

MEETING OF THE TOWN BOARD OF COMMISSIONERS  
OF NOVEMBER 18, 2009

Town Board Present: Mayor Don Mullen, Vice Mayor Amy Patterson, Commissioner Dennis DeWolf, Commissioner Hank Ross, Commissioner Larry Rogers and Commissioner John Dotson.

Staff Present: Town Manager Jim Fatland, Town Engineer/Public Services Administrator Lamar Nix, Zoning Administrator Joe Cooley, Police Chief Bill Harrell and Town Attorney William Coward.

1. Call to Order.

Mayor Don Mullen called the Town Board of Commissioners meeting to order at 7:00 pm.

2. Public Comments.

Hillrie Quin spoke and wished to thank both Mayor Don Mullen and Commissioner Hank Ross for their service to the Town, the work on the Greenway Project and all of their hard work throughout their years of service.

3. Approve Agenda.

Vice Mayor Amy Patterson moved to approve the Agenda, was seconded by Commissioner Hank Ross and was unanimously approved by the Town Board.

4. Approve Minutes of September 23, 2009 and October 21, 2009.

Commissioner Dennis DeWolf moved to approve the September 23, 2009 Minutes, was seconded by Commissioner Hank Ross and was unanimously approved by the Town Board.

The following corrections are made to the October 21, 2009 Minutes:

Section 3, paragraph e: Approval of September 16, 2009 Minutes is amended to read as follows:

Vice Mayor Amy Patterson moved to appoint David Wilkes to the Highlands ABC Board, was seconded by Commissioner Hank Ross and was unanimously approved by the Town Board.

Mayor Report: 1<sup>st</sup> paragraph is amended to include the County Board of Commissioners.

Page 5, the name of "Bruner" is corrected due to a misspelling.

Page 7, paragraph 1, sentence 3 is corrected to read: “There is no cost to participate with...”

5. Reports.

A. Mayor

Mayor Mullen had no report however he did address the public and Town Board members and read the following statement:

*“Once again let me thank the people of Highlands for giving me the honor of serving as your Mayor over the past four years, It has been a position which I have not taken lightly, and I have worked hard with the Board and administration to help accomplish what I believe is right for our community and, quite frankly, I think that has been a lot. I am very proud of what has happened in Highlands in the past four years and I would do it again. We must continue to move forward as we all work to improve our community together.*

*Secondly, I congratulate David Wilkes as Mayor-elect and have told him that I certainly am willing to help in all I can in this transition period. I also congratulate the electorate in the large turnout for this office year election. You obviously had a lot to say in your voting and I accept that.*

*The mood of our country both locally and nationally is anger and frustration right now. Individual rights trump the rights of the community. You could see it in the elections all over the country on election day. As a moderate I was caught in the middle in a country and a town which is very polarized.*

*We, as a Board of Commissioners, have tried not only to enhance the beauty of Highlands but improve the infrastructure and government efficiency along with keeping folks safe without raising taxes. In order to do that, we went outside the town and raised funds successfully. In making Highlands better in this was we also strengthened the reason people come and enjoy Highlands, thus enhancing the business community. The town is in the best financial condition it has ever been in and plans for the future are positive.*

*Let me add that in those feelings of frustration many have shown in this election, there has been a great deal of negativity and misunderstanding of just what has been accomplished. There are those who can find nothing good and are filled with distrust. There is no place for that in our town or our personal lives. Reconciliation rather than revenge is necessary to heal some wounds. I ask that this negativity be turned into a more positive energy and I also ask that you not try to reverse some of the progress that has been made in our community. We have a lot for which to be thankful in Highlands and in working together with a more positive attitude we can move forward to continue to keep this place the best place in the country to live.*

*Let us all search for the best in everyone and look ahead to a positive future in our town. I look forward to continuing to see you all around town as we move forward together in our quest to improve and grow Highlands while honoring not only our heritage but each other in our quest to*

*improve and grow Highlands while honoring not only our heritage but each other in spite of some of our differences. That, my friends, is what true democracy is all about.”*

## B. Commissioners

Vice Mayor Amy Patterson discussed the Town Board returning to two meetings a month. Commissioner Dennis DeWolf stated that he had no problem with the Town Board meeting once or twice a month, although it would be a positive move to go to two meetings a month. Commissioner John Dotson had thought of this issue also and felt that it would be better for the public and Vice Mayor Amy Patterson concurred that it would make the public more aware.

