

REGULAR BOARD MEETING of April 14, 2004, with Mayor Buck Trott and Commissioners Amy Patterson, Hank Ross, H. N. James, Dennis DeWolf, and Alan Marsh present. The meeting had been re-scheduled from April 7.

Also present were Richard Betz, Lamar Nix, Willy Houston, Selwyn Chalker, Kim Lewicki, Nancy Welch, Lewis Doggett, John Cleaveland, Bronce Pesterfield, Barbara Green, Barbara Cusack, Bob Wright, Christy Kelly, Jack Bournemann, John Lupoli Jr., James Manley, Bob Houston, David Young, Gary Doubleday, George Schmitt Sr., Dwight Bryant, Clem Patton, Shane Griffin, Bill Rethorst, Ann Robinette, Katherine Willoughby, 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 The Clerk reported that the petition for annexation from Jack Sawyer and Bill Torres under Old Business had been withdrawn. He also reported that Dwight Bryant had requested permission to present proposed work at the Highlands Playhouse under New Business.

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

III. Approval of Minutes.

Copies of the minutes of the March 24 Special Board Meeting had been distributed by mail.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

IV. Reports.

1. The Mayor reported that he had attended the County Commissioners meeting on April 12; the Board had approved an audit of the County Room Occupancy Tax. He also reported that Comm. Allan Bryson had requested a meeting with him and the Town Administrator to request the Town's budget request to the County.

2. The Town Administrator reported that the Town Attorney had been unable to attend the meeting, but he had discussed a recent decision of the N. C. Supreme Court in the Bowery Road cases. The Court said that the decision of the Court of Appeals was reversed and remanded "for proceedings not inconsistent with the dissenting opinion." The Town Attorney had explained that the ruling meant that the land-owners had the right to ask for an injunction; it did not, however, mean that they would be granted an injunction, only that they had the right to a hearing. The grounds for the injunction were the same as the grounds for the condemnation cases, which Judge Downs had already ruled had no merit; this was the more important issue still before the Court of Appeals. The next set of opinions was scheduled for release on April 20, six months after oral arguments and three months after the Court's deadline. The Town Attorney felt these efforts only increased the cost of litigation and delayed justice.

3. Each Board member had received a copy of the Public Services Administrator's written report for the month; Lamar Nix was present to review the report.

4. Each Board member had received a copy of the Police Chief's written report for the month; Assistant Police Chief Willy Houston was present to review the report.

5. Each Board member had received a copy of the Recreation Director's report for the month; Selwyn Chalker was present to review the report. Mr. Chalker recommended employing Susan Stuart to run the summer camp program this year; Ms. Stuart was a retired educator from Palm Beach County with 20 years experience running summer camps, and the Recreation Committee had reviewed her qualifications.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO EMPLOY SUSAN STUART AS CAMP DIRECTOR.

He also presented a pay scale for summer part-time employees, which had been increased about one dollar per hour to compete with local summer pay.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE PART-TIME PAY SCALE.

6. Each Board member had received a copy of the Town Planner/ Zoning Administrator's report for the month. The Town Administrator reported that Larry Gantenbein was completing his Zoning Administrator certification in Chapel Hill. He said that Geoffrey Willett had reported that he would be unable to attend the April 15 meeting scheduled as an organizational meeting for the Land Use Planning Committee due to job responsibilities with his new position as Chief Planner; however, he would be able to meet with the Committee after the latter half of May twice a month as reported at the previous meeting. Comm. Ross commented that he was not happy with this delay, which was why he had raised the question at the previous meeting. Mr. Betz explained that Mr. Willett was committed to working with Highlands on the Land Use Plan update, and would be able to meet as agreed after this month; he expected that the meeting would be re-scheduled at the next Planning Board meeting on April 26. He also pointed out that two Planning Board members would be rotating off this year, and the new appointees should be named by the second meeting in May; he said Mr. Willett had said that it would be helpful to have these members present on the Committee from the beginning.

The Board also discussed a list of recommendations from the Planning Board/Appearance Commission on the Streetscape Project, which had been attached to the report. Comm. Ross felt that the Board needed to move quickly on some of the items because they could involve the FY 04-05 budget. The Board agreed by consensus to refer the recommendations to the Public Works Committee, which agreed to meet at 9:00 a.m. on April 19 in the Conference Room. It was also agreed that Mr. Gantenbein should attend, and should be asked to notify Planning Board members by e-mail of the meeting so that they could attend if they desired.

John Cleaveland was present and said that he felt, with the budget coming up, the Board should consider designating a full-time crew to clean the Town streets, as well as perhaps a street-washing machine. He said that the only thing the Town had to sell was the beauty of the area, and he felt more emphasis should be given to cleaning the Town.

