

REGULAR BOARD MEETING of August 7, 2002, with Mayor Buck Trott and Commissioners H. N. James, Ron Sanders, Mike Cavender, Hank Ross, and Amy Patterson present.

Also present were Richard Betz, Lamar Nix, Jerry Cook, Selwyn Chalker, Larry Gantenbein, Alan Marsh, Bill Mann, Wendell Underwood, James Tate, Mary Adair Leslie, and Kim Lewicki present.

I. Call to Order.

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

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk noted that the discussion at the previous meeting concerning Highlands Country Club was to have been taken under advisement until this meeting, but it had been omitted from the agenda; he said that Zoning Administrator Larry Gantenbein would be reporting on the matter in his report. He also noted that the Closed Session on the agenda would be not to review applications in the Street Department but to discuss a personnel matter in the Sanitation Department. Comm. Sanders said that he would also like to discuss a personnel matter in Closed Session.

The Board approved the agenda as amended by common consent.

III. Approval of Minutes.

Copies of the minutes of the July 17 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reminded the Board of the Relay for Life for the American Cancer Society scheduled for August 16-17 in Cashiers.

He also reported that he had learned that a proposed bill in the State House of Representatives would fund the Alcohol Law Enforcement (A.L.E.) Division of the N. C. Department of Crime Control and Public Safety from ABC revenues across the State; the impact on our local ABC store would be that approximately \$17,000 less would be available for distribution. He had talked to the Town's legislators and counsel for the League of Municipalities and learned that the bill was in negotiation, but would most likely result in ABC stores receiving no less distribution than last year; however, any excess funds would go toward the A.L.E.

2. The Town Administrator reported that Town Attorney Bill Coward could not be present, but had briefed him earlier in the day on various matters:

- Each Board member had received a copy of an order filed in Superior Court on August 1 by James U. Downs, ruling in favor of the Town on the Bowery Road cases. The defendants would have 30 days to file an appeal, but pursuant to the Consent Order agreed to earlier in the year no action could be taken until all of the appeals had been exhausted.

- He also reported that the Parking Ordinance case involving Schiffli Real Estate had been continued until October 7. Mr. Coward had informed him that, while the Town should prevail in that case, he felt it would be advisable to look at some amendments to the Ordinance to tighten it up. The Board agreed for Mr. Coward to review the Ordinance and make any recommendations that would be appropriate.

- He also reported that Sprinkle Surveying had submitted an invoice for \$19,200. Mr. Coward had reviewed the surveying done thus far and felt that it was going to satisfy the requirements of the Court of Appeals. The Town Administrator added that the surveys had also provided some unexpectedly good data for the Town, such as an orthophoto overlay that could be imported into the GIS system.

3. Each Board member had received a copy of the Public Services Administrator's written report for the month. Lamar Nix was present and reviewed the report, adding that the belt press at the Wastewater Treatment Plant was operating very well, and was now enabling Plant personnel to better control the solids in the plant and reduce the moisture content of the sludge. The Town Administrator added that he had recently viewed the belt press in operation and was very impressed.

Mr. Nix also reported that Anne Deville had requested permission to extend the Town sewer from the intersection of NC-106 and Main Street up First Street to her property, at her own expense; the gravity line would be sized large enough to sewer other properties above her house, and would be designed and inspected by the Town Engineer. The Town Administrator noted that the extension would be consistent with Town sewer policy.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST.

Mr. Nix had also obtained an estimate of \$12,675 for the installation of a guardrail along 550 feet of Little Bearpen Road, both above and below the switchback. Comm. James agreed that a guardrail might be needed in the curve, but questioned the need along the rest of the road. Comm. Patterson also expressed some reservations; wherever guardrails had been installed in the area, she had noted that they seemed likely to wash out. Comm. Sanders said that the Street Committee recommended proceeding with the guardrail. With respect to right-of-way, Mr. Nix reported that the road had been shown as a Town street on the official Powell Bill map for many years.

MOVED BY COMM. SANDERS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO AUTHORIZE INSTALLATION OF THE GUARDRAIL. Comm. James noted that his "aye" vote was given reluctantly.

