

PUBLIC HEARING and REGULAR BOARD MEETING of May 7, 2008, with Mayor Don Mullen and Comms. Amy Patterson, Hank Ross, Dennis DeWolf, Larry Rogers, and John Dotson present.

Also present were Richard Betz, Bill Coward, Lamar Nix, Joe Cooley, Josh Ward, Bill Harrell, Selwyn Chalker, Kim Lewicki, Jim Lewicki, Melody Spurney, Eric NeSmith, Robert Smith, Alan Marsh, Tom Clark, Alice Nelson, Ellen Westnedge, Bill Nellis, Bob Kieltyka, Ed Terry, Danny Haines, Ron Masingale, and others.

A. PUBLIC HEARING.

The Mayor called the public hearing to order at 7:00 p.m. and stated that the purpose was to receive comments from the public on a proposed amendment of Section 507.3 of the Zoning Ordinance, making increase of seating in restaurants per Section 305 an administrative procedure not subject to a Special Use Permit.

There were no comments from the public and he closed the hearing.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:01 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator requested the addition of an item of New Business, adoption of the amendment of the Zoning Ordinance pursuant to the foregoing hearing, and deletion of paving bids. The Board also agreed to add a personnel matter and discussion of acquisition of property in the closed session already scheduled.

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

III. Approval of Minutes.

Copies of the minutes of the April 16 Regular Board Meeting had been distributed by mail; one error was noted by Comm. Dotson.

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

IV. Public Comment Period.

The Mayor stated that this was the public comment period required by law, and invited comments. There were no comments.

V. Reports.

1. The Mayor reported that the Affordable Housing Task Force would be making a report to the Board at the June 4

meeting.

2. Comm. Ross reported that a Public Works Committee meeting had been scheduled for April 30, but Comm. Rogers had not attended. However, he had discussed several items with Town Staff, including a request for a sidewalk along US-64 by the Fine Arts Center, a sidewalk along Chestnut Street between Fifth and Sixth Street, construction of a wall in front of Birney Roberts's house by Tate Landscaping, sidewalks along Second and Third Street between Oak and Main, the possibility of planting trees in some of the center parking spaces on Main Street, and a stop sign at Oak and First.

It was reported that the D.O.T. might have funds to construct the Fine Arts Center and Chestnut Street sidewalks if requested; the Mayor suggested that the Board look at Chestnut Street again to be sure they wanted to place a sidewalk there. Comm. Marsh spoke in favor of such a sidewalk. Comm. Patterson asked the Board to remember that additional impervious surfaces affected stormwater. Comm. Marsh also discussed the County Subdivision Ordinance with the Board. With respect to the Oak Street stop sign, it was agreed that one should be installed, on recommendation of the Town Engineer. It was also agreed by consensus that Tate should be requested to construct a wall in front of the Roberts residence on Chestnut Street at Town expense.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO INSTALL A STOP SIGN ON FIRST STREET AT OAK STREET.

The Public Works Committee scheduled a meeting for Tuesday, May 13, at 8:00 a.m.

3. The Town Attorney was present to discuss several items in Closed Session later in the meeting.

4. Each Board member had received copies of the Town Engineer/ Public Service Administrator's report for the month. Lamar Nix was present and reported that an April 29 compliance inspection by NCDENR at the Water Treatment Plant had gone well. He also discussed again the need to re-located the power line serving Horse Cove from Forest Service land to the Horse Cove Road, and said he had discussed it with the USFS and D.O.T.; the project would greatly improve maintenance of the line. Alice Nelson was present and expressed concern over the cutting of trees.

MOVED BY COMM. ROGERS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO PROCEED WITH THE PROJECT.

5. Each Board member had received a copy of the Police Chief's report for the month; Chief 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 said that the majority of the fitness equipment had been installed, and that the Pine Street Park Committee was reviewing conceptual plans. He also submitted a list of proposed summer part-time employees.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE EMPLOYEES.

Bob Kieltyka was present and said that he planned on attending the next County Commissioners meeting to request approval of the annual Fourth of July fireworks display, pursuant to a newly-discovered statute.

