

REGULAR BOARD MEETING of February 3, 1999, with Mayor Buck Trott and Commissioners Mike McCall, H. N. James, Ron Sanders, and Zeke Sossomon present. Comm. Patterson was called out on an emergency before 7:00 p.m. but returned during the meeting.

Also present were Richard Betz, Lamar Nix, Eddie Madden, Bill Coward, Kim LeWicki, James Tate, ERic Pierson, Steve & Brenda Pierson, Alan Marsh, Buddy & Sherry Kremser, Wistar Gary, Lewis Doggett, Virginia Worley, John Smith, Al Bolt, and Rosemary Fleming.

I. Call to Order.

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

II. Approval of Agenda.

The Clerk asked that three items of new business be added to the agenda: approval of a tax release, and discussion of the Episcopal Church appeal and possible legal action in another matter in closed session with the Town Attorney.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

III. Approval of Minutes.

The minutes of the January 20 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. Each Board member had received a copy of the Town Engineer/Public Services Administrator's written report for the month. Lamar Nix also reported that work on the Main Street project was going well, with the main sewer line already installed along the north side of the street. He said he would be meeting on February 4 with D. O. T. officials to discuss traffic signals.

2. Each Board member had received a copy of the Police Department's written report for the month; Police Chief Jerry Cook was not present due to health problems.

3. Each Board member had received a copy of the Recreation Director's written report for the month; Recreation Director Selwyn Chalker was attending a conference out of Town.

4. Each Board member had received a copy of the Town Planner/Zoning Administrator's written report for the month. Eddie Madden was present and reported that the centerline of Bowery Road had been staked by the D. O. T.; he urged that they be asked to stake the construction limits on the road as well. He also reported that the Planning Board had completed its review of the color chart and Appendix C of the Zoning Ordinance.

Mr. Madden reported that, as a result of complaints from two property owners downstream, he had investigated a soil erosion violation at the Mitchell's Motel property on NC-106. He had discovered that a portion of an earthen dam had been removed, a quarter-acre lake had been drained, and significant siltation had occurred as far as 2000 feet downstream; he estimated the amount of siltation at 29 dump-truck loads. He had recorded the violation with a video recorder, and he proceeded to display it to the Board. He said that the land disturbing activity was a serious one, and had also been investigated by an engineer from the State Soil Erosion Office in

Asheville. He requested permission to discuss possible legal action in closed session with the Town Attorney later in the meeting.

5. Each Board member had received a copy of the Treasurer's Report for the month.

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

6. Town Administrator Richard Betz reported that he understood from talking to County Manager Sam Greenwood that the landfill tipping fees for the Town had been reduced from \$60/ton to \$45/ton at the County Commissioners meeting on Monday. He also understood that the question of enforcement of the County's Watershed Protection Ordinance had been tabled pending a review by the County Attorney.

He also reported that he would be meeting on February 4 with Ray McCall from Harold Saylor's office to discuss reclassification of Lake Sequoyah. And he reported that an Agreement to Initiate had been executed with the U. S. Forest Service to formally begin the land exchange for the parcel of land adjacent to the Wastewater Treatment Plant.

Comm. Sossomon asked if the excessive portion of the landfill fees paid to date would be refunded; Mr. Betz said he understood that the fees would only apply to future billings.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO PURSUE REFUND OF THE EXCESSIVE PORTION OF PAST LANDFILL FEES AS FAR BACK AS LEGALLY POSSIBLE.

V. Old Business.

1. The Board again discussed telecommunications tower management. The Town Administrator reported that he had discussed the proposed contract with MetroSite Management further with Susan Rabold, and had also discussed the endorsement by the League of Municipalities with Ellis Hankins, the League's Executive Director. Mr. Hankins had described the arrangement with MetroSite as a partnership whereby the League was compensated for its expenses in working with the company drafting model ordinances; he had stressed the technical knowledge of local zoning regulations, good reports from other municipalities, and the ability of MetroSite to negotiate fair and reasonable rates as the reasons for the League's endorsement. Ms. Rabold had informed him that MetroSite already had 19 municipal clients statewide, and was certain she would have over 50 by the end of the year; MetroSite's percentage of the lease would drop from 33% to 30% after it had signed up 50 clients, and to 27% after it had 100 clients. The discount applied retroactively. However, the percentage on leases signed by the company would continue until the expiration of those leases, even after the Town's five-year contract with MetroSite expired. Betz said that he would recommend entering into an agreement with MetroSite based on its ability to work with the Town's Zoning Ordinance and to negotiate leases at fair and reasonable rates. Mayor Trott agreed.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO ENTER INTO THE PROPOSED FIVE-YEAR AGREEMENT WITH METROSITE MANAGEMENT AND TO PROCEED WITH THE SERVICES OFFERED.

VI. New Business.

1. Sherry Kremser was present, and briefly reviewed a plan for developing her property on East Main Street, including parking, sidewalks, and plans to save as many trees as possible, as well as preserve an old rock chimney constructed by Town founder S. T. Kelsey. The plans were scheduled to be reviewed by the Zoning Board at its February 9 meeting. Ms. Kremser asked the Board to consider trading off connection fees for the project in exchange for her providing public rest rooms in the rear area behind the existing Country Store

building; the rest rooms would be open year-round to the public.

