

REGULAR BOARD MEETING of August 20, 2003, with Mayor Buck Trott and Commissioners H. N. James, Hank Ross, and Mike Cavender present; Comm. Patterson had been called away on an emergency and arrived later in the meeting as noted.

Also present were Richard Betz, Lamar Nix, Bill Coward, Allan Bryson, Katy Stillerman, Kim Lewicki, Steve Pierson, Eric Pierson, Wendell Underwood, Nin Bond, Mary Berry, Alice Nelson, Kent Nelson, Ginger Slaughter, Brian Burch, Rick Dunn, Morris Williams, Bill Stiefel, Bob & Kathy Fisher, Harry Vaughn, Dan Chapman, Lewis Doggett, Alan Marsh, Mildred Johnson, 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.

The Clerk reported that Earle Young was not present for Old Business.

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

III. Approval of Minutes.

Copies of the minutes of the August 6 Regular Board Meeting Had been distributed by mail. The Clerk noted that he had made one error; the following should have been included as the second paragraph on page 140:

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED NOT TO FILL RON SANDERS'S TERM.

Comm. Cavender also pointed out a typographical error in the next paragraph.

MOVED BY COMM. JAMES, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS AMENDED.

IV. Reports.

1. The Mayor reported that he would be attending the meeting scheduled by the Georgia D.O.T. the next day to receive comments on the closing of the Russell Bridge on US-28; they would also be delivering a County resolution opposing the closing. He also said that he and the Town Administrator would be attending a dinner meeting with the president of Duke Power later in the day.

2. Comm. Cavender reported that the Planning Board was still reviewing the Master Sidewalk Plan with respect to locations for brick and would have a report soon. The Committee also recommended providing a 15-minute parking space on Fifth Street at the corner of Oak Street in front of the Highlander Newspaper building for a period of one year, after which time it should be re-evaluated since construction at the Episcopal Church was expected to be complete.

The Committee also recommended providing a 15-minute parking space on Oak Street behind Cashiers Cleaners and moving the adjacent handicapped parking space.

MOVED BY COMM. ROSS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO APPROVE THE FOREGOING 15-MINUTE PARKING SPACES.

3. The Town Administrator had distributed copies of letters from Col. William C. Walker, Anne Wyand Jones, and Betty S. Kizer for the Board's information.

He also reported that the Town Planner/Zoning Administrator had learned that Dale Miller had met with the U. S. Army Corps of Engineers

following the previous meeting; Corps-approved language would be included as restrictive deed covenants in Mr. Miller's subdivision and annual inspections would not be required.

He also reported that he had still been unable to sell the 1996 Ford Crown Victoria police car, which had been advertized for bid three times beginning in January. The vehicle was currently parked at the Town Warehouse and required \$300 in repairs in order to run. As reported several months ago, Police Officer Tim Cook had bid \$700 on the vehicle "as is" and was still willing to purchase it, and he recommended selling it to him.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND CARRIED TO SELL THE VEHICLE TO TIM COOK. Comms. Cavender and Ross voted "aye;" Comm. James voted "nay," requesting that the vehicle be advertized again.

4. Town Attorney Bill Coward arrived toward the end of Item No. 1 of New Business, and reported that the State Court of Appeals had decided in the Town's favor in the second set of ten condemnation lawsuits appealed several months ago by property owners along Bowery Road. The Court had upheld the lower court's ruling that an injunction should not be granted because the condemnations themselves provided an adequate remedy at law. Oral arguments on the second set of lawsuits appealed from the lower court would be heard on October 15.

V. New Business.

1. District Engineer Brian Burch was present to answer questions about a proposal that the State D. O. T. take over ownership and maintenance of the 2-1/2-mile "Town" portion of Bowery Road, beyond the 0.7-mile section in contention. Town officials had met with Highway Commissioner Conrad Burrell, Division Engineer Ron Watson, and Mr. Burch, as discussed at the previous meeting. Mr. Burch explained that the process for accepting the road would include adoption of a resolution, copies of which had been provided to each Board member, followed by an investigation to see if the road would meet D. O. T. standards. In this case, it had been agreed that a 45-foot right-of-way would be accepted; the proposed road would be 20 feet in width with a curb on each side, less than typical D. O. T. standards.

