

REGULAR BOARD MEETING of November 28, 2001, with Mayor Buck Trott and Commissioners Zeke Sossomon, Amy Patterson, H. N. James, Ron Sanders, and Mike Cavender present.

Also present were Commissioner-elect Hank Ross, Richard Betz, Lamar Nix, Bill Coward, Kim Lewicki, John Schiffli, Jim Graham, Morris Williams, Charlie McDowell, and others.

I. Call to Order.

The Mayor 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.

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

III. Approval of Minutes.

Copies of the minutes of the November 7 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that the 2025 Committee had completed its work on the Macon County Land Use Ordinance, and it was scheduled to be presented at the next County Commissioners meeting, which had been scheduled to be held in Highlands on December 3 at 9:00 a.m.; he asked as many Commissioners as possible to attend. He also said he felt the Board should schedule a joint meeting with the County Commissioners as soon as the new Board took office.

2. The Town Administrator reported that the Town had received a letter dated November 14 from R. A. Ayers, D. O. T. Assistant Division Traffic Engineer, recommending no changes in the speed limit and no stop sign on Webbmont Road.

He also reported that he had received a letter dated November 19 from Charles H. Gardner in the DENR Division of Land Resources office, indicating that it had been determined that Randall Dam was less than 15 feet in height and therefore not regulated under the Dam Safety Act. The letter noted, however, that certain dams were high hazard and thus subject to the Act regardless of height. Comm. Sossomon suggested that the Town Administrator review the requirements for the high hazard designation.

He also reported that copies of the County's newly-adopted Soil Erosion and Sedimentation Ordinance were available.

V. Old Business.

1. The Southwestern Commission had requested, as discussed at the previous meeting, that the Board sign a memorandum of understanding concerning Region A's designation as a Rural Transportation Planning Organization. The Mayor reported that he had discussed the memorandum with Region A officials; although the Town would likely not be represented on the Advisory Committee, he pointed out that the Town Administrator would be represented on the Technical Committee.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPROVE THE MEMORANDUM OF UNDERSTANDING.

2. The Town Administrator reported that he had discussed repairs to the roof of the Highlands Playhouse with architect Paul Schmitt. The patching had been completed, but the engineer's report on the structural problems would not be ready until the middle of next month. He also reported that the lease indicated the Lessee was responsible for repairs.

## VI. New Business.

1. Comm. James noted that copies of a proposed agreement for provision of water service to Highlands-Cashiers Hospital and Chestnut Hill had been distributed with the agenda. He reported that the Utilities Committee had felt that the Board needed to review the agreement at this time, although he understood that Hospital officials wanted to discuss some additional issues with the Committee. Hospital Administrator Jim Graham was present and confirmed that he and other officials wanted another opportunity to meet with the Committee.

Comm. Sossomon asked members of the Board if they had any objections or questions at this point. In a wide-ranging question-and-answer session, he and Comm. James explained the key provisions of the proposed agreement. Water rates for Chestnut Hill would be the out-of-Town rate, double the in-Town rate, but the Hospital would pay the in-Town rate for a period of ten years in consideration for providing for funding of the \$1.2 million water line. The Hospital would retain its wells, but the two water systems would be separated, with the Town assuming ownership of the line and Hospital reservoir, while the wells would continue to serve Highlands Falls and Bryson Quick Lube; the 100,000 gallon reservoir would be large enough for both fire flow and water supply. If the Hospital sold the land leased to Chestnut Hill, then the Town's obligation would be only to those units developed at the time of the sale, not the "build-out." Water would not be provided to any other users except the Hospital and its leased property, consistent with Town policy for which the Board had agreed to create an exception in this case.

Charlie McDowell was present and asked if the water taps could be sold, as had been the case with Shelby Place; he was told they could not. He also asked about building density and similar Town regulations at Chestnut Hill, and was told that they would not apply since the property was outside of Town.

The Board agreed by consensus for the Committee to meet with hospital officials again and discuss the agreement.

2. The Mayor asked the Town Attorney to brief the Board on the status of the Town's position in the Edwards case. Bill Coward was present and reiterated the comments he had made at the previous meeting; the case had been remanded to Superior Court, and the Town would need to begin some surveying if it was going to pursue it. He said that the safest option would be to survey every one of the 143 lots that Samuel Kelsey had deeded out, but that other options might include surveying only a portion showing the street system, or perhaps digitizing all of the information on the deeds and comparing them with the Kelsey Map.

Charlie McDowell pointed out that many surveying monuments had been destroyed in Town; he felt that a good surveyor would have difficulty finding points on Main Street.

The Mayor pointed out that there was a lot more at stake for the Town than Poplar Street and the Edwards family; he was concerned over the Kelsey Map not being considered valid, and asked what the impact could be on the Town in the future. Mr. Coward said that in his opinion, every time a street was widened, adjoining property owners could put up a fight, emboldened by this case, and file a lawsuit. Comm. James said he thought it could also involve questions about sidewalks, setbacks, and encroachments in the right-of-way on most of the streets in Town; he pointed out that only a few streets, such as Pine and Third, had been completely opened. Comm. Cavender

wondered what would happen if the Town went back to court and lost.  
Mr. Coward said he didn't see any difference in quitting or getting beaten.

Comm. Cavender asked if there was a way to get the Edwards family to agree to the validity of the Kelsey Map, while agreeing not to disturb their property. He said that he had talked to Richard Melvin, who had said he would be happy to talk to the Board, and he wondered if there was any interest in negotiating some kind of settlement.

Mr. Coward pointed out that such an offer had been made early in the litigation; the proposal has been first to recognize the streets, but agree not to open them for a number of years. He pointed out, however, that such an agreement would not affect any other lawsuit or settle the question of the validity of the map. Comm. Patterson said she felt that a pre-requisite for any negotiated settlement would have to be recognition of the validity of the streets.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED FOR THE TOWN ATTORNEY TO CONTACT RICHARD MELVIN AND DISCUSS ANY SCENARIO IN WHICH THERE MIGHT BE A BROAD SETTLEMENT THAT WOULD EXPLORE THE EXPECTATIONS OF ALL PARTIES.

Mr. Coward felt that this matter should be discussed further in Closed Session.

Before the Board went into Closed Session, two persons who were present expressed their objection to the Subway Restaurant recently approved by the Zoning Board; they had understood it would be on the agenda of the next Town Board meeting.

3. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318(A)(3) TO FURTHER DISCUSS SETTLEMENT OF THE EDWARDS CASE WITH THE TOWN ATTORNEY. All present left the room except the Clerk and the Town Attorney.

The Board discussed settlement of the Edwards case with the Town Attorney.

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

VII. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 8:10 p.m.

---

Richard Betz, Town Clerk