

REGULAR MEETING OF THE TOWN BOARD OF COMMISSIONERS OF
APRIL 7, 2010

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

Also Present: Town Manager Jim Fatland, Zoning Administrator Joe Cooley, Recreation Director Selwyn Chalker, Town Engineer Lamar Nix and Town Attorney William Coward.

Call to Order.

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

1. Public Comments.

There were no public comments.

2. Approve Agenda.

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

3. Approve Minutes of March 17, 2010

Section 5(D) is amended to insert that the discussion had by Town Manager Jim Fatland and McGill and Association was regarding the proposal of the water intake at the damn.

Vice Mayor Amy Patterson moved to approve the March 17, 2010 Minutes, as amended, was seconded by Commission Gary Drake and was unanimously approved by the Town Board.

4. Reports.

A. Mayor

Mayor Wilkes advised that he has met with the Business Committee to discuss what needed to be accomplished. The Mayor advised that there should be more members at the next meeting and encouraged anyone who wished to join to complete an application.

B. Commissioners

Commissioners deferred comments to their respective Committees.

C. Committees

Commissioner John Dotson stated that the Finance Committee met and that it was a very educational process regarding the fire department and recreation department budgets.

Vice Mayor Amy Patterson proposed a name change for the Sustainability Committee and suggested the name be changed to the Sustainability Project, stating it would be a better title for the group. Vice Mayor Patterson also stated that their group would be at the Earth Day event.

Commissioner Gary Drake met with the Economic Development Committee (EDC) and advised that they would be electing a new board next week.

Commissioner Dennis DeWolf advised that the scholarship applications were out, that the Scholarship Committee was reaching out to the community to play golf and fund raising. Commission DeWolf also advised that research was still being done as to the skating rink and the dog park. Also discussed was the meeting with the Public Works Department and the need to connect Bascom to the rest of the commercial community by the installation of a sidewalk.

Vice Mayor Amy Patterson inquired of Town Engineer Lamar Nix as to the status with the Department of Transportation for the sidewalk and was advised that there was presently a lack of funding.

D. Town Manager

Town Manager Jim Fatland advised that he has received many comments regarding all of the construction taking place in the area, broken sidewalks being fixed and the painting of lines for parking. Mr. Fatland also advised that April 26, 2010 would be the date for personnel to be back in the newly renovated Town Hall. Also mentioned was the Methodist Church installing a dog bag waste dispenser. Bill Nellis requested that one installed at Mirror Lake.

Mayor Wilkes advised that with working together with the local businesses and the town in general and thinking ahead has been good. An example cited was the necessity of tearing up the sidewalk and was advised by Lamar Nix that it should not be done over Easter weekend. Mayor Wilkes stated that taking items like this into account is important and any suggestions received are welcome.

5. Consent Agenda

- A. Set Public Hearing for May 5, 2010 for John Shearl Zoning Request
- B. Award Stone & Sand Bid

Commissioner John Dotson requested that Item B (Award Stone & Sand Bid) be removed from the Consent Agenda for discussion.

Vice Mayor Amy Patterson moved to approve the Consent Agenda, as amended, was seconded by Commissioner Gary Drake and was unanimously approved by the Town Board.

Award Stone & Sand Bid discussion.

Annually the Town requests informal bids from local contractors on providing stone and sand. Bids were received on March 26, 2010, submitted by Bryson Grading & Trucking and McNeely Companies and said bids were presented to the Town Board for review and consideration. The Town spent \$56,715 in calendar year 2009 for stone and sand. The Street Department budget incurs most of this expense.

Commissioner John Dotson advised that he did research and inquired about the proposals received. Commissioner Dotson stated that the higher bid was high in some aspects and lower in other as well as the same for the lower bid and inquired as to why it was so. Commissioner Dennis DeWolf advised that it had to do with accessibility of the product needed. Commissioner Dotson, knowing of both companies that submitted bids, stated that the higher bidder looks at the needs of the location and makes sure that all is on hand. Commissioner Dotson also stated that there are more issues involved than just money.

Commissioner Larry Rogers stated that the lower bidder has their own trucks with many workers out of work due to the economy while the higher bidder is a local business establishment and suggested that the award go to the higher bidder.

