

PUBLIC HEARING and REGULAR BOARD MEETING of December 7, 2005, with Mayor Buck Trott and Commissioners Amy Patterson, Hank Ross, H. N. James, Dennis DeWolf, and Alan Marsh present.

Also present were Mayor-elect Don Mullen, Richard Betz, Lamar Nix, Larry Gantenbein, Selwyn Chalker, Bill Harrell, Kim Lewicki, Adam Thompson, Clem Patton, Beth & Steve Hamm, Cathy MacIntyre-Ross, Betty Ross, Charles Simmerson, Jack Mayer, Jim Lewicki, Farrell Zehr, Shirley Johnson, Patsy Mullen, Rick Siegel, Paul Chmar, Hillrie Quin, Mario Gomes, George Mathis, Jodie Cook, Bobby Gibson, Dale Sticka, 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 on two items:

1. Petition for annexation from Gordon MacDonald and Frank Scudder for 4.84 acres contiguous to the corporate limits, a portion of Riverwalk Subdivision. There were no comments from the public and the Mayor adjourned the first hearing at 7:02 p.m.

2. Amendment of Section 302 of the Zoning Ordinance, Parking Schedule, to exempt churches located on Main Street from the parking requirement. There were no comments from the public and the Mayor adjourned the second hearing at 7:03 p.m.

B. Regular Board Meeting.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:03 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator said he had neglected to place awarding of bids for the electric system reconductoring project on the agenda under New Business; he also asked that two items of New Business-- discussion of the holiday schedule and a closed session for discussion of a Police Personnel matter--be deleted.

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

III. Approval of Minutes.

Copies of the minutes of the November 7 Special Board Meeting and the November 14 Regular 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.

Rick Siegel said that he felt the Board should consider a leash law for dogs in Town. Comm. Patterson reported that she chaired a Committee on the animal control problem in Macon County but that nuisance dogs were covered by a Town ordinance. The Town Administrator confirmed that complaints should be forwarded to the Police Chief on nuisance or dangerous animals. Police Chief Bill Harrell pointed out that there currently was no place to impound such animals; he also said that it was important to file a written complaint on incidents.

There were no further comments from the public.

V. Reports.

1. The Mayor thanked the Board, the Town staff, and all of the citizens for the cooperation they had provided over the years during his term as Mayor. He said that government had changed during the eight years of his term, largely as a result of 9/11. He felt that there was still a lot of work to be done and he was confident the Board would do it. He said that he would step aside but would not fade away, and he assured the Board that Don Mullen had already attended a training session and would do an excellent job as the new Mayor.

2. The Recreation Committee agreed to meet at 4:00 p.m. on December 14. The Public Works Committee agreed to meet at 8:30 a.m. on December 12.

Comm. Ross understood that Sally Taylor was willing to chair a Committee to review Christmas decorations in Town, to include representatives from the Chamber of Commerce and interested citizens; the Board had no objection.

3. The Town Administrator reported that the Town Attorney had been unable to attend the meeting due to a health emergency in his family. The Town had learned from the D.O.T. that the Bowery Road surfacing would not be completed until April, thus extending the time for the condemnation lawsuits.

4. Each Board member had received a copy of the Town Engineer/Public Service Administrator's report for the month; Lamar Nix was present to review the report.

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, which was made by Captain Todd Ensley. The report indicated increased training time for radar and alcohol training.

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 also distributed information on the Land for Tomorrow program, which had asked for support from communities across North Carolina. Hillrie Quin, Chair of the Greenways Committee, asked for the Board to support the program.

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 several items were on the agenda under New Business, and reported that the Planning Board was working on zoning in the ETJ and on three Zoning and Subdivision Ordinance amendments that had been part of the Land Use Plan.

8. Each Board member had received a copy of the Treasurer's Report for the month. The Treasurer reported that General Fund revenues were much lower than usual for this time of year due to expenditures in the Recreation and Police departments and lack of any revenue to date from Macon County for Recreation.

