

REGULAR BOARD MEETING of September 5, 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, Bill Harrell, Bill Coward, Josh Ward, Selwyn Chalker, Kim Lewicki, Jim Lewicki, Linsey Wisdom, Eric NeSmith, Buck Trott, Clem Patton, Bill Staley, Edwin Poole, Nan Cummins, Rick Siegel, David Wilkes, Sandra Baty, Pat Taylor, Marlene Alvarez, Wolfgang Greene, Bernie Robert, and many 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.

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

III. Approval of Minutes.

Copies of the minutes of the August 15 Regular Board Meeting had been distributed by mail.

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

Copies of the minutes of the August 22 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 public comment period required by law.

Clem Patton said that he and many others were present concerning the proposed paving of Hickory Hill Road. Many wanted the road improved, but were concerned over the required 50-foot right-of-way, the effect it would have on trees and rhododendron, and increased speeding, especially with the increased traffic expected from the upcoming Mirror Lake bridge repairs. Most of those present wanted a hard surface but would be receptive to other improvements only in certain specific places.

Nan Cummins echoed Mr. Patton's comments; she said that no one was willing to dedicate a 50-foot right-of-way.

Buck Trott said he was present on behalf of the Mirror Lake Improvement Association; he favored a paved road, and pointed out that sedimentation caused by a large subdivision had ceased due to paving of the roads. He also thought the Town should consider paving Cullasaja Drive.

Edwin Pool was present and said he was amazed how much silt gathered along his road.

Sandra Chase said she would be willing to see the road paved, but many homes were close to the road and she

encouraged an 18-foot wear surface.

Another woman noted that letters had not been received by all property owners along the road.

Buck Trott thanked the Town for all the help with the recent Relay for Life event.

Bill Staley, Regional Manager for Northland Cable TV, said that they had recently been required to drop Channel 13 as part of negotiations for a better price from the provider for the benefit of consumers; he said it was back on the air with a better quality picture, and he thanked everyone for their patience.

Rick Siegel reported that the Chamber of Commerce would be organizing the annual Fall Gorge Cleanup September 15.

V. Reports.

1. The Mayor reported that the Board had heard the residents along Hickory Hill Road loudly and clearly. He proposed cancelling the September 17 meeting scheduled with D.O.T. District Engineer Wesley Grindstaff and other officials, which had been intended to explain the need for a 50-foot right-of-way. He said that the D.O.T. was required to pave to its standards, but he understand from talking to Senator John Snow that funds might be available for paving the road to lesser Town standards if the D.O.T. gave the road to the Town.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO CANCEL THE SEPTEMBER 17 MEETING.

Buck Trott pointed out that the Town needed to decide what surface to provide; many felt that the split-seal surface, like that used on Bowery Road, was less expensive and would be more appropriate. Comm. Marsh felt that the Public Works Committee should meet with Mr. Grindstaff as soon as possible and review specifications and costs, and the Board agreed by consensus.

The Mayor also reported that he wrote another letter to the D.O.T. concerning the need for a traffic signal at Third and Main Streets.

2. Comm. Patterson reported that she had received many comments about the Performing Arts Center asking about the property and lease agreement if the County took over Recreation functions; she felt the Town should decide what property should be included as "recreational." It was agreed that this should be discussed at the next meeting. The Mayor offered to call again and work on scheduling a joint meeting with the County Commissioners.

3. 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 also reported that Tommy Chambers had requested permission to extend, at his own cost, the Town sewer line 590 feet to serve his property on Big Bearpen. Comm. James felt that an easement for the line to his residence should be required.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE SEWER LINE EXTENSION SUBJECT TO THE EASEMENT.

4. Each Board member had received a copy of the Police Chief's report for the month; Chief Bill Harrell was present to review the report. He added that his officers had made four drug and outstanding-warrant arrests earlier in the day.

5. 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 requested that the Board consider employing Bill Whallen part-time for the Civic Center desk on weekends.

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

EMPLOY BILL WHALLEN PART-TIME.

He also reported that he had attended the recent Recreation Conference and spoken to John Poole with the Division of Parks and Recreation; he said he had obtained approval for the "Bug Hill" building to remain on Recreation Park property as a picnic shelter. He also reported that insulation was being applied to the ceiling of the Civic Center and the rest of the work should be wrapped up next week.