As not all figures were available, Commissioner Gary Drake requested them for the next meeting.

Mayor David Wilkes tabled this matter until the April 21, 2010 Town Board meeting in order to obtain all necessary figures.

6. Public Hearing: Non Habitable Structures

The Town Board was presented with the revised wording to Amend the Town of Highlands Zoning Ordinance to include Section 116 entitled Minimum Standard for Habitability. Zoning Administrator Joe Cooley advised the Town Board that the updated version was based upon the Board previous comments.

The proposed Ordinance reads as follows:

Action: Amend the Town of Highlands Zoning Ordinance to Add:

Section 116 Minimum Standards for Habitability

116.1. Findings and intent.

The Town Council finds that uninhabited structures, when allowed to fall into such a state of disrepair as defined within this ordinance, create a hazard to the public health, safety and welfare of the residents of the town, due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. 160A-441, it is the intent of this ordinance to provide for the repair, closing or demolition of any such uninhabited structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

116.2 Enforcement

The code enforcement administrator is hereby designated as the town officer to enforce the provisions of this division.

116.3 . Powers of the code enforcement administrator.

(A) The code enforcement administrator is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this division, including the following powers in addition to others granted:

- (1) Investigate the condition of uninhabited buildings within the town in order to determine which structures are in violation of this division.
- (2) Enter upon premises for the purposes of making inspections.

116.4 . Standards for enforcement.

(A) Any uninhabited structure within the town shall be deemed in violation of this division whenever such structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:

- (1) The attraction of insects or rodents.
- (2) Conditions creating a fire hazard.
- (3) Dangerous conditions constituting a threat to children.
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an uninhabited structure is in violation of this division, the code enforcement administrator may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects.
- (2) The collection of garbage or rubbish in or near the structure which might attract rodents or insects, or become breeding places for rodents and insects.
- (3) Violations of the state building code, the state electrical code or the fire prevention code which constitute a fire hazard in such structure.
- (4) The collection of garbage, rubbish or combustible material which constitute a fire hazard in such structure.
- (5) The use of such structure or nearby grounds or facilities by children as a play area.
- (5) Violations of the state building code which might result in danger to children using the structure or nearby grounds or facilities as a play area.
- (6) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

116.5 Procedure for enforcement.

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the code enforcement officer by at least five legal residents of the town and/or legal residents residing within the Town of Highlands zoning jurisdiction charging that any structure exists in violation of this division or whenever it appears to the code enforcement officer, upon inspection, that any structure exists in violation hereof, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure a complaint stating the charges and containing a notice that a hearing will be held before the code enforcement officer at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the code enforcement officer.

(B) Procedure after hearing. If, after notice and hearing, the code enforcement officer determines that the structure under consideration is an uninhabited structure and in violation of this article in accordance with the standards herein set forth, he or she shall record at the Macon County or Jackson County (as appropriate) Register of Deed a Lis Pendens and shall state in writing his findings of fact in support of such determination, stating whether said uninhabited structure is deteriorated or dilapidated, and shall issue and cause to be served upon the owner thereof an order:

- (1) If the repair to correct unsafe conditions of said uninhabited structure bringing it up to the standards described in the North Carolina State Building Code can be made at a reasonable cost in relation to the present value of the structure, the order shall require the owner, within a specified period of time, to repair such a structure so as to render it in compliance with the order of the code enforcement officer. Such order may also direct and require the owner to vacate and close the structure until the repairs have been made and/or the unsafe and dangerous character of such structure has been corrected.
- (2) If the repair of said uninhabited structure bringing it up to the standards described in the North Carolina State Building Code cannot be made at a reasonable cost of the present value of the structure, the order shall require the owner, within a specified period of time either to repair such structure so as to bring it into compliance with the standards described in the North Carolina State Building Code or to demolish and remove such structure.
- (3) Upon a finding that the structure has been brought into or found to be in compliance with this Ordinance, it shall be the duty of the Code Compliance Officer to have any Lis Pendens filed in relation to the matter removed.

16.6. Appeal to Board of Adjustment

Appeals may be taken from any decision or order of the code enforcement officer under Section 16.5 to the Zoning Board of Adjustment, in accordance with the procedures specified in G.S. 160A-446.

