

REGULAR BOARD MEETING of October 6, 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, Larry Gantenbein, Selwyn Chalker, Jerry Cook, Kim Lewicki, Amelia Pavlik, Lewis Doggett, Ginger Slaughter, Earl Jones, Alan and Jane Lewis, Rick Siegel, Bob Wright, Sue Potts, Christy Kelly, Liz View, Dominick Sanchez, Angela Sanchez, Nick & Patty Moschouris, Mario Gomes, George Mathis, Bronce Pesterfield, Gary Warren, Kitty Byers, Bill Nellis, Will Shankle, Patsy Thornton, Dennis Wilson, and others.

I. Call to Order.

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

II. Approval of Agenda.

Copies of the agenda had been distributed by mail.

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

III. Approval of Minutes.

Copies of the minutes of the September 8 Special Board Meeting had been distributed by mail.

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

Copies of the minutes of the September 15 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor recognized everyone in the community who had supported the recent fund-raising golf tournament for the Scholarship Endowment Fund. He said he wanted to give special recognition to someone who had played a major role in the ceremony over the years, and he presented a certificate of appreciation for Irene Sanchez to Dominick and Angela Sanchez and Nick and Patty Moschouris. He also presented certificates of appreciation to Liz View, former Chair of the Committee, and to Gary Warren, General Manager of Highlands Falls Country Club, which had hosted the tournament for a number of years.

He also recognized Kitty Byers, Christy Kelly, and Louise Demetriou on the Advisory Committee for the Scholarship Endowment Fund.

The Mayor also reported that Sue Potts, on behalf of several people in the community, had asked him to proclaim a Day of Appreciation for Town employees, Fire Department volunteers, and County EMS personnel who had responded so well during the recent hurricanes.

A luncheon in their honor had been scheduled at 12:00 noon on October 13 at the Civic Center.

2. Comm. Ross and Comm. Marsh had discussed calling a Public Works Committee meeting to discuss drainage and other matters relating to the recent storms; the Committee agreed to meet at 8:30 a.m. on October 14.

Comm. DeWolf requested that a discussion of the Town Hall architectural study be placed on the agenda of the October 20 Board meeting.

3. The Town Administrator reported, on behalf of the Town Attorney, that the next decisions of the N. C. Supreme Court would be released

on October 8; it was hoped that the Bowery Road petition for discretionary review would be decided at that time.

He also reported that the Motion for Relief of Judgement filed by attorney Richard Melvin, purportedly on behalf of clients in the Edwards et. al. case, had been withdrawn. The Town had pursued its Motion for Sanctions Under Rule 11, however, and had prevailed; the Honorable Philip Ginn had ruled in a hearing earlier in the day in Franklin that the defendants pay mileage for the Judge and Court Reporter and also \$957.00 in attorney fees to the Town for the Town Attorney's preparation of a defense in the Motion for Relief of Judgement.

4. Each Board member had received a copy of the Public Services Administrator's written report for the month; Lamar Nix was on vacation.

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 all of his officers had now qualified for use of Tasers.

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 said that the Walker Brothers Circus on September 27 had been well-attended despite the weather.

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. He said that the Planning Board had recommended approval of a road width variance for Toad Hall Subdivision at its September 27 meeting; a road grade approval had been previously granted.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR THE VARIANCE REQUEST AT 7:00 P.M. OCTOBER 20.

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

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

9. The Town Administrator had distributed with the agenda copies of a proposed application for funding for non-profit organizations to be used for FY 05-06; it had been reviewed by the Finance Committee.

He had also distributed copies of e-mails from Sarah Fenton on a siltation problem in Big Creek, addressed to Mayor Trott and Town Board Members, which not all Board members had received.

He reported that the repair work on the Town Hall building subsequent to flooding from Hurricane Frances had proven successful during the two succeeding hurricanes, but did not qualify for FEMA reimbursement because the County fell below the threshold of damage. However, FEMA funding had already been approved for debris removal resulting from Hurricane Ivan, amounting to about \$16,000, and it was expected that it would soon be approved for utility restoration and repair, amounting to about \$115,000.

He also reported that Kim Ingram, Pastor of the Methodist Church, had requested permission to have a hayride for children from the Methodist, Episcopal, and Catholic churches on October 29 from 7:00 to 8:30 p.m..

MOVED BY COMM. JAMES, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY TO APPROVE THE REQUEST PROVIDED THE POLICE CHIEF APPROVES.

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 Inn Inc.

The Town Administrator reported that he had not received complaints about parking violations and that the work on Fourth Street had been completed; construction activity was restricted to the areas approved by the Board several months ago.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING UNTIL OCTOBER 20.

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. In addition to the three spaces already approved for East Church Street for the Triangle construction trailer, two to three spaces were requested for the north side of East Spring Street adjacent to the rear exit for a materials storage trailer; use of both areas would be completed by November 15.

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

The Board also discussed the permit issued at the previous meeting for use of Fifth Street in front of the Highlander Newspaper building. Will Shankle was present, said that the dumpsters would be needed from time to time through the end of January, and said that the sidewalk was being kept open each day and on weekends as requested. Comm. James asked if the ramp in front of the building was on the Town right-of-way; Mr. Gantenbein said that the survey indicated it was not; Comm. James said he did believe it.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT UNTIL OCTOBER 20.

VI. New Business.

1. Earl Jones was present and expressed concerns, as discussed at a previous meeting, about gravel placed in 4½ Street. He reiterated his earlier comments, saying that the Mayor had told him a new street would be constructed soon in the center of the right-of-way, alleging that the Town had placed gravel on his property, and objecting to the road being located closer to his property than to the property on the other side of the street. He was concerned that the road had not been approved by the Board and that it was being used extensively.

