

REGULAR BOARD MEETING of February 7, 1996, with Mayor John Cleaveland and Commissioners H. N. James, Mike McCall, Ron Sanders, and Zeke Sossomon present. The Mayor reported that Donnie Calloway had told him he would be unable to attend this meeting.

Also present were Richard Betz, Lamar Nix, Victor Lofquist, Orville Coward Jr., Bill Coward, Dr. Louis Reynaud, Luke Osteen, Georgia Allen, Robert Allen, Tony Chambers, Raymond Vito, Jolene Niblack, Craig Cranston, and Mary Berry.

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

II. The minutes of the January 17 Regular Board Meeting and the January 29 Special Board meeting had been distributed by mail.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPROVE THE FOREGOING MINUTES.

III. Reports.

1. The Mayor reported that the January 31 meeting with D. O. T. officials from Raleigh to discuss improvements to US-64 had been well-attended; he urged the Board to do everything possible to try to prevail in improving the road. The Clerk reported that he, the Public Works Director, and the Zoning Administrator would be meeting on February 8 with the County Manager and County Planner to discuss both short-term and long-term strategies.

2. Victor Lofquist was present representing W. K. Dickson Company, the Town's engineering firm. He reported that only two bids had been received on the water/sewer line projects on February 1; the project had been re-advertized for February 15 at 2:00 p.m. He also reported that, at the last progress meeting on the Water Treatment Plant project, the contractor had informed him that he was running between 30 and 45 days behind schedule. He planned on discussing the June 30, 1996 deadline for the Surface Water Treatment Rules extension granted last year with State Officials, collect information on days lost to bad weather, and report back to the Board. He also reported that he had discussed problems at the Wastewater Treatment Plant with David Pond and with the equipment suppliers involved, and he felt most of them could be corrected; he would be responding in writing to a list of problem areas prepared by the Public Works Director.

3. Public Works Director Lamar Nix reported that the Street Department had been working on ice and snow removal. The Water Department had been addressing several small leaks, and also working at the Water Treatment Plant with the Electric Department to change out a pump and motor. The pump had been repaired and replaced, but had failed almost immediately and been sent back to the shop again for replacement of the lower bowl assembly; it would be ready to install this week or the first part of next week. The Sanitation Department was behind schedule, due to the bad weather and the repairs at the Wilson Gap transfer station which were requiring the Town to haul trash to the Franklin landfill. Mr. Nix also reported that he had been discussing the possibility of installing a backup pump at the new Water Treatment Plant with the engineers, and would bring a cost estimate to the Board. The laboratory at the Wastewater Treatment Plant had been certified by the State. Mr. Nix had obtained a quote of \$3790 for heat-taping the sludge lines at the Plant, and had ordered this work to proceed. He planned to obtain quotes from M. B. Haynes Electric for improvements to the electric system—to include a second phase at the Sherwood Forest Lift Station, a third phase at Moorewood Circle, and one or two phases in the Bowery Road area—and proposed budgeting for this work in the coming year. He had also obtained a quote of \$12,000 for replacing the water line in Mill Creek Lane, and with the Board's permission would proceed with obtaining right-of-way; the Town would make the service taps and re-pave the road.

The Mayor asked Mr. Nix to convey the Board's thanks for the excellent job the Street Department had been performing in keeping the roads passable during the recent ice and snow storms.

4. Police Chief Jerry Cook was not able to be present to give his report.

5. The Clerk reported that Recreation Director Selwyn Chalker was attending a conference, and would give his report at the next meeting.

6. The Clerk distributed copies of the Zoning Administrator's written report for the month of January.

7. Each Board member received copies of the Treasurer's Report for the month of January. The Board discussed the large bill from Nantahala for wholesale power. The Mayor said that he had been discussing with Lamar Nix the possibility of installing a generator to shave peak loads, and the Board agreed for Mr. Nix to discuss this idea with a consultant or electrical engineer to see if it was feasible.

MOVED BY COMM. MCCALL, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE TREASURER'S REPORT AND THE ACCOUNTS PAYABLE FOR THE MONTH.

8. The Clerk reported that he had applied for \$8630 in public assistance from the Federal Emergency Management Agency as a result of the two storms in January.

He also reported that he had received a letter dated January 24, 1996, concerning the Elizabeth Neal property along South Fourth Street; the property owners were unwilling to sell any of the property or permit any trees or shrubbery to be cut.

