

PUBLIC HEARING and REGULAR BOARD MEETING of June 4, 2003, with Mayor Buck Trott and Commissioners H. N. James, Hank Ross, Mike Cavender, and Amy Patterson present. Comm. Sanders was out of Town.

Also present were Richard Betz, Bill Coward, Lamar Nix, Larry Gantenbein, Selwyn Chalker, Jerry Cook, Kim Lewicki, Ginger Slaughter, Col. E. A. Niblack, Alan Marsh, Christy Kelly, Bill Mann, Ran Shaffner, Bill Nellis, Bill Mann, Jim Bruce, John Bynum, Carole O'Neal, Don O'Neal, and others.

A. Public Hearing.

The Mayor called the Public Hearing to order at 7:00 p.m. and stated that its purpose was to receive comments from the public on two proposed amendments of the Zoning Ordinance; the amendments had been reviewed by the Planning Board and public notice had been provided pursuant to law.

1. The first amendment replaced Section 202.3(C), clarifying the types of uses permitted at "state-owned research and education-related institutions" and requiring that such uses be subject to a Special Use Permit. The Mayor opened the hearing to comments.

Carole O'Neal was present and stated that she lived next door to the Highlands Biological Station. She said that she was concerned about the phrase "structures customarily associated with such uses;" these uses were unknown. She pointed out that, although there were 180 field stations in the country, few were within Town limits or located in residentially-zoned areas. She felt that the regulations should be stricter and that the Zoning Board should have clear guidelines. She said that the duplex recently permitted close to her back porch had been permitted as a "reasonable and desirable" use; she felt that adjoining homeowners should be given more consideration.

Don O'Neal was present and added that the duplex backed up to their property rather than facing the road. He felt that it had an adverse affect on property values, and asked how many more were being planned; he also said that they had experienced noise problems with the existing Valentine house.

Ran Shaffner was present, said he was Treasurer of the Biological Station Foundation, and pointed out that lack of sewer and water service would limit development. He said that the Station was very conscious about the environment; he appreciated what the O'Neals were going through, but felt that most of the students were excellent and well-behaved on the whole.

Carole O'Neal took exception to Mr. Shaffner's comments; she said that she had seen plans indicating that the duplexes were Phase I, and she was sure that was not the end of the development.

2. The second amendment added a Section 110(F), which provided that watershed lot density and built-upon limits would be "based on the portion of the lot that is not underwater." The Mayor asked the Town Planner to explain the purpose of the amendment. Larry Gantenbein explained that many property owners owned to the center of a lake or stream; it was not clear at present if this land was exempt from the watershed regulations or not, since property rights might attach to the metes and bounds description. The Mayor then opened the hearing to comments; there were none.

The Mayor closed the Public Hearing at 7:08 p.m.

B. Regular Board Meeting.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:08 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Mayor said that Col. E. A. Niblack had requested permission to address the Board early in the meeting rather than under New Business, and he suggested that the Board provide time after his report.

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 May 21 Regular Board Meeting and the May 28 Special Board Meeting had been distributed by mail. Comm. Patterson pointed out an error on page 97, paragraph 3 of New Business--the phrase should have read "placed on the agenda"--and page 96, paragraph 2 under Old Business--the phrase "the proposal sounded good, but that" should be deleted.

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

### IV. Reports.

1. The Mayor thanked Comm. Patterson for presiding over the May 21 meeting while he attended Town Hall Day in Raleigh. He said that the bill requiring recording of closed sessions had been defeated and that the bill exempting signs from amortization was still pending; he had also been working with conference committees to retain funding for nature centers. \$500 million had been provided by the U. S. Congress to the States, but it appeared that those funds would be placed into the "rainy day fund" in North Carolina.

He then offered Col. E. A. Niblack the floor. Col. Niblack said that the Board had approved a proposed turkey shoot to be held on the firing range at the Wastewater Treatment Plant last July 3, but the event had been rained out; he proposed holding the event this coming July 4, and had coordinated the event with Rotary. The Town Administrator reported that satisfactory proof of insurance had been provided as requested last year.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE EVENT.