Comm. Ross pointed out that the Town's standards called for an 18-foot wide road; he felt that was more in keeping with the character of Highlands, and was not sure that a 20-foot wide road was necessary.

A wider road could result in people speeding up; some safety concerns might improve, but some might lessen. Mr. Burch explained that the additional foot on each side of the road was for safety due to the curb, which would be a hazard on a narrower road. Comm. James agreed that the extra room was needed if there was a curb.

Mildred Johnson was present, and said she had heard that the D. O. T. was trying to unload roads rather than take them over. Mr. Burch said he was not aware of such an effort. The Mayor said that a bill had been introduced in the legislature to that effect recently but had been defeated. She also asked if the D. O. T. would have to return to the Town if it wanted to do more within the 45-foot right-of-way in the future, such as adding a third lane; she was told that the Town would have to approve the spending of any funds. Several other questions were asked from unidentified speakers. The Mayor noted in response to one question that the speed limit on the road was 20 miles per hour. Bill Stiefel, President of the Land Trust, said that that organization had just acquired some property in the area; he wanted to know what kind of impact the project would have on the environment and whether there would be an opportunity to review the environmental plan. Mr. Burch explained that the D. O. T. was guided by a context-sensitive design standard; as little impact as was necessary would be made on the environment while still meeting standards. He also said that the funds would have to come from Small Urban Funds, of which the Division received \$2 million each year, with a maximum of \$250,000 for any

one project; he expected this project to be funded within four years.

COMM. PATTERSON ARRIVED.

Kathy Fisher, Rick Dunn, Harry Vaughn, and Dan Chapman all spoke in favor of the proposal. Mr. Vaughn asked for a show of hands of those in support, and most of those present in the meeting room raised their hands.

Comm. Cavender asked who had made the request. Mr. Burch said that people who lived on Bowery Road had asked the D. O. T. to consider the project, and the D. O. T. had then met with Town officials. He also understood there was interest from both Macon County and Jackson County officials. In response to several other questions, he said that no speed bumps would be designed in the road, that cuts would be 1:1, and that fills would be 1.5:1.

Comm. Ross asked if the Town would have the opportunity to review the final design; he noted that the resolution did not include such a provision, and he said that he would like to see the road constructed within the existing road bed, for example, as much as possible. Mr. Burch explained that the road bed would be used as much as possible due to cost savings. He also said that the road would be field-staked, rather than constructed according to plans prepared in Raleigh which would be unnecessarily costly.

Comm. Patterson asked why the D. O. T. was using Small Urban Funds only for those roads where right-of-way had been obtained by the municipality; other State roads were causing siltation problems which were just as high a priority. Mr. Burch replied that D. O. T. policy in the Division was to participate only where there was adequate right-of-way. Comm. Allan Bryson was present and added that current law did not allow the D. O. T. to condemn right-of-way within a municipality. The Board also discussed Town utilities in the road, which would not be affected by the proposal. Comm. Cavender asked if all of the right-of-way had been obtained and recorded; he asked how the Town could give away what it did not have. The Town Administrator reported that he had been working with the Town Attorney, and he understood that all of the right-of-way was either already in hand or was in the process of being dedicated to the Town.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING RESOLUTION:

**RESOLUTION REQUESTING THE NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
TO ASSUME MAINTENANCE OF A PORTION OF BOWERY ROAD**

WHEREAS, the Bowery Road area has been served by an inadequate road for a number of years, and numerous citizens of the Town of Highlands have petitioned the Board of Commissioners to improve it for reasons of public safety; and

WHEREAS, the Town of Highlands has initiated condemnation proceedings to obtain the necessary right-of-way along the first 0.7-mile section of Bowery Road, currently maintained by the North Carolina Department of Transportation, to make possible its improvement; and

WHEREAS, the Town of Highlands has obtained the necessary right-of-way along a 2.5-mile section of Bowery Road, extending from the end of the 0.7-mile State-maintained section of Bowery Road to the end of the road; and

WHEREAS, the Town of Highlands desires the North Carolina Department of Transportation to assume maintenance of said 2.5-mile section of Bowery Road in order to make possible its improvement for reasons of

public safety.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Town of Highlands hereby requests the North Carolina Department of Transportation to assume maintenance of said section of Bowery Road.

