

PUBLIC HEARING and REGULAR BOARD MEETING of December 1, 1999, with Mayor Buck Trott and Commissioners Mike McCall, H. N. James, Ron Sanders, Amy Patterson, and Zeke Sossomon present.

Also present were Commissioner-elect Mike Cavender, Richard Betz, Lamar Nix, Bill Coward, Jerry Cook, Kim LeWicki, John Cleaveland, Tom Coffeen, Bob Estell, Hugh Justice, Jack Mayer, Keith Clark, Richard Robson, Elizabeth Riser, Alan Marsh, Dan Chapman, Linda Clark, Cynthia Strain, Kevin Fitzpatrick, Rosemary Fleming, Earle Young, and others.

A. PUBLIC HEARING.

Mayor Trott called the Public Hearing to order at 7:00 p.m., and stated that the purpose of the meeting was to receive comments from the public on several proposed amendments of the Zoning Ordinance and Zoning Map. Town Administrator Richard Betz reviewed the Ordinance amendments with the Board, which consisted of a provision regulating private commercial traffic signs; a provision prohibiting temporary banners except at the Recreation Park; and an extensive series of amendments regulating wireless communications. He said that he had spoken with Susan Rabold, consultant with MetroSite Management, and discussed three changes the Planning Board had requested on the wireless amendments: reduction of spacing of trees in Section 904(C)(1)(a) to 15 feet; maximum of 100-foot wattage on lighting in Section 904(E)(1); and definition of "opaque fencing" in Section 904(G) to consist of "chain-link fencing with fabric mesh or wooden slatted fencing." The Mayor opened the hearing to comments from the public.

Cynthia Strain said on behalf of the Audubon Society that she was glad to see the Town limit the height of cell towers, since tall illuminated towers killed millions of migratory birds each year.

Linda Clark expressed opposition to the change in regulation of banners; she said that non-profits would no longer be able to advertize effectively since the banners would be limited to events at the Civic Center. She felt banners were consistent with a small Town atmosphere, and felt the Board should seek a better solution to the problems associated with hanging them.

Bill Coward said that he questioned Section 501.3(A) and (C) of the wireless amendment. As he had noted in an earlier meeting, he felt that the requirements would place an unfair burden on the Zoning Board, since it would be difficult to show that a cell tower would not endanger the public health or safety or injure the value of adjoining property. The Town Administrator said that he had discussed these concerns with Susan Rabold, who in turn had asked Rich Ducker of the Institute of Government about the provisions; Mr. Ducker had recommended that the language remain in the Ordinance.

Comm. James asked Bill Coward to discuss the provisions directly with Mr. Ducker before the next meeting, and the Board agreed.

The Town Administrator then pointed out on the Zoning Map displayed in the room the four properties affected by the proposed change in Zoning Designation: the JMON property on North Fourth Street, the Thomas H. Raye property on North Fourth Street, and the LaCagnina property on Franklin Road, all from B-3 Business to B-4 Business; and the 6.75-acre commercial portion of the Liz Development property on US-64E from B-3 Commercial to R-1 Residential. Property owners of the parcels and all abutting property had been notified pursuant to law.

Attorney Jack Mayer was present, together with attorneys Elizabeth Riser and Keith Clark and appraiser Richard Robson, to protest the proposed re-zoning of the Liz Development property. He distributed copies of a letter signed by all four individuals dated December 1, which he asked the Board to submit to the Institute of Government and review with the Town Attorney before proceeding with a decision.

He said that Ms. Lindsey had come to the Town in 1982 for approval of a subdivision plat, and as part of the process had agreed to reduce

a 22-acre commercial area 200-feet wide along the highway to a smaller 6.75-acre tract. He felt that that constituted an agreement, and that therefore this proposed amendment was different from the others being considered at the public hearing. Asked by the Mayor about Ms. Lindsey's plans for the property, he said that she had retained it in hopes of doing something in the future that would be compatible with her development. Asked by the Mayor if she had considered donating it to the Land Trust, he said that he felt the Town should discuss other options with her. The Mayor suggested that the Institute of Government would consider the property a case of spot zoning.

