

Regular Meeting Minutes of the Town Board of Commissioners Meeting of July 18, 2013 at the Highlands Civic Center, 600 N. 4th St., Highlands, North Carolina.

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

Also Present: Town Manager Robert Frye, Town Clerk Rebecca Shuler, Town Attorney Bill Coward, Parks and Recreation Director Lester Norris, MIS/GIS Director Matt Shuler, Public Works Director Lamar Nix, Police Chief Bill Harrell, Interim Planning and Development Director Josh Ward, and Fire Chief Ryan Gearhart.

1. Meeting Called to Order

Mayor Wilkes called the meeting to order at 7:01pm.

2. Public Comment Period

Derek Taylor requested that the Music in the Park be extended until 10pm Saturday, July 20th due to the 5K event that is scheduled prior that evening. Taylor said they had discussed the matter with Thomas Craig and the Chamber and everyone was in agreement. The Board gave their consensus to allow the music to extend until 10pm on Saturday, July 20th.

3. Adjust and Approve Agenda

Commissioner Drake made a motion to approve the agenda as presented, which was seconded by Commissioner Patterson and the vote was unanimous.

4. Approval of Minutes

Regular Meeting Minutes of June 20, 2013

Commissioner Stiehler made a motion to approve the regular meeting minutes of June 20, 2013 as presented, which was seconded by Commissioner Dotson and the vote was unanimous.

5. Reports

A. Mayor

There was no mayoral report.

B. Commissioners & Committees

Commissioner Stiehler thanked Public Works Director Nix for the work the Street Department had done to make Chowan Dr. look more residential. Stiehler also informed the Board that the residents of Chowan were in the process of preparing a petition to have the road repaired and reopened.

Commissioner Drake gave a brief update of the TDC meeting he had recently attended.

Commissioner Dotson requested that Public Works get started on the sidewalk on Main Street from Third to First Street. Commissioner Patterson said she would like to see the plan first and discuss using an impervious surface as the stormwater study has shown that every sidewalk installed adds to the stormwater issue. Public Works Director Nix said the plan was for a 6' brick sidewalk. Commissioner Pierson said he had some ideas on impervious surfaces he would like to discuss. Commissioner Drake said he would like to see the plan first as well before agreeing to proceed. A meeting with the Public Works Committee was schedule for Monday, July 22nd.

C. Town Manager

There was no manager report.

6. Consent Agenda

Public Works Department
Police Department
Parks & Recreation Department
Planning & Development Department
Treasurer's Report

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

7. Public Hearing: Amendment to Section 13.1.4, 15.3.1 and 15.4.1 of the UDO

A. Open Public Hearing

Mayor Pro Tempore Pierson made a motion to open the public hearing for Amendment to Section 13.1.4, 15.3.1 and 15.4.1 of the UDO at 7:12pm which was seconded by Commissioner Patterson and the vote was unanimous.

B. Staff Comments/Recommendation

Interim Planning and Development Director Josh Ward presented the following amendments to the UDO:

Addition to Section 13.1.4 (A): Exempt Signs

- A. All classes of government signs including but not limited to traffic, health and public safety; crime control and prevention; official notices or advertisements related to any court action; the location of underground utilities; historical markers or monuments; any other community service signs approved by the Town of Highlands, *as well as, any signage provided by the Town of Highlands, including but not limited to, wayfinding signage, corridor entrance signage, and town sponsored event signage.*

Addition to Section 15.3.1

- I.) "Nothing in Section 15.3.1 shall be construed to prevent the issuance of a Notice of Violation that immediately imposes a penalty for a violation of Article 13, Sign Standards."

Addition to Section 15.4.1

- Last sentence, stating, " Notwithstanding any other provision herein, for violations of Article 13, Sign Standards, the issuance of a Notice of Violation that imposes an immediate penalty shall require payment as stated in the Notice of Violation without issuance of a citation or any further action by the Planning and Development Director or the Board of Commissioners. Service of such Notice of Violation shall be accomplished by giving the owner of the property (or any other person apparently in charge of the premises) a copy thereof."

C. Public Comments

There were no public comments.

D. Close Public Hearing

As there were no further public comments, Mayor Pro Tempore Pierson made a motion to close the public hearing, which was seconded by Commissioner Stiehler and upon a unanimous vote the Public Hearing was closed at 7:15pm.

E. Council Action

Commissioner Stiehler made a motion to approve the Amendment to Section 13.1.4, 15.3.1 and 15.4.1 of the UDO as presented, which was seconded by Commissioner Drake and the vote was unanimous.

8. Financial Matters:

A. Street Dept. Equipment Bid Approval

Manager Frye told the Board the current year's budget includes funds for the purchase of a street sweeper and backhoe for the Street Department.

