

REGULAR BOARD MEETING of August 4, 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, Kathleen Snyder, Selwyn Chalker, Kim LeWicki, Pat Moore, Peter Jefferson, Dennis DeWolf, Jean Morris, Alan Marsh, Steve Pierson, Eric Pierson, James Tate, Sue Potts, Doug Campbell, Dennis DeWolf, and Moyna Monroe.

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 asked that three items be deleted and deferred until future meetings: Approval of final subdivision plat for Lot 14, Brushy Face South subdivision; discussion of water line on Fisher property in Sagee area; and uncollectible utility accounts.

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

III. Approval of Minutes.

The minutes of the July 21 Regular Board Meeting had been distributed by mail. The Clerk said that he had discussed with Comm. James adding the following sentence to the fourth paragraph of Page 9: "Comm. James stated he was not voting `nay' because of the rest room issue; he understood the Town engineer's comments as not recommending this type of extension."

MOVED BY COMM. MCCALL, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS AMENDED.

IV. Reports.

1. The Mayor reported that he had been informed by GTE that Caller I.D. would be available in Highlands on September 15.

He also reported on the Macon County Board of Commissioners meeting held on August 2, and said the County Board intended to conduct meetings in Highlands twice a year. At the meeting, as well as an informal joint luncheon meeting on the same day, the County Board had agreed to withdraw the invoice for the County dispatcher, approve the Interlocal Agreement on the Fire District Tax, and instruct the County Attorney to follow up on enforcement of the Watershed Ordinance; the issue of credit for past solid waste fees had not been resolved.

The Mayor also reported that he had visited the new Safety Center at Southwestern Community College in the Industrial Park in Franklin the previous week and was much impressed.

The Mayor reported that he had been asked to issue a proclamation supporting the fourth annual CROP walk on August 22. He also reported that the annual 5-K Run would be held on September 25.

2. Each Board member had received the Public Services Administrator's written report for the month. The Mayor reported that Lamar Nix had been married the previous Saturday and was on vacation for the week.

3. The Mayor reported that Police Chief Jerry Cook was also on vacation, and suggested that the Board receive his report the following month.

4. Each Board member had received a copy of the Recreation Director's written report for the month. Selwyn Chalker reported that the summer camp, pool, and adult softball programs were all going well.

He also reported that the Recreation Committee had met immediately preceding the meeting and had reviewed informal proposals solicited from three different companies for preventive maintenance service at the Highlands Civic Center:

- Cook's Air Conditioning and Heating Inc.....\$9,420
- Bolton Corporation.....4,840
- Building Management & Controls Inc.....3,980

The Committee recommended renewing the annual contract with Building Management & Controls for another year.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE PREVENTIVE MAINTENANCE AGREEMENT WITH BUILDING MANAGEMENT & CONTROLS FOR ONE YEAR.

5. Each Board member had received a copy of the Town Planner/ Zoning Administrator's written report for the month. Kathleen Snyder was present, offered to answer any questions about the report, and also said that she had made some initial inquiries into the Town's authority to require businesses to provide public restrooms, as discussed at the previous meeting.

Ms. Snyder was asked about a sign for Mountain High Motel located in the right-of-way of Main Street. She explained that the Zoning Ordinance permitted "private commercial traffic signs" in rights-of-way, provided they are located up to three feet from the wear surface of the road; there was no limitation, however, on the number of the signs or on whether or not they were required to be located at driveway entrances. She also noted that similar signs had been approved in the past. After some discussion, the Board agreed for her to prepare clarifying language for possible adoption as a Zoning Ordinance amendment, perhaps in conjunction with a public restroom amendment and another amendment to be discussed later in the meeting.

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

MOVED BY COMM. JAMES, 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 had provided copies of the final version of the Interlocal Agreement concerning the Fire District Tax, which was approved by the County Board of Commissioners on August 2.

He also reported that he and Mr. Nix had met with Victor Lofquist on July 28 and reviewed the information W. K. Dickson Company is compiling for the two water/sewer studies. He attached a copy of a letter dated August 4 which he had written to Harold Saylor asking about the status of the Lake Sequoyah reclassification, and said that he had also asked Victor Lofquist to write a similar letter since the status of the Lake was an essential component of both studies.

He also reported that he had scheduled a meeting with representatives from Highlands Country Club, V-Z Top, and the Highlands Mountain Club at 2:00 p.m. on August 13 to discuss the West Shore Lake Sequoyah Sewer Project.

#### V. Old Business.

1. The Board considered the following resolution, prepared by the

Clerk and the Town Attorney:

A RESOLUTION  
AUTHORIZING THE LEASE OF PUBLIC PROPERTY  
BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HIGHLANDS  
TO THE PERFORMING ARTS CENTER INC.

