

Regular Meeting Minutes of the Town Board of Commissioners Meeting of November 21, 2013 at the Highlands Community Building, 71 Poplar 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 Jay Coward, Parks and Recreation Director Lester Norris, MIS/GIS Director Matt Shuler, Public Works Director Lamar Nix, and Planning and Development Director Josh Ward.

1. Meeting Called to Order

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

2. Public Comment Period

Alan Marsh wanted to let the Board know the local people spoke during the election.

3. Adjust and Approve Agenda

Commissioner Patterson asked for the 2014 Holiday Schedule to be pulled off of the Consent Agenda. Mayor Wilkes stated it would be added as agenda item 10.

Mayor Pro Tempore Pierson made a motion to approve the agenda with the before mentioned correction, which was seconded by Commissioner Dotson and the vote was unanimous.

4. Approval of Minutes

Regular Meeting Minutes of October 17, 2013

Commissioner Patterson asked that a vote be recorded on page 4 in the last paragraph in regards to the motion to approve the amendment to Article 3, 4, 5 and Table of Contents to the UDO. Mayor Pro Tempore Pierson made a motion to approve the regular meeting minutes of October 17, 2013 with the before mentioned correction, which was seconded by Commissioner Stiehler and the vote was unanimous.

Closed Session Minutes of October 17, 2013

Mayor Pro Tempore Pierson made a motion to approve the closed session minutes of October 17, 2013, which was seconded by Commissioner Patterson and the vote was unanimous.

Special Meeting Minutes of November 7, 2013

Commissioner Drake made a motion to approve the special meeting minutes of November 7, 2013, which was seconded by Commissioner Dotson and the vote was unanimous.

5. Reports

A. Mayor

There was no mayoral report.

B. Commissioners & Committees

Commissioner Drake informed the Board of the joint TDC and Chamber meeting he had attended. The entities agreed to work with a firm to put more information for the Town of Highlands on the web. This will be accomplished by using a statewide system which compresses all event calendars into one and should become a great marketing tool for the town.

C. Town Manager

Manager Frye reminded the board Town Hall would be closed Thursday and Friday, November 28th and 29th for Thanksgiving. The regular sanitation route that was to be run on Thursday will be run Friday.

6. Consent Agenda

Public Works Department
Police Department
Parks & Recreation Department
Planning & Development Department
Treasurer's Report
Employee Longevity/Holiday Bonuses
Disposal of Surplus Equipment

Commissioner Patterson said she didn't feel an amendment to the Personnel Manual should be included on the Consent Agenda. Patterson said she felt something like this should be discussed and not hidden in amongst Consent Agenda material. Patterson stated with the third day at Christmas citizens would not be able to have access to town staff or services for five days and doesn't feel the town should be upping holidays at the expense of tax payers.

Commissioner Drake said he felt that the number of holidays given to employees did have to stop somewhere. Manager Frye told the Board the personnel manual had to be amended if the change was made because it outlined the specific holidays.

Commissioner Dotson said he didn't feel the change should be made either.

Commissioner Patterson made a motion to leave the holiday schedule as it had been in

the past, which was seconded by Commissioner Dotson and the vote was 4 to 1. Commissioner Stiehler voted nay.

<u>Holiday</u>	<u>Observance Date</u>	<u>Day of the Week</u>
New Year's Day	January 1, 2014	Wednesday
Martin Luther King Day	January 20, 2014	Monday
Good Friday	April 18, 2014	Friday
Memorial Day	May 26, 2014	Monday
Independence Day	July 4, 2014	Friday
Labor Day	September 1, 2014	Monday
Veteran's Day	November 11, 2014	Tuesday
Thanksgiving	November 27 & 28, 2014	Thursday & Friday
Christmas	December 24 & 25, 2014	Wednesday & Thursday

Commissioner Drake made a motion to approve the remaining Consent Agenda items, which was seconded by Commissioner Dotson and the vote was unanimous.

7. Planning Matters

A. Discussion Proposed Sign Ordinance Revision

Planning and Development Director Josh Ward presented the Board with a sign standards review synopsis and draft of the revised sign ordinance. Commissioner Patterson wanted to know how Open Flag signs were being addressed and also wanted to know the size restrictions. Mayor Pro Tempore Pierson said he felt the size should be limited. Ward said he would address this concern in the final revision for presentation at next month's meeting.