Comm. Ross felt that, rather than being a routine matter, the event represented a change in use of the Wastewater Treatment Plant. Previously it had been used for Town Police Officers for training, but earlier this year a gun safety class had been held at the firing range. He also said that he had understood that the turkey shoot was to have been a one-time event but it did not appear that it would be. He felt that the Town should look into the feasibility of building an indoor firing range like the one in Franklin. Police Chief Jerry Cook suggested that such a facility could be installed on the former U. S. Forest Service property adjoining the Treatment Plant.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO REFER COMM. ROSS'S CONCERNS TO THE UTILITIES COMMITTEE, SINCE IT INVOLVES THE WASTEWATER TREATMENT PLANT, AND ALSO TO EVALUATE THE FEASIBILITY OF AN INDOOR FIRING RANGE.

The Mayor then presented the following proclamation:

### Proclamation of Crop Walk Day in Highlands June 8, 2003

**WHEREAS**, at the end of World War II, many people wanted to share our country's abundance with European war victims; and Church World Service and CROP's first purpose was to gather wheat and other crops from U. S. farms for shipment

to Europe; and

**WHEREAS**, today, locally-organized Church World Service-sponsored CROP WALKS are an important part of community life for more than 2,000 towns and cities in the United States, bringing together people of different faiths, diverse cultures, and all age groups; and

**WHEREAS**, in the last 15 years alone, CROP WALKS have raised over \$200 million to bring help and hope to people in need in more than 80 countries, including the U. S.; and

**WHEREAS**, each year CROP WALKS help more than 3,200 local food pantries, food banks, and meal sites in the U. S. provide food to neighbors in need; and

**WHEREAS**, the annual CROP WALK will be held on June 8, 2003, to help our community become aware of and concerned about hunger and its causes; and

**WHEREAS**, the CROP WALK will raise funds to help stop hunger both locally and globally;

**NOW, THEREFORE, I, Allen L. "Buck" Trott**, Mayor of Highlands, do hereby proclaim **June 8, 2003** as CROP WALK DAY in the Town of Highlands, and do urge the citizens of Highlands to support this CROP WALK.

The Mayor then asked the Board to permit Ran Shaffner to speak.

Mr. Shaffner said that he had contacted the N. C. Department of Cultural Resources and obtained approval for a D.O.T. historical marker honoring Professor Thomas Harbison, who had founded the first school in Highlands and had been a well-known botanist. It was proposed that the sign would be located in front of the Town Hall, the site of the first school, and would be erected next October. He felt that Prof. Harbison deserved recognition and also that it would be an honor for the Town.

The Board agreed to take the request under advisement, and the Clerk agreed to send each Board member copies of the information Mr. Shaffner had provided.

2. Comm. James reported that the Finance Committee had been asked at the previous meeting to listen to representatives from the Chamber of Commerce, and they had done so.

3. The Town Attorney was present to discuss a matter in Closed Session; he had nothing further to report.

4. Each Board member had received a copy of the Public Services Administrator's written report for the month. Lamar Nix reported that the Dog Mountain Water Tank rehabilitation was nearly complete, and that the Water Treatment Plant and Wastewater Treatment Plant were operating well. He also reported that, in response to an inquiry from Comm. Cavender, he had reviewed flow data at the Wastewater Treatment Plant; despite completion of the major repairs identified in the Inflow & Infiltration study, flows had increased significantly, higher than last year by a factor of 10% of the facility's limit and peaking at over 70%.

5. Each Board member had received a copy of the Police Chief's written report for the month. Jerry Cook was present, and reported that the single breaking & entering incident on the report had been cleared.

6. Each Board member had received a copy of the Recreation Director's report for the month. Selwyn Chalker was present and reported that the pool had passed inspection and was open. He also reported that an error had been made in the salary range for the

Recreation Camp Director approved on May 7; it should have been \$8.50-\$9.75. He also requested permission to add Tiffany Shomper and Allie Roman to the list of part-time summer employees.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO APPROVE THE SALARY RANGE AND THE TWO ADDITIONAL PART-TIME SUMMER EMPLOYEES.

7. Each Board member had received a copy of the Town Planner/Zoning Administrator's report for the month, including an activity report for the May 27 Planning Board meeting; the items in the report were on the agenda under Old Business.

8. 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.

9. The Town Administrator reported that the Mayor had received a hand-written note from Jim Rothermel providing two estimates for the cost of additional roof repairs at the Highlands Playhouse. He also reported that he had received a budget request earlier in the day from the Macon County Humane Society for \$5,000.

