

BOARD MEETING of March 16, 2005, 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, Kim Lewicki, Candice Cunningham, Zeke Sossomon, Allan James, Wick Ashburn, Rick Siegel, Al Bolt, Mario Gomes, George Mathis, Bronce Pesterfield, Randy Power, Jim Mullen, Greg Crawford, Ginger Slaughter, Sabrina Hawkins, Billy Hawkins, and many 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.

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

III. Approval of Minutes.

Copies of the minutes of the March 2 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he had attended a meeting in Raleigh of the Transportation, Communication, and Public Safety Legislative Action Committee; among the items discussed had been red light cameras and legislation aimed at methamphetamines which would make Sudafed an "under the shelf" drug.

He said he had also received word Friday of a meeting in Washington on Monday, and had flown up to meet with the Undersecretary of Agriculture to discuss funding for the Lake Remediation Project. Funds for the immediate problem of silt in the Big Creek Arm of Lake Sequoyah, as well as funds in 2006 for more of the project, looked promising.

2. Comm. DeWolf distributed copies of information distributed at a Chamber of Commerce meeting that he had recently attended, as reported at the previous meeting, including an audit and other information on use of the room occupancy tax; he urged each Commissioner to attend the April 19 Chamber of Commerce retreat at Lake Logan.

Comm. Ross asked that the Public Works Committee meet to discuss mandatory sewer connection policy; the Committee agreed to meet at 8:30 a.m. on March 22.

3. Each Board member received copies of the Recreation Director's report for the month of March; Selwyn Chalker was present to review the report.

4. The Town Administrator reported that he had been discussing drafting of an ordinance regulating abandoned buildings with the Town Attorney, pursuant to the Board's request at the February 16 Board meeting; several ordinances from around the State had been reviewed, and the Town Attorney had asked if the Board wanted to control deteriorated buildings, or those that had fallen into disrepair and could be repaired at a reasonable cost, as well. Town Planner Larry Gantenbein said that the Land Use Planning Committee had been discussing this issue and he felt they would be capable

of sorting through these ordinances and making a recommendation to the Board. The Board agreed by consensus, however, to ask the Town Attorney to proceed now with drafting an Ordinance regulating abandoned buildings.

He also reported that the Finance Committee would be meeting early in April, after the County Commissioners had met to discuss the pending request for funding with Macon County and after the deadline for applications for funding from non-profits.

He also reported that the Land Stewards of the Highlands Plateau had scheduled a Japanese Knotweed Eradication Program for March 30 at the Civic Center.

He distributed copies of a letter forwarded to the County Commissioners, pursuant to the previous meeting, accompanying a list and maps showing future water and sewer projects that might qualify for future County funding.

V. Old Business.

1. The Board discussed the permit issued at previous meetings for use of Town right-of-way for the Highlander Newspaper building, which had expired on this date; the Town Administrator reported that he had not been contacted by the contractor, although the right-of-way was still being used and construction had not been completed within 30 days as expected.

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

3. It was reported that approval of the two valet parking spaces for Old Edwards Inn on March 24, 2004, was scheduled to expire. The Town Administrator reminded the Board that the two spaces had been approved 2. The Board discussed the permit issued at previous meetings for use of Town right-of-way by Old Edwards Inn for construction on Church Street, a condition of which had been submittal of a plan for a temporary sidewalk. After some discussion, the Board agreed by consensus that no temporary sidewalk should be provided; Comm. James suggested, however, that a sign be posted at the both ends of the current sidewalk on the north side of Church Street, saying "Closed to Pedestrian Traffic During Work Hours."

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

3. The Board discussed at length a plan presented by Bronce Pesterfield for a sidewalk along the south side of Church Street, extending from the section previously approved by the Board in front of the Christmas Tree building to the end of the Old Edwards Inn property just past the generator. At the same time, it was reported that Old Edwards Inn had removed the old laundry building on top of the hill on the Kelsey-Hutchinson property down to its footings. Mr. Pesterfield proposed a stepped sidewalk below that building, twelve feet in height, terraced in two six-foot sections, similar to that proposed earlier; the rear of the sidewalk would extend from four to eight feet into the right-of-way, rather than be constructed at the property line.

Comm. Patterson said that she understood that when a building was removed to its footings, it would have to comply with the setback provisions of the Ordinance; Comm. James agreed. The Town Administrator said that this issue had been discussed many times before, but his understanding was that Section 110 of the Zoning Ordinance, amended in 2002 to remove the limitation of 50% of the value of the building and 12-month period of time, now provided that buildings like this one could be re-built on the same footprint, but could not be expanded. Larry Gantenbein agreed, reviewed the

history of the amendment and its review by the Planning Board, and explained his interpretation.

