

Regular Meeting Minutes of the Town Board of Commissioners Meeting of March 21, 2013 at the Highlands Community Building, 71 Poplar Street, Highlands, North Carolina.

Town Board Present: Commissioner John Dotson, Commissioner Amy Patterson, Commissioner Gary Drake, Mayor Pro Tempore Eric Pierson and Commissioner Brian Stiehler.

Also Present: Town Manager Robert Frye, Town Clerk Rebecca Shuler, Parks and Recreation Director Lester Norris, MIS/GIS Director Matt Shuler, Code Enforcement Officer Josh Ward and Planning and Development Director David Clabo.

Not Present: Mayor David Wilkes and Town Attorney Bill Coward

1. Meeting Called to Order

Mayor Pro Tempore Pierson called the meeting to order at 6:59pm.

2. Public Comment Period

Ginger Slaughter voiced her support for the music in the park proposal.

Alan Marsh asked if the Town had gone on record to oppose the proposed Duke Energy rate increase.

Hank Ross conveyed his support of the concerts in the park.

Lila Howland said she would like to express her support for the concerts in the park, but if there were any proceeds she asked that the money would be put back into the park.

Pat Allen stated she would like to show her support for the concerts as well.

Ray McPhail expressed that he supported the music in the park series.

Steve Mater also said he was looking forward to the concerts himself.

3. Adjust and Approve Agenda

Manager Frye stated that the Consent Agenda needed to be changed. The Gilliam's Promise 5K Race needs to be withdrawn from the consent agenda and added to the regular agenda as item 9D for Board discussion and a new item 9E needs to be added to discuss Scholarship Committee Appointments.

Commissioner Patterson made a motion to approve the agenda with the before mentioned corrections and additions. The motion was seconded by Commissioner Drake and the vote was unanimous.

4. Approval of Minutes

Special Meeting Minutes of February 14, 2013

Commissioner Stiehler made a motion to approve the special meeting minutes of February 14, 2013, which was seconded by Commissioner Dotson and the vote was unanimous.

Regular Meeting Minutes of February 21, 2013

Commissioner Patterson wanted to add on page 14, paragraph 3 after the words time frame "and to send the matter back to the Planning Board for review and recommendation".

Commissioner Drake made a motion to approve the regular meeting minutes of February 21, 2013 with the before mentioned correction, which was seconded by Commissioner Dotson and the vote was unanimous.

Closed Session Meeting Minutes of February 21, 2013

Commissioner Patterson made a motion to approve the closed session meeting minutes of February 21, 2013, which was seconded by Commissioner Stiehler and the vote was unanimous.

5. Reports

A. Mayor

There was no mayoral report.

B. Commissioners & Committees

Commissioner Stiehler said the applications for the scholarship golf tournament were now available. He also expressed his thanks to the electric crews once again for their hard work during the recent power outages.

Commissioner Drake gave an update of his recent EDC meeting.

Commissioner Dotson stated that the Public Safety Committee met recently and that they would be meeting on an as needed basis for future needs.

C. Town Manager

Town Manager Frye reported that the Eddie Bauer photo shoot had been moved from Friday, March 22nd to Saturday, March 23rd from 9am until 11am.

6. Consent Agenda

Public Works Department
Police Department
Parks & Recreation Department
Planning & Development Department
Treasurer's Report
Resolution Opposing Forced Taking of Municipal Water Systems
Paving Bids Approval
Budget Amendment for Tax and Utility Write Offs

Commissioner Patterson had several questions in regards to the Gilliam's Promise 5K Race and was told it could be discussed during Item 9D.

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

7. Financial Matters:

A. Request for Updated Salary Study

Manager Frye stated the last salary study completed by the Town took place back in 2006. Commissioners Drake and Pierson felt that an updated study would be beneficial information to have going into the budget process. Additionally, doing a new study would allow the Town to add the Fire Chief and Assistant Fire Chief classifications to the Town's pay system. As there were no funds allocated for this in the current year's budget a fund balance appropriation would need to take place.