#### V. Old Business.

1. Each Board member had received an activity report for the May 27 Planning Board meeting, as reported earlier in the meeting. Town Planner Larry Gantenbein reviewed the report with the Board in some detail.

The Planning Board had reviewed a proposal to permit "open house" and "model open" signs now prohibited by sign regulations, as discussed at the May 21st meeting. The proposal limited the size of such signs, the hours of display, and the number of signs; it also required written permission from the property owner or Town if located within the right-of-way, called for a \$100/day fine for violations, and was to be policed by the Board of Realtors. The Planning Board had recommended approving the proposal on a trial basis for this season, due to the length of time involved in formally amending the Zoning Ordinance, and then reviewing it again in the fall. Comm. James asked how many illegal signs Mr. Gantenbein had been dealing with recently; he said many. The Town Administrator reported that he had personally removed five illegal signs the previous Saturday. Mr. Gantenbein said that, if the Board of Realtors could enforce the regulations, it would make his job easier; at the same time, two of the illegal signs he had noted on Saturday had been "open house" signs. Comm. James felt that the Town would be going back to square one, and the Town would be like it was before such signs were regulated. Comm. Patterson thought that it was interesting that illegal signs had already appeared; it appeared that if you gave an inch, they would take a mile. Comm. Cavender said that he and Comm. Patterson had been on the Board when these regulations had been adopted; they had been intended to make the Town more attractive and reduce the usual sign clutter, and he felt they had been effective in doing that. The Mayor said that he remembered the former Mayor once stating that he had never sold a property because of a sign. Comm. Ross asked about setbacks for the proposed "open house" signs. Mr. Gantenbein said that the Planning Board had not addressed that issue.

Jim Bruce, President of the Highlands-Cashiers Board of Realtors, was present; he said that Highlands had experienced a tremendous growth in new realtors recently and he felt that many of the illegal signs were the result of ignorance of the regulations. He pledged that each office would be provided with a copy of the sign regulations and a letter reiterating that such signs were a privilege, not a right. He asked that the Board consider the proposal on a trial basis, policed by local realtors.

Christy Kelly was present and asked whether the Board of Realtors was voluntary, or if members paid dues and applied for membership; if those putting out illegal signs were not members of the Board, would they be policed? Mr. Bruce said they would.

Bill Nellis was present and pointed out that it would be an added incentive for realtors to know that if they abused the proposal they would lose it.

John Bynum, with Signature Properties, pointed out that the proposed signs would only be up for part of a day, when an agent was in the model, and mostly on weekends. Comm. Ross asked if the signs would have balloons attached to them.

Bill Mann said that he owned property on the corner of Chestnut and US-64, and he had been approached by three realtors about signs advertizing properties on Big Bearpen, Upper Lake Road, and the Chestnut Street development; he wondered if there would be any limit to the total number of signs on one property. He also pointed out that the Chestnut Street property might be under development for two to three years.

The Mayor asked for a motion, and there was none; he therefore ruled the request denied.

Mr. Gantenbein then reported that the Planning Board had recommended brick sidewalks for the Central Business District, which was essentially the B-1 and B-2 districts; the precise area had not been identified on the Master Sidewalk Plan, however. Comm. Patterson asked about damage due to salt to the underlying concrete; the Town Engineer reported that he had not encountered any problems with brick sidewalk. She also expressed a concern over the comparative cost, since brick sidewalks would be required to be installed if part of the Master Sidewalk Plan.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ASK THE STREET COMMITTEE TO DESIGNATE THE BRICK AREAS ON THE MASTER SIDEWALK PLAN AND BRING THE PLAN TO THE BOARD FOR REVIEW.