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

9. The Town Administrator reminded the Board of a dinner scheduled for departing Mayor Buck Trott scheduled for 6:00 p.m. on December 12. He also reported that the School of Government's Essentials of Municipal Government course would be offered February 8 - 10 in Asheville in conjunction with the North Carolina League of Municipalities Regional Meetings; all who wished to attend were asked to contact him. He also reported that the Clean Water Management Trust Fund grant for a Master Stormwater Plan, prepared by McGill & Associates, had been submitted; the Town should learn if it had been approved by Spring. He also reported that he expected the new

sound system for the meeting room to be in place by the first meeting in January.

He also submitted a proposed job description for an Administrative Assistant II position. He said that the Zoning Administrator had a very heavy work load now that ETJ had been implemented and the additional office position would largely assist him, freeing him up to be in the field more; the position would also help provide backup and segregation of duties in the accounting area. He asked for permission to advertize for the position.

MOVED BY COMM. JAMES, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADVERTIZE FOR THE ADMINISTRATIVE ASSISTANT II POSITION.

Comm. Marsh thanked Kim Lewicki for her article in Highlands' Newspaper explaining the County's high-impact use Ordinance.

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 reported that a contract had been awarded for the building on the south side of the street; work was scheduled to begin December 15 and be completed in six months. Work on the north side of the street was nearly complete, with only grouting and pouring of a sidewalk remaining. Hillrie Quin was present and said that, while OEI was to be commended for cooperating with the Presbyterian Church when it held functions, he thought the permit for use of the south side of the street should not be issued until the sidewalk had been poured. Comm. Ross felt that a temporary two-way street should be considered, and Comm. Patterson felt a one-way street in the opposite direction should be considered. Comm. James said he did not see the problem if work on the north side was nearly complete.

The Mayor asked the Public Works Committee to consider some of the options discussed. The Police Chief suggested increasing fines for parking violations on the street.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EXTEND THE PERMIT FOR USE OF THE SOUTH SIDE OF THE STREET UNTIL THE JANUARY 4 MEETING.

2. The Board discussed a proposal from Pierre Construction Group, distributed at the previous meeting, for replacement of the roof of the Highlands Civic Center, at a total cost of \$242,900. Comm. DeWolf said that the roof was 20 years old and has been in a state of decline for the past six years, and he was concerned over deterioration of the walls; he felt that the Board needed to consider temporary remediation immediately to address that problem, and he had asked a representative from PCG to meet at 10:30 on December 9 to discuss. Although the project was below the threshold for formal bids, Comm. James felt it might be a good idea to have specifications prepared and bid the project.

3. The Board discussed an architectural study for a new or expanded Town Hall, as discussed at the previous meeting. Comm. DeWolf felt that the Board should first come to some decision about placing such a building on the current Town Hall property, and should also consider all of the other buildings on that property as an entire package.

Comm. Ross agreed but felt that an architect should be retained to study the property and a timetable established. Comm. James felt that the Board should consider whether the existing building could be used; he thought an expansion of that building could be done for less than \$1 million. Comm. Patterson felt that a special work session should be held and defined questions answered. After some discussion, the Board agreed by consensus, as suggested by Comm. James, to continue the meeting and reconvene on December 14 at 7:00 p.m. to take up this matter.

4. Each Board member had received a copy of a Memorandum of Understanding between the Town and the County concerning Recreation

Funding. The Town Administrator explained that he had inserted the phrase suggested by the County Attorney, according to his notes and minutes of the special joint meeting of November 7 at which this matter had been discussed, indicating that the amount of funding this fiscal year would be \$500,000 and in future years would be "anticipated to be in the range of \$500,000."

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE MEMORANDUM OF UNDERSTANDING, AND TO FORWARD IT TO MACON COUNTY WHEN EXECUTED.

5. The Board discussed a petition for annexation from Gordon MacDonald and Frank Scudder for 4.84 acres contiguous to the corporate limits, a portion of Riverwalk Subdivision, subject of a public hearing immediately preceding the meeting. Comm. DeWolf expressed some concern over annexing a piece of property with lots that were less than one acre in area at a time when the Board was on the verge of considering zoning in the ETJ. Comm. Patterson said she did not typically vote for annexations, but in this case she supported it because of the additional control over the river due to the increased buffer.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADOPT AN ANNEXATION ORDINANCE PURSUANT TO THIS PETITION, EFFECTIVE JANUARY 1, 2006.