Commissioner Stiehler said he was not opposed to the study but questioned if the proposed cost of \$11,200.00 was a reasonable price for such a study. Commissioner Dotson said he was not opposed either, but was worried it would be a day late and a

dollar short for this year's budget cycle. Manager Frye said the study could be added to next year's budget for completion.

Mayor Pro Tempore Pierson said he would like to see the study before this year's budget as well. Commissioner Drake made a motion to go ahead with study if the town could get it back by the last week in May which was seconded by Commissioner Stiehler and the vote was unanimous. If this time frame was acceptable, the funds would be allocated at the next regular monthly meeting.

B. Governor's Highway Safety Program Grant Application Request

Chief Harrell is requesting permission to submit a grant application to the Governor's Highway Safety Program for the replacement of the Department's current generation of radar devices. These radars will have to be replaced by 2015 and this grant application would pay for 75% of the replacement cost which is currently estimated to be \$18,000.00. Our local 25% match portion would be \$4,500.00.

The 25% match portion can be included in the upcoming FY 2013-14 budget, so no funds would need to be appropriated in the current budget year.

Commissioner Patterson made a motion in favor of Chief Harrell submitting the grant application, which was seconded by Commissioner Drake and the vote was unanimous.

C. Utility Pole Attachment Permit Fee Proposal

The Town's current Utility Pole Attachment Policy references a permitting fee but does not reference or mention what the cost of that fee would be. Staff is spending roughly two hours per pole to process an attachment application. Staff is expecting approximately 150-200 pole attachment requests in the next few months. Depending on a number of variables, that request could go as high as 500 requests in the next 18 months.

At the 150 to 200 level we are looking at 300 to 400 hours of review time and could go as high as 1000 hours at the 500 pole attachment level. Given this level of staff time and commitment, staff is of the opinion that some form of permitting fee should be charged. Staff would recommend that the Board consider a fee of \$50.00 per pole be added to the fee schedule.

Commissioner Drake asked if the \$50.00 would cover our expense. MIS/GIS Director Matt Shuler said that staff spends about an hour to two hours checking poles, meeting with utilities, completing forms, and then confirming the process. Commissioner Patterson asked if this fee was in addition to the annual pole rental. Shuler stated it was an added one time charge in addition to the yearly pole rental fee.

Commissioner Drake moved to adopt the \$50.00 Pole permit fee, which was seconded by Commissioner Stiehler and the vote was unanimous.

8. Community Music Series Proposal

Thomas Craig addressed the Board and said he hoped everyone had reviewed the agenda packet and that he would answer any questions anyone had in regard to the community music series proposal. Commissioner Patterson said she questioned the alcohol policy and the Town's liability. Craig said it would be the same as with any other rental fee.

Commissioner Patterson said for example, if someone drinks, leaves and kills someone because the Town allowed drinking on Town owned property, what is the Town's liability. Patterson said she was not against the event, but was worried about this liability. Craig said, "What if he was sitting in his car on a public street drinking and wrecked would the Town have liability?"

Commissioner Stiehler said he would like to thank Craig and Bob Kieltyka both for their hard work on this project. Stiehler said he knew the Chamber had a liability policy and was looking into adding this event to it. Bob Kieltyka said this policy includes things such as the Chili Cook-off held at the Community Building annually.

Commissioner Drake said he felt this was something the Town needed to try and thought Craig had done a real good job with the Ugly Dog. Drake felt this project would thrive as well. Commissioner Patterson asked if the rental fee being waived was the only request. Craig stated the request was for this year's rental fee and eventually maybe the series would be able to start paying if proven successful. Crain was also requesting that the dates for the 2013 season be reserved, Pine Street be closed off between 5th street and the Bank of America entrance for the duration of the concert, that the Town provide trash receptacles and removal, and the 2014 dates to be tentatively reserved as well. Craig said that if any funds were to that accumulate that they would want it to go back into the park for improvements, etc. Craig stated this event wasn't intended as a form of profit for anyone. The bands get paid and the porta potty companies get paid, but other than that there was not income.