Commissioner Patterson then questioned ingress and egress signs and the wording of Section 13.5.2. Patterson suggested that this section be split out. Patterson said it was unclear as to if the business had a set sign size to split between two signs or two signs at a certain size each and felt the verbiage needed to be clarified. Business districts B2 and B3 needed to be changed to match the clarifications made to B1.

Commissioner Dotson wanted to address off premises signs for off site venues. He stated that it was obvious the Planning Board had given a lot of thought to this matter, but he has some serious reservations about allowing businesses in or out of town to come to the Town Board to erect signs to direct citizens to their businesses. Dotson said the way the ordinance is worded, 4 & 1/2 Street Inn could easily become a large venue and want a sign directing citizens to their Inn.

Ward stated it had been looked at by the Planning Board and the Land Use Committee, but two commissioners wanted to see the off premise sign option included in the ordinance.

Commissioner Dotson said another example could be the Inn at Half Mile Farm. They could request several signs to be located at locations such as at the intersection of 64 & 106, the intersection of 64 & Mirror Lake, and the intersection of Mirror Lake & Hicks Rd.

Commissioner Stiehler said when he was looking at the off premises sign for the Farm he was concerned with safety issues, but agrees there is a point where the Town has to draw a line. Commissioner Drake agreed with Stiehler that a line did have to be drawn somewhere. Commissioner Dotson said these signs could easily become marketing tools for businesses.

After a further brief discussion as to advertising time constraints and concerns about the public having access to the changes before the public hearing, Commissioner Drake made a motion to set a public hearing for 7:00pm at the December 12, 2013 regular board of commissioner's meeting for the proposed sign ordinance with the before mentioned changes to be included. Mayor Pro Tempore Pierson seconded the motion and the vote was unanimous.

B. Proposed Directional Blade Signs Review

The Small Town Main Street Sign Committee & Frazier & Associates have worked together over the past year & a half to design the wayfinding signage project to be implemented across town. The first phase of the project, the entrance signs on all four corridors leading into town, was completed earlier this year. Now with the second phase of the project funded by the town, staff would like the Town Board to review the proposed directional blade signs that are to be installed at strategic locations around town to guide visitors to specific destinations.

Planning and Development Director Josh Ward had a sample sign on hand for the Board to review. Commissioner Patterson asked if the signs were double sided. Ward informed the Board some of the signs were designed to be placed on round metal poles and some were to be hung on the traffic light posts. DOT has reviewed the signs and wanted to meet one more time to approve the installation once approved by the Board.

Commissioner Patterson questioned what the maximum number of signs on a post would be. Ward said he felt it would definitely be two signs, but possibly three in some cases on signal arms.

Commissioner Drake moved to approve the directional blade sign designs with a modification to move the tree over for the bracket to be install, which was seconded by Commissioner Patterson and the vote was unanimous.

8. Upcoming Board Appointments

Manager Frye informed the Board that the Town had several terms that were up on various Town committees. A list of these vacancies was given to the Board for review. Manager Frye told the Board these vacancies would be addressed at the January

meeting. Frye asked the Board to address questions in regards to these vacancies to the Town Clerk.

9. MIS/GIS Matters: Communications Ordinance

MIS/GIS Director Matt Shuler presented the Board with the revised Communications Ordinance which included all changes requested by the Board at a previous meeting. Shuler said he had also conducted some research on the costs of leasing dark fiber.

Mayor Wilkes asked Shuler how he thought the recommended lease rate would affect the cost that is passed on to the consumer. Shuler said any entity would pass the cost on to their customer base but didn't think it would play a major factor in the cost.

Mayor Wilkes asked Shuler how the recommended price compared to other entities. Shuler said the price is right in the middle of surrounding fiber lease prices. Shuler informed the Board that Balsam West was asking \$1200 a month just for transport. The length of a full run of fiber was discussed.

Commissioner Dotson stated that since the Board had last talked about the lease of fiber, Northland and Highlands Cable Group both had both gained access to fiber in town whether limited or throughout. Commissioner Stiehler questioned whether they could lease the fiber out as well. Shuler said they could lease the fiber out for transport. Shuler stated he had spoken to Highlands Cable Group and they were excited about the opportunity to come into town to service other areas.

