

PUBLIC HEARING and REGULAR BOARD MEETING of January 4, 2006, with Mayor Don Mullen and Commissioners H. N. James, Dennis DeWolf, Alan Marsh, Amy Patterson, and Hank Ross present.

Also present were Richard Betz, Bill Coward, Lamar Nix, Selwyn Chalker, Bill Harrell, Thomas Parker, Kim Lewicki, Jim Lewicki, Adam Thompson, Clem Patton, Steve Hamm, Charles Simmerson, Rick Siegel, Helene Siegel, Mario Gomes, George Mathis, Bronce Pesterfield, Bill Rethorst, Ginger Slaughter, Harold Neely, Roy Potts, Clem Patton, Bob Kieltyka, Katy Calloway, 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. Amendment of Section 709 of the Zoning Ordinance to provide a procedure for conditional use zoning. There were no comments from the public.
2. Amendment of Section 601(B), adding the following 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." There were no comments from the public.

The Mayor adjourned the hearings 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 reported that an item of New Business, bids on the reconductoring project for NC-28, could be deleted.

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

III. Approval of Minutes.

Copies of the minutes of the December 7 Regular Board Meeting and the December 14 Adjourned Session Board Meeting had been distributed by mail. The Clerk noted that Item No. 13 of Old Business should have read "Zoning Ordinance," not "Highlands Code." Comm. Patterson noted that her comment referring to one-way traffic on Church Street should be deleted in Item No. 1 of Old Business.

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

IV. Public Comment Period.

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

Steve Hamm suggested that the agenda of the Zoning Board be posted on the Town website like that of the Town Board.

There were no further comments from the public.

V. Reports.

1. The Mayor thanked Town Staff for helping him in his orientation as new Mayor and bringing him up to speed on the issues of the Town.
2. Copies of the Public Works Committee meeting of December 12 had been distributed with the agenda package; several items discussed at the meeting had been placed on the agenda.
3. Town Attorney Bill Coward was present but had no report.
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. He added that the Wastewater Treatment Plant project was on schedule.
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.
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.
7. Larry Gantenbein was out of Town, but each Board member had received a copy of the Town Planner/ Zoning Administrator's report for the month.
8. Each Board member had received a copy of the Treasurer's Report for the month. The Treasurer reported that the revenue from Macon County for Recreation had still not been received and thus General Fund revenues were much lower than usual for this time of year.

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

9. The Town Administrator reported that the PARTF grant was nearly complete and copies would be provided at the next Board meeting. He also said that the remodelling of the Town Office should be completed in two weeks, and he noted that the new sound system has been installed and was in use.

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. Mario Gomes was present and said that the sidewalk on the north side of the street had been formed but weather had prevented it from being poured; he expected it to be poured by the end of the week except for two areas where access was required, shown on copies of a drawing he submitted, and it was proposed that pedestrian bridges would be constructed in those areas at the end of each day. Bob Wright was present and noted that the street had been closed much of the time over the past two weeks. Mr. Gomes said that in future it would be left open except when materials were being unloaded.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EXTEND THE PERMIT UNTIL THE NEXT MEETING.

2. The Board discussed at length a proposed amendment dated October 5 of Section 110(B)(2) of the Zoning Ordinance regulating non-conforming buildings. It was reported that the Planning Board had recommended for the third time to not adopt the amendment, but to leave the current section in place.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, TO LEAVE THE CURRENT ORDINANCE IN PLACE.

Clem Patton was present and said that the Planning Board had felt the October 5 draft was not an improvement. Comms. DeWolf and Patterson felt that the current section was ambiguous. Rick Siegel was present and said that it was important to those who owned non-conforming buildings to be able to re-build them if they were destroyed by fire. Clem Patton said that if the Board would like the Planning Board to look at other Ordinances and work on the provision some more it would be glad to do so. After some additional discussion Comm. Ross withdrew his motion.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO TABLE THIS MATTER.

3. Comm. DeWolf presented a breakdown of the \$242,900 cost estimate from Pierre Construction Group for replacement of the roof of the Highlands Civic Center, as discussed at the previous meeting. Phase I was estimated to cost \$96,400 and would include repairs of the Tectum decking; Phase II was estimated to cost \$146,500. Comm. DeWolf recommended proceeding with Phase I; he thought work could begin in two weeks and completed three weeks after that.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO PROCEED WITH PHASE I.

