

REGULAR BOARD MEETING of January 7, 1998, with Mayor Buck Trott and Commissioners H. N. James, Mike McCall, and Amy Patterson present.

Mayor Trott reported that Comm. Sossomon would be unable to attend the meeting due to illness. Comm. Ron Sanders arrived after the meeting had been called to order.

Also present were Richard Betz, Lamar Nix, Eddie Madden, Bill Coward, Jerry Cook, Selwyn Chalker, David Harris, Ninian Bond, David Hourdequin, John Dotson, Mark Meadows, Jake Beck, Alan Marsh, and Curtis Hayes.

I. Mayor Trott called the meeting to order at 7:00 p.m.

II. The minutes of the December 3 Regular Board Meeting had been distributed by mail.

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

III. Reports.

1. The Mayor reported that he, the Clerk, the Public Works Director, and the Town Planner had been attending the School for new Mayors and Council Members in Asheville this week, sponsored by the Institute of Government.

2. Chief of Police Jerry Cook gave an oral report on Police Department activities for the month of December.

3. Town Attorney Bill Coward was present, and reported that Judge Downs had heard six motions in the 4½/Poplar Street Declaratory Judgement—five by the Town and one by the Defendant—related to discovery; he felt they had all been resolved favorably for the Town. He said that an amended answer had been filed for nearly all of the property owners, and it appeared that the property owners on 4½ Street were abandoning any claim of adverse possession. Ed Hall had also completed the survey, and the final map would be available soon.

COMMISSIONER SANDERS ARRIVED.

Comm. Patterson asked why Dennis Wilson had been added as a plaintiff in the case. Mr. Coward explained that, according to one theory, if property had been sold pursuant to the Kelsey Map, then individual property owners were entitled to have the street opened; he felt that it was important for the Town to present as many theories as possible in order to have a strong case.

4. The Clerk reported that consulting engineer Victor Lofquist with W. K. Dickson Company would not be present for the meeting.

5. Each Board member had received a copy of the Public Works Director's written report on activities in the Street, Water, Electric, and Sanitation departments. Lamar Nix also reported that Ear Technologies of Boone, North Carolina, had conducted base line hearing tests on employees on December 9; to his knowledge, this satisfied all OSHA applicable requirements. He also reported that a League of Municipalities consultant had conducted a safety inspection on December 16, had stated that the Town was in very good shape, and had commended the Town on its efforts to provide good safety procedures.

6. Each Board member had received a copy of the Recreation Director's written report for the month. Selwyn Chalker said that he was still waiting for Building Management and Controls to locate another chimney sweep to provide an estimate, as well as to see if the fire doors should be installed in the furnace, as discussed at the previous meeting; he suggested waiting until Spring until proceeding. He also asked to meet with the Recreation Committee to review rental and court fees, winter hours, the need for a roof on the old maintenance building, the need for a new roof on the old jail building, and an updated price on rebuilding the picnic shelters.

He also reported that he would like to proceed with obtaining informal bids on a new tractor; this item, as well as the picnic shelters, had been included in the FY 97-98 budget.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO PROCEED WITH OBTAINING INFORMAL BIDS ON A NEW TRACTOR.

7. Each Board member had received a copy of the Zoning Administrator's written report for the month. Eddie Madden highlighted the item on the report explaining that the Dobes/ Carter re-zoning petition had been approved at the December Planning Board meeting. He also reported that he would be meeting with Ed Ingle from the DOT next Tuesday to discuss the possibility of obtaining funds for roadside beautification. He said that he had received final copies of all three land use surveys from the Division of Community Assistance, and would begin reviewing and formulating a brief synopsis to present to the Planning Board, as well as to the Board of Commissioners at the next meeting. Finally, he reported that he would be attending a course on Soil Erosion and Sedimentation Control sponsored by the State Water Quality Section on January 26-28.

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

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

9. Copies of the Water Quality Study of Lake Sequoyah had been mailed to all Board members last month; the Clerk reported that the report had also been forwarded to Harold Saylor.

The Clerk also reported that he had received the Contract Renewal Agreement between the Town and Culligan Operating Services Inc. for operation of the Wastewater Treatment Plant; as reported at the previous meeting, the proposed 1998 budget was the same as the 1997 budget of \$10,143 per month.

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO APPROVE THE CONTRACT RENEWAL AGREEMENT.

10. Each Board member had received copies of the Highlands Fire and Rescue Department's Annual Report.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO APPROVE THE REPORT.

IV. Old Business.

1. Final copies of the proposed Cable TV Ordinance had been distributed to all Board members, correcting typographical errors. David Harris was present, and explained again that this enabling ordinance set the standards for new cable operators and permitted the Town to go forward with the franchise agreement, using it as a guide. Mr. Harris said that the Ordinance had also been reviewed in some detail by Town Attorney Bill Coward.

Comm. Patterson asked Mr. Harris several detailed questions concerning the Ordinance, including the definition of standard installations, public access, spacing, regulation of rates, insurance, and franchise fees; Mr. Harris answered the questions, and also said that the new Ordinance would permit the Town to negotiate a franchise fee as high as 5%

MOVED BY COMM. SANDERS, SECONDED BY COMM. MCCALL, AND UNANIMOUSLY CARRIED TO ADOPT THE CABLE TELEVISION ORDINANCE.

Mr. Harris stated that the next step in the procedure was for the board to set a public hearing in order for the general public to comment on the performance of the current cable operator and to discuss any future cable-related needs in the community. The comments from the public hearing would then be used to draft a needs

assessment report, which together with the Ordinance would be used to negotiate the franchise agreement.

