

REGULAR BOARD MEETING of September 5, 2001, with Mayor Buck Trott and Commissioners Zeke Sossomon, Amy Patterson, H. N. James, Ron Sanders, and Mike Cavender present.

Also present were Richard Betz, Lamar Nix, Bill Coward, Christopher Shook, Selwyn Chalker, Jerry Cook, Kim Lewicki, Mildred Johnson, David Johnston, Alan Marsh, Bill Rethorst, Kent Nelson, Alice Nelson, John Young, and others.

I. Call to Order.

The Mayor 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 to New Business, review of an application for position of Police Officer in Closed Session. Comm. James asked if the proposed Closed Session to consult with the Town Attorney concerning pending litigation regarding the Town v. Edwards et. al. needed to be on the agenda; Town Attorney Bill Coward said that there was nothing to discuss in closed session, and the Board agreed by consensus to delete the item.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS AMENDED.

III. Approval of Minutes.

Copies of the minutes of the August 15 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor again thanked the Recreation Department and everyone else involved for the Relay for Life, which had raised over \$100,000 for cancer research; he understood Highlands was receiving national recognition for the success of the event.

He also noted that Maple Street was now open, that an official ribbon-cutting had taken place on August 22, and that the D.O.T. had already conducted a traffic count; he thanked the press for coverage of the event.

2. Town Attorney Bill Coward reported that the North Carolina Supreme Court had declined to review the decision of the Court of Appeals in the Edwards case. He also reported that notices of condemnation and notices of entry had been delivered to property owners along Bowery Road, the first step in condemnation if the required \$400,000 had been raised by property owners. The Town Administrator reported that \$347,268 had been contributed to date.

Comm. Cavender asked if the Board would have the option of backing out at any time, and whether a formal vote would be required by the Board before proceeding with the condemnations. Mr. Coward said that the Board could back out at any time, but that the resolution provided for filing the declarations of taking without further Board approval, assuming the funds had been raised by September 30.

Kim Lewicki of The Highlander asked if the Edwards case was finished.

The Mayor said that the case would automatically be remanded for trial; he thought the earliest it could be placed on the Court docket would be next year, and Mr. Coward confirmed that. Comm. Cavender then asked what precedent would be set for other unopened streets in Town if the Town went to trial and lost. Mr. Coward said that that would depend on the street. Comm. Sossomon said that he understood the decision technically would bind only those parties

in the case, but he pointed out that an indirect precedent could be set which could theoretically mean that the Town could lose the ability to open part of Main Street. The Mayor said he felt the matter should be taken under advisement, and the Board agreed by consent.

3. Each Board member had received the Public Services Administrator's written report for the month. Lamar Nix was present and reported that both the West Shore Lake Sequoyah and the Maple Street projects were complete, except for installation of a handrail on the latter. He also reported that the raw water pumps near the bridge in Big Creek had been replaced by divers without having to draw down the lake. Mayor Trott added that the new pumps were much quieter and should eliminate complaints about noise that the Town had received in the past. Mr. Nix also said that 50 tons of sludge had been removed from the digesters at the Wastewater Treatment Plant by lease of a portable belt press. He said that DENR had suggested using such a belt press in the future due to the climate in Highlands, and he would be looking into the possibility of acquiring a used one which the Town of Clyde might be interested in selling.

4. Each Board member had received a copy of the Police Chief's written report for the month. Jerry Cook was present and also reported that Officer C. D. Jenkins had resigned as a full-time officer due to health problems, although he would remain on call as an auxiliary officer, and that Officer Anthony Corbin had also resigned. The positions were being advertized.

5. Each Board member had received a copy of the Recreation Director's report for the month. Selwyn Chalker was present and reviewed the report with the Board. He said that the Recreation Committee had met and reviewed the options of either upgrading or replacing the playground equipment, and had decided to recommend the latter. The new equipment and new wood-chip surface could be installed at a cost of \$18,000, and would meet all safety standards; only \$10,000 had been budgeted for this item, but contingency funds were available in the Department, and the Rotary Club, Women's Club, and Mountain Findings had all offered to contribute.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO REPLACE THE PLAYGROUND EQUIPMENT AND GROUND COVER AS RECOMMENDED.

Mr. Chalker also reported that the cleaning contract was going well; renewal of the contract would be placed on the agenda of the October 3 meeting.

6. Each Board member had received a copy of the Zoning Administrator's report for the month. Christopher Shook was present and offered to answer any questions in the report. He also thanked the Board for the opportunity, and hoped Board members would feel free to visit him.

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

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

8. The Town Administrator reported that the Town office had received many complaints about the condition of Wyanoak Drive following recent installation of a water line. The Town Engineer had recommended paving the damaged section of road, and had estimated the cost of paving and levelling to be about \$10,000. Comm. James said that he felt the road should be paved, not patched, and that funds should come out of the Water Department. It was agreed that Rhodes Brothers Paving, the low bidder on Town paving earlier in the year, could be asked to do the work.