The Town Treasurer explained that, although General Fund cash reserves were low, the \$100,000 Certificate of Deposit in the Recreation Department for capital expenses for this building could be used to fund Phase I if the Board desired. Comm. James said that he had voted in favor of the motion because something needed to be done, but he felt that the project should have been approached differently; he thought an architect should have been retained to develop specifications and the project should have been bid.

VII. New Business.

1. The Board considered the proposed amendment of Section 601(B) of the Zoning Ordinance, subject of the public hearing immediate preceding this meeting, as follows:

Add the following 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."

The Board also considered the following related resolution, requesting that the Macon County Board of Commissioners appoint the foregoing member to the Zoning Board:

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

WHEREAS, Article 600, Section 601(B) of THE ZONING ORDINANCE OF THE TOWN OF HIGHLANDS ESTABLISHING A ZONING BOARD OF ADJUSTMENT FOR THE TOWN OF HIGHLANDS AND PROVIDING FOR THE GOVERNANCE THEREOF, as amended on January 4, 2006, requires that two regular members of the Highlands Zoning Board of Adjustment 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 Zoning Board of Adjustment 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.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADOPT BOTH THE FOREGOING AMENDMENT OF THE ZONING ORDINANCE, EFFECTIVE IMMEDIATELY, AND THE FOREGOING RESOLUTION, AND TO FORWARD THE LATTER TO THE MACON COUNTY BOARD OF COMMISSIONERS. The Town Administrator reported that he understood the County had already set a public hearing for ETJ appointments to the Planning and Zoning Board.

2. The Board considered the amendment of Section 709 of the Zoning Ordinance to provide a procedure for conditional use zoning. Comm. James said he felt the Board should have had a work session with the Town Planner present to discuss the proposal in more detail. Comm. Patterson questioned the discrepancy between Section 709(II)(E)(3) and (F); the first set a period of two years for establishment of a vested right, and the second authorized the Planning Board to examine progress made toward developing property "no sooner than three (3) years after the date of approval of the petition." The Town Administrator said he had talked to Larry Gantenbein earlier in the day and he understood that the two-year vested right period was required by Statute, while the three-year period was intended to represent the two-year period plus the two six-month maximum periods of time for a Zoning Certificate and a Building Permit to expire. After some discussion, it was agreed that the first part of the sentence in 709(II)(E)(F) should be deleted, eliminating the three-year time period.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND CARRIED TO ADOPT THE CONDITIONAL USE AMENDMENT OF THE ZONING ORDINANCE EFFECTIVE IMMEDIATELY, WITH THE CHANGE RECOMMENDED BY COMM. PATTERSON. Comms. Patterson, DeWolf, Marsh, and Ross voted "aye" and Comm. James voted "nay."

* * *

Add the following bold type language.

Section 709. Amendments.

I. Provisions of General Applicability

(A) This Ordinance, including the Zoning Map, may be amended from time to time by the Board of Commissioners, but no amendment shall become effective unless the Board of Commissioners first submits the proposed amendment(s) to the Planning Board for recommendation and comment. The Planning Board shall have thirty (30) days after any submission within which to provide a recommendation to the Board of Commissioners that addresses consistency with the current Land Use Plan and other matters deemed appropriate by the Planning Board, but a comment that a proposed amendment may not be consistent with the Land Use Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board. If the Planning Board fails to submit a report within the thirty (30) day period, it shall be deemed to have recommended adoption of the requested amendment. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with the Land Use Plan and explaining why the Board considers the action taken to be reasonable and in the public interest.

(B) Any communication purporting to be a petition for a zoning amendment shall be regarded as mere notice to seek relief until it is made by formal application. Upon receipt of such communication, the interested party shall be supplied with the application form for presenting a formal petition. In no instance shall action be initiated by the property owner for a zoning amendment affecting the same parcel of property, or any part thereof, more often than once every twelve (12) months, except as permitted by Subsection 709(II)(B) of this Section.

(C) Before enacting an amendment to this Ordinance, the Board of Commissioners shall hold a public hearing thereon. Notice of the public hearing shall be given once a week for two (2) successive calendar weeks by publication in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten (10) days nor more than twenty five (25) days before the date fixed for the hearing.