He also reported that he, the Mayor, and the Zoning Administrator had met with prospective Town Attorneys Orville Coward Jr. and Bill Coward from Coward, Hicks, and Siler, P.A., on February 1 to discuss several legal matters. They had advised not adopting the proposed amendment of the Police Policies & Procedures Manual regarding concealed handguns. They had also prepared a deed of easement for the water line to the new Little Bearpen water tank, and the Clerk had forwarded it to Mrs. Elizabeth Lindsey for her signature.

Each Board member received a copy of the Third Draft of the Sewer Connection Policy, together with a proposed amendment regarding public service pump stations serving more than one residence, as discussed at the January 29 Special Meeting. The Clerk reported that this matter would be placed on the February 21 agenda, together with discussion of the Byrd/Forbes I/I Study and awarding the water/sewer line bids to be received on February 15.

IV. Old Business.

1. The Board again considered a petition for re-zoning from Georgia Allen, who was present at the meeting. The Mayor reported that Comm. Calloway had asked to be present when this matter was decided, but he did not know that Mrs. Allen would be present this evening; he felt it would be up to the Board whether or not to consider it. He explained to Mrs. Allen that the Board was split on the question, and there had been some sentiment to look at the wider issues instead of just one piece of property.

Mrs. Allen said that her property was for sale, and that much depended financially on the decision to re-zone it to B-3. She said she would like a decision on the matter.

The Mayor reiterated his position that singling out this property for re-zoning would constitute spot zoning, and would open the door for other re-zoning requests.

Comm. Sanders pointed out that this request had been sent to the Planning Board, and they had approved it; he felt the Board should respect their opinion. The Mayor said he felt the Planning Board had based that decision on personal feelings rather than using the Land Use Plan as a guideline.

Comm. Sossomon had no problem with reviewing the Land Use Plan as a whole, but he objected to re-zoning property piece by piece.

Comm. James reiterated his position that this would be a case of spot zoning. He did not object to reviewing the Land Use Plan, but felt the Division of Community Assistance should become involved, since they helped draft the Land Use Plan.

Comm. McCall pointed out that the Planning Board had only been asked to look at this single application thus far. He did not think it would be a case of spot zoning because, although not directly adjoining a B-3 zoning district, this property was directly across the street from the Highlands Conference Center and not far from Wilson Electric on Poplar Street.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, TO SET A PUBLIC HEARING FOR MRS. ALLEN'S PETITION FOR RE-ZONING. The motion did not carry: Comms. Sanders and McCall voted "aye," and Comms. James and Sossomon voted "nay;" the Mayor voted "nay" to break the tie vote.

The Board then discussed the merits of updating the Land Use Plan. The Mayor, Comm. McCall, and Comm. Sossomon supported this idea; Comm. James said he was not eager to update the Plan, but if it was done, the whole plan ought to be reviewed, rather than restricting it to a review of one zoning district.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO PROCEED WITH UPDATING THE LAND USE PLAN. The Board asked that Town Planner Shannon Baldwin begin the process by contacting the Division of Community Assistance and working with the Planning Board.

The Mayor said he felt the Board ought to re-consider appointing Planning Board members who resided outside of Town, especially since the Board had not extended its Extraterritorial Jurisdiction. Comm. Sossomon agreed. Comm. McCall pointed out that the existing Planning Board members from outside of Town were doing an excellent job. The consensus of the Board was that future appointments to the Planning Board should be limited to residents of the Town.

Robert Allen was present, and objected to the Board's decision not to hold a public hearing on this matter.

2. The Board considered a petition for annexation from Raymond P. Vito. The Clerk reported that this petition had been received on December 6, 1994, but withdrawn on January 13, 1995. Mr. Vito was present, and stated that he owned 4.20 acres adjoining the Corporate Limits at the end of Sequoyah Ridge Road; he said he wanted access to Town water service.

The Clerk reminded the Board that, at its January 17 meeting, it had agreed to defer action on a request for annexation from Thomas B. Crumpler and H. Bradley Bloomer, subject of a public hearing that same night, until this petition had been received.

