

PUBLIC HEARING and REGULAR BOARD MEETING of October 4, 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, Selwyn Chalker, Bill Harrell, Larry Gantenbein, Bill Coward, Kim Lewicki, Jim Lewicki, Bill Nellis, Rick Siegel, Adam Thompson, Bob Kieltyka, Bill & Sabrina Hawkins, Terry Potts, Elizabeth Lindsey, Jack Mayer, Jim Tate, Erik Nesmith, Clem Patton, Bill & June Hogue, Don Leone, Kenneth Shull, John & Joanna Baumrucker, Dwight Bryant, Bill Rethorst, and many others.

#### A. PUBLIC HEARING.

The Mayor stated that the purpose of the hearing was to receive comments on amendments of the Zoning Map establishing areas designated R-4 and B-5 in portions of the extra-territorial jurisdiction extended on November 16, 2005, as well as to consider the text of those respective amendments. The hearing had been duly advertized and mail notice had been provided pursuant to law, and the Mayor asked for comments.

Bill Hawkins was present and said that he had purchased the old Prince property on NC-106, recommended for R-4 zoning, for commercial property and had paid a lot of money for it; he objected to the proposed residential designation.

Rene Sylvan was present and asked about the purpose of the zoning; it was explained to him.

Claude Sullivan was present and said his property abutted property designated R-4; he wanted his property eventually zoned to a density of one dwelling unit per ten acres.

Jerome Ingate was present and said that he, too, would like his property zoned to that density.

Barry Jones, owner of the Summer House and Tiger Mountain Woodwork, asked that a portion of his property along the highway be designated R-4; he was willing to have the portion surveyed off and asked if the Board would agree to that. He was told that the Board would not be making a decision at this time.

The Clerk entered into the record, and had included with the agenda package, letters in opposition to the proposed zoning from Robert Nass, President of Skyline Lodge & Restaurants Inc., and from Phil and Stephanie Whitaker.

There being no further comments, the Mayor closed the public hearing at 7:12 p.m.

#### B. REGULAR BOARD MEETING.

##### I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:12 p.m.

##### II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator requested that the Board discuss two-hour parking on Church Street, and reported that the Town Attorney had requested a discussion of a legal matter in Closed Session.

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 September 20 Regular Board Meeting had been distributed by mail.

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

Copies of the minutes of the September 27 Special 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. Public Comment Period.

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

Joanna Baumrucker was present and reported that the recent Antique Show benefitting Highlands Playhouse had been a success, well-received by the community and merchants; she thanked the Mayor, the Board, the Recreation Director, and the Police Chief.

Don Leone asked when the Board would be making a decision about his parking problem. He was told that the Zoning Board had made a recommendation concerning parking, which would be discussed later in the meeting.

### V. Reports.

1. The Mayor reported that he had contacted an architect in Asheville, as authorized at the Special Meeting of September 27, concerning design of the Town Hall property; Peter Alberice with Camille-Alberice would be able to attend a Special Meeting at 7:00 p.m. on November 8. The Board agreed by consensus to schedule such a meeting.

He also said that he had meet with the U. S. Forest Service and understood they would be making significant cuts in their office personnel, although no services would be cut.

He also reported that the Town had received a lot of responses from news that the Town was considering paving roads in the Mirror Lake/Big Creek area, including residents on Chowan Drive who were interested in having their road paved.

2. Comm. Ross reported that the Chamber of Commerce had some information on skyline Christmas Decorations they had proposed purchasing for installation across Main Street and Fourth Street, and Rick Siegel presented photos from a catalog; also distributed were photos of the decorations the Town Committee had already ordered, consisting of wreaths and stars.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, TO AUTHORIZE THE CHAMBER OF COMMERCE TO PURCHASE THE SKYLINE DECORATIONS. The motion failed, with Comms. DeWolf and Ross voting "aye," and Comms. Patterson, James, and Marsh voting "nay." Comm. Patterson commented that she liked the subdued, tasteful decorations and open feel of Main Street.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE DECORATIONS ORDERED BY THE TOWN COMMITTEE, BUT TO DECLINE THE

## DECORATIONS PROPOSED BY THE CHAMBER OF COMMERCE.

3. The Town Attorney 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 reported that the Town had been assisting the D. O. T. with relocating utilities along the Bowery Road right-of-way, and that McGill had begun surveying in the Harris Lake area.
5. Each Board member had received a copy of the Police Chief's 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. He added that many parents had expressed relief over not having to drive to Franklin for soccer games due the soccer field at Zachary Park, and he also confirmed that the recent Antique Show had done a wonderful job of cleaning up after the event.
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 reported that the Zoning Board had denied an application for a variance request from Wild Thyme for parking, and at the same time had recommended "that the parking requirements for the four restaurants located around the central business district off of Main Street be revised on the basis that it is unfair to impose an off-street parking requirement on those restaurants when none is imposed on the restaurants situated along Main Street." He also said that he had issued two more notices of violation to Riverwalk Subdivision. Zoning Board member Bill Rethorst was present and said that the Zoning Board had not recommended revising the ordinance. Town Administrator Richard Betz said that he had been at the meeting and had conveyed the recommendation to Mr. Gantenbein; he apologized if he had not accurately done so.
8. Each Board member had received a copy of the Treasurer's Report for the month.

