

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF NOVEMBER 3, 2010 AND CONTINUATION OF REGULAR MEETING AND PUBLIC HEARING OF NOVEMBER 8, 2010

Town Board Present: Mayor David Wilkes, Vice Mayor Amy Patterson, Commissioner Larry Rogers, Commissioner Gary Drake, Commissioner John Dotson and Commissioner Dennis DeWolf.

Also Present: Town Manager Jim Fatland, Police Chief Bill Harrell, Recreation Director Selwyn Chalker, Town Attorney William Coward and Recording Secretary Jane Capman.

1. Call to order

Mayor David Wilkes called the meeting to order at 7:00 p.m.

2. Public Comments

John Cleveland addressed the Town Board and raised his concerns regarding the depletion of the General Fund with capital projects, including but not limited to the ABC/police station renovation, considering the state of the economy. Mr. Cleveland was concerned that if a catastrophe were to take place would there be sufficient funds? Mr. Cleveland further stated that it appeared that no one was "looking at the big picture".

Ginger Slaughter addressed the Town Board and expressed her shock and disappointment in the termination of Joe Cooley. Ms. Slaughter was saddened for the Town and advised that Mr. Cooley will be a great loss to the community.

Linda Clark addressed the Town Board and expressed her concerns regarding the Town Board changing the Town's Charter to enable the Town Manager to hire and fire personnel. Ms. Clark stated that the government needs checks and balances and that the Town Board should not lose its power.

Skip Keener addressed the Town Board and advised that he did not agree with the Interim Town Planner replacement of Joe Cooley, Mark Maxwell, as the Town Manager previously worked with Mr. Maxwell.

3. Approve agenda

Town Manager Jim Fatland advised that the Public Works Committee would like to do a work session regarding the Sewer Master Plan with the Town Board on November 17, 2010 at 4:00 P.M.

Commissioner Dennis DeWolf moved to approve the Amended Agenda, was seconded by Commissioner Larry Rogers and was unanimously approved.

4. Approve Minutes of October 19, 2010

Commissioner Gary Drake moved to approve the Minutes of October 19, 2010, was seconded by Vice Mayor Amy Patterson and was unanimously approved.

Approve Minutes of October 20, 2010

The Minutes of October 20, 2010 were pulled and will be presented to the Town Board at the next regularly scheduled meeting for approval.

Approve Minutes of October 27, 2010

The October 27, 2010 Minutes are amended as follows:

Section 2, Paragraph 4 is amended to read as follows:

The Town Board directed either the Town Attorney or the Mayor to obtain and verify references and to conduct a background check on Mark Maxwell prior to the Town Board making any further recommendations as to employment.

Vice Mayor Amy Patterson moved to approve the Minutes of October 27, 2010, as amended, was seconded by Commissioner Dennis DeWolf and was unanimously approved.

5. Reports

A. Mayor

Mayor Wilkes thanked everyone who participated in the Halloween Stroll for all their hard work.

Mayor Wilkes also advised that the Small Town Main Street meeting will take place on November 4, 2010.

Finally, Mayor Wilkes stated that he has only heard compliments concerning the new dog park and Third Street sidewalk and street improvements.

B. Commissioners

There were no Commissioner reports.

C. Committees

The Recreation Committee discussed the Kelsey Hutchinson Park, the installation of restrooms, the moving of the gazebo and the future installation of benches.

The Public Works Committee discussed the grinder pump policy and advised that it will have a work session on November 17, 2010 at 4:00 P.M.

The Planning Board advised of their productive meeting.

The Sustainability Committee advised that it would meet on November 4, 2010.

Town Manager Fatland and Accounting Supervisor Chuck Young submitted to the Finance Committee a memorandum concerning the review of the Internal Control Procedures with Matt

Braswell of Martin Starnes CPAs, the Town's independent auditor in response to audit findings. The memorandum was given to the Town Board for review and consideration.

Town Manager Fatland advised that in past audit reports, including the most recent report for the year ended June 30, 2010, Martin Starnes & Associates, CPAs have noted internal control weaknesses in their audit findings. For small towns, this is a common auditor comment.

The findings are as follows:

Finding 10-1: Management should have a system in place to reduce the likelihood of errors in financial reporting. Due to limited personnel in the Town office, there are inherent limitations to the segregation of duties among Town personnel. The auditors while performing documentation and testing of major systems of internal controls noted the condition. Errors in financial reporting could occur and not be detected. There are limited personnel for certain functions.

