

REGULAR BOARD MEETING of October 16, 2002, with Mayor Buck Trott and Commissioners Ron Sanders, Mike Cavender, Hank Ross, and Amy Patterson present; the Mayor reported that Comm. H. N. James was out of Town.

Also present were Richard Betz, Bill Coward, Lamar Nix, Alan Marsh, Bill Mann, Dennis DeWolf, Mildred Johnson, Charles Wolf, Barbara Werder, Eric Pierson, Rick Siegel, Wendell Underwood, Morris Williams, Bob Sutton, 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 requested that two items be added: a request from the Highlands Chamber of Commerce to close a portion of Main Street, and a personnel matter for Closed Session.

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

III. Approval of Minutes.

Copies of the minutes of the October 2 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he had learned that magistrate Elizabeth Riser was moving to Atlanta and there would no longer be a local magistrate in Highlands. He felt that this would create a problem for the Police Department as they would have to file warrants in Franklin. He understood that employment had been frozen and requirements for the position had changed, and he had tried unsuccessfully to confirm this with the Clerk of Court and the District Judge.

2. Comm. Cavender reported that he and Comm. Sanders had reviewed the request from Old Edwards Inn for an additional 15-minute parking space, and had agreed to recommend moving the 15-minute parking space in front of the Lords building on East Main Street to Fourth Street. However, they both felt that the space should be located on the corner if possible, rather than near the Fourth Street entrance to the Inn. Comm. Patterson agreed, noting that otherwise there could be traffic congestion problems with the parallel parking space. The Board agreed by consensus to contact the Inn and see if this location would be acceptable.

3. The Town Administrator reported that the Town Planner had received word that Division of Water Quality official Milt Rhodes was working on a reply to the Mayor's letter regarding the 100-foot buffer; he had also requested a list of the 50 local governments that, according to Mr. Rhodes, were also being required to amend their watershed ordinances. He also reported that the Schiffli Parking Ordinance case had been continued until the November 18 term of Court.

V. Old Business.

1. The Board had agreed at the previous meeting to discuss the proposed amendment of the Zoning Ordinance addressing non-conforming

buildings; the proposal had been the subject of a public hearing on September 18 and had been tabled. Each Board member had also received a memorandum from staff, prepared by the Town Administrator, concerning the proposed amendment as well as a proposal made at the September 18 meeting to protect both non-conforming buildings and uses.

Comm. Cavender asked if, under the current Ordinance, Highlands Townsite Apartments would be able to re-build if destroyed by fire.

The Town Administrator replied that neither the current Ordinance nor the proposed amendment would permit the apartment building to rebuild unless it complied with the current Ordinance. An exception from the Watershed amendments--Section 110[E]--permitted reconstruction if initiated within 12 months and completed within two years of the fire, provided the total built-upon area was not increased; however, the building would have to meet the current density requirement, which he understood would limit the property to ten dwelling units rather than 17. In order to construct 17 units, a variance would have to be granted by the Zoning Board. The proposed amendment would not have any affect on this issue; it would merely remove the "artificial" 12-month 50% standard, originally taken from the State Building Code. A new amendment would require review by the Planning Board and another public hearing.

Comm. Cavender said that he was concerned that future zoning boards might be arbitrary, and their decisions subject to litigation; he would suggest instead allowing non-conforming buildings to re-build; if it was possible for buildings to conform, they would be made to do so. The Town Administrator said that in his opinion that was the crux of the problem: determining what was "possible;" the way the Ordinance read now, the Zoning Board made that determination on a case-by-case basis.

Comm. Sanders agreed with Comm. Cavender; he felt that a non-conforming building should be permitted to rebuild exactly what they had, to the same square footage. Comm. Patterson said she did not feel the issue was that simple. Alan Marsh was present and asked how many buildings would be involved. The Town Administrator said that was unknown, but he would think it could be as many as 100.

Charles Wolf was present, representing Highlands Townsite Apartments, and pointed out that the apartments had become non-conforming due to an ordinance change, which he felt was intended to create more green area; he thought that the fact that the building was two stories and therefore had a smaller footprint should be considered. He said he would like to see a cut and dry amendment that would say simply that they could re-build just as they were--no bigger and no smaller. He also said he understood the Highlands Inn and Old Edwards Inn would not be able to re-build if destroyed, and he felt the Town could be destroying its ambiance by not permitting them to re-build.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, TO ADOPT THE FOLLOWING AMENDMENT OF THE ZONING ORDINANCE, SUBJECT OF A PUBLIC HEARING ON SEPTEMBER 18, EFFECTIVE IMMEDIATELY, AND AT THE SAME TIME ASK THE PLANNING BOARD TO DEVELOP AN AMENDMENT AS SOON AS POSSIBLE PERMITTING NON-CONFORMING BUILDINGS AND USES TO BUILD BACK WHAT THEY HAVE.