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

9. The Town Administrator reported that D. O. T. District Engineer Wesley Grindstaff had begun to stake Hickory Hill Road for right-of-way and was willing to come to a community meeting, as discussed at the previous Public Works Committee meeting, but he could not come before October 25; he thought most of the property owners would not be in Town by then and suggested that the Mayor send a letter instead explaining the purpose of the proposed paving, and the Board agreed by consensus.

## VI. Old Business.

1. It was reported that Old Edwards Inn had completed paving and construction work on Church Street and would not need to renew the permit for use of Town right-of-way for construction activities. Comm. Marsh reported that OEI had also installed a short section of sidewalk along Spring and South Fourth Street and he thanked them.
2. A letter dated September 7, 2006, had been received from Elizabeth Lindsey offering to dedicate right-of-way in Sherwood Forest subdivision; a copy of the letter had been included in the agenda package together with a draft resolution approved by the Town Attorney accepting the offer of dedication, pursuant to the September 6 meeting. Jack Mayer was present representing Mrs. Barker, who lived on lots 3, 4, and 5 in the subdivision but accessed her property from another road; he said that she had no objection to the Town accepting the roads, but was contesting the assessments for paving the road by the subdivider, and wanted to state so in case it was relevant. The Board then discussed the roads at some length. Comm. James thought that the resolution should have identified the specific streets that were to be accepted, since some of them were not open yet and he was not willing to accept them. Town Engineer Lamar Nix reported that the main road from US-64 to the top of the mountain was paved to a width of 18 feet, but a side road with a small cul-de-sac was only paved to its existing width of 10-1/2 feet. Grades did not exceed the

minimum of 18% required by the State. Terry Potts said that Mrs. Lindsey wished to dedicate all of the roads in the subdivision to the Town; he thought they had complied with Town specifications.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ACCEPT THE MAIN ROAD ONLY, PURSUANT TO THE FOLLOWING RESOLUTION, PROVIDED A DEED OF EASEMENT IS PROVIDED.

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RESOLUTION ACCEPTING FOR PUBLIC USE  
BY THE TOWN OF HIGHLANDS  
SHERWOOD FOREST ROAD

WHEREAS, the subdivision plat for Sherwood Forest Subdivision, approved by the Board of Commissioners of the Town of Highlands on October 6, 1982, identified certain streets as "private" on said plat, as recorded in Plat Cabinet 1, Slot 249, Page 4 of the Macon County Registry; and

WHEREAS, Elizabeth Lindsey, owner of the property on which the aforesaid subdivision was approved, has retained her rights under the law to offer for dedication the aforesaid streets; and

WHEREAS, at a regular public meeting of the Board of Commissioners convened on September 6, 2006, as well as in a letter dated September 7, 2006, Elizabeth Lindsey unequivocally offered to dedicate the streets in said subdivision to use of the public forever; and

WHEREAS, the street named Sherwood Forest Road has been paved to the satisfaction of the Town of Highlands and meets Town specifications for acceptance as Town streets; and

WHEREAS, the Board of Commissioners of the Town of Highlands recognizes that it would be in the best interests of the Town of Highlands and its inhabitants, including the residents of Sherwood Forest, to accept such offer of dedication.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Highlands that the aforesaid offer of dedication be accepted for Sherwood Forest Road only, and for no other streets in said subdivision, and that the aforesaid street be accepted for public use.

This resolution is adopted this 4th day of October, 2006.

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3. A petition for re-zoning had also been received pursuant to the September 6 meeting, requesting re-zoning of an 8-acre parcel belonging to Liz Development along US-64, from R-2 to B-3. Terry Potts was present and said that the property had been zoned commercial when the subdivision was installed, and the Board at that time had agreed to approve a lodge in the commercial area. She had subsequently installed a sewer line along the highway, which the Town had extended to the Hospital. It had always been commercial, and he said she claimed not to have received notice of it being re-zoned to residential in 1999. The Town Administrator briefly outlined the history of the property and said that he could provide copies of all of the minutes; Comm. Ross said he would like to review them, and Comm. DeWolf also said he would like to. Comm. James remembered that the area had been changed to be consistent with the other changes recommended by the Land Use Planning Committee in 1989. The Mayor wondered if the zoning would be consistent with the proposed ETJ B-5.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, TO DENY THE REQUEST.

