

REGULAR BOARD MEETING of February 1, 2006, with Mayor Don Mullen and Commissioners H. N. James, Dennis DeWolf, Alan Marsh, Amy Patterson, and Hank Ross present.

Also present were Richard Betz, Bill Coward, Lamar Nix, Selwyn Chalker, Bill Harrell, Kim Lewicki, Jim Lewicki, Adam Thompson, Steve Hamm, Ginger Slaughter, June Hogue, Rick Siegel, and Jack Bournemann.

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 Town Administrator reported that an item of New Business, review of the Old Edwards Inn plat for Satulah Park, should be re-scheduled to February 15 because the Planning Board had recommended that the plans be reviewed by another engineer at the request of an adjoining property owner; that consultation with the Town Attorney on a legal matter be added to the Closed Session already scheduled; and that discussion of an RFP for a Facilities Master Plan be added to New Business.

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

III. Approval of Minutes.

Copies of the minutes of the January 18 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

IV. Public Comment Period.

The Mayor stated that this was the time for public comments as required by law.

There were no comments from the public.

V. Reports.

1. The Mayor reported that he would be going to Washington the following day to meet with Sen. Elizabeth Dole to request her assistance for funding the removal of silt from the lakes.

The Mayor then stated that he felt the Town had worked very hard over the past two months to bring the people in the ETJ into the process and had reached out and met with citizens in that area. Two representatives from the ETJ had already been appointed and were working actively on the Planning Board. He also commended David Hourdequin for the series of meetings now scheduled with the ETJ Liaison Committee; he felt that progress has been made. However, he reported that the Town had received word the previous day that the County Commissioners planned to meet on Friday at 4:00 p.m. to consider taking legal action against the Town, without discussing it with any Town officials, challenging the proportional representation on the Planning Board. He thought this was a slap in the face of honor and

decency, and he also pointed out that Allan Bryson was being named in the lawsuit not only as Chairman of the County Commissioners but also as a resident of the ETJ himself, personally represented by the County Attorney. He said the Town felt confident about the manner in which proportional representation had been developed and would stand firm in defending the methods used. He asked the County Commissioners to return to reason and common sense in voting down this proposal; he said he would still like to work closely with them but would find it difficult under the threat of legal action. He particularly appealed to Allan Bryson, who had previously assured him of his cooperation, which he hoped would continue after this brief bump in the road.

2. Comm. Patterson remembered that the Board had discussed beginning the work of the Finance Committee earlier this year, especially with regard to capital projects; she asked that the Finance Officer send copies of the Capital Improvement Program to each Board member so that they could start thinking about it.

3. Town Attorney Bill Coward said that the Mayor's comments had been right on target. He had reviewed the complaint and he thought it was dead on arrival; while the Town's population estimate was based on GIS data and was accurate and detailed, the County's was based on the "information and belief" of the County Attorney, which he said would not prevail in a court of law. He thought that such a lawsuit would be a waste of taxpayers money but was prepared to defend the Town. The Board agreed to discuss this further in closed session.

4. Each Board member had received a copy of the Town Engineer/ Public Service Administrator's report for the month; Lamar Nix was present to review the report. He added that the Water Plant compliance inspection had gone well, but he noted that one of the pumps in the water intake would need to be replaced after only three years due to silt in Big Creek; he suspected the other pumps would also need to be replaced soon. He also reported that 100% of the pipe had now been installed in the Ball Park.

5. Each Board member had received a copy of the Police Chief's written report for the month; Bill Harrell was present to review the report.

6. Each Board member had received a copy of the Recreation Director's written report for the month; Selwyn Chalker was present to review the report. He also distributed copies of a resolution supporting the Land for Tomorrow initiative.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT THE RESOLUTION SUPPORTING THE INITIATIVE.

Comm. DeWolf said that he understood work would begin on the roof of the Civic Center within the next two weeks.

7. Each Board member had received a copy of the Town Planner/ Zoning Administrator's report for the month; Larry Gantenbein was present to review the report.

Comm. Ross requested that the Town Attorney review some of the ambiguities in the B-3 district with respect to cluster development, previously discussed by the Board. The Town Administrator reported that due to the heavy schedule at its previous meeting the Planning Board had not yet been able to begin reviewing this matter, which had been referred to them at the previous meeting.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ATTORNEY TO REVIEW THIS ISSUE.

