

PUBLIC HEARING and REGULAR BOARD MEETING of August 3, 2005, with Mayor Buck Trott and Commissioners Amy Patterson, Hank Ross, H. N. James, and Alan Marsh present; Comm. Dennis DeWolf was out of Town.

Also present were Richard Betz, Bill Coward, Lamar Nix, Larry Gantenbein, Selwyn Chalker, Bill Harrell, Tony Carver, Kim Lewicki, Jim LeWicki, Adam Thompson, Eric Pierson, Mike Cavender, Ran Shaffner, Hillrie Quin, Rick Siegel, Don Mullen, John Cleaveland, Clem Patton, King Young, Bill Nellis, Scott Dudley, and others.

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 an application for a variance from the Town's subdivision specifications for road grade for a road in a proposed subdivision, Hardscrabble Land Company LLC, owned by Steve Pierson, as discussed at the previous meeting; the property had not yet been subdivided but the road and other improvements had been installed.

There were no comments from the public, and the Mayor closed the public hearing at 7:01 p.m.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:01 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator noted that he had omitted a letter from Elizabeth Lindsey concerning commercial zoning and road improvements in Sherwood Forest, which she had requested be discussed as an item under New Business.

Comm. Ross noted that Comm. DeWolf was not present, and asked that the discussion of sewer connection policy under Old Business be deferred until the September 7 meeting.

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

III. Approval of Minutes.

Copies of the minutes of the July 20 Regular Board Meeting had been distributed by mail.

Comm. Ross asked about the Ad Hoc Committee for reviewing the non-conforming building provision in the Zoning Ordinance; the minutes had said that it had drafted some "recommendations" and they had been forwarded to the Town Attorney. The Committee had agreed to meet again on July 25, however, and the Town Attorney had therefore been asked not to review the original draft. The Committee had met and scheduled a second meeting for August 2, but Comms. Ross and DeWolf had decided that it should be cancelled; Comm. Ross indicated that the Committee had been unable to arrive at a consensus and he felt this was a matter that should be discussed by the whole Board. The Board agreed by consensus to discuss this matter at the next meeting.

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

IV. Public Comment Period.

The Mayor explained that House Bill 635, which had been ratified by the General Assembly on June 30, now required special periods for comments from the public during Board meetings once a month; the Public Comment Period would appear on the agenda the first meeting each month. He then asked for public comments from those present but none were made.

V. Reports.

1. The Mayor reported that the period for filing for Mayor and Commissioner would end at noon on August 5, and he updated those present on who had signed up to date.

He also reported that Larry Gantenbein had just returned from the North Carolina Association of Zoning Officials meeting in Wilmington, where he had been named Zoning Enforcement Official of the Year for 2005; he congratulated him on the accomplishment.

2. Comm. Ross had provided with the agenda package some information on the Pine Street Park Project, to which the Board had pledged \$300,000 at the previous meeting; he said that the project was going well, a contract had been signed, and over \$500,000 had been raised to date including the Town's pledge. The gazebo on Pine Street would be moved and might eventually be retired and replaced with a larger pavilion. He thanked Macon Bank for its huge investment in the terracing of the Pine Street portion of its property, without which the Park Project would not work.

3. The Town Attorney was present but offered no report.

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 also reported that he had received some additional information for the Public Works Committee on pressure sewer systems; according to the Asheville office of the Division of Water Quality, individual homeowners would be responsible for pump stations rather than the Town or homeowners associations as previously reported. Comm. Marsh asked about the large hole at the Highlands Plaza exit onto NC-106; Mr. Nix explained that this was on private property.

5. Each Board member had received a copy of the Police Chief's written report for the month; Bill Harrell was present to review the report, and Tony Carver was also present. The Mayor said that he had been visiting Main Street businesses with the new Police Chief and he had made a lot of helpful comments on how they could improve their security systems.