16.7 Procedure for Enforcement Upon Noncompliance by Owner

(A) If the owner fails to comply with an order to repair the structure, the code enforcement officer may:

- (1) Cause such structure to be repaired, and pending such repairs, may order such structure vacated and closed.
- (2) Cause to be posted on the main entrance of any structure so closed, a

placard with the following words: "Notice is hereby given that this building is in an unsafe and dangerous condition; may constitute a fire hazard by reason of structural defects and general state of decay, deterioration and disrepair; may be hazardous or dangerous to children or members of the public generally; and may be dangerously infested with rodents or insects. Said building has been condemned under the building laws of the State of North Carolina."

(B) If the owner fails to comply with an order to remove or demolish the structure, the code enforcement officer may:

- (1) Cause such structure to be removed or demolished.
- (2) Cause to be posted, pending removal or demolition, on the main entrance of any structure a placard with the following words: "Notice is hereby given that this building is in an unsafe and hazardous condition; may constitute a fire hazard by reasons of structural defects and general state of decay, deterioration and disrepair; may be hazardous or dangerous to children or members of the public generally; and may be dangerously infested with rodents or insects. Said building has been condemned under the building laws of the State of North Carolina."

(C) Duties of code enforcement officer. The duties of the code enforcement officer set forth in subsections 16.7(A) and 16.7(B) shall not be exercised until the Town Council, by ordinance, shall have ordered the hearing officer to proceed to effectuate the purpose of this article with respect to the particular structure which the officer shall have found to be in violation of this article. No such ordinance shall be adopted to require demolition of a structure until the owner has first been given a reasonable opportunity to bring it into conformity with this article. Such ordinances shall be recorded in the Office of the Register of Deeds of Macon or Jackson County (as appropriate) and shall be indexed in the name of the property owner in the grantor index. Upon adoption by the Town Council of an ordinance authorizing and directing the property owner to do so, as provided by G.S. 160A- 443(5) and this ordinance, the code enforcement officer shall issue an order for removal or demolition and proceed to cause such structure to be removed or demolished, as directed by the ordinance of the board and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(D) Petition to superior court by owner. Any person aggrieved by an order issued by the code enforcement officer under Section 16.7 of this ordinance shall have the right, within 30 days after issuance of the order, to petition the superior court for a temporary injunction restraining the code enforcement officer pending a final disposition of the cause, as provided by G.S. 160A-446(f).

16.8. Methods of service of complaints and orders.

Complaints or orders issued by the code enforcement administrator pursuant to this division shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the code enforcement officer in the exercise of reasonable diligence, the code enforcement administrator shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publication in the manner prescribed in the North Carolina Rules of Civil Procedure. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person.

16.9. Costs and lien on premises.

As provided by G.S. 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the code enforcement administrator pursuant to this division shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by the general statutes.

16.10. Alternative remedies.

Neither this division nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this division by criminal process, and the enforcement of any remedy provided in this division shall not prevent the enforcement of any other remedy or remedies provided in this division or in other ordinances or laws.

Commissioner Gary Drake moved to open the Public Hearing regarding Non-Habitable Structures, was seconded by Vice Mayor Amy Patterson and was unanimously approved by the Town Board.

Several members of the public advised that they were glad that the Town of Highlands was implementing this ordinance and stated that it needed to be done.

Zoning Administrator Joe Cooley addressed the Town Board and advised that the wording of the ordinance was updated based upon comments by the Town and Planning Board. Discussion was held as to defining abandoned and non-habitable. Mr. Cooley advised that if any building needed to be removed, it must go before the Town Board for review and consideration.

Commissioner Larry Rogers brought up the issue of the possibility of lead paint and asbestos being found in a building to be removed and the possibility of testing needed.

Fire Chief James “Popcorn” Manley advised that testing would incur costs.

Commissioner John Dotson inquired as to Section B(3) and (6) of the proposed Ordinance and the violations of the State building code and if the old building codes would make a difference in compliance. Mr. Cooley advised that his department would not go to a building unless it is deemed uninhabitable.

