

REGULAR BOARD MEETING of May 16, 2007, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, Hank Ross, H. N. James, and Dennis DeWolf present.

Also present were Richard Betz, Lamar Nix, Josh Ward, Sonjia Stewart, Kim Lewicki, Eric NeSmith, Sabrina Hawkins, Cynthia Strain, and others.

I. Call to Order.

The Mayor called the meeting to order at 7:00 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk reported that Cynthia Strain had asked to be added to the agenda for permission to close Oak Street.

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

III. Approval of Minutes.

Copies of the minutes of the May 2 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he had met earlier in the day with D.O.T. Division Engineer Joel Setzer and D.O.T. officials Reuben Moore and Brian Burch concerning funds for a bicycle path, sidewalk, or multi-use path along NC-106; the DOT would be developing costs on the project. They had also discussed other options for paving Hickory Hill Road.

2. Comm. Marsh said that he had checked references for McGavran Engineering and he felt the Town should proceed with the proposal for conducting a pole inventory and negotiating contracts with Verizon and Northland, as outlined at the previous meeting. Comm. Patterson thought it sounded like a good idea and would free up time for Town staff. The Mayor asked the Town Engineer about the proposal, and Lamar Nix reported that Town staff could re-visit the 25% of poles already changed and finish the rest of the system inventory by September 13; the man-hour cost would be \$26,000. He also said that Matt Shuler was scheduled to meet with Bill Spivey from Verizon on Monday to discuss addressing all of their pole attachments. Comm. James agreed that the Town should proceed, although Town staff could do the job. The cost would be \$25,000 for the inventory and between \$10,000 and \$20,000 to negotiate with Verizon and Northland.

MOVED BY COMM. MARSH, SECONDED BY COMM. JAMES, AND CARRIED TO ACCEPT THE MCGAVRAN ENGINEERING PROPOSAL TO CONDUCT THE POLE INVENTORY AND NEGOTIATE CONTRACTS WITH NORTHLAND AND VERIZON.

Comms. Marsh, James, DeWolf, and Patterson voted "aye;" Comm. Ross voted "nay."

Comm. James asked about the timetable for the Highlands C & D Landfill; apparently a scheduled meeting between the Board and the County Commissioners had been cancelled, and a decision needed to be made soon. He felt the

County should bear the cost and suggested that Board members contact the Commissioners and feel them out about support for County funding. The cost for providing a transfer station would be an additional \$475,00 for the planned \$1,164,000 in improvements.

3. The Town Administrator had distributed a copy of a letter from the Appearance Commission requesting that the Town consider regulating the construction of commercial fences. Comm. Marsh felt that residential fences should be regulated as well, perhaps through a simpler permitting process.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO REFER THIS PROPOSAL TO THE PLANNING BOARD.

He also reported that Richard Oliver had requested a three-part subdivision variance for the proposed South Slope Subdivision. The Board agreed by consensus to schedule the public hearing for the variance on June 6.

V. Old Business.

1. The Board again considered proposed amendments of the Zoning and Subdivision Ordinance to clarify clustering. The Town Administrator reported that the two minor changes suggested at the previous meeting had been forwarded to the Town Attorney for review and he had approved.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT THE AMENDMENTS.

* * *

1. Delete sentence in Section 209.3 of the Zoning Ordinance that reads, "except within an approved cluster development per Section 209.4 of this Ordinance," and replace with "except within a cluster development pursuant to Section 409.3 of the Subdivision Regulations of the Town of Highlands."
2. Delete Section 209.4.
3. Delete sentence in Section 209A.3 that reads, "except within an approved cluster development per Section 209A.4 of this Ordinance," and replace with "except within a cluster development pursuant to Section 409.3 of the Subdivision Regulations of the Town of Highlands."
4. Delete Section 209A.4.
5. Delete sentence in Section 210.3 that reads, "except within an approved cluster development per Section 210.4 of this Ordinance," and replace with "except within a cluster development pursuant to Section 409.3 of the Subdivision Regulations of the Town of Highlands."
6. Delete Section 210.4.
7. Delete sentence in Section 211.3 that reads, "except within an approved cluster development per Section 211.4 of this Ordinance," and replace with "except within a cluster development pursuant to Section 409.3 of the Subdivision Regulations of the Town of Highlands."
8. Delete Section 211.4
9. Delete definition of Cluster Development in Section 1002 and replace with the following: "Cluster Development. A development pattern defined in the Subdivision Regulations of the Town of Highlands."
10. Add to Section 201.5, 202.5, 203.5, 214.5, and 215.5 the following: "except within a cluster development

pursuant to Section 409.3 of the Subdivision Regulations of the Town of Highlands."

11. Add to Sections 201.6, 202.6, 203.6, 214.6, and 215.6 the following paragraph:

"The building setbacks in an approved cluster development pursuant to Section 409.3 of the Subdivision Regulations of the Town of Highlands shall be not less than five (5) feet from the property line of another lot in said cluster development, and not less than one hundred (100) feet from the right-of-way of any street other than a street in the cluster development."

12. Replace the current Section 409.3 of the Subdivision Ordinance with the following:

409.3 Lot size exception in order to cluster development.

(A) Definitions:

"Clustering" means a development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups, adjacent to permanently preserved common open space, so as to accomplish the following goals:

- (1) to make efficient and visually aesthetic use of the natural features of the landscape;
- (2) to maximize visualization of permanently preserved open space;
- (3) to preserve natural vegetation and ecosystems.
- (4) to provide recreation areas;
- (5) to provide scenic vistas;
- (6) to create diversity and originality in subdivision design, meaning lots, streets and parking areas of non-uniform size, shape, or arrangement

"Common open space" means a portion of a development site that is permanently set aside for public or private use, is held in common ownership by all individual owners within a development, and restricted from development as provided herein. Common open space may include wetlands, upland recreational area, wildlife areas, historic sites, and areas unsuitable for development in their natural state. Common open space shall not be construed to mean the space between buildings, or the area within twenty-five (25) feet around each structure or any impervious surface.