Auditor Recommendations: Access to the books and records of the Town should be separated from access to the assets of the Town as much as possible. Alternative controls should be used to compensate for any lack of segregation of duties. The Town Commissioners should provide some of these controls.

During the Fiscal Year 2010-2011 budgetary process, the Board of Commissioners adopted finance policies for review, operation, capital improvement, equipment replacement, accounting and debt.

With the recent hiring of an Accounting Supervisor, the following internal control improvements are recommended.

1. Currently the Cash Collections Employee has served as back-up signature for the Town Manager in signing checks. This policy has been in place for several years and is an internal control weakness. Management recommends that the Public Services Director sign checks in the absence of the Town Manager. Either the Mayor or Mayor Pro Tempore is the required second signature on all checks.
2. Currently the Account Payable Employee has reconciled the bank statements. Again, this policy has been in place for several years and is an internal control weakness. Management has directed the Accounting Supervisor to reconcile all bank statements since he will not be preparing checks. Monthly bank reconciliation will be reviewed and approved by the Town Manager.
3. Currently deposits for the Town have been taken to the bank by the cash collections employee or the utility billing clerk. These are individuals who accept cash at the counter. Management is proposing that remote deposit be implemented with RBC Bank as soon as possible. Implementing this change will required Town employees to go to the bank with cash only. For separation of duties, Town Manager's Secretary, Town Manager or HR Administrative Assistant will take deposits to the bank. Bank deposit receipts will be provided to the Accounting Supervisor.

4. Currently the case investment function has been performed by the Accounts Payable position. Management has transferred this responsibility to the Accounting Supervisor who will oversee the case investment duties. The Town Manager will approve all investment decisions.

5. Currently purchase requisitions were entered by the Cash Collections person in Accounting. Management is proposing that requisitions of the Town be entered by the Police Department Administrative Assistant with purchase orders approved by the Town Manager. Accounting personnel will no longer be part of the purchase functions.

6. Currently all mail is distributed to employee's mail boxes unopened. Management is proposing that all mail be opened by the Town Manager's Secretary and date stamped and then distributed to employee mail boxes. All checks will be forwarded to the Accounting Supervisor for preparation of the daily bank deposit. Once checks have been run through the remote scanner by the Accounting Supervisor, cancelled checks will be provided to the Utility Billing Clerk for posting to individual utility accounts. Mail addressed as "Personal" will be distributed to the employee unopened.

Finding 10-2: Financial reporting under the account standard promulgated by the Financial Accounting Standards Board and Governmental Account Standards Board required a level of technical expertise not possessed by the Town's personnel with regards to drafting full accrual, full disclosure financial statements. The external auditor prepared a draft of the basic financial statements, all required disclosures, and supplemental schedules. Errors could occur. There are limited personnel as it related to the preparation of full accrual, full disclosure year-end financial statements.

Auditor Recommendations: The cost of acquiring the technical expertise to comply with the financial reporting requirements discussed above appears cost prohibitive. Therefore, the Town should exercise due care in reviewing the financial statements drafted by the external auditor as the Town is responsible for the accuracy of the audited financial statements.

Auditors generally prepare the financial statements on behalf of their clients. However, the accuracy remains with the client. The auditor prepares draft financial statements along with footnotes. The Town Manager and Accounting Supervisor will review the drafts and submit corrections to the auditor before the financial report is finalized and submitted to the Local Government Commission.

Finding 10-3: Management should have a system in place to reduce the likelihood of errors in financial reporting. A significant audit adjustment is a proposed correction of the basic financial statements that, in our judgment, may not have been detected except through our auditing procedures. The existence of such material adjustments indicates that the Town's system of controls did not detect and prevent such errors. We have provided management with a report of these adjustments. Errors in financial reporting could occur.

Auditor Recommendations: Management should examine the adjustments required as a result of our audit and assess the cost/benefit of improving internal control system to prevent adjustments in the future, given the units available financial and intellectual resources.

Management should acknowledge inherent limitations in the internal control system caused by limited resources, and modify their oversight function accordingly.

With the recent hiring of the Accounting Supervisor and internal control improvements, audit adjustments should be reduced from prior years.

At the conclusion of the above report, the Board recommended that Lamar Nix, Town Engineer, sign checks in the Town Manager's absence, that all purchases be approved by the Town Manager, and the possibility of a separate post office box for the receipt of receivables. As to the opening of mail both Commissioners Dotson and Drake raised their concerns of privacy and that maybe the envelopes should be date stamped. Town Attorney William Coward advised that people tend to throw away envelopes and that the letters should be stamped.

