

## **REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF NOVEMBER 15, 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, Recreation Director Selwyn Chalker, Town Attorney William Coward, and Recording Secretary Jane Capman.

### **1. Meeting Called to Order**

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

### **2. Public Comment Period**

Tina Rogers, Director of the Highlands Playhouse, expressed her thanks to the Mayor and Board for funds to start needed repairs.

### **3. Adjust and Approve revised agenda**

Commissioner Gary Drake requested that agenda item 8 (Playhouse Lease) be tabled.

Town Attorney William Coward requested that the Board add a closed session to discuss a possible litigation matter.

Vice Mayor John Dotson moved to approve the agenda, as revised, which was seconded by Commissioner Gary Drake and the vote was unanimous.

### **4. Approval of November 1, 2011 Minutes (regular meeting)**

Commissioner Amy Patterson moved to approve the Minutes of November 1, 2011 (regular meeting), which was seconded by Commissioner Gary Drake and the vote was unanimous.

#### **Approval of November 2, 2011 Minutes (special meeting)**

Commissioner Gary Drake moved to approve the Minutes of November 2, 2011 (Special meeting), which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

## **Reports**

### **A. Mayor**

There was no Mayoral report.

### **B. Commissioners & Committee Reports**

There were no Commissioner reports.

Commissioner Gary Drake requested that a fence ordinance be adopted as more fences are being built along the corridors. Planning Director David Clabo advised that there presently is no fence ordinance in place.

Commissioner Gary Drake made a motion to direct the Planning Board to create a fence ordinance, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

### **C. Interim Town Manager**

Interim Town Manager Bob Zoellner advised that an application was received for the ABC Board and would be presented during agenda item 11 (Town Boards and Committees).

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 October 31, 2011**
- vi. Monthly Calendar**
- vii. 2012 Holiday Schedule**
- viii. 2011 Christmas Bonuses**

Questions were raised as to meetings on the Monthly Calendar (December) and the Special Meeting of December 8, 2011 needed to be added.

Commissioner Dennis DeWolf moved to approve the Consent Agenda, which was seconded by Commissioner Gary Drake and the vote was unanimous.

7. **Proposed Amendment to Duke Contract**

Kevin O'Donnell appeared before the Town Board to discuss amending the Town's contract with Duke Energy and advised that Highlands' wholesale electric rates will be increasing in January, 2012, which will be passed on to the Town's residents. The Town will phase in the increases by using its rate stabilization fund. Mr. O'Donnell advised that the increase represents Duke's wholesale increase. Mr. O'Donnell further stated that he would be back next month and appear before the Town Board to present a financial forecast explaining that before rate increases are decided, two components need to be added the contract with Duke. One gives Highlands the ability to buy Duke hydro-energy and the other is an option to opt out of the agreement to allow Duke to buy "green" energy for Highlands. Mr. O'Donnell explained that a certain percentage of Town's total supply of energy must come from renewable sources and it makes more sense to let Duke buy it for the Town.

After further discussion, Gary Drake moved to approve the proposed Amendment to Duke Contract, which was seconded by Commissioner Amy Patterson and the vote was unanimous.

8. **Playhouse Lease**

This item was tabled.

9. **Discuss Commercial Lighting Specifications**

Vice Mayor John Dotson advised that recently the Planning and Zoning Boards heard the application from Wachovia Bank for the installation of a kiosk and the type of lighting that was being proposed. Vice Mayor Dotson stated that he would like to have the Planning Board look into commercial light specifications, to which Mayor Wilkes agreed, as it is the intention to keep the lighting down and in line with the Dark Skies Initiative introduced by former Commissioner Hank Ross.

Vice Mayor John Dotson made a motion to instruct the Planning Board to investigate commercial lighting specifications, which was seconded by Commissioner Gary Drake, and the vote was unanimous.

10. **Amendment to Zoning Ordinance**

The Town Board was presented with the following Zoning Amendment for review and consideration:

**AMENDMENT OF ZONING ORDINANCE**

**Upon the submission of the amendments set forth hereinbelow to the Planning Board for recommendation and comment, and having received the comments and recommendations**

**of the Planning Board, and the Board of Commissioners having adopted a statement describing why the Board considers the action taken to be reasonable and in the public interest (such statement being set forth separately in the minutes of the meeting of October 18, 2011) and upon a public hearing held on September 27, 2011, duly advertised as required under Section 709(C), and an affirmative vote of 3 to 1 by the Board of Commissioners of the Town of Highlands at its regular meeting on the 4th day of October, 2011, and an affirmative vote of 3 to 2 by the Board of Commissioners at its regular meeting on the 18th day of October, 2011, and this matter coming before the Board at a third meeting on November 15, 2011 to clarify the specific sections of the Zoning Ordinance to be repealed, now therefore, the Board of Commissioners adopts the following amendment of the Town's Zoning Ordinance:**

I.

