

REGULAR BOARD MEETING of December 3, 2003, with Mayor Buck Trott and Commissioners H. N. James, Hank Ross, Mike Cavender, and Amy Patterson present.

Also present were Commissioners-elect Dennis DeWolf and Alan Marsh, Richard Betz, Lamar Nix, Larry Gantenbein, Ryan Chambers, Kim Lewicki, Jim Lewicki, Tony Chambers, Paulette Webb, Griffin Bell, Glenda Bell, Wendell Underwood, Farrell Zehr, Sara Kucharski, Allan Bumgarner, Ruth Bumgarner, Dwight Bryant, George Schmitt, Joanna Baumrucker, Sam Fiske, Bob Sutton, Ginger Slaughter, Rick Siegel, Eric Pierson, Steve Pierson, 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 Mayor requested that the Board discuss a personnel matter in Closed Session. He also said that Griffin Bell was present and had asked to be placed on the agenda; Mr. Bell said that he would like to discuss the Zoning Administrator with the Board, either in open or closed session. The Clerk reported that the approval of a plat for Hardscrabble Ridge Subdivision on the agenda should have indicated it was both the preliminary and the final plat.

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 November 19 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 Highlands Country Club was proposing to have a Ladies PGA tournament next year benefitting the Literacy Council. He also reported that the historical marker honoring Dr. Harbison had been installed over the weekend, and reminded the Board of the upcoming Essentials of Municipal Government School in Asheville February 25-27.

2. Each Board member had received a copy of the Public Services Administrator's written report for the month. Lamar Nix reported that Assistant Water Plant Superintendent Jim Mull had passed the "A" surface water exam, the first employee in Town ever to have done so.

He also distributed copies of a sketch and an estimate from PACO Concrete Construction Company for repair of a section of sidewalk on East Main Street in front of Old Edwards Inn (\$4,200) and demolition and replacement of a handicap ramp at the end of the street (\$14,100), as discussed at the previous meeting. The Board agreed that the ramp needed to be deferred and perhaps included with other needed repairs.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO PROCEED WITH THE REPAIRS OF THE SIDEWALK IN FRONT OF THE OLD EDWARDS INN, BUT DEFER THE OTHER PROJECT AT THIS TIME.

The Mayor commended the public services departments on their rapid response during the recent snow storm, and also said that he was discussing better response time with D. O. T. officials.

3. Each Board member had received a copy of the Recreation Director's report for the month.

4. Each Board member had received a copy of the Town Planner/Zoning Administrator's report for the month; Larry Gantenbein was present and reviewed the report. Included was a recommendation from the Planning Board on both types of materials (brick v. concrete) for sidewalks, as well as a proposed amendment of the Master Sidewalk Plan. The Board agreed by consensus to place the sidewalk repairs on the agenda of the January 7 meeting. Also included was a memorandum explaining in detail recent decisions that had been made concerning re-building of a non-conforming property and employee housing at the Rib Country property.

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

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

The Mayor asked about the status of Highlands Cable Group's equipment. The Town Engineer reported that he had been informed by both HCG and Northland Cable that it had been removed, and Northland had outlined a plan to replace its cables in the Mirror Lake Area. The Town Administrator added that Northland had provided maps in both hard and digital format of its entire system, which he hoped to be able to import into the Town's GIS system; the information would save a great deal of work in the proposed mapping of the Town's poles, discussed at earlier meetings. He hoped to be able to issue an RFP to several interested parties next month for identifying cable clearances on the Town's poles.

7. The Town Administrator reported that Jim Mull, reported earlier to have passed the "A" surface water exam, had been given the two-step increase approved in June of 1999.

#### V. Old Business.

1. Town Planner Larry Gantenbein reported that the Planning Board had recommended putting on hold petitions for annexation from the Estate of A. B. Potts for a lot on Spruce Street, and from Johnny Henry for a lot on Poplar Street, until the Land Use Plan had been updated. Comm. James commented that the Land Use Plan update was not a good excuse to delay petitions for re-zoning; he felt it was unreasonable to hold such petitions. Mr. Gantenbein explained that some Planning Board members felt that it was not appropriate to re-zone on a parcel-by-parcel basis, a position with which he did not agree.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY TO SCHEDULE A PUBLIC HEARING TO RECEIVE COMMENTS ON BOTH PETITIONS FOR RE-ZONING FOR 7:00 P.M. ON JANUARY 7, 2004.