At the conclusion of the Board's discussion, Town Manager Fatland requested approval.

Commissioner Gary Drake moved to approve the recommendations made by the Town Manager, was seconded by Commissioner Larry Rogers and was unanimously approved.

Town Manager Fatland also reported that the Town of Highlands currently has several checking accounts with Wachovia Bank. These accounts were set up as a means of tracking specific funds and keeping them segregated. The Town now has accounting software with the ability to perform the necessary tracking and segregation of funds without the need for multiple checking accounts at the bank. The Scholarship Fund account should remain as a separate account because funds cannot be used by the Town for any purpose other than scholarships for Highlands School graduates.

It is recommended to the Town Board to consolidate all Wachovia checking accounts into the Town's central account at RBC Bank, with the exception of the Scholarship Fund Account.

Town Manager Fatland discussed all of the accounts and the closing of the same. Commissioners Dotson and Drake both agreed with the recommendation and stated that hopefully there will be fewer errors in the future.

Commissioner Dennis DeWolf moved to consolidate all Wachovia checking accounts into the Town's central account at RBC Bank, with the exception of the Scholarship Fund Account, was seconded by Commissioner John Dotson and was unanimously approved.

Commissioner Gary Drake asked the Town Manager to check with all banks on costs once the Town was down to one central account.

D. Town Manager

Town Manager Jim Fatland discussed the proposed sewer grinder pump policy and the Mirror Lake Sewer Project coming in under budget. He also updated that the state denied the Town's request to apply saved funds from the Mirror Lake project to the Netsi Place Sewer.

Town Manager Fatland also advised that Code Enforcement Officer Josh Ward was in Raleigh regarding the Main Street project and will report to the Board at a later date.

Town Attorney William Coward discussed with the Town Board the Town's current drug policy and the request that it be rewritten. Mr. Coward explained the website entitled *Elaws - Drug-Free Workplace Advisor* and the ability to create a foundation for a drug policy. Each Board member was furnished with a packet, which provides suggestions of what could be in the policy. Mr. Coward requested that each Board member review the information and check off what they would want to include. Once all members of the Board responds, choices will be compared and then the Board will be able to discuss any differences.

6. **Consent Agenda**

- A. Set Public Hearing for November 17, 2010 for Conditional Zoning District for Riverwalk
- B. Set Public Hearing for December 1, 2010 for Revision to Sign Ordinance

Regarding the above hearings, Vice Mayor Patterson stated that she did not like setting a public hearing without first knowing what it was about. She stated that she would like to see the conditions for Riverwalk and also would like to see the proposed revisions for the Sign Ordinance. Vice Mayor Patterson stated that in the future, the Board and the public should be apprised prior to setting the public hearing. Alan Marsh addressed the Board and requested discussing the Sign Ordinance and was advised that he would have to wait until the December 1, 2010 public hearing.

Commissioner John Dotson moved to approve the Consent Agenda, was seconded by Vice Mayor Amy Patterson and was unanimously approved.

7. **LGC Application to Finance Police Department Renovation Project**

A. Public Hearing

A public hearing was advertised for the renovation of the former ABC Store for the Highlands Police Department for November 3, 2010. It was recommended to continue the public hearing and regular meeting of the Town Board to Monday, November 8, 2010 at 7:00 P.M. to review construction bids prior to consideration of recommendation, to approve the Resolution Authorizing Application with LCG, approve Financing Agreement with RBC Bank and approve Bond Counsel Fee Agreement with Parker Poe.

At the continued Public Hearing held on November 8, 2010, the hearing was opened by Mayor Wilkes and Patrick Taylor addressed the Town Board. Mr. Taylor discussed the architectural plan concepts and stated that the project would bring consistency to the Town of Highlands. Mr. Taylor also stated that if this were to be a public works project, it would generate jobs. Mr. Taylor, advising that he is a Magistrate, stated that it is time to have a first rate law enforcement facility, which will enable the police department to function more efficiently. Mr. Taylor stated that this project needed to move forward.

As there were no further public comments, Mayor Wilkes closed the public hearing.

On April 21, 2010, the Town Board approved Summit Architecture, PA, to serve as architect for the renovation of the former ABC Store for the Police Department. The schematic design was

completed and approved by the Public Works Committee on October 12, 2010.