4. Each Board member had received a copy of the Police Chief's written report for the month. Jerry Cook was present and reviewed the report, and also briefed the Board on the recent Rapid Deployment training completed at Highlands School. Responding to a question from Comm. Patterson, he noted that the volume of incidents this year was about the same compared to last year, except that Breaking & Entering cases were down.

5. Each Board member had received a copy of the Recreation Director's report for the month. Selwyn Chalker was present and reviewed the report, adding that the Tennis Courts had been completed and had been well-received by the tennis players. The swimming pool would be kept open as long as staffing permitted, and the Rec Camp had just completed a very successful season, serving 38 campers per day on average. He also requested permission to employ Tammy Lowe and Patrick Henry on a part-time basis for the front desk.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO EMPLOY TAMMY LOWE AND PATRICK HENRY PART-TIME IN THE RECREATION DEPARTMENT.

6. Each Board member had received a copy of the Zoning Administrator's report for the month. Larry Gantenbein was present and reported that the Town had received a letter from the Division of Water Quality, as discussed at the June 5 meeting, asking the Town to amend Section 211.7 of its Zoning Ordinance to provide for a 100-foot natural vegetative buffer "for activities that exceed the low-density standards." The Planning Board had been asked to review the amendment at its previous meeting, and had recommended

adding it to the other amendments scheduled for public hearing on September 18. He pointed out that the low-density option would be exceeded only in the unlikely event that the Town exceeded the maximum of seventy percent (70%) built-upon area in up to five percent (5%) of the balance of the watershed.

He also reported that the Planning Board had resolved its concerns over the amendment deleting the limitation of 50% in cost during any one year for repairs or alterations of non-conforming buildings; they had asked that he develop some language to permit renovation but not expansion. The Board agreed by consensus for him to proceed.

A similar requirement in the State Building Code would still be in effect, but would apply to non-conformities under the Building Code rather than under the Zoning Ordinance.

He also reported that he had asked the County Building Inspector to report on docks on Lake Sequoyah; the report indicated that four or five docks would have to either be removed or repaired pursuant to the Lake Ordinance.

He also reported that he had reviewed the file on Highlands Country Club and also met with Town Attorney Bill Coward, and he agreed with Comm. James that the Town did not need to annex any of the property identified in the plats discussed at the July 17 meeting because these areas were already in Town. The surveys being prepared by the Club would help quantify those areas, and would be recorded with the Register of Deeds and also forwarded to the County Tax Assessor.

He also pointed out, with respect to Extraterritorial Jurisdiction (ETJ), that the entire Country Club was now subject to a Watershed ordinance, an Impoundment Ordinance, a Soil Erosion Ordinance, and the Town's Zoning Ordinance for areas inside of Town; any development on the "playing surfaces" would make such property "inside Town" by the definition of the annexation legislation. He therefore did not think that extending ETJ was necessary.

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

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

8. The Town Administrator reported that he had received the report from S&ME on testing required at the Town's abandoned underground storage tank site on Poplar Street, as well as a letter dated August 5 from DENR official Michael Streeter. The report indicated groundwater contaminant levels in excess of the surface water standards, but surface water samples indicated contamination concentrations below standards. Mr. Streeter had advised that remediation was not warranted, but that semi-annual monitoring would be required from three of the wells. The Board agreed by consent to ask S&ME to prepare the required reports. The cost would be reimbursable under the State Trust Fund.

The Fire Department had voted at its meeting the night before to approve a proposal regarding health insurance and payments to firemen who were not receiving health insurance, and each Board member was given a copy. The Department proposed continuing to pay the cost of insurance under COBRA for the 12 firemen enrolled in the insurance program at a cost of \$33,868 for 12 months, and beginning September 1 to reimburse the other 18 firemen \$100 per month toward insurance or other expenses at a cost of \$18,000; the total for the year would be only \$1,868 over budget. Comm. Cavender asked if the \$100 reimbursement could be used for any expenses, not just insurance; Comm. Sanders felt that the reimbursement should be paid to their insurance providers. Jim Tate was present and explained that the Department had discussed the proposal at its meeting, and the consensus was that the \$100 per month was intended to provide reimbursement for other costs, such as fuel and vehicle maintenance; he noted, for example, that he had put 3000 miles on his own vehicle the previous year as part of his volunteer duties. He pointed out that the Franklin Fire Department had a policy of paying volunteer firemen \$10 per call. Next year, the Fire Department would stipulate

that volunteers would have to respond to at least 30% of calls in order to receive the funds. The Board agreed to take the proposal under advisement, and ask the Fire Chief or other Department officials to come to the next meeting to discuss it.

