

PUBLIC HEARING and REGULAR BOARD MEETING of January 3, 2007, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, Hank Ross, H. N. James, and Dennis DeWolf present.

Also present were Richard Betz, Selwyn Chalker, Bill Harrell, Sonjia Stewart, Bill Coward, Kim Lewicki, Jim Lewicki, Linsey Wisdom, Zeke Sossomon, Joanna Baumrucker, Rick Siegel, Jim Mullen, Morris & Anita Williams, Ginger Slaughter, Clem Patton, Gary Drake, Wanda Drake, Iva Lord, and many others. Town Attorney Bill Coward arrived after the meeting had started.

A. PUBLIC HEARING.

The Mayor called the Public Hearing to order at 7:00 p.m. and stated that the purpose was to hear comments from the public on a petition for annexation from Iva Lord for a 1.19 acre-parcel contiguous to the corporate limits. There were no comments from the public and the Mayor closed the Public Hearing.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the Regular Board Meeting to order at 7:01 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA AS DISTRIBUTED.

III. Approval of Minutes.

Copies of the minutes of the December 6 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

Copies of the minutes of the December 13 Adjourned Session Board Meeting had been distributed by mail.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

IV. Public Comment Period.

The Mayor asked that those present tonight to comment on the discussion of use policy at the Highlands Civic Center make their comments at this point. Zeke Sossomon asked if there had been a recommendation from the Recreation Committee; the Town Administrator said the Committee had not made a recommendation, although it had discussed many ideas and offered them to the Board in a written report for further discussion. The Mayor said that there had been some misinformation in the media; no proposal to deny use of the Civic Center for the Highlands Playhouse antique show had been made. Gary Drake said he thought the Board needed to decide tonight so the Playhouse could move forward with its plans. There were no further comments at this time.

V. Reports.

1. The Mayor reported that Mountain Environmental Group had completed field work on an estimated cost to dredge Big Creek; the report was expected in a week or two. He also said that the task force he had appointed to look into affordable housing, headed by MaryAnn Sloan, would be meeting the following Monday in the Hudson Library. He also reported that he would be attending a one-day Institute of Government workshop in Asheville, Working for Results as a Board, on March 1.

2. It was reported that the Recreation Committee had met twice to discuss use policy at the Civic Center, an item that would be taken up under Old Business.

Copies of the Draft Stormwater Master Plan, which the Town Administrator said he had received late that afternoon, had been included with the agenda package; McGill Associates had requested comments by January 24 and were planning on attending the February 7 meeting. Comm. Ross felt that the Public Works Committee should discuss the Draft with the Town Engineer, and that Committee agreed by consensus to meet at 8:30 a.m. on Wednesday, January 10, in the Conference Room for that purpose.

3. The Town Attorney was not present but arrived during Old Business.

4. Each Board member had received a copy of the Town Engineer/ Public Service Administrator's report for the month; Lamar Nix was absent due to illness.

5. Each Board member had received a copy of the Police Chief's report for the month; Bill Harrell was present to review the report.

6. Each Board member had received a copy of the Recreation Director's written report for the month; Selwyn Chalker was present to review the report. He reported that Highlands Country Club had nearly completed work that it was donating to aerate and improve Zachary Field. He also said that he had discussed with the Recreation Committee obtaining informal proposals on mowing and maintaining the field since he had thus far been unsuccessful in seeking an employee for this purpose; the Board agreed for him to proceed with obtaining proposals and to consider them at the February 7 meeting. Comm. Dewolf reported that Pierre Construction had located someone who could take a look at the skylights in the Civic Center lobby; the portico itself was being designed for a low-pitched roof and an engineer had been contacted to prepare the drawings for the building inspector.

7. Each Board member had received a copy of the Town Planner/ Zoning Administrator's report for the month; Larry Gantenbein was out of Town and had been unable to return due to the storms in the midwest. The Town Administrator reviewed several recommendations made at the previous Planning Board meeting, which was attached to the report:

a. The Planning Board had recommended that the R-1 district in the ETJ be renamed R-5, and that it be amended to permit customary incidental home occupations. The hearing could proceed as scheduled, but a change to R-5, should the Board agree, would require another map amendment and public hearing.

b. The Planning Board had agreed not to hear a request for a subdivision variance from Riverwalk until the revised erosion control plan had been implemented and the \$400,000 civil penalty collected. The Board agreed to hear the variance application, which had been attached to the report, at the February 7 meeting.

c. The Planning Board had recommended re-zoning the Philip Whitaker property to B-5; the hearing was scheduled for January 17.

d. The Planning Board and the Appearance Commission wanted to meet at different times and dates. The Town

Administrator said they had the authority to do this without Board approval; they needed to advise him when the change went into effect so that the posted meeting schedule could be changed.

8. Each Board member had received a copy of the Treasurer's Report for the month. He reported that since over \$1,300,000 in property tax revenues had been received, he would be transferring the \$110,625 in the budget into both a Certificate of Deposit and an interest-bearing account for the Town Hall fund. Comm. James asked why no ABC revenues had been received, and the Treasurer replied that he understood they were reserving disbursement due to the possibility that they would be leasing a building.