After more brief discussions as to making the project competitive and offering good competitive prices to the citizens, Public Works Director Nix said that he felt \$5.00 a 1000' was much less than \$10.00 a pole. Commissioner Stiehler made a motion to approve the Communication Ordinance and the lease rates at \$5.00 per 1000' per single fiber, which was seconded by Commissioner Drake and the vote was unanimous.

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 Italics, Showing additions)

Chapter 15 Utilities Article VI. Communications

Sec. 15-350. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Fiber optic cable” shall mean a network cable that contains strands of glass fibers inside an insulated sheath.

“Dark Fiber” shall mean any individual communications fiber within any fiber optic cabling sheath owned by the Town that is not in use as of the first of each month. This Dark Fiber will have neither communications nor signal of any type.

“Pole Attachment Hardware” shall mean any device by which a fiber optic cable is physically mounted or affixed to a pole.

“Lessee” shall mean a person holding a lease for use of the town’s dark fiber.

Sec. 15-351. Bills.

Bills are due and payable within twenty-one (21) days from the date thereof and normally will be rendered as nearly as practicable at monthly intervals for all service furnished during the previous month, as defined in this article, but the town shall have the option of rendering bills at more frequent intervals.

Sec. 15-352. Deposits.

- (a) The town may, at any time, require a deposit from a consumer to secure the payment of bills. Upon final settlement of consumer’s account any unused part of the deposit, if any, will be returned. If consumer refuses to make deposit, upon request of the town, service may be refused or, if already established, discontinued at the option of the town.*
- (b) If consumer shall fail to pay any bill within a period of thirty (30) days after date of such bill, town may apply any deposit made by consumer in the liquidation of such bill and at the option of the town service may be discontinued until the deposit is reestablished to its full amount.*

Sec. 15-353. Disputed bills.

A dispute as to the amount of a bill, or credits to be allowed against such bill, shall not justify consumer in refusing to pay the bill when due, but if upon payment of bill by consumer within the ten-day period written notice is received at town’s office that the bill is in dispute, stating the amount and reasons for dispute, the town will forthwith investigate such complaint and if the investigation shall disclose that consumer has a just claim the town will make proper refund or credit any such amount so proven in error upon the next monthly bill of consumer.

Sec. 15-354. Service interruptions.

- (a) **Liability.** The town does not guarantee continuous service but shall use reasonable diligence to provide uninterrupted service, and having used such diligence shall not be liable to consumer for damages for failure to furnish stable service. In the event of interruption of town’s service, not caused by the negligence of consumer, the town’s liability to consumer shall be limited to a pro rata reduction of the service charges corresponding to the period of such interruption or failure to render service. The reduction from service charges shall only be prorated and credit given when the interruption occurred during consumer’s regular operating hours and only when the*

period of interruption exceeds five (5) consecutive hours and when claim for reduction for service charge is made in writing addressed to the town's office where consumers' bills are payable and when mailed within ten (10) days from date the interruption in question occurred. In no event shall the town be responsible for consequential damages.

- (b) Interruptions due to strikes, accidents and force majeure.** *Neither the consumer, nor the town shall be liable for damages to the other for any act or omission caused directly or indirectly by strike, labor trouble, accident, litigation, U.S., state or municipal interference or any cause not due to neglect on the part of either. The cause or causes producing such acts or omissions shall be removed with all reasonable diligence within the power of either party affected.*
- (c) Interruption for repairs.** *The town reserves the right to suspend service without liability on its part at such times, for such period and in such manner as may, in its judgment, be required for the purpose of making necessary repairs. Insofar as practicable repairs will be made at such periods as in the opinion of the town will be of least inconvenience to consumer. During such suspensions there will be no abatement to consumer of the service charges applicable to the class of service being furnished unless the period of interruption exceeds five (5) consecutive hours, or unless written notice of claim for interruption exceeding five (5) hours is mailed to the town as provided in subsection (a).*

Sec. 15-355. Indemnity to town.

Consumer will indemnify, save harmless and defend the town against all claims, demands, costs or expenses, for loss, damage or injury to persons or property in any matter, directly or indirectly, loss of income, loss of clientele, connected with or growing out of, loss of service, inconsistent or disrupted service.

Sec. 15-356. Remedial measures.

