

PUBLIC HEARING and REGULAR BOARD MEETING of June 2, 2004, with Mayor Buck Trott and Commissioners Amy Patterson, Hank Ross, H. N. James, Dennis DeWolf, and Alan Marsh present.

Also present were Richard Betz, Bill Coward, Lamar Nix, Jerry Cook, Selwyn Chalker, Kim Lewicki, Nancy Welch, Lewis Doggett, Ginger Slaughter, Bill Basham, David Bock, Bill Nellis, Robert Tucker, Peter Alberice, Bob Fisher, Georgia Sanders, Christy Kelly, and many others.

A. Public Hearing.

The Mayor called the public hearing to order at 7:00 p.m. and said that the purpose was to receive comments from the public on proposed amendments to the Zoning Ordinance and Subdivision Ordinance which would permit clustering of single-family dwellings. The Planning Board had reviewed the amendments and notice had been published pursuant to law.

Town Planner Larry Gantenbein said that at the Planning Board meeting the previous week these amendments had been discussed, and it had been pointed out that the Planning Board had originally discussed them in the context of an overlay district; the intent had been that any change in use would be addressed in a manner similar to a re-zoning, with public notice and a public hearing. The amendment as drafted contained the provision, "If the clustered subdivision is situated in the B-3 Zoning District, it shall not be converted to commercial/retail use except upon approval by the Town Board of Commissioners." The Planning Board recommended adding the words "pursuant to public notice and hearing" at the end of that sentence.

Comm. DeWolf asked if the Planning Board had looked at where residential uses may be more appropriate in B-3. Mr. Gantenbein explained that the Board would be reviewing that issue in more detail when it considered multi-family dwellings in B-3 within the context of the Land Use Plan update.

There being no comments from the public, the Mayor closed the public hearing at 7:09 p.m.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:09 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk asked that applications for employment in the Water Department be reviewed with the Public Services Administrator in the Closed Session already scheduled at the end of the meeting.

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

III. Approval of Minutes.

Copies of the minutes of the May 19 Regular Board Meeting and the May 29 Special Board Meeting had been distributed by mail. The Clerk reported an error in the minutes of the May 19 meeting; page 246 should have included the following: "MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO RE-APPOINT GARY WARREN TO THE ADVISORY COMMITTEE FOR THE SCHOLARSHIP ENDOWMENT FUND."

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS CORRECTED.

IV. Reports.

1. The Mayor reported that he would be leaving for Raleigh on June 7 to attend a meeting of the Legislative Action Committee on Transportation, Communication, and Public Safety; to attend the League of Municipalities Town Hall Day; and to chair the Resort Towns & Convention Cities annual meeting.

The Mayor also presented to Georgia Sanders, on behalf of the Board of Commissioners, a resolution adopted by the League of Municipalities honoring Commissioner Ron Sanders, who had passed away on August 2, 2003; the resolution honored Comm. Sanders 28 years of lasting contribution to good municipal government, and the Mayor added that he was sorely missed by the Board.

2. Comm. Ross reported that the sub-committee of the Public Works Committee charged with reviewing trash cans had met earlier in the day and finalized costs for the trash cans, as well as benches and planters to replace the dogwood trees on Main Street; the cost would be \$55,000. Comm. DeWolf asked about the possibility of participation by the Chamber of Commerce and business community.

Comm. DeWolf reported on behalf of the Recreation Committee that he had met with another roofer and believed that the Civic Center roof could be repaired rather than replaced.

3. Town Attorney Bill Coward was present and reported that the Court of Appeals had issued a ruling in the Bowery Road case; the Court had unanimously ruled that the defenses asserted by the landowners along the road had no merit. Because the decision had been unanimous, he felt that it would be extremely difficult for the Supreme Court to review the issues pursuant to a Petition for Discretionary Review; however, the landowners had 35 days to file such a petition. The Mayor commended Mr. Coward on the fine job he had done representing the Town. Kim LeWicki asked what the next step would be if no petition was filed. Mr. Coward replied that the improvements could begin and the issue of the amount to compensate the landowners could be heard; the latter would be determined by jury trial in Macon County, but could be delayed until the project was finished so that the effects on the property could be determined. If the Supreme Court did grant the Petition for Discretionary Review, a decision could take as long as six to 18 months.

4. 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. He added that the Public Water Supply Section has inspected the Water Treatment Plant the previous week and found it in compliance; DENR had also inspected the lab at the Wastewater Treatment Plant and found it in compliance. Rhodes Brothers had completed all of the paving, and PACO would be completing the sidewalk repairs and planters in the next two to three weeks.

5. Each Board member had received a copy of the Police Chief's written report for the month; Jerry Cook was present to review the report.