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

9. The Town Administrator reported that District Engineer Wesley Grindstaff had met with him earlier in the day and indicated that the D.O.T. would be approving the paving contract for re-surfacing Chestnut Street; funds were available for both sidewalk and curb & gutter, and they wanted Town input on the street. The Public Works Committee agreed by consensus to include this on the agenda of their January 10 meeting. He also said that Mr. Grindstaff was willing to come to a meeting in April or May with property owners along Hickory Hill Road to discuss the paving proposal for that road.

He also reported that Al Bolt, incoming Chairman of the Board of the Chamber of Commerce, had invited Board members to attend part of its retreat on Wednesday afternoon, March 28.

He also reported that the Griffin house on Chestnut Street was vacant. Comm. James felt that the house should be checked for wormy chestnut panelling and then torn down.

VI. Old Business.

1. The Mayor said that he understood the Recreation Committee had worked hard on a use policy for the Civic Center but not made a recommendation. Comm. Patterson said that the Town already had a policy in place for the building, which was that no commercial enterprises would be allowed. The Board then discussed the issue at some length. Comm. DeWolf pointed out that over the years some non-profits which were well-established in the community have used the building for events; he wondered how the Town could say no to others. The Town Attorney arrived at the meeting during the discussion and he said that as far as use, it was more a political than a legal issue; the Town could discriminate between those wanting to use the facility provided it was not based on race or religion. Comm. James said it was his understanding when the facility was built that it could be used as a community building, and was not restricted only to recreation. Comm. DeWolf said that two factors to be considered were (1) use for an extended period of time and (2) use during certain periods of time, both of which could interfere with recreational activities. The Mayor felt those concerns could be addressed by limiting times and letting it be used on a first come/first serve or lottery basis. Comm. Marsh felt that the Town needed a policy that did not play favorites among non-profits. The Recreation Director said that the Macon County facility was rented on a first come/first serve basis during certain periods of year. He said that in the case of Highlands the building was largely unused in September-October and March-April. Comm. Patterson said that the Town needed to be clear that events were organized by non-profits, and also needed to be careful that they were Highlands-based and had an interest in the community. The Board then discussed how many days an event might occupy the building. Morris Williams was present and said he thought the Town should not focus on the type of organization as much as whether the event was for the good of Highlands; when no activity was going on and someone wanted to use the building for a worthy cause, he thought that Selwyn or the Mayor should make the decision, depending on the length of the event. Zeke Sossomon said that limiting use to "Highlands-based" organizations would eliminate many, and he also said that a flexible fee schedule could discourage uses of a more commercial nature. Art Grabe said the antique show was held during the slowest time of year and helped the Town in general. Nancy Freise felt those attending the shows would also patronize other antique dealers in Town. Jim Mullen agreed; he said he had polled merchants when he had been on the Chamber Board and they favored the event seven to one. Wanda Drake also favored the show, saying that it had helped her jewelry business. Zeke Sossomon asked what disruption the show had caused last year,

and was told by the Recreation Director not much. Joanna Baumrucker, asked about the length of time needed for the show, said she had requested seven days, September 24-30, but could do it in five days.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, TO ALLOW HIGHLANDS PLAYHOUSE'S ANTIQUE SHOW TO GO FORWARD, BUT FOR A MAXIMUM OF FIVE DAYS, DURING THE DATES INDICATED AND ONLY FOR THIS YEAR, AND MEANWHILE TO CONTINUE TO WORK ON THE POLICY. The motion failed to carry, with Comms. Ross and DeWolf voting "aye," and Comms. James, Patterson, and Marsh voting "nay."

VII. New Business.

1. A public hearing had been held at the beginning of the meeting to hear comments from the public on a petition for annexation from Iva Lord for a 1.19 acre parcel contiguous to the corporate limits. The Town had prepared the following Annexation Ordinance:

ANNEXATION ORDINANCE

WHEREAS, the Town of Highlands has received a petition under G. S. §160A-31 from Iva Lord, sole owner of real property as described in the petition for annexation dated November 10, 2006, and said property being contiguous to the existing corporate limits of the Town of Highlands, and asking that the property be annexed and incorporated within the Town limits upon and after the effective date of this Ordinance; and,

WHEREAS, the Town Clerk has certified to the Board of Commissioners the sufficiency of said petition; and

WHEREAS, notice of a public hearing was published in The Highlander newspaper, a newspaper having general circulation in the municipality, on December 14, 2006, which publication was more than ten days prior to the date of the public hearing; and

WHEREAS, a public hearing was held on January 3, 2007, at 7:00 p.m. in the Conference Room of the Town Hall at 210 North Fourth Street in Highlands, North Carolina, on the question of this annexation, and at the hearing all persons who might allege an error in the petition were given an opportunity to be heard, and no errors were alleged, and other residents of the municipality who favored or questioned the necessity for the annexation were also given the opportunity to be heard; and

WHEREAS, the Board of Commissioners of the Town of Highlands finds that the petition meets the requirements of Section 160A-31, North Carolina General Statutes.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Highlands, North Carolina, that:

Section 1. By virtue of the authority granted by G. S. §160A-31, the following described territory is hereby annexed and made part of the Town of Highlands upon and after the effective date of this Ordinance:

The real property as described in petition for annexation dated November 10, 2006, owned by Iva Lord, being 1.19 acre, more or less, as shown on a survey prepared by L. Stephen Foster, PLS, dated June 13, 2001, Drawing No. F84-73, as recorded in Deed Book B-24, page 1418, Macon County Public Registry.

