

REGULAR BOARD MEETING of July 17, 2002, with Mayor Buck Trott and Commissioners H. N. James, Ron Sanders, Mike Cavender, Hank Ross, and Amy Patterson present.

Also present were Richard Betz, Bill Coward, Lamar Nix, Larry Gantenbein, Bob Wright, Alan Marsh, Pat Moore, Raymond Reed, Barbara Cusacks, Cathy McIntyre-Ross, Kim Lewicki, and others.

I. Call to Order.

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

II. Approval of Agenda.

Copies of the agenda had been distributed by mail.

The Clerk reported that Thom Corrigan had asked that Item No. 3, under New Business, a request to serve wine at the Performing Arts Center, be deleted from the agenda. He also reported that Cathy McIntyre-Ross had asked to be placed on the agenda to discuss noise on a dock on Lake Sequoyah and the proposed turkey shoot approved at the previous meeting, and was present tonight; the Mayor suggested that this item be taken up first under New Business. Comm. Patterson expressed a concern that items should be placed on the agenda and published if at all possible so that interested parties can be present.

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

III. Approval of Minutes.

Copies of the minutes of the July 3 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he had received several copies of a National Crime Prevention Council brochure entitled "United for a Stronger America: Citizens' Preparedness Guide," addressing terrorism. He said that the County had recently updated its Emergency Plan, and the Town would be updating its plan as well.

2. Comm. Sanders reported that the Street Committee had met and recommended installing a guardrail on Little Bearpen Road, as discussed at the previous meeting, from below the top portion of the road to the switchback. The Board asked the Town Engineer to obtain an estimate on installing the guardrail. Comm. James asked if the Town controlled the right-of-way; although it was on the Powell Bill map, he was not certain the road had ever been dedicated to the Town. The Town Engineer agreed to check on the status of the right-of-way as well.

The Street Committee had also reviewed a request for a handicap parking space at the lower end of Church Street Alley, and recommended installing it. Comm. Ross asked what the cross-slope was on the proposed space; he understood that the maximum allowable pursuant to ADA standards was 2%. The slope at that point was unknown, and the Town Engineer agreed to check and report back to the Board if it was less than that.

MOVED BY COMM. SANDERS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO APPROVE THE HANDICAP SPACE, PROVIDED IT DOES NOT EXCEED 2% IN CROSS-SLOPE.

3. Each Board member had received a copy of a letter from the Town Administrator to Kevin Barnett regarding the S. B. Association NPDES permit, as discussed at the previous meeting, asking about the status of the permit, the time frame for connection to the Town system, and the standards required for the pump stations.

He also reported that he had spoken with S&ME, which had just received the laboratory results of testing at the Town's UST site on Poplar Street and would be finalizing the report by next week. The testing had indicated contaminant levels lower than in 1996, and also some very low level of contamination in the stream above the Town's site.

The report would be forwarded to DWQ, and he expected that some regular schedule of monitoring would be required by them. Costs would be reimbursable under the State Trust Fund.

#### V. Old Business.

1. Each Board member had submitted two names into nomination to fill six places on a proposed Land Use Planning Committee, as discussed at the previous meeting. The nominations were Bob Wright (3 nominations), Jim Graham (2), Dennis DeWolf (2), Thomas Craig (1), Joan Jefferson (1), and Dixie Barton (1).

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPOINT THE FOREGOING TO A LAND USE PLANNING COMMITTEE.

#### VI. New Business.

1. Cathy McIntyre-Ross was present to discuss noise problems in her neighborhood on US-64 near the Lake Sequoyah Dam. She said that on June 29, she had been able to hear from her back yard a live band with amplified music on a deck owned by Robbie Reid. She did not feel this should be going on in a residential area, and she also questioned the presence of extra Town police patrolling the lake in a boat; she felt that there was a circus-like atmosphere in the area. She had spoken to Mayor Trott and found that he had issued a permit for the music. She also expressed disagreement with the proposed turkey shoot approved at the previous meeting; although she did not oppose the idea, she felt it was in the wrong place, and should not be held near a residential area. She said that she already heard every shot when the police used the firing range twice a year, and she hoped the Board would re-consider its approval of the event.

Comm. Sanders pointed out that the turkey shoot was only being planned for once a year. Comm. Cavender asked about the sound permit. The Town Administrator replied that under the Highlands Code the Mayor was authorized to issue permits for amplified sound, which was otherwise prohibited in Town; the permits gave the Mayor a method of regulating events if complaints were received about noise. Comm. James asked about the status of use of the dock; he thought that activities like this were not permitted. The Town Administrator replied that new docks had been deemed not consistent with the Reservoir Recreation Plan by Public Water Supply Section official Harold Saylor and the Lake Ordinance had been amended to prohibit them; Mr. Reid had been asked to submit a description of proposed activities on his existing dock directly to Public Water Supply Section official Harold Saylor. Comm. James felt that parties such as this should not be allowed, and he felt that Harold Saylor should be asked directly if they were allowed; Comm. Cavender agreed. The Board asked the Town Administrator to review previous communication with Mr. Saylor and the current status of Mr. Reid's dock before the next meeting.

2. This was the time and place advertized for receiving sealed formal bids on an emergency rescue vehicle for the Fire Department. The Town Administrator reported that only one bid had been received, and the Board agreed to re-advertize for bids at the next meeting.

