

REGULAR BOARD MEETING of October 5, 2005, with Mayor Buck Trott and Commissioners Amy Patterson, Hank Ross, H. N. James, Dennis DeWolf, and Alan Marsh present.

Also present were Richard Betz, Larry Gantenbein, Selwyn Chalker, Bill Harrell, Kim Lewicki, Jim LeWicki, Adam Thompson, Mario Gomes, George Mathis, John Cherry, Eddie Madden, Bob Wright, Steve & Beth Hamm, Rick Siegel, Larry Rogers, George Schmitt, Gary Schmitt, Bob Kieltyka, and others.

I. Call to Order.

The Mayor called the Regular Board 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 the Planning Board had continued its consideration of the Riverwalk Subdivision until a Special Meeting to be held on October 11 and then its Regular Meeting on October 24; the public hearing and three related items of New Business were therefore deferred until November 2.

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

III. Approval of Minutes.

Copies of the minutes of the September 21 Regular Board Meeting and the September 26 Special Board Meeting had been distributed by mail.

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

IV. Public Comment Period.

The Mayor stated that this was the time for public comments as required by law.

Bob Wright distributed copies of a newly-published UCWA report on the Mill Creek and Monger Creek Subwatersheds and Restoration and Enhancement Opportunities in the Upper Cullasaja Watershed.

V. Reports.

1. The Mayor reported that funds raised in the community for the American Cancer Society as a result of the Relay for Life event had earned an award for the fifth year in a row.

2. 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.

3. 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.

4. 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 had also distributed copies of a memorandum listing Land Use Plan priorities identified by the Planning Board at its meeting earlier in the day, which the Board agreed by consensus to consider at the October 19 meeting. He also reported that the Planning Board had recommended adoption of the two amendments of the Zoning Ordinance proposed at the September 21 meeting: Section 209A, the WS-II-BW Watershed Overlay District, and Section 709, amendment of the 12-month limit on petitions for re-zoning.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR 7:00 P.M. NOVEMBER 2 TO RECEIVE COMMENTS ON THE AMENDMENT OF SECTION 709.

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

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

6. The Town Administrator reported that the Chamber of Commerce had requested permission to close Main Street and Fourth Street from 5:30 to 7:30 on October 31 for Halloween.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST.

He also reported that Allan Bryson had informed him that the County Commissioners would be meeting in Highlands on November 7 at 6:00 p.m. at the Conference Center, and would be willing to meet with the Board before the meeting to discuss the Recreation Agreement. After some discussion, the Board agreed to meet at 4:30 p.m. at the Conference Center and cater a light meal.

#### 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. George Mathis was present and said that construction across Church Street had been delayed but was expected to be completed by the week of October 10, at which time a binder coat would be applied; they also expected to award a contract on the new building that week and would know more about the time frame for its construction, most of which would be staged from the area above the site on the Kelsey-Hutchinson property.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO PERMIT USE OF THE RIGHT-OF-WAY AS OUTLINED UNTIL THE OCTOBER 19 MEETING.

Bob Wright said that the Presbyterian Church had requested that Church Street be cleaned up for a funeral on Friday; OEI had complied and also agreed to shut down construction during the services, and he said the Church appreciated the cooperation.

2. The Town Administrator and Town Planner had drafted another proposed amendment of Section 110(B)(2), Non-Conforming Buildings, as requested at the previous meeting. Comm. Patterson said that she had discussed with Larry Gantenbein a "lesser tier" variance, and she felt that the Board should consider this procedure for non-conforming buildings. Mr. Gantenbein explained that this type of variance could be issued on the basis of "good cause shown" rather than "reasonable use of property," and it was often used for dimensional variances. An amendment of the Zoning Ordinance would be required to establish this second tier procedure. Rick Siegel was present and reiterated comments he had made at previous meetings; non-conforming buildings should be permitted to be re-constructed without issuance of any variance if they were destroyed. Comm. DeWolf agreed; he thought it was a fundamental right. He also felt that the provision that had been drafted would be acceptable if it was clear that some kind of documentation of both footprint and massing of the building would have to be provided in order to re-construct non-conforming buildings; he was also concerned about providing a time limit on completion of construction as well as beginning. After some discussion it was agreed that the Planning Board should review the proposed amendment.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO SEND THE AMENDMENT TO THE PLANNING BOARD FOR RECOMMENDATION.

