

REGULAR BOARD MEETING of October 2, 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, Jerry Cook, Selwyn Chalker, Larry Gantenbein, Alan Marsh, Bill Mann, Bob Wright, David Wilkes, Bill Rethorst, Dennis DeWolf, Mildred Johnson, Clare Frederick, Stephanie McCall, and Kim Lewicki.

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 he had erroneously omitted one item: a request to re-locate, and possibly add, a 15-minute parking space adjacent to the Old Edwards Inn. Comm. Cavender said that he would like to discuss the Land Use Planning Committee under Old Business.

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

III. Approval of Minutes.

Copies of the minutes of the September 18 Public Hearing and Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that Romaine Owens was critically ill in the hospital.

2. The Town Administrator reported that the Utilities Committee had met on September 26 with officials from S. B. Association; the item was on the agenda under New Business.

3. Each Board member had received a copy of the Public Services Administrator's written report for the month. Lamar Nix was present and reviewed the report. He also said that he had received a request from Thomas McCook for permission to plant several Norway Spruce trees outside the fence at the Wastewater Treatment Plant to screen his adjoining property; the trees would be planted 10 to 15 feet from the fence, and he had determined that they would not interfere with equipment or operations.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST, SUBJECT TO A REVOCABLE LICENSE AGREEMENT CONTAINING A PROVISION THAT THE TREES BE KEPT TRIMMED.

4. Each Board member had received a copy of the Police Chief's written report for the month. Jerry Cook was present, and also reported that six of the new 40-caliber guns had been received; he asked for permission to offer the old 9-mm. guns to certified police officers if they wanted to purchase them.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE SALE OF POLICE DEPARTMENT GUNS TO CERTIFIED POLICE OFFICERS AS APPROVED BY THE CHIEF OF POLICE.

5. Each Board member had received a copy of the Recreation Director's report for the month. Selwyn Chalker was present and reviewed the report, adding that the Recreation Committee would be meeting sometime this month.

6. Each Board member had received a copy of the Zoning Administrator's report for the month; Larry Gantenbein was present to answer any questions.

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

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

8. The Town Administrator reported that the Fire Department had completed its review of the bid received from EVI Inc. on August 7 for the Rescue Vehicle (\$124,907); the contract would be executed and the vehicle delivered in six months. He also reported that the ABC Board Audit for FY 01-02 had been completed, and copies were available; the first distribution of profits totaled \$70,321, more than the budget estimate. He also distributed copies of the latest NCLM "Legislative Bulletin," summarizing the recent State legislation enacted. Included was a discussion of the Local Sales Tax Acceleration and the Secure Local Revenues bills, as well as an explanation that the proposal to fund the ALE from ABC revenues had been defeated. He also distributed copies of a letter from the Mayor to Milt Rhodes at the Division of Water Quality, asking for clarification of the Watershed amendment on which the DWQ had insisted, as requested at the previous meeting; no reply had been received to date.

Finally, he distributed copies of a memo concerning non-conforming buildings, which had been mailed out with the agenda package the previous week, and he offered to answer any questions; the matter had been tabled at the previous meeting.

Comm. Cavender suggested that it be discussed at the next meeting.

Comm. Ross asked why it should be postponed; he said that he had read the memo, and he understood people were here tonight to speak to it. Comm. Sanders said that he would like more time to study the memo.

MOVED BY COMM. SANDERS, SECONDED BY COMM. JAMES, AND CARRIED TO DISCUSS THIS ITEM AT THE NEXT MEETING. Comms. Sanders, James, Patterson, and Cavender voted "aye;" Comm. Ross voted "nay."

The Mayor reported that he, the Town Administrator, and the Town Engineer had met earlier in the day with W. K. Dickson consulting engineer Michael Osborne, P. E., who would be replacing Kurt Wright; Mr. Wright had submitted his resignation. The Mayor said that the engineering firm had assured the Town that the Wastewater Treatment Plant project was proceeding on schedule.

V. Old Business.

1. Comm. Cavender said that he had been approached by a couple of members of the Land Use Planning Committee wondering what the Board's reasons had been for creating the Committee and what its expectations were. He recalled that the Committee had come out of some individuals having concerns over the statistics in W. K. Dickson's Preliminary Engineering Report for the WWTP expansion; there had been some dissatisfaction with the demographics used in justifying the capacity and projecting growth in Highlands. He remembered that a population study was to have been prepared and its results analyzed by the LUP Committee.

Mayor Trott said that he remembered that the Committee had been created for the overall purpose of updating the Land Use Plan, and deciding if it needed to be "tweaked" or adjusted to accommodate changes that had taken place. He felt that the Board should leave it up to the LUP Committee to come up with an RFP if it decided a population study was necessary.

