

PUBLIC HEARING and REGULAR BOARD MEETING of September 1, 2004, with Mayor Buck Trott and Commissioners Amy Patterson, Hank Ross, H. N. James, Alan Marsh, and Dennis DeWolf present.

Also present were Richard Betz, Lamar Nix, Larry Gantenbein, Selwyn Chalker, Jerry Cook, Bill Coward, Kim Lewicki, Amelia Pavlik, Lewis Doggett, Ginger Slaughter, Earl Jones, Alan and Jane Lewis, and others.

A. Public Hearing.

The Mayor called the Public Hearing to order at 7:00 p.m. and stated that the purpose was to receive comments from the public on a proposed amendment of the Zoning Ordinance, adding the words "pole sheds and other open walled buildings" to the definition of "building" in Section 1002. The Mayor asked for comments from the public. There were no comments and he declared the Public Hearing adjourned at 7:01 p.m.

B. Regular Board Meeting.

I. Call to Order.

The Mayor called the regular Board meeting to order at 7:01 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS DISTRIBUTED.

The Mayor asked if the Board would consider hearing Earl Jones, who was on the agenda under New Business, at this time.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO HEAR MR. JONES.

Special Order.

The Mayor asked the Town Administrator to explain recent activity that had occurred on 4½ Street. The Town Administrator said that, due to very muddy conditions, gravel had been placed on the existing road bed between Poplar and Hickory Street. Mr. Jones had asked to speak to the Board about this matter and he had placed him on the agenda.

Earl Jones said that he had purchased his property in 1991, and it had been clear to him at the time that the Town had a right-of-way on this street. When the Edwards et. al. lawsuit had been filed, he had met with the other property owners in the area and joined, but had made very little static; he had been offended that the Town had sued him. He understood that the Town had spend \$182,000 in that lawsuit, and he felt that he could not object if the road was put in correctly, in the middle of the right-of-way, rather than two feet off his property. He had spoken to the Street Superintendent, the Town Engineer, and the Mayor about the recent placing of gravel on the road; the road received a lot of usage, and he did not question the gravel, he just wanted to know why it had not been put where it should be. He said that he had his house on the market and he felt that it affected the value of his property. He said there was not a person in the room who did not think this was fair. He also said that he had been told by the Mayor that eventually a road would be constructed.

The Mayor said that it would be up to the Board to decide when a road would be constructed. The Town Administrator reiterated that gravel had simply been placed in the existing road bed. The Town Engineer said that he had been asked by the Mayor to provide an estimate on improving and paving the road which he had made several

years ago; the cost would be \$26,000, most of which would be for paving. Comm. Ross asked how much money had been spent thus far; Mr. Nix said very little. Comm. Ross said that, although the Town owned the right-of-way, this Board had never approved construction of this road; he felt that the road should be used for utilities, walking trails, and emergency access, and that construction beyond that should be discussed at a future meeting. Comm. DeWolf agreed; he was not in favor of developing the road until it was needed; he understood that there was some access, and it was logical to do repairs. However, he was not excited to see truck traffic through a residential neighborhood.

Mr. Jones asked who had made the decision to place gravel in the road. Mr. Betz said that he, the Town Engineer, and the Mayor had made the decision. Mr. Jones asked if there was any other reason for placing it where it was, such as the fact that the Town Administrator's father-in-law owned the property on the other side of the street. Mr. Betz said that he would not stoop to reply to that question. Mr. Jones asked him again, and he strongly denied that that had entered into the decision. Comm. James said he felt the road ought to be put in, but that this discussion should be held at another meeting.

III. Approval of Minutes.

Copies of the minutes of the July 21 Regular Board Meeting had been distributed by mail. Comm. James noted that he had not made the motion to extend the OEI permit to use Town right-of-way, Comm. Patterson had; the Clerk offered to correct the error.

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

IV. Reports.

1. The Mayor reported that the Relay for Life the previous Friday had raised over \$180,000 for the American Cancer Society; he thanked the entire community.

2. Each Board member was provided with a copy of the minutes of a meeting on August 24 between the Public Works Committee and officials from S. B. Association. Comm. James said that a lot of work had been done and a lot of work remained, but he felt S. B. Association was doing a good job doing what is right.

