

REGULAR BOARD MEETING of August 2, 2000, with Mayor Buck Trott and Commissioners Amy Patterson, Zeke Sossomon, H. N. James, and Mike Cavender present. Comm. Sanders was absent due to illness.

Also present were Richard Betz, Lamar Nix, Bill Coward, Maureen Lackey, Jerry Cook, Selwyn Chalker, Kim LeWicki, Bill & June Hogue, Ken Locke, Bronce Pesterfield, David Young, Larry Guido, Bob Wright, Jodie Cook, Sabrina Hawkins, John Schiffli Jr., Rosemary Fleming, John Ziebarth, John Lupoli, Bill Rethorst, and many others.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:00 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk asked that the Closed Session to review an employment application in the Police Department be amended to include an application for employment in the Street Department.

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

III. Approval of Minutes.

Copies of the minutes of the July 19 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he would be leaving on August 9 to attend a League of Municipalities meeting. He also reported that representatives from the U. S. Geological Society had met in Highlands earlier in the week, and had expressed an interest in preparing a proposal for obtaining data in the watershed.

2. Town Attorney Bill Coward reported that he had learned that the State Court of Appeals would be hearing the Episcopal Church v. Zoning Board of Adjustment case on September 12, without oral arguments.

3. Each Board member had received the Public Services Administrator's written report for the month. Lamar Nix was present and reported that the contract for water tank maintenance with Utility Service Co. Inc. had been reviewed by the Town Attorney. The contract included a provision that any modifications to the tanks on Little Bearpen and Big Bearpen, including antenna installations, must be pre-approved by the company in order to protect the structural integrity of the tank.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO EXECUTE THE CONTRACT FOR TANK MAINTENANCE WITH UTILITY SERVICE CO. INC.

4. Each Board member had received the Police Chief's written report for the month. Jerry Cook was present and reviewed the report with the Board.

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 with the Board. He also reported that he had met with the Recreation Committee and discussed employing a full-time person for grounds maintenance to replace two part-time positions

now filled by Neville Wilson, who was retiring, and David Kennemore. The cost of a full-time employee was only marginally more than the two part-time employees, except for benefits, and the Committee had recommended the new position.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO ADVERTIZE FOR THE POSITION.

6. Each Board member had received a copy of the Town Planner/ Zoning Administrator's report for the month. Maureen Lackey was present and reviewed the report with the Board. Comm. Patterson asked about a report in the newspaper concerning amendment of the Zoning Board's Rules of Procedures. Ms. Lackey explained that the Zoning Board had approved several changes at the suggestion of the new Chairman to improve procedures at meetings.

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

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

8. The Town Administrator reported that the League of Municipalities Annual Convention would be held this year in Fayetteville on October 15-17; he invited any Board members who were interested in attending to contact him.

He also reported that the 10-year ground lease with the Highlands Emergency Council for the premises on Poplar Street had expired; he recommended preparing a memorandum of renewal of lease for a term of five years, as the Town had done with the Conference Center and Highlands Playhouse for a number of years, to be reviewed by the Town Attorney. The Board agreed by consensus.

He also reported that he had been discussing with Comm. Cavender several issues relating to the Town's authority to extend watershed and soil erosion regulations into the area outside of Town, as well as annexation questions raised by the Hospital Planning Committee.

He had invited Geoffrey Willett from the Division of Community Assistance to provide information on these issues in an informal meeting at 10:30 a.m. on August 9 in the Conference Room, and any Commissioners were invited to attend.

#### V. Old Business.

1. Each Board member had received in the agenda package a copy of proposed amendments to the parking regulations adopted April 5 as recommended by the Parking Committee, and also a letter dated August 1 from David Young, a member of that Committee.

Comm. Cavender explained that the amendments had taken into consideration experience with the Ordinance to date. The Committee recommended amending paragraph (a) of Section 7-117, permitting employees in the Downtown Business District to park in the two-hour parking spaces in the center of Main Street. It also recommended extending two-hour parking in specific locations on Main Street, Fourth Street, and Third Street, and additional 15-minute parking spaces. He said the Committee had decided not to create a method of granting exemptions; it would be difficult to establish criteria and would not treat everybody equally.

Comm. Patterson said that she had read an account in the newspaper that the Committee had discussed exempting some real estate agents as private contractors, as discussed at an earlier Board meeting.

Comm. Cavender said the Committee had not discussed this, and no distinction had been made; he added that realtor Terry Potts, a member of the Committee, had been present at the unanimous vote approving the recommendations.

