

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF NOVEMBER 17, 2010

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

Also Present: Town Manager Jim Fatland, Police Chief Bill Harrell, Recreation Director Selwyn Chalker, town Engineer Lamar Nix, 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

Kate Messer addressed the Town Board in opposition to hound/bear hunting stating that it is an inhumane and barbaric practice and that it should be banned in the State of North Carolina. Ms. Messer discussed a recent incident and stated that she would like to see the Town of Highlands become a bear sanctuary. Mayor Wilkes encouraged her to contact Town Hall.

3. Approve agenda

Commissioner John Dotson moved to approve the Agenda, was seconded by Commissioner Dennis DeWolf and was unanimously approved.

4. Approve Minutes of October 20, 2010

Commissioner Gary Drake moved to approve the Minutes of October 20, 2010, was seconded by Vice Mayor Amy Patterson and was unanimously approved.

5. Reports

A. Mayor

Mayor Wilkes advised that the Town Board met earlier in the day for a work session regarding the Grinder Pump Policy.

B. Commissioners

Vice Mayor Amy Patterson advised that the Sustainability Committee meeting day has changed to meet on the first Wednesday of the month at 12:30 p.m.

C. Committees

The Business Committee advised that they are reviewing the Parking Study and previous discussions.

D. Town Manager

Town Manager Jim Fatland advised that the Parking Study recommendations will be placed on the December 1, 2010 agenda for Town Board review and consideration.

Regarding the Main Street Program, Mr. Fatland advised that Code Enforcement Officer Josh Ward is presently working on a potential grant application for Town Square.

Mr. Fatland advised that the Interim Town Planner Mark Maxwell will start on Monday, November 22, 2010.

Regarding public hearings, Mr. Fatland advised that all information will be posted on the Town's website so that the citizens will know in advance the hearing's subject.

Lastly, Mr. Fatland advised that to date the Town has received six applications for the Town Planner position.

6. Consent Agenda

- A. Public Services Department
- B. Police department
- C. Parks & Recreation Department
- D. Planning & Zoning Department
- E. Treasure's Report for Month ended October 31. 2010
- F. Monthly Calendar
- G. Grant Status Report
- H. Holiday Schedule for 2011

Commissioner Dennis DeWolf moved to approve the Consent Agenda, was seconded by Commissioner Gary Drake and was unanimously approved.

7. Conditional Zoning District for Riverwalk

- A. **Public Hearing**
- B. **Consider Approval of Conditional Zoning District for Riverwalk**

Macon Bank applied for a Conditional Zoning for the Riverwalk Development. Currently the

development is comprised of 70 residential lots, 6 of which contain existing homes. Macon Bank, owner of the Riverwalk Development, would like to combine several of the existing lots together to reduce the density from 70 lots to a total of 58 lots. The applicant is also requesting the front setbacks from the road right-of-ways to be reduced from 25 feet to 15 feet to allow for garages/carports to be added where needed. The applicant is also requesting two 12 foot shared driveways, one of which would service 2 lots that border the Cullasaja River (bordering the Buckalew property) and one to access three lots (Lots #s 29, 30 and 31) adjacent to the Scudder property. Currently the code requires there be individual driveways to each lot.

Tony Potts, Vice President of Macon Bank, previously presented a Conditional Zoning Request for Riverwalk dated August 6, 2010, which stated the following:

- The project was approved as a 70 lot subdivision by the Town Board on November 5, 2005;
- The original project consisted of 59 Cottage Lots and 11 River Lots. The Cottage Lots were to contain homes prebuilt by the Developer and the River Lots were to be sold to individuals to construct their own homes;
- Macon Bank foreclosed on the property on May 15, 2009;
- Macon Bank is requesting to re-plat the subdivision to allow adequate sized Cottage Lots for carports/garages;
- The re-platted subdivision will reduce the number of lots from 70 to 58. The breakdown will be 11 River Lots and 47 Cottage Lots;
- The Bank is requesting two shared drives: one for Cottage Lots 29, 30 and 31; and another for River Lots J and K. The shared drive for River Lots J & K would be within the existing 40 foot right-of way. The shared drive would reduce the environmental impact of building the road.
- The Bank is also requesting a 15 foot setback from the right-of-way. This would allow the homes to be moved closer to the road and reduce the construction impact on the lots.
- The existing roads would not be disturbed; the lot lines would just be adjusted.

