

REGULAR BOARD MEETING of September 19, 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, Kim Lewicki, Mildred Johnson, David Johnston, Jack Calloway, Jim Graham, and Bob & Catherine Fisher.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:00 p.m. He asked the Board to observe a moment of silence for those killed in the recent World Trade Center tragedy. He also reported that Comm. Cavender's father had passed away in Memphis the previous week, and he expressed condolences on behalf of the Board.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk asked that one item be added to New Business: a Closed Session to consult with the Town Attorney concerning pending litigation with the Bowery Road condemnation.

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

III. Approval of Minutes.

Copies of the minutes of the September 5 Regular Board Meeting had been distributed by mail.

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

IV. Reports.

1. The Mayor reported that he had received a letter dated September 14 from Gary M. Millsaps, D. O. T. Division Traffic Signal Engineer, reporting that the traffic volume and crash history did not warrant a traffic light at the intersection of US-64 and Maple Street. The Mayor said he was continuing to pursue the request with the Highway Commissioner and other officials.

2. The Town Administrator reported that the Town had received a Determination from the N. C. Employment Security Commission stating that Maureen Lackey had applied for benefits; claimant had not been disqualified because she had "left this job because the stress was intolerable due to being harassed and intimidated by town officials." He recommended that the Town Attorney file an appeal on behalf of the Town; the Board agreed by consensus.

He also reported that Victor Lofquist had resigned from W. K. Dickson Company, the Town's consulting engineer. He said he and the Town Engineer had met with W. K. Dickson Vice President David Pond the previous week and had been assured that all projects were going to be completed; the Bowery Road Water Project would be advertised for bid on October 24.

He also reported that David Sweatt had filed a Petition for Writ of Certiorari regarding the Zoning Board affirming a decision of the Zoning Administrator concerning the David Johnston/Highlands Cabin Village property on Chestnut Street. Town Attorney Bill Coward added that no immediate action was required.

He also reported that a letter had been received from the Webbmont Home Onwers Association Inc. dated September 12, requesting the Town to evaluate the need for an all-way stop sign and a mirror on Webbmont Road at Laurel Heights Road and Watkins Road before forwarding the

request to the State. The Street Committee agreed to review the request.

He also reported that a petition for satellite annexation had been submitted by Highlands-Cashiers Hospital and Chestnut Hill. The petition had not contained the metes and bounds description required by G. S. §160A-58.1(c), however, a prerequisite for certification by the Clerk and setting of a public hearing. Jim Graham was present and stated that the description would be prepared soon.

V. Old Business.

1. Town Engineer Lamar Nix reported that he had inspected the lot on Satulah Mountain identified as a proposed addition to the Wireless Communications Facilities Table in the Zoning Ordinance, as discussed at the previous meeting. He said he was not certain if the lot would be suitable for a water reservoir or tower; he recommended having a survey prepared or corners located before making a decision. The Board agreed by consensus.

2. The Board again considered a request from Anne Deville for a leave of absence from the Zoning Board. It was reported that Ms. Deville had agreed to serve on the Zoning Board this month, but had been stricken ill at the last moment; she had reported that she would miss only three meetings between now and January.

MOVED BY COMM. SOSSOMON, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO GRANT ANNE DEVILLE A LEAVE OF ABSENCE UNTIL JANUARY OF 2002.

VI. New Business.

1. Town Engineer Lamar Nix reported that he and the Town's Wastewater Treatment Plant operators had inspected a sludge belt press which the Town of Clyde was offering for sale, as reported at the previous meeting. The belt press was in new condition, had been used infrequently, and had been very well maintained; it was designed to handle up to 2 MGD. The piece of equipment also included conveyor systems, motors, controls, and related lab equipment, and the Town Manager of Clyde had offered to provide operator training as well; the price was \$35,000. A masonry building estimated at \$24,000 would also be required, for which he was obtaining informal bids. Purchase of the belt press had been recommended by both Victor Lofquist and the State compliance officer. The Town Administrator added that the cost of additional drying beds, part of the upcoming Wastewater Treatment Plant project, had been estimated in excess of \$400,000 several years ago; funds were available in capital reserves and Sewer Department contingency.

MOVED BY COMM. JAMES, SECONDED BY COMM. SANDERS, AND UNANIMOUSLY CARRIED TO PURCHASE THE BELT PRESS.

It had also been confirmed that the cost of reclosers at the new Duke/Nantahala substation would be \$51,000, as reported in an earlier meeting; however, the engineering had been completed by another consultant. Comm. James felt that the specifications should be approved by Duke as well, and Mr. Nix agreed.