3. Town Planner/Zoning Administrator Larry Gantenbein presented

a plat to the Board which had been prepared by Highlands Country Club, providing both a metes and bounds description and also the exact amount of "built-upon" in the administrative area of the Club along NC-106; the area was 22.18 acres, and the existing built-upon was 201,600 SF. He said that the Country Club had also agreed to voluntarily permit the Town to administer its zoning authority either through private agreement or through Extra-Territorial Jurisdiction (ETJ). Although the total area of the Country Club was 107 acres, the situation was complicated by the fact that, under the 1980 annexation bill, the golf course and playing surfaces were exempted, and it was unknown exactly where the line delineating Town and out-of-Town was located. Over 500,000 SF could be developed as built-upon based on the total of 107 acres in the watershed, however. He was not certain if the tax value would be affected; it appeared that the tax office merely deducted the value of eighteen holes of a golf course from the total acreage, but tax records also referred to five acres of commercial property along the highway.

Comm. James said that, as he understood it, everything on the plat was already in Town. The Town Administrator agreed; he also pointed out that there was other property not shown on the plat which would be located in Town under the annexation bill. Mr. Gantenbein agreed, and said that he understood other areas were being surveyed. This and the other surveys would clarify the situation, and he recommended that they be recorded. He also said that the Town could decide in exercising its ETJ what would be permitted in the zoning district; the rest of the Club was zoned R-1, but a new designation could be provided for the golf course. However, the Town could only exercise its zoning authority in the ETJ, not its Watershed or Soil Erosion regulations, which were already being administered by Macon County.

Pat Moore, President of Highlands Country Club, confirmed that three other "common areas" were currently being surveyed, consisting of approximately six additional acres; these areas were part of neither the playing surfaces nor the current development plans. He said that the Club had wanted to define the "non-golf-course area" and existing built-upon area in order to be able to proceed with immediate plans to cover 150 SF of deck behind the Hudson House.

Mayor Trott recommended that the Town consult on this matter with Bob Long, the attorney retained in the recent Zoning Board case. He reminded the Board that Bill Coward's law firm--Coward, Hicks, & Siler--represented both the Town and Highlands Country Club, and wished to avoid any possible conflict of interest.

Comm. James said he felt that the Country Club would have to annex enough of the fairways to total approximately 38 acres, since in his opinion the fairways were located outside of Town and could not be credited toward the built-upon. Mr. Gantenbein disagreed; he felt that, from a watershed perspective, it would be allowable to built up to 12% of the entire 107 acres. He also felt ETJ would prohibit the possibility of the Club developing, for example, multi-family housing on the fairways.

Pat Moore said that he did not want anyone to think that the Club wanted to build anything on the fairways; in any case, if it did so, the property would cease to be "golf course" and by definition would be located inside Town.

The Board discussed the matter at some length. With respect to whether zoning authority could be extended through an agreement or through ETJ, Town Attorney Bill Coward said he felt that, under the doctrine of pre-emption, the Town could not enter into an agreement that ignores a Statute in order to accomplish the same purpose; he felt that the Town would have to extend its ETJ in order to exercise this authority. Mr. Gantenbein confirmed that the Institute of Government had provided the same answer.

Mayor Trott reiterated his recommendation that Bob Long be consulted. Mr. Gantenbein agreed; he felt that there were issues he would like to discuss with him. Comms. Cavender and Patterson did not agree that another attorney would provide an answer to an essentially

political question; they also felt that the area was already in Town and did not need to be annexed, and Comm. James agreed. Bill Coward pointed out that Mr. Long could provide useful advise on whether or not the plats which had been provided should simply be recorded or a petition for annexation should be filed.

MOVED BY COMM. JAMES, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO TAKE THE MATTER UNDER ADVISEMENT UNTIL THE NEXT MEETING.

The Board agreed to defer a decision on retaining Mr. Long until the next meeting.

4. Raymond Reed was present, representing several homeowners from Alpine Homeowners Association, to discuss recent problems with water on Lucerne and Zermatt Circle on Holt Knob. He said that the water pressure was at times too much, at other times too little, and that the water was often brackish or aerated. He also expressed a concern over the lack of fire hydrants. He asked the Town to determine what was necessary to provide constant water pressure and fire protection to the area.

Town Engineer Lamar Nix said that the top of Holt Knob was near the elevation of the overflow of the supply tanks, and therefore was a pressure system, with a pump and a small 1800-gallon buried tank. Recent problems with lightning damage had destroyed the air controller; the part had been ordered and was expected to arrive and be installed this week. He pointed out that the area would continue to need either a booster pump and pressure vessel, or a 75,000-gallon elevated storage tank. Fire protection would require a six-inch line from US-64 to the area, which was now served by four-inch and two-inch lines. Comm. James felt that, even with a six-inch water line, pumps might be required on fire hydrants, and Mr. Nix said he may be correct.

Fire Department member James Tate was present, and explained that there was a fire hydrant on Keener Road; in the event of a fire, the Department would respond with a drop tank at the top of the mountain and four or five trucks re-filling from the nearest hydrant.

Barbara Cusack pointed out that the Field house had burned down several years ago before the Fire Department could get its equipment in place. She also said there had been a lack of water in the past, such as last Christmas, and complained about brown water.

The Board agreed by consensus to ask Mr. Nix to study the problem and bring a recommendation back to the Board.

VII. MOVED BY COMM. CAVENDER, 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 8:40 p.m.

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Richard Betz, Town Clerk