The Town Board was previously advised that the current zoning is shown as R-2 and that what is being requested by Macon Bank is R-2 Conditional. The Zoning Department further advised the Town Board that it recommends this matter be forwarded to the Planning Board for their review and consideration. Discussion was held as to the setbacks, buffers, shared driveways, turning ratios for garbage trucks and emergency vehicles and why this matter was brought before the Board of Commissioners and not directly to the Planning Board.

At the August 18, 2010 Town Board meeting, this matter was directed to the Planning Board. On October 11, 2010, this matter was discussed by the Planning Board and the Board recommended approval of the application for conditional use zoning contingent upon no change

being made to the site plan showing the following:

- Reducing the density by reducing the number of lots on the site plan from 70 to 58;
- Requesting a 12-foot shared driveway to 3 lots (Lot no. 29, 30 and 31);
- Requesting a 12-foot shard driveway to access 2 river lots; and
- Requesting a change to a 15 foot setback from the right of way in order that the homes could be moved closer to the road to reduce the construction impact on the lots.

A copy of the minutes of the Planning Board were provided to the Town Board for their review and consideration.

Code Enforcement Officer Josh Ward addressed the Town Board and then introduced Tony Potts, Vice President of Macon Bank, who addressed the Board.

Public Hearing

Mayor Wilkes opened the public hearing.

Mr. Potts addressed the Town Board and presented two plats for review. One plat showed the original subdivision and the other showing the number of lots reduced to 58, which allows for full size lots. Mr. Potts advised that there was no need to change the original roads within the subdivision and discussed the proposed shared driveways. Mr. Potts also discussed buffers and the request to change to a 15 foot setback from the right of way in order that the homes could be moved closer to the road to reduce the construction impact on the lots due to the topography of the land.

Mr. Potts also discussed the size of the new lots, which can be sold individually, the restrictive covenants presently in effect and also discussed the reduction in density, with the reduction of the number of lots.

Judy Michaud and Patrick Herz raised their concerns regarding the size of homes that could be built should an owner wish to purchase more than one adjacent lot. Mr. Potts advised that within the restrictive covenants it states that the maximum building footprint is 2,400 sq. ft and 2,600 sq. ft. for river lots. Ms. Michaud stated that this is a viable subdivision and the Town Board needs to approve the request.

As there were no further comments, Mayor Wilkes closed the public hearing, was seconded by Vice Mayor Amy Patterson and was unanimous.

Commissioner John Dotson moved to approve the Conditional Zoning District for Riverwalk, with the contingency that Town Administration secure the knowledge that the Homeowners

Association Restrictive Covenants were part of the original permitting process and may not be changed without approval by the Town Board, was seconded by Commissioner Gary Drake and was unanimously approved.

8. Consider Approval for Renovation of Former ABC Store for Police Department.

Town manager Fatland reported that the architect and the contractor were able to reduce the bid price of \$719,900 to \$660,000. Mr. Fatland said the reduction needed to go farther and suggested the police department be on the main floor including the proposed locker room. He said that this item should be continued to the December 1, 2010 meeting to review the revised contract price. The Town manger distributed the revised floor plan for review by the Board.

Mr. Fatland advised that the LGC application process would not be slowed because of costs being reduced.

Commissioner Gary Drake comments that the initial floor plan had too much wasted space.

Jeff Weller discussed the proposed changes made including making the downstairs area being used for storage and discussed the needs of new mechanicals, leaking doors and the restroom. Mr. Weller stated that no interior walls downstairs will be removed and that the department would use the space already there.

Lengthy discussion was held as to the present economy, the sizes of the proposed rooms, the use of the proposed rooms. Commissioner DeWolf addressed Police Chief Harrell and inquired as to the updated floor plan and his thoughts. Chief Harrell agreed that there was no need to spend any more money than necessary, and he advised that the kitchen space was good to have so that the officers could have a place to sit and eat, the conference room could be used by civic groups when not needed by the police department. Chief Harrell also discussed the NC General Statutes, interrogation rooms and how they are required to be handled.

Commissioner Dotson inquired of Jeff Weller if the \$660,000 included outfitting and was advised that it did include the electronics and the camera system but no furniture. Vice Mayor Patterson stated that she liked the new plan, which was not excessive and was well thought out. Chief Harrell asked Mr. Weller if he thought the cost could be brought in under \$600,000 and was advised he felt it could be.

Mayor Wilkes advised that he was looking forward to seeing what the final costs will come down to and continued this matter to the December 1, 2010 meeting of the Board of Commissioners.

