

REGULAR BOARD MEETING of July 7, 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, Bill Coward, Lamar Nix, Kathleen Snyder, Jerry Cook, Selwyn Chalker, Kim LeWicki, Tanji Armor, Rosemary Fleming, Pat Moore, John Ziebarth, William Clinebell, Peter Jefferson, and Louis Reynaud.

I. Call to Order.

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

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk reported that he had been asked to add one item to the agenda, a request from Dr. Lawrence Guido for a sewer connection.

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

III. Approval of Minutes.

The minutes of the June 16 Regular Board Meeting and the June 30 Budget Hearing and Special Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he and Kathleen Snyder had attended the Third Annual Statewide Watershed Conference at Catawba College in Salisbury. The meeting had been well-attended, indicative of the increasing emphasis on improving and protecting watersheds statewide.

2. Town Attorney Bill Coward was present, and distributed copies of a draft he had prepared of an "Interlocal Agreement Concerning Operation of and Collection of Taxes for the Operation of Highlands Fire & Rescue which Serves the Highlands Fire District;" the item was on the agenda later in the meeting under Old Business. Mr. Coward also reported that the judgement had still not been entered in the Town v. Edwards et. al. case, and therefore the appeal time had not yet run.

3. 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 the Main Street Project was now 100% complete, with several small punchlist items scheduled for completion soon; the final request for payment had been received, and the project was \$44,722 under budget. The Mirror Lake Pressure Sewer Line was also complete, and had been in operation for a week; additional re-routing around the old Sherwood Forest lift station remained to be completed. Mr. Nix said that that lift station would be taken out of operation because it was no longer necessary; all residences in Sherwood Forest were served with pressure sewer lines. The Bowery Road Water Project was also well underway with approximately 40% of the work completed. The Brushy Face Water Line was under construction by the developer, and he reported that the Town would begin replacement of the 6" line along NC-28 the following week.

Mr. Nix also reported that there had been a boom failure on the trimming crew bucket truck earlier in the day. Nobody had been injured, but the truck had been taken to Duke Energy Services; that

company initially felt that the truck might not be worth repairing.

Mr. Nix thought it might be in the Town's best interest to lease a truck in the meantime, and he was asked to obtain prices. He asked for authorization to proceed with advertizing for bids for the bucket truck, as well as the small tractor and the one-ton dump truck for the Wastewater Treatment Plant, all of which had been budgeted for FY 99-00.

MOVED BY COMM. SANDERS, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ADVERTIZE FOR BIDS FOR THE VEHICLES.

4. Each Board member had received a copy of the Police Department's written report for the month. The Mayor said that he was glad to see the Police Department issuing citations for blocking of streets, which needed to be kept open at all times for emergency vehicles.

5. Each Board member had received a copy of the Recreation Director's written report for the month. Selwyn Chalker thanked the Police Department and the Fire Department for their assistance during the recent fireworks, and also reported that summer camp, the swimming pool, and the adult softball programs were going well. He said he was obtaining bids from two other companies interested in a service agreement for maintenance of the Civic Center building, and suggested that the Recreation Committee meet to review the quotations; the Committee agreed to meet with him when the bids had been received.

6. Each Board member had received a copy of the Town Planner/ Zoning Administrator's written report for the month. Kathleen Snyder was present and reported that Eric Pierson and Dennis DeWolf had been elected Chairman and Vice Chairman, respectively, of the Planning Board and Appearance Commission. She also asked the Board to consider appointing a Cemetery Committee to discuss concerns with maintenance in the Cemetery, the issue of clearing additional land, and other issues, as discussed earlier in the year by the Finance Committee. The Mayor suggested that this item be discussed at the next meeting.

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

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

8. Each Board member had received a copy of the Town Administrator's written report for the month. Richard Betz added that he had drafted a letter to the Jackson County Board of Commissioners as requested at the previous meeting, and would be reviewing it with Fire Chief Mike McCall. He also reported that County Manager Sam Greenwood had called him and indicated that he and Harold Corbin had received the letter written last month; the County Commissioners would be scheduling a joint meeting as soon as possible.

#### V. Old Business.

1. The Town Administrator reported that he had re-drafted the Wireless Communications Ordinance provided by MetroSite Management in order to incorporate it into the Zoning Ordinance, and had sent it back to Susan Rabold for review; he expected to be able to set up a Work Session to discuss the Ordinance and receive the report on possible marketable telecommunications sites sometime in August. The six-month moratorium on wireless communications provider facilities enacted on January 20 would expire before then, however, and he recommended that it be extended an additional ninety (90) days.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO EXTEND THE MORATORIUM NINETY (90) DAYS.

2. The Board again considered the proposed Performing Arts Center

Inc. (PACI) lease, which had been reviewed by the Town Attorney. Bill Coward said that the legal issues were limited. If the term of the lease was between one and ten years, G. S. §160A-272 required that a resolution be adopted and 10-day public notice given; if the term was more than ten years--including the term and any option to renew--then G. S. §160A-266 required the Town to treat it as a sale, a more complicated procedure which he recommended be avoided by limiting the term to ten years. He said that the various items of negotiation in the lease itself were not legal issues but matters of preference.

Pat Moore was present, and stated that he did not object to the term of the lease being limited to ten years, provided the Town agree to give the property back to the PACI at the end of the term if not renewed; he felt this would protect both parties. He also reminded the Board that the utilities paid by Community Bible Church for the building had amounted to only \$5,000 per year; since the PACI would be putting up the \$400,000 to purchase the building itself, he felt that the proposal would be an attractive investment for the Town.

Comm. Sossomon said he had no problem with the basic concept, and Comms. Patterson and Sanders agreed. It was agreed by consensus that a good copy of the proposed lease be provided to each Board member, and that this item be considered again at the July 21 meeting; the Town Attorney was also asked to attend the meeting.

