

REGULAR BOARD MEETING of September 20, 2006, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, H. N. James, Hank Ross, and Dennis DeWolf present.

Also present were Richard Betz, Lamar Nix, Bill Coward, Larry Gantenbein, Ginger Slaughter, Kim Lewicki, Jim Lewicki, Bill Nellis, Victor Lofquist, Adam Thompson, Farrell Zehr, Sandra Baty, Hillrie Quin, Knox Massey, Nina Burke, Adam Thompson, 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 Clerk requested that legal matters be discussed with the Town Attorney in the closed session already scheduled.

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 September 6 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that, on recommendation of Senator Dole's office, Town officials would be meeting with a representative from USDA Rural Development the next day to discuss funding that could be available for silt removal.

He also reported that he and the Town Administrator would be attending the League of Municipalities Annual Conference in Greensboro in October.

He then read the following statement into the record:

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"We understand that plans are being developed for a 12- to 14- story condominium complex on a 19-acre tract on US-64, across from the Community Bible Church. Although the project is still in its planning stages, and it is possible that the developer may not be able to obtain on-site water or sewer services, the County building inspector was recently quoted as saying that there are no restrictions for this kind of building other than building code and watershed regulations.

Many citizens of Highlands and Macon County are concerned over this project and hope that it does not go to construction. Its height, scale, and huge visual impact would be out of character with this area of the County and it would not be welcome. Our past and present Planning Boards, Land Use Committees, and Town Boards have worked long and hard over the years to develop reasonable land use regulations in Highlands which, while not perfect, regulate exactly this kind of development inside the Town limits.

The Town of Highlands extended its extra-territorial jurisdiction last November because of a desire to restrict inappropriate development of this type in the area immediately outside of Town, but this property is beyond the limits of our ETJ. A project like this brings to mind more than ever the urgent need for reasonable land use regulations on the County level, whether in Highlands Township or in Cartoogechaye. It is hard to believe that an out-of-Town developer can propose a development which would have such a dramatic impact on the area, yet there are still no regulations on the County level that would control it.

We urge our County Commissioners to consider again the urgent need for land use regulations in Macon County."

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2. The Town Administrator said he understood Rotary had prepared a proposal for taking over the Conference Center but the Recreation Committee had not had the opportunity to meet and discuss it.

Comm. Ross said that the Christmas Decorations Committee had recommended new decorations and they had been ordered; the Chamber of Commerce was also willing to provide funds for four banner-type lights across Main Street and Fourth Street, but additional utility poles would have to be erected. Comm. James said he felt the Committee should have brought the recommendation back to the Board before the order had been placed. Comm. Patterson expressed concern over the banner-type lights; the Town Administrator said the banners had not yet been ordered, and he offered to bring the catalog to the next meeting.

Comm. DeWolf said he was continuing to meet with Thomas Craig on energy-saving capital improvements for the Conference Center.

3. Each Board member received copies of a written report from the Town Administrator, as follows:

- **ETJ Hearing.** Public advertisement had been legally published in The Highlander and first class mail notice provided to residents in the proposed R-4 and B-5 areas of the ETJ, as well as adjoining properties. The hearing was scheduled for October 4 in the Highlands Civic Center.
- **Harris Lake Sewer Project.** Town staff had been providing water usage, income, and demographic data to McGill and Associates in order to determine if the Town qualifies for a Clean Water Management Trust Fund grant for the project. The Town Engineer had been in contact with surveyors from McGill and the sewer manholes and existing water lines had been marked. In the meantime, letters had been sent to approximately 100 residents adjoining the proposed sewer outlining the project and containing agreements to permit access to their property.
- **Stormwater Master Plan.** A letter had been received from the D.O.T.'s hydraulics engineer concerning the culvert under Horse Cove Road at Trillium Place, recommending no action; it had been forwarded to McGill for inclusion in the Stormwater Master Plan. Staff had also been discussing the post-construction stormwater requirements requested to be drafted at the previous meeting; the Zoning and Subdivision Ordinance amendments were being drafted by the Town Planner, reviewed by McGill Associates and the Town Attorney, and would be presented to the Board on October 4. He also reported that Forrest Westall would be speaking at the annual Upper Cullasaja Watershed Association meeting on September 28 on the topic of the Town's stormwater program.
- **Code Enforcement Officer.** Copies of a job description were distributed and he reported that an advertisement for a part-time employee had been placed in area newspapers.
- **Wyanoak Road.** Letters were in the process of being prepared and sent to the 51 residents adjoining Wyanoak Road, containing a Secondary Road Right-of-Way Agreement, modelled after a D.O.T. form and reviewed by the Town Attorney.
- **Hickory Hill Road.** A letter had been received from D.O.T. District Engineer Wesley Grindstaff indicating that Hickory Hill Road had been surveyed and containing updated property owner information; he had requested that Town