#### VI. New Business.

1. The Mayor thanked outgoing Commissioner Mike Cavender for his service on the Board, and welcomed Commissioners-elect Dennis DeWolf and Alan Marsh to the table.

The oath of office was then administered by the Clerk to Dennis DeWolf, Alan Marsh, and Herbert N. James.

2. MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ELECT COMM. AMY PATTERSON MAYOR PRO-TEM.

3. The Mayor re-appointed Comms. James and Patterson to the Finance Committee, and appointed Comms. Patterson and DeWolf to the Recreation Committee. He also proposed combining the Street and the Utilities Committees into a new Public Works Committee,

consisting of Comm. James, Comm. Ross, and Comm. Marsh. The Board agreed to the appointments of the Committees by consensus.

4. In addition to Brooks Bennett, who had resigned the previous month, Alan Marsh had resigned from both the Planning Board and the Appearance Commission due to his election to the Board of Commissioners, creating two vacancies on each Board. The Mayor explained the nomination process which the Board had developed, and the Town Administrator provided a list of citizens who had expressed an interest in serving on various Boards and Committees, the Town's policy for appointments adopted in 1998, and a nomination form. He asked each Board member to complete a nomination form before the next meeting so they could be tabulated by the Clerk.

5. The Mayor reported that the Highlands Chamber of Commerce had proposed creating an Occupancy Tax Review Board for the purpose of reviewing expenditures of the Occupancy Tax; the Review Board would consist of representatives from the County Commissioners, the Town Board, the Visitor Center, the Accommodations Group, and the Executive Committee of the Chamber. He asked the Board to take the information under advisement and be prepared to appoint a representative at the next meeting.

6. MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE RE-ELECTION BY THE FIRE DEPARTMENT OF JAMES MANLEY AS FIRE CHIEF, AND TO APPOINT BOB HOUSTON AS THE TOWN'S REPRESENTATIVE TO THE FIREMEN'S RELIEF FUND AS RECOMMENDED BY THE FIRE DEPARTMENT. It was reported that Ricky Bryson had been appointed as the Fire Department's representative to the Relief Fund.

7. Pursuant to advertisement for informal bids, the following bids were received for a 2004 Ford Crown Victoria police car:

Matthews Motors.....	\$20,019
Bill Smith Ford.....	20,398
Franklin Ford.....	20,018
Franklin Ford alternate bid, rubber floor mats.....	19,932

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ACCEPT THE LOW BID, CONTINGENT ON REVIEW OF THE BIDS BY THE POLICE CHIEF.

8. Preliminary and final subdivision plats for Hardscrabble Ridge, Lots 9 and 10, had been recommended for approval by the Planning Board at its December 1 meeting, contingent on review of the utilities by the Town Engineer; the property adjoined the other lots in that subdivision. Each Board member received a copy of a memorandum from the Town Engineer to the Zoning Administrator indicating that water, roadway, and electrical utilities were already in place.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE LOTS 9 AND 10, HARDSCRABBLE RIDGE SUBDIVISION.

9. The Town Administrator reported that the contract with J & J Lawn Service for mowing at the cemetery was due to expire December 31. A proposal had been received for renewing the contract at the same weekly cost of \$510.00, but asking for an increase in the hourly maintenance cost from \$16.00 to \$18.00 per hour due to an increase in cost of workers compensation insurance. He said that the contract amount had not increased for several years.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE CONTRACT FOR TWELVE MONTHS.