Comm. Cavender said that a study had already been approved by the Board. Comm. Ross added that he had been appointed to an ad-hoc

Committee to develop an RFP for such a study, but because the LUP Committee had been formed it had been decided that they should come up with the RFP. He said he had discussed this with Geoffrey Willett, and had been told that Mr. Willett had his own agenda and style of facilitating the meetings and that at some point he would ask the Committee to come up with a study. He agreed that the study was originally intended to question the WWTP permit process, as well as providing useful information for the LUP Committee, but he felt that it had become bogged down; he would like to see it go forward.

Comm. Cavender said that the Committee seemed to be drifting away from the population study; he felt it was important to have that information first.

Comm. James said that it sounded from the article in the paper as if a lot of pressure was being exerted on Mr. Willett.

Town Planner Larry Gantenbein said that the Committee itself was deciding what issues to consider, and Mr. Willett was facilitating; the Committee understood its charge to be a review of the 1989 Land Use Plan to see if it needs to be updated. The population study had not been first on the agenda; Mr. Willett had begun the process with a review and verification of the mission statements in the Plan, and was letting the Committee choose where it wanted to go next. The first thing the Committee had decided to look at was residential zoning, including discussions of affordable housing and employee housing. He felt that the LUP Committee was making progress, but that it was not far enough down the road now to determine what information was needed. He thought that he and Town Staff would be able to provide some information in-house; what could not be provided would probably go into an RFP for a study, and brought back to the Town Board for approval.

Comm. Cavender said he was concerned that the W. K. Dickson study's population projections were based on past growth, which may not be able to continue at the same rate. He felt that reliable demographic information should be obtained in order to make good decisions. Comm. James felt that the Board had set the LUP Committee in motion, and should not set its agenda. Comm. Cavender then asked about a Town Board member being appointed to the Committee. The Mayor said he was opposed to such an idea.

MOVED BY COMM. CAVENDER TO APPOINT HANK ROSS AS A MEMBER OF THE LAND USE PLANNING COMMITTEE. There was no second to the motion, and the Mayor declared the motion dead. Comm. James said he did not feel any Town Board members should serve on the Committee; he had no problem with Board members attending meetings, but felt they should not dictate what it should do. Comm. Sanders agreed.

VI. New Business.

1. The Town Administrator reported that the following sealed proposals for engineering services had been opened at 12:00 noon on September 25, tabulated, and reviewed:

ENGINEERING FIRM	LUMP SUM TOTAL FOR HYDRAULIC COMPUTER MODELLING OF WATER DISTRIBUTION SYSTEM	LUMP SUM TOTAL FOR EVALUATION STUDY OF SANITARY SEWER SYSTEM
Severn Trent Pipeline Services	\$45,400.00	\$39,910.50
W. K. Dickson Company	\$25,000.00	\$25,500.00
Loftquist & Associates Inc.	\$17,650.00	NO PROPOSAL
Pesterfield Engineering	\$18,900.00	NO PROPOSAL

He said Town Engineer Lamar Nix recommended entering into a contract for engineering services for the above-described projects to the following engineering firms:

• Loftquist & Associates Inc. for hydraulic computer modelling of water distribution system.

• W. K. Dickson Company for evaluation system of sanitary sewer system.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ACCEPT THE RECOMMENDATION OF THE TOWN ENGINEER.

2. The Town Administrator reported that sealed bids had been received at 12:00 noon that day for a line truck in the Electric Department, but only two bids had been received, from Altec Industries and Telelect East. Because it was expected that the bid amount would exceed the informal range (\$50,000) and require a minimum of three bids, the two bids were returned to the two representatives present for the opening. At approximately 1:30 p.m., a third bid had been received from Global Rental Co. Inc. He recommended re-advertizing for bids for 12:00 noon October 16.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO RE-ADVERTISE FOR BIDS AS RECOMMENDED.

3. The Town Administrator reported that two bids had been received for a pickup truck for the Recreation Department, on second advertisement specifying a 2003 model; the bids had been opened and tabulated:

Bidder	Amount
Tabor - Toccoa	\$21,067
Jim Brown - Franklin	\$21,446

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ACCEPT THE LOW BID FROM TABOR MOTORS.

4. David Wilkes, owner of Highlands Hiker, was present, and said that his business was celebrating its tenth year in Highlands, and he was planning a celebration on Saturday, October 19; the event would be open to the public, and would feature a live band and refreshments, and he requested that Church Street be closed from 5:30 p.m. until 8:30 p.m. All of the neighbors approved of the event, and a permit would be obtained from the Mayor for amplified sound.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE CLOSING THE STREET.

Comm. James noted that, while he had no problem with the event, he felt that the Board might be setting a precedent by closing a public street for a private business. Comm. Patterson pointed out that this was a special occasion.