6. Each Board member had received a copy of the Interim Zoning Administrator's written report for the month, accompanied by minutes of the Planning Board minutes of August 13 and 27. He said that the Planning Board had agreed at their previous meeting to recommend against the Thomas Young petition for re-zoning, which was on the agenda under Old Business; some felt that the property was suitable for commercial, but five members felt that the re-zoning would be contrary to the Land Use Plan. He also reported that the discussion on Outdoor Display of Merchandise would continue at the September 24 meeting. He and Code Enforcement Official Josh Ward were also confirming for the Zoning Board that there was adequate parking for restaurants in the B-2 and B-3 zoning districts. Comm. Ross felt that seating should be spot-checked frequently, and he confirmed it would be.

7. Each Board member had received a copy of the Treasurer's Report for the month.

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

8. The Town Administrator distributed copies of a letter from Chris Stahl, Macon County Solid Waste Director, asking the Board for immediate action on a decision on participation in the transfer station on Rich Gap Road.

He also asked if Board members had looked at the prototype bench on Main Street. Comm. Patterson recommended a bench with no back so that those using it were not confined to sitting one way. Comm. Ross offered to meet with the Town Administrator and order such a bench for review.

VI. Old Business.

1. The Town Engineer had prepared three alternatives to the sidewalk for the corner of Fourth and Main at the Texaco Station, as discussed at the previous meeting, and the Board discussed them at length. One of the options called for replacing 160 yards of concrete drive entrance and replacing it with heavy-duty brick pavers on 4" concrete base with felt pad, concrete border, and approximately 60 feet of 18" curb and gutter.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND CARRIED, TO APPROVE THIS OPTION, AT A COST OF \$34,160. Comms. Ross, Patterson, James, and Marsh voted "aye," and Comm. DeWolf voted "nay."

2. The Board discussed a petition for re-zoning from Thomas E. Young for property on US-64 adjacent to TLC realty; the Planning Board had recommended not approving the petition, as reported earlier in the meeting. Comm. Patterson pointed out that B-4 property was already controlled by buffers and limited size; she wondered why commercial property was taboo, and pointed out that the Town needed businesses, especially in B-4 which was designed for light commercial with a low impact on the neighborhood. Comm. Marsh said the property owner knew it was residential when he purchased it and had submitted no concrete plans. Comm. James pointed out that the Board had recently denied two other re-zoning petitions on NC-106; he felt that approving this would amount to spot zoning. Comm. DeWolf said he appreciated Comm. Patterson's comments, but asked what would prevent commercial zoning from continuing down US-64.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND CARRIED TO DENY THE PETITION FOR RE-ZONING. Comms. James, Marsh, Ross, and DeWolf voted "aye," and Comm. Patterson voted "nay."

3. David Wilkes was present and distributed a written report on ABC distributions since 1977.

VII. New Business.

1. Marlene Alvarez was present with a request that the Board ask the Macon County Board of Elections to place a referendum on the November 6 ballot allowing for the sale of mixed beverages and malt beverages. She reviewed the points in favor of mixed drink sales made in a letter dated August 22 which had been included with the agenda: increase in tax revenue, better control of how much customers drink, a level playing field with "sports" clubs already having the option, and an unfounded belief that it would bring chain dining establishments to Highlands.

The Mayor said that there were two methods in the Statutes for placing this on the ballot: action of the Board, or petition by 35% of the voters. He said he favored the former, putting the decision in the hands of the people. Comm. James said he felt a petition would be the best first step in the process of asking people. Comm. Patterson felt that the people should decide in a referendum, privately and in a voting booth, rather than having to place their names on a petition. Comm. Ross said he was not happy with having to make a decision at the last minute; the request would have to be sent to the Board of Elections in a matter of days.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND CARRIED TO REQUEST THE BOARD OF ELECTIONS TO CONDUCT A REFERENDUM AS REQUESTED. Comms. Patterson, DeWolf, Ross, and Marsh voted "aye," and Comm. James voted "nay."

Town Attorney Bill Coward said he would like to verify the exact wording required for the ballot, and later in the meeting he left the room and researched the law on this question (SEE BELOW).

2. The Town Administrator reported that the current utility re-connection fee was only \$30, much less than that of other power companies; he recommended increasing it to \$50, and \$75 if overtime. Comm. Marsh felt it should be more than that.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND CARRIED TO AMEND THE FEE SCHEDULE ACCORDINGLY. Comms. DeWolf, Ross, James, and Patterson voted "aye," and Comm. Marsh voted "nay."