6. Each Board member had received a copy of the Recreation Director's report for the month; Selwyn Chalker was present to review the report. He added that the swimming pool was open and that the inspectors had been impressed by the new lining. He also said that a pilot bear-proof trash can placed in the Park appeared to be working well; interested citizens with bear problems were urged to contact him for the name of the manufacturer. He also reported that Bobby Newton had not accepted the offer of employment approved at the previous meeting, and he asked permission to review another application for employment in Closed Session, as well as to discuss employing Wymer Bryson, who had just retired, on a part-time basis.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO AMEND THE AGENDA TO REVIEW THESE APPLICATIONS.

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

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

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

9. The Town Administrator reported that the Town Office had been busy working on the budget, requests for reimbursement to the State and Federal agencies for the Hospital Water Line project, preparing for the upcoming software transition, and preparing the annual Consumer Confidence Report.

V. Old Business.

1. The Town Administrator reported that he had reviewed parking enforcement at the Old Edwards Inn projects, a condition of the permit issued at the previous meetings for use of Town right-of-way for construction. He understood that there was still good cooperation with the Ordinance. Comm. Patterson said that she had misunderstood; she felt that the contractors would be storing material on the streets and leaving the sidewalks open. Comm. Ross pointed out that the sidewalks would not be in good condition in these areas and might be better left closed. Comm. Patterson felt that the sidewalks should be marked with yellow tape at the end of each day to protect pedestrians at night, and the Town Administrator agreed to contact McCarroll Construction.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING UNTIL JUNE 16.

2. The Town Administrator said that he had failed to realize at the previous meeting that ABC Board members must reside inside the Town limits; Wolfgang Green, who had been appointed to that Board, lived outside of Town. He had spoken to him and explained the error. He also pointed out that he had erroneously omitted one appointee to the Advisory Committee for the Scholarship Endowment Fund. Comm. Ross suggested that nomination forms be distributed to each Board member and that this item be placed on the agenda of the next meeting, and the Board agreed by consensus.

3. Comm. Marsh had asked that the Board discuss appointing Linda Clark and Eric Pierson, outgoing members of the Planning Board, to the Land Use Planning Committee; he said that both had been through the previous update, and he felt it was important to have them on the Committee. Comm. James disagreed; he said the Board had agreed for the Planning Board to work on the update when the Land Use Planning Committee had been dissolved, and he would like to leave it that way. Comm. DeWolf felt that, while the two members contributed a lot, it would be inappropriate to inject them into the process. Comm. Ross said that he was a big fan of both members, but he would not want to do anything to interfere with the process unless there was a compelling reason and unanimous agreement by the Board; if not, he did not favor it. Comm. Patterson said that the update had had enough problems getting off the ground, and she also recalled that the Board had agreed for the Planning Board to work on the update.

MOVED BY COMM. MARSH TO APPOINT LINDA CLARK AND ERIC PIERSON TO THE LAND USE PLANNING COMMITTEE. There was no second to the motion, and the Mayor declared that the motion had died.

VI. New Business.

1. Each Board member had received a copy of the lease agreement between the Town and the Historical Society for the old jail building on Maple Street. The Town Administrator explained that the lease would expire on June 30, 2004, but contained an option to renew for five years.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE RENEWAL OF THE LEASE FOR AN ADDITIONAL FIVE YEARS, UNTIL JUNE 30, 2009.

2. The Board considered amendments to both the Zoning and Subdivision Ordinances, subject of a public hearing immediately preceding the meeting. Comm. James said that he felt the amendments were opening a door the Board may not wish to open. In regard to the proposal to include public notice and hearing in the event of any change in use in such subdivisions, Comm. Marsh felt the use should never be changed; it was pointed out that any future Board could amend the Zoning Map or Ordinance upon public hearing and pursuant to law. Comm. Ross was concerned that the amendments applied to all of the B-3 district, rather than identifying certain specific properties. Mr. Gantenbein replied that the Planning Board had looked at that issue and felt that the location was more likely to be a factor in permitting multi-family in B-3 rather than single-family clustering, which was already permitted but not practically feasible.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND CARRIED TO ADOPT THE FOLLOWING AMENDMENTS. Comms. DeWolf, Patterson, Marsh, and Ross voted "aye;" Comm. James voted "nay."

* * *

Zoning Ordinance:

Replace the first sentence of both Section 210.4(A) and Section 211.4(A), with the following: "Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of clustered lots shall not exceed the number of lots allowed for single family detached developments in the underlying Zoning District based on the size of the parcel to be subdivided."

Subdivision Ordinance:

1. Replace Section 409.3(B) with the following: "If the clustering option is exercised for subdividing a parcel of land, the procedure described in Article 300 shall be followed for submitting preliminary and final plats. Neither the minimum lot size, nor the minimum lot width at the building line, shall apply to each lot in the subdivision; however, the total number of clustered lots shall not exceed the number of lots allowed for single family detached developments in the underlying Zoning District based on the size of the parcel to be subdivided.