5. Each Board member had received copies of a proposed amendment of the Downtown Business District Parking Ordinance, Section 7-117, first adopted April 5, 2000, amended August 2, 2000, as discussed at the previous meeting. Town Attorney Bill Coward reviewed in some detail the proposed changes which he, the Police Chief, and the Town Administrator had worked on last month. The changes involved a series of new definitions to clarify provisions in the previous ordinance. Mr. Coward also reported that the two Schiffli cases appealed from District Court to Superior Court would be heard next week; he had prepared a brief, and a copy was available to anyone who was interested. In short, the brief argued that the Defendants' claim--that the Town's ordinance violated the equal protection clause of the constitution because it created a class of persons who were unfairly disadvantaged--was not valid because the regulation of parking was a rational and legitimate public interest. The court challenge would involve only the existing Ordinance, not the proposed amendments.

MOVED BY COMM. JAMES, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING ORDINANCE, REPLACING SECTION 7-117, DOWNTOWN BUSINESS DISTRICT PARKING ORDINANCE, EFFECTIVE IMMEDIATELY:

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DOWNTOWN BUSINESS DISTRICT PARKING ORDINANCE

First Adopted April 5, 2000

As amended August 2, 2000

As amended October 2, 2002

Section 7-117. Downtown Business District parking ordinance.

(a) Definitions.

(1) "Performing his duties" shall mean being present at a place of the person's employment during its normal hours of operation.

(2) "Park" shall include the act of parking a vehicle, the act of allowing a vehicle to remain parked, and the act of failing to promptly remove such vehicle upon request by an on-duty police officer for the Town of Highlands.

(3) "Vehicle" shall be as defined in G.S. 20-4.01(49) and shall include all such vehicles regardless of ownership.

(4) "Downtown Business District" shall mean the entire B-1 Business District, as designated on the current Zoning Map of the Town of Highlands, as well as that portion of the B-2 and B-3 Business District lying within the area formed by the following boundaries: the centerlines of Oak Street, Second Street, Spring Street, and Third Street.

(5) "Downtown Business District Employee" shall mean a person who works full or part-time for a business, profession, or organization that conducts its business at a location either wholly or partially within the Downtown Business District, or a principal/owner of such business, or an independent contractor with such owner, or a business associate who regularly conducts business there.

(6) "Employee-restricted parking areas" shall mean all parking spaces adjacent to the curbs on Main Street between Second Street and Fifth Street, and that portion of Church Street located in the B-1 Zoning District.

(b) It shall be unlawful for a Downtown Business District Employee to park a vehicle within the employee-restricted parking areas while such person is performing his duties as defined herein.

(c) The provisions of this Section shall be effective between the hours of 10:00 a.m. and 4:00 p.m., Monday through Saturday, between May 1 and October 31 of each calendar year.

(d) The provisions of this Section shall not apply to operators of vehicles displaying valid handicapped license plates or dashboard placards and parked in spaces reserved for the handicapped.

(e) The penalty for violating this Section shall be set forth in the Fee Schedule maintained in the office of the Clerk.

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6. The Town Administrator reported that he, the Town Engineer, and the Utilities Committee--Comms. James and Comm. Ross--had met on September 26 with two officers of S. B. Association, Bill Cheney and Bill Rethorst. The Association was aware of the November 30 deadline for connecting to the municipal sewer, and was willing to proceed by connecting at a single point on Arnold Road; they were also willing to collect the full connection fees for all of those

connected to the system--approximately 115 to 120 residences and some facilities at Highlands Country Club--but proposed paying the fees in two equal lump sums one year apart, the first half upon connection, pursuant to an agreement like the Town had signed with Highlands Mountain Club.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE PROPOSAL, CONTINGENT ON PREPARATION OF SUCH AN AGREEMENT BY THE TOWN ATTORNEY.

The Town Administrator also reported that the Association had decided to proceed with an engineering study to determine the cost of bringing the sewer system up to standards applicable to a municipal sewer, including fencing, standby power, and telemetry for the pump stations, as well as as-built drawings and a report on the condition of equipment.

7. Recreation Director Selwyn Chalker reminded the Board that it would need to approve closing and re-routing traffic around Main Street on October 31 for the annual Halloween celebration.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE CLOSING MAIN STREET.

8. The Town Administrator reported that Anna Lise and Judy Miller, managers at the Old Edwards Inn, had requested that the Board consider re-locating the 15-minute angled parking space in front of the Inn on Main Street to its proposed new entrance on Fourth Street; they had also requested that the Board consider approving an additional 15-minute parking space at that location. Comm. Sanders pointed out that the 15-minute parking space was used for delivery vehicles as well as guests at the inn, and he was concerned that they might not be able to access the parallel parking space. After some discussion, the Board agreed by consensus to refer the request to the Street Committee.

VII. The Board agreed to adjourn by common consent.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:04 p.m.

Richard Betz, Town Clerk