue, Chuck Cooper, Wanda Cooper, Dr. Bob O'Neil, Pat McKeon, E. J. Tarbucks, Jodie Cook, Dr. Mo Wheeler, Tom Walker, Clem Patton, Bill Rethorst, Rebecca Krida, Sabrina Hawkins, Jack Calloway, and many more.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:00 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk asked that item No. 3 under New Business, Larry Guido Sewer, be postponed until the next meeting.

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

III. Approval of Minutes.

Copies of the minutes of the July 5 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor regretfully reported that Georgia Senator Paul Coverdell, who had owned a second home in Highlands, had passed away on the previous evening.

He also reported that he and Town staff had met with Professor Charles Floyd, D. O. T. officials, a County Commissioner, and Forest Service officials on July 11 to discuss the US-64 road through the Cullasaja Gorge. The group had discussed improving the pull-offs in the Gorge, and he had thanked the D. O. T. for re-surfacing the road.

He also reported that he and Town staff had met with a Dam Safety official from the DENR's Asheville Regional Office, members of the Upper Cullasaja Watershed Association, several concerned citizens, and a representative of the owner of Randall Lake concerning a sedimentation problem in Big Creek caused by draining the lake.

2. Comms. Cavender and Sossomon reported that they had met and looked at a drainage problem in the area of Fifth Street with the Town Engineer, but had no recommendation to make.

3. Town Administrator Richard Betz reported that all of the Commissioners were invited to a Southwestern Commission Summer Picnic on July 24. He also said he had mailed copies of the minutes of the Hospital Planning Committee meeting of July 17 to each Board member.

He also reported that the Bowery Road Escrow Fund now totaled \$45,000. In reply to the question raised at the previous meeting, he said that the Bowery Road Escrow Agreement provides that the Fund can be terminated upon Resolution of the Town "at any time and for whatever reason."

He also reported that the Town had received continuing reports over

a period of several months of a leaking septic system at a building on NC-106. The matter had been reported to the County Health Department by Town staff, including the former and the current Zoning Administrators, and had been turned over to the County Attorney in May. He recommended that the Board authorize the Mayor to write to the County Manager and County Attorney, demanding that the problem be addressed promptly.

The Mayor added that the Zoning Ordinance's watershed requirements gave the Zoning Administrator certain authority to act where public health was concerned, but he felt it was a Health Department problem; the Town Administrator agreed. Comm. Cavender was concerned because the County had not acted yet. Larry Rogers was present, and confirmed as an adjoining property owner that the septic system was a serious problem due to an adequate drain field.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO AUTHORIZE THE MAYOR TO WRITE TO THE COUNTY MANAGER AND COUNTY ATTORNEY.

V. Old Business.

1. Ken Locke, who had appeared before the Board on April 5, was again present with additional information on a proposed paintball field at Highlands Plaza. He had prepared information concerning the field and it had been distributed to the Board. He presented a petition which he said contained 1000 names, and a display of 63 business cards of businesses which he said supported the proposal, including adjoining residents and businesses. He also submitted an accident report favorably comparing the safety of paintball with sports such as golf and bowling. He said that machine-washable bunkers would be provided, and he displayed one, constructed of fabric and PVC pipe. He also said that three businesses were willing to sponsor the field, and one electrical contractor was willing to provide outdoor lighting for games at night. Fees would be \$4.00, of which \$1.00 would go to the Highlands School Arts & Music program and \$1.00 to the property owner, Margaret O'Donnell. A free pass would also be provided to children who brought up their grade-point average each semester. Liability insurance would be provided through the Paintball Operators of America Inc., and that organization had also indicated that paintball was often played in heavily trafficked areas. Screening eight feet in height would be provided, and the area was 19 feet below grade, so that it would not be very visible. He felt that there was overwhelming support from the community.

Comm. Cavender asked if he had looked for other sites outside of Town, and he said they were too expensive. Mr. Locke explained the fundamentals of the game to him.

Lynn McCall was present, said she had lived here all her life, and pointed out that Highlands had become a place that was not for children; people came here to retire, stay in nursing homes, and die. She asked the Board to consider the youth in the community who wanted something to do, and urged them to be open-minded.

Comm. Patterson said that she did not think it was a question of whether or not it was good recreation. She was concerned that the Board would have to amend a long-standing Ordinance which prohibited anything used "to project a missile by compressed air or mechanical action." She felt that would set a precedent, so that the next business would also want the Code changed for a particular business.

Mr. Locke pointed out that automatic nailers were commonly used in violation of the Ordinance.

Cindy Locke asked if the Code could be amended to make a distinction between paintball and other weapons.

After additional discussion, the Mayor suggested that the Board take this matter under advisement and place it on the agenda again when possible; in the meantime, the Zoning Administrator was asked to review the names of persons and businesses on the petition. The Board agreed by consensus.