Commissioner Stiehler made a motion to approve the concert series with the waiving of the event fee for the duration of the 2013 concert season, closure of Pine Street between 5th Street and the Bank of America entrance, along with providing trash receptacles and removal. Commissioner Dotson seconded the motion and the vote was unanimous.

9. Miscellaneous Matters:

A. Request for House Moving Permit

The Town received a request from Mr. Marc Hehn for permission to move the Wellspring Apple Cottage from its current location behind the Methodist Church to a new location on Wilson Road. Currently the move is scheduled to occur on March 28th at 7:30 a.m. with an alternate move date of April 4th.

All applicable agencies have been contacted and have signed off on the move. They include, the Town of Highlands Police, Town of Highlands Electrical Department, NCDOT, NC Highway Patrol, Frontier Phone, Northland Cable, and Balsam West Cable.

We currently anticipate that traffic will be blocked on Main Street from approximately 8:30 a.m. till around 10:00 a.m. and power outages along Lenard Drive for 3 to 4 hours beginning shortly after 10 a.m.

Commissioner Patterson questioned the effect of this move on the stop lights. Manager Frye said the moving equipment was hydraulic and therefore there was not a need in removing the stop lights. Commissioner Patterson then questioned the impact on the Town's planters.

Commissioner Dotson made a motion to approve the House moving Permit, which was seconded by Commissioner Drake and the vote was unanimous. It was mentioned that all people that would be affected by these power outages be notified in advance.

B. Proposed Utility Disconnection Policy

Manager Frye presented the proposed Late & Penalty Fees ~ Service Disconnection/Reconnection Policy. Commissioner Patterson wanted to make sure 22 days allowed the people putting their payment in the boxes time to have their payments posted before adding the late fee. Commissioner Dotson expressed his concern about the Electric Dept. collecting money. After brief discussion, commissioners were reassured that the Electric Dept. would not be collecting cash and that this was just during after hour reconnections.

Commissioner Drake moved to approve the Proposed Utility Disconnection Policy, which was seconded by Commissioner Dotson and the vote was unanimous.

C. Resolution Requesting the Closure of a Portion of 5th Street

Last year the Town received a request from the Presbyterian Church for the Town to transfer the property adjacent to the church on 5th street to the church for use as a memorial garden where ashes would be interred. At that time, much discussion was had concerning the procedure that needed to be followed to allow the request to take place. Finally, all parties involved have been satisfied and accommodated and we are ready to proceed.

Commissioner Stiehler made a motion to approve the following resolution of intent to consider the closing of a portion of 5th Street and setting a public hearing on the topic for the regularly scheduled meeting of May 23, 2013. The motion was seconded by Commissioner Drake and the vote was unanimous.

**RESOLUTION OF INTENT
Resolution No. 2013-02-Res**

A RESOLUTION DECLARING THE INTENTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF HIGHLANDS TO CONSIDER THE CLOSING OF A PORTION OF 5TH STREET

WHEREAS, G.S. 160A-299 authorizes the Board of Commissioners to permanently close streets and public alleys; and

WHEREAS, G.S. 160A-299 requires the Board of Commissioners to hold a public hearing prior to the closing of any street or alley road for the purpose of giving consideration to the matters required to be considered in such hearing by said Statute;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners that:

- (1) The Board intends to consider permanently closing a portion of 5th Street under the provisions of G.S. 160A-299. The portion under consideration is shown on the plat dated February 16, 2007 and entitled "Site Survey for First Presbyterian Church of Highlands, North Carolina," being drawing number F100-68 by L. Stephen Foster, P.L.S., and being incorporated herein by reference.
- (2) A public hearing will be held at 7:00 p.m. on the 23rd day of May 2013 in the Highlands Conference Center, 71 Poplar St., to consider an order closing that portion of 5th Street.
- (3) The Town Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in the Highlander Newspaper.
- (4) The Town Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution of Intent.
- (5) The Town Clerk is further directed to cause adequate notices of this Resolution of Intent and the scheduled public hearing to be posted as required by G. S. 160A-299.

