

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF OCTOBER 18, 2011

Town Board Present: Mayor David Wilkes, Vice Mayor John Dotson, Commissioner Larry Rogers, Commissioner Gary Drake, Commissioner Amy Patterson, and Commissioner Dennis DeWolf.

Also Present: Interim Town Manager Robert Zoellner, Planning Director David Clabo, Accounting Supervisor Chuck Young, Recreation Director Selwyn Chalker, Town Engineer Lamar Nix, Town Clerk Rebecca Shuler, MIS/GIS Director Matt Shuler, Town Attorney William Coward, and Recording Secretary Jane Capman.

1. Meeting Called to Order

Mayor Wilkes called the meeting to order at 7:02 p.m.

2. Public Comment Period

Edwin Poole stated that the Wells Fargo ATM was ready for installation and the bank was looking for approval. Planning Director David Clabo advised that he had not yet received the application.

Buck Trott, Vice President of the Historical Society requested of the Board that something should be done to maintain the Playhouse building.

3. Adjust and Approve agenda

Commissioner Gary Drake moved to approve the agenda, which was seconded by Commissioner Amy Patterson and the vote was unanimous.

4. Approval of Minutes

Minutes of August 29, 2011 Joint UDO meeting

Commissioner Amy Patterson moved to approve the Minutes of the August 29, 2011 Joint UDO meeting, which was seconded by Vice Mayor John Dotson and the vote was unanimous.

Minutes of September 27, 2011 public hearing

Commissioner Gary Drake moved to approve the Minutes of the September 27, 2011 public hearing, which was seconded by Commissioner Amy Patterson and the vote was unanimous.

Minutes of October 4, 2011

The Minutes of October 4, 2011 are amended as follows:

Section 2, next to last paragraph, is amended to read as follows:

Commissioner Gary Drake inquired if any consideration was given to a walk-over and he was advised by Mr. Weller that it was discussed but there were esthetic and height concerns.

Section 7, last paragraph, is amended to read as follows:

As there were no further corrections, Vice Mayor John Dotson moved to approve the September 20, 2011 minutes, as amended, which was seconded by Commissioner Gary Drake and the vote was unanimous.

Vice Mayor John Dotson moved to approve the Minutes of October 4, 2011, as amended, which was seconded by Commissioner Gary Drake and the vote was unanimous.

5. Reports

A. Mayor

There was no Mayoral report.

B. Commissioners & Committee Reports

Commissioner Gary Drake advised that the Tourism Development Commission (“TDC”) meeting was held and discussion took place on occupancy tax and the hopes of a rate cut.

Vice Mayor John Dotson discussed the on-going process of the Town Manager search and advised that two more telephone interviews were scheduled for later in the week, face to face meetings have been scheduled and the field is being narrowed down “to the greatest”.

C. Interim Town Manager

Interim Town Manager Bob Zoellner gave his report and advised that all is going well.

6. Consent Agenda

A. Reports

- i. Public Services Department**
- ii. Police Department**
- iii. Parks & Recreation Department**
- iv. Planning & Zoning Department**
- v. Treasurer’s Report for Month Ended August 31, 2011**
- vi. Monthly Calendar**

Commissioner Gary Drake extended a thank you to the Police Department for their handling of illegal signs.

As there were no changes to the Consent Agenda, Commissioner Gary Drake moved to approve the Consent Agenda, which was seconded by Commissioner Amy Patterson and the vote was unanimous.

7. Extra-Territorial Jurisdiction

Mayor Wilkes explained to the public present that during the August 2, 2011 Town of Highlands Board of Commissioners meeting, Commissioner Larry Rogers made the motion to abolish the Town of Highlands Extra-territorial Jurisdiction (“ETJ”). The motion passed 3 to 2 to have the Planning Board review and make a recommendation on abolishing the ETJ. On August 22, 2011 the Planning Board listened to public comments and discussed the issue. The Planning Board recommended the approval of the abolishment of the Town of Highlands ETJ with a vote of 5 to 2. At the October 4, 2011 regular Town Board of Commissioner meeting, the first vote was taken which resulted in a vote of 3 to 1. As a majority was needed, and as confirmed by the Town Attorney, a second vote was needed.

Commissioner Gary Drake (on behalf of Larry Rogers) made a motion to abolish Extra-Territorial Jurisdiction and was seconded by Commissioner Gary Drake.

Prior to taking the vote, Commissioner Dennis DeWolf made a statement to the Board and public present and discussed protecting the visual aspects of the corridors into the Town of Highlands. Commissioner DeWolf further stated that the Board must be responsible for planning for the future and is fearful that the ETJ being “canned” will come back later and be something different.