10. Each Board member had received a copy of a letter from Dwight E. Bryant, President of the Highlands Playhouse Board of Directors, dated November 26, together with a copy of the 1978 lease agreement between the Town and Highlands Community Theater Inc., which had been renewed for five-year terms several times since then. Dwight Bryant was present and said that the Playhouse Board would like a 10-year term for the lease due to investment of money in the building. George Schmitt was present and reiterated that the recent roof

repairs had cost \$100,000; he said that the Board was also developing plans for improving the entrance, which would be brought to the Board for approval.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. JAMES, TO RENEW THE LEASE FOR FIVE YEARS WITH AN OPTION TO RENEW IN FIVE YEARS. The Board then discussed the motion at some length. Comm. Patterson said that she understood other groups had expressed an interest in using the building. She also remembered that the Board had agreed to review this lease in some detail last Spring when the Playhouse had come to the Board for funds for roof repairs. The Board discussed Article XVI in the lease, which provided that the Lessor could use the premises for "such municipal or community functions as shall be called or permitted by the Mayor and the Town of Highlands Board of Commissioners" provided that notice was given and scheduling arranged. Comm. Ross felt that the Board should examine all of its leases; he said that each seemed to be completely different, and that made decisions difficult when Lessees came to the Town for repairs. Comm. DeWolf agreed, but felt that circumstances might be different for each property.

Joanna Baumrucker said that the lease was a good one; the Playhouse was responsible for all repairs. George Schmitt said that, in the 15 years he had been involved, the Playhouse had made extensive repairs, and the Town had only been asked for the recent \$27,000 because it involved the building itself.

COMM. DEWOLF AMENDED HIS MOTION TO RENEW THE LEASE FOR TEN YEARS AS REQUESTED; COMM. JAMES SECONDED. The Board further discussed the matter. Comm. Patterson said she had understood that the Instant Theater Company had been denied permission for using the building during the months when the Playhouse was not using it. Comm. James said that he did not remember them or any group ever coming to the Board for permission. George Schmitt said that the Instant Theater Company had made a proposal to use the building, but had not followed up; he understood that they had decided to use the Performing Arts Center instead. He also pointed out that all of the equipment in the building belonged to the Playhouse and groups that used it would have to lease it; the Town leased only the building. The Mayor suggested that the Board extend the lease for six months in order to review these concerns. Ms. Baumrucker and Mr. Bryant both said that this would create problems with upcoming performances already scheduled. THE MAYOR CALLED THE QUESTION. THE MOTION DID NOT CARRY; COMMS. DEWOLF AND JAMES VOTED "AYE" AND COMMS. ROSS, MARSH, AND PATTERSON VOTED "NAY."

COMM. MARSH THEN MOVED TO EXTEND THE LEASE FOR UP TO ONE YEAR, PENDING REVIEW; COMM. ROSS SECONDED. Comm. Marsh commented that he did not feel it would take that long to review the lease, but that would enable the Playhouse to schedule its performances; he proposed that it be placed on the agenda of the next meeting. George Schmitt objected, saying that fund-raising for the new entrance and awning would be adversely affected. Comm. James said he agreed; considering the expenditures anticipated, a lease of only one year was in his opinion ridiculous. He reiterated that he had never heard from any other organization wanting to use the building. COMM. MARSH THEN WITHDREW HIS MOTION.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO RENEW THE LEASE FOR SIXTY (60) DAYS, PENDING REVIEW. Mr. Schmitt said that would not be acceptable; it would be as if they did not have a lease at all, and they were now in the process of paying royalties, obtaining scripts, and employing equity actors. The Mayor said that the intention of the Board would be to review the lease and make a decision as quickly as possible. The Board agreed by consensus to place this matter on the agenda of the next meeting on January 7. The Clerk offered to tabulate the basic requirements of all of the Town's leases before then and forward this information to the Board.

11. Sam Fiske, general manager for Smoky Mountain systems, was present to request attachment of a fiber-optic cable, tied to a copper

cable, connecting the Old Edwards Inn to the Kelsey-Hutchinson and Rib Country properties. The line would extend along Fourth Street and cross Church and Spring Street, pursuant to a drawing which had been prepared and submitted. The purpose of the cable was to provide security, fire, data, and telecommunications into a single unit. Carolina Cabling would perform the work, and the cable would comply with all State and Town clearances required.

The Town Engineer commented that there might be clearance issues on some of these poles; he wondered if it would be possible to go underground and through the Kelsey-Hutchinson property. Mr. Fiske said that such an option would be more expensive; he asked for approval now based on confirmation of proper clearances by the Town Engineer so that the work would not be held up.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ENGINEER TO REVIEW THE REQUEST AND COME BACK TO THE NEXT MEETING FOR A RECOMMENDATION.