The Mayor felt that, in both instances, the Town would benefit from the considerable property valuation. Comm. James said he had no problem, provided both petitioners clearly understood that there was no sewer service available in either area, and they would be responsible for installing their own water distribution lines. The zoning district would be R-1 Residential.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING ORDINANCE, EFFECTIVE IMMEDIATELY:

WHEREAS, the Town of Highlands received a petition from Thomas B. Crumpler and H. Bradley Bloomer, owners of real property described in petition for annexation dated November 17, 1995, and as recorded by the Macon County Register of Deeds, respectively, as Lands of Crumpler, Book V-0, Page 224, and Lands of Bloomer, Book Z-8, Page 298, Lots 1, 2, and 3, containing 6 acres more or less, and said property being contiguous to the existing corporate limits of the Town of Highlands, and asking that the property be annexed and incorporated within the Town limits from and after February 7, 1996; and,

WHEREAS, the Town Clerk certified to the Board of Commissioners that he determined that the form of the petition was sufficient, that the property is contiguous to the Town of Highlands, and that, to the best of his information and belief, Petitioners, respectively, are the sole owners of the property; and,

WHEREAS, notice of a public hearing was published in The Highlander newspaper January 2, 1996, which publication was more than ten days prior to the date of the public hearing; and

WHEREAS, a public hearing was held on January 17, 1996, at 6:30 p.m. in the Conference Room of the Town Hall on North Fourth Street in Highlands, North Carolina, and at the hearing, all persons owning property in the area to be annexed who might allege an error in the petition were given an opportunity to be heard, and no errors were alleged, and other residents of the municipality who favored or questioned the necessity for the annexation were also given the opportunity to be heard, and no adverse comments were made; and

WHEREAS, the Board of Commissioners of the Town of Highlands determined that the petition meets the requirements of Section 160A-31, North Carolina General Statutes.

NOW, THEREFORE, BE IT ORDAINED that, effective February 7, 1996, the real property described in petition for annexation dated November 17, 1995, and as recorded by the Macon County Register of Deeds, respectively, as Lands of Crumpler, Book V-0, Page 224, and Lands of Bloomer, Book Z-8, Page 298, Lots 1, 2, and 3, containing 6 acres more or less, be annexed to the Town of Highlands and thereafter be subject to all of the debts, laws, ordinances, and regulations in force within the Town of Highlands, and be entitled to the same privileges and benefits as other parts of the municipality.

This ordinance is adopted this 7th day of February, 1996.

The Town of Highlands

John W. Cleaveland, Mayor

(TOWN SEAL)

ATTEST:

Richard Betz, Town Clerk

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING TO RECEIVE COMMENTS ON A PETITION FOR ANNEXATION RECEIVED FROM RAYMOND P. VITO FOR 6:45 P.M. ON MARCH 6, 1996.

3. The Clerk reported that, as discussed at the January 3 meeting, he had written letters to property owners on Satulah Ridge Road and Carolina Way concerning their willingness to participate in road improvements. Of the 15 property owners on Carolina Way, six affirmative replies had been received, and nine had not replied to date. The Board agreed to take no action on improving this road at this time.

Of the 35 property owners on Satulah Ridge Road, 24 affirmative replies had been received, 6 negative replies (or replies indicating support only if the road was improved its entire length), and 5 had not replied to date. The Board agreed for the Clerk to prepare a petition for street improvements under the provisions of G. S. § 160A-217 and send it to the property owners, and then initiate the assessment procedures as described in the Statute.

4. The Clerk reported that the Assistant Treasurer had traced the erroneous transfer of funds from the Recreation Capital Fund to the General Fund, as requested at the previous meeting. He said that the Capital Fund had been created on July 1, 1987, and funded by monthly transfers of \$2084 from the General Fund. By January of 1989, the Fund had grown to \$40,500, at which time then-Treasurer H. N. James had purchased a Certificate of Deposit; interest accrued to the Fund. As of June 30, 1991, \$58,499 had accumulated; this amount was combined at that time by then-Treasurer R. A. Zoellner with Powell Bill Funds into a single C. D., with the total interest accruing to the General Fund. That C. D. had been redeemed on June 1, 1993, and the proceeds had been deposited entirely into the General Fund.

Comm. James thought that \$58,499 should be transferred back into the Recreation Capital Fund from the General Fund. The Board agreed to do so immediately, and to review the status of this Fund again at budget time.

5. Each Board member received copies of proposed amendments to the Zoning Ordinance addressing real estate signs and enforcement authority, prepared by the Town Planner and reviewed by the Clerk, as requested by the Board. The amendment on enforcement authority was referred to the Town Attorneys for review. The Mayor read the amendment on real estate signs.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO SEND THE PROPOSED AMENDMENT TO THE ZONING ORDINANCE ADDRESSING REAL ESTATE SIGNS TO THE PLANNING BOARD FOR REVIEW.

V. New Business.

1. The Tax Collector had neglected to provide a written list of total unpaid 1995 taxes that are liens on real property, but agreed to submit this information to each Board member by mail on the following day.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ADVERTISE DELINQUENT 1995 TAXES ON JUNE 4, 1996, IN ACCORDANCE WITH G. S. § 105-369(C).

