

REGULAR BOARD MEETING of August 6, 2003, with Mayor Buck Trott and Commissioners H. N. James, Hank Ross, Mike Cavender, and Amy Patterson present.

Also present were Richard Betz, Lamar Nix, Larry Gantenbein, Selwyn Chalker, Jerry Cook, Katy Stillerman, Kim Lewicki, Clem Patton, Nin Bond, Farrell Zehr, Jodie Cook, Rick Siegel, Dale Miller, Bill Rethorst, Bill Bond, Sarah Fenton, Jim Johnson, Julian Franklin, Dede Austin, Larry Austin, and many others.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:00 p.m.

II. Approval of Agenda.

The Clerk reported that Earle Young had an emergency and could not be present for an item under Old Business.

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

III. Approval of Minutes.

Copies of the minutes of the July 16 Regular Board Meeting Had been distributed by mail.

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

IV. Reports.

1. The Mayor asked the Board to observe a moment of silence for Commissioner Ron Sanders, who had passed away the previous Saturday night. Comm. Sanders had been ill for several years, and he said he would be greatly missed by the Board. As had been stated at the celebration service at the Methodist Church the previous day, "we are only here for a short while, but it is what we leave behind and have done that we can pass on to future generations." In his 57 years, Ron Sanders had done more for the Town than most men, and he would be remembered for many years.

The Mayor also reported that staff had been busy all week with the Edwards case, which was being heard in Macon County Court.

The Mayor also reported that the State D.O.T. had expressed an interest in taking over ownership and maintenance of the 2-1/2-mile "Town" portion of Bowery Road, beyond the 0.7-mile section in contention. Town officials had met with Highway Commissioner Conrad Burrell, Division Engineer Ron Watson, and District Engineer Brian Burch the previous week; he understood that this was part of the \$700 million for improving gravel roads that had been appropriated this year. He asked for authorization to prepare a draft letter or resolution agreeing to dedicate the road to the State and to investigate the proposal further.

Comm. Patterson asked about Town utilities in the road; it was pointed out that any dedication would have to be made subject to easements for them. Comm. James felt that if the State had the money, the Town should encourage the proposal. Comm. Cavender was concerned about the consequences to people along the road; Mayor Trott said he did not feel there would be any bad consequences. Comm. Cavender said he felt that the Street Committee should look into the request before giving away Town property, as it might be unwise to create another situation like we already have. Comm. James suggested scheduling the matter for the next meeting so that residents along the road could come and speak to it, since it was their road.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO DEFER THIS MATTER UNTIL THE NEXT MEETING. Comm. Ross suggested that the Town obtain more information on the road, such as its width and design; he asked if a D.O.T. official could be present at the next meeting. MOVED BY COMM. JAMES, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO AMEND THE MOTION ACCORDINGLY.

2. Comm. Cavender reported that the Street Committee had reviewed the cutting of trees in front of Reeves Hardware; it had been agreed that the trees could be cut, but should be replaced with two more trees. Comm. Ross also noted that one of the other trees had been damaged, and he recommended that Town arborists on the Trimming Crew prune them correctly.

Comm. Cavender recommended that Comm. Ross be appointed to the Street Committee to replace Comm. Sanders. The Mayor agreed, and appointed Comm. Ross to fill the vacancy. The Mayor asked about the vacancy on the Recreation Committee; Comm. Patterson felt that another appointee was not necessary at this time.

3. The Town Attorney was not present; the Mayor reported that he was preparing for the next day's testimony in the Edwards case.

4. Each Board member had received a copy of the Public Services Administrator's written report for the month. Lamar Nix reported that he planned to schedule a meeting with Ray McCall from the Public Water Supply Section as soon as possible to initiate the water improvements on Holt Knob.

5. Each Board member had received a copy of the Police Chief's written report for the month; Jerry Cook was present to answer questions. He also distributed copies of a Law Enforcement Interagency Mutual Aid Agreement that he had signed with the Macon County Sheriff. It was agreed that copies should be distributed and this item should be discussed at the next meeting.

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; he added that he had received a request from the Highlands Recreation Tennis Group to install memorial bricks to honor those who had given time and money to make the present program the success it is. The Board agreed for the Recreation Committee to review the request. Mr. Chalker also reminded the Board that the American Cancer Society Relay for Life was scheduled for August 15-16.