Gary Doubleday was present and said that he had a concern over litter in the area, and like Mr. Cleaveland he felt that it affected the economic base of tourism and second home development. He said that he controlled a family foundation that would offer to provide a grant of \$7,000 to be used to employ young people to pick up litter, and he felt that it would fund 1000 hours of work. Comm. DeWolf said the Board appreciated the offer, and the Board then discussed it at some length. After considerable discussion, the Mayor appointed an ad-hoc committee to review the proposal, to consist of himself, Mr. Doubleday, David Young, and Lamar Nix; a meeting of the Committee was scheduled for 1:00 p.m. on Monday, April 19, which later in the meeting was amended to 2:00 p.m., in the Conference Room.

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

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

8. The Town Administrator distributed copies of his written report, updating the Board on the new accounting software, implementation of the new GASB-34 requirements for the FY 03-04 audit, and scholarship applications due the following day.

V. Old Business.

1. As reported at the previous meeting, the Town Planner had determined that the Board could amend the watershed "built-upon" requirements in the Zoning Ordinance without DENR approval provided the requirements were stricter than State standards. The Town Administrator said that he had drafted the amendments in 1993 when adopted, and he explained that the intention at the time had been to create requirements stricter than required by the Watershed Act. He said that the Town had had a choice between a "built-upon" limit or a minimum lot size, and had opted to adopt a minimum lot size in order to require one-acre lots in the critical area for newly subdivided property, rather than three-quarter- or half-acre lots; at the same time, it had decided to apply the built-upon standard to smaller non-conforming lots. Most jurisdictions had simply "grandfathered" existing non-conforming lots and applied no built-upon limits. Should the Board choose to do so, however, it would not be difficult to prepare an amendment which would apply the built-upon percentage to all property, regardless of size.

Comm. Ross said that he was not sure he wanted to apply the 12% limit in the critical area to lots greater than one acre; many people now wanted to build larger homes, and he felt that even 24% would leave a lot of green space on a lot of that size. He also pointed out that there was one petition for annexation that had already been withdrawn, and he wondered whether the Town would be better off not providing some control on the west shore of Lake Sequoyah. Comms. James and Patterson agreed; Comm. James suggested a graduated scale depending on lot size.

Bob Wright was present and pointed out that, although there seemed to be an inconsistency in the ordinance in not providing any built-upon limit for lots over one acre in area, he felt that the same "built-upon" standard should apply; he pointed out that the purpose of the amendments were to protect public water supplies. John Lupoli commented that when the applicants who had petitioned for annexation had learned that the Town was considering amending the Ordinance they had been discouraged because a limit of 12% built-upon would have made their remodel project impossible; the Town therefore lost zoning control, a sewer tap, and property taxes because there was no incentive for annexation. He said that there should be some give and take, and 12% was all take. John Cleveland said that the Town faced a unique problem because the water supply was below the Town rather than above; he also felt that if the Town wanted to annex property outside Town and control it somewhat it would have to be somewhat reasonable, and he agreed with Comm. Ross that 24% permitted adequate green area. Comm. DeWolf pointed out that the Board also needed to consider the topography in Highlands, which was different from many areas of the State. Shane Griffin said that this was a problem architects and designers often faced in Atlanta and other areas adjoining water supplies, and it was a complex issue. Bronce Pesterfield agreed that 24% seemed to leave adequate green space; he suggested that the percentage could be increased if Best Management Practices and stormwater retention measures were used. Bill Rethorst pointed out that sedimentation was also a serious problem. After additional discussion, the Board agreed by consensus to send the issue to the Planning Board for recommendation.

2. The Board again discussed a request for \$1700 in emergency funding for the family counseling program at the Peggy Crosby Center, as discussed at the previous meeting. The Mayor pointed out that

there had been many changes on the State level in this area, including disbanding of the Smoky Mountain Mental Health operation, and he reviewed the history of the program at the Crosby Center. However, he wondered if the Local Government Commission would permit the Town to subsidize Ann Robinette, the counselor who currently offered the program, since she was an individual and not a non-profit.

Christy Kelly was present and said that the family counseling program was a 501(C)(3) program; she said the Center did not fund the private practice of Ms. Robinette, but a program that had been in place since the 1990s. She pointed out that the request was a one-time request for emergency funding, and all of the churches had also been asked to contribute the same amount. Clients were all low-income, had no insurance, and paid according to their ability; they were referred by Highlands Schools, local churches, and doctors. The Mayor asked the Town Administrator if he felt that the LGC would object to the request, and he replied that since it was a 501(C)(3) program he did not think it would be prohibited. Comm. DeWolf asked about previous policy for funding the Crosby Center; Ms. Kelly explained that budget requests in the past had been for "bricks and mortar." while this was an emergency situation. Comm. Patterson asked, if government could not help citizens who need help like this, what good is it?