Town Attorney William Coward discussed the Town’s Zoning Ordinance and the necessity of adopting the following statement, which he read for the record:

STATEMENT

As required by section 709(l.)(A), and prior to adoption of amendments to the Zoning Ordinance on October 18, 2011, the Highlands Board of Commissioners hereby adopts the

following statement describing, “whether its action is consistent with the Land Use Plan and explaining why the Board considers the action taken to be reasonable and in the public interest.”

The repealing of sections 103(A) “Extraterritorial Jurisdiction”, 213 “B-5 ETJ Mixed Use District”, 214 “R-4 ETJ Residential District” and 215 “R-1 ETJ Residential District” in their entirety of the Zoning Ordinance and amendments to sections 114(C) “Outdoor Display” and 407.4(C) “Outdoor Advertising Signs” concerning the abolishment of the Extraterritorial Jurisdiction district (ETJ) are not inconsistent to the Land Use Plan. The said amendments abolishing the ETJ zoning district are reasonable and in the public interest for the following reasons:

With the August 22nd, Planning Board recommendation and the September 27th, public hearing on ETJ reiteration of negative feelings toward the ETJ zoning by a majority of those present was acknowledged. The action to abolish the ETJ zoning district will promote harmony and cooperation between the citizens of the Town and those residing within the ETJ area.

Commissioner Gary Drake (on behalf of Larry Rogers) made an amended motion to abolish Extra-Territorial Jurisdiction and adopt the statement, as read, which was seconded by Commissioner Gary Drake. The vote was 3 to 2 with Commissioners Patterson and DeWolf voting no.

Mayor Wilkes advised that the elimination of the ETJ would take effect in 60 days.

Prior to continuing, Vice Mayor John Dotson stated that bits and pieces of the ETJ were good as it helped guide the look and stated that in the future he would like to see a “visible corridor overlay” and would like to also see that a work session be scheduled in the near future to consider the implementation of buffers as “most folks would like the roads coming into Highlands to look good”.

8. Annual Audit Report for year ending June 30, 2011

Bryan Starnes of Martin Starnes & Associates, PA appeared before the Town Board and gave an overview. Mr. Starnes discussed the audit highlights, the general fund cash, revenues and expenditures, and the audit process. Mr. Starnes also discussed the general fund summary advising that the Town collected less than it spent reducing the balance, which was expected. Also discussed was the fund balance, which serves as a measure of the Town’s financial resources available. Mr. Starnes also advised that the state tax revenues are not enough to fully replace federal stimulus funds that expired in June and advised the Board to pay attention to how issues in Raleigh will affect Highlands as federal and state cuts will affect state and local governments in varying degrees.

Mayor Wilkes thanked Mr. Starnes for his presentation and explanations.

9. Request to Deed Rhododendron Trail Sewer Line to the Town

The Board was presented with a letter from Louis F. Reynaud, President of the Rhododendron Homeowners Association requesting that the sewer line be deeded to the Town. After discussion amongst the Board members and the Town Engineer, Lamar Nix, Mayor Wilkes recommended that the Utility Committee review this matter, obtain any necessary easements in writing and bring the matter back to the Town Board for consideration. No vote was taken.

10. Highlands Playhouse Repairs/Upgrades

Prior to the Board discussing this matter, Commissioner Gary Drake advised that he is married to a member of the Highlands Playhouse, has no financial interest in this matter and discussed the roof repair nine years ago.

Jeff Weller of Summit Architecture, PA, present at tonight’s meeting to answer any questions, previously advised the Town Board that a visual assessment of the Playhouse was conducted. Although the “bones” of the building are in decent shape there are electrical, floor and roof issues. The Board and Mr. Weller discussed the condition of the roof, being only 9 years old.

There are portions of the roof that have no shingles at all and only felt to keep out the elements. Mr. Weller advised that the roof, in its present condition, should not go through the winter season. The Town Board was previously presented with an assessment and revisited it tonight for consideration.

Commissioner Gary Drake moved to approve the expenditure of \$54,750, based upon the estimate, as presented.

Commissioner Drake discussed the possibility of obtaining a new re-worded lease for the Playhouse, similar to that of the PAC, in order for the Town to have the needed control over the building, i.e. any change to electrical systems, etc. Commissioner Amy Patterson advised that if no Town money went into the PAC, how could the Town dictate its actions and Commissioner Drake stated that he merely wanted the Town Board to take a look at it.

Commissioner Gary Drake, amending his motion, moved to approve the expenditure \$54,750 based upon the estimate, as presented, with the exception of a new lease for the Playhouse, similar to that of the PAC lease.