3. As requested at the previous meeting, the Town Administrator had drafted an amendment of the Highlands Code requiring mandatory connection to new sewer mains.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, TO ADOPT THE AMENDMENT AS DRAFTED.

The Board again discussed this matter at some length. Comm. DeWolf said that he knew the Town needed to pay for new lines and the new Wastewater Treatment Plant, but he felt uncomfortable about mandatory connection and the possible financial hardship it might cause for some residents; he wondered if the Board could explore some way of sharing the cost or financing it. John Shearl and Bob Wright were present and both expressed a concern over financial hardship. After some additional discussion, Comms. James and Marsh agreed to withdraw the motion and second in order for Comm. DeWolf to explore financing options; the item was to be placed on the agenda of the October 19 meeting.

4. Two informal bids had been received and opened at noon on September 28 on Phase II of the Town Ball Park Improvements:

- John Shearl.....\$239,468.54
- Greg Thompson.....254,657.00

The Town Administrator reported that only \$132,000 had been budgeted.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO REJECT THE BIDS. Comm. Ross suggested that the Committee examine the specifications and work on ways to cut back on the project so that it could perhaps be re-bid.

John Shearl was present and felt that it was unfair to reject the bids. The Town Administrator returned his bid deposit.

#### VII. New Business.

1. It was reported that the Planning Board had approved the final subdivision plat for Brushy Face Subdivision and that all the improvements had been installed. It was also reported that the subdivider had worked out an agreement with area property owners to provide underground electric service provided they pay for the individual drops to their residences.

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

2. Comm. James had asked that the Board discuss the continuing leaks in the roof of the Civic Center porte-cochere, entry, and gymnasium. Comm. DeWolf said he had contacted another commercial roofing contractor who would be taking a look at it next week.

3. Eddie Madden was present representing the First Baptist Church. He explained that the church had been having a lot of discussions on its needs and limitations for the future, and although it wished to remain on Main Street and retain its green space and trees, its sanctuary was limited and at 80% capacity. Because it was zoned B-2, any addition to the sanctuary would require off-street parking under the Ordinance. He said the Church wanted to work with the Town and was asking for relief from the situation. The Town Administrator said that two options were open to the Board if it wished to give relief: amendment of the Ordinance to exempt churches on Main Street from the parking requirement, or re-zoning to B-1; the Town Planner said that the Land Use Plan called for review of B-1 zoning in the area at some point in the future, but Comm. James felt that amending the Ordinance would provide relief sooner.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED

TO DRAFT AN AMENDMENT TO THE ZONING ORDINANCE EXEMPTING CHURCHES ON MAIN STREET FROM THE PARKING REQUIREMENT AND TO SEND IT TO THE PLANNING BOARD FOR REVIEW.

4. It was reported that Gary Warren had resigned from the Advisory Committee for the Scholarship Endowment Fund.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPOINT SANDY COPPAGE TO THE COMMITTEE TO FILL GARY WARREN'S UNEXPIRED TERM.

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

Police Chief Bill Harrell reviewed an application for employment from John Cherry for Patrol Officer.

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

6. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY JOHN CHERRY AS A PATROL OFFICER AT A BEGINNING SALARY OF 11-1, TO BE INCREASED TO 11-2 UPON COMPLETION OF A 14-WEEK FIELD TRAINING PERIOD TO INCLUDE CERTIFICATION IN RADAR AND INTOXILYZER AND TO 11-3 UPON COMPLETION OF THE 12-MONTH PROBATIONARY PERIOD.

VIII. MOVED 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 9:00 p.m.

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Richard Betz, Town Clerk