Town Attorney William Coward questioned Mr. Cooley if all suggestions received were incorporated into the proposed Ordinance and was advised that it was including the release of the Lis Pendens, if one was filed with the Court. Mr. Coward also inquired if there was a finding that applies to the ETJ (Extra Territorial Jurisdiction) to which Mr. Cooley stated that it would apply to all zoning areas including the ETJ.

Vice Mayor Amy Patterson questioned who the “Administrator” was and Mr. Cooley advised that that was a typographical error and it should be “officer”.

Commissioner Gary Drake moved to close the Public Hearing regarding Non-Habitable Structures, was seconded by Vice Mayor Amy Patterson and was unanimously approved by the Town Board.

Commissioner Gary Drake moved to approve the Non Habitable Structures Ordinance with fixing of the two typographical errors (changing Administrator to officer), was seconded by Commissioner John Dotson and was unanimously approved by the Town Board.

7. Public Hearing: Stormwater Ordinance

Vice Mayor Amy Patterson moved to open the Public Hearing regarding the Stormwater Ordinance, was seconded by Commissioner John Dotson and was unanimously approved by the Town Board.

A draft of the Stormwater Ordinance was presented to the Town Board for review and consideration. Vice Mayor Amy Patterson inquired as to Performance Bond requirements and if the same would go into the ordinance or be a separate issue. JP Johns advised that it was not required but that it would go into Section 501. Mr. Johns explained to the Town Board the types of bonds (Performance and Maintenance) and suggested Performance Bonds while Maintenance Bonds could be considered at a later date. Mr. Johns stated that he does have the required language to cover the bond issues, which is not presently included in the Ordinance and advised that he would get the language to the Board for review and consideration. Additional discussion was also had as to Article 2(B) of the Ordinance entitled Development and the “staging areas” and the packing of the soil due to heavy equipment which makes the soil impervious. Vice Mayor Patterson suggested making the companies involved dig up the area and reseed, if needed. JP Johns stated that testing could be done to see how deep the impact area is. It was also stated that they would need to know what the condition of the soil was before, by testing, and then after the project. Mr. Johns

explained the different types to soil to which Mayor Wilkes stated that it sounded like the issue would lap over into erosion issues.

Town Attorney William Coward inquired as to violations and whether any violation of the Ordinance would be a misdemeanor or criminal violation and whether or not the fines collected would go to the Town or the State which Mr. Coward wanted to bring to the Board's attention.

Commissioner Dennis DeWolf moved to close the public hearing, was seconded by Commissioner Larry Rogers and was unanimously approved by the Town Board.

Mayor Wilkes tabled this matter, continuing the public hearing to the next meeting set for April 21, 2010 and directing the Zoning Administrator to make the required changes to the proposed Ordinance to incorporate language regarding performance bonds, the optional language for maintenance bonds, determination if any violation of the Ordinance would be considered misdemeanor or criminal and to clean up all typographical errors.

8. Highlands Motoring Festival – Request to Close Pine Street

Bob Kieltyka, Highlands Motoring Festival Committee Representative has requested of the Town to the closing of Pine Street and a Permit for Amplified Sound for the festival set for September 11, 2010 and seeks to close Pine Street for the event. Vice Mayor Amy Patterson inquired what were the hours that Pine Street would be closed. It was noted on the permit application that the times would be from 7:00 AM to 7:00 PM however, Mayor Wilkes suggested that this matter be brought back before the Board upon clarification of the time.

Commissioner Gary Drake moved to approve the Highlands Motoring Festival and its Request to Close Pine Street, based upon the permit information that Pine Street be closed from 7:00 AM to 7:00 PM, was seconded by Commissioner Larry Rogers and was unanimously approved by the Town Board.

9. Ordinance to Ban Dogs from the Ball Park

This agenda item was reviewed by the Recreation Committee on March 11, 2010 and the Town Board on March 17, 2010.

The Town Board unanimously approved the ban on dogs from the Ball Park at their regularly scheduled meeting on March 17, 2010. Staff and Town Attorney were directed to prepare an ordinance for adoption at the next regularly scheduled Town Board Meeting.

It is recommended to the Town Board that it approve the ordinance banning dogs from the Ball Park.

