

Regular Meeting Minutes of the Town Board of Commissioners Meeting of August 21, 2014 at the Highlands Community Building, 71 Poplar St., Highlands, North Carolina.

Town Board Present: Commissioner John Dotson, Commissioner Amy Patterson, Mayor Patrick Taylor, Commissioner Eric Pierson and Commissioner Brian Stiehler.

Also Present: Town Manager Bob Frye, Town Clerk Rebecca Shuler, Town Attorney Jay Coward, MIS/GIS Director Matt Shuler, Public Works Director Lamar Nix, Planning and Development Director Josh Ward, Parks and Recreation Director Lester Norris, Police Chief Bill Harrell, Fire Chief Ryan Gearhart, and Assistant Fire Chief Robbie Forrester.

Not Present: Mayor Pro Tempore Donnie Calloway.

1. Meeting Called to Order

Mayor Taylor called the meeting to order at 7:00pm.

2. Public Comment Period

Bill Staples addressed the Board requesting the Peggy Crosby Center be reconsidered for a wayfinding sign that was recently denied. Staples said that the Peggy Crosby is a non-profit organization that provides space for other non-profit organizations.

3. Adjust and Approve Agenda

Commissioner Amy Patterson made a motion to approve the agenda as presented, which was seconded by Commissioner Pierson and the vote was unanimous.

4. Approval of the July 17th Regular Meeting Minutes

Commissioner Patterson made note that on Page 6 under the Amendment to the Town Tree Ordinance the motion was to set a public hearing for the August 21st meeting not to approve the ordinance. Commissioner Pierson made a motion to approve the regular meeting minutes of July 17, 2014 with the before mentioned correction, which was seconded by Commissioner Patterson and the vote was unanimous.

Approval of the July 17th Closed Session Meeting Minutes

Commissioner Patterson moved to approve the closed session meeting minutes of July 17, 2014 as presented, which was seconded by Commissioner Pierson and the vote was unanimous.

5. Reports

A. Mayor

Mayor Taylor mentioned the sudden death of a tree in one of the downtown planters and the upcoming maintenance of the trees.

Taylor then mentioned a variety of events taking place on Saturday the 23rd of August including the Kelsey Hutchinson groundbreaking, the Rotary 5K, and Cynthia Strain's Arts and Crafts Show. Taylor wanted to thank Lester Norris and Bill Harrell for their help with this coordination of these events.

Taylor then welcomed Carolyn Morrisroe and congratulated her on the new job.

B. Commissioners and Committee Reports

There were no Commissioner or Committee reports.

Commissioner Patterson did inquire as to the Christmas Decorations and Town Clerk Shuler informed her there samples coming and estimates would follow.

C. Town Manager

Manager Frye informed the Board that the Chowan project had gone smooth and was about to wrap up. Frye recognized Public Works Director Nix for the great work with the electric, street, and water departments. He stated that not many towns can do what is accomplished in Highlands.

6. Consent Agenda

Public Works Department
Police Department
Parks & Recreation Department
Planning & Development Department
Treasurer's Report
Holiday Street Closings
Privilege License Refund Request

Commissioner Stiehler made a motion to approve the consent agenda, which was seconded by Commissioner Patterson and the vote was unanimous.

7. Public Hearing: Amendments to Sections 4.12.2, 11.2.2, 15.4.1 of the UDO (Tree Ordinance)

A. Open Public Hearing

Commissioner Patterson made a motion to open the public hearing at 7:10pm, which was seconded by Commissioner Pierson and the vote was unanimous.

B. Staff Comments/Recommendation

In the spring after several violations of the tree removal requirements occurred, staff and the Land Use Committee decided the requirements should be reviewed and potentially amended to stiffen the penalty for violators of the requirements, while allowing some flexibility for staff to review and issue permits for tree removal.

The Planning Board reviewed and discussed the requirements for several months and agreed with the addition of a stricter penalty for violators and staff flexibility when issuing permits. The Board also felt that a tree replacement requirement including a maintenance plan should be included along with tree protection to prevent damage to adjacent trees.

C. Public Comments

There were no public comments.

D. Close Public Hearing

Commissioner Dotson made a motion to close the public hearing at 7:12pm, which was seconded by Commissioner Pierson and the vote was unanimous.

E. Council Action

Commissioner Stiehler made a motion to approve the Amendments to Sections 4.12.2, 11.2.2, 15.4.1 of the UDO (Tree Ordinance), which was seconded by Commissioner Dotson and the vote was unanimous.

8. Letter of Intent: Fracking in WNC

Mayor Taylor presented the Board with a draft letter on fracking he had prepared for delivery to the NC Energy and Mining Commission and Senator Jim Davis.

Commissioner Patterson stated she would like the Mayor to include the watershed area as well as the Town of Highlands.