8. Each Board member had received a copy of the Treasurer's Report for the month. The Treasurer noted that Recreation funding had been received from the County, but only in the amount of \$247,690; apparently funds had been deducted for costs incurred in the operation of the Health Department facility at Zachary Field. He said that he had written a letter objecting.

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

9. The Town Administrator reminded the Board that the Essentials of Municipal Government course would begin the following week in Asheville. He also reported that the Chamber of Commerce had invited the Board to its annual retreat scheduled for March 29; the Mayor reported that he had spoken to Bill Basham and it was possible this date might change.

He also reported that he had spoken to Becky Veazey from the MAPS group, a consulting firm which the League of Municipalities now recommended for review of personnel policies and salary schedules. He recommended asking them to conduct a full review of the Town's Personnel Manual and salary schedule in all departments, which he understood could be completed by budget time; the cost would be \$9,036.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE STUDY.

VI. Old Business.

1. The Board discussed at some length drainage and traffic problems at the south end of Second Street. Comm. DeWolf said he had met with Comm. James and reviewed the plans submitted by David Warth, as well as hydrologic information for the area; he said he would like to meet with the Town Engineer and review the information. Comm. Ross asked when the Stormwater Master Plan would begin; he thought the problems here were part of a bigger problem. The Town Administrator said funding was expected to be approved this spring or summer and McGill would begin work on the study immediately.

VII. New Business.

1. Each Board member had received a copy of a plant list and drawing prepared by Comm. Ross for proposed improvements of the north end of Fifth Street where a sewer line had recently been installed; the cost was \$8,000. Comm. Ross said that he had learned that the size of the area of the street which the Board had discussed donating to the Land Trust was much smaller than anticipated, based on the court survey, but he still thought that donating it to the Land Trust would be an option to consider. Comm. James felt that Larry Rogers had made a good point at the previous meeting; the street was already public, and he did not see how donating it to the Land Trust would be more of a benefit. He also questioned whether the Kelsey Trail was public, and felt that nature should be left to take its course in the area before planting took place. Comm. DeWolf felt that the Town had dramatically changed the character of the head of the trail; Comm. Patterson agreed, and said she felt the Town owed it to the public to restore it.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND CARRIED TO APPROVE THE PLANTING PROPOSAL AND INSTALLATION OF TWO PARKING SPACES. Comms. Ross, Marsh, Patterson, and DeWolf voted "aye," and Comm. James voted "nay."

2. Variance applications from Old Edwards Inn and Ingram Tynes had been distributed with the agenda package as requested at the previous meeting.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO SET PUBLIC HEARINGS TO HEAR VARIANCE REQUESTS SUBMITTED BY OLD EDWARDS INN FOR ROAD RIGHT-OF-WAY AT THE OLD CREEK LODGE SUBDIVISION; AND BY INGRAM TYNES FOR ROAD WIDTH, CUL-DE-SAC, RADIUS, AND SHOULDER SPECIFICATIONS AT CRUNKLETON RIDGE SUBDIVISION.

3. Each Board member had received copies of a draft Request for Proposal for a Facilities Master Plan for the Town Hall site prepared by Comms. DeWolf and Ross as requested at a previous meeting; Comm. DeWolf asked the Board to review it and hoped they would provide comments.

4. MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY ON POSSIBLE LITIGATION, AND PURSUANT TO G. S. §143-319.11(A)(6) TO DISCUSS A PERSONNEL MATTER IN THE POLICE DEPARTMENT. All present left the room except the Clerk and the Town Attorney.

A. The Board consulted with the Town Attorney on the possible pending litigation with the County discussed earlier in the meeting.

B. The Board discussed personnel problems in the Police Department.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. The door was opened to the public.

5. The Mayor appointed Alan Marsh to serve with him on a Police Committee, and the Board agreed by consensus.

6. MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ASK THE TOWN ATTORNEY TO ATTEND A SPECIAL MEETING OF THE COUNTY COMMISSIONERS SCHEDULED FOR FEBRUARY 3, AS DISCUSSED EARLIER IN THE MEETING.

VIII. The Board agreed by consensus to adjourn.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:00 p.m.

Richard Betz, Town Clerk