The Town Administrator also reported that he would be meeting with the Recreation Director and Public Services Administrator to obtain specifications for two items in the FY 02-03 budget, a pickup truck and a line truck; bids would be received at the next meeting.

He also reported that the Mayor had received a petition from property owners on Choctaw Road and Choctaw Lane asking that their roads be paved. He had discussed it with the Town Engineer, who had inspected the roads and recommended that the request be considered with next Spring's paving.

He also reported that the Mayor had received notification that a traffic signal had been approved by the D. O. T. for the intersection of Maple Street and US-64, pursuant to the Town's request several months ago. The installation date would depend on funding.

He also reported that the Town had received thank-you notes from the Peggy Crosby Community Service Center, the Hudson Library, and the Highlands Historical Society for the recent donations.

Each Board member had also received a copy of a letter from the Highlands Fire Department to Jackson County property owners in Highlands Falls Country Club, Cullasaja Club, and Wildcat Ridge Homeowners Association, requesting donations proportionate to their property values and based on the Macon County fire district tax. Thus far Cullasaja Club had donated \$6,137 as requested.

The Town Administrator also reported that he and the Town Planner had met with Hank Ross, Allan James, and Dave Clary to discuss preparing an RFP for a population study, as approved at the previous meeting. The Committee had agreed that it would be appropriate for the Land Use Planning Committee, which would be meeting sometime this month, to have input into such a study, and that this should be taken up as one of their first items of business.

#### V. Old Business.

1. Only one bid had been received, on second advertisement, for a Fire Department Rescue Vehicle; the bid was from Emergency Vehicles Inc., and it was opened and read. The proposal was for a 2003 Ford F-550 4-Door 4X4 Chassis with an EVI 10-foot "Non-Walk-In" Rescue body, for \$124,907. The Clerk noted that the bid was under budget, and he recommended approving it contingent on review by the Fire Department.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE BID OF \$124,907 FROM EVI, CONTINGENT ON REVIEW BY THE FIRE DEPARTMENT.

2. Each Board member had received a package of information on Robbie Reid's dock on Lake Sequoyah, including correspondence between the Town and Harold Saylor of the Public Water Supply Section. Several Commissioners said that they had understood that the Town Administrator had been asked at the meeting to contact Harold Saylor and ask him if events such as the recent ones on Mr. Reid's dock were allowed. The Town Administrator said that he had understood that he was to review previous communication with Mr. Saylor and the current status of Mr. Reid's dock, which he felt had been approved two years ago; he offered to contact Mr. Saylor directly if the Board desired.

The Mayor said that Robbie Reid had informed him that he would not permit the dock to be used for any more public uses for anyone other than property owners in his subdivision, and also would not request any further permits for amplified sound. He added that, due to complaints he had received, he would not issue any more amplified

sound permits as Mayor.

The Board then discussed this issue at length. Comm. James said that his concern was approval of the lake as a source of drinking water. Comm. Ross was concerned about the noise and other activities, but noted that he himself owned a dock and did not want to open a can of worms. Comm. Patterson noted that there was a difference between a small dock like his and a large one. Comm. Sanders asked if the Town was going to eliminate all functions such as these.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, THAT A LETTER BE DRAFTED TO ROBBIE REID REQUESTING THAT HE NOT HOLD ANY PUBLIC FUNCTIONS OR PERMIT ANY AMPLIFIED MUSIC ON HIS DOCK. Comm. James said he was not sure he would vote for the second part of the motion. The Mayor said he felt the dock was a benefit to the public and he did not object to the activities that had occurred recently; he felt that the Board should simply contact Harold Saylor, if it felt this activities were not permitted. Mr. Ross then withdrew his motion.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO WRITE A LETTER TO HAROLD SAYLOR, DESCRIBING THE RECENT FUNCTIONS AND ASKING IF THEY WERE PERMISSIBLE ON A CLASS I RESERVOIR.