A pre bid conference was held with contractors on October 26, 2010 at the former ABC Store. Ten (10) contractors attended. The bid opening was scheduled for November 5, 2010. Staff recommends that the Town Board meeting be continued to Monday, November 8, 2010 at 7:00 P.M. to review construction bid results prior to consideration of recommendations.

Jeff Weller advised that there were two separate projects pending (police station renovation and the Master Plan) and discussed the estimated costs of each. Mr. Weller also advised that the Master Plan was not necessary to the renovation of the police department.

The estimated cost for the project is as follows:

Police Station Renovation	\$599,000
Master Plan (Landscape, Sidewalks, walls, etc.	\$143,500
Total Estimated Cost	\$742,500

Town Manager Fatland advised of the bids received and the following was presented to the Town Board of Commissioners for review and consideration:

Contractor	Primary Bid	Addenda Bid	Total Bid
Potts Const.	\$828,067	\$84,242	\$912,309
JT Turner Const.	\$719,900	\$36,500	\$756,400
Warth Const.	\$771,941.59	\$173,433.55	\$945,375.14

Town Manager Fatland advised that the staff recommends to reject the Addenda Bid and revisit that item at a later date. Town Manager Fatland also stated that he will look for approval through the Local Government Commission for \$719,900.00. Mr. Fatland stated that the figure could be changed later to a lower amount. Weller stated that he would meet with the lowest bidder and see if and what costs can be reduced and would present the updated costs at the next meeting on November 17, 2010. Mr. Weller advised that he could not state what the cost savings would be. As to the Addenda bid, Mr. Weller stated that it is mostly, "hardscape" but there are necessities and gave the example of the retaining wall.

At the November 3, 2010 meeting, John Cleveland inquired of Mr. Weller of the value of the land and the value of the existing building. Mr. Weller stated that if the building were to be completely rebuilt, it would be necessary to add approximately \$500,000 to the project. The project is to keep 90% of the existing structure.

Since the financing involves bond financing, bond counsel is necessary to review financing

documents. A proposal from Parker Poe, bond attorney, was given to the Town Board for review and consideration. It has been recommended that this matter be continued to the November 17, 2010 meeting.

The Town Board had previously authorized a loan application with USDA to finance the renovation. However, staff has been in contact with the North Carolina Local Government to discuss financing options. Another option, at a much lower interest rate, is the use of the Build American Bond Program. The USDA loan program has a higher interest rate and a much longer loan repayment period up to forty (40) years. The Build American Bond Program has much lower interest rates with a shorter loan repayment program. Staff recommends a ten (10) year repayment period using Build American Bonds at an effective interest rate of 2.899% after Federal Rebate.

The Town Board reviewed the Installment Financing Agreement proposal and questioned the item regarding the prepayment penalty. Town Attorney Coward explained that although the the prepayment penalty is in the paperwork, it could be negotiated if the Town so wished.

During the FY2011 budget process, the police renovation amount was not budgeted since the estimated cost was not known. The estimated cost prepared by the architect totaled \$742,500. In discussion with the Town's auditors, a capital project fund for the General Fund was established to account for this project.

As to the financing, it is recommended to the Town Board to approve the Resolution Authorizing Application with LCG, approve Financing Agreement with RBC Bank and approve Bond Counsel Fee Agreement with Parker Poe.

It is recommended that the Town Board approve the budget amendment reflecting loan proceeds and expenditures in the General Fund Capital Projects Fund. No vote was taken.

During the renovation of the former ABC Store for the Highlands Police Department, the Magistrate's office will relocate temporarily to the Peggy Crosby Center. Upon completion of the police renovation project, it is recommended that the Magistrate relocate to the current Highlands Police Department on the corner of Oak and Third Street. No vote was taken.

Commissioner Dennis DeWolf moved to approve the Resolution Authorizing Application with the Local Government Commission with a ceiling of \$719,900, was seconded by Commissioner Larry Rogers and was unanimously approved.

8. Discussion of Animal Control Ordinance

Town Attorney William Coward provided the Town Board with selected state statutes relating to animals for their review and consideration. Also provided were Macon County's Animal Control Ordinance and the Town of Highlands' Ordinance for their review and comparison.