Upon motion duly made and seconded, the above resolution was unanimously adopted by the Board of Commissioners at their regularly scheduled meeting held on the 21st day of March 2013 in the Highlands Conference Center, 71 Poplar St.

This the 21st day of March 2013.

ATTEST:

Rebecca R. Shuler, Town Clerk

D. Gilliam's Promise

Commissioner Stiehler said that the date of September 14, 2013 was proposed for the Gilliam's Promise 5K race, but a better date would actually be the 21st of September with a race start time of 8am same as the other 5Ks held in town over the past few years. The race route is that of the typical 5K, leaving the Recreation Park traveling out Lower Lake Road and returning to the Recreation Park. Commissioner Patterson moved to approve the request for the Gilliam's Promise 5K Race, which was seconded by Commissioner Drake and the vote was unanimous.

E. Scholarship Committee Appointments

Commissioner Dotson said with the Scholarship application due date of the 15th April fast approaching and one committee volunteer in very bad health, he felt the Board might look at appointing a new member. Commissioner Drake asked Commissioner Dotson if he had someone in mind. Commissioner Dotson said he did.

There was brief discussion about having to have a "Minister of the Gospel or a church leader of the area" on the committee. Commissioner Patterson suggested checking with Town Attorney Coward about the new policy and the requirements for the committee members. Town Clerk Shuler pulled the new policy and informed the board the committee was to be composed of 5 members including the town attorney, the principal of Highlands School, and three additional members who are citizens of the area and active in community affairs.

Commissioner Dotson said he had spoken with Rev. Paul Christy and he would be willing to serve if the Board so chose. Commissioner Dotson then made a motion to appoint Rev. Paul Christy to the Scholarship Committee replacing Bud Potts, which was seconded by Commissioner Drake and the vote was unanimous.

10. Public Hearing

A. Open Public Hearing

Commissioner Drake made a motion to open the public hearing for petition for conditional use zoning district R-3 CUD at 7:49pm which was seconded by Commissioner Stiehler and the vote was unanimous.

B. Staff Comments/Recommendation

Planning and Development Director David Clabo stated the Planning Board reviewed the conditions sent to them by the Town Board at their last board meeting of February 25, 2013 and their recommendation was on page 85 in the agenda packet. Commissioner Patterson questioned why condition #11 was on the list of recommendations. Patterson felt this could be construed that was the only place a buffer had to be used. Patterson also wanted to verify that condition #12 was the buffer around the entire perimeter. After brief discussion, Planning and Development Director Clabo assured Patterson it was.

C. Public Comments

Zach Shaumberg of MESA Capital Projects said the proposal for TownPlace was strictly to finish the community. They wanted to facilitate the process and preserve the Stewart House. Shaumberg wanted to thank Paul Schmitt, Pat Allen, Jim Tate, Hank Ross, and the Highlands Planning Staff for all their help with this project. Shaumberg said if you look at proposed site plan it is very similar to what was already proposed with no increase in density. The townhouses will be moving to a horizontal product rather than vertical which will eliminate people living on top of each other. MESA has tried to very intently listen to some of the community to enhance this product.

Paul Schmitt stated that the existing two buildings of four townhouses on the former site plan were going to be changed to three buildings of three townhouses but no more density was being added. The proposed project will enhance the buffers and add porches on back of the houses and screened porches on the front which will soften the building as you walk up. This allows the project to fit more in a residential area. Garage spaces will be included unlike in the past design. This will help with parking.

Commissioner Patterson questioned the height of the anticipated that lower level. Schmitt told her an estimated 31 feet but that will depend on the site level. Patterson then questioned as to how much area the buffer will actually cover. After much discussion as to the type of buffer and canopy cover, Hank Ross said he understood everyone's concerns but felt very comfortable that the proposed elms, zelcovas and other cover will make the project have a comfortable homey feel. Commissioner Patterson said she felt the buffer needed to be thicker as the current rhododendrons were see through. Commissioner Dotson said the buffer definitely needed to be enhanced to meet the type two buffers required.