Mr. Gantenbein then reported that the Planning Board had felt that it needed much more specific information in order to define parameters for the population study discussed at the May 7 meeting. They had not been impressed with the proposal received from Marketek, had wondered if a study was even needed considering the data that already been accumulated, and had asked to what use such a study would be put. Comm. James asked if he had been able to contact any other firms besides Marketek. Mr. Gantenbein replied that he had contacted a firm called Benchmark LLC in Charlotte, which he had learned specialized in city and regional planning; he said that they could start immediately, and he provided the Board with references and other information on the firm. Comm. James felt the Board should get more than the single proposal from Marketek. The Board then discussed parameters for the study. The Mayor said that the County Manager had impressed upon him the need to include service population, rather than census data, in any population study. Comm. Ross said that he felt the data should be used for all Town planning, including the Wastewater Treatment Plant expansion, sewer and water line system planning, sidewalk and streetscape planning, Recreation, etc. Comm. James asked about the data already accumulated; Mr. Gantenbein said that it was an exhaustive list, including the number of lots, existing connections, potential for development in the watershed, etc. Comm. Patterson asked him to provide a list of the data in writing, and he agreed to do so. Comm. Cavender said that he felt it was important to consider the Board's vision for the future, of how it wanted the Town to grow; that vision had been behind the Land Use Plan, and had included low density development, no condominiums, etc. He felt it was important to keep that in mind. By consensus, the Board agreed to study the Benchmark proposal and to place this item on the agenda of the next Board meeting.

2. Each Board member had received a copy of a letter from Victor Lofquist dated June 3, revising the estimate on providing water to

Holt Knob based on new pressure data, as discussed at the May 28 meeting. Town Engineer Lamar Nix said that the letter still omitted the cost of the single line from US-64 to the summit of Holt Knob, as requested by Comm. James and others at the meeting; using Mr. Lofquist's figures, he estimated that such a line could be constructed for \$180,000. It would consist of a combination of 10" and 8" pipe, but would still not provide fire protection to the top of Holt Knob without an elevated tank or a fire pumping station. By consensus, the Board agreed to consider the project at the Budget Work Session on June 18.

VI. New Business.

1. The Town Administrator had provided a tabulation of the nominations received from Board members for various Boards and Committees.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPOINT ZEKE SOSSOMON AS A REGULAR MEMBER OF THE ZONING BOARD, AND TO APPOINT CLEM PATTON AS AN ALTERNATE MEMBER FOR THREE-YEAR TERMS.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO RE-APPOINT JOHN CLEAVELAND AND LEWIS DOGGETT AND TO APPOINT GINGER SLAUGHTER TO THE PLANNING BOARD, FOR THREE-YEAR TERMS.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPOINT GINGER SLAUGHTER, ALAN MARSH, AND RICK SIEGEL TO THE APPEARANCE COMMISSION FOR THREE-YEAR TERMS

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO RE-APPOINT GEORGIA SANDERS TO THE ABC BOARD FOR A THREE-YEAR TERM.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO RE-APPOINT JACK CALLOWAY TO THE SCHOLARSHIP COMMITTEE FOR A THREE-YEAR TERM.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO RE-APPOINT STEVE CHENOWETH, DAVE CASHION, AND JIM GRAHAM TO THE ADVISORY COMMITTEE FOR THE SCHOLARSHIP ENDOWMENT FUND FOR THREE-YEAR TERMS.

MOVED BY COMM. ROSS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO RE-APPOINT MILDRED WILSON TO THE CEMETERY COMMITTEE FOR A THREE-YEAR TERM.

2. The Board again considered two amendments of the Zoning Ordinance, subject of a public hearing immediately preceding the meeting.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING AMENDMENTS TO THE ZONING ORDINANCE, EFFECTIVE IMMEDIATELY.

Carole O'Neal asked about the amendment concerning the Biological Station; was it being adopted as originally drafted? She was told that it was being adopted as advertized. Comm. Patterson pointed out that the new procedure would allow the Zoning Board to review construction on a case by case basis, and would also provide the opportunity of public hearing.

<p>1. Delete Section 202.3(C), and replace with the following: (C) State-owned research and education-related institutions, together with those structures customarily associated with such uses, or as may be necessary for the operation thereof in furtherance of the research or educational functions being pursued within the institution. A Special Use Permit shall be required for all new construction, including additions</p>
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to existing buildings.

Add the following Section 501(R):

(R) State-owned research and education-related institutions. (See Section 202.3[C])

2. Add the following phrase to the title of Section 110:  
"watershed lot density and built-upon limits."

Add the following Section 110(F):

"(F) Watershed lot density and built-upon limits.  
Watershed overlay lot size and built-upon limits shall be determined based on the portion of the lot that is not underwater."