officials contact him to discuss a plan of action to attempt to secure right-of-way. The Public Works Committee agreed to meet at 8:30 a.m. on Tuesday, September 26th to discuss this matter.

- Right of First Refusal. Elliott and Cheryl Miller had written a letter requesting a right of first refusal on the Town's 6-acre tract on Hickory Hill Road; the Board had denied their request for an easement on May 17, 2006. By consensus, the Board took the request under advisement.

He also reported that he had received a request, in conjunction with a permit for amplified sound, to close Pine Street on Halloween for a live band concert; he suggested that the Board consider designating authority to close Pine Street in the future to the Mayor, and the Board agreed by consensus.

V. Old Business.

1. Bill Nellis was present with Victor Lofquist, P. E., to outline changes he had made to a request for R-3 Conditional Use Zoning for the Crisp property presented at previous meetings. He submitted a revised plan and also a panoramic photograph showing a reduction in units from 16 to 14, the inclusion of land under contract from Highlands-Cashiers Hospital, and repositioning of a building to increase the size of the public park. He said he was being required by the Hospital to acquire the old nurses quarters, and said he would probably be developing it as low-impact commercial; it was already zoned B-3. He said the density would be 3.01 per acre, with a total of 19.6% impervious area. Carports and other buildings would not meet setbacks in some areas due to a desire to preserve more green space.

The Board then discussed the plan in some detail. Comm. James said he thought it would be better than nine single-family lots with no questions asked. Comm. Ross felt that Mr. Nellis had gone the extra mile in preparing a good plan which would also provide a public park. Comm. DeWolf felt that the property provided a needed buffer between R-2 Residential and B-3 Commercial, and that a density of three per acre was a good compromise; like clustering, it reduced footprints and bunched together buildings, which was better than chopped-up half-acre lots. Comm. Patterson felt that he had done an excellent job, but still felt that R-2 was the highest density the Town wanted in Highlands; increased density benefitted only the developer, and led to more traffic, stormwater, and pollution. Comm. Marsh asked what the Town would get in return for the zoning. After some additional discussion, the Mayor called the question.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND CARRIED TO APPROVE THE PLAN AS PRESENTED. Comms. DeWolf, Ross, and James voted "aye;" Comms. Patterson and Marsh voted "nay."

2. The Mayor read a proposed amendment of the Zoning Ordinance prohibiting certain commercial activities in residential areas, such as the use of short-term rental property for weddings; the amendment had been the subject of a public hearing on August 2, and had been tabled until this date. Copies of a letter from Sabrina Hawkins dated September 15 were also distributed. Comm. Ross said the amendment had been drafted by the Town Attorney at the direction of the Board and he did not know why the Town could not move forward with it. Comm. James pointed out that questions had been raised at the previous meeting, and he asked about private parties; he thought the Board could get too picky with amending the Ordinance, and felt that activities like this might already be prohibited by the Ordinance. Nina Burke was present and spoke in favor of the amendment. Knox Massey was present and asked the Board to consider a longer term, such as six months or a year rather than 90 days.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADOPT THE AMENDMENT, AS FOLLOWS:

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"Section 201.10. Prohibited uses. Commercial activities shall not be permitted in the R-1 District except as otherwise expressly allowed herein. Activities prohibited by this provision shall include, by way of example and not by way of limitation, the following: the use of short-term rental property or the short-term rental of property for weddings,

receptions, or other gatherings of more than 20 persons. `Short-Term' shall mean, for the purposes of this section only, less than three months."

