

REGULAR BOARD MEETING of January 3, 1996, with Mayor John Cleaveland and Commissioners H. N. James, Mike McCall, Donnie Calloway, and Zeke Sossomon present. Comm. Sanders had just undergone surgery and was unable to attend the meeting.

Also present were Richard Betz, Lamar Nix, Selwyn Chalker, Jerry Cook, Victor Lofquist, George Freiberg, Wesley Royal, Alan Marsh, Ralph Morris, Tony Chambers, and Isabel Chambers.

I. Mayor Cleaveland called the Regular Board Meeting to order at 7:00 p.m.

II. The minutes of the December 6 Public Hearing and Regular Board Meeting had been distributed by mail.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPROVE THE FOREGOING MINUTES.

III. Reports.

1. The Mayor reported that he had spoken with State Senator Bob Carpenter and State Representative James Carpenter about the possibility of improving US-64; he now understood that D. O. T. officials from Raleigh would be willing to meet in Highlands on January 31 with Board members and other interested parties. He also said that he intended to find out if any federal funds would be available for such a project. The Board agreed to meet with the D. O. T. officials at 10:00 a.m. on January 31.

2. Victor Lofquist was present representing W. K. Dickson Company, the Town's engineering firm. He reported that thus far two contractors had expressed an interest in bidding on the water/sewer line projects on January 25. He also reported that work was progressing on the Water Treatment Plant; the building frame had been erected and the pre-clarifier equipment had arrived. He felt that the contractor could still meet the May deadline barring weather problems.

3. Public Works Director Lamar Nix reported that the Street, Water, and Electric Departments were completing routine work. The Electric Department had also installed new primary lines in the Horse Cove, Bowery, and Dogwood Drive areas. He said that he had prepared a preliminary estimate for providing water to Ponderosa Subdivision, as requested at the December 6 meeting, and it appeared initially that both the water line to the subdivision and the lines within it were inadequate in size; he said he would have more detailed figures at the next meeting. The Board asked him to contact the Property Owners Association directly when he had prepared a more detailed estimate and determine if they would be willing to bear this expense.

4. Police Chief Jerry Cook gave an oral report on Police Department activities for the month of December.

5. Recreation Director Selwyn Chalker reported that routine repair and maintenance was underway at the Civic Center building, and included repairing the lights in the front parking lot, replacing the fences damaged by Hurricane Opal, completing the new roof on the Foreman Road picnic shelter, replacing the store-room ceiling, replacing the front door closer, and cleaning up the kitchen. He also said that carpet would be installed in the weight room, and he would get a price on replacing the stalls in the rest rooms. Thus far, \$2395 had been collected by area tennis players toward re-surfacing the tennis courts.

Comm. Calloway said he felt it would be a good idea to place funds into a capital account for upkeep of the Civic Center building in the future. Comm. James remembered that there had been a Recreation Department Capital Reserve Fund when he was the Town's Treasurer, but the Clerk reported that he was unaware of one at this time; he agreed to look into the matter.

6. The Clerk reported that Zoning Administrator Shannon Baldwin had not had the opportunity to prepare his written report for the month of December.

7. Each Board member received a copy of the Treasurer's Report for the month of December.

MOVED BY COMM. JAMES, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO APPROVE THE TREASURER'S REPORT AND TO PAY THE ACCOUNTS PAYABLE.

8. The Clerk reported that he had been informed that the State Division of Emergency Management would be disbursing FEMA grant funds for Hurricane Opal in the amount of \$184,424 within the next week or two. He also said that he had prepared and submitted an application for \$42,623 in grant funds under the Hazard Mitigation Grant Program, as reported at the December 6 meeting, for retro-fitting the Town's water lift stations and providing an emergency power generator; the application might take as long as two years to be processed, but he felt there was a good chance of receiving funds .

In reply to questions from Comm. James, the Clerk reported that Pay Request No. 18 from Mountain Shore Construction Company in the amount of \$10,000 for the Wastewater Treatment Plant, as discussed at the December 6 meeting, had still not been approved by the Town Attorney. He reported that he had decided not to replace the phone system in the Town office at the present time. He also reported that Buddy Miller had accepted the Town's December 6 offer of employment in the Street Department, and would begin working in that Department tomorrow.

The Clerk also distributed copies of the Second Draft of the proposed Sewer Connection Policy, as discussed at the December 6 meeting, incorporating the revisions made by the Committee and the larger policy questions raised by Comm. Patterson. A work session to discuss the policy had been scheduled for January 17.

IV. Old Business.

1. The Mayor reported that the consideration of a petition for re-zoning submitted by Georgia Allen, discussed at the December 6 meeting, had been placed on the agenda for this meeting, but that since then letters had been received from both Tony Chambers and Mrs. Allen asking that the matter be postponed until she could be present. The Planning Board had recommended approving the petition and re-zoning the property from B-4 to B-3 at their December meeting. He stated that, although he was opposed to the re-zoning because he considered it a case of spot-zoning, he felt it would not be fair to consider it without Comm. Sanders being present. Comms. James, Calloway, and Sossomon also had no objection to waiting until Comm. Sanders was present.