If the parcel to be subdivided is located in more than one zoning district, the overall total shall be calculated according to the number of lots which are permitted in each district. If the clustered subdivision is situated in the B-3 Zoning District, it shall not be converted to commercial/retail use except upon approval by the Town Board of Commissioners, pursuant to public notice and hearing. All other provisions of the Zoning Ordinance shall apply in cluster subdivisions, except as noted in Section 410."

2. Replace Section 410 with the following: "The requirements of the Town of Highlands Zoning Ordinance, where applicable, shall govern the location of the minimum building setback lines, subject to the following exceptions: (A) In all zoning districts except the B-3 Zoning District, the required setback of any building in a clustered subdivision from the right-of-way of any street, other than a subdivision street, shall be one hundred (100) feet. (B) In the B-3 Zoning District, no building shall be erected within five (5) feet of the property line of an adjoining lot within a cluster development."

3. The Town Administrator reported that a proper Petition for Re-zoning had been received for the five-acre Lambert Chandler property, formerly the Crane Stables property, on Oak Street; the property was currently zoned R-2, and the request was for GI Governmental Institutional zoning for the Bascom-Louise Gallery. The request would also include an amendment of the Zoning Ordinance permitting art galleries owned by non-profit organizations as a Special Use in the GI district; currently only existing government buildings were permitted.

Comm. Patterson asked if contract zoning was still illegal; Comm. Ross said that he understood that it, or conditional use zoning, was now legal. The Town Administrator explained that he understood contract zoning was still illegal; property owners requesting re-zoning and agreeing to develop property pursuant to definite plans could, once the property was re-zoned, use it for any permitted use in that district. That was why the petitioners had requested GI zoning, which would protect the property against any future commercial uses such as those permitted in B-3 or B-4. He said a concept called conditional zoning was legal, but it would involve a substantial overhaul of the Zoning Ordinance. Larry Gantenbein elaborated on this concept, which tied a petition for re-zoning to an application for a conditional use or special use permit. Town Attorney Bill Coward agreed to research the issue. Comm. Patterson said that her concern was that this property was located in the middle of a residential zone, and she felt that perhaps the Town should have better control over it than through a Special Use Permit; she thought it was important that the Planning Board explore such an option.

Robert Tucker was present and distributed a written outline on the proposed development which would occur should the property be re-zoned. He explained that the Bascom-Louise Gallery and the Hudson Library currently shared the same building and both were in need of space; under an agreement with the library, the Gallery had agreed to find its own space after ten years, and it had four-and-a-half years remaining to do so. With many more workshops and greater attendance at openings, the Gallery had looked at several sites but felt the most responsible option would be to remain in Town; this was the only site feasible in Town. He also said that if the project failed to materialize, the property would revert to the owner.

Peter Alberice of Camille-Alberice Architects was also present, said that his firm was familiar with the Zoning Ordinance and the architectural feel of Highlands, and would address the project with a high-quality environment and a building that was well-integrated with the landscape. He would propose clustering several smaller buildings, including four studio spaces, classrooms, a reception area and lobby, a gallery, and office and retail space; no brick or stucco would be used, and the total area would be 18,000 to 20,000 SF. The required parking would consist of pervious pavement and hard surfaces would be minimal.

Comm. Marsh asked about access off Oak Lane and sidewalks to the downtown area. Comm. Patterson said that she was not raising her concerns because she was not in favor of the project; she wanted to accommodate the Gallery and retain it in Town, but she was concerned that a change in zoning could permit other non-profits in GI, which could open a can of worms. Comm. Ross said that he did not feel the 100 required parking spaces would be needed; it was pointed out that the Planning Board could recommend an amendment to the Parking Table or other adjustments to the parking requirements.

MOVED BY COMM. JAMES, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO REFER THE PETITION TO THE PLANNING BOARD FOR A RECOMMENDATION, WITH INSTRUCTIONS TO ADDRESS ALL OF COMM. PATTERSON'S CONCERNS.

4. The Town Administrator had compiled comments from three Board

members on Land Use Plan Update priorities, as discussed at the previous meeting. Comm. Patterson said that the only item she wanted to add was a concern that, in view of the Marketek Study, the Town provided for enough of a commercial area to accommodate future residential growth while still retaining a definable downtown commercial area in Highlands. She also felt that the Planning Board should review the entire Zoning Ordinance to ensure that no adjustments are necessary. It was agreed that these comments would be added to the list and forwarded to the Planning Board. Mr. Gantenbein said that the Planning Board intended to prepare its own list of priorities and would want to schedule a joint meeting with the Town Board.