7. Each Board member had received a copy of the Town Planner/ Zoning Administrator's written report for the month; Joe Cooley and Josh Ward were present. Mr. Cooley said that Mr. Ward had attended a DWQ stormwater certification program and he had attended a seminar on subdivision plat approval. He also said that RPO Planner Ryan Sherby had been gathering data and working with Matt Shuler on preliminary data for a parking study; D.O.T. assistance was a possibility as well.

Comm. Ross noted that the minutes of the April 28 Joint Meeting with the Planning Board had listed all of the Land Use Plan priorities; the Board agreed by consensus to the priorities.

8. Each Board member had received a copy of the Treasurer's Report for the month. The Treasurer reported that payroll direct deposit was now in effect as a result of good work by Sonjia Gibson.

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

9. Each Board member had received a copy of the Town Administrator's written report for the month.

The Town Administrator also submitted his resignation, effective March 1, 2009. He said that he believed that period of time should permit the completion of several projects which he had been managing and adequate to find someone to fill his position. He said he will have spent 26.2 years in his career with the Town and he expressed appreciation for the honor of having served the community.

VI. Old Business.

1. Each Board member had received a copy of a proposed Ordinance establishing the Town of Highlands as a Bird Sanctuary, prepared by the Town Attorney and pursuant to a request from the Audubon Society. The Board agreed by consensus that the Ordinance should be placed in Chapter 9 of the Code and that the fine for violations should be \$100.00.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING ORDINANCE:

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AN ORDINANCE ESTABLISHING THE TOWN OF HIGHLANDS AS A BIRD SANCTUARY Section 9-6 ADOPTED MAY 7, 2008

WHEREAS, pursuant to N.C. Gen. Stat. 160A-188 a town may by ordinance create and establish a bird sanctuary within the town limits; and

WHEREAS the Town Council for the Town of Highlands finds that it is appropriate and in keeping with the natural heritage of the town that a bird sanctuary within the town limits be created.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Highlands, North Carolina as follows:

PART I.

Section 1. Established.

A bird sanctuary is hereby created and established within the corporate boundaries of Highlands, to conform with the corporate boundaries thereof.

Section 2. Hunting, etc., certain birds.

It shall be unlawful for any person to hunt, kill, trap or otherwise take any protected birds within the town limits except pursuant to a permit issued by the North Carolina Wildlife Resources Commission under section 113-274(c)(1a) or

under any other license or permit of the Wildlife Resources Commission specifically made valid for use in taking birds within city limits. It shall not be unlawful to hunt, kill, trap or otherwise take any birds classified as pests under Article 22A of Chapter 113 of the General Statutes and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971.

Section 3. Penalty for violations.

Violation of this ordinance shall be a misdemeanor punishable by a fine not exceeding \$100.00 dollars.

PART II. This ordinance shall be in full force and effect from and after the 7th day of May, 2008.

* * *

2. Each Board member had received a proposed municipal agreement, submitted by the D.O.T. District Engineer through the Town Administrator, concerning the paving of Hickory Hill, Chowan, and Cullasaja Drive. Town Attorney Bill Coward said he had reviewed it and expressed some concern over paragraph 3, which indicated that the Town would be responsible for the acquisition of additional right-of-way; the Board agreed that the understanding with D.O.T. had been that the paving would be done using existing "maintenance" right-of-way.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO AUTHORIZE EXECUTION OF THE AGREEMENT PROVIDED THE CHANGE IS MADE.

VII. New Business.

1. Robert Smith was present from the Recycling Task Force, and he reviewed a written Interim Recycling Report dated April 29 that had been included in the agenda package. Mr. Smith recommended that the Town provide a centrally-located convenience center for recycling, that the Board appoint a standing committee to continue work, and that a survey be conducted to determine citizen support for recycling. The Mayor thanked him for the report and urged the Board to read the report and begin work on the recommendations.