Replace Section 110(B)(2) with the following: "Alterations, repairs, or rebuilds. Non-conforming buildings may be altered or repaired, but such buildings shall not be enlarged or expanded except in conformance with this Ordinance. Non-conforming buildings that are destroyed or condemned may not be rebuilt or repaired except in conformance with this Ordinance."
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Morris Williams was present and noted that the Zoning Board had to follow very strict criteria for granting a variance and few were granted; he felt that if the Town was relying on that Board to grant a variance in such cases, it would have to give them less restrictive rules for granting variances.

Comm. Cavender suggested that the amendment could also contain a provision protecting historic buildings destroyed by fire. Perhaps a historic use or zone could be established, and those who wanted to participate could submit plans to the Zoning Administrator; in the event they were destroyed, they could re-build to that plan. Comm. Patterson noted that once a historic building was destroyed, its historic significance was gone. Comm. Cavender said that the White House had been re-built when burned by the British.

Dennis DeWolf was present and said he felt the purpose of the amendments to the Ordinance over the years was to reduce density and hold in check what was already here, rather than condemning. He felt that historic buildings--like the Thomas Wolfe house in Asheville--should be permitted to rebuild, that older homes should be encouraged to be get listed on the National Register, and that the owners of older homes should submit as-built plans.

Comm. Ross said that he was concerned over the definition of "destroyed," and wondered how that would be determined; a building could be destroyed by fire and still have a basement, and he wondered if it could therefore be re-built. Kim LeWicki said that it seemed that the only buildings that would have to conform would be new construction. Comm. Cavender said that he felt if a building could meet the Ordinance, it should have to. He said his main interest was in protecting property interests.

The Mayor called the question. THE MOTION CARRIED UNANIMOUSLY.

The Town Administrator noted that the Land Use Planning Committee was occupied with updating the Land Use Plan, and asked about the time frame for addressing the amendment. The consensus was that the Planning Board should be asked to consider such an amendment as soon as possible, in the discretion of the Chairman.

#### VI. New Business.

1. The Town Administrator reported that the following sealed bids for a line truck in the Electric Department had been opened at 12:00 noon earlier in the day, on second advertisement:

Bidder	Bid Amount
Global Rental Co. Inc.	\$110,129.75
Altec Industries Inc.	106,925.00
Telelect Southeast	101,807.00

He said that the low bid had been reviewed by the Public Services Administrator and met specifications. He also noted that the budget estimate for this vehicle was \$90,000, but that there was \$120,000 in contingency in the Department. He and the Public Services Administrator recommended approving the low bid.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO APPROVE THE LOW BID OF \$101,807 FROM TELELECT SOUTHEAST.

2. The Mayor reported that several letters had been received addressed to the Board from residents of the Bowery Road area, concerned about the Town portion of the road and suggesting that paving it be included in the budget next Spring. Comm. Cavender asked how often the road was graded, and the Public Services Administrator said that it was graded as often as was needed, but was difficult to keep in good condition. Comm. Sanders said he felt the Town should make it a high priority to keep the road in good shape, considering the amount of traffic. The Public Services Administrator suggested, as he had in the past, that the Town consider approaching improvements to the road in short sections. He said that the base was wide enough and there was adequate right-of-way,

most of the utilities were in, and he felt that the Town was capable of working on the base and preparation, leaving only paving and possibly blasting for the contractor; this approach would save considerable money.

3. Rick Siegel was present representing the Highlands Chamber of Commerce, and asked for permission to close Main Street between Third and Fourth on November 30 from 6:30 p.m. to 9:00 p.m. in order to conduct the annual Christmas Tree lighting. Comm. Sanders asked if all of the merchants had been contacted on Main Street; Mr. Siegel said they had all been polled, and all had agreed. The Mayor asked if the Chamber could provide assistance to the Police Department, and Mr. Siegel said that volunteers from Rotary would be used as they were for the Halloween celebration. The Mayor said that additional use of off-duty officers was available, but would cost \$20 per hour; Mr. Siegel indicated that the Chamber would agree to pay the cost. Comm. Sanders said he had no objection only if all of the affected merchants approved.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO CLOSE MAIN STREET ON NOVEMBER 30 FROM 6:30 P.M. TO 9:00 P.M.

4. Dennis DeWolf noted that, in the earlier discussion, reference had been made to a provision taken from the State Building Code. He thought that the Planning Board should look at other parts of the Ordinance, such as ADA requirements, that might have changed; he felt the Town could be put at risk extracting things from the State Building Code.

5. MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO DISCUSS A PERSONNEL MATTER IN THE METER READING DEPARTMENT. All present left the room except the Clerk, the Public Services Administrator, and the Town Attorney.

The Board discussed Meter Reader Jimmy Baty at length with the Town Administrator and the Public Services Administrator.

It was reported that Mr. Baty had submitted an application for the vacant position in the Sanitation Department.

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

6. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO TRANSFER JIMMY BATY TO THE SANITATION DEPARTMENT AT A SALARY OF 9-3 (\$20,981), AND TO ADVERTISE FOR THE POSITION OF METER READER.

VII. MOVED BY COMM. SANDERS, SECONDED 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 8:04 p.m.

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Richard Betz, Town Clerk