

REGULAR BOARD MEETING of November 7, 2001, with Mayor Buck Trott and Commissioners Zeke Sossomon, Amy Patterson, H. N. James, and Mike Cavender present; Ron Sanders was out of Town.

Also present were Richard Betz, Lamar Nix, Christopher Shook, Selwyn Chalker, Jerry Cook, Bill Coward, Kim Lewicki, Bronce Pesterfield, Mike Bryson, Becky Bryson, Craig Van Dussen, Kurt Wright, John Boaze. Alan Marsh, Paul Schmitt, Steve Lucas, Bill Bassham, Steve Pierson, Wendell Underwood, and others.

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 the following items be added:

- Two resolutions for Southwestern Commission.
- Bids on the Bowery Road Water Project.
- Paul Schmitt - Highlands Playhouse roof repairs.
- Closed Session to consider application for Police Auxiliary Officer.

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

III. Approval of Minutes.

Copies of the minutes of the October 17 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor congratulated Comm. Patterson on her re-election. He thanked the Board and Town staff for making the last four years successful, and said he was looking forward to another four years. The Mayor also introduced Bill Bassham, the new Member Services Director for the Highlands Chamber of Commerce.

2. Comm. James reported that he, Comm. Sossomon, the Town Administrator, and the Town Engineer had met with Hospital officials on October 23 and November 6 and discussed a proposed agreement for providing water to Highlands-Cashiers Hospital and Chestnut Hill of Highlands. He said the Committee planned to meet one more time and prepare a recommendation for the Board.

3. Town Attorney Bill Coward was present and reported that Judge Hyatt had dismissed two motions in the *Edwards et. al.* case, a motion to dismiss and a motion on the admissibility of the Kelsey Map. The Mayor then asked Mr. Coward to provide a brief review of the case. The Town Attorney explained that the Town had won at the Superior Court level, where the Judge had dismissed the jury because he felt the case was not a jury matter. The Court of Appeals had ruled that the case should have gone to the jury, and the case was therefore back in the jurisdiction of the Superior Court, although no trial date had been set. He said that, based on the Court of Appeals decision, he thought the Town would probably have to do some additional surveying in order to validate the Kelsey map; such surveying could cost as much as \$50,000. Comm. James disagreed; he felt the Town could go to trial without the surveys, and cited other evidence in the records, such as Samuel Kelsey's request that the Town Board abandon a section of Street in the late 1800s.

The Mayor pointed out that if the Town did not defend the case, it

could place other Town right-of-way in dispute. Comm. Sossomon agreed, and pointed out that other streets could possibly not be widened; if the Town had no claim of title, then all it could claim was the pavement and ditch. He added that the case was not a fight with the Edwards family. Comm. Patterson said it sounded as if anybody could sue the Town unless the Town established its right to the streets. Comm. Cavender asked what would happen if the jury decided against the Town. Mr. Coward replied that, by empowering other people to raise the question, the Town might be placed in a position where it would not be able to widen streets such as Maple, Main, or Chestnut Streets.

Comm. Cavender asked about the surveying of the right-of-way along Bowery Road. He had understood that the surveys would avoid properties, but they apparently had followed the centerline of the road; he wondered how that would affect the potential liability to the Town. Mr. Coward replied that he had asked the D. O. T. to avoid properties, but he understood they had to follow certain parameters.

Town Engineer Lamar Nix said that the right-of-way had been shifted to keep the construction limits away from buildings; the right-of-way had been surveyed from the centerline of the construction limits.

It was also pointed out that one house in question was located on a lot in Rhododendron Trail subdivision, the recorded plat for which had recognized a right-of-way on Bowery Road.

4. Each Board member had received the Public Services Administrator's written report for the month. Lamar Nix was present and reported that the new belt press at the Wastewater Treatment Plant had been placed on its foundation and the roofing was scheduled for Monday. The NC-106 Sewer Project was complete, with a few punch-list items to be completed on Friday. He also reported that Matt Shuler and Stephen Bryson had passed the examination for Certified Arborist and Certified Tree Worker with the International Society of Arboriculture; the Mayor asked him to convey the Board's congratulations.

Comm. Patterson asked about the stop sign on Pine Street at Fifth Street, which had been knocked down several times in recent months.

The Mayor said that he had asked the Street Department to paint lines delineating the intersection and also a stop sign on the ground.