Comm. James felt the matter should be taken under advisement, and the Board agreed.

Comm. Patterson returned to the meeting at 7:45 p.m.

2. The Town Administrator reported that he had met with the Finance Committee on January 19 and reviewed informal quotations on Town insurance. Based on his review, he recommended accepting the low quotation from Stanberry Agency for General Liability, Property, Public Officials, Law Enforcement, Commercial Umbrella, and Automobile Insurance, retaining coverage through VFIS for Fire Department insurance, and retaining coverage through the North Carolina League of Municipalities Risk Management Group for Workers Compensation. He said that the coverage provided would be comparable to the Town's current coverage, and would result in a savings of approximately \$57,000 annually.

Comm. Sossomon had some questions concerning the limits of liability; he was not certain whether the current limits of \$1,000,000 for each occurrence, plus a \$1,000,000 commercial umbrella, was adequate. The Town Administrator offered to meet with him and review the quotations, and the Board deferred action in the meantime.

3. The Board again discussed the recommendations of the Land Use Planning Committee. Eddie Madden reported, as he had said earlier in the meeting, that the Planning Board had completed its recommendations on Appendix C, and had also approved a procedure for approving certain simulated building materials in the fire district; he offered to provide a copy when it was re-drafted.

The Board then again discussed the recommendations in Section III of the Committee's recommendations, related to the 12-foot setback in the B-2 district, the 6-foot sidewalk and 6-foot landscape strip, and the location of parking areas in the rear of the building. Comm. James said he understood the Committee's re-zoning recommendation for B-2 depended on adoption of these recommendations. Comm. McCall reiterated his reservations about the idea, particularly with regard to the high bank along Spring Street where Wright Square was located.

Comm. Patterson said she agreed it was a good idea, but there might be some problems with the lay of the land. Comm. James said there was not a piece of property on Spring Street that would not have a problem. Comm. Sanders agreed that it was hard to picture how it could be done. After some additional discussion, the Board agreed to meet in the Conference Room at 1:00 p.m. on Wednesday, February 10, and to make an on-site review of the properties involved.

4. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR AD VALOREM TAXES ON THE FIRST TUESDAY IN JUNE (JUNE 1) 1999.

5. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPROVE AN AD VALOREM TAX RELEASE ON LOT 24, PIERSON SUBDIVISION, FOR CINDY P. BENTON, IN THE AMOUNT OF \$132.60.

6. MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO REVIEW APPLICATIONS FOR THE DESK ATTENDANT POSITION AT THE HIGHLANDS CIVIC CENTER, PURSUANT TO G.S. §143-318.11(a)(6), AND TO DISCUSS THE EPISCOPAL CHURCH APPEAL AND POSSIBLE LEGAL ACTION IN REGARD TO A SOIL EROSION VIOLATION AT MITCHELL'S MOTEL WITH THE TOWN ATTORNEY, PURSUANT TO G.S. §143-318.11(a)(3).

A. The Board reviewed a memo from Recreation Director Selwyn Chalker with the Clerk; Mr. Chalker had reviewed 12 applications for the desk attendant position and interviewed all of the applicants, and in his memo he recommended employing Maxine Ramey in this position.

B. The Board discussed the Episcopal Church appeal with the

Town Attorney.

- C. The Board discussed a Soil Erosion violation at Mitchell's Motel with the Town Attorney and Zoning Administrator Eddie Madden.

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

7. MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO EMPLOY MAXINE RAMEY FULL-TIME IN THE POSITION OF DESK ATTENDANT AT THE CIVIC CENTER, AT AN HOURLY RATE OF \$6.80 (GRADE 5, STEP 1).

8. Al Bolt requested permission to address the Board on the soil erosion violation at Mitchell's Motel. Mr. Bolt said that he had cut the dam and replaced the culvert, but alleged that he had discussed the matter with Town Clerk Richard Betz over a year ago and had been told no permit would be required; he also said that he had discussed the matter with Bill Anderson with the E.P.A. and with David Baker with the Corps of Engineers, and had been told no permit was required. He said he and Jamie Keener, who had done the work, had monitored the site and there was no siltation. He said that he had done everything that he had been told to do, and he could not believe that 29 dump-truck loads of silt had come from his pond, since there were still leaves from last fall on the bottom.

9. Lewis Doggett said that a number of people were present from the Episcopal Church who wanted an update on the appeal. Town Attorney Bill Coward said that the Zoning Board would have to make that decision, since that Board was party to the lawsuit. He also said that a provision in the Zoning Ordinance that Board members "shall be reimbursed for any expenses incurred in pursuit of the Board's activities" could be interpreted to mean legal fees.

Wistar Gary was present, and asked if the Episcopal Church could file a countersuit if the Zoning Board elected to appeal the decision. Comm. Sossomon said that the short answer was "yes." Mr. Coward said that if they wanted to pursue a countersuit, he would suggest they consult an attorney.

10. A resident of Alpine Estate complained about trucks from Furniture South exiting onto Holt Knob Road, rather than through the driveways for that business. The Clerk said that he had received a complaint about this matter earlier in the week but had not had the opportunity to investigate.

VII. MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:12 p.m.

Richard Betz, Town Clerk