All portions of the Town's Zoning Ordinance that heretofore established or defined any extraterritorial jurisdiction, or provided for the enforcement of any zoning regulations in any areas outside the corporate limits of the Town of Highlands are hereby REPEALED. The following list of specific provisions in the Zoning Ordinance is intended to be exhaustive, but to the extent other specific provisions are found at a later time, such provisions will be unenforceable just as if mentioned below:

Section 103 "Jurisdiction." That the first sentence of Section 103 of the Zoning Ordinance of the Town of Highlands, North Carolina, is hereby amended to read as follows:

"The provisions of this Ordinance shall apply within the entire corporate limits of the Town of Highlands ("the Town"), which area of application shall be defined and established on the map entitled "Zoning Map of the Town of Highlands, North Carolina" ("the Zoning Map"), which is adopted simultaneously herewith or as the same may be amended from time to time."

The remaining portions of Section 103 remain unchanged.

Section 103(A) (A-D) "Extraterritorial Jurisdiction" is repealed in its entirety;

The words "and its extraterritorial planning area" in the first sentence of Section 104 are repealed. The remaining portions of Section 104 remain unchanged.

The words "B-3, B-4 and B-5" in Section 114 (C) "Outdoor Display" are amended to read "B-3 and B-4";

Section 213 "B-5 ETJ Mixed Use District" is repealed in its entirety;

Section 214 "R-4 ETJ Residential District" is repealed in its entirety;

Section 215 "R-1 ETJ Residential District" is repealed in its entirety;

The words "B-2, B-3, and B-5" in Section 405.2 (C) "Single Businesses in...Business Districts" are amended to read "B-2 and B-3";

The words "B-2, B-3, and B-5" in Section 405.2 (E) "Shopping Centers in... Business Districts" are amended to read "B-2 and B-3";

Section 407.4 (C) "Outdoor Advertising Signs" is repealed;

The word "R-4" in Section 504.2 is repealed;

The words "areas zoned B-3 and B-5" in Section 505.2 "Location" are amended to read "area B-3 only";

The words "areas zoned B-3 and B-5" in Section 506.2 "Location" are amended to read "area

zoned B-3”;

The words “B-1, B-2, B-3, and B-5 only” in Section 507.2 “Location” are amended to read “B-1, B-2, and B-3 only”;

The words “B-2, B-3, and B-5 only” in Section 508.2 “Location” are amended to read “B-2 and B-3 only”;

The words “B-1, B-2, B-3, B-4, GI & B-5” in Section 512.2 “Location” are amended to read “B-1, B-2, B-3, B-4 and GI”;

The words “All members appointed as representatives of any extra-territorial area, either for regular terms or to fill vacancies of any unexpired term, shall be appointed pursuant to N.C.G.S. 160A-362.” of Section 601.1(B) are repealed; and

The Table of Contents of the Zoning Ordinance is amended to reflect the foregoing amendments.

## II.

The official Town of Highlands Zoning Map shall be revised to eliminate all ETJ district boundaries and any other references to Extraterritorial Jurisdiction or ETJ, and upon that removal the Zoning Map shall show an adoption date of October 18, 2011.

## III.

This amendment is intended to affect only those portions of the Zoning Ordinance related to extraterritorial jurisdiction, and the remainder of Zoning Ordinance remains in full force and effect.

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### NOTE CONCERNING WORDING OF AMENDMENTS

#### **(Town of Highlands, Code) Sec. 1-4. Amendments to Code; effect of new ordinances; amendatory language.**

- (a) All ordinances passed subsequent to this Code which amends, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the board of commissioners.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific references to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Highlands, North Carolina, is hereby amended to read as follows: . . ." The new provisions shall then be set out in full as desired.
- (c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Highlands, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: . . ." The new section shall then be set out in full as desired.
- (d) All sections, articles, chapters or provisions of the Code desired to be repealed must be specifically repealed by section, article, or chapter number, as the case may be.

Town Planner Clabo advised that this is the final determination for the elimination of the ETJ and showed the Board the updated Zoning Map of the Town of Highlands effective October 18, 2011. Mr. Clabo advised that the ETJ will be officially eliminated on December 18, 2011.

