

REGULAR BOARD MEETING of April 21, 1999, with Mayor Buck Trott and Commissioners Mike McCall, H. N. James, Ron Sanders, Amy Patterson, and Zeke Sossomon present.

Also present were Richard Betz, Kim LeWicki, Mildred Johnson, Moyna Monroe, Rosemary Fleming, Brenda Pierson, Louis Reynaud, Dan Chapman, Phil Carson, Peter Paul, Bill Sutton, Tony Potts, Terry Potts, Alan Marsh, Paul Chmar, Eric Pierson, Martin French, and others.

I. Call to Order.

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

II. Approval of Agenda.

The Clerk reported that the request from the Pinecrest Property Owners Association for a fence in the right-of-way had been withdrawn.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

III. Approval of Minutes.

The minutes of the April 7 Regular Board Meeting and the April 14 Special Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he, the Town Engineer, and the Town Administrator had attended a meeting in Franklin on April 20 held by the Asheville Regional Office of the North Carolina Division of Water Quality to obtain input on a comprehensive study of the Cullasaja River and its basin. That evening, he had attended a regional meeting of the North Carolina League of Municipalities in Cullowhee; the main concern had been "e-commerce" and the resultant loss of sales tax revenues for municipalities.

2. Town Administrator Richard Betz reported that Kathleen Snyder had accepted the Board's offer of employment as Town Planner/Zoning Administrator, and would begin full time on May 3.

He also reported that Town Attorney Bill Coward had informed the Town that the Edwards case will definitely be heard in court beginning May 24.

He also reported that he had received a copy of a letter from the County Board of Commissioners to Division Engineer Dan Martin, supporting the Town's request to upgrade US-64 and Buck Creek Road, pursuant to the recent feasibility study.

V. Old Business.

1. The Clerk reported that James Tate had forwarded to him recommendations offered by the Appearance Committee on the species of tree to be planted in the new planters along Main Street, as discussed at the April 7 meeting; the recommended trees were sugar maple and black gum. Comm. James said that he would like to see dogwood trees alternating with sugar maples.

MOVED BY COMM. MCCALL, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ALTERNATE SUGAR MAPLE AND DOGWOOD TREES IN THE NEW PLANTERS ALONG MAIN STREET.

The Board also discussed the related offer from several individuals to donate trees as memorials, also discussed at the April 7 meeting.

Comm. Patterson said she liked the idea; although the Town had denied a request last year for a brass plaque that an individual had requested in return for a donation, she had no problem with a small plaque memorializing people in the community.

Comm. James said that he had been talked out of the idea at the last meeting by Moyna Monroe; he understood that those donating the trees would want to place them out front, and would want to pick and choose the locations. Ms. Monroe was present and said that she was willing to let the Town say where such trees would be located; she had suggested only that they be visible and be identified with a small plaque. She pointed out that there were not many parks to place such trees in, and she felt it was a lovely way for people to memorialize people who had lived here for a very long time. Comm. Patterson agreed; she felt that it indicated Highlands had a history, and was not just an Atlanta suburb.

MOVED BY COMM. PATTERSON, THAT INDIVIDUALS OR GROUPS OF PEOPLE BE ALLOWED TO FUND THE COST OF TREES ON MAIN STREET AS MEMORIALS TO PEOPLE, TO BE IDENTIFIED WITH SOME UNOBTRUSIVE MEMORIAL PLAQUE OF A TYPE TO BE DETERMINED BY THE TOWN. There was no second to the motion, and the Mayor ruled that it had not carried.

VI. New Business.

The Mayor noted that there were many people present to speak on the question of improvements to Bowery Road, and he felt it would be appropriate to limit comments from those in favor and those opposed to ten minutes each, since many of the arguments had already been heard by the Board; there was no objection.