The Ordinance reads as follows:

AN ORDINANCE TO PROHIBIT DOGS INSIDE THE TOWN
OF HIGHLANDS BALL PARK

Section 3-5 (“Responsibility to control dogs”) of the Highlands Code is hereby amended to read as follows:

Sec. 3-5. Responsibility to control dogs.

(a) The owner or keeper of any dog shall be responsible for controlling said animal at all times, in order to prevent said animal from annoying or disturbing other pedestrians, destroying property, or disturbing trash placed for collection in suitable containers. Any dog which habitually engages in any of the foregoing activities is hereby declared to be a public nuisance, and shall be abated as provided in section 3-2.

(b) The owner or keeper of any dog shall be responsible, if said animal shall defecate upon the public streets, sidewalks, or other public area, for collecting and properly disposing of said fecal matter. Any person, being the owner or keeper of any such dog, and who does not immediately so collect and properly dispose of said fecal matter, shall be guilty of a misdemeanor, punishable in accordance with the provisions of section 1-5.

(Ord. of 9-4-96(1))

[new sub-section:]

(c) It shall be unlawful for any person to willfully allow a dog to enter upon or remain within the Highlands Ball Park, on Hickory Street, at any time, for any purpose, whether leashed or unleashed. “Highlands Ball Park”, as used in this section, shall mean the area enclosed with fencing and owned by the Town at 444 Hickory Street in Highlands. Violation of this section shall be a misdemeanor, punishable in accordance with the provisions of Highlands Code Section 1-5. Allowing a dog to run loose such that it habitually enters upon the Highlands Ball Park shall be included within the list of “nuisance” activities under other provisions of this Chapter.

Commissioner Larry Roger inquired as to imposing fines and was advised by Mayor Wilkes that the same had been discussed and Town Attorney Coward stated that it would refer back to general code.

Commissioner Larry Rogers moved to approve the Ordinance to Ban Dogs from the Ball Park, was seconded by Commissioner John Dotson and was unanimously approved by the Town Board.

10. Lease Agreement with Performing Arts Center

This revised agenda item was reviewed by the Recreation Committee on March 25, 2010 and by Town Attorney Bill Coward

The ten (10) year lease expired on April 1, 2010. The Recreation Committee reviewed the lease at their meeting on March 25th. A copy of the lease was provided to the Town Board for review. The following language is recommended to be added at paragraph 11 of said agreement:

“In so far as this facility is supported by public monies in the form of utilities, insurance and maintenance costs, a de facto partnership are established entitling the public to use the facility and its assets at the established rental rates. No policy or practice that limits or denies the public access, within the constraints of reasonable scheduling, shall be allowed.”

“Landlord may use the facility at no cost provided open dates are available. “

PAC entertained approximately 12,000 patrons and guests during calendar year 2009. The performances included plays, lectures, concerts, storytelling, dinner theater, bluegrass and folk dancing. Programming includes entertainment that touches the entire community.

It is recommended that the Board approve a ten (10) year lease with Performing Arts Center.

Commissioner Gary Drake addressed Vice Mayor Amy Patterson and understood the language that is to be added to the lease and stated that it is public building but the Town of Highlands need control over it and that the public expects the same type of entertainment because it would be at the PAC center however the PAC want to have control. There was a heated discussion regarding the exclusion of groups, scheduling and controlling who uses the building. Discussion was also had as to public monies being used.

Stewart Manning, President of PAC advised that the new language to be added to the lease would give them less control as to who goes into the PAC. Vice Mayor Patterson stated that the Town of Highlands has an obligation to do it right and that the Town needs to protect the public as the PAC uses public money. Commissioner Gary Drake voiced his opinion that he did not agree with the new intended language and stated that it appeared to take control away from the PAC Board. More heated discussion was had as to scheduling issues. Mayor Wilkes stated that if the PAC is doing everything correctly, then there would be no necessity for the new language to which Vice Mayor Patterson stated that “when we put public money into something, the public should have access”; “we have the obligation”. Vice Mayor Patterson further stated that PAC could buy back the building for \$1.00. Commissioner Dennis DeWolf inquired what the Town of Highlands pays and was advised that it was approximately \$25,000.00 per year or 16% for maintenance and electricity.