As there was no further discussion, Commissioner Gary Drake moved to approve the Amendment to the Zoning Ordinance, as presented, and was seconded by Vice Mayor John Dotson. The vote was 3 to 2 with Commissioners Patterson and DeWolf voting no.

## 11. Town Boards and Committees

The Town of Highlands has established several Boards and Committees to assist and advise the Town Board of Commissioners on various topics including, but not limited to, the Zoning Board, Planning Board, Appearance Commission, ABC Board, Scholarship Committee, Advisory Committee for Scholarship Endowment Fund, and the Cemetery Committee. There have been ordinances and policies created in regards to the appointment, reappointment, terms, etc. With the recent abolishment of ETJ and 2011 Elections, we have current and upcoming vacancies for the following Town Boards and Committees:

<b>Board</b>	<b>Member's Name</b>	<b>(Un)Expired Term</b>
Zoning Board	Tony Potts	ETJ Appointment 05/26/09 - 06/30/12
Zoning Board	Eric Pierson	Commissioner 08/04/10 - 07/01/13
Zoning Board	Alternate	
Planning Board	John Crowe	ETJ Appointment 05/26/09 - 06/30/12
Planning Board	Mike Bryson	ETJ Appointment 05/26/09 - 06/30/12
Appearance Commission	Thomas Craig	Re-app 05/16/07 - 06/01/10
ABC Board	Mike Thompson	Re-app 06/04/08 ~ 08/17/11
ABC Board	Eric Pierson	Commissioner
Scholarship Committee	Susie Schiffl	Re-app 05/16/07 - 07/01/10
Scholarship Committee	Jack Calloway	Re-app 06/07/06 - 07/01/09
Cemetery Committee	Bob Houston	Re-app 06/04/08 - 08/04/11
Cemetery Committee	Jack Mayer	Re-app 05/16/07 - 08/04/10
Cemetery Committee	Mildred Wilson	Re-app 06/07/06 - 08/04/09

Also, the entire advisory committee for the scholarship endowment fund has expired terms. However, with all the current changes with the scholarship fund the Town Clerk is not certain if this committee exists, has met or has been replaced with the Scholarship Fundraising Committees for Golf Classic and Fly Fishing Tournaments.

In addition, the Town has received the following applications for the vacancies:

<b>Board</b>	<b>Applicant's Name</b>	<b>Proposed New Term</b>
Zoning Board	Michael Rogers	
Zoning Board	John Underwood	
Zoning Board	Steve Chenoweth	
Cemetery Committee	Mallory Phillips	

The Town Board was also presented with the current list of boards, members, the boards and committees' policy, as well as applications. It is recommended that the Town Board consider and appoint new applicants at their will.

Vice Mayor John Dotson inquired why the Board was replacing people on boards when their terms had not expired and was advised by Commissioner Amy Patterson that they were ETJ representatives and not the Town's choice. It was ultimately decided that the Board would ask the ETJ representatives, John Crowe and Mike Bryson of the Planning Board to stay until their terms are up in June. The Town Board tabled appointments to the Cemetery Committee.

After discussion, the Board decided on the following appointments to the Zoning Board of Adjustment:

Commissioner Amy Patterson moved to move Michael Rogers from an alternate position on the Zoning Board of Adjustment to a regular member, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

Commissioner Amy Patterson moved to appoint Steve Chenoweth as a member of the Zoning Board of Adjustment, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

As to the ABC Board, Commissioner Amy Patterson moved to appoint Brenda Pierson to the ABC Board to fill the unexpired term of Eric Pierson, which was seconded by Commissioner Dennis DeWolf and the vote was unanimous.

## 12. **Town Clerk Job Description**

The Town Board was presented the following for their review and consideration:

### Town of Highlands Job Description for Town Clerk & Secretary to Town Manager

#### General Statement of Duties

Performs responsible statutory and administrative tasks for the Town Manager, Mayor and Town Board; serves as Town Clerk and Secretary to Town Manager.

#### Distinguishing Features of the Class

An employee in this class is responsible for the maintenance and safekeeping of official public records. Work involves the responsibility for keeping the minutes of the Town Board meetings and other advisory board meetings as needed or requested; for the publication, indexing, filing and safekeeping of all Board proceedings in accordance with general statutes and local ordinances. Work also includes serving as administrative support to the Town Manager, Mayor, and Board. Considerable tact, courtesy, and firmness are required in dealing with the public. Work is performed in accordance with North Carolina General Statutes, Town ordinances, codes, and policies.