(D) All amendments to this Ordinance relating to Water Supply Watershed Protection must be filed with the N. C. Division of Environmental Management, N. C. Division of Environmental Health, and the N. C. Division of Community Assistance. Under no circumstances shall the Board of Commissioners adopt any amendments, supplements, or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N. C. Environmental Management Commission.

II. Conditional Zoning Districts

(A) Purpose.

(1) There are land uses of such nature that rezoning a property to a general use district designation that permits such a use(s) by right may not be appropriate for a particular property. The review process established by this section provides for the accommodation of such uses by permitting reclassification of a property into a "parallel" conditional zoning district in which site plans and individualized development conditions are imposed to ensure compatibility of the proposed use with the use and enjoyment of neighboring properties.

(2) A parallel conditional zoning district is a zoning district in which the permitted uses are of the same character or type, except as modified by the legislative decision creating the parallel district, as the uses permitted in the corresponding general use district having the same designation or name. Thus, a parallel conditional zoning district shall be identified by the same designation as the underlying general use district followed by the letters "CD", example: "R 3(CD)". Following adoption of a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate conditional district designation.

(B) Approval of conditional zoning districts.

Conditional zoning district decisions are legislative decisions subject to judicial review using the same procedures and standard of review as apply to general use zoning district decisions. When considering a petition for a conditional zoning district, the Board of Commissioners shall act in accordance with this Section. Notwithstanding the twelve (12) month prohibition in Subsection 709(I)(B) above, petitioner(s) may seek rezoning to a conditional zoning district or changes to an adopted conditional district until such time as the Board of Commissioners either denies or adopts the project as a conditionally zoned district.

(C) Petition submission requirements.

(1) Property may be rezoned to a conditional zoning district only in response to a petition executed and submitted by all the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided on the site plan, if applicable:

(a) A boundary survey and vicinity map showing the property's total acreage, its zoning and watershed classification(s), the zoning setback lines, its general location in relation to major streets, the date, and north arrow;

(b) The location of stands of old growth trees, streams, marshes, wetlands, bogs, rivers, impoundments, large rock outcroppings or other significant geological features on the subject property;

(c) All existing easements, reservations, and rights of way;

(d) Areas in which structures will be located;

(e) Proposed use of all land and structures, including the number of residential units, the number of commercial buildings and the total square footage of any nonresidential development;

(f) All yards, buffers, screening, and landscaping required by these regulations or proposed by the petitioner(s);

(g) All existing and proposed points of access to public streets;

(h) The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development;

(i) Generalized traffic, parking, and circulation plans;

(j) Proposed phasing, if any; and,

(k) Project start and completion dates.

(2) The Town Planner has the authority to waive any application requirement where the type of use or scale of the proposal makes providing that information unnecessary or impractical.

(3) In addition to the foregoing petition requirements, the petitioner(s) shall submit a written statement with the petition analyzing the reasonableness of the proposed rezoning to a conditional zoning district. This statement shall address the compatibility of the proposed rezoning with the Land Use Plan, the proposed site and the surrounding area.

(4) In the course of evaluating the proposed use, the Town Planner, the Planning Board, or the Town Board of Commissioners may request additional information from the petitioner.

(5) The site plan and any supporting text shall constitute part of the petition for all purposes under this Section.

(6) The Town Planner may require the petitioner to submit more than one copy of the petition and site plan for circulation to government agencies for review and comment.

(D) Approval of petition.

When reviewing a petition for the reclassification of property to a conditional zoning district, proposed specific conditions to be applied to the proposed district may be submitted by the petitioner(s), the Town or its agencies, or any affected person, but only those conditions mutually approved by the Board of Commissioners and the petitioner(s) may be incorporated into this Ordinance and Zoning Map. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right of way improvements, water and sewer improvements, storm water drainage, erosion control, watershed protection, density, setbacks, structure height, the provision for open space, and other matters that the Board of Commissioners may find appropriate or the petitioner(s) may propose. The

petitioner(s) shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners.

(E) Effect of approval.

(1) If property is rezoned to a conditional zoning district, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category and use, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning ordinance for the approved district and are binding on the property as an amendment to the Town Zoning Ordinance and Zoning Map.

(2) If property is rezoned to a conditional district, the petitioner shall comply with all requirements established in Section 500 for obtaining the applicable Special Use Permit and Section 702 for obtaining a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized in accordance with Section 709(II)(F), as an administrative change to an approved conditional zoning district.