Mayor Don Mullen stated that the general consensus was to return to two meetings a month. Town Manager Jim Fatland stated that the first meeting of the month could be for the big items, i.e. zoning changes, etc. and the second meeting could be for the smaller items.

Vice Mayor Amy Patterson, in continuing the discussion of two meeting a month, stated that with one meeting if items were to be tabled, it would be another month for it to be heard, and that would be too much time wasted.

Town Manager Jim Fatland thanked the local newspaper for publishing the agenda in time for the meeting.

Vice Mayor Amy Patterson moved to return the Town Board meetings to twice a month, being the first and third Wednesday, was seconded by Commissioner John Dotson, and was unanimously approved by the Town Board.

Commissioner Dennis DeWolf stated that he appreciated Mayor Mullen’s comments. He further stated that he has enjoyed working with Commissioner Hank Ross, that there has been lots of effort and is optimistic about the future but there will be “a hole there”. He expressed his sincere thanks to Mayor Mullen and Commissioner Hank Ross.

## C. Committees

Commissioner Hank Ross stated that a review of the derelict building issue was sent to the Planning Board to come up with an Ordinance, who in turn advised that an Ordinance was not needed. He further stated that he wanted the Land Use Committee to look at an Ordinance. Zoning Administrator Joe Cooley stated that he gave the Planning Board information regarding ordinances from other towns to review and consider. Commissioner Hank Ross stated that it was now up to Commissioner John Dotson to handle. Vice Mayor Amy Patterson stated that in dealing with this issue, the Town of Highlands should be “proactive” rather than “reactive” and if diplomacy did not work, then the Town could fall back upon the Ordinance.

Commissioner John Dotson advised that with an eyesore, it brings down the values of properties around it and with that the Town Board discussed the “Yellow house” (located on Highway 64/Cashiers Road). Vice Mayor Amy Patterson stated that the Town needed to stop thinking about it and to seriously consider it. Commissioner Hank Ross discussed that it would not only be a

safety issue but also aesthetics reasons and the general feel of the Town of Highlands. Zoning Administrator Joe Cooley stated that he would look at the aesthetics aspects and Commission Dennis DeWolf concurred. Commissioner Dennis DeWolf advised that this matter should be addressed and Zoning Administrator Joe Cooley stated that he could take a sample ordinance and fine tune it and take it to the Planning Board for their consideration. Commissioner John Dotson advised that this matter should be directed back to the Planning Board to have them “fine tune” the ordinance and to add condemnation information.

Commission Dennis DeWolf discussed the TVC replacement and advised that the next meeting would take place on December 14, 2009. Commissioner Hank Ross stated that they would have to find someone else as he would not be in attendance as a Commissioner.

D. Town Manager

Town Manager Jim Fatland advised that the Town of Highlands tree lighting would take place on November 28, 2009 and the Christmas Parade would be held on December 5, 2009. He also discussed the closing of Main Street and advised that he was looking forward to holiday events.

Vice Mayor Amy Patterson inquired as to the health insurance and when the wellness meeting would be set and the Town Manager advised that it had not yet been set but would make sure it would be.

6. Consent Agenda

- A. Public Services Department
- B. Police Department
- C. Parks & Recreation Department
- D. Planning & Zoning Department
- E. Treasurer’s Report for Month Ended October 31, 2009
- F. Monthly Calendar
- G. Grant Status Report
- H. Surplus Equipment Resolution
- I. Post Vacancy for Highlands ABC Board
- J. Set Public Hearing for January 20, 2010 for Highlands Methodist Church Rezoning

Prior to the approval of the Consent Agenda, Vice Mayor Amy Patterson inquired to Joe Cooley about the Stormwater Ordinance and getting it on track and was informed that it was with the Planning Board, as they were getting technical information. Vice Mayor Amy Patterson further inquired as to the sign ordinance, reminding the Town Board that there was a deadline and Joe Cooley stated that he would put it on the next agenda.

Vice Mayor Amy Patterson also inquired as to the sales tax revenue and was advised by the Town Manager that it was in fact down for the first three months and if that it stayed the same, it would be approximately \$40,000.00 below last year’s revenue. Mr. Fatland further advised that it is being tracked and is 14% for the entire county. Mayor Mullen inquired if there was a way to find

out what the Town of Highlands was down and was advised that those figures were unavailable.