(B) Property may be subdivided without respect to the minimum lot size required by the Zoning Ordinance for the purpose of clustering development, as defined herein.

(C) Building setbacks on lots in a cluster subdivision shall conform to the Zoning Ordinance. Minimum lot width and lot size shall not apply, except that the total number of clustered lots in the subdivision shall not exceed the total number of lots allowed for single-family detached development in either the underlying Zoning District or the Watershed Overlay District, whichever is more restrictive.

(D) Common open space created by the cluster development shall comprise at least fifty-percent (50%) of the total property to be subdivided, and shall be located as much as the natural terrain permits in one contiguous area. Common open space may not contain any structures unless explicitly approved by the Board of Commissioners. Common open space may be dedicated to public or private use:

(1) If common open space is dedicated to public use--such as to the Town of Highlands, the State of North Carolina, or any other public entity--it shall be made available to and accessible to the public. The approval of a cluster subdivision plat does not constitute or effect the acceptance by the Town or the public of the dedication of any open space, and shall not be construed to do so. The Board of Commissioners may, however, in its discretion, and by separate resolution, explicitly accept any such dedication, and may also accept the responsibility to maintain such open space.

(2) If common open space is dedicated to private use, an agreement shall be prepared, and recorded with the

final plat, specifying the ownership and responsibility for maintenance of the open space. Provisions for the perpetual ownership and maintenance of common open space may be accomplished by an agreement with a property owners' association or a land trust, or by other method or means approved by resolution of the Board of Commissioners.

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VII. New Business.

1. Nomination forms had been distributed at the previous meeting and tabulated for various Board and Committee appointments.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO RE-APPOINT BILL RETHORST, APPOINT ALAN FREDERICK (CURRENTLY SERVING AS ALTERNATE MEMBER), AND APPOINT ALLAN JAMES TO THE ZONING BOARD AS REGULAR MEMBERS.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPOINT DAVE ROHRER AS ALTERNATE MEMBER TO FILL ALAN FREDERICK'S UNEXPIRED TERM.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO RE-APPOINT GRIFFIN BELL AND PAT TAYLOR AND TO APPOINT LINDA CLARK TO THE PLANNING BOARD.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND CARRIED TO REMOVE DOUG CAMPBELL AND TO APPOINT THOMAS CRAIG TO FILL HIS UNEXPIRED TERM ON THE PLANNING BOARD. Comms. Marsh, Patterson, DeWolf, and Ross voted "aye;" Comm. James voted "nay."

Comm. James disagreed with the decision; he felt Mr. Campbell should be permitted to serve his term and he did not remember the Board ever removing anyone from a Board before his term had expired. Comm. Marsh felt that it was important that a representative from the ETJ serve on the Planning Board; Mr. Campbell lived neither in Town nor in the ETJ. Comm. Patterson felt that now that the Town had extended ETJ there was no reason not to re-align the Planning Board so that it was represented by someone who lived in the area.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO RE-APPOINT THOMAS CRAIG, PAT TAYLOR, AND MARC PITTMAN TO THE APPEARANCE COMMISSION.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO RE-APPOINT LARRY ROGERS TO THE ABC BOARD.

MOVED BY COMM. ROSS, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO RE-APPOINT SUSIE SCHIFFLI TO THE SCHOLARSHIP COMMITTEE.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO RE-APPOINT WANDA DRAKE, CHRISTY KELLY, AND SANDY COPPAGE TO THE ADVISORY COMMITTEE FOR THE SCHOLARSHIP ENDOWMENT FUND, AND TO APPOINT TERRY BRADLEY AND RICHARD JOEL TO FILL UNEXPIRED TERMS.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO RE-APPOINT JACK MAYER TO THE CEMETERY COMMITTEE.

2. A petition for re-zoning for a 2.032-acre tract on NC-106 had been received from William Hawkins.

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

REFER THE PETITION TO THE PLANNING BOARD FOR A RECOMMENDATION.

3. The Board then reviewed preliminary notes on the FY 07-08 budget with the Town Treasurer in some detail.

The Board agreed by consensus to call a Special Meeting for 7:00 p.m. June 13 for a budget work session.

4. Cynthia Strain was present with a request for permission to close the eastern portion of Oak Street Alley for an arts and crafts show scheduled for May 25 and 26, as well as several parking spaces along Fifth Street; the show had originally been scheduled for the Pine Street Park but that property had just been seeded and mulched and was not ready for use. Comm. Patterson said she thought crafts shows had required a Special Use Permit for the past 20 years, and the Town Administrator confirmed that this was so but that there would not be time for the application to be submitted.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND CARRIED TO GRANT PERMISSION TO CLOSE OAK STREET AND USE FIFTH STREET FOR THE SHOW FOR ONE TIME ONLY. Comms. Ross, DeWolf, and Patterson voted "aye," and Comms. James and Marsh voted "nay."

Ms. Strain was informed that the approval was for this single event and future shows would require issuance of a Special Use Permit.

5. MOVED BY COMM. MARSH, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO CONSIDER PERSONNEL MATTERS. The Board then adjourned to the adjoining room with the Town Administrator.

The Board discussed an applicant for the Planning Director position and the School Resource Officer.

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

6. The Board agreed by consensus to withdraw its request for funding for the School Resource Officer position.

VIII. The Board agreed by consensus to adjourn.

There being no further business to come before the Board, the meeting was declared by the Mayor to be adjourned at 9:00 p.m.

Richard Betz, Town Clerk