- (a)** *The town, in addition to all other legal measures, may terminate or suspend the delivery of service for any default or breach of contract by consumer, but no such termination or suspension will be made by the town without five (5) days' written notice to consumer, stating in what particular manner the contract has been violated. The exceptions to this case are that of theft of current by consumer, in case of defective wiring on consumer's premises causing dangerous leakages of current, or in case of utilization by consumer of service in such manner as to cause danger to persons or property or the impairment of town's service to other customers.*
- (b)** *In these last named exceptions, service may be discontinued instantly, in the opinion of the town, without recourse to a written notice. Failure of the town to suspend delivery in one (1) case shall not affect town's right to seek remedy by disconnecting service in any future fault or breach by consumer.*

Sec. 15-357. Cable Repair.

- (a)** *The Town will only repair damaged fiber optic cable during regular business hours unless downed cable poses an imminent danger. This determination will be in the sole discretion of the Town. A lessee may request a cable be repaired after regular business*

hours by contacting the Town at the phone numbers supplied to the lessee by the Town. The Town may contact a fiber optic cable repair contractor. The Town will in its sole discretion determine the contractor.

- (b) The lessee requesting an after hour repair will bear all costs of the repair.
- (c) The lessee shall not make any repair to town owned fiber optic cabling or pole attachment hardware.

Sec. 15-358. Pricing.

- (a) *Initial Setup Fees:* The lessee shall pay all costs for initial setup as designated by the Town including but not limited to: IT staff and line crew time in addition to material. The lessee shall not perform initial setup or maintenance of any type at any time to town owned fiber optic cabling or pole attachment hardware. The Town will in its sole discretion complete the initial setup or determine the contractor.
- (b) The amount charged by the town for the leasing of Dark Fiber shall be set by the Board of Commissioners and found in the town’s fee schedule.

Sec. 15-359. Limitation.

The lessee is limited by the town to leasing 3 fibers per sheath.

Dark Fiber Lease Rates

Rate per 1 fiber per 1000’ **\$5.00** per month

*Price does not reflect initial setup costs

	1 Fiber	2 Fibers	3 Fibers	4 Fibers	5 Fibers	6 Fibers
Up to 1000’	\$5.00	\$10.00	\$15.00	\$20.00	\$25.00	\$30.00
Up to 2000’	\$10.00	\$20.00	\$30.00	\$40.00	\$50.00	\$60.00
Up to 3000’	\$15.00	\$30.00	\$45.00	\$60.00	\$75.00	\$90.00
Up to 4000’	\$20.00	\$40.00	\$60.00	\$80.00	\$100.00	\$120.00
Up to 5000’	\$25.00	\$50.00	\$75.00	\$100.00	\$125.00	\$150.00
Up to 6000’	\$30.00	\$60.00	\$90.00	\$120.00	\$150.00	\$180.00
Up to 7000’	\$35.00	\$70.00	\$105.00	\$140.00	\$175.00	\$210.00
Up to 8000’	\$40.00	\$80.00	\$120.00	\$160.00	\$200.00	\$240.00
Up to 9000’	\$45.00	\$90.00	\$135.00	\$180.00	\$225.00	\$270.00
Up to 10000’	\$50.00	\$100.00	\$150.00	\$200.00	\$250.00	\$300.00

*If price is changed the matrix will be changed to reflect this change.

Adjournment

Commissioner Pierson moved to adjourn meeting, which was seconded by Commissioner Drake and upon unanimous vote, the Town Board adjourned at 8:15pm.

Commissioner Dotson mentioned the approval of the new Town Attorney contract that was to be approved.

Mayor Wilkes reopened the meeting at 8:15pm for the review of the Town Attorney contract.

Commissioner Dotson asked if the contract they had been presented with was a boiler plate contract. Dotson then asked if the County shouldn't be changed from Jackson to Macon County as business was to be conducted in Macon County. Dotson also requested that the fourth paragraph regarding the consideration of the sum of One Dollar (\$1.00), each to the other paid be deleted. The last correction Dotson requested was in section 2.B. for the word "or" to be replaced with "and" in the phrase "required or approved".

Commissioner Dotson made a motion to approve the new Attorney contract with the before mentioned corrections, which was seconded by Commissioner Drake and the vote was unanimous.

Commissioner Drake moved to adjourn the meeting, which was seconded by Commissioner Dotson and upon unanimous vote, the Town Board adjourned at 8:19pm.

David Wilkes
Mayor

Rebecca R. Shuler, CMC, NCCMC
Town Clerk