After some discussion, however, the Board agreed to send the petition to the Planning Board for a recommendation, and to forward to both Boards copies of the pertinent minutes. Comm. Marsh agreed to withdraw his motion and Comm. Patterson her second.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO SEND

THE PETITION FOR RE-ZONING TO THE PLANNING BOARD FOR A RECOMMENDATION.

4. The Town Administrator reported that Town officials had met with Pamela Hysong, USDA Rural Development consultant, on September 21 concerning possible funding for silt removal. She had indicated that the town would likely qualify for a long-term, low-interest (3.5%, 40-year) loan, as well as a small grant. However, cost estimates on dredging had still not been received. Comm. James commented that he was not sure it was the responsibility of the water customers in Town to remove silt from the lakes. Bill Hogue asked if the Town had considered purchasing a small dredge. The Town Engineer said that option was being explored.

VII. New Business.

1. The Board discussed at some length the proposed amendments of the Zoning Map and Zoning Ordinance establishing R-4 and B-5 zoning districts in the ETJ. The consensus of the Board was that more information was needed on the thinking of the Planning Board in designating properties for each district, and also a closer examination of the text of the amendment with the Town Planner would be helpful. After considerable discussion, the Board agreed to meet at 6:00 p.m. prior to the next meeting on October 18 in order to review with the Town Planner the proposed zoning amendments; if more information was needed, the Board could at that time decide to meet with the Planning Board at their October 23 meeting.

2. It was reported that Comm. Ross, the Town Planner, and the Town Attorney were discussing drafting of a post-construction stormwater control ordinance.

3. Informal sealed bids had been advertized for a new warehouse building, as authorized at the previous meeting and in the FY 06-07 Budget; only one bid had been received, from Schmitt Building Contractors. The Mayor opened and read it publicly: \$243,492. Comm. James felt that the bid should not have been opened and indicated that more bids should have been solicited, but it was pointed out that the bid amount was now public. Comm. DeWolf said it seemed like a fair price in his opinion and Comm. Patterson pointed out that it was under budget.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO AWARD THE BID TO SCHMITT BUILDING CONTRACTORS.

4. A final subdivision plat for James and Allison Tate had been approved by the Planning Board at its previous meeting; it consisted of the division of one large lot into two lots on Holt Circle and did not require any water or road installation.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE FINAL SUBDIVISION PLAT.

5. The Public Works Committee had discussed the need for an area at the Wastewater Treatment Plant to stockpile dirt and other materials. The Town Engineer said there was a flat area at that site that would serve well; it would be less than an acre in size and would be protected by erosion control devices.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE CLEARING OF SUCH A SITE.

6. The Town Administrator said that the Street Department was prepared to re-mark the two-hour parking on Church Street following recent paving of the street by OEI, but thought the Board might want to re-consider the two-hour restriction on parking before proceeding, as well as the Employee Business District parking, due to completion of work by Old Edwards Inn. After considerable discussion the Board agreed to re-mark the street for two-hour parking and leave the Ordinances unchanged.

7. Kim Lewicki asked the Board what its stand was on the issue of parking for restaurants. Comm. Ross said the consensus was that a more comprehensive review of parking should be undertaken.

8. MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO REVIEW APPLICATIONS FOR EMPLOYMENT, AND PURSUANT TO §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY ON A LEGAL MATTER. All present left the room except the Clerk, the Public Services Administrator, the Town Planner, and the Town Attorney.

A. The Public Services Administrator recommended filling the full-time position vacated by John Smith with temporary Sanitation Worker Jonathan O'Connor.

B. The Board reviewed an application for Code Enforcement Officer from Scott Houston; Mr. Houston was employed as meter reader, but was willing to work in the Code Enforcement position at the overtime rate as needed, which the Town Administrator said would be equivalent to the recommended pay grade 12. The Town Planner and Town Administrator recommended approving him for the position.

C. The Board consulted with the Town Attorney on litigation involving Riverwalk Subdivision and gave him instructions.

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

9. MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO EMPLOY JONATHAN O'CONNOR AS SANITATION EQUIPMENT OPERATOR II AT A SALARY OF 9-1 (\$22,475).

10. MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND CARRIED TO APPROVE METER READER SCOTT HOUSTON, ON A PROBATIONARY BASIS, TO ASSIST THE ZONING ADMINISTRATOR PART-TIME WITH CODE ENFORCEMENT, AND FOR HIM TO BE COMPENSATED AT THE OVERTIME RATE FOR HIS EXISTING POSITION. Comms. Patterson, Dewolf, Marsh, and Ross voted "aye," and Comm. James voted "nay."

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 9:20 p.m.

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Richard Betz, Town Clerk