2. The Board considered an Ordinance approving the transfer and assignment of the franchise to operate a cable television system by Northland Cable Properties Six Limited Partnership to Northland Cable Television, Inc.; the Ordinance had been prepared by Northland, and had been reviewed by the Town Attorney.

Comm. James felt this would be a good opportunity to review better service by Northland. It was also noted that a representative from Northland was to have been present at the meeting but was not there.

MOVED BY COMM. JAMES TO APPROVE THE ORDINANCE ON THE FIRST READING, CONTINGENT ON REVIEW BY THE TOWN ATTORNEY AND THE PRESENCE OF A

NORTHLAND REPRESENTATIVE AT THE NEXT MEETING. There was no second to the motion.

By consensus, the Board agreed to place this item on the agenda of the next meeting, and to ask a Northland representative to be present to answer questions.

3. Kim Lewicki was present and reported that she understood attorney Richard Melvin had filed a motion to dismiss in the Town vs. Edwards et. al. case and had placed it on the docket for October 22 in Macon County. Bill Coward said that he had not yet received the motion, and that the Judge's office had told him that it would not be on the docket in October.

4. MOVED BY COMM. SANDERS, SECONDED BY COMM. CAVENDER, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY REGARDING PENDING LITIGATION CONCERNING THE BOWERY ROAD CONDEMNATION. All present left the room except the Clerk, the Town Attorney, and the Town Engineer.

The Town Attorney briefed the Board on the pending litigation concerning right-of-way along the Bowery Road. He recommended amending the September 15, 1999 resolution, which referred to the specific location of the right-of-way of Bowery Road "as presently staked out by the D. O. T.;" many of the stakes were no longer in place and a survey had not been prepared at the time.

Comm. Cavender and Comm. Sossomon also reported that they understood some of the property owners in the area had met and were considering presenting a compromise plan to the Board. The compromise would reportedly consist of a two-lane road with ditches, with a right-of-way less than 45 feet in width, and the question of paving left open. It would be proposed that funds in the Bowery Road Escrow Fund would be used to do the work; the Town would construct and maintain the road, since the State reportedly would not accept a road with a right-of-way less than 45 feet. Comm. Cavender said that listening to a compromise plan would require that the Board delay filing condemnation proceedings on September 30 so that the parties could come to an agreement and present a proposal to the Board. Comm. Sossomon said that he would not object to listening to a proposal if it was in writing.

Comm. James said that the parties had had two years to present such a plan but had never presented anything definite. He felt that if such a plan was presented, Board members should have the opportunity to review it before the next meeting. The Mayor agreed; he pointed out that over 50 property owners had donated funds based on the resolution adopted, and he felt this was just a delaying tactic.

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

MOVED BY COMM. SOSSOMON, TO AMEND THE RESOLUTION OF SEPTEMBER 15, 1999, CONCERNING BOWERY ROAD, AMENDING PARAGRAPH 3 TO READ, "IF THE DEPARTMENT OF TRANSPORTATION, BECAUSE OF THEIR POLICIES, IS UNABLE TO CONDEMN THE NECESSARY RIGHT-OF-WAY, THAT THE TOWN OF HIGHLANDS INITIATE SUCH PROCEEDINGS AS MAY BE NECESSARY TO ACQUIRE RIGHT-OF-WAY ALONG THE BOWERY ROAD, OF THE GENERAL WIDTH OF 45 FEET AND IN THE SPECIFIC LOCATION AS MAY BE DETERMINED TO BE FEASIBLE, GIVING DUE CONSIDERATION TO THE IMPROVEMENTS ON THE PROPERTIES TO BE CONDEMNED, THE LOCATION OF THE EXISTING RIGHT-OF-WAY, AND ANY OTHER FACTORS DEEMED APPROPRIATE BY THE BOARD."

Comm. Cavender asked Comm. Sossomon if he would consider amending his motion to add the phrase, "NO OFFICIAL PROCEEDINGS TO BE FILED BEFORE OCTOBER 4." Comm. Sossomon consented to amend his motion.

Comm. James said that he did not think the Resolution needed amending.

THE MOTION CARRIED, WITH COMMS. SOSSOMON, CAVENDER, PATTERSON, AND SANDERS VOTING "AYE," AND COMM. JAMES VOTING "NAY."

VII. MOVED BY COMM. JAMES, SECONDED BY COMM. SOSSOMON, 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.

Richard Betz, Town Clerk