The Town Administrator gave the Board a brief report on the status of the D. O. T.'s efforts to improve the road. He reminded the Board that last month the D. O. T. had completed staking the right-of-way, the centerline, and the limits of construction, as requested by the Town in December, and had also forwarded copies of their standard right-of-way agreement and asked for Town assistance in having them executed by the property owners along the road. The Board had reviewed the cover letter and the agreements had been mailed. As of this date, the Town had received three completed right-of-way agreements out of the 13 mailed. He had also learned that the D. O. T. had obtained three right-of-way agreements from property owners in the past, one of which was re-executed recently; he identified these on a map which he displayed to the Board. He now understood from Division Engineer Dan Martin that the D. O. T. "has no plans to proceed further with the project without further recommendations from the Town of Highlands." Mr. Martin had indicated that current D. O. T. policy in this Division was not to approve paving with this percentage of property owners refusing to donate right-of-way. Mr. Martin did indicate that the Town could continue to explore other alternatives short of paving, such as perhaps spot improvements to improve sight distance. On the status of the 20 mph speed limit requested by the Town, he said that the D. O. T. had agreed to waive their policy not to post unpaved road; the Ordinance was being prepared and would be forwarded to the Town in the near future for adoption of a concurring Ordinance.

Dan Chapman, a resident of Sagee Mountain, then spoke in favor of improving the road. He said the problem had been going on for many years, but that the few people living at the beginning of the road did not see it as a problem because they did not drive back where he lived. He referred to five accident reports in a span of 90 days, and pointed out that trucks, traffic, and development would get worse in the coming years. There were 200 homes in the area now; what would happen 10 years from now if there were 500 homes? He said he represented a group of 64 people, including 20 registered voters, whose property was accessed by the road; he did not feel that it was fair for people who did not use the road to dictate its condition

for the rest of the people. He said he had spoken to Dan Martin yesterday and been told that, since the Town had contiguous right-of-way to the east, the D. O. T. might be willing to improve the road if the Town would agreed to accept it for maintenance. He said that the people he represented did not have high-priced lawyers, they were just citizens who wanted help.

Brenda Pierson, also a residence of Bowery Road, said that a statement at the last meeting--that the Town was spending \$200,000 on a new water line and shouldn't have to do more--had appalled her. She said that the assessed valuation in the area was \$29 million, and that the Town had collected in excess of \$1 million since annexation in 1980; at the present time, the Town collected \$75,000 annually, Macon County collected \$93,000, and Jackson County collected \$37,000.

She said the Town had been taking a free ride for 19 years, collecting tax money and returning nothing, other than the electrical work last year; almost all of the expenses for maintenance could be covered by Powell Bill funding. She pointed out that the Town had improved water systems and roads at Highlands Country Club, Broadview Acres, Wyanoak Drive, and numerous other areas during the same period of time. She said that if the Town could afford a \$60,000 clock/bell tower apparently not wanted by most people in Town, she thought it could afford to spend money to help people in this area. She hoped the Board would support its constituents, and she pointed out that there was only one registered voter among the property owners along the State portion of road. She was not asking the Town to condemn the right-of-way--she felt that was up to the State--but she asked the Board to forcefully show its support for the State's efforts to improve the road.

Terry Potts was present, and said that he lived in the area and used the road every day. It was not a road to nowhere, as he had heard it called; it was a road to everywhere for him. His children used the road regularly and he was concerned for their safety. He felt that the road could be improved so that it was attractive and also safe.

William Sutton, an owner of property in the area since 1996, said he was strongly in favor of paving the road. He was proud of Highlands and was tired of apologizing to friends and visitors for the access road. He said all of his neighbors were proponents of the improvements, and he had written a letter to the Mayor to that effect; he trusted that the Board would recognize the importance of improving the road both now and in the future.