(3) An approved conditional zoning district establishes vested rights pursuant to N.C.G.S. Section 160A 385.1 for the period of two years from the date of approval by the Board of Commissioners, except that such vested rights may be altered as allowed by N.C.G.S. Section 160A 385.1(e). Vested rights shall remain effective beyond the end of the period of time established pursuant to this Section for any buildings or uses for which a valid building permit has been issued during the vested rights period, so long as such building permit is valid.

(F) Amendments to approved conditional district.

(1) Except as provided in subsection two (2) below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to the Town Zoning Ordinance or Zoning Map and shall be processed in accordance with the procedures in this Section.

(2) The Planning Board shall have delegated authority from the Board of Commissioners to approve an administrative change to an approved site plan. However, the Planning Board shall have the discretion to decline to exercise the delegated authority either because of uncertainty regarding the change pursuant to the applicable standard(s) or because a formal rezoning petition before the Board of Commissioners is deemed appropriate under the circumstances. If the Planning Board declines to hear the proposed amendment, the applicant may file a formal rezoning petition with the Board of Commissioners.

(3) The request for an administrative amendment with the applicable fee shall be submitted in writing by the petitioner(s) to the Town Planner detailing the requested change(s). The petitioner(s) must timely provide requested additional information. An administrative change shall not be subject to a protest petition but adjacent property owners must be notified of the pending amendment and the hearing date, time and place via first class mail at least fifteen (15) days prior to the hearing.

(4) The standard for approving or denying an administrative change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact on abutting properties. Any change that increases the intensity of the development is limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 dwelling units, whichever is less. All decisions must be in writing stating the grounds for approval or denial. Upon approval of an administrative change by the Planning Board, the petitioner(s) must file a sufficient number of copies of a revised site plan with the changed conditions attached as deemed necessary by the Town Planner. Planning Board approval of an administrative change becomes final thirty (30) days after the decision.

(5) If the Planning Board approves the proposed change(s), adjacent property owners may appeal the decision to the Board of Commissioners. Appeals shall be addressed to the Board of Commissioners and must be filed in writing

with the Town Planner's office within fifteen (15) days of the Planning Board decision. The appeal shall be heard by the Board of Commissioners at a regularly scheduled and published Town Board meeting within thirty (30) days of receipt of the appeal.

(F) Review of adopted conditional zoning districts.

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. The Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, it may recommend in writing to the Board of Commissioners that the property be classified to another district.

* * *

3. The Board then considered re-zoning of the Werder Property. Charles Simmerson was present with the plans previously submitted for this property. The Town Attorney explained that this matter could be re-considered under Roberts Rules if a member who had voted "nay" made a motion to re-consider. However, the Board had adopted an amendment of the Ordinance deleting the words "by the petitioner" for the re-zoning procedure on November 2, and thus any Board member could simply re-visit the petition for re-zoning at this time on the Board's own initiative.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, TO RE-ZONE THE PROPERTY TO R-3 MULTI-FAMILY. Comm. Ross said that he thought the original design was a great one and was an asset to the community. He asked Charles Simmerson to briefly review the plan again, and Mr. Simmerson did so, pointing out the elements of the original plan that had since been incorporated into the Zoning Ordinance last July--a 40-foot vegetative buffer along the highway, sidewalks, and no driveway entrances on the highway. Comm. Ross said that he believed the plan was consistent with the Land Use Plan and was reasonable and in the public interest. Comm. DeWolf commented that it was a better plan than the alternate plan to develop the B-4 portion of the property commercially, and Comm. Ross agreed. Comm. Patterson said that she had consistently voted against this project because she was opposed to an increase in residential density in Town.

THE MAYOR CALLED THE QUESTION AND THE MOTION DID NOT CARRY. Comms. Ross and DeWolf voted "aye;" Comms. Patterson, Marsh, and James voted "nay."