Comm. James was concerned about the Planning Board's decision, which he felt had been made as if the Town had no Land Use Plan. He felt that the Planning Board should have recognized that the present Zoning Map was the result of an extensive Land Use Plan; unless the Board based its decisions on a Land Use Plan, there would be more individual applications like this one. He felt that this decision had been purely arbitrary. If the Land Use Plan was to be updated, he felt the Division of Community Assistance should become involved and a study conducted.

Comm. McCall felt that the Planning Board should reconsider the Land Use Plan. He felt that it might want to see if the Town needed to expand the commercial areas in Town.

Comm. Calloway wondered if the basis for this re-zoning was the value of the property. He agreed that the matter should be given more study. He pointed out that one concern of the Land Use Plan had

been the impact of intense uses like restaurants and motels.

Comm. Sossomon said that he was not in favor of spot zoning; he wondered what the procedure would be for initiating a review of the Land Use Plan.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO DEFER THIS MATTER UNTIL COMM. SANDERS CAN BE PRESENT.

2. Police Chief Jerry Cook had prepared a proposed addition to the Police Department's Policy and Procedures Manual regulating the carrying of concealed handguns by full-time police officers when off-duty. He said that the new State law permitted the carrying of concealed handguns without permits provided such a policy was in place. Comm. Calloway wondered if the Town would in any way be liable if it adopted the policy; Chief Cook said he believed the Town would not be exposed to any liability. The Board agreed to ask the Town Attorney to review the proposal and consider it again at the next meeting.

3. The Clerk reported that he had not received any recent replies to his October 19 letter to property owners on Satulah Ridge Road and Carolina Way concerning their willingness to participate in paving those private roads. Of the property owners on Satulah Ridge Road, 21 were willing, 4 were not, and 9 had not replied. Of the property owners on Carolina Way, 4 were willing and 7 had not replied. The Board asked the Clerk to contact again those who had not replied.

V. New Business.

1. George Freiberg was present, and explained to the Board that Hydrologic Inc. had recently signed a letter of intent with Culligan Water Technologies Inc. to purchase the operations and maintenance portion of their business. Culligan was a 60-year-old business with a lot of strength and capital, and the home office would remain in Asheville. Operation of the Town's Wastewater Treatment Plant (WWTP) would be unchanged, and all of the operators and personnel would remain the same; all of the terms and conditions of the existing contract would be binding with the new purchaser. As part of the purchase, however, a non-compete clause would prohibit Culligan from operating a testing laboratory at the Town's WWTP in competition with Hydrologic Inc.; certification of such a laboratory had been agreed to in the contract. He explained that he would be willing to proceed with obtaining commercial certification for the laboratory, leaving all of the equipment on site, and performing testing for the Town's WWTP, as well as work toward certification for the Water Treatment Plant testing; the original plan to perform testing for other plants in the area could not be carried out, however, due to the non-compete clause. The cost of the annual \$2000 certification fee would be paid for by Culligan, and not passed on to the Town. He asked that the Town agree to the assignment of the contract from Hydrologic to Culligan Water Technologies Inc.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO APPROVE THE ASSIGNMENT OF THE CONTRACT TO OPERATE THE TOWN'S WASTEWATER TREATMENT FACILITY FROM HYDROLOGIC TO CULLIGAN WATER TECHNOLOGIES INC.

2. The Clerk reported that a petition for annexation had been received from Raymond P. Vito for a 4.20 acre tract on Big Creek adjoining the corporate limits. Under the Watershed amendments to the Zoning Ordinance, only two residences could be constructed on the property. Mr. Vito had requested water service and annexation in December of 1994, but had withdrawn his request when the Board had indicated it was unwilling to annex the property at that time.

Comm. James said that he felt the Town's long-standing policy of not providing water service to property unless it was annexed was still a good one.

The Clerk reported that he understood another property owner would also be requesting annexation sometime within the next month, and pointed out that it might be more convenient to hold a single public hearing.

The Board agreed to inform Mr. Vito that it would entertain his request, but would postpone setting a public hearing pending receipt of an additional petition for annexation this month.

3. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS A PERSONNEL MATTER.

The Board discussed at some length Town Attorney Keith Clark and the level of legal services being provided by him to the Town.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

4. The Board asked the Mayor to discuss legal services with Town Attorney Keith Clark.

5. Public Works Director Lamar Nix reported that he had met with D. O. T. officials about the proposed sidewalks on South Fourth Street, and he understood the project would be bid in the near future.

Comm. James asked the Clerk to see if the owners of the property west of the proposed sidewalk would be interested in providing additional right-of-way.

VI. Meeting was adjourned by common consent at 8:20 p.m.

Richard Betz, Town Clerk