

REGULAR BOARD MEETING of July 26, 2006, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, H. N. James, and Hank Ross present; Comm. Dennis Dewolf was out of Town. The meeting had been re-scheduled from its usual date and was being held at the Highlands Civic Center.

Also present were Richard Betz, Bill Coward, Lamar Nix, Larry Gantenbein, Sonjia Stewart, Kim Lewicki, Adam Thompson, Griffin Bell, Clem Patton, Ginger Slaughter, Mike Bryson, Mitch Gurganus, Pat Taylor, Bill Nellis, Jack & Sarah Mayer, Dr. O'Neil, Jim Ramsdell, and others.

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. Bill Coward had recommended deferring an item of New Business, amendment of Code regulating construction noise, until after a closed session discussion with him on legal implications. Several people were present for this item, however, and Comm. Ross suggested going into closed session after hearing their comments, then returning to make a decision on this issue.

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 July 5 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. ROSS, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

IV. Reports.

1. The Mayor welcomed the Planning Board to this joint meeting, and said that several other items would be on the agenda of the next meeting, including discussion of the antique show at the Civic Center, parking regulations, and termination of the Chamber of Commerce lease of the Conference Center. He also reported that McGill had begun the Stormwater Master Plan.

2. The Town Administrator reported that the Mayor and Town staff had met with Becky Veazey to discuss the Salary Study, and she had requested a Special Meeting to present it to the Board on August 23; the Board agreed by consensus.

He also reported that the Fire Department had agreed to sell the 1988 GMC Fire Truck.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO RECEIVE SEALED INFORMAL BIDS ON THE SURPLUS VEHICLE.

V. Old Business.

1. The Town Administrator reported that three nominations had been received for appointing Thomas Craig to the

Appearance Commission, and one for appointing David Rohrer.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPOINT THOMAS CRAIG TO THE APPEARANCE COMMISSION.

## VI. New Business.

1. Several members of the public were present to complain about noise in Town. Jim Ramsdell was concerned about road noise, and suggested that the Board prohibit the use of "jake brakes" by diesel trucks and post signs accordingly. One of his neighbors agreed. Dr. O'Neal expressed concern over construction noise at Riverwalk Subdivision caused by a jackhammer; he suggested changing the hour when such noise may begin from 7:00 a.m. to 8:00 or 9:00 a.m., and also thought work should be prohibited on holidays. The project manager for the subdivision said that there was currently no prohibition against working after 7:00 a.m. or on holidays and said he had complied with the ordinance. He felt that he needed to make the most of the time available for construction due to the amount of rain in Highlands, and also pointed out that the jackhammer work was almost complete and had been preferable to the use of dynamite.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION. The Board then left the meeting room of the Civic Center and convened in the Recreation Director's office area.

The Board consulted with the Town Attorney concerning a memorandum he had prepared on the Town's current noise Ordinance.

MOVED BY COMM. ROSS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. The Board then returned to the meeting room.

The Mayor called the meeting to order and announced that the Board had agreed in closed session consultation with the Town Attorney to several changes in the noise regulations set forth in Sections 8-8 and 8-9 of the Code.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO AMEND THE NOISE ORDINANCE, EFFECTIVE IMMEDIATELY, TO SUBSTITUTE FOR PARAGRAPH 8-8 THE LANGUAGE SET FORTH BELOW, ADAPTED FROM THE JACKSON COUNTY NOISE ORDINANCE WHICH HAD BEEN RECENTLY UPHOLD IN COURT; TO CHANGE THE BEGINNING HOUR FOR CONSTRUCTION NOISE IN PARAGRAPH 8-9(9) FROM 7:00 A.M. TO 8:00 A.M., AND TO INCLUDE ROAD AND UTILITY EXCAVATION; AND TO PROHIBIT CONSTRUCTION NOISE ON MEMORIAL DAY, THE FOURTH OF JULY, LABOR DAY, THANKSGIVING, AND CHRISTMAS.