Section 110 of the Zoning Ordinance was then read:

"Alterations, repairs, or rebuilds. Non-conforming buildings may be altered or repaired, but such buildings shall not be enlarged or expanded except in conformance with this Ordinance. Non-conforming buildings that are destroyed or condemned may not be rebuilt or repaired except in conformance with this Ordinance."

Comm. Patterson felt that a building that had been removed to its footings should be deemed "destroyed." Several Board members felt that this had not been the intent of the Board in amending the Ordinance. George Mathis pointed out that the rebuilt laundry building would comply with fire district regulations, and that he had only been doing what he understood he was permitted. The Town Administrator said that he and the Zoning Administrator had reviewed plans for remodelling all of the buildings at Kelsey-Hutchinson, and three zoning certificates had been issued; no Special Use Permit had been required.

MOVED BY COMM. MARSH, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ASK THE PLANNING BOARD TO REVIEW CLARIFICATION OF SECTION 110 OF THE ZONING ORDINANCE TO PROHIBIT REBUILDING OF A NON-CONFORMING BUILDING WHEN IT HAS BEEN REMOVED TO ITS FOOTINGS, AND ALSO TO DECLARE A MORATORIUM OF NINETY (90) DAYS ON ISSUANCE OF PERMITS FOR REBUILDING OF NON-CONFORMING BUILDINGS UNDER THIS SECTION.

The Board then discussed the sidewalk plan presented by Mr. Pesterfield. Comm. James said he remembered stating at a meeting that if this laundry building were ever removed, the sidewalk should be constructed to the property line; Comm. Marsh agreed. Mr. Pesterfield said that the plan showed sidewalks and diagonal parking on both sides of the street, and that there would be adequate room for the terraced wall, rather than a twelve-foot vertical wall, because this was a one-way street. Comm. James said that it might one day be a two-way street; he felt there should be a 12-foot vertical wall. George Mathis said that it would not be feasible from an engineering standpoint to construct a vertical wall at the property line without excavating extensively into the bank or extending support walls into the street. He said that the wall could be placed on the property line further east along the street, but it would require the removal of several hemlock trees.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND CARRIED TO APPROVE THE PLAN SUBMITTED, WITH THE TERRACED RETAINING WALL, EXCEPT THAT TOWARD THE EAST END OF THE PROPERTY WHERE IT WAS FEASIBLE THE SIDEWALK SHOULD BE PLACED ON THE RIGHT-OF-WAY LINE.

Comms. DeWolf, Patterson, and Ross voted "aye;" Comms. James and Marsh voted "nay." Comm. James commented that he did not feel the taxpayers and citizens owed Mr. Williams anything.

Mr. Pesterfield was asked to submit a revised plan for approval before beginning construction.

on a 20:1 ratio, with 40 spaces provided at the Rib Shack property.

Mario Gomes was present and reported that between 20 and 25 guests used the valet parking area every weekend. Most employees and contractors would be parking either at the Cherokee Drive warehouse or the Sassafras Gap facility and would be shuttled to work; placards identifying guests and employees would be placed in the windshields of vehicles. Comm. James felt that two spaces for every 40 was a pretty good deal.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO EXTEND THE VALET PARKING APPROVAL FOR ANOTHER YEAR.

4. Each Board member had received a copy of a letter drafted by Comm. Ross to the D.O.T., suggesting several design features for Bowery Road; it had been reviewed by the Town Attorney. Comm. James objected to the 18-foot width; he felt it should be 20 feet in width, consistent with Town subdivision standards for this type of Road,

as confirmed by the Town Engineer. Comm. Ross pointed out that US-64 was only 18 feet in width in most locations; he felt the narrow width preserved vegetation and retained the rural character of the road.

The Board, with the exception of Comm. Ross, agreed by consensus to send the letter, but to change the suggested width to 20 feet.

Comm. Ross asked that the Mayor sign the letter.

VI. New Business.

1. It was reported that the Planning Board had recommended approval of the Final Plat for Woodcrest Subdivision. The permanent easement for the vegetative buffer had been shown on the plat, and a letter had been received from the Town Engineer certifying all improvements.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE FINAL PLAT.