MOVED BY COMM. SANDERS, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING ON THE CABLE TELEVISION FRANCHISE AGREEMENTS FOR 6:30 P.M. ON FEBRUARY 4.

It was agreed that the hearing notice should include an indication that written comments were welcome. It was also agreed that the hearing would be held in the Conference Room of the Town Hall, but that both the hearing and the Regular Board Meeting would be moved to the Highlands Civic Center if it appeared from the volume of comments and inquires that a larger meeting room would be necessary.

2. The Clerk reported that he had received a letter dated December 29 from Finley H. Merry stating that he would be unable to attend this meeting as planned, and requesting that he be placed on the agenda for the January 21 meeting. The Clerk was asked if any of the encroachments had been removed from the right-of-way of Horse Cove Road as ordered on September 17; he said they had not, but that he understood Mr. Merry's request to appear before the Board was in the nature of an appeal of that action. The Board agreed by consensus that Mr. Merry should be placed on the January 21 agenda, but that if he does not appear at that meeting, the Zoning Administrator is to begin issuing citations for violation of the Zoning Ordinance.

3. Each Board member had received copies of a letter dated December 17, 1997, from Carl Buchanan of Buchanan Concrete Contracting Company, indicating that he intended to construct a sidewalk for Margaret O'Donnell as soon as weather permitted. The Clerk reported that he had also received a letter from Ms. O'Donnell reiterating that she had agreed to install the sidewalk along US-28 "as soon as her contractor feels the weather will permit this construction." He said that he had also spoken to both parties and confirmed their intent to begin work as soon as possible, and said he would keep the Board posted on progress.

V. New Business.

1. The Board considered the matter of the petition for rezoning submitted by Martha H. Dobes and Corynne H. Carter, Co-Trustees, for property at 1712 Sequoyah Point Way, from R-1 to R-2. It had been reported earlier that the Planning Board had recommended approving the petition.

Comm. Sanders asked the Zoning Administrator why this petition had been approved by the Planning Board, while nine others had recently been denied; he also asked if this was an instance of spot zoning.

Comm. McCall asked if the property could be further developed or subdivided.

Mr. Madden summarized the vote of the Planning Board in the matter, and stated that it would be up to the Board to decide if this was spot zoning. He pointed out that the petitioners wished to proceed with a Tourist Home, which would require a Special Use Permit, and pointed out that any subdivision would have to be approved by the Board; the density would not be increased by the change in zoning designation.

Comm. Patterson felt that if the Planning Board had approved the petition, the next step should be a public hearing. She made a motion to set a public hearing for January 21, but there was no second to the motion; the Mayor declared that the motion had not carried, and no public hearing would be held.

The Board then further discussed the matter. Comm. Sanders reiterated his concerns that the Planning Board had turned down nine previous petitions, but had voted to rezone this property. Comm. McCall agreed. Comm. James said he objected to the legal advertisement being placed in the newspaper prior to the meeting.

The Clerk explained that he had taken the liberty of placing the

legal ad in the newspaper in order to meet the statutory time limit; the Board could still choose not to hold the hearing.

Comm. Patterson reminded the Board that Mayor Cleaveland had indicated to the petitioners at a meeting in November that a public hearing would be held before the end of the month on this petition.

David Hourdequin, a member of the audience, asked what the risk would be in setting a public hearing; he also wondered what the proximity of the property was to other R-2 property, and was told that it was contiguous to it on the other side of the highway. He was concerned over the previous implied commitment to proceed.

Comm. James said that he would not object to a public hearing; he pointed out that highway US-64 had been used, rather than the Lake Sequoyah, to separate the R-2 district and the R-1 district. Comm. McCall said that he also remembered that Mayor Cleaveland had indicated that a hearing would be held, and Comm. Sanders then agreed that he might not object to a public hearing.

Town Attorney Bill Coward asked about the schedule for the Planning Board re-examining the Zoning Map. Mr. Madden told him that the survey results would be presented at the next meeting, but that re-examination of the map could take several months.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR JANUARY 21.

2. Mark Meadows was present to request permission for a building under construction on Phillip DeVille's property on the corner of Main and Fifth Streets to encroach on the right-of-way of both streets. He said that the eaves of the building had been constructed to the property line, but that it would look nicer aesthetically if they could extend 18" over the sidewalk.

Comm. James felt the building should remain on the property line; he pointed out that the Board had recently made David Young remove an eave from his building on Oak Street, and it was also pointed out that Bill Farmer had been forced to remove part of his gas pump canopy at the Exxon station on First Street.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO DENY THE REQUEST.

3. The Clerk reported that no bids had been received on purchasing the surplus vehicle in the Police Department to date. However, a bid of \$4000 had been received from the Satolah Fire Department for the 1973 Chevrolet in the Fire Department; both vehicles had been re-advertized.

MOVED BY COMM. SANDERS, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ACCEPT THE BID AND SELL THE SURPLUS VEHICLE.

4. Jake Beck was present to request permission to sell or to solicit to sell flower pots in his truck in Town. The Clerk explained that he had already informed Mr. Beck that this activity was prohibited under the Town's ordinance regulating peddlers, solicitors, and transient vendors. Mr. Beck discussed this matter with the Board for some time, requesting that the Board change the Ordinance; there was no consensus to do so. He then threatened to violate the Ordinance.

VI. There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at approximately 8:30 p.m.

Richard Betz, Town Clerk