

BOARD MEETING of May 4, 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, Jim Lewicki, Bronce Pesterfield, Mario Gomes, George Mathis, Candice Cunningham, Teddy Rhodes, Rick Siegel, Steve Hamm, Beth Hamm, Ginger Slaughter, Bill Basham, Jim Mullen, David Bock, John Cleaveland, Wolfgang Green, Larry Rogers, 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.

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

III. Approval of Minutes.

Copies of the minutes of the April 20 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 reported that he would be going to Raleigh on May 10 to attend Town Hall Day. He understood that the Bowery Road project had been delayed by the D.O.T. due to its historic designation; he planned to discuss that with Sen. Snow and D.O.T. officials, as well as cigarette tax and annexation legislation.

2. The Finance Committee had agreed to meet on Thursday, May 12, at 5:00 p.m.

The Public Works Committee had cancelled its previous meeting to discuss the Ralph Deville sewer connection request; it agreed to re-schedule when information had been received about ownership of the 2" private sewer line on US-64.

3. 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.

4. The Mayor reported that the Police Chief was out of Town; his report would be presented at the next meeting.

5. 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. Included with the report was the list of summer staff.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE LIST OF SUMMER STAFF.

The Town Administrator said that, as part of the PARTF grant, the Town's Master Recreation Plan would have to be updated this year and public meetings held.

6. 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.

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

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

8. The Town Administrator reported that he had begun work on the USDA grant application for the Lake Remediation & Preservation Project, and had also begun work on the FY 05-06 budget. A pre-construction conference had been held the previous week on the Wastewater Treatment Plant expansion; the contractor was expected to mobilize within two weeks and complete work by March 21, 2006. He also reported that Police Officer Derek Jones had turned in his resignation.

V. Old Business.

1. Each Board member had received a memorandum from Allan Bryson, Chairman of the Macon County Board of Commissioners, outlining the main points of a proposed joint Macon County/Town of Highlands Recreation program. The Town Administrator reported that he had spoken to Comm. Bryson earlier in the day and understood from him that the County Board had approved the proposal on May 3 and wanted to know if the Town Board approved it in concept; the County Manager would be drafting an agreement to be executed by both Boards. Comm. Bryson had also confirmed that, in addition to the \$500,000 in funding for FY 05-06, \$80,000 would be provided in matching funds for the Holt Knob Water Project, either in the current or the next fiscal year.

Comm. James said that the memorandum reflected everything Comm. Bryson had told him. Comm. Patterson expressed concern over the phrase in the memorandum, "up to \$500,000 per year." She felt that the agreement should provide for a definite amount and state when the funds would be disbursed each year to facilitate the Town's budgeting process; she also felt that the agreement should provide for review of that amount and increases over time based on inflation. She also said that she had been given a copy of a set of by-laws for a proposed Recreation Commission adopted last year which did not make clear that the Commission would consist of two Town Commissioners and the District I County Commissioner, consistent with the memorandum; she felt those by-laws ought to be repealed and the composition of the Commission defined in the agreement. Comm. James agreed. John Cleaveland was present and suggested that the agreement be recorded after it was executed so that there was no question about its provisions. The Board also agreed that the question of grounds maintenance at Zachary Field on Buck Creek Road should be clarified; the Town Administrator said that Comm. Bryson had asked him to include this item in the Department budget, and he was trying to determine the annual cost from County finance officials. Comm. Patterson also expressed concern over the phrase, "in lieu of any further support payments for water and sewer construction except in conjunction with County projects." While she was glad that the County Board had acknowledged the need to fund Recreation fairly across Macon County, she did not want to accept such language if it meant the Town Board would, as a condition to this agreement, not be allowed to ask for funding for water and sewer projects in the future; she felt they were two separate issues. Comm. James agreed that the phrase should not be in the agreement, as did Comms. Ross and DeWolf. John Cleaveland pointed out that the funding provided was essentially the same as that in the past, although in the meantime County tax dollars had greatly increased.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE AGREEMENT IN CONCEPT, SUBJECT TO INCLUSION OF THE FOREGOING COMMENTS AND FINAL REVIEW OF THE AGREEMENT.

2. The Town Administrator reported that the Planning Board had met and reviewed three proposed amendment of the Zoning Ordinance referred to it by the Board at the previous meeting. The Planning

Board had recommended (1) not changing the language in Section 110 relating to non-conforming buildings, (2) adopting the proposed changes to Section 502.6 relating to multi-family buildings, and (3) adopting the proposed change exempting gazebos from the setback requirement in the B-3 Business District upon approval of the Board of Commissioners. The Board discussed the Planning Board's recommendations at some length.

Comm. James reiterated his previous comments concerning non-conforming buildings. He did not feel that the Ordinance was being interpreted in a manner consistent with what it said, nor did he feel that a non-conforming building should be added to, re-built, or repaired; he thought the current interpretation would permit buildings to be re-built even if they were in the street right-of-way.

John Cleaveland, Chairman of the Planning Board, said that he had heard that Comm. Marsh had indicated to some Commissioners that Larry Gantenbein had misled them. He said that the Planning Board consisted of seven fair-minded individuals and they had talked about this issue at various meetings. There were many non-conforming buildings in Town and he felt that it was unfair to deprive them of the right to re-build. Comm. Patterson pointed out that there was an inequity when new buildings were required to meet the setback requirement, while non-conforming buildings could re-build and would not necessarily have to meet them. Comm. DeWolf agreed with Mr. Cleaveland; the Town had created setbacks ideally, but in reality millions of dollars worth of buildings all over Town were non-conforming and it was unrealistic to think that they could conform to the setback. Comm. Ross thought the Ordinance was being interpreted correctly, but he thought there was a question about the definition of "destroyed." Mr. Gantenbein then distributed the package he had provided to the Planning Board, consisting of all of the minutes and memorandums on this subject since 2002. He briefly reviewed the history of the amendment which had been in effect prior to 2002, which had permitted non-conforming buildings to be re-built up to a limit of 50% of their value within any 12-month period, meaning they could be re-built completely within two years. He said that he felt his interpretation had been consistent with previous interpretation of the Ordinance; he also pointed out that he interpreted the Ordinance as prohibiting re-building within the right-of-way. The Town Administrator said that Section 702.3 would also prohibit re-construction in the right-of-way. The Mayor suggested that the Board review the information provided, and the Board agreed by consensus to place this matter on the agenda of the May 18 meeting for further discussion.