Each Board member had also been provided with a copy of the minutes of the Finance Committee meeting of August 31, making recommendations on funding non-profits. Comm. Ross noted that the process of applying the criteria approved at the previous meeting had worked well and he commended the Committee. The Board agreed by consensus to place this matter on the agenda of the September 15 meeting.

3. The Town Attorney was present to discuss a matter in Closed Session later in the meeting.

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.

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. Chief Cook also reported that the Department was scheduled to be training in the use of Tasers on September 27. He said that a draft had been prepared of an amendment of the Police Policies & Procedures Manual to include Taser policy. In addition, an Ordinance had been prepared regulating use of Town property by Recreational Vehicles, which had become a problem.

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 also said that Walker Brothers Circus had requested

permission to use the Ball Field on September 27; the circus would provide insurance, and the Town could make a small profit from ticket sales. Lewis Doggett commented that a circus in Highlands had always been a part of our history.

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

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. Comm. Ross introduced Carla Frisk, an intern working at the Highlands Biological Station; he said she would be comparing discrepancies between the Town population study conducted by Marketek and the County population study.

8. 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.

9. The Town Administrator had distributed with the agenda copies of the Taser Policy and the Ordinance regulating overnight parking of RVs on Town property, as discussed earlier by the Police Chief; he said they would be placed on the agenda for the next meeting.

He also distributed copies of a letter he had written to the County Manager asking about upcoming meetings of the Water & Sewer Committee and the Recreation Committee. Comm. James felt that the letter had concentrated more on meeting times than on the substance of the Manager's letter, which had said that the Recreation Commission would be discussing "use and restrictions on recreation funding." Comm. Patterson agreed; she said that County Commission Bryson had told her that the letter was a standard one, however, and did not mean anything.

The Town Administrator also reported that he had received only two applications for the GIS/Field Technician position, and would like to extend the time for advertizing; the Board agreed to do so, and also to continue advertizing for the position in the Police Department.

V. Old Business.

1. The Board discussed the permit issued at previous meetings for use of Town right-of-way for construction by Old Edwards Inc. Comm. James asked why Church Street Alley had been closed so often; Chief Cook said he understood that it was for installation of a water and sewer line, and the work was almost complete; gravel had been placed on the Street and the plan was to pave it. Comm. James also asked about the section of the wall extending on the Spring Street right-of-way. The Town Administrator said that he had written a letter to Bronce Pesterfield, copied to Old Edwards Inn, informing him of the Board's action on August 4 asking that the wall be constructed as approved behind the right-of-way line; he had not received a reply to date. Comm. James felt a time-table should be requested on removal of that section of wall, and also on the removal of gravel which had accumulated in the culverts on the same street.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING UNTIL SEPTEMBER 15, TO ASK FOR BETTER COMMUNICATION ON THE CLOSING OF TOWN STREETS, AND TO REQUEST A TIMETABLE BEFORE THE NEXT MEETING ON REMOVAL OF THE PORTION OF WALL ON SPRING STREET AND REMOVAL OF GRAVEL FROM CULVERTS.

The Board also discussed the permit issued at the previous meeting for use of Town right-of-way for construction by the Highlands Community Child Development Center.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING UNTIL SEPTEMBER 15.

2. The Town Administrator reported that he had reviewed the deed and plat for the Satulah Mountain Water Tank property, but had not been able to contact Karen Hallett, the Town's telecommunications consultant.

VI. New Business.

1. The Board discussed an amendment of the Zoning Ordinance which included "pole sheds" in the definition of "Building," subject of a public hearing preceding the meeting. The Town Administrator said that the effect of the amendment would be to subject pole sheds such as those recently constructed at August Produce and Cosper Flower to the same setback requirements as other buildings. The amendment consisted of the following:

Add the words "pole sheds and other open walled buildings" to the definition of "building" in Section 1002.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE AMENDMENT OF THE ZONING ORDINANCE.

2. MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(3) TO DISCUSS PENDING LITIGATION RE: THE TOWN V. EDWARDS ET. AL. WITH THE TOWN ATTORNEY. All present left the room except the Clerk, the Town Engineer, and the Town Attorney.

The Town Attorney discussed with the Board a Motion for Relief of Judgement filed on August 19 by Richard Melvin, attorney for the defendants. The Town Attorney was instructed to meet with the Mayor to discuss the pending litigation.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO BACK INTO OPEN SESSION. The Public was invited back into the meeting room.

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

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:00 p.m.

Richard Betz, Town Clerk