

REGULAR BOARD MEETING of June 4, 1997, with Mayor John Cleaveland and Commissioners H. N. James, Mike McCall, and Donnie Calloway present. Ron Sanders arrived shortly after the meeting was called to order.

The Mayor reported that Comm. Sossomon had fractured his shoulder in an automobile accident, and would not be present.

Also present were Richard Betz, Lamar Nix, Eddie Madden, Selwyn Chalker, Jerry Cook, Victor Lofquist, Jolene Niblack, Dr. Louis Reynaud, Steve & Brenda Pierson, Buck Trott, Rosemary Fleming, Virginia Fleming, Hank Urbanek, Ben Murray, Sharon Anderson, Allen Hathaway, Sylvia Sammons, Alan & Jane Lewis, Richard Melvin, Dan Barker, Jim Ramsdell, Tracy Strain, John Smith, Mary Berry, David Hourdequin, Alan Marsh, Tom & Sara Olson, Bob Zahner, Curtis Hayes, and others.

I. Mayor Cleaveland called the meeting to order at 7:00 p.m.

II. The minutes of the May 28 Special Board Meeting had been distributed by mail.

MOVED BY COMM. JAMES, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

III. Reports.

1. Town Attorney Bill Coward reported that he had written to Kimila Wooten, Margaret Mitchell O'Donnell's attorney, on May 21 concerning the sidewalk to the U. S. Post Office at Highlands Plaza, as requested at the May 7 meeting. The letter informed her that the cost of installing the sidewalk along US-28 and Third Street was \$31,665, and requested that this amount be forwarded within fifteen days of receipt of the letter. Mr. Coward said that he had discussed this with Ms. Wooten, but he understood that Ms. O'Donnell had had surgery and was in the hospital; she had informed him that she was taking the deadline seriously and would take care of the matter as soon as she recovered.

2. Victor Lofquist, representing W. K. Dickson Company, the Town's consulting engineer, reported that the old Water Treatment Plant had now been shut down, and the new pre-clarifier was on line.

3. Public Works Director Lamar Nix submitted a written report on activities in the Street, Water, and Electric Departments.

4. Police Chief Jerry Cook gave an oral report on Police Department activities for the month of May. He also asked permission to discuss a personnel matter in Closed Session at the end of the meeting.

5. Recreation Director Selwyn Chalker reported that Rec Camp would begin on Monday and adult softball would begin on June 12. He also said that the new pool was in operation, and the backwashing time was much improved.

The Mayor said that the Town appreciated the generosity of Jane Woodruff in making the renovation of the pool possible.

6. Zoning Administrator Eddie Madden submitted a written report. He also reported that he had met with the owners of Mirror Lake Suites, who had been sent a notice of violation for construction of a deck without a permit, as reported at the May 28 meeting, and they had begun to remove the deck. He had also investigated the B & Z Enterprises Construction site, also discussed at the previous meeting, but had found no indication of siltation; the property owner had, however, installed a silt fence along portions of the property where the potential for siltation existed. He pointed out that the Town's Soil Erosion and Sedimentation Ordinance required a land-disturbing permit for areas over 3000 SF, but did not specifically require the installation of a silt fence.

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

MOVED BY COMM. JAMES, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ACCEPT THE TREASURER'S REPORT.

8. The Clerk reported that he had received an updated estimate of \$29,150 from Dennis DeWolf for the paving of Carolina Way. He understood that Zeke Sossomon was working on the dedication of the right-of-way to the Town by the property owners.

The Clerk also distributed copies of the Macon County Solid Waste Management Plan, approved by the County Board of Commissioners on June 3. He reminded the Board that the Town had agreed to participate with the County in development of the plan, which was required to be adopted by July 1 under State law. He said that he had placed adoption of the plan on the agenda for the June 18 meeting, and in the meantime offered to answer any questions about the plan.

IV. Old Business.

1. The Board again discussed the opening of 4½ Street and/or Poplar Street. It was reported that the Planning Board had agreed to table this matter at their June 2 meeting. The Clerk reported that the Public Works Director had estimated that the cost of opening 4½ Street would be \$25,830. He had been unable to determine the cost of opening Poplar Street to Fifth Street, however, without having a survey made. Thus far he had received one estimate of \$3250 for surveying 4½ Street and \$10,750 for surveying Poplar Street, from W. K. Dickson Company.