Mayor Wilkes advised that there were presently two options: approve the lease with the new wording or send the matter back to the recreation department for rewording.

Additional discussion was had amongst the Board members regarding scheduling, weddings taking place at the PAC and that PAC needs to generate income.

Commissioner Dennis DeWolf moved to approve a ten (10) year Lease Agreement with Performing Arts Center, without the recommended language, and was seconded by Commissioner Gary Drake. Vice Mayor Amy Patterson, Commissioner John Dotson and Commissioner Larry Rogers voted no. The motion was denied and the PAC will now be on a month to month basis until a new lease can be entered into.

11. Lease Amendment with Highlands Community Theatre

This agenda item was reviewed by the Recreation Committee on March 25, 2010 and Town Attorney Bill Coward.

The Town of Highlands owns the Highlands Playhouse Property. Under the current lease arrangement, utilities are billed to the Highlands Community Theatre. The Recreation Committee recommends that utilities be handled in the same manner for both the Performing Arts Center and Highlands Playhouse.

It is recommended that the Town Board approve the lease amendment with Highlands Community Theatre for consistent treatment to tenants of Town owned Properties for utility usage.

Vice Mayor Amy Patterson advised that a new lease needed to be entered into as the present lease was written 40 or 50 years ago and at that time there was only one group using the playhouse. Commissioner Gary Drake advised that the same problem would be had as to scheduling, limited because the playhouse is not heated. Again Vice Mayor Patterson voiced that “when we use public money, the public need to get a benefit from it”. Commissioner Larry Rogers suggested the possibility of not charging for utilities when the playhouse is closed, which is 5 to 6 months of the year).

Mayor Wilkes stated that the Playhouse and the PAC provide a tremendous asset to the Town of Highlands and that they are valuable entities.

After more discussion amongst the Board members regarding the lease, rewriting the lease and the costs of utilities, Commissioner John Dotson made a motion to table this matter until the next Board meeting and directed Town Manager Jim Fatland to come back to the Board with figures which show the difference in the costs of utilities (retail verses wholesale), was seconded by Commissioner Larry Rogers and the vote was unanimous by the Town Board.

12. Proposed FY11 Special Revenue Fund Budgets

A. Fire Department Budget

This agenda item was reviewed by the Finance Committee on March 30, 2010.

The Highlands Fire Department Budget must be submitted to Macon County by April 15, 2010. Macon County Board of Commissioners annually approves the tax rate for the Highlands Fire Department.

The Highlands Fire Department provides service to the Town of Highlands and a portion of unincorporated areas of Macon and Jackson Counties. To account for monies received and expended, the Town Board approved a Special Revenue Fund for the Fire Department last year.

The current tax rate is \$.009. The proposed FY11 Fire Department Budget totals \$490,800 with no change to the tax rate.

It is recommended that the Town Board approve the FY11 Proposed Highlands Fire Department Budget totaling \$490,800 and Tax Rate of \$.009.

Fire Department Treasurer Bob Houston addressed the Town Board and advised that the budget was before the Board now as it needed to be with must be submitted to Macon County by April 15, 2010 who approves the tax rate for the Highlands Fire Department. There was no further discussion.

Commissioner Dennis DeWolf moved to approve the Fire Department Budget, was seconded by Vice Mayor Amy Patterson and was unanimously approved by the Town Board.

B. Recreation Budget

This agenda item was reviewed by the Finance Committee on March 30, 2010 and Recreation Committee on March 25, 2010

The Proposed FY11 Parks, Recreation and Greenway Budget totals \$677,400. The sources of revenue include \$500,000 from Macon County, \$42,000 in fees and \$135,400 transfer from the General Fund. The establishment of a special revenue fund provides for better accounting for both revenue and expenditures to substantiate reporting to Macon County.

- 1) Approve FY11 Parks, Recreation and Greenway Budget totaling \$677,400;
and
- 2) Defer park capital improvement requests until Town Board Budget Work Session on the entire Town's Capital Improvement Program is presented.

Town Manager Jim Fatland advised the Board that what was presently before them did not include capital improvements and did not include the proposed rink. Vice Mayor Patterson inquired if the capital improvements could be submitted to the County separately and was advised yes.

Commissioner Dennis DeWolf stated that the recreation park served the plateau and not just the Town of Highlands.

