

BOARD MEETING of April 6, 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, Jerry Cook, Selwyn Chalker, Kim Lewicki, Erin Brown, Candice Cunningham, Charles Simmerson, Ginger Slaughter, Mario Gomes, George Mathis, David Bock, Wolfgang Green, James Manley, Bob Houston, Allen Decker, Mike Bryson, and 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. The Town Administrator reported that consideration of the Thomas Eubanks and Gibson Investments Annexation Ordinance should be deferred under Old Business because the property had not closed. He also reported that five items had been requested to be added to the agenda under New Business: permit to use Town right-of-way for construction activities by Wolfgang Green; awarding of bids on Wastewater Treatment Plant project and amendment of budget; setting dates for Spring Cleanup; 2005 paving bids; and Closed Session to discuss personnel matters.

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

III. Approval of Minutes.

Copies of the minutes of the March 16 Regular Board Meeting had been distributed by mail. Comm. Patterson noted two corrections: Board action approving the letter to the D.O.T. on Bowery Road should have reflected a motion and vote where Comms. Patterson, James, and Marsh voted "aye," and Comms. Ross and DeWolf voted "nay"; and the discussion on non-conforming buildings should have noted that "several Board members felt that this [that buildings removed to the footings should not be re-built] had been the intent of the Ordinance."

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

IV. Reports.

1. The Mayor reported that he had been informed by the D.O.T. District Engineer that construction would begin on Bowery Road in approximately two weeks; he understood the road was going to be 20 feet in width, but that it had been redesigned to eliminate the curbs and use BST paving. Comm. Ross agreed to forward the D.O.T. information he had received on alternative ground cover consisting of native plants.

The Mayor also reported that Town officials had met with USDA Rural Development official Pamela Hysong on Monday to review a grant application for the Lake Remediation Project.

The Mayor also reported that most of the Board had attended a meeting of the County Commissioners on Monday night and heard information on a proposed District Recreation Commission. He had discussed the proposal further with Comm. Ricky Bryson earlier in the day, and Comm. Bryson had forwarded some information on the proposal that had been distributed at the meeting; it proposed the County taking over all funding and operations for recreation in District I, \$500,000 for current expenses for the Town budget, and the creation of a new Board or Authority with the power to operate the combined systems.

The Mayor said that Comm. Bryson had reiterated his comments to him earlier on the proposal, as well as to several Board members, that the Town would appoint three members to the Authority. Comm. Patterson suggested that the Recreation Committee develop a list of questions about the proposal and discuss them at the next meeting.

Comm. Ross asked about the LWCF funding for the Recreation Park; he felt that the Town Attorney should be asked to look into the legalities. He also wondered who would decide about capital improvements. Comm. Patterson wondered who would be responsible for insurance, prepare the budget, and hire employees. The Recreation Committee agreed to schedule a meeting to discuss these issues.

Comm. Ross said that this proposal seemed to be a replacement for the water and sewer funding, and he asked if the Board was giving up on that. Comm. Patterson said she did not want to give up on that; she felt they were two separate issues, and the water and sewer funding had never been addressed by the County despite formal requests that it be placed on the agenda.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO AGAIN FORMALLY REQUEST THAT WATER AND SEWER FUNDING BE PLACED ON THE AGENDA OF THE NEXT COUNTY COMMISSIONERS MEETING.

2. Each Board member had been provided with a copy of a memorandum outlining discussions of the Public Works Committee at its March 22 and March 29 meetings on mandatory sewer connection policy. The Board agreed to place this on the agenda of the April 20 meeting for discussion.

The Public Works Committee had also discussed a previous policy of waiving water and sewer user fees for churches; the Town Administrator had provided information on current utility charges for churches, which reflected discrepancies. The Board agreed to place this on the agenda of the April 20 meeting for discussion.

3. It was reported that the Town Attorney would be attending the next 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. He said that approximately three feet of silt had been removed from the water intake in Big Creek, and that Larry Rogers had completed approximately 80% of the Country Club project.

Comm. DeWolf asked about the fill being placed on Oak Street for the Town parking project and whether there was a silt fence there.

It was pointed out that there was a large vegetative buffer between this site and Mill Creek. Comm. Ross felt that a silt fence should be erected in any case, and the Board agreed; Mr. Nix agreed to do so.

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. He asked to review two applications for employment in the closed session already scheduled, and the Board agreed.

6. Each Board member had received a copy of the Recreation Director's written report for the month; Selwyn Chalker was present to review the report. He said that he would have a list of summer staff to present at the next meeting, and that he had still not received work on the County's Master Plan. Comm. Ross said there had been some discussion on the possibility of improving drainage at the Town Ball Field adjacent to Hickory Street, and after some discussion it was agreed that Comm. Ross, Mr. Chalker, the Town Engineer, and David Rawlins would meet to look at some possibilities.

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; he pointed out that Sales Tax revenues for the year

had already exceeded estimates.