Budgeted amounts were as follows:

Backhoe	\$82,000.00
Street Sweeper	\$57,000.00

As for the Backhoe purchase, staff proposes to utilize the N.C. State Contract system. The Current state contract price for a backhoe is \$71,227.00.

As for the street sweeper, staff has received bids from two interested parties. The bids for the sweeper are as follows:

Nelson Tractor	\$51,604.00
Southside Equipment	\$53,556.00

Staff would recommend purchasing the sweeper from low bidder Nelson Tractor.

Commissioner Patterson moved to accept staff recommendations for the purchase of a Backhoe through the N.C. State Contract system and the street sweeper from Nelson Tractor, which was seconded by Mayor Pro Tempore Pierson and the vote was unanimous.

B. Fire Dept. Grant Project Approval

Manager Frye informed the Board that earlier in the year the Fire Department submitted a grant request to FEMA for the purchase of new air packs.

The total project cost was estimated to be \$133,450.00 with the FEMA grant covering 95% of the cost (\$126,778.00) and the Fire Department covering the remaining 5% (\$6,672.00).

The Fire Department received the following two bids for this equipment:

MES	\$132,574.59
Rhinehart Fire Services	\$134,090.00

The Fire Department would recommend the Board approve the low bid from MES in the amount of \$132,574.59.

Commissioner Dotson wanted to verify that the equipment was the exact same from both suppliers. Chief Gearhart assured him it was and the Fire Dept. had chosen this

brand because the surrounding departments had the same equipment and it was all interchangeable in case of mutual aid.

Commissioner Drake made a motion to approve the purchase of the air packs from MES, which was seconded by Commissioner Stiehler and the vote was unanimous.

9. Planning Matters:

A. Proposed Updates/Changes to Sign Ordinance

In researching the sign standards for the Town of Highlands, staff realized it has been well over 20 years since the current standards have been reviewed. Staff has compiled a list of sign standards that should be clarified, amended or simply reviewed to determine whether a change is needed. The Land Use Committee has also reviewed this list and feels these standards should be reviewed.

After a very brief discussion, Commission Patterson made a motion to send the list to the Planning Board for review and creation of a draft ordinance amendment including their recommendation to be brought back to the Town Board for approval. The motion was seconded by Commissioner Drake and the vote was unanimous.

B. Proposed Changes to Board Appointments

Due to a lack of applicants over the past several years the Zoning Board of Adjustment, the Planning Board, and the Appearance Commission have operated at partial capacity for long periods of time. Currently, the Zoning Board of Adjustment is short one alternate member and the Appearance Commission is short one member. The terms for the Zoning Board of Adjustment are mandated by the N.C. General Statutes. The terms for the Planning Board and the Appearance Commission are not specific and can be established by the Town Board of Commissioners. Currently, a member can serve only two consecutive terms on the Planning Board and the Appearance Commission before they must rotate off. Therefore, quality members that would prefer to remain on the Board or the Commission cannot. Once these members have rotated off due to the expiration of their term limits, a majority of the time the individuals will not apply again in the future. Staff would recommend that the Board set a public hearing for the August 15th meeting to amend the UDO to change the term limits of the Planning Board and the Appearance Commission.

Commissioner Stiehler made a motion to set a public hearing for August 15, 2013 to amend the term limits, which was seconded by Commissioner Pierson and the vote was unanimous.

C. Discussion: Change to Conditional Zoning

As the Town has experienced over the past year, the process for Conditional Use Zoning Districts is lengthy and cumbersome. In doing some research, staff has learned that the majority of counties and municipalities in North Carolina use Conditional Zoning instead of Conditional Use Zoning Districts. The main difference being that the decision made by the Town Board of Commissioners is the final approval, whereas with Conditional Use Zoning Districts, a Special Use Permit (or a Conditional Use Permit as it is also called) is required following the Town Board's approval. The Zoning Board of Adjustment has the authority to review Special Use Permit applications. The Special Use Permit process takes approximately a month to finalize and could potentially lead to additional conditions being imposed on the approval. Information was given to the Board to review for future discussion regarding this matter. There was a brief discussion among the Commissioners and it was requested that examples of these types be brought back to the Board.

10. Parks and Recreation Matters: Request for Approval of Proposed Pool Design

The Board was presented with a proposed pool design. Commissioner Stiehler wanted to verify the depths at the slide. Recreation & Parks Director Norris informed Stiehler it was 8' but the slide will be relocated. There were questions related to the wading pool and barriers for the younger kids using the wading pool as a kiddy pool. Attorney Coward questioned the liability of a child jumping the small area connecting the wading pool to the rest of the pool.

Commissioner Drake made a motion to approve the design as presented, which was seconded by Commissioner Patterson.

Commissioner Dotson wanted to verify how many entrances were included in the proposal. Norris informed Dotson there were four (one on each end).