MOVED BY COMM. SANDERS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO PAVE THE SECTION OF WYANOAK ROAD THAT HAD BEEN DAMAGED, EXTENDING THE CURRENT CONTRACT WITH RHODES BROTHERS PAVING.

The Town Administrator also reported that Anne Deville had requested a leave of absence from the Zoning Board until January of 2002 due to personal reasons. The Board asked the Town Administrator to confirm how many meetings she would have to miss, and also to ask if she could attend the September 11 meeting.

V. Old Business - none.

VI. New Business.

1. The Board reviewed at some length a subdivision plat for Haber Trust for the First Union branch bank portion of the Furniture South property at the corner of US-64 and NC-106. The Town Administrator reported that he understood First Union had an option to purchase the tract sometime during the next 14 years, and the property owners wished to subdivide it now so that it could be sold when they exercised the option; the plat had been reviewed and approval recommended by the Planning Board at the August 27 meeting.

Several Commissioners questioned the "Access Roads" shown on the plat, as well as a note indicating "the Lessor reserves the right to use jointly and in common with the Lessee, and the right to convey the same right to others, the joint use of the access roads." Comm. Sossomon felt that if the access roads were to be used to access future subdivision of the rest of the property, as the plat implied, they should meet subdivision standards and have a forty-foot right-of-way; Comm. James agreed.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO RETURN THE PLAT TO THE PLANNING BOARD FOR FURTHER REVIEW OF THIS ISSUE BEFORE FINAL APPROVAL.

Alan Marsh also reported that there was a trailer containing pine straw parked on the Furniture South property.

2. Copies of a petition for re-zoning from Highlands Cabin Village LP at 685 Chestnut Street had been distributed with the agenda. David Johnston was present and requested that the Board consider re-zoning the property from R-2 Residential to R-3 Residential. He said that R-3 zoning would permit him to replace the non-conforming trailers on the property with luxury condo units, like those being developed on the adjoining property to the east, which was also zoned R-3. The property did not meet the minimum size of two acres for multi-family, and would therefore require a density variance or re-combination with other property before multi-family could be constructed.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO SEND THE PETITION TO THE PLANNING BOARD FOR A RECOMMENDATION.

3. John Young, part-time resident for 47 years, was present and spoke to the Board about damage to the tires of his car due to potholes on US-28 earlier in the summer. He said that the Mayor had told him at the time that the road was a responsibility of the State D. O. T. He had contacted the Attorney General's office and received a reply from Karen S. Hemphill, Tort Claims Department, indicating that there was no negligence and no legal liability because the potholes had not been reported to the State; copies of the letter were distributed. He felt that the potholes should have been reported and repaired, and that State roads like US-64 and US-28 should bear scrutiny by the Town.

Comm. James agreed that when the Town saw potholes, it should report them to the State. The Mayor pointed out that the potholes had been patched by the Town, not the State.

4. The Board discussed at some length a proposed amendment of the job description for the Zoning Administrator. Kim Lewicki asked if the Board felt it no longer needed a Planner. Comm. Sossomon

said that the focus of the amendment was on enforcement. The Town Attorney explained that the proposed amendment would eliminate unguided planning; planning "as directed by the Board" would still be authorized. Comm. Cavender felt that the amendment could give the impression to the public that the Board doesn't want a Planner, and that it was not interested in Planning; he suggested that perhaps a minor modification could be made. Comm. Patterson said she felt the Planner should be free to initiate ideas, but should bring them back to the Board before proceeding. Comm. James felt that the current job description was too broad and needed narrowing. Alan Marsh commented that new Zoning Administrator Christopher Shook should be permitted some input. After considerable discussion, the Board took the matter under advisement.

5. The Town Administrator reported that discussions with SpectraSite regarding a site for a telecommunications antenna had included another lot on Satulah Mountain, above the water tank site, that was larger and had better access; the consultants had recommended amending the Zoning Ordinance to include the site in the Wireless Communications Facilities Table in Section 903.

Comm. James felt that the Town Engineer should review the proposed site to insure that construction of a tower would not interfere with installation of a water reservoir at some future time. It was also agreed that a plat should be provided for review at the next meeting before forwarding the proposal to the Planning Board for a recommendation.

6. MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318(A)(6) TO REVIEW APPLICATIONS FOR EMPLOYMENT FOR POLICE OFFICER. All present left the room except the Clerk and the Police Chief.

The Board discussed with the Police Chief a pending application for employment for Police Officer from Police Auxiliary Officer Tim Cook.

MOVED BY COMM. CAVENDER, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION. Members of the public were invited back into the meeting room.

7. MOVED BY COMM. CAVENDER, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO EMPLOY TIM COOK AS POLICE OFFICER AT A BEGINNING SALARY OF 11-1 (\$20,994), CONTINGENT ON SUBMITTAL OF AN APPLICATION FOR EMPLOYMENT.

VII. MOVED BY COMM. CAVENDER, SECONDED 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 at 8:40 p.m.

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Richard Betz, Town Clerk