Town Attorney Coward discussed with the Board nuisance animals and the difference between the Town and County's Ordinances. Mayor Wilkes inquired of the possibility of repealing the Town's Ordinance to which Town Attorney Coward advised that the Town would lose the banning of dogs at the ball filed. Town Attorney Coward further stated, that if the Board

decided to repeal the Town's Ordinance, it would then be necessary to contact Macon County Animal Control for assistance and as an example Town Attorney Coward citing dogs in the ball field, the County may do nothing as that is not in their County's Ordinance.

Town Attorney Coward stated that he wanted the Town Board to review/compare its Ordinance and the County's Ordinance and to make recommendations. It was discussed the possible change to the County's Ordinance to include the Town of Highlands' Ordinance. Also discussed were fines for violations of the Ordinance.

Mayor Wilkes advised that this matter would be taken under advisement and would come back before the Town Board at a later date.

9. Macon County Recreation Agreement

The Macon County Board of Commissioners has approved a budget to pay \$495,000 for recreation services for the period July 1, 2010 through June 30, 2011. To assist Macon County and the Town of Highlands, a Special Revenue Fund for Recreation and parks was established last year.

It is recommended that the Town Board approve the agreement with Macon County for Recreation Services for Fiscal Year 2011 for \$495,000. Town Manager Fatland advised that this was an annual agreement and recommended approval.

Commissioner Dennis DeWolf moved to approve the agreement with Macon County for Recreation Services for Fiscal Year 2011 for \$495,000, was seconded by Commissioner John Dotson and was unanimously approved.

10. Revision to Town Ordinances for Consistency with Town Charter Amendment for Council-Manager Form of Government

Mayor Wilkes discussed the council-manager form of government and also discussed with the Town Manager's responsibility of hiring and firing of all Town personnel with the exception of the Town Attorney, Chief of Police and Zoning Administrator, as they serve at the pleasure of the Board. Mayor Wilkes inquired if it was intentionally left in the Ordinance or never addressed. The Town Board members gave their recollection of events but all agreed that no votes were ever taken.

Commissioner Larry Rogers stated in his recollection that the Police Chief reported to the Mayor. Vice Mayor Patterson stated that the Zoning Administrator makes laws that affect the citizens. Vice Mayor Patterson also stated that the Board should not give all the power to one person (meaning the Town Manager). Commissioner DeWolf stated that if the Town Manager is in control of all employees, how "do we know if he is doing a good job".

Former Mayor Buck Trott stated that the Board needed to be sure to cover areas where mistakes are made and to make sure that the police follow the law. As to zoning, Mr. Trott also stated that it takes a person with experience to handle that position and it is no place for mistakes. Mr. Trott further stated that if the Zoning Administrator and the Police Chief are not going to report to the Board, then mistakes can be made.

Mayor Wilkes stated it is very hard to supervise without authority and inquired if the Town was in fact in compliance and was advised by the Town Attorney that what the Town was doing was legal. Mayor Wilkes suggested that for now to leave the Ordinance as is.

Commissioner Drake asked if there was the need for stronger language that the Town Manager is the supervisor of the Police Chief and the Zoning Administrator but they serve at the pleasure of the Town Board. Commissioner DeWolf advised that this matter needs to be addressed and further stated that the Town Manager needs to be in charge.

Commissioner Gary Drake moved the Town Board into closed session, was seconded by Commissioner John Dotson and the vote was unanimous.

11. Closed Session: Personnel (Continued to November 8, 2010).

The Town Board discussed a personnel matter. No action was taken.

Vice Mayor Amy Patterson moved the Town Board back into open session, was seconded by Commissioner Gary Drake and was unanimous.

Open Session

Commissioner Larry Rogers made a motion and moved to hire Mark Maxwell, as a temporary employee for the Town of Highlands with an salary of \$31.50 per hour (\$65,000.00 yearly), exempt from any overtime, a housing allowance not to exceed \$750.00 per month and Mark Maxwell will be paying \$535.00 towards medical insurance, was seconded by Commissioner Gary Drake and the vote was unanimous.

12. Adjourn

As to the November 3, 2010 meeting, Vice Mayor Amy Patterson moved to adjourn, was seconded by Commissioner John Dotson and the Town Board adjourned at 8:45 p.m.

As to the November 8, 2010 continued meeting, Commissioner Gary Drake moved to adjourn, was seconded by Vice Mayor Amy Patterson and the Town Board adjourned at 8:05 p.m.

James R. Fatland
Town Manager

Jane J. Capman
Recording Secretary

David Wilkes
Mayor