3. The Town Attorney had prepared a draft of an "Interlocal Agreement Concerning Operation of and Collection of Taxes for the Operation of Highlands Fire & Rescue which Serves the Highlands Fire District," which differed from that prepared by the County Attorney; he felt, however, that the agreement was close to something that everyone could agree to. In a detailed discussion of the draft, the Board agreed by consensus as follows: the word "related" should be deleted from "fire protection & related rescue services;" the term "provider" should be used instead of Highlands Fire & Rescue, as recommended; Paragraph 9 should be retained, confirming the Town's ownership of property purchased with the tax monies; Paragraph 11 should be amended to include a provision that, in the event of a mass disaster, expenses can be carried over to the following budget year, instead of requiring the Town to be solely responsible for any shortfall within a given budget year; and the term of the agreement should be five years, as recommended. Mr. Coward also stated that the County Attorney had indicated there might be a problem with the adoption of an agreement retroactively. The Town Attorney was asked to make the changes agreed to, meet with the County Attorney, and provide each Board member with a revised copy of the agreement, which is to be discussed at the July 21 meeting.

4. Each Board member had received a copy of a proposed lease drafted by the Town Administrator between the Town and the Highlands Historical Society for the lease of the old jail. Comm. James felt that the provision that the lessor provides utility expenses should be revised to specify only power and water, and that the building should be provided with an electric meter if it is not already metered. The Board also asked the Town Attorney to review the lease.

COMM. SANDERS LEFT THE MEETING ROOM TO ATTEND ANOTHER MEETING.

## VI. New Business.

1. The Town Administrator reported that a new residence was under construction in Phase III of Shelby Place. Records indicated that the final plat for Phase III had been approved on October 5, 1988, but that the improvements had apparently never been installed. Although he understood that there had been a verbal understanding on the part of the developer not to sell any lots in this section of the subdivision until the improvements had been installed, a Zoning Certificate had been issued recently for the new residence, which was being constructed by George Schmitt. He felt that the Board should clarify that Zoning Certificates should not be issued in the

future for this section of the subdivision until improvements had been installed, and that the subdivider should be so notified.

Lamar Nix reported that Mr. Schmitt had requested the Town to install a temporary water line and a temporary electric line, at his expense, to serve the house while it was under construction; a final Certificate of Occupancy, however, could not be issued until permanent service had been installed.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND CARRIED TO INFORM THE OWNER OF THE SUBDIVISION THAT INSTALLATION OF IMPROVEMENTS WAS HIS RESPONSIBILITY, NOT THE TOWN'S, AND THAT NO FURTHER ZONING CERTIFICATES WILL BE ISSUED FOR LOTS IN SHELBY PLACE WHERE IMPROVEMENTS HAVE NOT BEEN INSTALLED. Comms. James, Patterson, and McCall voted "aye;" Comm. Sossomon abstained.

2. The Town Administrator reported that an encroachment permit had been received from the Department of Transportation for the proposed clock/bell tower and stone planters on Main Street, as approved by the Board at the March 23 meeting. He asked for permission to advertize for bids.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. PATTERSON, AND CARRIED TO ADVERTIZE FOR BIDS FOR THE CLOCK/BELL TOWER. Comms. Sossomon and Patterson voted "aye;" Comms. James and McCall voted "nay;" Mayor Trott voted "aye."

3. The Board again discussed a proposed donation of a parcel of property by M. H. C. Properties - Highlands Inn Partnerships, as discussed in Closed Session at the previous meeting. The parcel in question was identified on a plat prepared by Cranston, Robertson, & Whitehurst dated October 16, 1995, as "Lot No. 5, Park Buffer." Comm. McCall said that he remembered the buffer was to have consisted of more than Lot 5, and the Clerk agreed to review the record. After some additional discussion, it was agreed by consensus that the owner be asked to see if the Highlands Land Trust would be interested in accepting the parcel.

4. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE ANNUAL CERTIFICATION OF FIREMEN FOR 1999.

5. John Ziebarth was present on behalf of Dr. Lawrence Guido to request sewer service for a commercial project on NC-106 across from Rhodes Superette, formerly occupied by Munger Creek Arts. The project had been reviewed by the Appearance Commission, and the Special Use Permit was scheduled to be heard by the Zoning Board on July 13. Mr. Ziebarth pointed out that there was no Town sewer main on NC-106; he understood, however, that Dr. Guido had obtained permission from Shelby Place to cross the property to the north and connect to the line recently installed across the highway by Derek Taylor, which connected to the former "Blossoms" property now owned by John Lupoli, and thence to the Hampton Inn line and the Spring Street Lift Station. The distance to the Taylor line was approximately 600 feet. The Town Engineer had not had the opportunity to review the request.

Comm. James expressed a concern that the Spring Street Lift Station had originally been designed to serve only the immediate development in the area, consisting of Highlands Plaza and Mitchell's Motel, the former Coleman Beale property, and Wright Square; he felt that the capacity of the Lift Station might not be adequate enough to permit additional development along NC-106 such as this, and he asked Mr. Nix to review it. In any case, he felt that connection to the sewer system by this means should be only a temporary measure until such time as a line is installed down NC-106 to Arnold Road, a project which it was reported was not yet in the Capital Improvement Program.

Comm. Sossomon pointed out that, under the original agreement under which the Lift Station had been constructed, the Town was obligated to serve the properties of the parties to the agreement, including all of the former Coleman Beale property; that obligation needed

to be taken into consideration in reviewing the capacity of the Lift Station.

VII. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:30 p.m.

---

Richard Betz, Town Clerk