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. It was agreed that he, the Town Engineer, and Comm. Ross would meet at 2:00 p.m. on August 4 to discuss the renovations for the Ball Field, the drainage for which the Town Engineer said could be started right away. Mr. Chalker also requested that Gerri Cutshaw be employed as part-time Adult Supervisor at the Park.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY GERRI CUTSHAW IN THIS POSITION.

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 Geoffrey Willett would be able to attend the August 17 meeting, and he also said that the Planning Board had requested that that meeting be a joint working meeting. He also said that Senate Bill 814, which would legalize Conditional Use Zoning without the need for special legislation, would probably be adopted within the next two weeks. He had discussed this type of zoning with David Owens at the Institute of Government and other officials while attending the NCAZO conference and would be pulling together some information in the near future.

8. Each Board member had received a copy of the Treasurer's Report for the month. He reported that the Town's auditors were doing field work this week and should wrap things up soon.

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

9. The Town Administrator reported that he understood the County Board of Commissioners had approved the Recreation Funding Agreement at its August 1 meeting, but the County Attorney had not yet forwarded it to him; he understood that it contained a four-year rather than a 15-year term, and provided for \$500,000 in annual funding as discussed earlier.

He also reported that the final reimbursement requests had been approved by the funding agencies for the Highlands-Cashiers Hospital Water Line Project; the funds should be received soon, closing out the project, and the Hospital and Chestnut Hill were now being billed for Town water service.

He reported that the real estate closing on the Houston property had been scheduled for this coming Friday or the first of the week. The Town would need to proceed with public meetings and preparation of the PARTF application before the end of the year.

He also reported that he, the Mayor, and the Town Engineer had met with representatives from the Land Stewards of Highlands on July 29 to discuss Japanese Knotweed. A contractor licensed to apply herbicide, Hillside Services in Hendersonville, had submitted a bid of \$8,400 for two applications of glyphosate this year. \$4,000 in funds had been pledged from the two garden clubs, an application for \$2,000 had been submitted to UCWA, and he was helping with an application for \$2,500 to the Community Foundation of Highlands; members of the Land Stewards had pledged funds to make up the difference if the grants were not all approved. They had asked if the Town would advance \$8,400 at this time so that the work could begin. The Board agreed by consensus.

He distributed copies of a letter dated July 29 from Roberts & Stevens concerning the Werder Property.

He also reported that, with recording of the deed of easement on July 13, the Highlands Country Club Fairway No. 1 Sewer Project had been completed. The actual cost of the project was \$17,748.28 below estimated cost--approximately what Bronze Pesterfield had originally estimated--and as explained in a previous memorandum the Town had agreed to fund 25% of the cost of the project. Under the terms of the individual agreements executed when the project began the funds remaining in escrow were to be distributed back to the Town and the participants on a pro rata basis, and the amounts to be distributed from the escrow account were shown on an attached spreadsheet. Comm. James disagreed with the calculation; he felt that the Town Engineer's time should be included as a cost for the project and this amount should be paid to the Town. The Town Administrator said that past policy had not included adding costs for such projects for staff time; it would mean that the Town's contribution to the project would be less than the agreed 25%.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO CREDIT THE TOWN ENGINEER'S TIME AS A COST TO THE PROJECT BEFORE DISTRIBUTING THE FUNDS FROM ESCROW.

He also reported that he had discussed the rock encroachments on David Warth's property, discussed at the previous meeting, with Mr. Warth on July 7; Mr. Warth had said he would be willing to remove five feet of the rockwork in front of his property, but that would leave an unpaved strip. John Cleaveland was present and noted that the road was not wide enough for two cars to pass, despite the 66-foot right-of-way. Comm. Ross said he could live with five feet being removed. Comm. Patterson suggested that perhaps an extension could be placed on the culvert near Spring Street so that that portion could be widened as well. The Town Engineer was asked to inspect

the property and report back at the next meeting.