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

8. Each Board member had received a copy of the Treasurer's Report for the month. The Town Administrator reported that the lost accounting and other data, reported at the previous meeting, had been restored as much as possible. The Mayor commended the Town staff for their hard work.

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

9. The Town Administrator reported that he had received a letter dated July 28 from L. A. Lard III, owner of the Kelsey & Hutchinson Lodge, complaining about construction noise on weekends. He informed the Board that Section 8-9 of the Highlands Code prohibited construction except between the hours of 7:00 a.m. and 6:00 p.m. on weekdays. He noted that he had received complaints from others about construction on Saturdays, and informed the Board that the Town would begin enforcing this Ordinance. Comm. James felt that, although the Ordinance should be enforced, the Board should consider permitting some Saturday construction within limits; he suggested that the Planning Board review the Ordinance.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY

CARRIED TO ASK THE PLANNING BOARD TO REVIEW THIS ORDINANCE.

The Town Administrator also reported that he had learned from McGill Associates that the STAG grant for the Hospital Water Line would require more tasks than initially expected, including review by State agencies, an environmental impact document and FONSI process, and public hearing. The hospital had thus far paid approximately \$6,500 in bills from McGill, and the expected amount for "additional expenses already incurred" as well as "projected expenses necessary to continue" the STAG application process until EPA released the funds was an additional \$6,500. A letter dated July 31 had been received from the Hospital, asking that the Town pay the additional amount.

Some Board members felt that the amount requested was not clear from the information presented, since it apparently involved expenses already incurred.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO DEFER THIS MATTER UNTIL THE NEXT MEETING WHEN MORE DETAILED INFORMATION CAN BE OBTAINED.

V. New Business.

1. Each Board member had received a report from Larry Gantenbein on the Planning Board's recommendation on the Main Street Inn petition for re-zoning; the Board had voted by a 4-3 margin not to recommend re-zoning. He said that those who had voted to recommend the re-zoning had felt that it would not have any significant effect on public parking, and that it would be an appropriate use for B-1.

He explained in reply to a question that he did not feel the applicant would qualify for a variance because reasonable use could be made of the property.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR THE RE-ZONING FOR 7:00 P.M. SEPTEMBER 3.

Mr. Gantenbein explained further that he had issued a notice of violation, and an appeal had been filed; the case had been continued until the September 9 Zoning Board meeting. He said the Inn could continue operating while that hearing, or any subsequent appeal to Superior Court, was pending. The Board then discussed a recommendation that the Board consider reviewing the zoning for the entire block, from Third Street to Second, as proposed by some Planning Board members opposed to the petition. Comm. Cavender suggested that the Planning Board begin now to look at the Land Use Plan, focusing on the commercial areas of Town. Comm. James said he understood it had been agreed that the Land Use Plan update was not to be taken up again until after the election; in any case, he felt that Geoffrey Willett should be involved in the process. Comm. Ross agreed; he felt the entire Town should be reviewed at that time.

MOVED BY COMM. CAVENDER TO CONTACT GEOFFREY WILLETT AND COMMENCE A LAND USE PLAN REVIEW FOR COMMERCIAL AREAS. There was no second to the motion.

2. The Town Administrator reported that he had met with Nin Bond and the Executive Committee of Highlands Cable Group, Dr. Robert Lanzilotti, Dr. Gene Brigham, and Bill Emerson, on July 31. A make-ready plan had been presented to him which he felt satisfied the first step in that process. A \$50,000 CD payable to the Town had also been deposited at Regions Bank for 90 days while a Standby Letter of Credit was being finalized in lieu of a Performance Bond; Mr. Betz said that Dave Harris, the Town's Cable TV consultant, had recommended approving the arrangement. He understood that Mr. Bond was still trying to obtain the insurance in the limits required by the Ordinance, but had not been able to do so to date. The information presented also indicated that the estimated construction time for all ten nodes of the system was 12-17 months. Comm. James said he felt that only a 12-month extension, as approved last month, should be granted; at the end of that time he felt the Board should see

how much of the system had been constructed.