Comm. Ross asked how "underwater" was defined. Mr. Gantenbein said that the question had been discussed by the Planning Board, but had been difficult to define; as currently written, it would be defined by interpretation of the Zoning Administrator, which could be appealed. Comm. Ross said that he was concerned about the ambiguity of the language--if Mr. Gantenbein ever left, his successor might not be as astute--but at the same time he recognized the difficulty of defining the term.

3. The Planning Board had also recommended at its May 27 meeting approval of Application No. 240 for a variance from road width and road grade for Kendall Hobson.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR THE VARIANCE REQUEST FOR JULY 2.

4. The Town Administrator advised that the filing period for the Town election scheduled for November 4 was scheduled for July 7 through August 1.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SET THE FILING FEE AT \$5 FOR COMMISSIONER.

5. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO SCHEDULE A BUDGET HEARING FOR 8:00 A.M. ON JUNE 25.

6. The Town Administrator reported that the franchise agreement for Highlands Cable Group, adopted on May 6, 1998, and extended two additional years on May 16, 2001, had expired. Nin Bond was present and stated that he was already beginning construction in Town and expected to be complete by the end of the year. Although he had been delayed by the wet Spring, he had two construction crews working, had installed over 35 miles of cable, and had 300 customers. The Town Administrator said that extension of the franchise agreement would require two readings; he had prepared a proposed Ordinance extending the agreement another 18 months if the Board wished to consider it.

Comm. James asked if any issues had arisen as a result of the construction. The Mayor said that he thought some issues of clearance on poles had been discussed. Mr. Bond said that he was going to ask the Town to draft more specific standards than the National Electric Safety Code, which only addressed power, phone, and a single cable on a pole, not two cables. Town Engineer Lamar Nix said that the clearance issue would create a lot of trouble for either Highlands Cable Group or Northland Cable. Clearances were required from a power line's neutral and a transformer, and the last cable to connect was required to change out poles if they were not high enough. The question was whether Northland Cable TV, if already in violation of the Code, would have to change out the pole, or whether Mr. Bond would. Mr. Bond alleged that Northland had purposefully raised its lines in order to squeeze him off the poles; he felt that

these pre-existing violations were unsafe and dangerous to linemen, and that the Town should enforce its Ordinance. The Board agreed that it needed more information on its Pole Attachment standards and the franchise agreements. The Town Administrator said that he had attempted unsuccessfully to contact the consultant who had drafted the Ordinance and agreements five years ago.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO DEFER THE MATTER UNTIL THE JULY 2 MEETING.

7. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO REVIEW AN APPLICATION FOR EMPLOYMENT IN THE POLICE DEPARTMENT, AND PURSUANT TO G. S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY ON A POSSIBLE LITIGATION MATTER INVOLVING MAIN STREET INN INC. All present left the room except the Clerk, Town Attorney, Police Chief, and Zoning Administrator.

A. Police Chief Jerry Cook recommended employing Auxiliary Police Officer C. D. Jenkins as a full-time Police Officer. Officer Jenkins had voluntarily moved to part-time due to health problems, but had been working regularly for almost a year now and had indicated that he was prepared to go on full-time.

B. The Board discussed at length a confidential memorandum prepared by Town Attorney Bill Coward in reference to Main Street Inn Inc. The Board was informed that the Inn had recently begun operating a restaurant open to the general public in apparent violation of the Zoning Ordinance; a variance to permit such a use had been denied on May 15, 2000. The memo responded to a letter which had been received by the Zoning Administrator from James Jordan, a lawyer retained by the Inn, claiming that the Inn had the right to operate in such a manner. The Town Attorney recommended responding in writing to the letter and requesting his client to cease and desist.

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

8. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO EMPLOY C. D. JENKINS AS A FULL-TIME POLICE OFFICER AT A SALARY OF 11-1.

9. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO DIRECT THE TOWN ATTORNEY TO SEND A LETTER TO JAMES JORDAN, ATTORNEY FOR THE MAIN STREET INN INC., ASKING HIS CLIENT TO CEASE AND DESIST OPERATION OF THE INN AS A RESTAURANT SERVING THE GENERAL PUBLIC; IF NO REPLY IS RECEIVED WITHIN TEN (10) DAYS, HE IS TO REPORT BACK TO THE BOARD.

The Board also directed the Zoning Administrator to immediately begin issuing citations for violation of the Zoning Ordinance.

VII. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:13 p.m.

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Richard Betz, Town Clerk