2. It was reported that A. J. Mackie had resigned as Secretary of the Zoning Board. The Board agreed that the Zoning Board should be empowered to employ its own secretary, without approval of the Board. The Clerk said that he and Shannon Baldwin recommended increasing compensation for the Zoning Board Secretary from \$50 per meeting to \$75; the Board approved the increase in compensation.

3. The Clerk reported that a letter had been received from Sandra

R. James resigning from the Zoning Board effective January 15, 1996; Ms. James had served as an alternate member, and her term was to have expired on July 1, 1996.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ACCEPT WITH REGRET MS. JAMES'S RESIGNATION FROM THE ZONING BOARD.

4. MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPOINT AMY PATTERSON TO THE ZONING BOARD TO FILL SANDRA JAMES'S UNEXPIRED TERM, TO EXPIRE ON JULY 1, 1996.

5. The Clerk reported that a letter dated January 22, 1996, had been received from George Ward Hendon, requesting a 12-month extension of time on installing improvements in the Hobson Subdivision, due to health problems on the part of Mr. Haack. The Clerk reminded the Board that an installation guarantee had been approved for 18 months on August 15, 1994; \$100,000 in security was on deposit for improvements estimated at the time at \$93,000. The Mayor reported that, to his knowledge, none of the lots in the subdivision had been sold.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO EXTEND THE TIME LIMIT ON INSTALLING IMPROVEMENTS IN THE HOBSON SUBDIVISION 12 MONTHS, UNTIL FEBRUARY 15, 1997.

6. The Mayor reported that Derek Taylor had inquired about the possibility of the Town installing lighting and/or paving the parking lot at the Highlands Conference Center. Comm. James did not feel that paving the parking lot should be a high priority, but the Board agreed that there might be a need for lights for this facility. The Street Committee was asked to review the request and report back to the Board.

7. Each Board member had received copies of the final draft of the Town of Highlands 1992 Local Water Supply Plan, as prepared by W. K. Dickson Co. The Plan had been approved by the Division of Water Resources, and was required to be adopted by March 4.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING RESOLUTION:

WHEREAS, G. S. § 143-355(1) requires that each unit of local government that provides public waster services or plans to provide such services shall, either individually or together with other such units of local government, prepare and submit a local water supply plan; and

WHEREAS, as required by the Statute and in the interest of sound local planning, a water supply plan for the Town of Highlands has been developed and submitted to the Board of Commissioners for approval; and

WHEREAS, the Board of Commissioners finds that the water supply plan is in accordance with the provisions of G. S. § 143-355(1) and that it will provide appropriate guidance for the future development of water supplies for the Town of Highlands, as well as useful information to the Department of Environment, Health, and Natural Resources for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Highlands that the water supply plan entitled the Town of Highlands 1992 Local Water Supply Plan, dated November 27, 1995, is hereby approved and shall be submitted to the Department of Environment, Health, and Natural Resources, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Board of Commissioners intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the 7th day of February, 1996.

The Town of Highlands

John W. Cleaveland, Mayor

(TOWN SEAL)

ATTEST:

Richard Betz, Town Clerk

COMM. SANDERS LEFT THE MEETING ROOM.

8. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS LEGAL MATTERS AND A CONTRACTUAL MATTER.

A. Each Board member had received a list prepared by the Public Works Director of problem areas at the Wastewater Treatment Plant, a letter from the Division of Environmental Management concerning an on-site spill on January 14, and a letter from Hydrologic Inc. to the D. E. M. concerning the same incident. The Board discussed these matters with Victor Lofquist, emphasizing the importance of these problems being addressed immediately.

B. The Board met at length with Orville Coward Jr. and Bill Coward of Coward, Hicks, and Siler, P.A., to discuss pending legal matters. Among the items discussed were the title insurance for the Southern National Leasing Company loan for the Water Plant Capital Project; the Allison Outdoor Advertising litigation; the Mountain Shore/Dillingham litigation; the Talbot v. Town of Highlands appeal; the Rex Miller appeal; and service on the Scholarship Committee. It was agreed that compensation for legal services would be at the firm's rate of \$125/hour, and attendance at the first meeting each month would be expected unless otherwise notified.

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

9. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO EMPLOY THE FIRM OF COWARD, HICKS, AND SILER, P.A., AS TOWN ATTORNEYS.

VI. MOVED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADJOURN.

Meeting was adjourned at approximately 9:30 p.m.

Richard Betz, Town Clerk