6. The Board considered a proposed amendment of Section 302 of the Zoning Ordinance, Parking Schedule, to exempt churches located on Main Street from the parking requirement.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING AMENDMENT OF THE ZONING ORDINANCE:

Add the following to Section 302, Parking Schedule, after Churches, spiritual institutions, one (1) space for each four (4) seats in the principal assembly room: "This parking requirement shall not apply to churches located on Main Street."
--

7. The Board discussed a proposed amendment of the Zoning Ordinance establishing a procedure for conditional use zoning, as agreed in its regular meeting of April 20, 2005. Copies of the amendment, together with an explanatory memo and an application form, had been distributed with the agenda package, and Town Planner Larry Gantenbein briefly described the procedure.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO SEND THE PROPOSED AMENDMENT TO THE PLANNING BOARD FOR REVIEW AND TO SET A PUBLIC HEARING FOR 7:00 P.M. ON JANUARY 4, 2006.

8. The Board had requested at the previous meeting that re-consideration of a petition for re-zoning of the Werder property be placed on the agenda. Comm. Marsh felt that the matter should be deferred until after the public hearing on conditional use zoning which had just been set; if the Board voted to re-consider zoning of the property now it would by-pass that procedure.

MOVED BY COMM. MARSH TO TABLE THIS MATTER UNTIL THE NEXT MEETING.

The Board discussed this issue at some length. Charles Simmerson was present and pointed out that the Board had already amended the Zoning Ordinance to require buffers, sidewalks, and prohibition of driveways for multi-family development; he said that no other uses were feasible if the property was zoned R-3. He had hoped that the Board could act on this tonight. Comm. Ross said he felt confident that Mr. Simmerson would implement the original plan and he did not see any reason to wait. Comm. Marsh felt that the plan could change; he did not want to give up control over the re-zoning. Mr. Simmerson pointed out that the Zoning Board and Appearance Commission would have to review the project even without conditional use zoning in place; he also agreed to withdraw the next item on the agenda, a subdivision plat for commercial use of the property, if the Board

re-considered the petition tonight. Larry Gantenbein said that the time frame for an application with the new conditional use zoning in place would be 60 to 90 days. After some additional discussion the motion was seconded by Comm. Patterson.

THE MAYOR CALLED THE QUESTION AND THE MOTION TO TABLE THE REQUEST UNTIL THE NEXT MEETING CARRIED; Comms. Marsh, Patterson, and James voted "aye," and Comms. Ross and DeWolf voted "nay."

Beth Hamm was present and said that she thought there was a 12-month limitation on re-zoning requests. She hoped the Board would consider re-zoning the property to R-1 Residential, and also hoped the Board would not feel pressured by the proposed commercial development.

9. The Board then considered the subdivision plat referred to in the foregoing item for the Werder property.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO TAKE THE PLAT UNDER ADVISEMENT UNTIL THE NEXT MEETING.

10. The Town Administrator explained that, at the November 19 meeting at which the Town had extended its Extraterritorial Jurisdiction, the Board had agreed to exclude Highlands Falls Country Club and Cullasaja Club from the ETJ. In amending the map to send to the County for recording, it had come to the attention of Staff that approximately 18 lots in the Wildcat Ridge Area, extending partially into Jackson County at the extreme eastern portion of the ETJ and not contiguous to the rest of the ETJ, had not been addressed; it had been assumed at the meeting that they were a portion of Cullasaja Club. Copies of a map showing the location of the lots were distributed.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO EXCLUDE THE 18 LOTS IDENTIFIED FROM THE ETJ.