The Mayor said that he understood the Town had been threatened with litigation with regard to the right-of-way of Poplar Street, and that the Town Attorney had advised that he needed to discuss this matter with the Board in closed session. He asked those present, however, if anyone wished to speak on the matter.

Virginia Edwards Fleming submitted a written letter objecting to the opening of Poplar Street through property owned by the Edwards family.

Rick Seagle was present and stated that he had not noticed a threat to safety from trucks exiting from Poplar Street; exiting from Chestnut or Hickory Street would be just as dangerous. He suggested that the idea of a traffic light be pursued.

Curtis Hayes, reporter for The Highlander newspaper, was present, and objected to the Board going into closed session to discuss this matter because of the threat of litigation. He said that Amanda Martin, an attorney with the N. C. Press Association, had informed him that the mere possibility of a lawsuit was not sufficient reason to go into closed session.

Dr. Louis Reynaud asked what major reason had been cited for opening the streets; he wondered if it would help Wilson Gas Service.

The Mayor said that he assumed opening the streets would help anyone else on Poplar Street. However, the matter had now become a question of some people claiming that the Town did not have the right to open city streets.

Comm. McCall explained that he had brought this matter up originally because of concerns over safety. He said that, in addition to Wilson Gas Service, more traffic was anticipated on Poplar Street due to Highlands Emergency Council opening a new office.

Comm. Calloway said that the Town was also concerned about Town vehicles exiting onto US-64 from the Town Warehouse on Poplar Street. He said that, as a member of the Street Committee, he did not favor opening 4½ Street, but he had asked about Poplar Street. He pointed

out that the Town had not decided to open one street or the other; it was just looking at the possibilities, including the installation of a traffic light.

Eddie Madden reported that Ruben Moore, traffic engineer with the N. C. Department of Transportation, had met with himself and the Clerk; he would be conducting traffic counts, and was considering several possible solutions, including blinking lights.

The Mayor said that the Board was willing to consider all options available to the Town. He felt that the Town needed to decide, however, whether or not it had a right-of-way on Poplar Street, and would go into Closed Session to discuss this with the Town Attorney at the end of the meeting. He assured those present that no decision would be made at tonight's meeting, and if and when a decision is made the matter would be placed on the agenda.

2. It was reported that, at their June 2 meeting, the Planning Board had recommended adopting the proposed amendment of the Zoning Ordinance regarding a time limit on construction. However, it had agreed not to pursue the erection of signs at the city limits for non-profit organizations. Two additional possible amendments of the Zoning Ordinance which had been discussed by the Board were signs for businesses located off Main Street, which had not yet been discussed by the Planning Board, and regulation of awnings.

Eddie Madden reported that the Planning Board had discussed the Ordinance's method of calculating the size of letters painted directly on awnings and wall signs, currently based on the areas within the perimeter of each individual letter; the Board had felt that the background area around the letters should be included in the calculation as well.

The Board agreed for Mr. Madden to draft an amendment clarifying the matter and take it to the Planning Board for approval at their next meeting. It agreed meanwhile to defer setting a public hearing on the amendment concerning time limits on construction.

V. New Business.

1. The Clerk reported that the Planning Board had approved the preliminary plat for Highlands on Satulah subdivision, prepared for Pamela Joy Morris; a road width variance had been granted for the subdivision in April for Robert Morris. Each Board member received a copy of a letter dated June 2 from Lamar Nix reviewing the subdivision plans. The Clerk pointed out that a pump station serving three lots in the upper portion of the subdivision was labeled on the plat "By Others." If the Hobson Land Company subdivision, adjoining this property to the south, was developed in the near future, that pump station would be installed by Mrs. Anne Haack; if not, it would be installed by Mrs. Morris. As recommended by Mr. Nix, the water distribution system had therefore been approved by the Planning Board contingent on construction of the pump station by either the subdivider or Mrs. Haack prior to approval of the final plat, as well as approval by the North Carolina DEHNR.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE PRELIMINARY PLAT, CONTINGENT ON CONSTRUCTION OF THE PUMP STATION BY EITHER OF THE FOREGOING PARTIES PRIOR TO APPROVAL OF THE FINAL PLAT.

David Hourdequin was present, thanked the Board for approving the plat, and said that Highlands on Satulah would be delighted to work with the Town on the pump station.