2. The Town Administrator reminded the Board that this was the third year in a three-year contract for an audit with Martin Starnes & Associates; the amount this year would be \$18,000, and he recommended approval.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE AUDIT FOR ANOTHER YEAR.

3. A petition for re-zoning of a 4.72-acre tract currently owned by Barbara Werder on the corner of Hickory, US-64, and Chestnut Street, had been submitted; Zeke Sossomon was present to present the petition. He said that the property was roughly one-half B-4 and one-half R-2, and the request was to blend it into an "up-zoning" of R-3. The intention was construction of multi-family housing, and the maximum units permitted under the current Ordinance would be 18. The Town Administrator pointed out that the Zoning Board would have to approve any multi-family use as it required a Special Use Permit; he also pointed out that no sidewalk was shown on this site under the Master Sidewalk Plan and that, even if it were, it would not be required for residential development. Comm. James said he recalled that the Land Use Planning Committee had been discussing the need for multi-family within walking distance of Town. Larry Gantenbein confirmed that the Committee was looking at re-evaluating R-3 with some parameters, including density. Comm. Patterson said that the Board already knew her views on increased population and density.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND CARRIED TO SEND THE PETITION FOR RE-ZONING TO THE PLANNING BOARD FOR A RECOMMENDATION.

Comms. James, Ross, DeWolf, and Marsh voted "aye;" Comm. Patterson voted "nay."

4. Comm. James said that he had been concerned over recent comments quoted in Highlands' Newspaper by Zoning Board member Zeke Sossomon to the effect that Highlands Country Club could do whatever it wanted; he did not think that was right, and felt that the Board ought to correct it, that the property should be zoned Commercial. He felt that something as large as the Club should not be unregulated. Larry Gantenbein said that the comments in the newspaper had not been fully in context. The Zoning Board has ruled that a Special Use Permit had not been required for expansion of seating in the Clubhouse; however, the Country Club was still subject to all of the other requirements of the Ordinance, including height, watershed, and setbacks. Comm. DeWolf said that he had been careful to avoid any conflict in this matter because he was involved in the design of the project. However, he felt that the intent of the Zoning Ordinance had been to treat dining facilities for a private club differently than restaurants, as they catered to a fixed membership that made its own decisions about how much space and parking was appropriate.

He felt that the Board got into difficulties whenever it tried to stretch an interpretation of the Ordinance. Comm. James said he had not brought it up because of the Zoning Board's decision, and asked that the matter be dropped. The Mayor expressed concern that the clubhouse was apparently not regulated by the Health Department

nor required to have a grease trap. Greg Crawford, General Manager for the Club, was present and said that the clubhouse did have a grease trap and it was serviced regularly. He said that the seating was currently 140 to 150, and would increase to a maximum of 200 under the new plan.

5. The Town Administrator reported that budget request deadlines were coming up on March 31 for FY 05-06 funding from Macon County, Jackson County, and the Chamber of Commerce.

The Board discussed Macon County funding, and agreed by consensus that 50% funding should again be requested for the Recreation Department, or approximately \$270,000, the same as last year; in addition, it was agreed that, due to both the increase in property valuation and the cost of infrastructure improvements, \$400,000 in funding should be requested for water and sewer improvements, rather than the \$300,000 requested for many years.

The Board agreed by consensus to again request that Jackson County provide funding for the portion of Jackson County in the Highlands Fire District, either through a fire district tax like the system which Macon County and most other counties in North Carolina use, or in lieu of that an amount equivalent to that which would be generated by the Macon County fire tax rate; the tax rate and property valuation in Jackson County was unknown at this time, but last year's request had been for \$15,872. It was agreed that the letter should be sent after the property valuation had been reviewed.

The Board discussed the 50/50 funding with the Chamber of Commerce for public rest room cleaning, maintenance, and supplies, which had been requested for many years; the total cost was approximately \$18,000.

MOVED BY COMM. MARSH TO REQUEST THE CHAMBER TO PAY \$16,000 AND THE TOWN TO PAY \$2,000. There was no second to the motion.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND CARRIED TO REQUEST 50/50 FUNDING AS IN PAST YEARS. Comms. DeWolf, Ross, Patterson, and James voted "aye;" Comm. Marsh voted "nay."

6. MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(5) TO DISCUSS THE ACQUISITION OF REAL PROPERTY. All present left the room except the Clerk, the Town Engineer, and the Recreation Director.

The Board discussed the acquisition of real property.

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

VII. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:23 p.m.

Richard Betz, Town Clerk