

REGULAR BOARD MEETING of March 7, 2001, with Commissioners H. N. James, Zeke Sossomon, Amy Patterson, Ron Sanders, and Mike Cavender present. Mayor Trott was out of Town.

Also present were Richard Betz, Bill Coward, Orville Coward Jr., Maureen Lackey, Jerry Cook, Selwyn Chalker, Kim Lewicki, Don Hendershot, Hank Ross, Alan Marsh, Jodie & Carolina Cook, Linda Clark, Rosemary Fleming, and Bill Rethorst.

I. Call to Order.

Mayor Pro Tem H. N. James 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 one item be added: Approval of a sign for the Performing Arts Center within the street right-of-way.

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

III. Approval of Minutes.

Copies of the minutes of the February 7 Regular Board Meeting and the February 21 Joint Meeting with the Macon County Commissioners had been distributed by mail.

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

IV. Reports.

1. Mayor Pro Tem James reported that Mayor Trott was in Raleigh on Town business.

2. Comm. James reported that he and Comm. Sossomon had met with County officials to discuss the Macon County Water Supply and Wastewater Treatment Improvement Fund; no official answer had been received. Comm. Patterson commented that this was a valid, binding contract; if the County did not honor it, why should the Town ever want to enter into another agreement? The Town Administrator said that he planned to submit the statement requesting withdrawal of the funds in early July as usual.

3. Each Board member had received the Public Services Administrator's written report for the month. The Town Administrator reported that Lamar Nix was not present because his wife was expected to deliver a baby the next day.

4. Each Board member had received the Police Chief's written report for the month. Chief Cook was present and reviewed the report with the Board, adding that Police Officer Matthew Pellicer had submitted his resignation; he said Mr. Pellicer had received an offer from the Franklin Police Department, but had expressed his appreciation at having worked for the Town.

Chief Cook also recommended employing David Head as a Police Auxiliary Officer; Mr. Head was certified and was currently training with the Macon County Sheriff's Department.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO EMPLOY DAVID HEAD AS A POLICE AUXILIARY OFFICER AT THE SALARY OF 9-1.

5. Each Board member had received the Recreation Director's written report for the month. Selwyn Chalker was present and reviewed the

report with the Board. Boys basketball was almost over, and boys and girls baseball and softball was beginning. The new cooling tower had been shipped on February 21 and should be in Greenville shortly.

Funds for the County's PARTF grant for the Buck Creek Ball Fields had been frozen by the Governor with other grant funds and were in question.

Mr. Chalker also recommended employing Jason Wilbanks to work part-time on the front desk.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO EMPLOY JASON WILBANKS TO WORK PART-TIME. The salary will be the same as comparable part-time employees.

6. Town Planner/Zoning Administrator Maureen Lackey was present and distributed copies of her report for the month. She said that the Planning Board and Appearance Commission had met on February 22 and discussed the 1990 Land Use Plan, and had asked her to show what a rough draft of a Hillside Overlay District Ordinance might look like. They had also requested creation of a transparent overlay of the Town displaying varying slopes within the city limits. The Planning Board's reason for looking at this was based on a statement in the Land Use Plan that areas with steep slopes should be identified and appropriate standards developed to reduce density and environmental impact.

The Town Administrator asked what kind of an Ordinance this would be: free-standing, or amendments to the Zoning or Soil Erosion Ordinances. Ms. Lackey said that would be up to the Planning Board.

7. Each Board member had received a copy of the Treasurer's Report for the month, which he briefly reviewed with the Board.

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

8. The Town Administrator reported that a Petition for Writ of Certiorari had been filed by Highlands Country Club in the recent Zoning Board appeal; he said a proposed Closed Session was scheduled at the end of the meeting to discuss this legal matter with the Town attorneys. Kim Lewicki asked why this would be a Closed Session item. He said the item was "proposed" only; he, Bill Coward, and Orville Coward Jr. had discussed it and agreed that, should the Board choose to do so, this would be a valid reason for a Closed Session pursuant to G. S. §143-318(a)(3).

He also reported that he had turned over an insurance claim to the Town Attorney relating to a modular home hitting overhead wires and causing the Town to be out of power last fall; the claim, for approximately \$4500, had been denied by the insurance companies of both the modular home company and Verizon.

Informal proposals requested for the Town's property/general liability insurance had not all been received, and he said that he would schedule a meeting to review proposals with the Finance Committee as soon as possible.

