

PUBLIC HEARING and REGULAR BOARD MEETING of December 15, 2004, with Mayor Buck Trott and Commissioners Amy Patterson, H. N. James, and Alan Marsh present. Comm. Ross was out of Town, and Comm. DeWolf was ill.

Also present were Richard Betz, Lamar Nix, Larry Gantenbein, Kim Lewicki, Jim Lewicki, Melody Spurney, Bronce Pesterfield, William Cheney, Jody Lowe, Jim Tate, and Mel Phillips.

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 petition for annexation from Thomas Eubanks and Gibson Investments LLC for 15.08 acres contiguous to the corporate limits on the Dillard Road.

The Town Administrator said that he understood the petitioners owned most of the property, but a final contract had not been signed on a small portion. After conferring with the Town Attorney, he recommended that the public hearing be held as advertised but that the Annexation Ordinance not be adopted until after the closing.

There were no comments from the public, and the Mayor declared the public hearing adjourned at 7:02 p.m.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:02 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator reported that the Highlands Community Child Development Center (HCCDC) had requested permission for use of Town right-of-way for construction activities on Church Street, under Old Business.

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

III. Approval of Minutes.

Copies of the minutes of the December 1 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that the appropriation bill for the Lake Remediation Project had passed Congress on December 7; however, it was a "soft markup" appropriation, and no funds had yet been designated. He said that lobbyists from Kilpatrick Stockton would be meeting with local USDA officials in mid-January to discuss funding.

2. The Town Administrator reported that forms for informal bids for tires for Town vehicles had been prepared; bids would be received on January 5, reviewed, and submitted for approval at the Board meeting that night.

He also distributed copies of the FY 03-04 audit.

He also reported that he, the Town Engineer, the Superintendent of the Electric Department, and the GIS/Field Technician had met with

representatives from Verizon and Northland Cable on December 13. The meeting had gone well; all parties had agreed on DOT and National Electric Safety Code clearance standards, and a work plan had been devised to begin work on clearance violations and pole change-outs based on the data provided from the pole audit. At the same time, that data would be verified and all Town poles would be numbered.

The project was expected to take at least two years, but all parties present had expressed a willingness to work together in meeting NESC standards.

V. Old Business.

1. The Board had reviewed information presented in a letter dated December 1 by Bronce Pesterfield on behalf of S. B. Association at the previous meeting. Comm. James said that he had always understood that the Town might be willing to accept the S. B. Association system if it was brought up to current standards. Mr. Pesterfield reviewed progress to date; he said that a lot of work had been done on the system, but work still needed to be done on the lift stations. He said the Association was looking for an official commitment from the Town that, if brought up to standards, the Town would take over the system; in addition, because of the value of the system as documented in the letter and the fact that it served existing homes, the Association was requesting monetary assistance.

Comm. James said that had never been discussed; he commented that he thought Mr. Pesterfield had been joking, and said he thought there had been a clear understanding until the previous meeting. He pointed out that the Town was not eager to take over the system, and was not certain it was in the best condition. He also said that the Public Works Committee had discussed eliminating one of the three remaining lift stations, if possible, and funding a new gravity line to NC-106 if right-of-way could be obtained; the cost would be \$83,000, and the Association had agreed to place \$20,000--the cost of upgrading the lift station that would be eliminated--in escrow toward the project, with the Town funding the balance. The Committee had also requested right-of-way across Shelby Place so that sewer could be available to Cherokee Drive and other areas along the Walhalla Road.

Comm. Patterson pointed out that new developments paid 100% of the cost of sewer; while she saw Mr. Pesterfield's point about the sewer serving existing homes and said that the Town had participated to some extent in the past, existing developments like Pinecrest had paid 100% of the cost of sewer service.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED, THAT THE TOWN WILL AGREE TO ACCEPT THE S. B. ASSOCIATION SYSTEM WHEN IT IS BROUGHT UP TO STATE AND TOWN SPECIFICATIONS AS CERTIFIED BY THE TOWN ENGINEER.