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GRANT IN THIS SPECIAL CIRCUMSTANCE THE REQUESTED \$1700 IN EMERGENCY FUNDING.

VI. New Business.

1. Copies of the proposed budget and fire district tax for the Highlands Fire Department had been distributed at a previous meeting; the proposed rate was 0.012.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE BUDGET AND FORWARD IT TO THE COUNTY BOARD OF COMMISSIONERS.

Fire Chief James Manley and Bob Houston were present, and the Mayor commended the Department for the fine work it did.

2. A petition had been received from five property owners in Highlands Village Square requesting the Town to provide paver bricks in the common area in the shopping center. Barbara Green was present and explained that the common area was owned by the original developer, who was unwilling to improve it; the tenants in the Association were thus making repairs themselves, and since it was a quasi-public area it was requesting assistance. She said the cost of the brick would be approximately \$6,000. Comm. James pointed out that this was private property, and the Board could do nothing without approval of the property owner. The Mayor said that he did not think the Board could put public money into private property; Comms. Dewolf and Ross agreed.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO REJECT THE PROPOSAL.

Barbara Cusack, one of the tenants in Highlands Village Square facing Fifth Street, had also asked if the Town would consider designating the three spaces on the west side of Fifth Street, north of Oak Street Alley, as two-hour parking spaces; the spaces were often occupied all day by construction workers, and the only other adjacent parking spaces were those off of Oak Street Alley.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO DESIGNATE THE THREE SPACES TWO-HOUR PARKING, ON A ONE-YEAR TRIAL BASIS.

3. It was reported that the Public Works Committee had asked Comm. Ross to meet with PACO concrete to discuss installing some tree planters and trees in front of Reeves Hardware, but Mr. Cook had been delayed due to the weather.

4. Application for permission to use Town right-of-way for construction had been received from the Presbyterian Church for construction of steps to Main Street, approved at a previous meeting; construction was to be completed by May 23.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE APPLICATION.

Application for permission to use Town right-of-way for construction had also been received from McCarroll Construction for two sections of Spring Street, to be completed May 14 and May 21, and for an extensive area on Church Street and Fourth Street, to be completed May 21, as shown on a plan presented to the Board. Comm. Patterson said that she had heard many complaints that McCarroll's employees were circumventing the parking ordinance, and she felt that approval of this permit might be used as a negotiating point in asking for their cooperation.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE APPLICATION FOR THE TWO SECTIONS OF SPRING STREET.

The Board discussed the other application at some length. Comm. James said he did not feel the contractor needed the section of Fourth Street adjacent to the "old" portion of the Old Edwards Inn to the corner of Main Street, and the Board agreed. It was also agreed that the permit should be reviewed periodically to ensure that the contractor was also complying with the parking ordinance.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE PERMIT FOR THE USE OF CHURCH STREET AND FOURTH STREET, WITH THE EXCEPTION OF THE PORTION ON THE EAST SIDE OF CHURCH STREET ADJACENT TO THE OLD PORTION OF THE OLD EDWARDS INN TO MAIN STREET, SAID APPROVAL TO BE REVIEWED AT EACH UPCOMING MEETING AND ONLY VALID UNTIL THEN.

5. The Board discussed setting dates for the annual Spring Cleanup, traditionally the last weeks in April and May. Lamar Nix recommended, in light of the previous discussion about the need to clean Town streets, that the Board designate only the last week in May for the pick-up of white goods, and suggested that during the last week in April those employees be scheduled to work full-time on picking up litter and cleaning the streets.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO DESIGNATE THE WEEK OF MAY 24 AS SPRING CLEAN-UP, AND TO HAVE PUBLIC WORKS EMPLOYEES CLEAN THE STREETS THE WEEK OF APRIL 26.

6. The Town Engineer had prepared recommended paving bids for Pine Street, Pine Street Alley, parking along Fifth Street, First Street, and the parking lot at the Recreation Park, totaling an estimated \$56,083.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR PAVING BIDS.

7. The Finance Committee agreed to meet at 5:00 p.m. on April 26 in the Treasurer's office.

8. George Schmitt Sr. was present and submitted plans for improvements to the entrance of the Highlands Playhouse, consisting of new steps, a brick entrance area, a handicap ramp, two new entry doors, and a permanent aluminum and vinyl awning. Funding would be provided entirely by the Playhouse.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE PLAN.

9. Shane Griffin of Planters Inc. was present with a revision to a plan for landscaping on Fourth Street at the Old Edwards Inn originally approved by the Board on September 17, 2003. Mr. Griffin

explained that, instead of a seven-foot sidewalk adjacent to the curb and trees and landscaping against the building as originally proposed, the architect wanted to move the sidewalk closer to the building and the trees closer to the curb. Comm. Patterson commented that the plan provided more sidewalk and an attractive appearance.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE REVISED PLAN.

VII. The Board agreed by consensus 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