Peter Paul, an attorney from Cashiers representing several property owners opposed to the improvements, said that most of them had owned property through several generations. They did not feel that improving the road meant paving it. Widening the road from its present 13 feet to 45 feet would result in a road three times its width, and he felt it would increase speed and create more problems than it would resolve; he displayed a diagram showing the width of the road as proposed. The power poles installed last year would also have to be moved at a huge expense, and condemnation expenses--estimated by District Engineer Joel Setzer at \$178,000--would be ten times that amount. He said that everybody agrees that change occurs, but pointed out that there were other options, such as the one that had been suggested by Mildred Johnson for an alternative road; he felt D. O. T. engineers should be asked to look at such a proposal. He also felt it would be valuable for a Committee formed of those opposed and those supporting the improvements to meet together and work out some of the disagreements.

Phil Carson, an attorney from Asheville who said he represented many of the same clients as Mr. Paul, said that he understood developers needed a new road, but he felt the rights of property owners who had lived there for years should be considered. He also asked the Board to consider the alternate road, which he said Joel Setzer had told him could be constructed at an estimated cost of \$150,000. He said the people he represented would be glad to discuss the issue,

and agreed that a Committee should be formed, but he said his clients were not going to give up their property through condemnation; they would continue to fight and be bitter enemies about something they didn't need to be bitter about.

Martin French asked if there was any way to slow down development in the area; if not, he felt the Board should give the property owners a good road.

Mayor Trott thanked those present for the opinions expressed.

Comm. McCall, responding to Ms. Pierson's comments, said that he had stated at an earlier meeting that the \$200,000 cost of water improvements was just the beginning of an \$800,000 project; he thought this was a large sum for providing water service to private subdivisions, but he agreed that such water lines and fire hydrants were important.

Comm. Sanders said he had inspected the road, and it did not appear to him that the right-of-way staked by the D. O. T. would be taking very much property along the road.

The Mayor suggested that perhaps the D. O. T. could be asked to improve the right-of-way where it had already been obtained, and then donate it to the Town.

Comm. Patterson pointed out that that would put pavement in the middle of nowhere, and also did not address the issue of blind curves. She felt that the problem was that the D. O. T. had staked out a "straight shot," which would result in a super-highway, not a neighborhood road or neighborhood speeds.

Mark Rosenthal said that he didn't see why the Town would have a problem with supporting the State paving a road if the property owners were willing to donate the right-of-way.

Comm. James suggested that the Board sit down with D. O. T. officials and discuss some of these issues; he also did not object to appointing a Committee, and felt that perhaps this could be done at the next meeting. Mayor Trott suggested that such a Committee might consist of the Street Committee, Lamar Nix, and representatives from both sides; he felt the Town was closer than ever before to finding some middle ground.

Phil Carson asked if the Board was declining to condemn property.

Comm. James said that he felt the Board had agreed by consensus at the April 7 meeting not to condemn property at this time, but such an option would never be entirely out of the picture in his opinion.

Many of those present then left the meeting room.

2. MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING RESOLUTION:

**RESOLUTION PROCLAIMING
NATIONAL DAY OF PRAYER IN HIGHLANDS**

WHEREAS, the history of our Nation is indelibly marked with the role that prayer has played in the lives of individual Americans, and indeed the United States as a whole; and

WHEREAS, our greatest leaders have always turned to prayer in times of crisis; and

WHEREAS, we acknowledge that prayer is a deeply personal experience—the way in which it finds expression depends on our individual dispositions as well as on our religious

convictions; and

WHEREAS, the virtues of prayer have a common bond—our hope and aspirations, our sorrows and fears, our deepest remorse and renewed resolve, our thanks and joyful praise, and most importantly our love—all turned toward God; and

WHEREAS, I join with our President and the Governors of our United States and invite all citizens of the Town of Highlands to join me in earnest prayer for our Nation, our State, and our Town.

NOW, THEREFORE, I, Allen L. Trott, Mayor of the Town of Highlands, do hereby declare **Thursday, May 6, 1999**, as

NATIONAL DAY OF PRAYER

in the Town of Highlands, North Carolina, and encourage my fellow citizens to join in prayer, asking that God's light may illuminate the minds and hearts of our people and our leaders, so that we may meet the challenges that lie before us with courage and wisdom and justice.