Keith Clark said that it was his recollection that certain maps had been recorded and certain expenditures made that might constitute an agreement between the Town and Ms. Lindsey for the property; he felt that this could constitute an argument for vested rights.

Cynthia Strain felt that Ms. Lindsey should be encouraged to donate the Kelsey Trail, a portion of which was located on her property in another area.

Comm. Patterson asked if there had been an agreement in writing concerning the property, and Mr. Clark said that it had been an implied contract. She asked, if a person subdivided land and left a portion of it commercial, did that mean that it had to remain commercial forever? She pointed out that Ms. Lindsey had benefitted by obtaining the right to develop the property as a residential subdivision and obtaining Town water and sewer; it could not have been developed otherwise.

John Cleaveland said that his recollection was that there had been an understanding that Ms. Lindsey was giving up a lot of her commercial property in order to retain commercial zoning for some smaller portion. There had been a lot of discussion over the past 18 years, however, concerning whether or not it should remain commercial.

Comm. Patterson said she remembered that this property had not been re-zoned in 1990 as a result of the Land Use Planning Committee's recommendations, and she thought that Ms. Lindsey was to have been informed at that time that it could nevertheless be re-zoned at some time in the future.

Comm. Sossomon pointed out that the re-zoning in 1990 had taken away undeveloped commercial zoning for nearly every property along the highway except this property.

There being no further comments, the Mayor closed the Public Hearing at 7:37 p.m.

B. REGULAR BOARD MEETING.

I. Call to Order.

Mayor Trott called the Regular Board Meeting to order at 7:37 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail.

The Clerk asked that two items be added to the agenda: further discussion of Bob Morris's Satulah Vista Subdivision with John Cleaveland under Old Business, and a request for sewer connection from Tom Coffeen under New Business.

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

III. Approval of Minutes.

The minutes of the November 17 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. The Mayor reported that he, the Town Administrator, and the Public Services Administrator had been asked to speak at a session of the Highlands Leadership Program earlier in the day.

2. The Town Attorney reported that he had prepared a draft agreement establishing an escrow fund for the Bowery Road condemnation, as discussed at the previous meeting; copies had been distributed with the agenda for review. He had also drafted a letter to Philip G. Carson concerning certain petitions which had been submitted after the last Board meeting; copies of the letter were distributed.

3. Each Board member had received the Public Services Administrator's written report for the month. Lamar Nix also reported that widening had been completed on Bowery Road where re-paving is scheduled, widening was proceeding on Spring Street, and work had begun on the clock and bell installation in the Town Hall cupola; he felt that the assisting contractor in the cupola work, Romaine Owens, deserved a pat on the back. He also reported that he was obtaining a proposal from a firm that specialized in maintaining steel tanks, and should have a proposal for annual maintenance of the Town's five steel tanks in two to three weeks; proper maintenance of the tanks was recommended by the Public Water Supply Section, and could also dramatically extend the life of the tanks.

The Mayor said that he was continuing to receive good comments on the recently-completed Main Street project, and he commended Mr. Nix for the excellent job he had done.

4. Each Board member received a copy of the Police Chief's written report for the month. Chief Jerry Cook also reported that he was working on a task force on the breaking & entering which had occurred at Bryson's the previous month.

5. The Mayor reported that Recreation Director Selwyn Chalker was recovering from knee-replacement surgery.

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.

7. Town Administrator Richard Betz reported that he had received a letter dated November 17 from Milt Rhodes, Community Planner, Local Government Assistance Unit, Planning Branch, Division of Water Quality, in response to his letter concerning the Macon County Watershed Ordinance. The letter indicated that the County ordinance met the minimum standards, and stated that all pre-existing platted lots were exempt from both the lot size and the natural vegetative buffer requirements. That was not the interpretation of the Town with respect to its Ordinance, and he felt that the Attorney General's office should be written for a definitive answer to the question.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO WRITE TO THE ATTORNEY GENERAL'S OFFICE.

Comm. Patterson felt that if the Attorney General's office did not confirm the Town's position, the Board should ask the County Commissioners to clarify its Ordinance respecting the vegetative buffer regardless of the platting of pre-existing lots.