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

9. The Town Administrator presented a map of water meters based on GIS data captured by Matt Shuler. He said that the new pickup truck had been received for the Water Department and he proposed letting the old vehicle be used by Mr. Shuler or other staff at the Town Office rather than being sold; there was no objection.

Comm. James asked about the pole audit and was informed that thus far only about a dozen poles had been replaced due to lack of time by the Electric Department in replacing poles. Comm. James felt this work should be contracted, and was told by the Town Engineer and Town Administrator that their understanding had been that the Town would replace poles at its expense and the entities attached to them would pay the cost of relocating their equipment. Comms. James and Ross said this was the first time they had heard that; they thought the entities should be responsible for the cost of pole change-outs. The Town Engineer pointed out that in some cases the Town had contributed to non-conforming situations by placing transformers on poles. Comm. Ross felt that where that was not the case the entities attached should pay the cost of replacing poles; he felt that the minutes should be reviewed to clarify this issue.

He also asked if enough clearance for a second cable TV company was being provided when poles were changed out, and was informed that it was, as required by the current Ordinance.

Each Board member had received a memo from the Town Administrator concerning the Town's agreement to pay 25% of the cost of the Highlands Country Club Fairway No. 1 Sewer Line project. He said that he had understood, and had prepared agreements accordingly, that any post-construction costs other than surveying and preparation of as-built drawings should be distributed on a pro rata basis back to the Town and the property owners. Some questions had arisen concerning that and he asked the Board to confirm his understanding.

Comm. James said that he did not see why the Town should be expected to conduct inspections for nothing. The Board agreed to consider the question again when the project was complete.

Each Board member had received a copy of "An Ordinance Providing for the Repair, Closing, or Demolition of Abandoned Structures" prepared by the Town Attorney. It was agreed that this item would be placed on the agenda of the next meeting for discussion.

A letter from the County Manager concerning a proposed bill in the legislature giving developers a five-year tax free holiday on subdivided land was distributed for information. A copy of the budget request letter to the County Commissioners for FY 04-05 approved at the previous meeting was distributed. A copy of a letter from the ABC Commission concerning an upcoming Responsible Alcohol Seller Training Workshop was distributed.

The Town Administrator also reported that he had received four applications for funding from non-profits by the April 1 deadline, totaling \$71,333. The Finance Committee agreed to schedule a meeting and review the applications, and also to begin work on the FY 05-06 budget.

V. Old Business.

1. The Board discussed the permit issued at previous meetings for use of Town right-of-way by the Highlander Newspaper building, which had expired on this date; the Town Administrator reported that the contractor had informed him the project would be completed within three weeks.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING UNTIL THE MAY 4 MEETING.

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, which had expired on this date. It was reported that the sign reading "Closed to Pedestrian Traffic During Work Hours" would be in place next week.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING UNTIL THE MAY 4 MEETING.

3. It was reported that the Planning Board has recommended, on a four-to-two vote, re-zoning of the Werder property to R-3, pursuant to a petition received at the previous meeting. Larry Gantenbein said that the Board had recommended four conditions--re-location of a house, construction of a sidewalk, removal of entrances off of US-64, and retention of a natural buffer along US-64--none of which were enforceable. He explained that contract zoning was not legal in North Carolina. The Board discussed this matter at some length. It was reported that under the current Ordinance the Zoning Board could place conditions on the Special Use Permit required for multi-family, but the Town Board had no authority to condition re-zoning on representations made by a developer. Comm. DeWolf felt that the project was a good one, but he felt that some contingencies should be considered to protect the historic house and provide more of a setback and buffer from US-64. Comm. Ross felt that a perpetual buffer should be required along the highway. The proposed sidewalk which the developer had offered to construct was also not technically required because it was not on the Master Sidewalk Plan. The Board discussed the concept of conditional zoning, which would require a substantial amendment of the Zoning Ordinance; under conditional zoning the Board could, in essence, create a new "floating" zoning district whenever a petition for re-zoning was approved. After considerable discussion the Board agreed to pursue this concept.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ASK THE TOWN PLANNER TO RESEARCH THIS ISSUE AND DRAFT LANGUAGE TO REVIEW AT THE NEXT MEETING TO SET UP A SYSTEM OF CONDITIONAL ZONING.

VI. New Business.

1. Plans for the Poplar Street Sewer project had been approved by the State and the project was ready for bid; the budget estimate had been \$280,000. The Board reviewed the plans in some detail and discussed the need for clearing 20 feet for the sewer line. The Town Engineer said that he could place a condition in the contract requiring minimal clearing as necessary, but it would be difficult to do so practically; he pointed out that the Town would be controlling the project and could re-vegetate.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR BIDS FOR THE PROJECT.

2. Copies of the proposed budget and fire district tax for the Highlands Fire Department had been distributed with the agenda package, and a small revision based on new valuation information had been submitted for this meeting; the proposed rate was 0.012.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE BUDGET AND FORWARD IT TO THE COUNTY BOARD OF COMMISSIONERS.

Fire Chief James Manley and Bob Houston were present, and the Mayor commended the Department for the fine work it did.