#### Duties and Responsibilities

##### Essential Duties and Tasks

Serves as official custodian of all public records including ordinances, proclamations, resolutions, contracts, agreements, minute books and minute indexes; maintains Town seal; performs statutory responsibilities; executes legal documents by securing the proper signatures of Town officials, affixing the Town seal, and attesting to their compliance with general statutes and local ordinances; advertises official meetings. Maintains records of adopted municipal codes, local bylaws, oaths of office, resignations and appointments, petitions, publications, budgets, meeting minutes, and financial statements.

Attends regular and special Board meetings and other committee meetings as needed or requested; prepares minutes of these meetings as needed or requested; drafts and processes all ordinances, resolutions, and other actions of the Board; coordinates agenda preparation, publication, and distribution with Town Manager; arranges for legal notices and press packets;

Performs administrative duties for the Town Manager, Mayor, and Board members by handling correspondence, public inquiries, and mail for these officials. Researches and compiles information as requested by the Town Manager, Mayor, and Board members; performs special project work as requested and in the most appropriate manner; handles confidential information. Prepares, composes, and types correspondence, letters, memorandums, and other directives for the Town Manager, Mayor, and Board members. Arranges appointments, schedules, meetings, travel, and conferences for the Town Manager, Mayor, and Board members for various national, state and local events as needed and requested; coordinates arrangements for receptions, retreats, and other functions. Provides administrative support for other departments as needed.

Maintains lists of various appointed boards and commissions; Monitors vacancies and appointments to the boards and commissions; Coordinates codification updates of the Code of

Ordinances; Tracks document retention requirements; coordinates preservation of documents with the state Department of Archives.

#### Additional Job Duties

Performs a variety of office support tasks to help the administrative offices function smoothly and keep all related Town departments informed of actions which have an impact on them. Backs up other Town administrative staff.

Operates a variety of office equipment including computer, calculator, copier, fax and related equipment. Performs related duties as required.

#### Recruitment and Selection Guidelines

##### Knowledge, Skills, and Abilities

Working knowledge of North Carolina General Statutes and of local ordinances governing the responsibilities of Town clerks.

Knowledge of the organization and functions of Town government.

Knowledge of standard and approved practices and procedures employed in the processing, safekeeping and utilization of official Town records and documents.

Extensive knowledge of standard modern office administrative practices and procedures; principles of grammar, spelling, and composition; computer applications and peripheries as utilized in a modern office environment including databases, presentation, and spreadsheet software.

Ability to exercise sound judgment in making decisions in conformance with laws, regulations, and policies.

Ability to prepare notes of the proceedings of official meetings and to prepare accurate minutes reflecting the actions taken.

Ability to communicate effectively in both oral and written forms.

Ability to establish and maintain effective working relationships with elected and appointed officials, department heads, employees, and the general public.

Ability to handle confidential information appropriately.

##### Physical Requirements

Must be able to physically perform the basic life operational support functions of reaching, walking, fingering, talking, hearing, and repetitive motions.

Must be able to perform sedentary work exerting up to 10 pounds of force occasionally and/or a negligible amount of force frequently or constantly to lift, carry, push, pull, or otherwise move objects.

Must possess the visual acuity to compile and compute data and statistics, perform transcription tasks, operate a computer terminal, and do extensive reading.

##### Desirable Education and Experience

Prefer graduation from four-year college with a major in business, secretarial science, or related field and considerable experience in office management work preferably including some experience in the safekeeping and care of public records and/or responsible executive assistant

duties. As a minimum, must have high school diploma, supplemented by business courses or an equivalent combination of experience and training.

Special Requirement

Ability to obtain Notary Public certification.

Certification from the Institute of Government as Town Clerk or ability to obtain.

Attend classes offered by the Institute of Government (UNC-CH), the NC Municipal Clerks' Association, the NC League of Municipalities, and others, for the purpose of enhancing knowledge and performance of one's position and responsibilities.

Attend meetings and/or conferences, as requested, to report (advise) to the governing body of any information (changes) affecting the clerk's position in governmental operations.

After review of the Town Clerk's and Secretarial position to the Town Manager, it was ultimately decided that since this was not a time sensitive issue, it would be tabled until the new Town Manager is hired.

Commissioner Amy Patterson moved the Town Board into Closed Session, 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)]**

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

**14. Adjournment**

As there were no further matters to come before the Board of Commissioners, Vice Mayor John Dotson moved to adjourn, which was seconded by Commissioner Gary Drake and upon unanimous vote the Town Board adjourned at 9:09 p.m.

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Mayor David Wilkes

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Jane J. Capman  
Recording Secretary

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Robert Zoellner  
Interim Town Manager

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Rebecca Shuler  
Town Clerk