Town Engineer Lamar Nix said he had reviewed the make-ready plan, and it satisfied him; whenever clearance could not be met, it was proposed that the line would be run underground, and therefore there would be no pole change-outs or cost to the Town. However, he felt that a hold harmless agreement should be prepared so that if the Town ever broke the underground cables while excavating water or sewer lines it would not be liable for replacing it; Mr. Bond indicated that he was agreeable to such an arrangement, and the Town Administrator agreed to consult the Town attorney. Mr. Bond also indicated that he would be using strong-wall conduit and tracer tape in order to prevent the lines from being cut.

Bill Bond, Mr. Bond's brother, was present. He said that he was president of the Florida Hotel & Motel Insurance Fund, and he explained how difficult it was to obtain insurance following 9/11. He also pointed out that Mr. Bond's company was debt-free, and he felt that replacing the \$5 million liability insurance with \$2 million would be adequate. The Mayor pointed out that Northland Cable TV had provided \$5 million in insurance, and he felt that everybody should be treated the same. Mr. Bond then introduced Dr. Lanzilott and Dr. Brigham, and briefly reviewed the report which had been distributed with the agenda package. Several customers were also present to speak, but the Mayor said that the Board did not have time to hear them tonight; the Board's only interest was satisfaction of the insurance requirement in the Cable TV Ordinance. Mr. Bond suggested that the Board could amend the ordinance to reduce the limits to \$2 million, or it could permit him to proceed with \$2 million in insurance on a temporary basis for 90 days. The Board discussed these proposals at length.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, TO PERMIT HIGHLANDS CABLE GROUP TO BEGIN CONSTRUCTION NOW, PROVIDED IF THE INSURANCE IS NOT OBTAINED WITHIN 90 DAYS HE STOP WORK.

The Town Administrator pointed out that such a motion would be contrary to the Cable TV Ordinance; he suggested that it could be amended, pursuant to two readings, to reduce the limits if the Board desired, but construction could not begin until insurance was in place according to the Ordinance. Comm. Cavender said that he sympathized with changing circumstances in the insurance market, and he also felt that competition created benefits for the community. After some additional discussion, he withdrew his motion and asked the Town Administrator to contact the Town's Cable TV consultant, Dave Harris, and see if he would recommend reducing the limits on liability insurance from \$5 million to \$2 million.

Mr. Bond also submitted copies of a letter from Wayah Insurance Group indicating that it was still in the application process as far as obtaining additional insurance; an information sheet comparing the rates and services of Highlands Cable Group with Northland Cable TV and other services; and a letter of support from Rear Admiral Fred W. Johnston, President of Wildcat Cliffs Country Club.

VI. New Business.

1. Each Board member had received a copy of a list of proposed "Streetscape Considerations," prepared by Comm. Ross. The information proposed that a continuation of the Main Street streetscape should be considered to other B-1 and B-2 areas, including alleys, and that standards and guidelines should be provided for any new development. The items for study consisted of lighting, landscape (street trees and planters), seating/ picnic, sidewalk standards/location, street signs, kiosk/ information, drinking fountains, trash containers, sculpture/art, and Town Square/Public Gathering Space/Pavilion.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ASK THE PLANNING BOARD TO REVIEW THE STREETScape CONSIDERATIONS.

2. Larry Gantenbein reported that he had been asked by Dale Miller, developer of four lots in a wetlands area south of Harris Lake, if the Town would administer restrictive covenants in the deeds for said lots; such covenants were required to be enforced in perpetuity by the Corps of Engineers, Division of Water Quality, Wildlife Resources Commission, and DENR. Administration would consist of maintaining files, keeping up with violations, and updating the information on an annual basis; four lots in the Miller subdivision were involved, plus up to 12 lots in the Hardscrabble Ridge Subdivision, but not all of them would be required to have such covenants. He said he felt his office could handle the workload, and pointed out that violations would also be violations of the Zoning Ordinance with respect to, for example, buffer requirements. Comm. Cavender asked if the covenants would be enforceable in Superior Court, and would the Town be exposed to litigation; Mr. Gantenbein replied yes. Comm. Cavender suggested that an impact fee be imposed to cover the costs involved. Mr. Miller said that he understood he would be unable to sell the affected lots until a third party had agreed to administer the covenants. The Board discussed the proposal at length.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ASK MR. GANTENBEIN TO PREPARE A REPORT ON WHAT WOULD BE ENTAILED AND WHAT IMPACT FEES WOULD BE REQUIRED TO ENFORCE SUCH RESTRICTIVE COVENANTS.