2. Charles Cooper was present requesting renewal of his lease for the WHLC-FM antenna site on Big Bearpen Mountain, due to expire on July 9, as well as erection of a new tower and antenna. He reviewed the history of the Board's approval of the station over the past four years, beginning with the unanimous approval of a 100-foot tower

in March of 1993 to replace the radio tower owned by Comair, cleaning up of the site, and removal of the two utility poles on which his antennas were currently located. He said that he had subsequently encountered opposition from residents of Big Bearpen which had resulted in three civil suits still pending in Macon County, and federal action in which he had prevailed. He had asked each year for permission to continue the lease agreement using the utility poles while seeking another site, but he said that he had been unable to locate a site, other than a possible Forest Service site which would require several years for approval. He said that Northland Cable TV had moved its antennas to a 43-foot utility pole on their adjoining property and he had been unable to work with them.

Because of increased interference with his signal between his offices and the tower due to a ground or hazing effect, he asked for permission to construct at some future date an 80-foot tower, pending approval by the FCC. The tower would be 36" or 48" wide at the base, as determined by his engineer, would be painted gray, and would not be illuminated; construction would not begin until after the season. He proposed the same conditions in the current lease, except for a ten-year term with four 10-year options. In the meantime, he asked permission to continue to use the two utility poles. He said that he had not come to Highlands expecting to sue or be sued, but he felt the radio station was a worthwhile project; due to a propane generator, he had been able to provide public service announcements during power outages.

Answering a question from the Mayor, he said that the cost of the tower would be \$30,000 to \$40,000; he pointed out that it would be constructed of solid steel, not hollow steel, so that there would be less chance of it blowing over in a wind storm. It would be adequate enough in strength to hold Comair's three antennas on the adjoining tower. The Mayor asked if he would consider allowing the Town to construct the tower, then leasing him the space; he said he would. The Mayor said that he felt there could be a need for such a tower for communications in the future, and that it could produce some revenues. He pointed out that the Town had just approved a repeater for Highlands-Cashiers National Public Radio on the Town's water tank on Upper Brushy Face. Mr. Cooper also pointed out that paging service was unreliable in the Highlands area.

Allen Hathaway was present, and said that at a meeting last year he understood the Board had agreed not to renew this lease again. He asked the Board to stand by its word. He said that he and his neighbors on Big Bearpen were not in favor of any enhancement on the site because it would open the door, setting a precedent for others such as the new Cable TV franchise proposal.

Each Board member was given a letter from T. A. Anderson supporting the radio station. Sharon Anderson was present, and said that, as a merchant in Highlands, many of her customers were attracted by WHLC. She felt that the radio station brought money into the community, and that Highlands was fortunate to have its own radio station to advertize our community and provide public service announcements. She said that her business would suffer financially if the Town lost the station, and she would appreciate the Town granting permission.

Dan Barker was present, and said that Mr. Cooper was a commercial business seeking a profit; he spoke for the 52 members of the Big Bearpen Improvement Association, which was opposed to the tower. He said that, according to the Macon County Tax Office, the residents of Big Bearpen Mountain represented a \$9.49 million tax base. Mr. Cooper's studio was located outside the Town limits, and provided the Town only \$200/month in lease payments. He pointed out that Mr. Cooper had had four years to move the tower, and felt he could locate another site; he said he could operate no cheaper than he was now operating. He asked why the property owners in a residential neighborhood should be saddled with commercial development, and felt that approval would set a precedent for towers by Northland Cable TV, cellular phone operators, and now a new Cable TV franchise.

The Mayor asked if a tower had been there when he had moved to Big Bearpen. Mr. Barker said yes, but the Comair tower was only 18" in diameter and located behind the water tank.

Ben Murray, owner of property adjoining the site, was present and said that he was disturbed by noise from the generator on the site.

He claimed that Mr. Cooper could place an antenna at his studio outside Town and cover Highlands. He said he was not against the radio station, he was just against the tower. Mr. Cooper reiterated his claim that he had been unable to locate another site.

Dr. Louis Reynaud said that he went up Big Bearpen frequently and did not know the tower was there; he felt most of the residents had not known it, either. He said that it had been demonstrated that there was no radiation threat from such towers, as claimed by Mr. Murray in the past. The Town already had a tower; the question is, what will the tower look like?

Comm. Calloway asked Mr. Murray if he would have a problem with erection of a new tower the same height as the Comair tower. Mr. Murray replied that he would not, if the old tower was removed.

Comm. Sanders pointed out that many residents of Big Bearpen do not live there year-round, and therefore do not benefit from the school closings and other public service announcements provided.