"Section 8-8. Loud, Raucous, and Disturbing Noise Prohibited.

It shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue, or cause to be made or continue any loud, raucous, and disturbing noise, which term shall mean any sound which, because of its volume level, duration, and character annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the limits of the Town of Highlands. The term loud, raucous, and disturbing noises shall be limited to loud, raucous, and disturbing noises heard upon the public streets, in any public park, in any school or public building, or upon the grounds thereof while in use, in any church or hospital, or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof."

The Mayor also said that the Board considered the use of "jake brakes" to be a violation of paragraph 8-9(5). The Town Attorney was asked to draft the final language and distribute it to the Board.

2. Each Board member had received a copy of a memorandum from Chris Stahl, Macon County Director of Solid Waste Management, informing the Town that the County was proposing closing the Construction & Demolition

landfill on Rich Gap Road within the next 18 to 24 months and making changes to the way in which the Town's solid waste was transferred to the landfill. The Mayor appointed a Committee consisting of Comm. James, Comm. Marsh, the Town Administrator, and the Public Services Administrator to meet with County officials and discuss the issues raised in the memorandum.

3. The Board then discussed at length in a joint meeting with the Planning Board the issues of multi-family and density in the B-3 district. The Board had amended the Zoning Ordinance on June 7 to provide for a density of 22,000 SF for single-family residences other than apartments. The Planning Board had recommended a density of four per acre, and had also recommended permitting multi-family in the B-3 areas. In a wide-ranging discussion, the two boards discussed density, the zoning map, whether commercial or multi-family was preferable in commercial zoning districts, parking, and related issues. The consensus of the Board was to leave the density in B-3 as it had agreed on June 7 but to ask the Planning Board to continue working on the B-3 district.

The Board also discussed proposed amendments to the Zoning Ordinance and the Zoning Map creating a new B-5 ETJ Mixed Use District and a new R-4 ETJ Residential District along the corridors in the ETJ. The Board discussed the maximum size for commercial buildings, storage of trucks and backhoes, and manufactured homes. The Planning Board had recommended proceeding with public hearing and adoption of the two proposals. Other areas in the ETJ would be the subject of future proposed zoning districts.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR OCTOBER 4 FOR THE PURPOSE OF ADOPTING THE NEW B-5 ETJ MIXED USE DISTRICT, THE NEW R-4 ETJ RESIDENTIAL DISTRICT, AND AMENDMENT OF THE ZONING MAP ACCORDINGLY.

Mitch Gurganus then submitted a petition signed by residents in Clear Creek and Horse Cove, objecting to their inclusion in the ETJ established by the Town on November 16, 2005, and requesting that these areas be withdrawn from the ETJ.

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

A. The Town Administrator and Recreation Director briefed the Board on David Kennemore's health problems. It was their recommendation that his employment be terminated because he could no longer perform the required duties of his job because of physical impairment, pursuant to Section 73(C) of the Personnel Manual. No other positions were available for him.

The Recreation Director then left the room.

B. The Town Administrator distributed copies of a Special Act of the Legislature recently adopted for Highlands that the Police Chief had apparently introduced through Senator Snow's office.

C. The Board consulted with the Town Attorney and gave him instructions concerning the handling of the lawsuit with Macon County concerning ETJ.

D. The Board discussed Larry Gantenbein, then asked the Clerk to leave the room to continue the discussion. The Clerk left the room at 9:25 p.m., and the Mayor informed the Clerk after the meeting of the ensuing actions of the Board.

A MOTION WAS MADE AND SECONDED TO GO INTO OPEN SESSION.

5. The Board agreed by consensus to terminate the employment of David Kennemore, on recommendation of the Town Administrator and Recreation Director, because he can no longer perform the required duties of his job because

of physical impairment.

VII. MOVED 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 10:05 p.m.

---

Richard Betz, Town Clerk