Vice Mayor Amy Patterson moved to approve FY11 Parks, Recreation and Greenway Budget totaling \$677,400 and to Defer park capital improvement requests until Town Board Budget Work Session on the entire Town's Capital Improvement Program is presented, was seconded by Commissioner Larry Rogers and was unanimously approved by the Town Board.

13. Property Owners Request for Curb Cuts on Oak Street

Bob Mills, owners of Nancy's Fancy's and The Exchange and Louis Long (owner of The Royal Scott, have petitioned the Board of Commissioners to provide curb cuts to allow access to the rear of their properties off of Oak Street. The curb cuts would removed several parking spaces.

It is recommended to the Town Board to review the plans and vote whether or not to allow the curb cuts.

Bob Mills advised that the total project would result in the net loss of one (1) parking space. There will be a loss of five on-street parking spaces being offset by four (4) new spaces on private property.

Vice Mayor Amy Patterson moved to approve the Property Owners Request for Curb Cuts on Oak Street, was seconded by Commissioner Gary Drake and was unanimously approved by the Town Board.

14. NCLM Environmental Assessment Coalition Project Participation Agreement

Town Manager Jim Fatland advised that the cost to participate would be \$250.00 and would be a great opportunity for the Town of Highlands.

Vice Mayor Amy Patterson moved to approve the NCLM Environmental Assessment Coalition Project Participation Agreement, was seconded by Commissioner Gary Drake and was unanimously approved by the Town Board.

15. Employee Personnel Manual Amendment

Town Attorney William Coward advised the Town Board that this matter must be tabled for a later date for the discussion of possible changes.

16. Renovation of ABC Store for Police Department

A. USDA Loan/Grant Resolution

B. Architectural Services

This agenda item has been reviewed by Town Attorney Bill Coward, Police Chief Bill Harrell, Public Works Director Lamar Nix and Engineering Tech Matt Shuler

On April 15, 2009 the Town Board approved the selection of Stewart Cooper Newell Architects to prepare a design schematic and cost estimate for renovation of the ABC Store for the Police Department at a cost not to exceed \$16,200. Board approval would be needed prior to proceeding to the design phases.

The architect presented the preliminary design to the Town Board on March 17, 2010. The estimated construction cost was \$471,000. The Town Board referred the proposed renovation to the Public Works and Finance Committees for further review.

In an effort to keep local dollars in Highlands, the Public Works Committee recommends that local consultants and contractors be selected.

It is recommended to the Town Board to:

- 1) Terminate existing contract with Cooper Stewart Newell, and;
- 2) Authorize staff to request local architect proposals and bring back to Public Works Committee for consideration

Vice Mayor Amy Patterson stated that the Town needed to be careful as to the money that is paid and that we obtain the experts in the field that know the regulations as to holding cells, etc. Commissioner Dennis DeWolf concurred with Vice Mayor Patterson and further stated that perhaps to have the previous architect work as a consultant with the local architect and to have all construction done locally. Commissioner DeWolf also inquired if the Town were in the position of obtaining other proposals without letting go of the current architect and was advised that the present architect was hired on a limited basis. Vice Mayor Patterson asked if the Town would get a better product if it used a specialized architect to which Commission Dotson stated that he had spoken with Chief Harrell who stated that there was nothing in the schematics that could not be handled by a local architect.

Commissioner Larry Rogers moved to approve the termination of the existing contract with Cooper Stewart Newell, was seconded by Commissioner Gary Drake and was unanimously approved by the Town Board.

Commissioner Dennis DeWolf moved to authorize staff to request local architect proposals and bring back to Public Works Committee for consideration, was seconded by Commissioner Larry Rogers and was unanimously approved by the Town Board.

Vice Mayor Amy Patterson moved to approve the USDA Loan/Grant Resolution, was seconded by Commissioner Gary Drake and was unanimously approved by the Town Board.

17. Adjourn

Vice Mayor Amy Patterson moved to adjourn, was seconded by Commissioner Larry Rogers and the Town Board meeting adjourned at 9:35 p.m.

James R. Fatland
Town Manager

Jane J. Capman
Recording Secretary

David Wilkes, Mayor