Vice Mayor Amy Patterson moved to approve the Consent Agenda, was seconded by Commission Dennis DeWolf and was unanimously approved by the Town Board.

## 7. Duke Agreement

Kevin O'Donnell of Nova Energy Consultants, Inc. made a presentation regarding the proposed Wholesale Contract with Duke Energy.

Mr. O'Donnell advised that the wholesale market has been deregulated and further advised that there are no interested suppliers because of the size of the Town of Highlands. Duke Energy presently has the market power in their control area and can only offer cost based rates. Even though Duke is the only game in town, their rates are still very attractive relative to what little activity seen in the wholesale market and compared to the Town's current agreement, the new contract will be expensive.

Mr. O'Donnell discussed the type of contract as native load firm. The contract would be a 20 year term with a 10 year extension with a 2 year notice. Duke Energy has market power in its control area. The formula will have a forecast and then a true-up once Duke's costs and the Town's demand forecasts are known, most likely in June of each year.

It has been recommended that Duke Energy handle the Renewable Energy Portfolio Standard (REPS) as the Town's ability to install renewable generation is limited to the extent that we use the generation to shave Duke's peak. Duke will buy the REPS from the Town. The Town of Highlands must either let Duke buy all of the REPS or the Town of Highlands would have to supply it all. Mr. O'Donnell further advised that the risk in buying all of our own (Town of Highlands) REPS is that the size of the Town and that the NCUC may, in the future, rule that the Town's REPS costs from Duke would be priced incrementally instead of the system average. He recommended that the Town Board look at the economics and sell the REPS to secondary markets. Commissioner Dennis DeWolf inquired as to the prospects of selling the REPS power to third parties as he would expect an increase in the market in the future. Mr. O'Donnell reminded the Town Board that the effective date of the contract is March 1, 2010 and that the contract needed to be back at Duke Energy by January 1, 2010. Discussion was had as to Costs Forecasts and Transmission Costs.

Mr. O'Donnell advised that Nova Energy Consultants, Inc. have already prepared the Network Integrated Service Agreement and further advised that the Duke Energy is already examining the Town's expected delivery point cost information and would have a monthly cost forecast shortly. Nova will be preparing a demand forecast for the year 2010 and will work with the Town of Highlands to prepare that forecast. There will be a lot of work to be done in the year of 2010 concerning the Town's wholesale billing and demand forecasts, although the Town has already created the stabilization fund.

There was much discussion as to entering into a twenty year contract or a twelve year contract and examples were given as to the two options. Mr. O'Donnell encouraged that the Town Board to

enter into a twenty year contract as that would be the least worrisome. Duke Energy is the lost cost supplier.

Mayor Mullen asked if there were any further questions and Town Manager advised that the Town Board needed to make a decision between a twenty year contract or a twelve year contract and questioned if a vote was needed to be made immediately. Commissioner Dennis DeWolf stated that he was in favor of the twenty year contract and Commissioner Larry Rogers stated that the twenty year contract sounded “more positive“.

Commissioner Dennis DeWolf moved to enter into a twenty year Wholesale Contract with Duke Energy, was seconded by Commissioner Larry Rogers and was unanimously approved by the Town Board.

8. Rezoning Application: Chris Gilbert & James Tate at 2271 Dillard Road

Zoning Administrator Joe Cooley addressed the Town Board and stated that this present matter could be discussed by the Town Board or it could recommend that it send the matter to the Planning Board. Mr. Cooley further stated that when the land swap took place between the parties the property was not rezoned and that it was merely an oversight.

Commissioner Dennis DeWolf moved to send the matter of the Rezoning Application of Chris Gilbert & James Tate at 2271 Dillard Road to the Planning Board, was seconded by Commissioner Hank Ross and was unanimously approved by the Town Board.

9. FEMA Grant Resolution

Town Manager Jim Fatland advised that the grant has been submitted but that a Resolution was needed to designate the Primary and Secondary Agents. It has been decided that the Primary Agent would be Town Manager Jim Fatland and the Secondary Agent would be Lamar Nix and would be authorized to execute and file applications for federal and/or state assistance on behalf of the Town of Highlands.