Commissioner Drake inquired of the Town Attorney William Coward if a new lease could be procured and was advised that it would be wise to modify the Playhouse's lease. A copy of the Playhouse lease was provided to the Town Board for review and Town Attorney Coward directed their attention to paragraph VI entitled Repairs.

Mayor Wilkes stated that since the Playhouse is a Town building, the Town will handle the oversight regarding short and long term assessments, wanting the Town to give its approval for any work (i.e. electrical, roof) to be done and obtain a new re-worded lease. Vice Mayor John Dotson advised that since the Town is using taxpayer money, the Town will have oversight even without a new lease. Jeff Weller advised that the figure presented in the estimate is only the construction figure, if done in house, but that a 10% contingency should be added if outside contractors are brought in.

Commissioner Gary Drake, amended his amended motion and moved to approve the expenditure of up to \$60,000, based upon the \$54,750 estimate, as presented with the addition of a 10% contingency, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

11. FY11/12 Budget Amendment Handout

Interim Town Manager Bob Zoellner presented the Board with information regarding the approved budget, the proposed budget amendment and the amended budget.

Mr. Zoellner explained that with ½ of the radio read meters being financed and the other ½ being paid for, the Finance Committee recommended taking those funds from the fund balance. Mr. Zoellner explained the other items that affected the fund balance and the transfer of funds were expenditures to the Street Department (signs, paving and miscellaneous), Recreation Fund (generator), and the Governmental Capital Project Fund (change orders for the police station renovation).

As there was no further discussion, Commissioner Gary Drake moved to approve the FY11/12 Budget Amendment, as presented, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

12. Utility Disconnect/Reconnect fees Handout

The Town Board was provided the below information for review and consideration, which was discussed by Interim Town Manager Bob Zoellner. The Board discussed the number of disconnects and Commissioner Gary Drake stated that the Town is compassionate for people

with problems but the issue is that this is “tax payer money”. Commissioner Drake also discussed the hours expended to connect and disconnect.

Town of Highlands Proposed Fee Schedule Changes

Item	Currently in Fee Schedule	Proposed Changes
Utilities-General Deposits for Non-Owners	Equal to amount evenly divisible by \$50 immediately lower than the three (3) highest utility bills within the past twelve (12) months.	If a deposit is necessary: \$150 residential \$300 commercial
Utilities – General Min. Charges	N/A	Monthly minimum charges are in effect for electricity, water, sewer, and garbage services regardless of usage.
Utilities – General Penalties for Delinquent Accounts	Due 21 days from bill date and written notice within 10 days of being past due that service will be disconnected.	Due within 21 days from date thereof and accounts will be disconnected if bill is not paid within thirty days of billing date. Interest in the amount of 1.5% will be charged on accounts not paid within thirty days of billing.
Utilities – General Reconnection Fees for Utilities	<p>If disconnected for more than one (1) year: 1/2 of the water connection fee + \$50 for electric</p> <p>If disconnected for less than one (1) year: all applicable min. charges which have accrued while disconnected (water, sewer, electric, garbage, and sales tax) + \$50.</p> <p>If reconnected after hours, the fee increases from \$50 to \$75</p>	<p>If disconnected for more than one (1) year: 1/2 of the water connection fee + \$75 for electric</p> <p>If disconnected for less than one (1) year: all applicable min. charges which have accrued while disconnected (water, sewer, electric, garbage, and sales tax) + \$75.</p> <p>If reconnected after hours, the fee increases from \$75 to \$150.</p>

The Board discussed that for a homeowner, a deposit would not be needed however, if the user is a tenant, a deposit would be needed unless a letter of credit is provided. Vice Mayor John Dotson stated that it may not be wise to “discriminate” against tenants.

The afterhours reconnect fee was raised by the Board to \$150.00 to cover the internal costs and is reflected above.

Commissioner Gary Drake moved to accept the Proposed Fee Schedule Changes, as presented, with the exception of raising the afterhours reconnect fee to \$150.00, which was seconded by Vice Mayor John Dotson and the vote was unanimous.

13. Closed Session for Personnel under [N.C.G.S. 143-318.11(a)(1) and (6)]

Vice Mayor John Dotson moved the Town Board into Closed Session, which was seconded by Commissioner Gary Drake and the vote was unanimous.

The Board met in closed session pursuant to N.C.G.S. 143-318.11(a)(1) and (6)] to discuss litigation and personnel matters. No action was taken.

14. Adjournment

As there were no further matters to come before the Board of Commissioners, Commissioner Gary Drake moved to adjourn, which was seconded by Commissioner Amy Patterson and upon unanimous vote the Town Board adjourned at 9:05 p.m.

Mayor David Wilkes

Jane J. Capman
Recording Secretary

Robert Zoellner
Interim Town Manager

Rebecca Shuler
Town Clerk