Rick Siegel was present and expressed concern over the road being used by trucks, routing commercial traffic into a residential area.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, TO CLOSE 4½ STREET.

Comm. James said he did not think that was right. He pointed out that emergency vehicles needed to use the road, and he asked what was so special about this neighborhood; trucks were allowed in other neighborhoods. He said that, if the Town was constructing a new street, Mr. Jones was correct, but this was not what the Town was talking about. He said he favored keeping the street open for all traffic.

Comm. Patterson asked about the history of the road. She agreed with Mr. Siegel that it was putting commercial trucks in a residential neighborhood; she thought it ought to be open to emergency traffic but was not willing to open a two-lane road.

The Town Administrator said he understood the road had been open to traffic for 20 to 30 years, and said that the gravel recently placed on it had been put there for maintenance. He also said that a survey was being conducted in conjunction with the Poplar Street surveying to determine if the gravel was on Mr. Jones's property. Comm. James asked that the surveyor determine the location of the Town street in front of the Highlander Newspaper building.

Comm. DeWolf said he had supported the Town's right to put in a road, but felt this was not the right time; he felt that perhaps traffic should be limited to automobile traffic on 4½ Street.

Dennis Wilson asked if there was any question of the road being a Town street in light of the recent motions filed in court, as reported earlier in the meeting; the Mayor said there was no question that it was a Town Street. He asked the Board not to close the street; he felt that some escape route was needed in the event of an emergency rather than the entrance on US-64. He did not see how the road could be partially closed, and he felt it needed to be brought up to some kind of standard.

Comm. Marsh said he was not in favor of closing the road to emergency vehicles, but he felt that commercial vehicles should not be permitted.

The Mayor said that he and many other Rotarians used this street as a safe way to exit from the Conference Center.

Comm. Ross said that he felt the Town needed a plan for the entire area, and pointed out that a lot of lawsuits had stemmed from whether the Town was planning to open these roads; he thought a work session should be scheduled, but in the meantime a gate should be installed, perhaps with locks and keys for certain users. After some discussion, he amended his motion as follows:

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND CARRIED TO CLOSE THE SOUTHERN PORTION OF 4½ STREET TO PUBLIC USE, MEANING EVERYTHING EXCEPT EMERGENCY USE. Comms. Ross, DeWolf, Patterson, and Marsh voted "aye;" Comm. James voted "nay."

2. The Town Administrator reported that four nominations had been received for King Young and one nomination for Tony Potts to fill the seat vacated by Lewis Doggett's resignation from the Planning Board.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPOINT KING YOUNG TO THE PLANNING BOARD TO FILL LEWIS DOGGETT'S UNEXPIRED TERM.

3. Each Board member had received a copy of a letter dated September 22 from Bronce Pesterfield, P. E., concerning a portion of a wall constructed by Old Edwards Inn encroaching on Spring Street, as discussed at previous meetings. The Mayor pointed out that the Board had been told at the previous meeting three weeks ago that the encroaching portion of the wall would be torn down within two weeks.

Mario Gomes was present and pointed out that the Board had granted a variance from the Master Sidewalk Plan to Jerry Pair on May 5 due to the cost of installing a required sidewalk and a desire to save trees. He pointed out that Old Edwards Inn had constructed an expensive wall, saved trees, given up property, and constructed parking spaces. He said they wanted to do what was right, but he did not think this was fair.

Bronce Pesterfield then reiterated the position he had taken at the August 4 Board meeting. He said that he did not think the Board had been provided the technical evidence to make a good decision, and said that many people had spoken in support of the wall. He explained that if the wall had been stopped at the property line, they would have had to negotiate with the adjoining property owner, the Methodist Church, in order to avoid a vertical cut in dirt.

Comm. James said that he did not think that was his problem; the wall should have stopped at the property line. He said that the information distributed had already been presented. He pointed out that the Church had already given up two feet of its property for a future sidewalk, and if Mr. Pesterfield had encountered a problem with the wall he should have brought it to the Board.

Comm. DeWolf pointed out that, by requiring sidewalks at the property line, slope was a reality in many instances.

Comm. Patterson said it looked like Mr. Pesterfield was asking the Board to leave the wall in front of somebody else's property. She thought the problem was that he had made a unilateral decision that involved both the Town and the Church; this could have been avoided if he had checked with the Town beforehand.

Comm. Ross asked how deep the parking spaces would be at the narrowest point of the wall, where a four-foot sidewalk was proposed; he was told 16 feet. The Town Administrator asked how wide the travel lane on Spring Street would be; he was told eight feet. He asked if he thought this would be adequate, and was told that it would be.

George Mathis proposed that the Board permit him to meet with the Trustees of the Methodist Church to see if they would agree to the wall remaining in front of their property; if they did not, he said the wall would be torn down. He said that they had made a mistake and had tried to find a solution that would appease everybody, but he hated to tear the wall down.

The Mayor said the problem was that there was no record of the wall ever being approved in its present form. He said from now on he wanted Mr. Pesterfield to submit eight copies of each plan submitted for approval. He was sick and tired of going through this at every meeting. He also asked about the sidewalk which he understood had been promised along Spring Street, connecting this sidewalk to South Fourth Street. The Clerk reported that there was no official record of such a promise.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO TAKE THIS MATTER UNDER ADVISEMENT.

Patsy Thornton said that she thought the problem was that the Board had granted variances in the recent past; she had always remembered that the Town's previous policy had been to deny variances, and she felt this had set a bad precedent on such projects as the Great Things building.

Bob Wright disagreed; he felt that granting no exceptions was not reasonable, and pointed out that variances were granted on a case by case basis and did not set a precedent.

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 8:40 p.m.

Richard Betz, Town Clerk