4. The Board then considered the preliminary subdivision plat for Villages Shoppes, the plan referred to in the foregoing item which proposed commercial development of the B-4 portion of the Werder property along the highway and no change in zoning. Access to the individual commercial lots would be from individual driveways to US-64, according to Charles Simmerson, upon issuance of DOT driveway permits, and all of the vegetation would be removed along the highway. The Planning Board had agreed that the plat met all the requirements of the Subdivision Ordinance; however, it had continued to recommend approval of the R-3 proposal. Kim Lewicki was present and asked Mr. Simmerson if submission of this plat meant he would not proceed with submitting an application for conditional zoning, using the procedure adopted earlier in the meeting. Mr. Simmerson said that he had waited for 11 months, and although he believed the multi-family proposal would be better for him and for the Town, he would have no recourse other than to proceed with this plat, relying on the current zoning. The Mayor called for a motion and there was none. The meeting was then briefly adjourned while a copy of the Subdivision Ordinance was consulted, was re-convened, and the Town Attorney said that Section 303.3(B) required the Board to take action on the plat, either approving it, approving it conditionally, or disapproving it.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, TO APPROVE THE PLAT, CONTINGENT ON ALL OF THE DRIVEWAYS ACCESSING THE COMMERCIAL BUILDINGS FROM THE REAR OF THE PROPERTY BY MEANS OF A ROAD EXITING ONTO CHESTNUT AND HICKORY STREET, THE PLAT TO BE AMENDED ACCORDINGLY. The motion did not carry; Comms. James voted "aye" and Comms. Patterson, Marsh, DeWolf, and Ross voted "nay."

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO DISAPPROVE THE PLAT. Comm. Ross stated that the reason for the disapproval was that the plat was not consistent with the Land Use Plan. Clem Patton said that the Planning Board had also expressed concern over the safety of the individual driveways entering US-64, and Comm. Ross added that concern to his reason for disapproval.

The Town Administrator said that he had consulted with the Town Planner earlier in the week, and the earliest that a conditional zoning application and Special Use Permit could be approved would be March 8, provided Mr. Simmerson applied immediately and there were no other delays.

5. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO AUTHORIZE ADVERTIZING FOR BIDS FOR A TRUCK IN THE ELECTRIC DEPARTMENT, A DUMP TRUCK IN THE STREET DEPARTMENT, AND A PUMPER IN THE FIRE DEPARTMENT. All of these capital items had been included in the FY 05-06 budget.

6. The Town Administrator had understood from the last Public Works Committee meeting that Comm. James had wanted to discuss a six-foot wide pedestrian walkway which he understood was required along Second Street at the corner of Spring Street, where a decorative pond had been constructed as part of the Warth Construction Company's revocable license agreement for the area; rockwork in front of the building had already been removed. Comm. Patterson suggesting deferring this item until the next meeting so that Board members could look at the site.

7. Also discussed at the last Public Works Committee meeting had been a proposal for placing two gravel parking spaces, boulders, and rhododendron and other evergreen shrubs at the trailhead to the Kelsey Trail at the end of the pavement on North Fifth Street to naturalize the area following construction of the Poplar Street Sewer Line project. Comm. Ross said he had spoken to James Tate and estimate the cost at \$5,000 to \$10,000. He also suggested donating the piece of property north of Poplar Street, approximately 150 feet in length, to the Highlands Land Trust. The Town Attorney said that in order to close a portion of a street, a resolution needed to be adopted, a public hearing held, and notice by mail and posting provided; title to the land would devolve to adjoining property owners, so a plat would need to be prepared signed by the property owners and showing the easement for the trail.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ATTORNEY TO PREPARE FOR THE FEBRUARY 1 MEETING A RESOLUTION DECLARING THE TOWN'S INTENT TO CLOSE A PORTION OF THE STREET.

Comm. Ross suggested that the Board proceed with the landscaping in the meantime. The Town Engineer said final rock excavation figures had not yet been prepared but he anticipated that funds would be left over from the Poplar Street Sewer Line project. Comm. James said he would like to look at the area first and see the final cost on the Sewer Line project. The Town Attorney recommended that a new plat be prepared, and the Board agreed by consensus to proceed with preparation of the plat.

8. Each Board member had received copies of a proposed amendment of the Ordinance Regulating Use of Town Streets and Sidewalks for Construction Activities, and a related amendment of the Downtown Business District Parking Ordinance, prepared by the Town Administrator pursuant to discussion at the previous meeting. Each Board member had also received a communication from Bob Wright, Clerk of Session of First Presbyterian Church, who was present and addressed his concerns. He said that the current Ordinance did not work and the proposed amendment would not be an improvement. He felt that a new approach was needed, and he proposed instead removing the two-hour parking restriction on Church Street and enacting a new Ordinance which would prohibit parking for construction vehicles, evidenced by a sign on the vehicles, on all public streets in B-1, B-2 and B-3. The Board discussed the proposal at some length. Comm. James felt it was unreasonable to prohibit all such parking and asked where workers would park if the needed to work in the B-1 district; the Town Administrator pointed out that there was no public parking except that in B-1, B-2, and B-3. The Police Chief thought the Town Attorney should carefully review any Ordinance adopted. Bob Kieltyka pointed out that the Ordinance the Town had drafted would extend two-year parking year-round to an entire quadrant of the business district. Comm. Patterson expressed a concern over discriminating against an entire class of workers just because there was a sign on their vehicles.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO TAKE THIS ITEM UNDER ADVISEMENT.