He has also distributed copies of Change Order No. 1 for the Wastewater Treatment Plant, approved by W. K. Dickson consulting engineer Brian Tripp, P. E.; the amount was \$17,335.25, to be debited from contingency, and a contract extension time of five days.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE CHANGE ORDER.

Copies of a report on the Pole Audit and corrections made to date had been submitted by Matt Shuler.

The Mayor reported that the Presbyterian Church had invited all full-time Town employees to lunch earlier in the day to show their appreciation; he thanked them on behalf of the Town.

VI. Old Business.

1. The Board discussed permits issued at previous meetings for use of Town right-of-way for construction activities by Old Edwards Inn on Church Street, which had expired on this date.

Scott Dudley was present representing the contractor and said that most of the work had been completed on the new Spa building and work would begin soon on the building on the south side of Church Street.

Comm. James said he felt when a street was dug up like this it should be bonded back within a couple of weeks. Mr. Dudley said that there were still some utilities to be installed on the new building. Comm. Ross asked if Mr. Dudley had seen the petition from members of the Presbyterian Church distributed at the previous meeting; the Town Administrator said that he had forwarded this information to Mario Gomes. Don Mullen was present and said that he and other Presbyterian Church members had faced problems with traffic on the street; he suggested that it be closed off, and he also asked that construction workers and OEI employees not park on Church Street during the week.

Mr. Dudley offered to do a better job of flagging traffic. Hillrie Quin noted that concrete vaults and hay bales also interfered with parking, and the Town Administrator said that these were not within the approved areas for construction activities. The Board agreed for the Town Administrator to forward these comments to Mario Gomes.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO EXTEND THE PERMIT UNTIL SEPTEMBER 7.

2. John Cleaveland was present and reported that the Planning Board had discussed the Board's request at the previous meeting to prioritize Land Use Plan items. The Planning Board had felt that the Board should consider defining and extending its ETJ, whether or not the area included zoning regulations; copies of a map had been distributed showing the exact properties such an ETJ would include. The Planning Board had also urged the Town to begin discussing the possibility of annexation with the three country clubs north of Town. Larry Gantenbein explained that the map also denoted those areas which would qualify for annexation, which were 60% of lots less than three acres in area and 60% of the lots containing buildings. Mr. Cleaveland said that the Planning Board would work on the rest of the items over time. The Mayor urged the Board to study the map and other information that had been provided before the next meeting.

VII. New Business.

1. Main Street Pharmacy had requested a 15-minute parking space and a handicapped parking space in front of their business. The Town Administrator said that he had asked Matt Shuler to prepare a map of the parking spaces in the downtown area, which he thought should be given a comprehensive review by the Public Works Committee to ensure that there were adequate 15-minute and handicapped parking spaces. The Board agreed to defer the request until that time.

2. The Board considered an application for a variance from the subdivision specifications for road grade for a road in a proposed subdivision, Hardscrabble Land Company LLC, owned by Steve Pierson, as discussed at the previous meeting and subject of a public hearing immediately preceding this meeting. The property had not yet been subdivided but the road and other improvements had been installed.

It had been reported at the July 6 meeting that the road grade would for a distance of less than 200 feet be 15.2%; Town specifications called for a 14% grade. Larry Gantenbein said that the Planning Board had recommended approval of the variance; they had also recommended, in conjunction with the Land Use Plan update, amending the variance standards for subdivisions to a discretionary rather than reasonable use standard.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE VARIANCE.

3. Ran Shaffner was present and displayed a map showing green spaces and the current Greenway Trail, which he said a Committee of interested citizens had been reviewing as reported at the previous meeting. Hillrie Quin was also present and gave an overview of Greenways Trails, described his own experience, and outlined the procedure. He asked the Board to appoint a member to the Committee and also to provide staff support in the person of Matt Shuler in preparing an updated map.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPOINT CLEM PATTON FROM THE PLANNING BOARD AND SELWYN CHALKER TO THE COMMITTEE.