John Schiffli said he had been at the meeting and had left with the

impression that realtors could park anywhere on Main Street.

Kim LeWicki said she had also attended the meeting and remembered that the Committee had discussed treating realtors as independent contractors, not employees; she felt this should be clarified.

John Schiffli also explained that he had gone to court over a \$50 ticket he had been issued, but said the case had been thrown out by the D. A.; he therefore questioned the legality of the Ordinance and the citation. Police Chief Cook was present and said that he had had the case dismissed because the Parking Ordinance was in the process of being amended.

Bill Coward was present, and said that as stated in previous meetings he felt the Ordinance contained some ambiguities, although in general there was no problem with it. He had drafted some proposed definitions which he felt clarified the phrases "regular place of employment" and "performing his or her duties" in the Ordinance. The Board discussed the proposed definitions.

COMM. CAVENDER MOVED THAT THE PROPOSED AMENDMENT BE ADOPTED; he felt that the definitions could be refined later if needed. Comm. Patterson seconded the motion. Comm. James said it was hard for him to vote for the amendment when the Town Attorney felt it was ambiguous; Comm. Sossomon agreed.

David Young said he interpreted the Ordinance as meaning that employees in the Downtown Business District could not park on Main Street at all, even on their days off. Chief Cook said that his understanding was that only those employees actively employed and working on that day would get a citation, and that was how it was being enforced.

Kim LeWicki reiterated her request that the issue of independent contractors be clarified.

Comm. Patterson said she did not think such contractors should be exempted.

The Mayor called the question.

MOTION CARRIED, WITH COMMS. CAVENDER AND PATTERSON VOTING "AYE," COMMS. JAMES AND SOSSOMON VOTING "NAY," AND MAYOR TROTT VOTING "AYE" TO BREAK THE TIE. The amendment is as follows:

1. Parking Ordinance. Replace Section 7-117, paragraph (a), with the following:

"(a) No person employed by or operating any business, profession, or organization within the Downtown Business District, as defined in paragraph (b) of this Section, and while performing his or her duties at his or her regular place of employment within such District, shall park any vehicle--whether privately-owned or owned by said business, profession, or organization--in the following areas: Along the curbs on Main Street between Second Street and Fifth Street, and that portion of Church Street located in the B-1 Zoning District.

2. Parking Time Limited

Add to Traffic Schedule under "Parking Time Limited" the following:

Center parking spaces on Main Street between Third Street and Fifth Street - 2 hour limit.

Parking along south curb of Main Street between Second and Third Street - 2 hour limit.

Parking along east side of Fourth Street between Pine Street

and Oak Street - 2 hour limit.

Parking along east side of Fourth Street between Spring Street and Church Street - 2 hour limit.

Parking along west side of Third Street between Main Street and Spring Street - 2 hour limit

Fifteen-minute parking spaces designated at "Loafers' Bench," in front of Highlands Furniture, and in front of Highlands Hill Deli.

2. The Mayor reminded the Board that it had taken the question of amending the code to permit paintball guns under advisement at the previous meeting. He asked Board members if they had had the opportunity to review the issue.

Comm. James asked Maureen Lackey if she had reviewed the 63 businesses who had posted business cards on a board indicating support for the paintball proposal. Ms. Lackey said that she had spot-checked the businesses shown on the board; the majority favored some activity for kids in Town, but did not know what location had been proposed for it. Some owners of businesses had also been unaware that their business cards had been used.

Ken Locke was present and asked to speak. Mayor Trott said that the Board had already heard from him and that he had not been recognized. Mr. Locke claimed that the Mayor had termed his sport silly and ludicrous, and had said that he would not allow it in Town. He also alleged that Chief Cook had approved a demonstration and had said that paintball would be safe, but had later retracted it.

Chief Cook said that he had said that a demonstration would be safe if the rules were followed, and that he had no problem with a demonstration if Commissioners agreed to attend, but he had not given permission.

Mayor Trott asked the Board if it felt it wanted to amend the Code. He said that personally he did not like the violence of this activity; he had seen enough violence in his 30 years in the military, and did not want to be a part of spreading any more violence in Town.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. SOSSOMON, TO REJECT THE PETITION. Comm. Cavender said that he agreed with Comm. Patterson's comment at the previous meeting that the Code should not be amended for specific businesses. He also was opposed to the proposal because he felt the purpose of the activity was to pretend to kill people. He said that he had spoken with Highlands School Principal Jack Brooks and his opinion was that it did not promote good principles.