**WHEREAS**, the Performing Arts Center Inc. is proposing to purchase Lots 316, 318, and a portion of 314 on Chestnut Street, together with the improvements thereon, currently owned by the Community Bible Church, contingent upon the Town of Highlands agreeing to purchase said property from the Performing Arts Center Inc. for \$1.00 and entering into a long-term lease agreement with the Performing Arts Center Inc., for the purpose of providing a permanent place for performances; and

**WHEREAS**, the Board of Commissioners of the Town of Highlands has determined, pursuant to G. S. §160A-272 and -279, that said property will not be needed by the Town for the term of the proposed lease, that the Performing Arts Center Inc. carries out a public purpose, and that the lease is in the best interests of the Town of Highlands.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of the Town of Highlands duly assembled in regular session on the 4th day of August, 1999, that the aforesaid property be authorized to be leased in accordance with a lease agreement between the Town and the Performing Arts Center Inc., as attached hereto and to become effective upon receipt of the deed by the Town for the aforesaid property.

This resolution is adopted this 4th day of August, 1999.

The Town of Highlands

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Allen L. Trott, Mayor

(TOWN SEAL)

ATTEST:

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Richard Betz, Town Clerk

The Clerk reported that notice had been given in The Highlander newspaper, pursuant to G. S. §160A-272, -279, and -267, that the Board would be considering the resolution at this meeting. Each Board member had also received a copy of a revised lease agreement between the Town and the Performing Arts Center Inc. (PACI), incorporating the suggestions made at the July 21 meeting.

The Board discussed at some length the provision in Paragraph 5 concerning utilities. Pat Moore was present, and said that he felt it had been the intent of the Board to review utility costs annually, but not to re-negotiate the entire lease; he suggested inserting, after sub-paragraph (c), a provision that performance would be reviewed annually and goals would be established for following years. The Mayor said that a question still remained, as pointed out in Mr. Coward's cover letter of July 22, as to what would happen if the parties disagreed about utility costs. Mr. Coward suggested that, if the goals had consistently not been met, it might be considered a breach of the lease; however, he felt it would be preferable to spell out alternatives such as those which had been suggested at previous meetings, placing a cap on the costs, or

exercising the purchase option. After considerable discussion, the Board agreed for Mr. Coward to insert language similar to that suggested by Mr. Moore, as well as a provision that, in the event the Town determines the tenant has not complied with sub-paragraph (c), the Town would have the option to impose a cap, with the PACI being required to pay all costs over and above said cap or paying a percentage of the utility charges; if the parties cannot agreed, then the option rights would apply.

Mr. Moore suggested replacing the word "approved" with the word "provided" in Paragraph 4.

The Mayor suggested replacing the word "minimize" with the word "optimize" in Paragraph 4.

Comm. James questioned the meaning of Paragraph 14, and after some discussion it was agreed to insert the words "and landlord declares the lease to be terminated" after "if the Premises are destroyed as stated."

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY AGREED TO ADOPT THE FOREGOING RESOLUTION, TOGETHER WITH THE CHANGES IN THE LEASE WHICH HAD BEEN AGREED UPON. It was agreed that the lease would become effective upon receipt of the deed by the Town for the property. A copy of said lease agreement is attached hereto and made a permanent part of this record.

The Board had previously agreed that, if approved, the property would be re-zoned from R-2 to GI Governmental/Institutional.

2. The Board considered the following resolution, prepared by the Clerk and the Town Attorney:

A RESOLUTION  
AUTHORIZING THE LEASE OF PUBLIC PROPERTY  
BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HIGHLANDS  
TO THE HIGHLANDS HISTORICAL SOCIETY INC.

**WHEREAS**, the Board of Commissioners of the Town of Highlands proposes to enter into a long-term lease agreement with the Highlands Historical Society Inc. for the building known as the Old Jail, situated on the north side of Maple Street, together with the existing parking area adjacent to and west of said building, for the purpose of providing a building to store artifacts and other historical materials of the Town; and

**WHEREAS**, the Board of Commissioners of the Town of Highlands has determined, pursuant to G. S. §160A-272 and -279, that said property will not be needed by the Town for the term of the proposed lease, that the Highlands Historical Society Inc. carries out a public purpose, and that the lease is in the best interests of the Town of Highlands.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of the Town of Highlands duly assembled in regular session on the 4th day of August, 1999, that the aforesaid property be authorized to be leased in accordance with a lease agreement between the Town and the Highlands Historical Society Inc. to be adopted herewith.

This resolution is adopted this 4th day of August, 1999.