Commissioner Stiehler said he supported the Mayor's letter.

9. Fire Department Matters: Substation Donation

The Highlands Fire Department had been approached by a group of homeowner associations located on the Jackson County side of the fire district about the possibility of building a substation and then donating it to the town. The reason for this substation would be to dramatically reduce the cost of fire insurance premiums.

Assistant Fire Chief Robbie Forrester presented the Board with some background information along with a Floor Plan and asked for permission to move forward. Forrester said the only cost to the Town would be the yearly maintenance of the building and to keep an annual membership above 28.

After several questions relating to staffing, membership numbers, trucks and caution lights, Commissioner Patterson made a motion to approve the substation concept and asked the Fire Department to move forward, which was seconded by Commissioner Stiehler and the vote was unanimous.

10. Public Works Matters

A. Culvert Replacement Project Bids

Bids for the Mill Creek Culvert Replacement project were opened on July 31, 2014. Bryson Enterprise, LTD was the lowest bidder. After review it was determined that none of Bryson's past projects and references includes similar projects. With the this bid being within the construction budget as established in the grant agreement between the Town and the North Carolina Division of Emergency Management, it would appear that the Town's Best opportunity to complete this project with no financial contributions from the Town would be to proceed forward with utilization of Bryson Enterprises. However, McGill Associates suggest the following provisions be included in the contract:

1. Construction Sequence Condition: Bryson Enterprises shall begin work initially on only one of the culvert road crossings (probably Laurel or Spruce Street), and shall complete the work on this culvert crossing in its entirety (with the exception of final paving) to the satisfaction of the Town and McGill Associates prior to beginning work on the other two culvert replacements. At that time, the Town can consider contract options available based on the performance of Bryson Enterprises on this initial culvert replacement. McGill Associates' level of onsite representation may also need to be re-evaluated at this point to determine if increased site visits are necessary. Our engineering services contract and budget currently includes a total of 26 site visits during construction for the entire project.
2. Culvert Supplier Inspections: Bryson Enterprises shall be required to have a qualified representative of their precast concrete culvert supplier onsite for the following inspections and supervision:
 - a. Subgrade foundation inspection and approval of the prepared subgrade prior to setting or pouring the concrete foundations;
 - b. Inspection and approval of the installed foundations prior to installing the precast culvert sections;
 - c. Onsite supervision during the unloading and setting of the precast concrete culvert sections;
 - d. Final inspection to indicate approval that the precast concrete bottomless culverts have been installed in accordance with the supplier's requirements.

Commissioner Patterson said she felt the recommendations were good and would help make sure the funds are used correctly. Commissioner Patterson then made a motion to award the bid to Bryson Enterprises based on McGill's provisions, which was seconded by Commissioner Dotson and the vote was unanimous.

B. New Intake and Dam Refurbishment Project Update

Mike Waresak of McGill Associates was on hand and presented the following project update.

**LAKE SEQUOYAH RAW WATER INTAKE AND DAM
IMPROVEMENTS PROJECT UPDATE – AUGUST 2014**

Description of Major Project Components:

1. Raw Water Intake to be constructed on Town-owned property upstream of dam.
2. 12-inch diameter raw water main to be installed across lake and on US Highway 64 / NC Highway 28 between new intake and Hickory Hill Road. Raw water main to be located within highway pavement to avoid existing utilities.
3. Dam improvements to include leak repairs, concrete surface repairs, drain valve installation, and cold water release siphon.

Estimated Project Timeline for Major Activities:

I. Solicitation of Construction Bids

Pre-Bid Meeting:	August 19, 2014
Bid Opening:	September 4, 2014
Award and Execution of Contract:	September 2014

II. *Construction

Lake Drawdown:	Oct. 2014 to Feb. 2015
Construction in lake (intake and dam):	Oct. 2014 to Feb. 2015
Raw Water Main (One-lane Closure of US 64/NC 28):	Dec. 2014 to Feb. 2015
Lake Refilled to Normal Water Level:	February 2015
Pump Equipment Building Construction:	Feb. 2015 to June 2015
Paving of US 64/NC 28:	May or June 2015
Intake Pump Station and Start-up:	July 2015 to August 2015
Construction Completion:	October 2015

***NOTE: Construction timeline, especially lake drawdown and refilling operations, are weather dependent.**

Regulatory guidelines for work on private property:

Based on information provided by the Army Corps of Engineers, the following activities are allowed without a permit:

- Manual debris removal by hand
- Very minor sediment removal by hand
- Mechanical removal of debris and maintenance sediment removal (not new excavation) only if equipment can be situated above the normal pool elevation with the bucket reaching out into the lake. This cannot be new excavation – only removal of sediment and debris that has settled.