Comm. Patterson said that she had reconsidered her comments at the previous meeting. She pointed out that the Board amended the Code from time to time as things changed, as with the Parking ordinance, and she did not object to modifying the law accordingly. She also said that she had heard no testimony that the activity developed violence in kids.

The Mayor called the question.

MOTION TO REJECT THE PETITION CARRIED, WITH COMMS. CAVENDER, JAMES, AND SOSSOMON VOTING "AYE" AND COMM. PATTERSON VOTING "NAY."

## VI. New Business.

1. The Clerk reported that Architect Paul Schmitt had discovered that, due to recent changes in the law, the plans for the Fire Department Addition would have to be sealed by an engineer, and possibly approved by the Department of Insurance. The bids advertized for this time and place had been postponed.

2. Bronze Pesterfield was present to discuss a proposed sewer line serving Larry Guido's shopping center on NC-106. He reminded the Board that it had approved at the April 5 meeting the construction of a 2" pressure line within an 8" gravity line from the shopping center to the private line serving Highlands Decorating Center and Hampton Inn. Mr. Pesterfield said that the D. O. T. had approved the concept, but that problems had been encountered obtaining permission from the private property owners involved. He therefore requested permission to construct the same type of line along the margin of the road all the way to a manhole opposite the Spring Street Lift Station. He also said that several other businesses further south along the road for 3200 feet had expressed an interest in participating in extending the sewer to their properties, and he asked the Board to approve extending the sewer to them as well with the same type of line.

John Lupoli was present and confirmed that he had agreed for the Old Creek Lodge to participate. He also said that he understood that John Schiffli and Larry Rogers had agreed to participate.

Town Engineer Lamar Nix reminded the Board that the 8" gravity line all the way down NC-106 to the West Shore Lake Sequoyah line was in the Capital Improvement Program for the next fiscal year.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO APPROVE THE PROPOSAL AS SUBMITTED.

3. The Clerk reported that each Board member had forwarded nominations to him for the vacancy on the Planning Board/ Appearance Commission. Steve Houston had received three nominations, and Hank Ross had received two nominations.

MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO APPOINT STEVE HOUSTON TO THE PLANNING BOARD/APPEARANCE COMMISSION TO FILL DENNIS DEWOLF'S UNEXPIRED TERM.

4. The Town Administrator had prepared some information on Lake Regulations pertaining to docks on Lake Sequoyah as a result of the moratorium declared at the previous meeting.

Comm. Patterson asked about a statement in the information that Robbie Reid's dock was exempt as a "water dependent structure" under the Watershed Protection Ordinance. Maureen Lackey said she had spoken with the Environmental Management Commission concerning Mr. Reid's dock and had received that interpretation.

Comm. James asked about information that was to have been forwarded to Harold Saylor, Regional Engineer with the Public Water Supply Section. Mr. Betz said he and Ms. Lackey had recently spoken to Mr. Reid and he was gathering information on the dock and proposed activities to forward to Mr. Saylor.

Comm. Patterson asked about the potential danger of pressure-treated wood being used for docks; she had received information that arsenic and other chemicals were present in such wood. She understood that floating docks could be better from a water quality standpoint. Mr. Betz said that Harold Saylor had also expressed a concern over pressure-treated wood in docks and the need to address the problem.

Mr. Betz said that he had drafted some preliminary amendments to the Lake Ordinance that would limit the size of docks to 100 SF and restrict activities to boating and fishing only, in accordance with the Lake Ordinance and Reservoir Recreation Plan.

June Hogue was present and expressed a concern that any proposed amendments not prevent her entirely from other activities on her dock, such as cooking a steak on a grill. John Lupoli felt that the size for docks should be related to the size of property.

Robbie Reid was present and said that he had developed 140 acres of property, 26 of them on Lake Sequoyah, as a low-density

development, with three- to five-acre lake lots. He said his intention was to concentrate many docks into a single facility; although not incorporated into deed restrictions, he encouraged owners to use the common subdivision lot, and he was looking at amending the subdivision covenants to prohibit additional docks. He also pointed out that a neighboring property owner had discontinued plans for a boat house due to availability of his dock, and that another neighbor had removed an old dock. He said that the size of the dock was partly intended to provide maneuverability for the canoes and kayaks that would be used and stored nearby. Finally, he said that people in the community had asked if the dock could be used by others, such as local scouts, and he had felt that it would be a good idea. He said that other individuals could also use the dock by invitation.

