

REGULAR BOARD MEETING of August 2, 2006, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, H. N. James, and Hank Ross present. Comm. DeWolf was out of Town.

Also present were Richard Betz, Bill Coward, Selwyn Chalker, Bill Harrell, Larry Gantenbein, Kim Lewicki, Bill & June Hogue, Ginger Slaughter, Buck Trott, Zeke Sossomon, Joanna Baumrucker, Bucky Meredith, Paul Chmar, Bill Kingsmill, Debbie Grossman, Wanda Drake, Stan Cochran, Dwight Bryant, Don Chandler, 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 a proposed amendment of the Zoning Ordinance regulating commercial activities in the R-1 district, such as weddings and similar gatherings.

Sabrina Hawkins was present and said that she opposed the amendment. She felt it was created for her, and said that she merely rented a house.

There were no further comments and the Mayor closed the hearing at 7:02 p.m.

B. Regular Board Meeting

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:02 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator said that Bill Nellis, Item No. 3 under Old Business, had requested that his application for Condition Use Zoning be withdrawn and re-scheduled August 16; he also said that the Board would be consulting with the Town Attorney on legal matters during the Closed Session already scheduled. Comm. James noted the large crowd present and suggested moving up Item No. 3 of New Business on the agenda, application by Bucky Meredith for R-3 Conditional Use Zoning.

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 July 26 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. PATTERSON, 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.

Buck Trott was present and said that he had attended the recent Planning Board meeting to voice concerns about soil erosion and siltation from Riverwalk Subdivision. He commended them for work done to date to correct the problems. He also reported that he understood Tom Turrentine, who had appeared before the Mirror Lake Improvement Association, was no longer an owner of the property. Don Chandler was present and confirmed that he and Bill Turrentine were the owners.

Special Order.

Bucky Meredith was present with Bill Kingsmill to present an application for Conditional Use Zoning, from B-3 to B-3 Conditional Use, for a piece of property in Wright Square owned by Lawson Lard III. He said that he had identified a need for an upscale indoor-access-only climatized storage facility, and he presented a north elevation and footprint-plan for a building containing 15,080 SF on two basement levels, main, and second floors, plus a 7940 SF owners apartment, for a total floorspace of 68,260 SF. He said the topography included a 20-foot deep hole, and warehouses were the lowest impact uses in commercial zoning in terms of traffic, parking, and utilities. He also said that a storage warehouse was a permitted use in the B-3 district.

Comm. James asked why he was applying for Conditional Use Zoning if it was a permitted use; Comm. Patterson asked the same question. Town Planner Larry Gantenbein confirmed that this was a use permitted with Special Use Permit in the B-3 district; however, only two habitable levels were permitted by the Ordinance, and a variance would be needed for both the "attic" apartment and the "double" basement; because the test was reasonable use, he would not

qualify for a variance. However, if the Board decided this was a worthwhile project, it could approve it as a Conditional Use. Mr. Meredith said that this was a problem property, and pointed out that the proposed use was better than others that might go in there. Height, setbacks, and parking would also conform to the Ordinance.

Comm. James said that he had chosen not to meet with Mr. Meredith before the meeting. He thought that the plan was deficient and that it should include the east and south elevations; on the Spring Street side, the building would appear to be 55 feet in height. Mr. Meredith replied that any building on the site would have two levels beneath it. Comm. James asked if the property adjoined the Master Sidewalk Plan; it did. Debbie Grossman asked how many units there would be and how much they would cost to rent, and was told that there would be two levels to begin with and the units would be expensive; she did not think it would serve businesses in Highlands. Wanda Drake opposed the building because of a concern over the unattractive appearance.

Comm. Ross said that he had discussed the plan with Mr. Meredith but had not indicated either approval or disapproval. He thought that low impact storage was not necessarily good because it created a "dead zone" for commercial activity. Also, since under the Ordinance a basement was not for public use, the building would be four-and-one-half stories. He said that Conditional Use Zoning was new and scary because it sounded like the Board was allowing things that were not allowed. He felt that it should be used to add requirements to make improvements for the general public and advantage of the Town, not used as an avenue for development to obtain variances for the sole advantage of the developer. Comm. Patterson pointed out that eventually a two-story building would be constructed on Helens Barn Avenue, and that storage facilities were permitted uses in B-3. Comm. Ross said he was not sure the property could not be developed from Spring Street. Comm. James suggested that Mr. Meredith take the application to the Zoning Board. The Mayor agreed; he thought the Board should be careful with Conditional Use Zoning.

MOVED BY COMM. ROSS, SECONDED BY COMM. JAMES, AND CARRIED TO DENY THE APPLICATION.
Comms. Ross, James, and Marsh voted "aye," and Comm. Patterson voted "nay."

V. Reports.

1. The Mayor stated that, as a surgeon, he wanted to urge public support for Dr. Leslie Pearlstein, the new surgeon at Highlands-Cashiers Hospital; he felt there had been too much turmoil for very little reason.