11. The Town Planner had prepared the following resolution, pursuant to the Board extending its ETJ on November 19:

RESOLUTION REQUESTING THE BOARD OF COUNTY COMMISSIONERS
OF MACON COUNTY
TO APPOINT EXTRATERRITORIAL MEMBERS
TO THE TOWN OF HIGHLANDS PLANNING BOARD

WHEREAS, Chapter 2, Article IV, Section 2-67 of the CODE OF HIGHLANDS ESTABLISHING A PLANNING BOARD FOR THE TOWN OF HIGHLANDS AND PROVIDING FOR THE GOVERNANCE THEREOF, as amended on December 7, 2005, specifies that two regular members of the Highlands Planning Board shall reside within the Macon County portion of the extraterritorial jurisdiction of the Town of Highlands; and

WHEREAS, the ordinance specifies that the Macon County Board of Commissioners shall make these appointments; and

WHEREAS, the members shall serve from the date of appointment by the Macon County Board of Commissioners with initial terms expiring on June 30, 2006;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Town of Highlands respectfully requests the Board of Commissioners of Macon County to appoint two regular members to the Planning Board for the Town of Highlands for a term from the date of appointment, with initial terms expiring on June 30, 2006, in accordance with the public notice and hearing requirements of G. S. §160A-362.

12. Each Board member had received a copy of a proposed amendment of the Highlands Code providing for representation on the Planning

Board pursuant to the foregoing resolution, as follows:

Add the following to Section 2-67:

"(c) Areas regulated by extraterritorial jurisdiction shall have proportional representation on the planning board based on population of the regulated area in accordance with G. S. §160A-362."

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING AMENDMENT OF THE HIGHLANDS CODE.

13. Each Board member had received a copy of a proposed amendment of the Highlands Code providing for representation on the Zoning Board, as follows:

Add the following to Section 601.1(B) after the first sentence:

"Areas regulated by extraterritorial jurisdiction shall have proportional representation on the Zoning Board based on the population of the regulated area in accordance with G. S. §160A-360."

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR JANUARY 4, 2006, FOR THE PURPOSE OF RECEIVING COMMENTS ON THE AMENDMENT, AND TO SEND IT TO THE PLANNING BOARD FOR REVIEW.

14. Each Board member had received a copy of a proposed letter of intent to the U. S. Army Corps of Engineers, requesting that the Corps undertake a study of aquatic ecosystem restoration in Highlands lakes. As reported previously, the Town's application to the USDA for a \$500,000 grant for removal of silt from the Big Creek Arm of Lake Sequoyah had been denied; the Mayor said that Kilpatrick Stockton LLP, the lobbying firm working on the project, had indicated that the Corps might have funding for such a project, which the Town had been working on since 1991. Although the letter indicated that "non-federal interests" provide 35% of the funding, he understood that State funds could be available toward that match, and the letter also stated that it was "not a contractual obligation and either party may discontinue the study process at any stage prior to construction." Shirley Johnson was present and confirmed that there was no financial obligation on the part of the Town.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO SEND THE LETTER OF INTENT TO THE CORPS OF ENGINEERS.

VII. New Business.

1. Mayor Buck Trott thanked everyone again for the honor of serving as Mayor, and Mayor-elect Don Mullen took his place at the conference table. The Clerk then administered the oath of office to Mayor-elect Mullen, Comm. Patterson, and Comm. Ross.

Mayor Mullen said that he was honored that the people of Highlands had placed their trust in him, and he said he would do whatever he could to make them proud. He commended the outgoing Mayor and said he was looking forward to working with him and former Mayor John Cleaveland; he said he was a neophyte but a fast learner. He reported that he had already met with Mayor Trott, Town staff, and many employees, and he was impressed by the leadership and sincerity of the people who worked for the Town. He had already attended a training session and was proud of the way municipalities were cared for by the Institute of Government and the N. C. League of Municipalities, and he said North Carolina was a leader in this area.

He said that there were some problems and there was always a tension between individual rights and the community, but he felt it was the Board's job to balance and compromise; when rhetoric became vitriolic, cooler heads should prevail. He said he hoped that he

could create an atmosphere of trust and reconciliation, and thanked those present for allowing him to serve. He added that his door would always be open.

2. Mayor Mullen recommended that Comm. Patterson be re-appointed Mayor Pro Tem.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPOINT COMM. PATTERSON MAYOR PRO TEM.

The Mayor recommended that Comms. James and Patterson be re-appointed to the Finance Committee.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO RE-APPOINT COMMS. JAMES AND PATTERSON.

The Mayor recommended that Comms. James, Ross, and Marsh be re-appointed to the Public Works Committee.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO RE-APPOINT COMMS. JAMES, ROSS, AND MARSH.