2. The Board had taken under advisement a request from the Chair of the ABC Board that the Town waive utility charges for the ABC store, an annual amount of about \$8000. Comm. Patterson said it appeared that it would be money out of one hand into another, but utility revenues would be affected. Comm. James thought it might set a precedent for donation of utilities costs to others.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO DENY THE REQUEST.

3. The Board discussed a request for permission to use Town right-of-way for construction by the HCCDC on Church Street. The Town Administrator said that Bob Wright had requested use of three additional spaces, east of the driveway, for the storage of pallets of paving bricks, for a period of at least two weeks.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST UNTIL THE FIRST MEETING IN MARCH.

VI. New Business.

1. The Town Administrator submitted copies of a letter dated December 15, certifying in accordance with §G. S. 160A-31(c) that he had investigated the sufficiency of the petition for annexation from Thomas Eubanks and Gibson Investments LLC, with the exception that the petitioners had not yet finalized purchase of the entire tract, as reported earlier in the meeting.

2. Jim Tate presented photographs and a plat of the H. C. Dodson property on Satulah Vista Lane, where he proposed constructing a 100-foot long locust guardrail along the side of the road; the guardrail would be within the 40-foot right-of-way, and would also be located less than six feet from the edge of the road, as required by the Zoning Ordinance, and in some places as close as 12 inches. Comm. James suggested that the request be deferred until the next meeting so that the Public Works Committee could visit the site.

3. MOVED BY COMM. MARSH, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE RE-ELECTION BY THE FIRE DEPARTMENT OF JAMES MANLEY AS FIRE CHIEF, AND TO RE-APPOINT OLAN VINSON AS A TRUSTEE TO THE FIREMEN'S RELIEF FUND AS RECOMMENDED BY THE FIRE DEPARTMENT.

4. Larry Gantenbein reported that, at its meeting the previous week, the Zoning Board had requested that the Town clarify two items in the Zoning Ordinance. The first item was holiday decorations, which had come before the Board on an appeal from his notice of violation for pumpkins, turkeys, and Christmas decorations at Twigs, a retail store on US-64E. Such decorations, except for a limitation on the dates for displays of string lighting, were provided a blanket exemption in the Town's ordinance as well as in most other ordinances in the State, and a consultant at the Institute of Government had agreed with that interpretation; he had therefore withdrawn his notice of violation, but the Zoning Board had felt that the Town Board should clarify the exemption.

Comm. Patterson said she felt that perhaps such decorations should be limited to the Christmas holiday only, since the number of holidays could be very extensive. Comm. James felt that the Board should consider eliminating the words "and displays," which would leave only "temporary lighting" as exempt; he also felt that no decorations should be located on the roof or above the parapet of the roof, since such signs were prohibited.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO SEND THIS MATTER TO THE PLANNING BOARD FOR REVIEW, TOGETHER WITH THE FOREGOING COMMENTS.

Mel Phillips, one of the owners of Twigs, was present and said that their intent in displaying the decorations was to celebrate those holidays; the decorations were not part of any business strategy, and were intended to put smiles on faces. He said that they had received positive feedback, and he begged the Board not to put the Town in a position where businesses could not have holiday expressions for Thanksgiving and Halloween; he frankly thought the Town needed more of them. Mayor Trott commented that he had also received many comments on the attractiveness of the Town due to strictly-enforced sign regulations.

Mr. Gantenbein said that the Zoning Board had also been concerned over the lack of control over temporary commercial buildings, such as the so-called "tough shed" placed on the Highlands Electronics property. Such buildings were different than storage trailers, did not require a Zoning Certificate or a Building Permit, and did not fall into any of the categories of a Special Use in Section 501.1(A): they were not new commercial construction, additions to existing commercial buildings, or remodelling of existing commercial buildings.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ALSO SEND THIS MATTER TO THE PLANNING BOARD FOR REVIEW.

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

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 7:45 p.m.

Richard Betz, Town Clerk