This resolution is adopted this 20th day of August, 2003.

2. Each Board member had received a copy of a Law Enforcement Interagency Mutual Aid Agreement that Police Chief Jerry Cook had signed with the Macon County Sheriff; it had been agreed at the previous meeting that copies would be distributed for review. The Town Administrator reported that the agreement was almost identical to one that had been adopted on April 9, 1997 by the Board, which had been reviewed at the time by the Town Attorney. The Mayor reported that the Highlands Code authorized the Police Chief to execute such agreements.

3. The Town Administrator reported that he had confirmed, as discussed at the previous meeting, that McGill Associates had indicated that \$6500 would be the additional cost of preparing grant applications for the Hospital Water Line Project, due to a FONSI, Environmental Impact Document, and public hearings required by the EPA for the STAG Congressional Grant. However, they had not intended to create a problem by requesting the funds, and now indicated that they would carry the extra work until they were closer to completion of the project and then try to fund the additional services out of grant contingency money; otherwise, they would be willing to absorb the cost in order to keep the project alive. He also requested that the Board set the date for the public hearing, which was required before the EID could be finalized and sent to EPA for approval.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO SET THE PUBLIC HEARING FOR OCTOBER 1 AT 7:00 P.M.

4. The Town Administrator reported that he had consulted with Dave Harris, the Town's Cable TV consultant, after the previous meeting; Mr. Harris recommended amending the Cable TV Ordinance to reduce the limits of general liability from \$5 million to \$2 million. He had also drafted a hold harmless provision, as follows:

1. Amend Section 6-130(i), General liability insurance, such that all limits are \$2,000,000.

2. Add the following to Section 6-105, Use of Public Rights-of-Way:

"Grantee shall indemnify, defend, and save harmless the Town from and against any and all claims, demands, loss, costs, and expense resulting from damage to grantee's underground wires or cables installed within public rights-of-way."

Town Engineer Lamar Nix also reported that he had received an application for Pole Attachment Permits for the first node of the Highlands Cable Group system, to be located in the Hicks Road/ Mirror Lake/Little Bearpen area. The node consisted of 368 poles, of which 121 definitely had clearance problems and would have to be installed underground according to what Nin Bond had stated at the previous meeting. He said that the application would have to be more specific, especially with respect to locations for the underground portions, in order for him to be able to approve it. Comm. James pointed out that the Town had the authority to permit attachments to its poles, but that the Cable Group would have to obtain right-of-way for underground installations. The Town Administrator agreed, and asked Mr. Bond, who was present, if he understood that; Mr. Bond said that he understood.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE FOREGOING AMENDMENTS OF THE CABLE TV ORDINANCE.

5. The Town Administrator said that he had reviewed the deed for the Town's lot on Satulah Mountain, discussed at the previous meeting as a possible location for parking for hikers wishing to access Satulah Summit; the deed contained a restriction limiting use to installation of a single water storage tank no taller than 20 feet above ground level. Comm. James felt that the grantors, Ann and Frederick Haack, should be asked if they would consider amending the deed restriction in order to provide for parking. After some additional discussion, the Town Administrator agreed to contact the owners, explain the situation, and ask them if they would be willing to amend the deed restriction.