Allen L. Trott, Mayor
Town of Highlands

VII. Old Business.

1. The Board returned to an item of Old Business--the Mendler/Lawton petition for annexation, subject of a Public Hearing on April 7--which had been deferred pending the possible arrival of Eric Schmitt from Schmitt Building Contractors. Mr. Schmitt had given the Clerk information regarding the questions which had arisen at the previous meeting. The Clerk then presented a site plan which indicated that the building under construction to the left of the driveway was a carport/garage, and was located 50 feet from the centerline of US-64, exclusive of eave; the Zoning Ordinance required a setback of 55 feet from the centerline for property inside Town.

He also submitted a letter dated April 20 from Anderson-Jones Inc., reporting that a dye test had been conducted in the septic tank piping for the main house on the property, and no evidence of leakage was detected; it recommended that the main house continue to use the existing system.

Comm. Patterson asked what the purpose of the annexation was. It was pointed out by the Clerk and Comm. Sossomon that the property owners had requested sewer service for the guest house, and that the Board had agreed to provide it contingent on the property owner filing a petition for annexation.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, TO APPROVE THE ANNEXATION OF THE MENDLER PROPERTY, EFFECTIVE JUNE 30, 1999.

Comm. Sanders noted that the property owners could ask for water service upon annexation. After some discussion, Comm. James amended his motion: **MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, TO APPROVE THE ANNEXATION OF THE MENDLER PROPERTY, EFFECTIVE JUNE 30, 1999, PROVIDED THAT IF IT IS EVER SUBDIVIDED, WATER SERVICE WOULD BE TREATED AS IT WOULD TO A NEW SUBDIVISION.**

Comm. Patterson expressed a concern over the possible provision of water to the property. Although it had been reported that it was

now served by two wells, if the property were to be subdivided in the future, the Town would be obligated to provide water to 20 more houses. She did not feel that the Town was obligated to provide water to every property adjacent to the Town with water problems. She pointed out that there had been recent water shortages, and she felt that in 20 years the Town might not have water to sell.

The Mayor called the question, and the amended motion carried; Comms. James, Sossomon, Sanders, and McCall voted "aye;" Comm. Patterson voted "nay."

The Board then discussed the Martin Allen annexation petition, for which a Public Hearing had also been held on April 7. The Clerk reminded the Board that restrictive covenants had been prepared by Mr. Martin's attorneys limiting development to three residences, and had also been amended to state that they would be binding for 50 years and renewable, per Comm. Sossomon's request. Comm. Patterson reiterated the concerns she had expressed over the Mendler annexation. Although the Board had recently approved water service to other areas outside of Town, she felt those had been obligations from the past, and even then the number of connections had been limited. She said that there was still a lot of property inside Town that could be subdivided, and she wondered if Highlands would still be able to do so in 50 years. She pointed out that the Town had no other source of water, and said that the recent water shortages should have been the writing on the wall. She felt that her job was to make sure people in Town would have water not just now but in 20 years.

Comm. James felt Comm. Patterson had made some good points, but he pointed out that the Town had just authorized its engineers to begin the water/sewer portion of an annexation study; he asked why. He felt that this was the only sensible way to annex property, one piece at a time.

Comm. Patterson said that she had never been in favor of annexation.

Comm. McCall said that until the water/sewer study was done, he was also not in favor of the annexation.

Comm. Sanders asked how long the petitioner could wait until applying again. The Clerk said he did not think a time was specified in the statute; an Ordinance could be adopted approving the annexation at any time within six months of the Public Hearing.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MCCALL, AND CARRIED TO DENY THE PETITION FOR ANNEXATION FROM MARTIN ALLEN. Comms. Patterson, McCall, and Sanders voted "aye;" Comms. James and Sossomon voted "nay." Comm. Sossomon commented that he would hate to deny the petition if the water/sewer study found that the Town had an adequate supply of water.

VIII. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:15 p.m.

Richard Betz, Town Clerk