Town Engineer Lamar Nix said that in his opinion the best solution to the problem would be to construct a raised sidewalk at the intersection, while providing driveway entrances to the parking lot on both Pine and Fifth Street.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ENGINEER TO PROVIDE A COST ESTIMATE ON A RAISED SIDEWALK AT THIS INTERSECTION.

5. Each Board member had received a copy of the Police Chief's written report for the month. The Mayor announced that both Jerry Cook and Todd Ensley had just been awarded the Advanced Law Enforcement Certificate; fewer than 200 police officers state-wide received the award. Chief Cook was present and displayed one of two laptop computers to be used in the patrol cars, which would access Department records and be used to prepare reports. He also requested permission to pursue grant funds from the Governor's Crime Commission for modems to connect the laptops to the State's mobile data network, which would enable local officers to instantly run tag numbers, stolen vehicles, and other reports on the road. The cost was \$3750 each, and he understood that he may have already qualified for a \$5000 grant.

6. Each Board member had received a copy of the Recreation Director's report for the month. Selwyn Chalker was present and reviewed the report with the Board. He said that the playground equipment had been installed and the wood chips were on the ground.

He thanked the Highlands Rotary Club and the Highlands Women's Club for helping to fund the project, and also for helping to make the annual trick-or-treat celebration a success.

7. Each Board member had received a copy of the Zoning

Administrator's report for the month. Christopher Shook was present and said that permits had slowed down a little; he offered to answer any questions for the Board.

In reply to a question about the telecommunications amendments, he said that the Planning Board had requested some additional information before approving the new stealth tower site on Satulah Mountain; the Board would be considering that matter again at its November 26 meeting.

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

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

8. The Town Administrator reported that the Mayor had received a petition signed by 29 individuals objecting to any effort by the Town to open 4½ Street, Fifth Street, or Poplar Street.

He also reported that he, the Mayor, and the Town Engineer had met with W. K. Dickson Vice President David Pond and Bob Goldstein on Monday to discuss progress on the Wastewater Treatment Plant permit renewal, alternatives analysis, and environmental assessment. W. K. Dickson proposed sub-contracting the latter to Goldstein & Associates from Raleigh, who proposed preparing an enhanced environmental assessment, which would include public hearings and input from all of the stakeholders. The project was still under budget, and although slightly behind schedule due to the resignation of consulting engineer Victor Lofquist, it appeared that the deadline for permit renewal would be met. He also introduced Craig Van Dussen, the Asheville office manager, and Kurt Wright, P. E., the new engineer.

V. Old Business.

1. The Board heard a presentation from John Boaze, Senior Biologist for Fish & Wildlife Associates, on his evaluation of the sediment in Big Creek above and below Randall Lake, pursuant to an agreement approved on April 4, 2001. Mr. Boaze provided written reports and charts explaining in detail his study of the substrate in the Creek at the present time, what happens during storm events, and an evaluation of the creek below Randall Dam. He said that the substrate indicated much higher silt than expected, and that storm events caused the silt to move down to the Water Treatment Plant intake. Replying to questions from the Board, he said that there was no doubt that the silt in Big Creek probably originated in the upper watershed and had been retained by Randall Lake as a silt basin, then released. He felt that the Town now had a baseline, and said that changes in the bed load could be determined; the baseline data should be good for five years or longer. He recommended a dialog between the Town and the owner of the Lake to see what his plans were for repairing the dam, and also a stream gauge to measure and correlate data.

VI. New Business.

1. Each Board member had received a copy of the Town audit for FY 00-01, prepared by Lucas & Keener, PA. Because LaDonna Keener was recovering from surgery, Steve Lucas was present and briefly reviewed the audit. He commented that, both from an accounting point of view and as a citizen, he was glad to see the Town had money and no debt; capital reserves were much larger than required by law. He asked the Board to call him if they had any questions concerning the audit.

The Treasurer said that the audit had gone smoothly this year, and he thanked Mr. Lucas and Ms. Keener for again doing an outstanding job, for "going the extra mile" in providing assistance with accounting problems, and for submitting the report on time.

2. The Clerk reported that the following informal bids had been opened at 12:00 noon today in the lobby of the Town Hall by the Clerk and the Deputy Clerk, and had been reviewed by the Public Services Administrator and the Police Chief:

Police Department Patrol Car

- Matthews Ford 2002 Crown Victoria.....\$19,490
- Bill Smith Ford 2001 Crown Victoria.....19,998

The bid submitted by Matthews Ford was the low bid and also met the specifications (2002 Crown Victoria). \$20,000 had been budgeted, and the Police Chief recommended awarding the bid to Matthews Ford.