He also reported that an amendment in the General Statutes last year now required that the advertisement for delinquent taxes, which the Board had approved for June 5 at the previous meeting, now had to contain both the listing owner and the record owner, with prior notice provided to both owners. The change had necessitated a software upgrade, and would also require a complicated update and review of the tax scroll. He asked the Board to be thinking about consolidating property tax collection with the County, adding that he had discussed this with the County Manager and County Tax Supervisor, and pointing out that monthly disbursements of the Fire District Tax to the Town was working well; he said that he would provide more detail to the Finance Committee in a meeting to be scheduled in early April.

V. Old Business.

1. Each Board member had received the sixth draft of a proposed Ordinance Regulating the Draining of Impoundments, incorporating the changes discussed at the previous meeting.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT THE ORDINANCE EFFECTIVE IMMEDIATELY.

The Town Administrator offered to send a copy to the County, asking them to consider adopting a like ordinance in the Highlands Watershed.

#### VI. New Business.

1. The Town Administrator reported that he had discussed the NC-106 Sewer Project with Bronce Pesterfield, the Project Engineer. Mr. Pesterfield had reported that final plans were to be submitted this week to the State, and he expected approval in a few days; the proposed bid opening could be as early as mid-April, with approval of the low bid at the May 2 meeting. The plans called for the gravity sewer line to cross to the north side of NC-106, therefore not requiring an easement from the lot owned by Mrs. Morrison which attorney Richard Melvin had, in a previous meeting, indicated could be problematic in obtaining.

Bill Rethorst was present, said that he remembered a sidewalk was to have been included in this project, and asked if it was part of the plans submitted. The Town Administrator said he did not know, and the Board asked him to check and report back.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. SOSSOMON, AND CARRIED TO AUTHORIZE ADVERTISING FOR BIDS CONTINGENT ON APPROVAL OF THE PLANS BY THE STATE. Comms. Patterson, Sossomon, James, and Cavender voted "aye;" Comm. Sanders voted "nay."

2. Each Board member had received a list of the following surplus Town vehicles and minimum bid amounts:

<u>Vehicle</u>	<u>Minimum Bid</u>
1988 Ford Ranger Pickup Truck	\$500
1981 FORD 3000 TRACTOR	\$500
1994 Ford Crown Victoria Police Car	\$500
1988 FORD F-800 Dump Truck	\$1000
1984 FORD F-700 Dump Truck	\$1000
1988 GMC Bucket Truck	\$1000

MOVED BY COMM. PATTERSON, SECONDED BY COMM. SOSSOMON, AND UNANIMOUSLY CARRIED TO ADVERTIZE FOR BIDS FOR THE VEHICLES.

3. Each Board member had received a proposal from John Boaze of Fish & Wildlife Associates Inc. for a baseline study of Big Creek below Randall Lake, as discussed at the previous meeting. Comm. Cavender reported that William McLarney had already conducted fish and benthic sampling, and he also said he thought the TVA was doing a benthic study; he felt these studies could help reduce the cost. The Board took the proposal under advisement pending discussion of these studies with Mr. Boaze.

4. Comm. Cavender reported that he had submitted his resignation as a member of the Macon County Planning Board. He recommended that Bob Wright be appointed to the Board; Mr. Wright was willing to serve, and was currently drafting the County Soil Erosion Ordinance. Comm. James said that he had talked to Eric Pierson, who was also willing to serve on this Board.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, TO RECOMMENDED APPOINTING BOB WRIGHT TO THE COUNTY PLANNING BOARD. The motion failed to carry, with Comms. Cavender and Patterson voting "aye," and Comms. James, Sossomon, and Sanders voting "nay."

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND CARRIED TO RECOMMEND APPOINTING ERIC PIERSON TO THE COUNTY PLANNING BOARD.

The motion carried, with Comms. Sossomon, Sanders, and James voting "aye," and Comms. Cavender and Patterson voting "nay."

5. A 7.85-acre plat for Liz Development Corp., prepared by Ed Hall and dated January 3, 2000, had been submitted to the Planning Board at their previous meeting; Maureen Lackey said that the Planning Board recommended approving the subdivision. The Town Administrator said that in his opinion the plat was not a subdivision, but rather a re-combination, and noted that it did not bear the labels of certification required by the Subdivision Ordinance. A notation on the plat said that the parcel was to be re-combined with the adjoining parcel. Comm. James said he did not think it was a subdivision either.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE PLAT SUBJECT TO THE SAME CONDITIONS AS THE WESTBROOK PLAT APPROVED ON DECEMBER 6, 2000.