3. A petition for re-zoning had been received from Old Edwards Inn for a 50-foot strip along the south side of Church Street on the Kelsey-Hutchinson property, for the entire length of the property, from B-3 to B-1. Allen Decker from Pesterfield Engineering and George Mathis presented the proposal, which Mr. Mathis said would make it possible for OEI to remove the old laundry building, excavate the bank, and construct retail buildings along Church Street at street

level. Comm. Patterson said that she remembered that the B-1 district was a kind of "retro-fit" zoning intended to address existing buildings that had already been constructed lot-line-to-lot-line; she did not think that it ought to apply to new construction where there was room for parking. George Mathis said that the parking would be on Church Street. Comm. Patterson disagreed; she said that there was a parking problem already, and asked why more retail space should be created downtown with no additional off-street parking.

Comm. Ross said that he might be interested in the proposal if it did not extend along the entire length of the property; he and Comm. James both felt that it was a better plan than the previous one. Comm. DeWolf said that he would be more interested in seeing what part this plan played in the master plan for the entire property.

Comm. Ross again said that he had no problem with the plan, provided the requested B-1 zoning ended just east of the laundry building.

George Mathis said that no use was intended for the area east of the generator; however, he amended the petition for re-zoning by re-drawing the proposed B-1 line on the plat presented to the location Comm. Ross had suggested.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND CARRIED TO SEND THE PETITION FOR RE-ZONING TO THE PLANNING BOARD FOR A RECOMMENDATION, AS AMENDED AT THE MEETING. Comms. James, Ross, and Marsh voted "aye;" Comms. DeWolf and Patterson voted "nay."

4. It was reported that the final plat of the Sequoyah Ridge Subdivision, originally called Poplar Ridge, had been reviewed by the Planning Board; approval had been recommended, but it had been suggested that the private road be paved because of its proximity to Big Creek. Mike Bryson was present and said that he might consider paving the road in the future and dedicating it to the Town. Comm. Marsh asked about access to the sewer line on Hickory Hill Road; he felt it was important to provide access to the sewer to these new properties. Mr. Bryson said he might consider such a line if he could cross the adjoining Wetmore property and install the line down the property owned by the Town. Comm. James said that Mr. Bryson could always petition for the Town to accept the road at a later date.

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

5. An application for permit to use the Town right-of-way for construction activities had been received from Wolfgang Green. Mr. Green requested the use of four spaces on East Main Street for short periods of time through June 30 for unloading of materials; no materials would be stored on the right-of-way.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE PERMIT UNTIL MAY 4.

6. The Town Administrator recommended proceeding with award of bids on the Wastewater Treatment Plant project, as suggested by Comm. James, and amending the FY 04-05 budget accordingly; the bids had to be accepted by April 20 or extended. The bid amount negotiated with Haren Construction Co. was \$4,945,710. He said that the bulk of the project funding would occur in the next fiscal year, and the Finance Committee would consider several options for funding as part of the new FY 05-06 budget; those options might include a property tax increase, fee increases, borrowing from other funds, and an installment purchase loan.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO AWARD THE BID ON THE WASTEWATER TREATMENT PLANT PROJECT TO HAREN CONSTRUCTION AT THE NEGOTIATED AMOUNT OF \$4,945,710, AND TO AMEND THE FY 04-05 BUDGET ACCORDINGLY.

7. The Board discussed setting dates for the annual Spring Cleanup, traditionally held the last weeks in April and May.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO DESIGNATE THE WEEKS OF APRIL 25 AND MAY 23 AS SPRING

CLEAN-UP.

8. A list of paving needs for 2005 was distributed; it included updated paving from 2004 that had not been funded, as well as paving of the Performing Arts Center parking lot.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADVERTIZE FOR PAVING BIDS.

9. MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO REVIEW APPLICATIONS FOR EMPLOYMENT IN THE POLICE DEPARTMENT AND TO DISCUSS A PERSONNEL MATTER. All present left the room except the Clerk, the Police Chief, and the Public Services Administrator.

- A. The Police Chief reported that Oscar Martinez had declined the offer of employment; he recommended employing Christopher Allen as Parking Enforcement Officer at a beginning salary of 9-1. He also recommended employing Jeffrey Hartsell as Patrol Officer at a beginning salary of 11-1, pending completion of drug and other evaluations.
- B. The Board discussed Carlos Green with the Public Services Administrator.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

10. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY CHRISTOPHER ALLEN AS PARKING ENFORCEMENT OFFICER AT THE BEGINNING SALARY OF 9-1 (\$21,186).

11. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY JEFFREY HARTSELL AS PATROL OFFICER AT THE BEGINNING SALARY OF 11-1 (\$23,385), CONTINGENT ON COMPLETION OF DRUG AND OTHER EVALUATIONS.

12. MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO TERMINATE THE EMPLOYMENT OF CARLOS GREEN.

VII. MOVED BY COMM. ROSS, 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 9:18 p.m.

Richard Betz, Town Clerk