5. The Board discussed at length several requests for donations from non-profit organizations. At the previous meeting, the Board had agreed to develop and have in place for next year a process for funding non-profits similar to that of Macon County, and meanwhile to include \$50,000 in the budget to be distributed this year by the Board. Comm. DeWolf was concerned over the number of requests received, including some that may not have been submitted yet. Comm. Ross felt that many of the non-profits should be able to make it on their own and not have to depend on this money immediately; he felt the Board should take its time, and he suggested developing a process this year, perhaps in the next two months, by which the Board could evaluate these requests; he did not feel comfortable distributing the \$50,000 at this meeting. Comm. Patterson pointed out that the problem was more criteria than process; she felt that, unlike the Scholarship Fund which provides a scholarship to everyone who applies, some of these organizations should not be funded. She felt that the criteria should be whether the grant funded something for the public good, something everybody could benefit from, not just a pet charity. Comm. James agreed; without criteria it was as if the Board was advertizing for applicants. Christy Kelly offered to provide the Board with samples and templates used by other non-profits for applications for grants. The Mayor suggested that the Finance Committee be asked to make a recommendation on the requests received this year.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO REFER THE REQUESTS TO THE FINANCE COMMITTEE FOR RECOMMENDATION.

6. The Board again discussed a proposed increase in solid waste rates, discussed at the May 26 Special Board meeting, to address a "deficit" in the Sanitation Department between revenues and expenditures. The Town Administrator said that for each dollar increase, approximately \$5,000 would be generated from commercial and approximately \$22,000 from residential monthly solid waste rates. A one-cent increase in the ad valorem tax rate, proposed by Comm. James at the previous meeting, would generate a little over \$100,000 annually. Comm. James said he felt an increase in rates for both residential and commercial customers should be combined with a one-cent tax increase; the amount generated would be approximately \$150,000, which exceeded the "deficit" in the Sanitation Department budget. Comm. James said he would like to use the additional revenue for several street projects.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO INCREASE RESIDENTIAL GARBAGE RATES BY \$2.00 PER MONTH FROM \$10.00 PER MONTH TO \$12.00 PER MONTH, TO INCREASE COMMERCIAL GARBAGE RATES BY \$2.00 PER MONTH FROM \$12.00 TO \$14.00, AND TO INCREASE THE TAX RATE ONE CENT, FROM \$0.15 TO \$0.16 PER \$100.00 VALUATION, FOR FY 04-05. The Treasurer agreed to incorporate the rates and tax increase in the budget.

7. MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SET THE BUDGET HEARING FOR 8:00 A.M., JUNE 30, IN THE CONFERENCE ROOM.

8. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318(A)(6) TO REVIEW INDIVIDUAL SALARY INCREASES FOR FY 04-05,

AND TO REVIEW APPLICATIONS FOR EMPLOYMENT IN THE WATER DEPARTMENT AND RECREATION DEPARTMENT. All present left the room except the Town Administrator, Public Services Administrator, and Recreation Director.

- A. The Board discussed compensation for the Town Attorney.
- B. Public Services Administrator Lamar Nix recommended promoting Stanley Houston to Water/Sewer Field Superintendent to fill the position of Leroy McCall, who had retired earlier in the month, and promoting Dale McMahan to Assistant Water/Sewer Field Superintendent to fill Mr. Houston's position.
- C. Recreation Director Selwyn Chalker recommended employing David Rawlings as Recreation Maintenance Worker at a beginning salary of 7-1 (\$18,634). Mr. Chalker then left the room.
- D. The Town Administrator reviewed in detail his recommendations for longevity and merit increases for the upcoming year.

The Board then asked the Public Services Administrator and the Town Administrator to leave the room, and later to return.

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

9. MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO PROMOTE STANLEY HOUSTON TO WATER/SEWER FIELD SUPERINTENDENT TO FILL THE POSITION OF LEROY MCCALL, AT A SALARY OF 15-5 (\$30,534), AND TO PROMOTE DALE MCMAHAN TO ASSISTANT WATER/SEWER FIELD SUPERINTENDENT TO FILL MR. HOUSTON'S POSITION, AT A SALARY OF 12-1 (\$23,854).

10. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY DAVID RAWLINGS AS RECREATION MAINTENANCE WORKER AT A BEGINNING SALARY OF 7-1 (\$18,634).

11. MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE FOLLOWING LONGEVITY AND/OR MERIT INCREASES:

Lamar Nix	24-15
Larry Gantenbein	17-11
Dawn James	10-4
Jerry Cook	21-9
Todd Ensley	15-5
Gary Dalton	11-5
Tim Cook	11-4
Ryan Angel	11-2
Robert Lambert	9-4
Jimmy Baty	9-5
Steven Bryson	10-7
Maxine Ramey	5-5
Mike Houston	16-14
Howard Brown	14-9

12. MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE A 3% COST OF LIVING ALLOWANCE FOR ALL EMPLOYEES FOR FY 04-05.

VII. 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 9:15 p.m.

Richard Betz, Town Clerk