2. The Mayor reminded the Board that it had reviewed some documentation from Susan Rabold of MetroSite Management at the June 28 meeting on the recommended lease amounts for several existing wireless communication antennas. As requested, he had contacted other companies in the wireless business, and he said that in each case they recommended amounts higher than those recommended by MetroSite; one company had in fact said that WHLC's five antennas should pay \$90,000 annually. He had been told that the Town did not know the value of the sites it had and that the rates should be based on the market value of the real estate; he felt that the object was to be fair to both the Town and the users of the antennas. He suggested accepting the recommendations, but reducing them by 33%.

Larry Rogers was present, and wanted to know if the other companies contacted were public or private antennas. He felt that WHLC and the other antennas were beneficial and were on a public site, and ought to be less.

Sharon Anderson of T. A. Anderson Goldsmith spoke in opposition to the rates proposed for WHLC.

Bill Hogue spoke in opposition to the rates proposed for the Highlands-Cashiers Hospital, since they were non-profit.

Dr. Bob O'Neil felt the Board should consider what others in the local area were charging, and pointed out that the Town benefited from WHLC's public service announcements.

Pat McKeon asked why the advertisers on WHLC should subsidize the hospital.

E. J. Tarbucks pointed out on behalf of the Performing Arts Center that WHLC was one of the prime sources of advertizing for non-profits. He said that Pat Moore had also submitted a letter in opposition to the rates proposed for WHLC.

Jodie Cook felt there was a need for a radio station, and thought that the facts did not quite add up.

Dr. Mo Wheeler felt the rates should be compared to others in small rural communities; she also said that Rotary benefitted by free public service announcements.

Wanda Cooper said that WHLC was a small "Mom and Pop" station, not owned by a corporation. She said that the station was not a commercial success, but served the Town through public service announcements such as school closings; an investment in two 20,000-watt generators insured that the station was prepared to keep on the air during emergencies.

Chuck Cooper reiterated his wife's comments, and also said that the station was losing money. The translator on Upper Brushy Face was also a poor business decision, and had been placed there solely to serve the people in Clear Creek; he said it would be moved to Scaly Mountain if the rent was increased. He also said that the signal was received in South Carolina only accidentally due to the height of Big Bearpen Mountain, which also provided coverage for Highlands, and he did not deliberately sell commercial time in that area. He felt that \$100/month per antenna would be a fair rent. He also pointed out that Comair would be forced to pass the increase on to its customers, that the former GTE site on Satulah Mountain would be developed into the next site, and that everyone would go there; the Town would lose 80% of its wireless customers if it increased rates.

Tom Walker, a full-time resident, asked the Board to consider the Town without a radio station; if they knew that their actions had killed it, would they be proud of themselves?

Clem Patton, Chairman of the Board of Trustees of Highlands-Cashiers Hospital, asked the Board for consideration on the proposed rates for the hospital, a non-profit hospital which existed because of the support of the community.

Comm. Cavender asked Mr. Cooper what percentage of WHLC's expenditures were tower rent. He said that he could not say, but that it was the biggest expense after his mortgage.

Wanda Cooper pointed out the three employees at WHLC deserved a raise, and that \$3000 per year would make a difference

The Board then discussed rates at some length. Comm. Patterson proposed new rates for the WHLC translator, Comair, Rhodes, Henry, and the Hospital; rates for the WHLC Big Bearpen antennas could not be adjusted until March 1, 2001, and for the NPR translator until March 18, 2007.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED THAT THE RENT FOR THE WHLC TRANSLATOR ON UPPER BRUSHY FACE BE \$150 ANNUALLY.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED THAT THE RENT FOR THE COMAIR ANTENNAS ON BIG BEARPEN BE \$4,000 ANNUALLY.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED THAT THE RENT FOR THE RHODES BROTHERS ANTENNA ON UPPER BRUSHY FACE BE \$1000 ANNUALLY.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED THAT THE RENT FOR THE MICK HENRY ANTENNAS ON UPPER BRUSHY FACE BE \$1000 ANNUALLY.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND CARRIED THAT THE RENT FOR THE HOSPITAL ANTENNAS ON BIG BEARPEN BE \$1000 ANNUALLY. Comms. Patterson, Cavender, James, and Sanders voted "aye;" Comm. Sossomon voted "nay."

The Board agreed to set the rent for two new antennas from Highlands Cable TV and Currahee Paging when they renewed their requests.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADOPT THE WIRELESS COMMUNICATION AMENDMENTS OF THE ZONING ORDINANCE, SUBJECT OF A PUBLIC HEARING HELD ON DECEMBER 1, 1999.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO LIFT THE MORATORIUM ON WIRELESS COMMUNICATIONS.