The Mayor recommended that Comms. Patterson and DeWolf be re-appointed to the Recreation Committee.

MOVED BY COMM. MARSH, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO RE-APPOINT COMMS. MARSH AND JAMES.

4. MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE RE-ELECTION BY THE FIRE DEPARTMENT OF JAMES MANLEY AS FIRE CHIEF,

5. MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO RE-APPOINT BOB HOUSTON AS ONE OF THE TOWN'S FIREMEN'S RELIEF FUND TRUSTEES FOR A TWO YEAR TERM.

6. A proposal for renewal of the contract with Tate Landscaping Services for the calendar year January 1 through December 31, 2006, had been submitted; the contract indicated an increase from \$8400 to \$9600 due to inclusion of the bank along Oak Street in front of the ABC Store.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO RENEW THE CONTRACT.

7. The Town Administrator reported that the contract with J & J Lawn Service for mowing at the cemetery was due to expire December 31. A proposal had been received for renewing the contract, but the weekly cost would increase from \$510 to \$570 and the hourly rate from \$18 to \$19. The Town Administrator said that there had been no cost increase for a number of years, and Cemetery Superintendent Lamar Nix confirmed that the company was doing a good job.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO RENEW THE CONTRACT.

8. The Board reviewed a preliminary subdivision plat for Gates of Highlands, property which had been annexed into the Town on July 6, 2005, along NC-106. The Planning Board had reviewed the plat and recommended approval contingent on undisturbed buffers along the highway, employment of a landscape architect to review removal of trees, underground utilities, and that it not be gated. Jodie Cook from Lofquist Associates, the engineer who had prepared the plans, said that utilities would be underground and an architect employed, but the developer wanted to gate the subdivision for security since it was located on the outskirts of Highlands and most of the residents would not be full-time. Bobby Gibson, one of the owners, was present and reiterated the need for security. He also confirmed that a natural buffer would be provided but he did not want it to be "undisturbed." All of the lots would be minimum one acre in the watershed district and 33,000 SF otherwise, for a total

of 16 lots, and the Town Engineer had reviewed the plat. As part of the improvements to be installed, the subdividers were also installing water and sewer lines at their expense in NC-106 to serve the subdivision. Comm. Marsh said that he did not like the idea of a gated community; he wondered who would hold the key. Comm. DeWolf said he also disagreed with a gated community. Comm. Ross said he felt there was nothing that could be done without changing the law. Dale Sticka was present and asked if trees would be removed as they had been at Tug Wa Ridge across the highway; he was told that a landscape architect would approve removal of only those trees that were necessary.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND CARRIED TO APPROVE THE PRELIMINARY PLAT FOR GATES OF HIGHLANDS SUBDIVISION. The motion carried, with Comms. Ross, Patterson, and James voting "aye" and Comms. Marsh and DeWolf voting "nay."

9. The Town Administrator recommended the following Christmas bonuses for full- and part-time employees, the same as last year:

Less than one year of service.....	\$150.00
Between one year and ten years of service.....	\$200.00
Between ten years and twenty years of service....	\$250.00
More than twenty years of service.....	\$300.00
Part-time employees.....	Hams

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE BONUSES. The Town Administrator thanked the Board on behalf of all employees.

10. The Town Administrator reported that two informal bids had been opened at 12:00 noon that same day for the Mirror Lake portion of the reconductoring project, as follows:

Haynes Electric Utilities Corporation.....	\$78,460
Dillard Smith Construction Company.....	148,500

The Town Engineer said he had reviewed the bids, and explained that the project would eliminate the copper wire in the area which had become old and brittle; sixteen poles and 71 spans of wire would be changed. The Treasurer said that \$264,000 had been budgeted in FY 05-06 for both parts of the project.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO AWARD THE BID TO HAYNES ELECTRIC UTILITIES CORPORATION AND TO REQUEST BIDS ON THE NC-28 PORTION OF THE PROJECT.

VIII. The Board agreed by consensus that the meeting be continued, as stated earlier in the meeting, and reconvened on December 14 at 7:00 p.m.

Richard Betz, Town Clerk