The Town of Highlands

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Allen L. Trott, Mayor

(TOWN SEAL)

ATTEST:

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Richard Betz, Town Clerk

The Clerk reported that, as with the lease agreement for the Performing Arts Center Inc., notice had been given in The Highlander newspaper, pursuant to G. S. §160A-272, -279, and -267, that the Board would be considering the resolution at this meeting. Each Board member had also received a copy of a revised lease agreement between the Town and the Highlands Historical Society, incorporating the suggestions made at the July 21 meeting.

Comm. James questioned the provision in paragraph 7 concerning insurance, which the Board had agreed at the previous meeting would be the responsibility of the Town. After some discussion, the Board agreed to delete the paragraph, providing it was ascertained by the Clerk that, under the Town's umbrella coverage, liability would be covered even if the building was leased.

Comm. Patterson questioned Paragraph 4, permitting the tenant to make alterations, additions, or improvements; it was agreed that the phrase "and with the written consent of the Town" should be inserted after the words "at its own expense."

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY AGREED TO ADOPT THE FOREGOING RESOLUTION, TOGETHER WITH THE CHANGES IN THE LEASE WHICH HAD BEEN AGREED UPON. It was agreed that the lease would become effective upon execution by the parties. A copy of said lease agreement is attached hereto and made a permanent part of this record.

3. The Board again discussed the appointment of a Cemetery Committee, as discussed at the previous meeting. The Mayor reported that Melinda Wilson, Sue Potts, and Mildred Wilson had agreed to serve on such a committee. Comm. James felt that the Cemetery Ordinance should be amended in order to spell out the purposes and responsibilities of such a Committee.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPOINT MELINDA WILSON, SUE POTTS, AND MILDRED WILSON TO A CEMETERY COMMITTEE.

## VI. New Business.

1. Sealed informal bids had been requested for this time and place for the construction of a Bell Tower and related stone planters and benches on Main Street. The following three bids were publicly opened and read by the Mayor:

- Potts Construction Inc.....\$110,600
- Lupoli Real Estate & Construction Co. Inc.....109,000
- Schmitt Building Contractors Inc.....94,000

The project had been approved at the March 23 meeting with a maximum budget not to exceed \$60,000, and the Town Administrator reported that that amount had been approved in the FY 99-00 budget. Dennis DeWolf said that he understood \$15,000 had been committed by the Highlands Rotary Club. He felt that the decision to include the planter in the project might have had an impact on the cost of the project, and he offered to pursue the matter.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO TABLE THE MATTER UNTIL THE FIRST MEETING IN SEPTEMBER.

2. The Town Administrator reported that the Town had been experiencing problems with a provision in the Zoning Ordinance permitting "temporary banners for annual civic events and special

holidays" to be strung across public rights-of-way. He explained that the definition of a civic event or special holiday was difficult to determine, and such signs had proliferated in recent months. In addition, Electric Department personnel had often not been able to hang or remove signs when scheduled; he had discussed the matter with the Public Services Administrator, and did not feel that the \$25 permit fee adequately recovered the cost to the Town. He had also received complaints about the appearance of the banners. He recommended that the Town consider amending the Zoning Ordinance so that such banners would not be permitted after this season.

Moyna Monroe was present and asked if the Town had considered having the banners hung by other than Town employees. Comm. Sanders expressed a concern over liability in permitting others to hang banners in such close proximity to electric lines.

Kathleen Snyder suggested that such banners could safely be mounted on the fence at the entrance to the Recreation Park for events held at the Civic Center.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO REFER THE MATTER TO THE PLANNING BOARD.

3. The Town Administrator asked the Board to consider authorizing the Town's consulting engineers, W. K. Dickson Co., to proceed with preparing plans for the Bowery Water System Project, Phase II, as approved in the Capital Improvement Program for the year.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO AUTHORIZE W. K. DICKSON TO PROCEED WITH PREPARING PLANS FOR THE BOWERY WATER SYSTEM PROJECT, PHASE II.

4. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO REVIEW APPLICATIONS FOR THE "SWING" POSITION, PURSUANT TO G. S. §143-318.11(a)(6). All those present left the meeting room except the Town Administrator.

The Board reviewed applications which had been received from Elaine Webb and Kenneth Calderon. Mr. Betz reported that he had discussed the applications with the Public Services Administrator before Mr. Nix had left on vacation, as well as with the Tree Trimmer Crew Leader and the Electric Distribution Superintendent; Mr. Nix had concluded that Elaine Webb was the most qualified applicant, and he had recommended offering her the position.

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

5. MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO OFFER THE "SWING" POSITION TO ELAINE WEBB AT A SALARY GRADE AND STEP OF 10-1.

VII. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:30 p.m.

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Richard Betz, Town Clerk