He also said that he had received a letter from the Governor on Youth Councils, and that he would be looking into this and getting ideas.

2. Comm. Marsh reported that he had attended a program on illegal immigration in Franklin.

3. Town Attorney Bill Coward was present but had nothing to report.

4. Town Engineer Lamar Nix was on vacation.

5. The Police Chief was present but his report had been omitted from the agenda package; he said there was nothing unusual to 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. He asked for permission to advertize for a Maintenance Worker to replace David Kennemore. He also said that he had received another request for use of the Civic Center for a Craft Show.

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 added that the Macon County Watershed Council had recently heard a presentation from the State Division of Geology on slide maps; there was no slide potential in Macon County other than the back side of V-Z Top.

8. Each member had received a copy of the Treasurer's Report for the month; he reported that the audit field work was underway and was going well.

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

9. The Town Administrator distributed copies of the amendments to the noise regulations adopted at the previous meeting. Comm. Ross said that he had had some other thoughts on the amendments and wanted to discuss this at the August 16 meeting. Comm. James said that he wanted to discuss the closing of Second Street at the August 16 meeting as well.

The Town Administrator also updated the Board on the Harris Lake Sewer Project. He said that McGill Associates had been contacted about surveying for the project, and had also submitted a proposal to apply for Clean Water Management Trust Fund grant for the \$2 million project; the cost would be \$9500 and they thought they had a good chance to obtain grant money since the project would be providing sewer service in an area where there had been septic tank failures and water quality problems. Funds had been budgeted for preliminary surveying and similar expenditures, and he recommended approving the proposal and proceeding.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE PROPOSAL FOR SEEKING GRANT FUNDS FROM THE CLEAN WATER MANAGEMENT TRUST FUND FOR THIS PROJECT.

He also said that the ABC Store had requested that the planter be removed in front of its building to make it easier for delivery trucks to access the building. The Mayor asked Comm. Ross to make a recommendation on this request.

Draft copies of a proposed map showing parking regulations and areas in the downtown area were also distributed for information.

He reported that he had contacted Macon County Director of Solid Waste Management Chris Stahl concerning the letter discussed at the previous meeting; Comms. James and Marsh agreed to meet with him at 10:00 a.m. on August 15.

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 had indicated before the meeting began that the work would be completed in one month.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EXTEND THE PERMIT UNTIL SEPTEMBER 6.

2. Each Board member had received a letter from the Highlands Chamber of Commerce indicating that it no longer wished to extend its lease of Conference Center, as discussed at the previous meeting. Comm. Marsh said he wanted to respond to the letter, and he read from an article in the Smoky Mountain News indicating that Chambers of Commerce in other counties and municipalities used room tax money for sidewalks, parks, signs, and similar uses; some gave one-third of the money to the municipality. He felt the Town should ask the Chamber if it would consider giving one-third of the room tax money to the Town for sidewalks, parks, and renovation of the Community Building. The Mayor said he felt more research should be done on this issue, and the Board asked the Town Attorney and the Town Administrator to obtain the relevant information. Rick Siegel was present and said that the Chamber's mission was to bring tourism to Town; they had strived to be diligent in using room tax money for what it should be used for. In the meantime, the Town Administrator reported that the Chamber had offered to turn over the keys, current bookings, and fee schedule to the Recreation Director; Selwyn Chalker said they had already set up a calendar, but as with Zachary Field he thought there would be some complications. The Board agreed by consensus to honor the existing commitments to bookings at the same fee schedule. The Mayor suggested that the Recreation Committee meet to review the fees and discuss this issue. Comm. James pointed out that the Committee should also address the issue of serving alcoholic beverages at the building.

VII. New Business.

1. The Mayor read the proposed amendment regulating commercial activities in the R-1 district, subject of the public hearing preceding the meeting, and the Board discussed it in some detail. Comm. Ross pointed out that weddings were more and more popular and there would be a lot of pressure in the future. The Mayor felt that the issue boiled down to noise on Satulah Mountain; many complaints had been received. Sabrina Hawkins said that she sympathized with

noise complaints but felt she had been misrepresented; in three years, they had rented the house 20 to 25 times, and there had only been three weddings. Comm. Patterson expressed a concern that the Board was reacting to one situation while there was the potential for many more.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO TAKE THIS ITEM UNDER ADVISEMENT UNTIL SEPTEMBER 20.

2. Woody Crosby was present representing R. L. Jordan of Jordan Properties, owner of Highlands Suite Hotel, requesting an application for Conditional Use Zoning, from B-3 to R-3 Multi-family Conditional Use for the Hotel; he said Mr. Jordan felt the proposal would be good for both him and the Town.