Comm. Calloway suggested that the Town obtain a price on erecting a tower the same size as the Comair tower, and consider erecting and taking ownership of such a tower. He felt that the Town should find out what revenue was generated for Comair from the sub-leases on its tower. Sylvia Sammons asked if the Town had money in the budget for such a tower; the Mayor said that funds could be budgeted.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO EXTEND THE LEASE FOR WHLC-FM AT ITS CURRENT SITE FOR ONE YEAR AT THE SAME RENT OF \$200 PER MONTH, AND MEANWHILE TO PURSUE DECIDING WHETHER THE TOWN, MR. COOPER, OR NEITHER PARTY SHOULD CONSTRUCT A NEW TOWER. The motion failed to carry, with Comms. Sanders and McCall voting "aye" and Comms. Calloway and James voting "nay." Comm. James objected to this request being made without submittal of any plans for the tower.

The Mayor suggested extending the lease for a six-month term. Comm. Sanders amended his motion accordingly, and the motion carried unanimously.

Mr. Cooper said that he felt the six-month extension was not fair, pointing out that Comair had secured a 5-year lease. He also claimed that the Town did not have the right to put the radio station off the air.

3. MOVED BY COMM. SANDERS, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO RE-APPOINT CHARLIE MCDOWELL TO A THREE-YEAR TERM ON THE ZONING BOARD, AND TO RE-APPOINT JACK CALLOWAY TO A THREE-YEAR TERM ON THE SCHOLARSHIP COMMITTEE.

4. The Board agreed to schedule a meeting to further discuss the League of Municipalities Pay & Classification Study after the new fiscal year.

5. The Clerk reported that a proposal for renewal of the annual preventive maintenance agreement for the Highlands Civic Center had not yet been received; he agreed to place this item on the agenda of the June 18 meeting.

6. Dr. Louis Reynaud asked if the Board had voted last year not to appoint members to the Planning Board unless they were residents of Town. The Mayor explained that the Board had agreed on such a policy, but that in making recent re-appointments the consensus had been not to follow that policy.

7. Curtis Hayes submitted a formal written request from The Highlander newspaper to receive 48-hour written notice of any special meetings, meetings of the committees of the Board, or public meetings called by the Board. He also objected to the Board going into Closed Session to discuss the Highlands Rental Properties building on Main Street, as listed on the agenda.

Town Attorney Bill Coward said that the matter on the agenda referred to Earle Young's unfinished building on Main Street; he said that something needed to be done, and the Board needed to discuss whether any legal action needed to be taken, which was quintessentially legal advice. He said that he disagreed with the opinion of the N. C. Press Association attorney cited earlier in the meeting. Mr. Hayes said he disagreed.

8. David Young was present, and said that he was aware that the Board intended to discuss his unfinished building. He said that he intended to move forward on construction, and apologized for the delays. He had retained Paul Schmitt to do design work, and Schmitt Building Contractors, and hoped to have the project completed next Spring. He said that some work would begin again on the project this month with welding and pouring of a second-story floor slab, and would begin in earnest in July.

The Mayor said that he had received many complaints from the public on this building, and asked if anything could be done to beautify the site. Mr. Young offered to construct a higher plywood fence on Main Street and re-paint it. He reiterated his statement that activity would begin right away and would carry through until it was finished.

9. MOVED BY COMM. SANDERS, SECONDED BY COMM. CALLOWAY, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS A PERSONNEL MATTER WITH THE POLICE CHIEF, AND TO CONSULT WITH THE TOWN ATTORNEY CONCERNING THE HIGHLANDS RENTAL PROPERTIES BUILDING ON MAIN STREET AND THE RIGHT-OF-WAY OF 4½ AND POPLAR STREETS, PURSUANT TO G. S. § 143-318.11(A)(3). The public left the Conference Room.

- A. The Board discussed an application for employment from Jimmy Clark as an Auxiliary Police Officer with the Police Chief.
- B. The Board consulted with the Town Attorney concerning the right-of-way of 4½ Street and Poplar Street. Mr. Coward agreed to discuss this matter again with the Board at the June 18 meeting.
- C. The Board consulted with the Town Attorney on the Highlands Rental Properties building on Main Street.

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

Curtis Hayes was invited back into the Conference Room.

V. MOVED BY COMM. CALLOWAY, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ADJOURN. Meeting was adjourned at 9:30 p.m.

Richard Betz, Town Clerk