3. Copies were distributed of information sent to the Town Administrator by Ed Sullivan of McGavran Engineering, documenting the methodology he had used for setting proposed pole attachment rental rates; the rates increased on a sliding scale from \$9.00 per attachment to \$15.00 per attachment over six years. Comm. James asked the Town Engineer to select 100 poles at random, count the connections, and estimate what kind of overall increase this would mean to Northland Cable and its consumers.

Also distributed were copies of e-mails from Ted McGavran to Comm. Marsh asking the Town to amend its Pole Attachment Ordinance to provide an incentive for entities to conclude negotiations of contracts. Mr. Coward said he had reviewed it but felt that it needed to be re-drafted, and the Board asked him to do so, contacting an attorney referred to by Mr. McGavran if necessary.

Comm. James said he felt that a newcomer attaching to poles ought to be required to post a bond. The Mayor said that Nin Bond of Highlands Cable Group had spoken to him and wanted to begin attaching to poles now. The Town Administrator said that Mr. Bond had obtained a State franchise and requested information on attaching to poles last February, and he had been told what the permitting process and clearance standards had been at that time; he had been free to proceed at any time. However, he felt now that Highlands Cable Group should be required to execute a contract prepared by McGavran Engineering, similar to the one Northland and Verizon was reviewing, before being permitted to connect. Comm. Marsh agreed, and he also thought that a bond should be posted. The Town Attorney said in his opinion it would not be unreasonable to withhold pole attachment permits until the contract and bond had been finalized.

Bill Staley said that Northland Cable paid the Town the highest pole attachment fees in the area; most utilities charged \$4.00 per pole, and Duke charged \$7.00 per pole. This cost would have to be passed on to consumers.

4. The Mayor reported that the D.O.T. District Engineer had met with the Public Works Committee concerning the paving of Chestnut Street and the sidewalk along its south side between Fourth and Fifth; these projects were scheduled to be completed this Fall. However, the Committee had asked him to hold off on the sidewalk between Fifth and Sixth until a decision had been made on its design; it would be placed in the D.O.T. budget for next year. Comm. Patterson felt that a survey should be prepared first. Bernie Robert was present, said she was impacted the most by the sidewalk, and favored its construction.

Comm. DeWolf asked about the sidewalk that the Town had required for the Simmerson/Werder Conditional Use Zoning along the north side of Chestnut Street; he wondered if it was needed now that a sidewalk was being constructed across the street.

5. The Town Administrator has drafted a proposed amendment of Section 208.6, exempting buildings on the Town Hall property from the setback requirement, as discussed at the previous meeting. It was agreed that the amendment should be considered the next time the Zoning Ordinance is amended.

6. **MOVED BY COMM. MARSH, 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, AND PURSUANT TO G.S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY.** The Board adjourned to the adjacent conference room with the Town Administrator, Town Attorney, and Police Chief.

A. The Police Chief reviewed an application for full-time police officer from Richard Davis; he recommended employing him at 12-2, with automatic step increases for radar and intoxilyzer certification. He also reviewed an application for Police Auxiliary Officer from Andrea Holland.

B. The Board consulted with the Town Attorney on the Riverwalk litigation.

C. The Board consulted with the Town Attorney on the law concerning ABC referendums.

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

7. **MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO EMPLOY RICHARD DAVIS AS POLICE OFFICER AT A SALARY OF 12-2 (\$27,518), WITH AUTOMATIC STEP INCREASES FOR RADAR AND INTOXILYZER CERTIFICATION.**

8. **MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO EMPLOY ANDREA HOLLAND AS POLICE AUXILIARY OFFICER AT 9-1 (\$23,151).**

9. The Town Attorney had reviewed the wording required for the ABC ballot, discussed earlier in the meeting, and the Board agreed by consensus that the wording should be as follows, pursuant to G. S. §18B-602:

TO PERMIT THE "ON-PREMISES" SALE OF MALT BEVERAGES BY CLASS A HOTELS, MOTELS, AND RESTAURANTS ONLY; AND TO PERMIT "OFF-PREMISES" SALES BY OTHER PERMITTEES.

 FOR
 AGAINST

TO PERMIT THE SALE OF MIXED BEVERAGES IN HOTELS, RESTAURANTS, PRIVATE CLUBS, COMMUNITY THEATRES, AND CONVENTION CENTERS.

FOR
 AGAINST

VIII. MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared by the Mayor to be adjourned at 9:15 p.m.

Richard Betz, Town Clerk