3. The Town Administrator distributed copies of Section 11-20 of the Code, Penalties for Soil Erosion Ordinance violations, and asked that the Board clarify the decision at the previous meeting to increase fines to \$5000. The Town Attorney advised discussing this item in Closed Session, and the Board agreed by consensus.

4. The Board discussed a request from the ABC Board to expand the ABC building; each member had been provided with a copy of the lease agreement, which expired in September of 2007. Comm. James felt that the request should be granted, but that they should agree that the lower level should be placed at the parking lot level. Comm. DeWolf said he and Comm. Ross had tried unsuccessfully to meet with architect Paul Schmitt and David Wilkes; he understood they were considering alternate sites. Comm. Ross asked why the Board did not discuss a plan for Town Hall property, and suggested scheduling a special meeting. Comm. James felt that an independent person outside the Board should be consulted. Comm. DeWolf felt that the Board needed to re-group first and come up with a game plan, looking beyond the ABC store; Comms. Ross and Patterson agreed that a brain-storming session would be valuable. The Board agreed by consensus to schedule a Special Meeting for 7:00 p.m. on September 27 for that purpose.

5. Each Board member had received a copy of a proposed agreement concerning Pine Street park prepared by the Town Attorney. Comm. James felt that it protected the Town's \$300,000 pledge; the Mayor said he had no problem with it.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE AGREEMENT.

VI. New Business.

1. Each Board member had received a concurring Ordinance from the D.O.T. increasing the speed limit on Bowery Road from 20 mph to 25 mph. The Town Administrator reported that residents in the area had questioned the low speed limit and requested that the traffic engineer review the speed limit.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, TO ADOPT THE ORDINANCE.

Comm. Ross remembered that the D.O.T. had designed the road as a 20-mph road, and he felt it should stay that way. The Town Attorney recommended leaving the speed limit as it is until the litigation had been concluded, and Comm. James withdrew his motion.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED THAT THE SPEED LIMIT REMAIN 20 MPH.

2. Ingram Tynes had requested approval of the final plat for Crunkleton Ridge Subdivision some time ago on this agenda, but he was not present and the Town Administrator said he understood the improvements had not been completed in the subdivision.

3. 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 DISCUSS PERSONNEL MATTERS, AND PURSUANT TO G. S. §143-318.11(A)(3) TO DISCUSS LEGAL MATTERS. All present left the room except the Clerk, the Public Services Administrator, the Town Planner, the Town Attorney, and the Sanitation Superintendent.

A. The Board discussed John Smith with the Town Administrator, the Public Services Administrator, and the Sanitation Superintendent. The latter two individuals then left the room.

B. The Board discussed citations issued to Riverwalk LLC by the Town Planner for violations of the Soil Erosion Ordinance, which had been appealed to the Office of Administrative Hearings, as well as Section 11-20 of the Code

with the Town Attorney.

- C. The Board discussed the Bowery Road condemnation lawsuits with the Town Attorney.
- D. The Board discussed the lawsuit with the County on ETJ representation with the Town Attorney.
- E. The Town Administrator briefed the Board on separate lawsuits from Jimmy McCall and Jan Tuten, which were being handled by attorneys retained by the Town's insurance company.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. The doors were opened and Adam Thompson re-entered the room.

4. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO TERMINATE THE EMPLOYMENT OF JOHN SMITH, EFFECTIVE IMMEDIATELY, BUT TO PAY HIM THROUGH THE END OF THE PAY PERIOD.

5. MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED THAT THE AMOUNTS IN BOTH PARAGRAPH (1) AND PARAGRAPH (3) OF SECTION 11-20(A) BE CHANGED TO \$5000.

VII. MOVED BY COMM. PATTERSON AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:05 p.m.

Richard Betz, Town Clerk