#### VI. New Business.

1. The Board had already heard a report from the Town Planner on a proposed amendment of Section 211.7 of the Zoning Ordinance, reviewed by the Planning Board last month, concerning the 100-foot natural vegetative buffer.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO INCLUDE THE AMENDMENT WITH THE OTHER ZONING ORDINANCE AMENDMENTS SCHEDULED FOR PUBLIC HEARING ON SEPTEMBER 18.

2. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE FOLLOWING RESOLUTION:

#### **RESOLUTION PROCLAIMING CELEBRATE THE ARTS MONTH**

**WHEREAS,** the residents of the Town of Highlands enjoy and support the visual and performing arts;

**WHEREAS,** the Town has much to offer in the area of the arts, visual and performing;

**WHEREAS,** the arts are vital to our culture and society;

**WHEREAS,** both producing artists and their audiences are influenced by the natural beauty of our local surroundings;

**WHEREAS,** all of our young people need to gain an appreciation for the special variety and quality of the arts available for residents and visitors alike; and

**WHEREAS,** the arts should be celebrated and enjoyed daily.

**NOW, THEREFORE,** I, Allen L. Trott, Mayor of the Town of Highlands, do hereby proclaim the month of

**SEPTEMBER**

as

**CELEBRATE THE ARTS MONTH**

3. The Town Administrator reported that Rhodes Brothers Paving and Construction had asked for permission to relocate its antenna from the Upper Brushy Face Water Tank to the Satulah Mountain Water Tank, where it had been located several years ago. Both sites were approved under the Town's Zoning Ordinance as attachments to the tanks, and the current rent was \$300 per year.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE RELOCATION OF THE ANTENNA.

4. The Town Administrator had prepared a memorandum and a resolution regarding the MiniBrooks Act. The memo reported that two items approved in the FY 02-03 Budget--hydraulic modelling of the water system, and an I & I study--involved special engineering expertise. However, he had learned that a General Statute, G. S. 143-64.31, known as the MiniBrooks Act, required municipalities to select engineering services on the basis of "competence and qualifications without regard to fee." In discussing the matter with Frayda Bluestein at the Institute of Government, however, he had learned that the Statute provided for municipalities to exempt themselves from the act for specific projects and for stated reasons.

MOVED BY COMM. JAMES, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO APPROVE THE FOLLOWING RESOLUTION:

**TOWN OF HIGHLANDS  
RESOLUTION EXEMPTING SPECIFIC ENGINEERING PROJECTS  
FROM THE "MINIBROOKS" ACT**

**WHEREAS**, G. S. 143-64.31 requires the initial selection of firms to perform architectural, engineering, and surveying services without regard to fee;

**WHEREAS**, the Town of Highlands proposes to enter into one or more contracts for engineering services for work on the following projects:

(1) Hydraulic computer modeling of the Town's water distribution system.

(2) Evaluation study of the Town's sanitary sewer system.

**WHEREAS**, the foregoing services require special expertise and qualifications in the areas of computer modeling and sanitary sewer evaluation, and other consulting engineers having such expertise have expressed an interesting in performing this work;

**WHEREAS**, the Town feels that it would be in its best interest to consider selecting proposals from other engineering firms in addition to the Town's consulting engineers, W. K. Dickson Company;

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners in Regular Session assembled, that the above-referenced projects are hereby made exempt from the provisions of G. S. 143-64.31 for the reasons stated in this resolution.

3. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318(A)(6) TO DISCUSS A PERSONNEL MATTER IN THE SANITATION DEPARTMENT AND PERSONNEL MATTERS INVOLVING THE POLICE DEPARTMENT. All present left the room except the Clerk, the Police Chief, and the Public Services Administrator.

- A. The Board discussed a personnel matter involving Randy Thrift in the Sanitation Department with the Public Services Administrator.

The Public Services Administrator then left the meeting room.

- B. The Board discussed various personnel matters involving the Police Department with the Mayor and the Police Chief.

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

VII. The Board agreed to adjourn by common consent.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:15 p.m.

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Richard Betz, Town Clerk