John Cleaveland commented that, out of all the Town's Zoning Administrators, he felt that Mr. Gantenbein was the best they had had; one might disagree with him, but he had a good legal mind and helped the Planning Board tremendously, and he hoped he could continue to do a great job for the Town.

He also said that the Land Use Planning Committee wanted to meet with the Town Board to discuss its upcoming recommendations, and Geoffrey Willett had identified some dates on which he could also attend. The Board agreed by consensus to meet with the Planning Board at 3:00 p.m. on June 1 at the Highlands Civic Center.

The Board also discussed language which had been drafted concerning the composition of the dense green vegetative buffer for multi-family development in Section 502.6(E)(1); a public hearing had already been set for May 18 for this amendment, together with a petition for re-zoning for the Werder property. Comm. James thought that specific language should be drafted clarifying the composition of this buffer. After some discussion, it was agreed the Comm. Ross would meet with Mr. Gantenbein and work on some more detailed language before May 18; the public notice had not been specific with respect to language.

The Board also discussed the amendment addressing gazebos in the B-3 Business District.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY

CARRIED TO SET A PUBLIC HEARING FOR 7:00 ON JUNE 1 TO RECEIVE COMMENTS ON AN AMENDMENT EXEMPTING GAZEBOS FROM THE SETBACK REQUIREMENT IN THE B-3 BUSINESS DISTRICT UPON APPROVAL OF THE BOARD OF COMMISSIONERS.

3. The Planning Board had also recommended re-zoning a portion of Church Street owned by Old Edwards Inn by B-1, pursuant to a petition received at the previous meeting. Comm. DeWolf said that he had some concerns over the potential zoning change.

MOVED BY COMM. MARSH, SECONDED BY COMM. JAMES, AND CARRIED TO SET A PUBLIC HEARING FOR 7:00 ON JUNE 1 TO RECEIVE COMMENTS ON THE AMENDMENT OF THE ZONING MAP. Comms. Marsh, James, and Ross voted "aye;" Comms. DeWolf and Patterson voted "nay."

4. The Board discussed permits issued at previous meetings for use of Town right-of-way for construction activities by the Highlander Newspaper building, Old Edwards Inn, and Wolfgang's on Main, which had expired on this date.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED NOT TO APPROVE RENEWAL OF THE PERMIT FOR THE HIGHLANDER NEWSPAPER BUILDING, AND TO ORDER THAT THE DUMPSTER LOCATED ON FIFTH STREET BE REMOVED IMMEDIATELY.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING TO OLD EDWARDS INN UNTIL JUNE 1.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE CONTINUATION OF THE PERMIT ISSUED AT THE PREVIOUS MEETING TO WOLFGANG'S ON MAIN UNTIL JUNE 1.

VI. New Business.

1. The Town Administrator reported that two informal bids had been received on the Poplar Street Sewer Line, pursuant to advertisement for bids, and had been opened and read in the Town Office at noon by the Town Administrator and the Town Engineer, as follows:

- Larry Rogers Construction Co. Inc.....\$161,257.13
- Stillwell Enterprises Inc.....236,190.00

It was the recommendation of the Town Engineer to award the bid to the low bidder, Larry Rogers Construction.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO AWARD THE BID TO LARRY ROGERS CONSTRUCTION.

2. Two informal bids had been received on 2005 paving; they were opened and read as follows:

- Rhodes Brothers Paving Inc.....\$105,238.40
- Harrison Construction Co., Div. APAC.....143,387.92
- Harrison (alternate surface treatment).....136,629.06

It was reported that only \$50,000 in funds had been budgeted for paving. After some discussion, the Board agreed to proceed with paving of Oak Street (Item No. 1), Second Street (Item No. 3), and the Performing Arts Center parking lot (Item No. 4), for a total of \$44,274.65 per the Rhodes Brothers proposal.

MOVED BY COMM. JAMES, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO AWARD THE PAVING BID TO RHODES BROTHERS CONSTRUCTION, BUT TO DEFER ITEM NO. 2 UNTIL A LATER DATE.

3. Each Board member had received a nomination form, copy of appointment policy, list of members whose terms were due to expire, report on terms served, and list of citizens who had expressed an interest in serving on various Boards and Committees of the Town; the Clerk asked that the nominations be returned to him for tabulation before the June 1 meeting.

4. Jim Mullen was present representing the Highlands Chamber of Commerce. He thanked the Town for permitting the Chamber to use the upstairs of the Town Hall building for so many years, and said that they were looking at several potential new places, pursuant to termination of their lease; because of the drastic increase in rental costs in Highlands, he expected the Chamber would need to review its programs and budget next year. He also reported that the Board's one-year approval of directional signage it had erected last year had expired.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE SIGNAGE INDEFINITELY PROVIDED IT IS NOT EXPANDED OR SIGNIFICANTLY CHANGED.

Mr. Mullen then reviewed with the Board the Chamber's new strategic marketing plan, a tailored approach that focused on the shoulder months and Monday-Thursday periods of time.

VII. MOVED BY COMM. PATTERSON, 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 8:30 p.m.

Richard Betz, Town Clerk