V. Old Business.

1. The Board again discussed the proposed amendments of the Zoning Ordinance and Zoning Map, subject of the public hearing immediately preceding the meeting. Comm. James felt that a decision on the Liz Development re-zoning should be deferred until the next meeting, as well as the Wireless Communication amendments; he also pointed out that the Board had never made a decision on the temporary banners.

The Board agreed by consensus to defer action on all of the amendments until the next meeting.

2. The Town Administrator reported that he had received a facsimile communication from Susan Rabold of MetroSite Management Inc.

before the meeting reviewing most of the existing and proposed leases for antennas, and he distributed copies to the Board. The Board agreed to defer this matter until the next meeting.

3. The Town Administrator reported that \$20,000 had been budgeted for a pickup truck for the meter reader. Comm. Patterson reminded the Board of the conversation when the budget had been adopted concerning this truck, and again said she felt it should be a two-wheel-drive vehicle. Comm. James felt it should be four-wheel-drive, but a smaller truck. Lamar Nix recommended a four-wheel-drive vehicle, but said that either a small or a full-size truck would be adequate; however, he had found in the past that there was not much difference in cost.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR BIDS FOR A FOUR-WHEEL-DRIVE PICKUP TRUCK, BOTH SMALL AND FULL-SIZE.

4. Copies of a 1988 D.O.T. Parking Study had been distributed at the request of Comm. James. The Mayor pointed out that the report indicated there was a parking management problem, not a parking problem. The Board then discussed timed parking at some length. Comm. Sanders asked how many police officers it would take to enforce timed parking. Jerry Cook was present, and said it would take two officers to enforce parking six days per week, but they would not have to be certified.

Earle Young was present, and recommended that the Board appoint a Committee to study the issue. He said that the Town had done an outstanding job in providing parking over the years, but in most cities there was timed parking and meter maids. He felt the Town should consider several options, including two-hour parking, passenger loading/unloading zones, and warning tickets for the first year. He said that he required the employees of businesses he leased to park off Main Street, and he felt the Town should take into consideration the importance of visitors and residents to businesses downtown.

Comm. James agreed that there was a need to discuss the issue more, and he felt the Board should consider appointing a Parking Committee at the next meeting.

5. The Town had received, on second advertisement, one bid from R. G. E. Associates for an addition to the Fire Department. The Board had agreed on October 6 to re-advertise the project in phases, since a single bid of \$308,805, exceeding the budgeted amount, had been received on June 16, 1999; \$200,000 had been budgeted for the project. The bid was opened and read, and proposed a lump sum of \$198,000; it was accompanied by a bid bond pursuant to law.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE BID SUBJECT TO REVIEW BY THE CLERK, THE FIRE CHIEF, AND THE ARCHITECT.

6. John Cleaveland was present to discuss Bob Morris's Satulah Vista Subdivision. He said that he understood the water improvements

discussed at the previous meeting were being installed. He reported that he had also spoken to Mr. Morris about Worley Road, which was being used to access Lot 4 and Lot 5 in the subdivision, rather than the lower road shown on the plat. He said that Mr. Morris or the other parties would be willing to pave the road to the end of their property, but that Mr. Morris did not own any land to create a cul-de-sac; however, a cul-de-sac similar to the one installed on the lower road could be installed on Lot 3, which was under contract, or possibly on Lot 5-A, which was a partial repair area for Lot 5 which was no longer necessary. He asked the Board to consider permitting a width of 12 feet on the road, as well as an alternate cul-de-sac design. He pointed out that the lower road was only 12 feet in width, and the road below the subdivision was only 9 to 10 feet in width. He also pointed out that Mr. Morris had believed that the Haack property was going to be developed until recently, and that it would have been provided with a turn-around if developed according to the plans. He added that the Town had erroneously issued permits for residences on Lots 4 and 5, which created a tough situation for those property owners, who had been led to believe by Mr. Morris that they could access their lots from the upper road; he was trying to seek a reasonable solution.

Mayor Trott said that he could not understand how permits had been issued; he felt that the owners should have been informed by Mr. Morris of the provisions in the escrow agreement.