4. Two informal bids had been received on a handrail to be constructed along US-64 between the Town Hall and Maple Street; the Mayor opened them and read them as follows:

- Randy's Welding.....\$19,638.00
- J & J Welding.....22,450.00

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE LOW BID SUBJECT TO REVIEW BY THE TOWN ENGINEER.

5. Comm. Ross said that his sub-committee had selected a prototype trash can for the downtown area and it was located outside the Town Hall, and the Mayor briefly recessed the Board meeting so that Board members could inspect it. The cost of the trash cans would be approximately \$350 each, according to the Town Administrator.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO PURCHASE 25 OF THE TRASH CANS FOR THE DOWNTOWN AREA.

6. Each Board member had received a letter from Elizabeth Lindsey dated July 15, which she had drafted after meeting with the Mayor, requesting that the Town contribute to the cost of resurfacing streets in Sherwood Forest and restoring commercial zoning to her property along US-64. It was reported that all of the roads shown on the plat for Sherwood Forest, which had been recorded in 1982, were labelled private. The Town Administrator said that Town policy was to consider accepting streets if they were brought up to Town standards, as had been done in the past with Carolina Way and a portion of Satulah Ridge Road. It was also reported that the Board had zoned the B-3 commercial property to R-1 residential on December 15, 1999.

Comm. James pointed out that Ms. Lindsey had had 19 years in which to develop the property and had not done so. Comm. Patterson remembered that the property had not been zoned to residential in 1990, as recommended in the Land Use Plan, in order to provide an opportunity for it to be developed. The Town Administrator added that the 1989 Land Use Plan had recommended eliminating all highway commercial zoning and concentrating commercial activity in the downtown area; several other highway commercial properties had been zoned to residential at the time. Comm. James also remembered that the sewer pump station referred to in the letter had been installed to serve Sherwood Forest and that the Town had contributed the additional cost to make it large enough to serve the Hospital; he

pointed out that the Town had incurred thousands of dollars in expenses in repairing the pump station.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED THAT A LETTER BE DRAFTED TO MS. LINDSEY EXPLAINING THAT THE PROPERTY HAD BEEN RE-ZONED TO RESIDENTIAL AFTER 19 YEARS BECAUSE HIGHWAY ZONING WAS CONTRARY TO THE LAND USE PLAN, AND TO EXPLAIN THAT MS. LINDSEY COULD PETITION THE TOWN TO ACCEPT THE STREETS IF THEY WERE BROUGHT UP TO CURRENT STANDARDS.

7. MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO DISCUSS PERSONNEL MATTERS AND EMPLOYMENT APPLICATIONS IN THE POLICE DEPARTMENT. All present left the room except the Clerk, the Police Chief, and the Captain of Field Operations.

The Police Chief reported that Willy Houston had decided to retire effective August 31, and that Tim Cook had resigned but requested being retained as a Police Auxiliary Officer. He also discussed Patrol Officers Gary Dalton, R. L. Forrester, and Cliff Ammons; reviewed an application for employment from Doug Farmer; and asked that Curtis Dowdle be approved as a Police Auxiliary Officer. He and Tony Carver also discussed the possibility of a School Resource Officer position at Highlands School from the Town Police Department.

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

8. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY DOUG FARMER AS A PATROL OFFICER AT A SALARY OF 11-8 (\$28,630), TO INCREASE CLIFF AMMONS SALARY FROM 11-7 TO 11-8, TO INCREASE R. L. FORRESTER'S SALARY FROM 11-8 TO 11-9 (\$29,346), TO EMPLOY CURTIS DOWDLE AS POLICE AUXILIARY OFFICER AT 9-1 (\$21,820), AND TO ACCEPT TIM COOK'S RESIGNATION AND EMPLOY HIM AS A POLICE AUXILIARY OFFICER AT 9-1.

9. MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR A TOWN POLICE DEPARTMENT SCHOOL RESOURCE OFFICER.

VIII. 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 9:40 p.m.

Richard Betz, Town Clerk