The Army Corps of Engineers has indicated that the following activities require a permit:

- New excavation
- New fill
- New piers
- New docks
- Sediment or debris removal by mechanical means with equipment situated below the normal pool elevation

There were a few brief questions as to the depth of the intake, fishing equipment, signs and buoys after Mike's presentation.

C. Minority Outreach Resolution

The Town of Highlands applies for grants from various State agencies and are required by NCGS §143-128 to have a Minority Outreach Plan in place. After some research, staff could not find such a plan on record. With the assistance of McGill Associates, a resolution has been drafted to satisfy the state statute requirement and grant requirement.

RESOLUTION OF THE TOWN OF HIGHLANDS BOARD OF COMMISSIONERS CONFIRMING PRACTICE OF EARNESTLY STRIVING TO RECRUIT MINORITY BUSINESSES FOR PARTICIPATION IN PUBLIC CONTRACTS Resolution 2014-05-Res

BE IT RESOLVED, that in accordance with North Carolina General Statutes (NCGS) §143-128, the Town of Highlands (Town) confirms its practice of earnestly striving to recruit minority businesses for participation in contracts for the erection, construction, alteration or repair of any businesses or improvements for the Town. Particularly, the Town **RESOLVES** that it shall have a verifiable ten percent (10%) goal for participation by minority businesses (as defined by NCGS §143-128) in total value of work for each building project. This verifiable percentage goal shall apply in separate prime contract systems, alternative contracting systems authorized by State Building Commission under N.C.G.S. §143-135.26(9), shall apply in single-prime contract systems and shall be binding on any prime contractor connected with such single-prime contract systems.

The following are the guidelines adopted as those actions that will be taken to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded under NCGS §143-128 and will serve as the Town's Minority Business Outreach Plan:

1. Advertisement of request for bids shall be placed in the major newspapers

- (i.e. newspaper with the largest circulation) of Asheville, North Carolina as well as a newspaper of local circulation (i.e. The Highlander).
2. Advertisement of request for bids shall be placed in at least one newspaper, which has circulation primarily composed of minority owned contractor businesses.
 3. Submission of plans and specifications to at least one major "Plan Room" such as FW Dodge Plan Room and/or Associated General Contractors, where plans are available for public viewing without discrimination, and where information regarding obtaining specifications and plans for submission of bids is supplied.
 4. Advertisement of projects as described above will be applicable only to formally bid projects.
 5. The Town may hold a pre-bid meeting for potential bidders and interested sub- contractors.
 6. The Town will establish and maintain a solicitation list of historically underutilized businesses and will solicit such businesses as appropriate projects are advertised.

This the ____ day of _____, 20__.

Patrick Taylor, Mayor

Rebecca R. Shuler, Town Clerk

Commissioner Patterson made a motion to approve the Minority Resolution, which was seconded by Commissioner Dotson and the vote was unanimous.

Manager Frye asked the Board to excuse Mike Waresak as he had a 2 hour drive.

11. Parks and Recreation Matters

A. Kelsey-Hutchinson Park Final Design

Hank Ross and Paul Schmitt presented the Board with the final design drawings of Kelsey-Hutchinson Park and discussions were directed toward the interactive fountain, parking, and stormwater issues.

Commissioner Stiehler made a motion for the Founder's Coalition to move to construction phase, which was seconded by Commissioner Patterson. Commissioner Dotson asked if the walkway would be fixed or dry lay while the Board waited for Commissioner Stiehler to return to the table before the vote was taken. Upon his return, the vote was unanimous.

B. Pool Covering Architectural Rendering

Jeff Weller was on hand to present the Board with the pool cover rendering and floor plans for review. Weller told the Board there was no major changes and that when the covering rolls back approximately 60% of the pool is exposed.

The Board gave consensus to move forward.

C. Ball Field Renovation/Cost Estimates

Jeff Weller presented the Board with floor plans and elevations for the renovation of the Town Ball Field.

After brief discussions as to heating of the building, closing of restrooms in winter, and visibility from bleachers, Commissioner Dotson made a motion to get estimates for the renovation, which was seconded by Commissioner Stiehler and the vote was unanimous.

12. MIS/GIS Matters

A. Cell Phone Tower Agreement

MIS/GIS Director Matt Shuler informed the Board that over a year ago Verizon approached the Town in reference to installing a 120 foot monopole tower and very quickly realized it wasn't a good idea as they couldn't find a good option for land. Since then, Verizon Wireless has request to extend the height of the Big Bear Pen Town and lease space for their cellular array bringing better coverage for Verizon customers in Highlands.

Chuck Cooper was concerned about WHLC's service being interrupted and Verizon has agreed to move WHLC's equipment to the top of the tower for no interference. Verizon has drawn up a Tower Lease Agreement that has been reviewed by the Town's Attorney which relinquishes the 1st two years lease payment for the construction of the additional 20 feet. Then starting the 3rd year the lease would be \$1,800.00 a month and every 5 years renews with a 10% increase.