Zeke Sossomon then presented the application. He said that the application represented an "up-zoning" from business to residential, changing hotel rooms to condominium units. The reason the applicant was not requesting R-3 zoning, the only district where multi-family was permitted, was due to the minimum acreage, density, and parking requirement, which this 0.34-acre piece of property would not meet. However, they felt that the project itself was worthwhile to the Town with the certain conditions specified. The proposal was to re-combine the 28 hotel rooms to 22 condominium units, which he said would result in reduced traffic flow, water, and police, and an increase in ad valorem tax value. Because of a variance granted several years ago, there were only 22 parking spaces, not the 28 required; however, the additional spaces could be added, which would provide nearly 1-1/3 spaces per unit; the R-3 requirement was

1-2/3 spaces. No exterior modifications would be required.

The Mayor asked if the number of units could be reduced to comply with the parking. Comm. Patterson said she was not sure if it was a good plan, using the criteria Comm. Ross had identified earlier in the meeting; she also pointed out that the R-3 density was four per acre. Mr. Sossomon said that the tax value would increase from its current listing as \$2 million; each unit would sell for \$190,000 to \$200,000.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO DENY THE APPLICATION.

3. Each Board member had received a letter from Stan Cochran, owner of Mirror Lake Antiques, concerning the antique show approved for the Civic Center at the July 5 meeting. Mr. Cochran was present and said that the show, while it has been presented as benefitting a non-profit organization, was actually a commercial venture in disguise. He said that all of the sales money was taken out of the community and most of it out of the State, and that the booth rental money went to the promotor; only the gate money was shared with the non-profit. He also felt it might set a precedent for a flea market or similar operation claiming to donate an entrance fee to a non-profit. The Civic Center had not been used for commercial ventures for 20 years and he would hate to see that policy change.

Joanna Baumrucker was present and distributed copies of a breakdown of revenues received at the 2005 antique show, which had been held at Highlands School. Dwight Bryant said that many people attended the show, stayed in local

motels, and visited antique shops and other businesses; he thought it was a win-win situation for everybody. Stan Cochran said that was not true; that had been the worse weekend of the month for his business. He also said that a local poll in the newspaper said that 58% of those surveyed did not think it was an asset. Debbie Grossman was present and said she felt it helped her business and others in Town.

Comm. Marsh said that he believed the Board had acted too quickly at the July 5 meeting, and the request had also not been an agenda item. He thought the question was, how do you control the use of the Civic Center? He asked if the Board could turn down another application if the promoter had a non-profit as a sponsor. Comm. James said that his understanding was that the action taken on July 5 was just the approval of a one-time event; it had not been intended as a change in policy or setting a precedent on policy for future events. The consensus of the Board, however, was to permit the show to proceed this year.

4. Don Chandler, one of the owners of Riverwalk Subdivision, were present to update the Board. He said that this was the biggest project he had been involved in, and he had done everything in his power to give what was promised. He said he had hired Bronze Pesterfield as engineer for the project, had protected trees larger than 18" in diameter, and had hired planners, geotech consultants, and most recently McGill Associates as a quality control consultant. He said that he had had no control over events resulting in soil erosion citations issued by the Zoning Administrator; that had been caused by five 18-inch pipes under US-64 that the engineer had not known about. The Mayor asked why he had not known about them; Comm. Ross said that it was the responsibility of the engineer to know where stormwater was coming from and where it was going. Comm. James said he thought too much land had been opened up and they had failed to stabilize it. Mr. Chandler said that a limitation had been placed on access to the property, and also said that there had been a large amount of rainfall; he had attempted to get as much grading done as possible. He also said that at least one soil erosion citation had resulted from a broken water pipe; the locations of water and sewer pipes was not known, although the Town Engineer had been very cooperative in working with the developers. The Mayor said that he hated to see what would have happened if Highlands had not been in a drought.

5. 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 A PERSONNEL MATTER, AND PURSUANT TO G. S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY ON LEGAL MATTERS. All present left the room except the Clerk and the Police Chief.

A. The Board discussed with the Police Chief a request from Police Officer C. D. Jenkins for an unpaid leave of absence August 15 through the first week in November in order for him to campaign for Sheriff; the Chief recommended approving the request, then left the room.

B. The Board consulted with the Town Attorney on legal aspects of proportional representation in the ETJ and the County ETJ lawsuit.

C. The Board discussed Larry Gantenbein.

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

6. MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE A REQUEST FROM POLICE OFFICER

C. D. JENKINS FOR AN UNPAID LEAVE OF ABSENCE IN ORDER TO CAMPAIGN FOR ELECTIVE OFFICE.

7. MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED FOR LARRY GANTENBEIN TO RESUME ADMINISTRATION OF ZONING MATTERS INVOLVING OLD EDWARDS INN, RATHER THAN THE AD-HOC COMMITTEE CONSISTING OF RICHARD BETZ, HANK ROSS, AND DENNIS DEWOLF APPOINTED ON DECEMBER 15, 2003.

The Board agreed by consensus to go back into closed session to further discuss Larry Gantenbein, and they did so.

VIII. MOVED BY COMM. PATTERSON AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION AND TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 10:05 p.m.

Richard Betz, Town Clerk