Vice Mayor Amy Patterson moved to approve the Resolution by appointing Jim Fatland and Lamar Nix as the Primary Agent and Secondary Agent, respectfully, was seconded by Commissioner Hank Ross and was unanimously approved by the Town Board.

10. Agreement to use GOV Deals for online sales of surplus equipment

Town Manager Jim Fatland addressed the Town Board and stated that GOV Deals was similar to E-Bay and that it was a good program. It would open the market “tremendously” and advised that the GOV Deals would get all of the Town’s surplus. Mr. Fatland further advised that when the Town would advertise the surplus items, it would include the website information. Discussion was had amongst the Board members about giving the “locals” the opportunity to purchase the surplus items outright without having to pay a 7.5% commission.

It was ultimately decided that the process would be that the Town Board would move to make an

item surplus and then decide if it should be held for the locals or to be placed on GOV Deals.

Commissioner John Dotson made a Motion to sign up for GOV Deals, was seconded by Vice Mayor Amy Patterson and was unanimously approved by the Town Board.

#### 11. Consider Appointments to Sustainability Committee

The Town Board at their regularly scheduled meeting on October 21, 2009 approved the formation of the Sustainability Advisory Committee. Subsequently, the Town has advertised for interested individuals to serve on this committee. The Town has received three completed applications to date.

The Sustainability Advisory Committee would provide feedback and advice to the Town Board on policies, ordinances and administrative procedures regarding environmental protection and the conservation of energy and natural resources.

The general scope of work is to identify and assess policy alternatives for the Town Board to consider as part of the Town's strategic plan to expand leadership and implement cutting edge applications and standards for environmental stewardship and leadership.

It is recommended that the Town Board consider appointing Allen "Buck" Trott, Robert Smith, Lance Hollars and Commissioner Amy Patterson to the Sustainability Committee. Mayor Don Mullen recommended that Amy Patterson head up the Committee.

Commissioner Hank Ross moved to appoint Allen "Buck" Trott, Robert Smith, Lance Hollars and Commissioner Amy Patterson to the Sustainability Committee, was seconded by Commissioner Larry Rogers and was unanimously approved by the Town Board.

#### 12. 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
Between one year and then years of service	\$250
Between ten years and twenty years of service	\$300
More than twenty years of service	\$350
Part-time employees	Hams

It is recommended that the Town Board approve the Christmas Bonuses for Town Employees. Funds have been budgeted in the respective funds for employee Christmas Bonuses. Town Manager Jim Fatland advised that the bonuses would be the same as the previous year.

Vice Mayor Amy Patterson moved to approve the Employee Christmas Bonus, was seconded by Commissioner Dennis DeWolf and was unanimously approved by the Town Board.

13. Scholarship Fundraising Committee

Town Manager Jim Fatland advised that Wildcat Country Club has come to the Town wanting to host the golf tournament in June, 2010. Mr. Fatland further advised that a committee was needed to be appointed and approached Commission John Dotson to be on the committee again, who declined. Commissioner Dennis DeWolf stated that he would be willing to be on the committee. Other people have also expressed their willingness to be on the committee. Mayor Mullen advised that he would advertise for people to join the Scholarship Fundraising Committee and Town Manager Jim Fatland advised that he would place an ad.

There was no vote taken as this matter was merely for discussion.

14. Set Wednesday December 2, 2009 as next regularly scheduled meeting of Town Board (Swearing in Ceremony for newly elected officials)

It was agreed to set Wednesday, December 2, 2009 as the next regularly schedule meeting of the Town Board and for the Swearing in Ceremony for the newly elected officials.

Commissioner Dennis DeWolf moved to Town Board of Highlands to a Closed Session, was seconded by Vice Mayor Amy Patterson, the Town Board moved to the Closed Session.

15. Closed Session to discuss easements for Lake Sequoyah and Azalea Circle;  
Bowery Road

Vice Mayor Amy Patterson moved the Town Board back into open session, was seconded by Commissioner Larry Rogers.

16. Adjourn

Vice Mayor Amy Patterson moved to adjourn, was seconded by Commissioner Larry Rogers and the Town Board adjourned at 9:05 p.m.

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James R. Fatland  
Town Manager

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Jane J. Capman  
Recording Secretary

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Don Mullen, Mayor