Comm. McCall said he did not object to the reduced width, since the road was narrower than 12 feet below the subdivision; he asked what purpose would be served by installing an 18-foot road. Comm. Sanders agreed.

Comm. Patterson felt that the road width was in the Subdivision Ordinance for good reasons. Comm. James felt a mistake had been made in granting a variance the first time. The Board discussed the matter at some length.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND CARRIED, TO PERMIT WORLEY ROAD TO BE EXTENDED TO THE END OF THE SUBDIVISION AND PAVED TO A WIDTH OF 12 FEET, PLUS 4-FOOT SHOULDERS AND A DITCH, WITH AN ALTERNATIVE-DESIGN CUL-DE-SAC TO BE INSTALLED ON LOT 3 OR LOT 5-A, AS WELL AS AN ADDITIONAL PAVED PULL-OFF, SUBJECT TO THE APPROVAL OF THE TOWN ENGINEER, SUCH ROAD TO BE USED AS ACCESS FOR LOTS 3, 4, AND 5; AND THAT AN ESTIMATE BE OBTAINED ON PAVING THE ROAD, CUL-DE-SAC, AND PULL-OFF, AND FUNDS IN THAT AMOUNT BE PLACED IN ESCROW PURSUANT TO AN AGREEMENT WITH SYNERGISTICS INC. TO BE PREPARED BY THE TOWN ATTORNEY. The motion carried, with Comms. Sanders, McCall, James, and Sossomon voting "aye," and Comm. Patterson voting "nay."

## VI. New Business.

1. The Mayor and the Board of Commissioners thanked outgoing Commissioner Mike McCall for his service on the Board, and invited Commissioner-elect Cavender to the table. The Clerk then administered the oath of office to Comm. Cavender, and also to Comms. Sanders and James, who had been re-elected.

2. MOVED BY COMM. SANDERS, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPOINT COMM. JAMES MAYOR PRO-TEM.

3. The Mayor recommended placing Mike Cavender on the Street Committee to replace Mike McCall, but otherwise retaining the existing committees:

- Finance Committee: Herbert N. James & Amy E. Patterson
- Utilities Committee: Herbert N. James & Zeke Sossomon
- Street Committee: Mike Cavender & Zeke Sossomon
- Recreation Committee: Ron Sanders & Amy E. Patterson

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE COMMITTEES.

4. MOVED BY COMM. SANDERS, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO RENEW THE ANNUAL CONTRACT WITH J & J LAWN SERVICE FOR MOWING AT THE CEMETERY THROUGH DECEMBER 31, 2000.

5. MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE FOLLOWING CHRISTMAS BONUSES FOR FULL-TIME EMPLOYEES:

Less than one year of service.....\$100.00  
Between one year and ten years of service.....\$150.00  
More than ten years of service.....\$200.00

It was also agreed that part-time employees should be given hams.

6. Tom Coffeen was present, and said that his daughter had placed the Highlands Seafood & Smokehouse Restaurant on the market. A potential purchaser had inquired about sewer service for the adjoining lot to the east, owned by Dr. Gerson Perry, which would not support a septic system; he proposed purchasing the restaurant, converting it to retail use, and constructing a residence on the lot to be used by the store manager. The only available sewer was a private pressure line serving the restaurant which had been approved several years ago.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO PERMIT THE LOT TO CONNECT TO THE PRIVATE SEWER LINE AT THE PREVAILING CONNECTION FEE AND AT THE OWNER'S EXPENSE.

7. MOVED BY COMM. CAVENDER, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO REVIEW APPLICATIONS FOR EMPLOYMENT FOR THE POSITION OF TOWN PLANNER/ ZONING ADMINISTRATOR, PURSUANT TO G. S. §143-318.11(A)(6). All present left the room except the Town Attorney and the Clerk.

The Board reviewed applications for employment from Richard Hammond, Tracy Passmore, Maureen Lackey, Lucy Lyons, and Jimmy Threatt. The Board agreed to conduct interviews with Tracy Passmore and Maureen Lackey in closed session at a Special Meeting to be scheduled for 7:00 p.m. on December 8.

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

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