6. Each Board member had received a copy of a letter dated August 4 from Robbie Reid, explaining that he planned to pave Arnold Road from NC-106 to the security gate; an estimate of \$48,360 had been provided by Rhodes Brothers Paving. The letter said that all of the property owners had agreed to contribute a pro rate share, and requested that the Town consider contributing its share of \$7500. The Town Administrator said that he understood from Mr. Reid that the funds could be budgeted next year, or over a period of three years, if the Town desired.

Comm. James pointed out that the Town had spent a great deal of money building this road several years ago. Comm. Patterson agreed; she felt the Town had already contributed its share.

7. The Board discussed a draft resolution opposing the closing of the Russell Bridge on US-28, as reported earlier in the meeting and at other meetings by the Mayor. Comm. Ross felt that the resolution should be amended to include a concern over access for fire and public safety, in addition to the economic impact.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ADOPT THE FOLLOWING RESOLUTION:

**A RESOLUTION OF THE TOWN OF HIGHLANDS
EXPRESSING CONCERN OVER THE CLOSING OF US-28
IN ORDER TO REPLACE AND WIDEN THE RUSSELL BRIDGE**

WHEREAS, the Board of Commissioners of the Town of Highlands understands that the Georgia Department of Transportation is considering closing US-28 for several months in order to replace and widen the Russell Bridge over the Chattooga River; and

WHEREAS, closure of this bridge could adversely affect public safety by closing access for emergency rescue, fire and law enforcement, electrical utility maintenance, and U. S. Forest Service fire-fighting personnel; and

WHEREAS, countless residents from the Town of Highlands use US-28 on a daily basis in order to travel to Mountain Rests, Walhalla, Seneca, and other destinations in the upstate area of South Carolina; and

WHEREAS, countless residents from the South Carolina upstate area use US-28 on a daily basis to access second homes, businesses, restaurants, and accommodations in Highlands, and the economic impact on the Town of Highlands would be very significant if that access is disrupted for an extended period of time; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Town of Highlands:

(1) Expresses its concern over any closing of this vital route to and from Highlands for an extended length

of time; and

(2) Requests that the Georgia Department of Transportation stage construction on the Russell Bridge project so that US-28 will remain open throughout the construction period.

This resolution is adopted this 20th day of August, 2003.

VI. New Business.

1. Each Board member had received a copy of two proposed amendments of the Personnel Manual, as follows:

1. Add the following paragraph to Section 56, Alcohol and Drug Policy:

"Notwithstanding the foregoing, a positive drug test shall be grounds for immediate termination of any employee. The Public Services Administrator is authorized--after consulting with either the Town Administrator, the Mayor, or the Mayor Pro Tem--to terminate the employment of any employee testing positive for drugs, and to request such employee to immediately turn in his keys and other Town equipment and leave Town property. Such action shall be confirmed by the Board of Commissioners at the next Regularly Scheduled Meeting."

2. Add the following paragraph to Section 88, Workers' Compensation:

"Town employees may voluntarily take the smallpox vaccine. In the event of an adverse reaction to the vaccination, the same sick leave and salary continuation benefits that apply for any other type of incident subject to workers compensation shall apply to said employees."

The Town Administrator explained that the first amendment had been discussed on June 18; it clarified Town policy on positive drug tests.

The second amendment was the result of HB-273, enacted by the General Assembly this year, and was required to be adopted by September 10; it recognized that adverse reaction to the smallpox vaccine was a compensable covered event.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT THE AMENDMENTS.

2. The Town Administrator reported that Phil Whitaker, who had been present earlier, had informed him during the meeting that he was not prepared to discuss a request for annexation.

3. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY CONCERNING THE EDWARDS CASE, AND PURSUANT TO G. S. §143-318.11(A)(5) TO DISCUSS NEGOTIATING THE PRICE FOR THE ACQUISITION OF REAL PROPERTY. All present left the room except the Public Services Administrator, the Town Attorney, and the Clerk.

A. The Board discussed with the Town Attorney legal expenses incurred by the Town in the Edwards case, and provided him with instructions.

B. The Board discussed negotiating the price for the acquisition of real property

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

VI. MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:15 p.m.

Richard Betz, Town Clerk