Kathy Temple and Ben Murray expressed their opposition. Temple had several questions in regard to access of big trucks and road repair. Murray repetitively asked about the radiation output and threatened to sue the Town.

Commissioner Patterson said that Verizon was only reinforcing the tower and felt that relinquishing the rent for the 1st two years was too excessive. Patterson questioned 20 feet of tower costing \$43, 200.00.

Commissioner Patterson then made a motion for Town Attorney Coward to negotiate the contract further with Verizon without the relinquishing of the first two years' lease payments and bring it back to the Board at a later date for final approval. The motion was seconded by Commissioner Pierson and the vote was unanimous.

B. FCC Petition

The City of Wilson and Chattanooga, TN petitioned the FCC to remove the state laws that restrict municipalities from providing internet to their residents. FCC Chairman, Tom Wheeler, intends to preempt the state laws and allow municipal owned Internet Service Providers. To begin this process, the FCC opened two proceedings, one for North Carolina and one for Tennessee. This proceeding allows comments on municipal owned broadband. Most comments currently on the site are short and to the point. MIS/GIS Director Matt Shuler presented the Board with a draft comment to post on the FCC Petition.

Commissioner Patterson asked Shuler to include a more specific statement stating within the comments that no other provider wanted to serve the Highlands area and it was leaving the Town in the dark ages.

The Board gave consensus for Shuler to post the comments with Commissioner Patterson's addition.

13. Miscellaneous Matters

A. Discussion: Compact Car Parking Spaces

Commissioner Dotson request the discussion of the possibility of reserving the shorter parking places on Main Street (spaces with the tree planters) for compact car parking only.

After a short discussion, it was determined that staff would research other municipal ordinances regarding this matter and get back to the Board at next month's meeting in regards to what options are available and enforcement practices.

B. Amendment to ABC Law Enforcement Contract

The Board approved the ABC Law Enforcement Contract at last month's meeting. Since that meeting there have been a few changes made per Police Chief Harrell's request. The changes need to be approved by the Board.

Contract For ABC Law Enforcement State of North Carolina Highlands ABC Board

THIS CONTRACT is entered into on this the 17th day of July, 2014, by and between the Highlands ABC Board (hereinafter "ABC Board") and The Town of Highlands (hereinafter "Agency") for the purposes set forth below:

WHEREAS, North Carolina General Statute Chapter 18B requires that the ABC Board either hire an ABC law enforcement officer or contract for ABC law enforcement with a local law enforcement agency; and

WHEREAS, the ABC Board is required by law to expend at least 5% of profits for ABC law enforcement; and

WHEREAS, the ABC Board is of the opinion that contracting with the Agency for ABC law enforcement would constitute the most efficient use of its ABC law enforcement

funds; and

WHEREAS, the Agency agrees to provide ABC law enforcement in Highlands (town / county) in return for the agreed funding;

NOW, THEREFORE, IT IS AGREED that:

1. The Agency shall provide ABC law enforcement in Highlands (town/county) in return for the sum of \$1,000.00 annually, to be paid in quarterly installments. This amount shall be adjusted as needed to equal the amount required by North Carolina General Statute 18B-805(c)(2) to be expended on ABC law enforcement.

2. The Agency shall provide ABC law enforcement within the boundaries of Highlands (town/county), and it shall report monthly to the ABC Board on its ABC law enforcement activities.

3. The Agency shall be solely responsible for hiring, equipping and supervising the officer or officers who are charged with the duty of enforcing the ABC laws, and the Agency agrees to indemnify, and hold harmless, the ABC Board for any liability arising from the activities of said officers.

4. The Agency shall assist in such matters as ABC store security, protection of ABC store deposits, and the investigation of internal and external theft.

5. The Agency shall report to the ABC Board by the 5th business day of each month on a form developed by the Commission the following:

a. The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.

b. The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.

c. The number of alcohol education and responsible server programs presented.

d. The number of alcohol inspections.

6. This contract shall continue in effect until such time as either party desires to Cancel the contract and gives notice of cancellation as follows:

7. This contract may be canceled by either party upon 30-day notice to the other party, which notice shall be given in writing.

Effective the 21st day of August, 2014.

By: _____
Brenda Pierson
Highlands ABC Board

By: _____
Patrick Taylor, Mayor
Town of Highlands

Commissioner Stiehler made a motion to approve the ABC Law Enforcement Contract, which was seconded by Commissioner Dotson and the vote was unanimous.

14. Adjournment

As there were no further matters to come before the Board of Commissioners, Commissioner Patterson moved to adjourn, which was seconded by Commissioner Dotson and upon unanimous vote, the Town Board adjourned at 9:47pm.

Patrick Taylor
Mayor

Rebecca R. Shuler, CMC, NCCMC
Town Clerk