2. Ed Terry, Danny Haines, and Ron Masingale were present from BalsamWest FiberNET, and it was explained that they were working on a project to bring high-speed fiber to Highlands School; it could be expanded in future to serve others. The route coming into Town from Cashiers would involve connecting to several poles along US-64 and Sixth Street. The connection would place three poles out of compliance, which they were willing to bear the cost of replacing; but eleven other poles were already out of compliance, among the many poles that should have been changed out at Town expense before the inventory process was aborted by the McGavran contract. The Town Administrator said that he, the Town Engineer, and GIS/IT Supervisor Matt Shuler all agreed that the Town should bear the cost of changing these eleven poles. Mr. Nix said that about 80% of all clearance problems had been caused by the Town and its growth in the past. The Town Administrator explained that Northland and Verizon would in effect be paying, through revenue from their pole attachment fees each year, for changing out the other poles.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED THAT THE TOWN PAY THE COST OF CHANGING OUT THE POLES THAT WERE ALREADY OUT OF COMPLIANCE.

3. Tom Clark was present representing the Ravenel Owners Association to request that one of the three stop signs at Ravenel Ridge Road and Laurelwood Lane be removed. Comm. Dotson said that he had no objection if the residents did not object. After some discussion, the Board agreed to look at the site and place this item on the agenda of the May 21 meeting.

4. A request had been received from Lloyd McCarthy, Site Acquisition Specialist for Wireless Facilities Inc./Crossroads Wireless, for lease of property owned by the Town between the EMS building and the Fire Department for a proposed 80-foot camouflage telecommunications tower resembling a flagpole and an adjacent building, on a 28'

X 28' piece of property; the lease amount proposed was \$400/month and the term was five years. Some concern was expressed over possible limitation of expansion of the Fire Department or EMS building, and after some discussion the Public Works Committee agreed to view the site before the May 21 meeting.

5. On March 19, the President of the Board of Trustees of Hudson Library had requested that the Zoning Ordinance be amended to provide for a parking requirement of one space per 500 SF for libraries, but the hearing had not been set.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR THIS PURPOSE ON JULY 2, 2008.

6. The Board discussed the amendment of the Zoning Ordinance relating to restaurant parking, subject of a public hearing earlier in the meeting.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING AMENDMENT:

* * *

AMENDMENT OF ZONING ORDINANCE
SECTION 507.3

Add the following to Section 507.3:

"However, an application to increase the amount of seating in a restaurant pursuant to Section 305 of the Ordinance shall not be considered an amendment of a Special Use Permit, and shall not be required to be processed under the provisions of Section 501."

* * *

7. Pursuant to the conversation at the previous meeting, Town Attorney Bill Coward briefed the Board on the procedure for changing the form of government to Council-Manager. He read from Municipal Government in North Carolina, published by the Institute of Government, and explained that the first step would be adoption of a resolution of intent. He urged the Board to review the Town Charter. The Board then discussed the change at some length. Comm. Patterson thought that Becky Veazey, the MAPS consultant with whom the Board had been consulting, should be contacted and asked to begin advertizing for the position. The Mayor said that he had some reservations, and some employees had expressed concern to him; he felt it would be good to better explain how the change would affect them. It was agreed that the Town Attorney should work on the resolution of intent and this item should be placed on the agenda of the next meeting.

8. MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A), (3), (6) AND (5) TO DISCUSS PERSONNEL MATTERS AND ACQUISITION OF PROPERTY, AND TO CONSULT WITH THE TOWN ATTORNEY ON THE MCGAVRAN ENGINEERING CONTRACT, WYANOAK ROAD RIGHT-OF-WAY, AND BOWERY ROAD LITIGATION. All present left the room except the Town Administrator, the Town Attorney, the Town Engineer, and the Police Chief.

- A. The Board discussed secondary employment for off-duty police officers with the Police chief.
- B. The Board discussed acquisition of property.
- C. The Board consulted with the Town Attorney on the McGavran Engineering Contract, Wyanoak Road right-of-way, and Bowery Road litigation.

MOVED BY COMM. DOTSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. The room was opened to the public and Eric NeSmith returned.

VIII. MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROGERS, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared by the Mayor to be adjourned at 10:00 p.m.

Richard Betz, Town Clerk