VI. New Business.

1. Copies of a proposed statewide Mutual Aid Agreement had been distributed at the previous meeting.

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

2. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, TO APPOINT HANK ROSS TO THE PLANNING BOARD. It was noted that this would still leave a vacancy to fill on the Appearance Commission. Comm. James felt that the Board should consider persons other than those who have expressed an interest in serving and whose name appeared on the list. He also felt that the Board should adhere to the nomination procedure used for several years. Comm. Patterson withdrew her motion, and it was agreed that Board members would forward nominations

to the Clerk for tabulation.

3. Maureen Lackey reported to the Board that a problem had been brought to her attention by Bill Rethorst, President of the Shelby Place Property Owners Association, and several other citizens. Apparently a new road or driveway had been installed across half of Lot 98, adjacent to a home formerly owned by Ernest Stevens and partially used as his driveway. The road or driveway also served the new residence of George Schmitt on Lots 90 & 91, and was located within a "15-foot easement" shown on the plat. Due to the topography, eight other lots, like Mr. Schmitt's, could not easily be accessed by Shelby Circle South, the subdivision road below the lots which had a 40-foot right-of-way and a cul-de-sac at its terminus; instead, it appeared that they would be served by the road or driveway within the 15-foot easement, which circled back around past Mr. Schmitt's residence to the cul-de-sac, and which also contained a 911 street sign indicating it was Shelby Circle South, too. A decision had been made with reference to the owner of a house on Lot 99 that it was a driveway, and the required setback from a road therefore did not apply. A Certificate of Compliance had also been issued to George Schmitt on the basis of it being a driveway. She felt that the Board should consider requiring that the "road" be widened and brought up to subdivision standards, or alternatively consider officially consenting to it being deemed a "driveway."

The Board discussed the matter at some length. Comm. Sossomon pointed out that there was not enough width for a 40-foot right-of-way. Comm. James said that the road had been there for some time. Comm. Sossomon said that, as he understood it, the 15-foot easement was a remnant of an old subdivision road that had been there when Shelby Place was subdivided; he remembered that the Town had required it to be left on the plat when Phase III was approved in 1988. He also recalled discussing the road when Lot 95 was purchased; he did not believe the road could be opened, but another attorney did, and he thought that the Shelby Place Association had consented to opening it as a driveway.

Bill Rethorst was present, and expressed a concern that the road may be taking from the "green area" shown on the plats.

Comm. Patterson felt that if it was used to access more than one house, it was a road, and would have to be constructed to subdivision standards regardless of when it had been installed. She pointed out that no variance had been requested.

The Town Administrator asked Ms. Lackey if she would not have to deny an application for a Zoning Certificate if the plans did not indicate a driveway accessing the house from the lower road; he pointed out that at that time the problem could be addressed, perhaps through a variance application. Ms. Lackey agreed that no Zoning Certificate could be issued in such a case. Comm. Patterson said she agreed as well; lots in subdivisions had to be accessed by subdivision roads. Comm. James suggested that if the Shelby Place Association determined they wanted a variance, they could also apply.

4. Due to the late hour, a scheduled discussion of regulations on Lake Sequoyah was deferred until the next meeting.

5. Comm. Mike Cavender had prepared a written statement concerning the Town's efforts to create a new drinking water source and the dangers it faced through siltation. He asked the Board to go on record adopting a policy to do whatever is reasonably necessary to protect our watershed.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO ADOPT SUCH A POLICY.

Comm. Sossomon said that he agreed with the policy as a general policy statement, but he didn't know how the Town could do it, since it was difficult to stop sedimentation. Comm. James felt that the Town had had the policy for some time.

6. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS A SCHOLARSHIP AWARD PURSUANT TO G. S. §143-318.11(A)(2) AND TO REVIEW APPLICATIONS FOR EMPLOYMENT PURSUANT TO G. S. §143-318.11(A)(6). All present left the meeting room except the Town Administrator and the Public Services Administrator.

- A. Jack Calloway met with the Board to consider increasing the amount of a scholarship award.
- B. The Public Services Administrator reviewed an application from Grayson Thomas "Junior" Tallent for the Street Department; he recommended employing him contingent on obtaining a CDL within three months.
- C. The Town Administrator reviewed applications for the positions of Deputy Clerk and Billing Clerk. He recommended transferring Mary Jane Wood from Billing Clerk to Deputy Clerk, and employing Hilda Brown as Billing Clerk.
- D. The Board discussed a personnel matter concerning Maureen Lackey.

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

7. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO EMPLOY "JUNIOR" TALLENT IN THE STREET DEPARTMENT AT A BEGINNING SALARY OF 9-1 (\$18,288), PROVIDED HE OBTAIN HIS CDL WITHIN THREE MONTHS.

8. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO OFFER THE POSITION OF DEPUTY CLERK TO MARY JANE WOOD AT A SALARY OF 11-1 (\$20,187), AND TO OFFER THE POSITION OF BILLING CLERK TO HILDA BROWN AT A SALARY OF 9-1 (\$18,288).

VII. The Board agreed by consensus to adjourn.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 10:00 p.m.

Richard Betz, Town Clerk