12. The Town Administrator recommended the following Christmas bonuses for full- and part-time employees, the same as last year:

Less than one year of service.....	\$150.00
Between one year and ten years of service.....	\$200.00
More than ten years of service.....	\$250.00
More than twenty years of service.....	\$300.00
Part-time employees.....	Hams

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE BONUSES. The Town Administrator thanked the Board on behalf of all employees.

13. MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO CANCEL THE NEXT REGULARLY SCHEDULED MEETING DECEMBER 17.

14. The Mayor asked the Board for a motion to go into Closed Session to discuss the Zoning Administrator with Griffin Bell. Kim Lewicki said she understood that if the Board invited Mr. Bell to remain in Closed Session, it should invite the rest of the general public.

Ryan Chambers agreed, displaying a copy of the Open Meetings Law, but admitted that he had not read it. The Clerk said that he believed the Board could ask Mr. Griffin to remain if it so desired without violating the open meetings law. By consensus, the Board agreed to hear Mr. Bell in open session.

Griffin Bell then spoke to the Board. He said that he felt the issue of A. L. Williams and the Zoning Administrator went to the integrity and trust of the whole Town. He had decided to come to the meeting when he had read a recent interview in the newspaper with Mr. Gantenbein with which he disagreed. He felt that there was clearly a conflict of interest involved in financing for his son's business being provided by a company owned by Mr. Williams. He said if interests were different and could conflict, something was supposed to be done about it: you were supposed to disqualify yourself from whatever discretionary authority you had, and if there was a gray area you should do the same. It was presumed that people on both sides were honorable, and there was no reason to think they were not, but it was important to avoid the appearance of impropriety. He felt that decisions involving A. L. Williams should be turned over to Mr. Betz, the Zoning Board, or somebody else. Such a decision would not be a source of embarrassment, but automatic. He said that he knew and liked Mr. Williams, and felt that neither he nor Mr. Gantenbein should be placed in the position they were in.

The Mayor asked if he had all of the facts, and Mr. Bell replied that he had all that he needed to convince himself that there was a conflict: Mr. Gantenbein had a son, the son had borrowed money from Mr. Williams, Mr. Gantenbein dealt with Mr. Williams. He told the Mayor that he felt the standard for behavior should be the Boy Scout motto: "Mentally awake, morally straight."

15. 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 DISCUSS A PERSONNEL MATTER INVOLVING LARRY GANTENBEIN. All present left the room except the Clerk.

The Board discussed Zoning Administrator Larry Gantenbein and his job performance at length.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING UNTIL 7:00 P.M. THE FOLLOWING DAY, DECEMBER 4, AT THE SAME PLACE.

All present then left the meeting room at approximately 9:30 p.m.

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Richard Betz, Town Clerk

ADJOURNED SESSION MEETING of December 4, 2003, with Mayor Buck Trott and Commissioners H. N. James, Amy Patterson, Hank Ross, Dennis Dewolf, and Alan Marsh present.

Also present was Richard Betz.

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

MOVED BY COMM. MARSH, 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 INVOLVING LARRY GANTENBEIN.

The Board discussed Zoning Administrator Larry Gantenbein and his job performance at length.

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

The Town Administrator reported that, in a conversation following the meeting the previous evening, Zoning Administrator Larry Gantenbein had offered to recuse himself from any matters involving A. L. Williams if the Board felt it presented a problem.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND CARRIED TO APPOINT RICHARD BETZ DEPUTY ZONING ADMINISTRATOR TO HANDLE ANY ZONING MATTERS INVOLVING A. L. WILLIAMS. Comms. Patterson, Ross, DeWolf, and Marsh voted "aye;" Comm. James voted "nay."

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND CARRIED TO APPOINT AN AD HOC COMMITTEE CONSISTING OF COMM. ROSS AND COMM. DEWOLF TO WORK WITH RICHARD BETZ IN HANDLING ANY A. L. WILLIAMS ZONING MATTERS. Comms. Patterson, Ross, DeWolf, and Marsh voted "aye;" Comm. James voted "nay."

The Mayor agreed to call a Special Meeting within the next few days at a time convenient to all Board members to further discuss this matter.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:20 p.m.

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Richard Betz, Town Clerk