9. Amend Employee Personnel Manual for Grievance Procedure

The Town Board was provided with a revision of Article IX of the personnel manual for their

review. Vice Mayor Amy Patterson discussed Step 3 and the ad hoc committee not being formed until the grievance was filed. After further review, Town Manager Fatland advised that it would be revised with better wording. In the same step, Commissioner Dotson stated that the employee picked should be outside of the same department. Commissioner Dotson further stated that all personnel matters to come before the Town Board should be in closed session. Vice Mayor Patterson discussed Section Five (Procedure for Comments) and that comments should be presented to the entire Board.

The following revised Grievance Procedure incorporates comments made by the Board:

ARTICLE IX. GRIEVANCES, COMPLAINTS & COMMENTS FROM EMPLOYEES

Section 1. Policy and Purpose

It is the policy of the Town to provide a means whereby employees may freely discuss problems with supervisors and to provide a procedure for the presentation and mutual adjustment of points of disagreement that arise between employees and their supervisors. The purposes of this policy are:

- (a) to provide employees a procedure by which their complaints can be considered rapidly, fairly, and without reprisal or fear of reprisal;
- (b) to encourage employees to express themselves about the conditions of employment which affect them as employees;
- (c) to promote better understanding of policies, practices and procedures that affect employees;
- (d) to develop in supervisors a greater sense of responsibility in their dealings with employees; and
- (e) to encourage, empower and enable Town employees to participate in decisions affecting their employment and the Town in general

Section 2. Definitions

- (a) Grievance. The following is an illustrative list of subjects that may be considered as grievances:
 - a. the interpretation or application of this personnel policy, or any other policy, practice or procedure of the Town as it affects an individual employee;
 - b. conditions, practices or procedures that affect the safety or health of an employee or create an unsafe work environment;
 - c. unfair or discriminatory supervisory practices against an employee;
 - d. misapplication of department work rules against an employee; and
 - e. unfair conditions of work imposed on an employee.

- (b) Complaints. The following is an illustrative list of subjects that may be considered as complaints:
- a. A change in the conditions or requirements of the work assigned to the employee made after the employee started working in the present job;
 - b. the employee benefit package;
 - c. The employee's job classification and pay;
 - d. The types of training involved in the employee's job;
 - e. The scheduling and distribution of personnel;
 - f. The methods, means, and personnel required to carry out operations;
 - g. hiring, promotion, transfer, non-disciplinary demotion and assignment decisions made for the purpose of maintaining the efficiency of governmental operations;
- (c) Comments. A comment is a suggestion that identifies a problem or area of concern involving employment with the Town and provides an idea for a positive solution for the problem.

Section 3. Procedure for Grievances

When an employee has a grievance with the Town, the successive steps described below are to be taken toward resolution of the matter. Employees are highly encouraged to follow the procedure below as opposed to channeling grievances through the Town Board or Mayor.

The number of days indicated at each step of the grievance procedure should be considered as the maximum number of working days allowed for presentation of and response to the grievance at that level. However, when mutually agreed upon, time limits given below may be extended by those concerned.

Employees (Applicants) who use this procedure shall be free from discrimination, coercion, restraint or reprisal.

Step One: SUPERVISOR. The employee with a grievance shall present the matter orally or in writing to the employee's supervisor within 10 working days of its occurrence or the employee's learning of the occurrence. If the matter is not resolved by the supervisor, the employee may proceed with the next step. If the exact date cannot be established for the occurrence of a grievance, the 10 working day limit may be waived, but the employee should file the grievance within a reasonable time. The grievance shall specify the relief that the employee expects to gain through the use of this procedure. If the employee is not satisfied with the resolution of the supervisor, the employee may proceed to the next step.

Step Two. DEPARTMENT HEAD. Within 10 working days from presentation of the grievance to the supervisor and the failure of the supervisor to resolve the situation to the liking of the employee, the

matter may be presented orally or in writing to the department head. The department head should be and is encouraged to consult with any employee or officer deemed necessary to reach a correct, impartial, and equitable determination and shall give the employee an answer as soon as possible, but in any event within 5 working days. If the matter cannot be resolved to the employee's satisfaction by the department head, the employee may proceed to the next step.

Step Three. EMPLOYEE GRIEVANCE COMMITTEE. If the decision is not resolved in the previous steps, or if the employee fails to receive an answer within the designated time periods, the employee may, within 10 working days from the decision of the department head, file the grievance in writing with the Town Manager. The grievance shall specify the relief expected by the employee. The Employee Grievance Committee (EGC) will be appointed as needed on an ad hoc basis, as follows:

- One member will be an employee of the Town who is selected by the employee bringing the grievance, and who does not work in the same department as the employee bringing the grievance;
- One member will be an employee selected by the Department Head, and who does not work in the Department Head's department;
- One member will be an employee selected by the other two members.