Section 2. Upon and after the effective date of this Ordinance, the above-described territory shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Highlands, and shall be entitled to the same privileges and benefits as other parts of the Town of Highlands. Said territory shall be subject to municipal taxes according to G. S. §160A-58.10 and §160A-31(e), and shall be zoned R-1 Residential.

Section 3. Owner is responsible for the cost of installation of a water line to said property.

This ordinance is adopted this 3rd day of January, 2007, and is to become effective on January 3, 2007, which is a date within six months from the first-stated date.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADOPT THE FOREGOING ORDINANCE.

2. The Board then considered the assessment of civil penalties for Joel Crook pursuant to notices of violation issued by the Zoning Administrator for stormwater sedimentation and gravel runoff from his property onto Foreman Road. Comm. James said that he disagreed with assessing penalties since the Town had watched this problem develop on its right-of-way; he felt the Town should come up with a solution to the problem and make him fix it since the Town had already addressed the water coming from Recreation Park property. Comm. DeWolf said that Mr. Crook had built up a berm that prevented natural drainage. Comm. James suggested perhaps larger rocks could be used; he suggested that Comm. Ross and the Town Engineer meet with Mr. Crook and see what it would take to correct the problem.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO SUSPEND ASSESSMENT OF CIVIL PENALTIES FOR SIXTY DAYS IN ORDER TO GIVE MR. CROOK AN OPPORTUNITY TO FIX THE PROBLEM.

3. The Town Administrator reported that the N. C. Division of Community Assistance had conditionally awarded Macon County and its interested municipalities \$400,000 in Community Development Block Grant funds for Scattered Site Housing. The application for the funds, to be used for low-income housing, now required that local governments either say they want to participate or decline participation in the program.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO DIRECT THE MAYOR TO SIGN THE CERTIFICATION FORM DECLINING PARTICIPATION IN THE PROGRAM.

4. The Board then reviewed maps of the proposed ETJ areas identified for public hearing on January 17. Comm. Patterson pointed out that--contrary to the latest maps posted in the Town Hall, distributed to Board members, and posted on the internet-- two lots in the NC-106 ETJ area should not be identified as B-5. She also pointed out that the properties identified on the maps in the northern ETJ area as B-5 appeared to be several residential lots in the vicinity of Skyline Lodge rather than the lodge itself. Clem Patton was present and confirmed that the intent of the Planning Board was that only the lodge, plus any rental cottages associated with the lodge, should be B-5. The Board discussed these errors informally with Planning Board members Clem Patton, Ginger Slaughter, and Pat Taylor at some length. Mr. Patton also felt that the section in the northern ETJ area shown as R-2 should be identified as a proposed new R-5 area, discussed earlier in the meeting, rather than R-2. Comm. Ross felt that the public hearing should be cancelled in view of these errors. The Town Administrator recommended proceeding with the public hearing, confirming the errors on the maps, and then holding a separate public hearing with re-notification for the parcels erroneously identified on the maps; he noted that, if the Board accepted the Planning Board's R-5 recommendation, another public hearing would have to be held anyway for all of the R-1 parcels in the ETJ. The Board agreed by consensus to proceed with the January 17 public hearing. Planning Board members Slaughter, Patton, and Taylor announced that their Board would meet at 5:00 p.m. on Monday, January 8, to review the maps and ensure all of the errors have been noted, and also to review the language for home occupations or home-based businesses, which they said was the only distinguishing difference between R-1 and R-5. The media was present and took note of the meeting.

5. MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO CONSULT WITH THE TOWN ATTORNEY ON LEGAL MATTERS. The Board adjourned to the adjoining meeting room with the Town Administrator and the Town Attorney.

A. The Board consulted with the Town Attorney on a legal matter involving former Town employee Bonnie Bryson.

B. The Board consulted with the Town Attorney on a legal matter involving civil penalties for Riverwalk

Subdivision.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

MOVED BY COMM. JAMES, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED THAT BONNIE BRYSON IS ENTITLED TO HER ACCRUED SICK LEAVE WITH RESPECT TO HER APPLICATION FOR RETIREMENT.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED THAT, BASED ON THE TOWN ATTORNEY'S RECOMMENDATION, THE TOWN NOT PURSUE COLLECTION OF \$3500 IN FINES FROM RIVERWALK, AND INSTEAD USE ALL ITS ENERGIES TO COLLECT THE \$400,000 IN FINES LEVIED AT THE DECEMBER MEETING.

VIII. MOVED BY COMM. DEWOLF, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared by the Mayor to be adjourned at 9:00 p.m.

Richard Betz, Town Clerk