Commissioner Patterson questioned if Shaumberg owned the Property to which she was assured MESA did own the property.

Citizen Steve Ham asked for the Board to consider the single family neighborhood and honor the original request to place a single family home and two four townhouse units within the project.

Pat Allen addressed the Board next and said with years of experience, people hate stairs within their homes and they could not get elevators approved. Allen said people didn't want people living on top of them. She stated that the porches on the back of the house are too noisy with all the traffic and the new screened porches on the front will be very beneficial as will the garages. MESA is willing to invest to make this project more suitable for the current market and to go back to the current product that isn't going to sell will just make the unfinished project sit there longer and longer.

Frank Norton said he purchased the Stewart House and wants to preserve it, but looks forward to having the new Townhouses as neighbors.

Beth Ham said back in 2006 when this conditional use was first considered they were opposed and went to great lengths to avoid it. The result was to have a single family next to the single family neighborhood. Mr. Simmerson had a plan to bring in a lot of money and it failed. We no longer will have one new neighbor but will have 20 new neighbors. The old plan made much more sense and she was very sorry it didn't all work out. Now Mr. Shaumberg is a nice man with a nice plan, but what if it doesn't work. Five years ago Ham said they were on this boat and doesn't want to be on the boat again. Ham would like to stop the three family housing being next door to their home and was hoping that today MESA would have a backup plan to have all of they were proposing plus allowing a single family home. Ham said it was awkward to stand in public and ask for privacy, but it feels like they are being encroached upon. It is Ham's hope that the Board decides to keep the power of decision making instead of allowing people with money to make the decisions for them.

Commissioner Patterson questioned why the project couldn't be completed on the original site plan. Patterson said the last building didn't have to be completed. The exact number of townhouses that was previously allowed doesn't have to be what is actually built. This particular piece of property was R2 and therefore gave the R2 feel for the neighbors. Commissioner Patterson informed MESA they wanted the Board to change the rules so that they could make more money. Patterson said she had been called prejudice against builders in the past, but she has to step up and look out for the citizens for the Town.

Commissioner Drake started to comment on Patterson's comment but was told by Mayor Pro Tempore Pierson it wasn't the appropriate time for this discussion.

D. Close Public Hearing

As there were no further public comments, Commissioner Dotson made a motion to close the public hearing, which was seconded by Commissioner Patterson and upon a unanimous vote the Public Hearing was closed at 8:41 pm.

E. Council Action

Commissioner Drake said he understood where Commissioner Patterson was coming from in her thoughts. Mayor Pro Tempore Pierson said the Board needed to look at this as a whole new project. Commissioner Stiehler agreed it did need to be viewed as a whole new project and then questioned what defines R2.

Commissioner Patterson said she didn't feel you could separate it from what happened before. The Board didn't just give them R3 which is what they are wanting now. The Board and the public met in the middle. Now there is a loop hole, they say we'll wait five years and they'll change the rules. They are asking the Board to change the zone so they can make more money.

Mayor Pro Tempore Pierson said what if they were to come back and ask for B1. It changes your mind set.

Commissioner Patterson said no one likes government because it talks to money. Patterson doesn't want our government to be accused of this.

Commissioner Stiehler moved to approve the petition for conditional use zoning district R-3 CUD with the planning board recommendations which was seconded by Commissioner Drake and the vote was four to one. Commissioner Patterson voted nay.

Commissioner Drake made a motion to approve the Statement of Consistency for the zoning text amendment that accompanied the petition for conditional use zoning district R-3 CUD. The motion was seconded by Commissioner Stiehler and the vote was four to one. Commissioner Patterson voted nay as she felt this was not consistent with the goals, objectives and policies of the Town's adopted Land Use Plan as it is site specific.

11. Adjournment

As there were no further matters to come before the Board of Commissioners, Commissioner Drake moved to adjourn, which was seconded by Commissioner Stiehler and upon unanimous vote, the Town Board adjourned at 8:57pm.

Eric Pierson
Mayor Pro Tempore

Rebecca R. Shuler, CMC
Town Clerk