6. The Board discussed the Town's annual request for funding for FY 01-02 from the County. The Town Administrator reminded the Board that last year it had requested \$175,000 to partially offset operating expenses at the Recreation Park, \$50,000 for the Performing Arts Center, and \$50,000 on behalf of the Highlands Historical Society for purchase and development of the "Prince" house; \$150,000 had been approved by the County. He said that, according to recent polls, more than two-thirds of the people using the Recreation Park lived outside the Town limits, and he also reminded the Board of the unexpected \$51,360 cost of the air chiller this year. Comm. Patterson said she wanted to make sure that development of the County's Buck Creek Ball Fields outside of Town did not usurp the funds for the Town's Recreation Park; the Board agreed.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO REQUEST \$200,000 FOR THE RECREATION PARK FOR THE COMING FISCAL YEAR.

The Board also discussed the need for additional funds at the Performing Arts Center, and its proposed use by residents both inside and outside of Town.

MOVED BY COMM. CALLOWAY, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO REQUEST \$50,000 FOR THE PERFORMING ARTS CENTER FOR THE COMING FISCAL YEAR.

7. It had been reported earlier in the meeting that there was a vacancy in the Police Department.

MOVED BY COMM. SANDERS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR A POLICE OFFICER.

The Town Administrator also reported that J. R. Coffey had submitted his resignation in the Sanitation Department; no qualified applications had been received to date for the other vacancy in that Department.

8. The Town Administrator said that Peter Jefferson, architect for the Performing Arts Center, had asked him about a sign at that building. Although this would be a government sign and exempt from the sign regulations, the proposed location was in the right-of-way of Chestnut Street. He displayed a site plan showing the proposed location, which would be in a landscaped area and nine feet from the edge of the road, as well as a sketch of the sign itself.

Comm. James felt that the sign should be treated like anyone else's sign. Comm. Cavender agreed, and made a motion that the sign be approved contingent upon execution of a revocable license agreement with the Performing Arts Center Inc. Comm. Sossomon said that he would like to have the opportunity to look at the proposed location, and Comm. Cavender withdrew his motion.

Comm. James expressed some concern over the proliferation of structures in the right-of-way around Town, including a stone column

on Smallwood Avenue and a split-rail fence on Fifth Street at the Mills residence.

Linda Clark asked why plans for the Performing Arts Center had not been brought before the Appearance Commission. The Town Administrator reported that he understood review by the Appearance Commission was not required, and had never been requested; the plans had been reviewed by the Town Board and approved as part of the agreement with the Performing Arts Center. Comm. James said that he agreed that the plans should be referred to the Appearance Commission. After additional discussion, however, the Board deferred action on the matter.

9. The agenda had included a proposed Closed Session to discuss the Petition for Writ of Certiorari filed by Highlands Country Club in the recent Zoning Board appeal with the Town Attorneys, as discussed earlier in the meeting. Comm. James said that one issue he felt needed to be addressed was the recommendation by the Town Attorney in the Episcopal Church case that the Zoning Board retain its own attorney for the appeal taken to the N. C. Court of Appeals. Bill Coward replied that, in that case, he had withdrawn because the Town had not agreed to join with the Zoning Board as a party to the appeal. Comm. Cavender said that the Town Board had created the Zoning Board and asked citizens to serve on it, and he felt it had a responsibility to support its decisions. Comm. James said he agreed. He and Comm. Cavender agreed that the Town Board should choose the attorney.

Orville Coward Jr. was present and said that he remembered discussing the matter of what might constitute a conflict when the Board had employed his law firm several years ago, and he had said at the time that they represented both Highlands Country Club and Highlands Falls Country Club. Both he and Bill Coward would have to remove themselves from this case. He also said that the Board of Governors of the Country Club had asked him to say a few words, stating their feelings rather than their legal position. He said that the Club viewed the appeal as an appeal from an administrative proceeding, and not as a lawsuit against the Town; they were not angry with the Town nor anyone with the Town, and the action was not personal. They felt that they needed a place for employees to live, and they had no choice but to pursue the appeal because the Order of the Zoning Board said that the part of the Ordinance permitting the Club to have "other facilities customarily associated with such uses" would be disregarded in the future. He said that the decision had been undertaken with a lot of deliberation, they were sad that it had to occur, and they hoped that it would not lead to deterioration of the relationship with the Town.

Comm. James said that he appreciated the statement, and felt the same way.

The Board requested Bill Coward to provide some recommendations on another law firm, and discussed the filing of a motion requesting an extension of time in the meantime. The Board agreed to further discuss these matters at the next meeting.

VII. MOVED BY COMM. PATTERSON AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor Pro Tem at 8:25 p.m.

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Richard Betz, Town Clerk