All members of the EGC will be neutral, with no previous involvement or knowledge about the grievance. The purpose of the EGC will be to investigate the matter and make a recommendation of a resolution of the matter to the Town Manager. The EGC may conduct a hearing on the matter. The EGC's recommendation shall be in writing and shall be delivered to the Town Manager and the employee within 15 working days from its receipt of the appeal. If the Town Manager does not agree with the recommendation of the EGC, the Town Manager may, within 10 working days of receipt of the recommendation, notify the employee that the matter is proceeding to the next step. If the employee does not agree with the recommendation of the EGC, the employee may, within 10 working days of receipt of the recommendation, notify the Town manager that the matter is proceeding to the next step.

Step Four. TOWN MANAGER. The Town Manager shall hold a hearing on the matter, which may be in addition to the hearing conducted by the EGC. The Town Manager and the employee shall be allowed to consult with whatever sources are deemed appropriate and present testimony and evidence at the hearing. The Town Manager shall render a written decision within 15 working days after the hearing, and shall mail a copy of the decision to the employee by certified mail and place a copy in the employee's personnel file.

Step Five. BOARD OF COMMISSIONERS. If the matter is not resolved by the previous steps, the employee may, within 15 working days from the decision of the Town Manager, present the matter at a meeting of the Board of Commissioners, which shall consider the matter in closed session.

Section 4. Procedure for Complaints

Employees shall communicate complaints to their immediate superior in the organizational structure of the Town. This communication may be orally, or in writing, and may be anonymous. Resolution of complaints shall be in the discretion of the appropriate department head, subject to supervision by the Town Manager. Department heads shall regularly notify the Town Manager of the type, frequency, and disposition of all complaints. In the event the complaint is not resolved by the department head, the employee may voice the complaint, in writing, to the Town Manager. The Town Manager's decision shall

be final as to complaints.

Section 5. Procedure for Comments

Employees are encourage to offer comments and positive suggestions concerning any subject involving the Town. These comments may be oral, or in writing, and may be anonymous. Comments may be made to the department heads, the Town Manager, or directly to the Town Board, but action upon such comments shall be at the sole discretion of the recipient of the comment.

Section 6. Discrimination Appeal Procedure

Any applicant for Town employment, Town employee, or former Town employee who has reason to believe that employment, promotion, training, or transfer was denied him or her, or that demotion, layoff, or termination of employment was forced upon him or her because of age, sex, race, color, national origin, religion, or disability, except where specific requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the Town Manager using the grievance procedure outlined in Section 3 of this article if so desired. An employee or applicant must appeal an alleged act of discrimination within thirty (30) days of the alleged discriminatory action.

Section 7. Back Pay Awards

Back pay and benefits may be awarded with approval from Town Manager to reinstated employees in suspension, demotion, improper dismissal, and discrimination cases.

Commissioner John Dotson moved the approve the amendments to the Employee Personnel Manual for Grievance Procedure, with the changes suggested, was seconded by Commissioner Gary Drake and the vote was unanimous.

10. **Employee Christmas Bonus**

At the November Town Board meetings each year, the Commissioners consider Christmas Bonuses for its employees. As in past years, the bonuses are distributed as follows:

Less than one year of service	\$200.00
Between one year and ten years of service	\$250.00
Between ten year and twenty years of service	\$300.00
More than twenty years of service	\$350.00

Part-time employees

Hams

It is recommended that the Town Board approve the Christmas Bonuses for the Town Employees.

As to the fiscal impact, the funds have been budgeted in the respective funds for employee Christmas bonuses. Mr. Fatland advised that the total cost for the bonuses will be \$15,900.00 and the Town will buy the hams locally.

Commissioner Gary Drake moved to approve the Employee Christmas Bonuses, was seconded by Vice Mayor Amy Patterson and was unanimously approved.

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

11. Closed Session: Potential Litigation

The Town Board discussed a potential litigation matter. No action was taken.

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

12. Adjourn

As there were no further matters to come before the Board of Commissioners, Vice Mayor Amy Patterson moved to adjourn, was seconded by Commissioner John Dotson and the Town Board adjourned at 8: 45 p.m.

James R. Fatland
Town Manager

Jane J. Capman
Recording Secretary

David Wilkes
Mayor