Electric Department Service Truck

- Bill Smith Ford/Baker Equipment.....\$73,868
- Telelect East.....74,234
- Altec Industries.....76,579
- Duke Energy.....77,031

One bid had also been received at approximately 1:00 p.m. from Global Rental Company Inc., but was not opened because it was not received in time. The bid submitted by Bill Smith/Baker was the low bid; however, it did not meet specifications (Ford F-450 rather than F-550). \$80,000 had been budgeted, and the Public Services Administrator recommended awarding the bid to Telelect East.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ACCEPT THE RECOMMENDATIONS ON THE BIDS ON BOTH THE POLICE CAR AND THE ELECTRIC DEPARTMENT SERVICE TRUCK.

3. MOVED BY COMM. PATTERSON, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING TO AMEND TABLE A IN THE ZONING ORDINANCE, AS DISCUSSED AT THE OCTOBER 17 BOARD MEETING, AT 7:00 P.M. ON DECEMBER 5.

4. As discussed earlier in the meeting, Comms. James and Sossomon hoped to have a draft agreement for the Board to review concerning provision of water to the Hospital and Chestnut Hill; they recommended reviewing the agreement at the re-scheduled November 21 meeting.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO RE-SCHEDULE THE NOVEMBER 21 MEETING TO NOVEMBER 28.

5. The Board reviewed a preliminary subdivision plat for Poplar Ridge Subdivision, located between Wyanoak Drive and Hickory Hill Road. A letter had been prepared by the Town Engineer approving the preliminary utility plans, and the Planning Board had recommended approval at its October 22 meeting. Bronce Pesterfield was present and said that, upon approval, the subdivider, Mike Bryson, would apply for septic tank permits and a soil erosion permit.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE PRELIMINARY PLAT FOR POPLAR RIDGE SUBDIVISION.

6. The Southwestern Commission had again requested that the Town adopt a resolution requesting the release of its share of State funds to the Region A Regional Council.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADOPT THE RESOLUTION. A copy is attached hereto and made a permanent part of this record.

The Commission had also requested that the Board sign a memorandum of understanding concerning Region A's designation as a Rural Transportation Planning Organization. Copies were distributed to the Board for review.

7. Craig Van Dussen and Kurt Wright were present from W. K. Dickson Company, and presented a tabulation of bids received on the Bowery Road Water Project, for Projects 1, 2, 3, and 4, as follows:

- Stillwell Enterprises.....\$857,731.85
- Terry Brothers Construction Co. Inc.....897,817.00
- Buckeye Construction Co. Inc.....1,007,183.05

The Treasurer reported that \$940,000 had been budgeted for this fiscal year, based on the cost estimates for Projects 1, 2, and 3; it had been expected that Project 4 would have to be funded next year. Based on the bids received, however, he recommended awarding the contract for all four projects.

The Board discussed alternate bids for the water tank. A glass-lined tank had been specified, but Town Engineer Lamar Nix thought that a price should also be obtained on a welded steel tank; if the cost of the welded steel tank was substantially lower than the glass-lined tank, he felt that the Board should consider approving it as a change order, based on the Town's recent successful experience with treating such tanks and extending their life.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO AWARD THE CONTRACT FOR ALL FOUR BOWERY ROAD WATER PROJECTS TO THE LOW BIDDER, STILLWELL ENTERPRISES.

8. Paul Schmitt was present on behalf of the Playhouse Board to request funds to help re-roof the Playhouse. He submitted estimates from D. W. Roofing, and said that some re-roofing was already underway; the cost would be to \$2,790. However, he was going to contact an engineer and obtain some advice on the possibility of repairing the underlying roof structure, and the total project could cost as much as \$12,000 - \$13,000. Comm. James suggested that in the meantime the lease be reviewed to see who was responsible for the repairs.

9. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318(A)(6) TO REVIEW AN APPLICATION FOR POLICE AUXILIARY OFFICER. All present left the room except the Clerk, the Police Chief, and the Town Attorney.

The Board reviewed an application for Police Auxiliary Officer from Robert Randazzo with the Police Chief.

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

10. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO EMPLOY ROBERT RANDAZZO AS POLICE AUXILIARY OFFICER AT A SALARY OF 9-1 (\$19,020).

VII. MOVED BY COMM. CAVENDER AND UNANIMOUSLY CARRIED TO ADJOURN. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:20 p.m.

Richard Betz, Town Clerk