The vote was unanimous to approve the design.

11. Miscellaneous Matters:

A. Macon County Firefighters Association Request

The Town received a request from the Macon County Firefighters Association to conduct a charity boot drive on Main Street on Saturday, July 27th from 8:30am to 2:30pm. After a very brief discussion, it was agreed upon by consensus to allow the boot drive to proceed.

B. Renewal of Memorandum of Understanding SRO Officer

The Board was presented with a Memorandum of Understanding between the Town and the Macon County Board of Education for a SRO Officer at Highlands School. Attorney Bill Coward wanted to point out this was a contract not a MOU.

Commissioner Stiehler made a motion to approve the Memorandum of Understanding which was seconded by Commissioner Pierson.

Commissioner Patterson questioned whether the Town had ever signed the Understanding before. Police Chief Harrell stated it had been approved each year and should have been approved back in November.

Commissioner Drake stated he felt the Sheriff's Department should be responsible for the SRO position instead of the Town.

Commissioner Patterson said she had issues with a few item within the Understanding and started with a discussion of Item 4 on Page 72 of the agenda stating the department would provide a substitute officer in the place of the absent SRO. Patterson questioned why we would be required to fill the position in the event of an absence when there were other schools that didn't even have a SRO position at all.

After a few more questions in regards to insurance liabilities, the term automatically renewing, and a few more clarifications Commissioner Stiehler was asked to withdraw his motion. Commissioner Stiehler withdrew his motion and the Board decided to have Town Attorney Coward meet with the County Attorney and redraw the Memorandum of Understanding.

C. Pole Attachment Ordinance Amendment

Currently the Town has no date by which a licensee who applies for a Pole Attachment Permit would be required to attach to a pole. This could cause the Town foreseeable problems in the future with multiple utilities vying for the same pole space. This will also encourage utilities to apply only for poles they will attach to in the near future. The following amendment was proposed:

Ordinance Amendment

Pursuant to an affirmative vote of ____ yeas to ____ nays by the Board of Commissioners of the

Town of Highlands at its regular meeting on the ____ day of _____ 2013, and an affirmative vote of ____ yeas to ____ nays by the Board of Commissioners at its regular meeting on the ____ day of _____ 2013, the following ordinances are hereby AMENDED:

(Proposed Amendments in red italics, showing additions)

Chapter 15
Utilities
Article V. Pole Attachment Regulation*

Sec. 15-306. Effect of permit.

The holding of a permit by a licensee shall constitute for all purposes the licensee's agreement to abide by each and every provision of this article *including an attachment period of one year from the date the pole attachment permit is issued, at which time if the licensee has not attached to the permitted poles the permit process will need to be recompleted.*

That Section 15-306 of the Code of Highlands, North Carolina, is hereby amended to read as follows:

Sec. 15-306. Effect of permit.

The holding of a permit by a licensee shall constitute for all purposes the licensee's agreement to abide by each and every provision of this article including an attachment period of one year from the date the pole attachment permit is issued, at which time if the licensee has not attached to the permitted poles the permit process will need to be recompleted.

Commissioner Drake questioned if the 12 month time frame given should be the actual amount of time. MIS/GIS Director Shuler said he felt a year was a good time frame to make sure financials were in order and time for construction.

Commissioner Patterson wanted to make sure if someone came in and was going to build out an entire area and didn't have it all complete in nine months that we would send them a notice that let them know their permit was running out.

Commissioner Dotson question giving them a start date instead of a completion date and if it would lock out competition. Shuler said under franchise laws you can't lock out competitors.

Commissioner Drake made a motion for the Pole Attachment Permit to expire one year from the date the permit is issued, which was seconded by Commissioner Stiehler and the vote was unanimous.

12. Closed Session: Attorney-Client Privilege pursuant to NCGS §143-318.11(a) (3)

Mayor Pro Tempore Pierson made a motion to go into Closed Session at 8:09pm, which was seconded by Commissioner Stiehler and the vote was unanimous. The Board met in closed session pursuant to NCGS §143-318.11(a) (3) for attorney-client privilege. Commissioner Drake moved the Board back into to open session at 8:47pm, which was seconded by Commissioner Stiehler and the vote was unanimous.

Once back in open session, Commissioner Drake made a motion to refund Highlands Wine and Cellar, subject to determining the exact amount, the cost of the Business License fees they have paid over the past two years due to current court case verdicts on similar issues. The motion was seconded by Commissioner Pierson and the vote was unanimous.

13. Adjournment

As there were no further matters to come before the Board of Commissioners, Commissioner Patterson moved to adjourn, which was seconded by Commissioner Drake and upon unanimous vote, the Town Board adjourned at 8:48pm.

David Wilkes
Mayor

Rebecca R. Shuler, CMC, NCCMC
Town Clerk