3. The Mayor reported that a group of people, consisting of the Lake Sequoyah Improvement Association, the Mirror Lake Improvement Association, and the Upper Cullasaja Watershed Association, had been discussing the possibility of federal funding for a Lake Restoration Project on the Highlands Plateau which would be very significant in scope. He asked Jim Johnson, an attorney for Kilpatrick Stockton LLP, to outline the proposal to the Board. Each Board member had received a letter dated July 22 from that legal firm, together with a "Highlands Lakes Restoration Project" strategic plan, revised through July 21, and outlining goals, strategies, and proposed sequence of events.

Mr. Johnson said that his firm had initiated a large lobbying effort for the purpose of improving water quality in the area. The project could include the dredging of lakes, paving roads around the lakes, passive silt restraint, and acquiring property; the amount discussed was between \$7 and \$15 million. Senators Lott and Sessions had already been approached, and Senator Dole would be approached soon; the reception had been good, and he considered the project "very do-able." Although he would donate his own time, costs would be involved, not to exceed \$40,000; \$10,000 had been committed from LSIA and \$10,000 from MLIA. Although the Town was not being approached for funding at this time, it would be required to be lead agency in order for the funds to be granted. The funds would come directly to the Town and would not be a match.

The Board discussed the proposal at length. Comm. Ross said that the end result was nothing less than the protection of the water supply for the entire plateau. Mayor Trott pointed out that it could also address turbidity problems in Big Creek. Jodie Cook said that UCWA had voted to support and assist with the project. Thus far, a task force had been working on identifying projects, but Comm. Ross felt that Town officials should also be involved in prioritizing them; he said the task force was now looking at identifying and preparing cost estimate for various projects.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED THAT THE TOWN ACCEPT BEING LEAD AGENCY FOR THE LAKE RESTORATION PROJECT, AS OUTLINED IN THE MATERIALS PROVIDED TO THE BOARD, PROVIDED IT RETAINS THE RIGHT TO PRIORITIZE PROJECTS ACCORDING TO AVAILABLE FUNDS.

4. Each Board member received a copy of a letter from the Chamber of Commerce, requesting that Pine Street be closed between the Bank of America driveway and Fifth Street on Saturday, September 20, for

Art Walk.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST. Comm. James asked that the affected property owners be notified.

5. Each Board member had received a copy of a letter dated July 29 from Julian Franklin. Mr. Franklin was present, said he was a resident who lived on Central Drive in Highlands, and had been asked by several residents to express their concerns about the new Hobson Subdivision and its affect on access and parking for Satulah Summit.

Reading from a prepared statement, Mr. Franklin outlined his concerns, asking the Town to consider several options, including pressuring the developer to put in parking on the first lot in the subdivision reserved for septic tank drain fields, seeing if the Land Trust could purchase additional land in addition to its land adjacent to the subdivision, asking if the Town could install parking within the 40-foot right-of-way along the 12-foot access road, or considering use of a parcel owned by the Town near its water tank with a connecting hiking trail to be developed by the Land Trust.

Dede Austin was present and said that five generations of her family had accessed the summit and parked in the area. Larry Austin asked about the Town property. Comm. James felt that the Land Trust should install parking on its land; Comm. Cavender said that it was prohibited from doing so by deed restriction, although there was a pedestrian right-of-way across its land. The Town Administrator said that he believed the lot in question had been provided as a future water reservoir site; he had not had the opportunity to review the deed to determine if it was restricted to that use or not, or what kind of easement was provided for access.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO REVIEW THE DEED AND EASEMENT.

Comm. Ross pointed out that this was an important issue which was becoming a common problem in Town as access for hiking was eliminated due to new development; he suggested that the Land Use Planning Committee review the issue.

6. MOVED BY COMM. JAMES, 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 TRIMMING CREW. All present left the room except the Public Services Administrator and the Clerk.

The Public Services Administrator recommended employing Robert Michael Holden in the Trimming Crew at a beginning salary of 10-1.

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

7. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO EMPLOY ROBERT MICHAEL HOLDEN IN THE TRIMMING CREW AT A BEGINNING SALARY OF 10-1 (\$21,610).

VI. 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 9:30 p.m.

Richard Betz, Town Clerk