Comm. James felt that Robbie Reid needed to forward the necessary information to Harold Saylor; meanwhile, the Board needed to obtain more information on what Mr. Saylor's office would require, such as types of materials that could be used for construction. Comm. Cavender said that he hoped the Town would keep foremost in mind the fact that the Lake was now the Town's drinking water reservoir, and nothing should be permitted that would degrade its quality.

Robbie Reid asked the Board, while addressing new docks, to also consider the condition of old docks, many of which he said stored gasoline and fuel. He pointed out that the Lake Sequoyah Improvement Association had always been custodians of the Lake and wanted to protect it. June Hogue agreed.

Bill Hogue said that Highlands Country Club was planning a large expansion to its canoe dock. He also felt that the Town should consider the effect of toxic materials along the Lake, such as the toxic materials put on the fairways at Highlands Country Club and the other golf courses in the watershed. Robbie Reid said the most serious problem in the Lake was siltation.

Maureen Lackey asked for clarification of the moratorium, since some property owners had asked about repairing their docks. The consensus of the Board was that the intention of the moratorium was to prevent any new docks or expansions to existing docks; repairs would be permitted.

After some additional discussion, the Board agreed for the Town Administrator and Zoning Administrator to work with Harold Saylor in drafting appropriate amendments to the Lake Ordinance that addressed the concerns raised by the Board.

5. The Town Administrator reported that he had been having some discussions with Edwin Schaeffer, President of Highlands Mountain Club, concerning the Mountain Club connecting to the West Shore Sewer Line. Mr. Schaeffer had indicated that he had obtained informal approval from his Board to proceed with connecting when the project was completed, but had asked about paying the \$203,500 in connection fees in two payments, one-half when connecting and the other half within one year after connecting.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE CONNECTION FEES BEING PAID AS PROPOSED.

6. The Town Administrator and the Town Engineer reported that approval had been received from the State for the West Shore Lake Sequoyah Project to proceed. He would be discussing an easement across Highlands Mountain Club property with the Town Attorney, and was working on an easement for the pump station.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO AUTHORIZE BIDS FOR THE PUMP STATION AND GRAVITY SEWER LINE PORTION OF THE PROJECT, AND TO AUTHORIZE THE TOWN TO PROCEED WITH INSTALLATION OF THE FORCE MAIN WITH TOWN FORCES.

7. The Town Administrator and the Town Engineer reported that the

Maple Street project was also ready to bid, contingent on an easement from Michael Cannon for a storm drainage structure across his property, to which he had verbally agreed. As discussed during budget meetings, both Phase I and Phase II of the project was to be bid; if the bids exceed budget, then Phase II would be deferred until the next fiscal year.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO AUTHORIZE BIDS FOR THE MAPLE STREET PROJECT.

Mr. Nix also briefed the board on the signal lights for Main Street. The poles had been received, and were to be installed sometime before the first of October.

8. MOVED BY COMM. PATTERSON, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO REVIEW APPLICATIONS FOR EMPLOYMENT IN THE POLICE AND STREET DEPARTMENTS PURSUANT TO G. S. §143-318.11(A)(6). All present left the meeting room except the Town Administrator, the Public Services Administrator, the Police Chief, and the Town Attorney.

A. The Board discussed applications for employment for a part-time parking enforcement officer with Chief Cook. Chief Cook had no applications, and the Board agreed to use only the existing full-time enforcement officer for the remainder of the season.

B. Lamar Nix reported that Junior Tallent had not accepted an offer of employment in the Street Department. He then reviewed with the Board an application for employment from Nelson Bowers; he recommended employing Mr. Bowers on a probationary basis contingent on a background check and obtaining a Commercial Drivers License within three months.

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

9. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO EMPLOY NELSON BOWERS ON A PROBATIONARY BASIS CONTINGENT ON A BACKGROUND CHECK AND OBTAINING A COMMERCIAL DRIVERS LICENSE WITHIN THREE MONTHS. The pay grade and step for the position is 9-1.

10. The Town Administrator asked the Board to authorize the Town Attorney to prepare an agreement between the Town and Highlands Mountain Club concerning connection to the sewer line and payment of connection fees, as discussed earlier in the meeting; the Board agreed by consensus.

VII. MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY AGREED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:30 p.m.

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Richard Betz, Town Clerk