The Mayor suggested appointing a Committee consisting of Comm. Marsh, the Police Chief, and the Town Attorney to review the two proposals in the meantime, but after some discussion it was agreed that the matter would be referred to the Public Works Committee. Later in the meeting, Comm. Ross asked that the Committee meet at 8:30 a.m. on Tuesday, January 10.

9. Comm. James had asked that the Board discuss residential density in the B-3 district. He said that he had seen two conceptual subdivision plats presented by Old Edwards Inn for the Nick's Restaurant and Old Creek Lodge properties, and he questioned whether the plans complied with the watershed regulations. By consensus, the Town Attorney was asked to review this matter.

10. Each Board member had received a copy of a letter dated January 2 to the Mayor from David Hourdequin, Chairman of an organization called Citizens against ETJ. The letter asked the Board to consider either repealing the enactment of ETJ or to table its implementation and the commercial construction moratorium. Comm. Ross said he felt the Board should have a process and a schedule for implementing ETJ before the next meeting. The Mayor appointed him and Comm. Patterson to serve on an ad hoc Committee for that purpose, and the Board agreed by consensus; the Mayor asked the Committee to keep Mr. Hourdequin involved.

11. Police Chief Bill Harrell said that he had prepared a grant to acquire a 4X4 All-Terrain Vehicle; the \$15,000 ATV would be used for parking enforcement and during inclement weather, and there would be no cost to the Town if approved.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE SUBMISSION OF THE GRANT.

He also requested permission to apply for a 75/25 grant for equipment, including investigative tools for crime scenes and other items; the total match required from the Town could be as much as \$10,000 but would not have to be budgeted until FY 06-07.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE SUBMISSION OF THE GRANT.

The Chief also said that he might be able to acquire surplus military equipment.

12. 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 FOR ADMINISTRATIVE ASSISTANT AND FOR PATROL OFFICER, AND TO DISCUSS A POLICE PERSONNEL MATTER. All present left the room except the Clerk and the Police Chief.

A. The Town Administrative recommended employing Sonjia Stewart as Administrative Assistant in the Town Office at a beginning salary of 12-1 to assist the Zoning Administrator and to help provide backup of duties in the accounting area; he said Larry Gantenbein concurred with the recommendation.

B. Police Chief Bill Harrell discussed with the Board a proposal to send Parking Enforcement Officer Chris Allen for Law Enforcement training in Asheville, and to pay the cost of such training while continuing to pay salary and benefits in the meantime; when certified, he would be employed at Salary Grade 11. Educational leave involving a leave of absence was required to be approved by the Board on a case-by-case basis pursuant to the Personnel Manual.

C. The Police Chief also reported that Kelly Dendy had submitted his resignation, and he recommended employing Police Auxiliary Officer Thomas Parker as Patrol Officer at a salary of 11-7. The Town Administrator said that he concurred with the recommendation of Mr. Parker but was concerned over the departure from normal policy of starting new employees at Step 1.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. The door was opened to the public.

13. MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO EMPLOY SONJIA STEWART AS ADMINISTRATIVE ASSISTANT IN THE TOWN OFFICE AT A SALARY OF 12-1 (\$25,305).

14. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY THOMAS PARKER AS PATROL OFFICER AT A SALARY OF 11-7 (\$27,932).

15. MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SEND PARKING ENFORCEMENT OFFICER CHRIS ALLEN FOR LAW ENFORCEMENT TRAINING, TO PAY THE COST OF SUCH TRAINING, AND TO PAY SALARY AND BENEFITS IN THE MEANTIME. When certified, he is to be employed as a Patrol Officer at Salary Grade 11.

VIII. The Board agreed by consensus to adjourn.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 10:00 p.m.

Richard Betz, Town Clerk