

**Regular Meeting Minutes of the Town Board of Commissioners Meeting of April 17, 2012 at the Highlands Community Building, 71 Poplar Street, Highlands, North Carolina.**

Town Board Present: Mayor David Wilkes, Commissioner John Dotson, Commissioner Amy Patterson, Mayor Pro Tempore Gary Drake, Commissioner Eric Pierson, and Commissioner Brian Stiehler.

Also Present: Town Manager Robert Frye, Town Clerk Rebecca Shuler, Town Attorney William Coward, Recreation Director Lester Norris, Code Enforcement Officer Josh Ward, MIS/GIS Director Matt Shuler, Planning and Development Director David Clabo, Public Works Director Lamar Nix.

**1. Meeting Called to Order**

Mayor Wilkes called the meeting to order at 6:57pm.

**2. Public Comment Period**

There were no public comments.

**3. Adjust and Approve Agenda**

Commissioner Stiehler made a motion to approve the agenda, as presented, which was seconded by Commissioner Patterson and the vote was unanimous.

**4. Approval of Minutes**

**Regular Meeting Minutes of April 3, 2012**

Commissioner Patterson stated on page four, under section six that the spelling of Stewart Manning's name needed to be corrected from Stuart to Stewart. Also, on page fourteen, in section nine, the word "not" needed to be inserted between the words did and work to make the correct reading "Wednesday did not work with our new meeting presentations or with staff being present".

Mayor Pro Tempore Drake made a motion to approve the regular meeting minutes of April 3, 2012, as amended, which was seconded by Commissioner Pierson and the vote was unanimous.

**5. Reports**

**A. Mayor**

There was no mayoral report.

**B. Commissioners & Committees**

Commissioner Stiehler wanted to let the Board know that the Town of Highlands Golf Classic Tournament Application was in front of them and would like their help with PR and getting the word out. He also wanted to let the Board know that he, Mayor Pro Tempore Drake, and Bob Kieltyka had attended the Macon County Economic Development Commission Banquet. The Speaker was the North Carolina Secretary of Commerce. Stiehler said the banquet was well attended and he feels the commission is a very good program.

Mayor Pro Tempore Drake let everyone know that he had missed a meeting of the TDC, but that after checking with Bob Kieltyka everything was looking very good for the upcoming year. They raised the advertising budget to \$100,000 which is very beneficial to the town. He expressed his appreciation for their hard work.

**C. Town Manager**

Manager Frye reminded everyone of the special joint meeting between the Town of Highlands, Town of Franklin, and Macon County on the 19<sup>th</sup> of April at 6pm at Fat Buddies in Franklin, North Carolina.

He also wanted to remind everyone of the special meeting next week on the 26<sup>th</sup> of April from 3pm to 5pm at the Community Building for the first whole board budget work session.

Mayor Pro Tempore Drake mentioned that parking restrictions were also back in effect for Main Street. Mayor Wilkes asked that all employees park off Main Street and open it up for guests.

## **6. Consent Agenda**

Public Works Department  
Police Department  
Parks & Recreation Department  
Planning & Development Department  
Treasurer's Report

Commissioner Dotson said he had one question on the Public Works Department report. The report states there are forty-eight water meters left to be replaced out of approximately twenty-five hundred. Commissioner Dotson wanted to know if there was a time frame to expect all meters to be replaced. Commissioner Dotson was informed by Public Works Director Nix that it was impossible for some to be installed until next winter. Some of the forty-eight meters are for businesses and it would interrupt their season if installed now. However, a majority of these meters will be installed by the end of the fiscal year. Commissioner Dotson said he thought the town was going to have a full spring and summer worth of readings from these new meters. Public Works Director Nix reiterated he felt it just was not smart to complete some of the installations in the middle of the businesses' season.

Commissioner Stiehler moved to approve the Consent Agenda, which was seconded by Commissioner Patterson and the vote was unanimous.

## **7. Canary Coalition Request**

### **Resolution in Support of Amending the US Constitution**

The Canary Coalition has formally requested that the Town of Highlands support their mission to amend the US Constitution by adopting a resolution.

Avram Friedman stated that several citizens had come to present a resolution which had been circulated through towns and counties nationwide. This resolution petitions Congress to amend the US Constitution to firmly establish that money is not speech, and that human beings, not corporations, are persons entitled to constitutionally protected political speech. Corporations are not people. They can reside in multiple countries at once. They cannot have children or get married. They cannot get executed for a crime, enlist in the military nor do they have a birth certificate or death certificate.

Dr. Allan Lomax thanked the Board for the opportunity to present the resolution. He stated he was an affiliate member of the Sylva Chapter of the National Move to Amend. Just to clarify Dr. Lomax wanted the Board to know his organization was not anti-corporation as he has two corporations himself. Corporations are great ways to conduct business the way they were chartered without human rights. These corporations can enter into contracts, sue, and be sued. After a brief discussion of the history of corporations, Dr. Lomax called upon Town Board to follow the lead of the Town of Franklin and pass the resolution to amend the US Constitution to establish that money is not speech, and that human beings, not corporations, are persons entitled to constitutionally protected political speech.

## **Highlands Town Board Resolution to the NC General Assembly Resolution No. 2012-1**

Relating to: amending the U.S. Constitution via congressional action to establish that corporations are not entitled to constitutional rights of natural persons and that money is not speech.

**WHEREAS**, government of, by, and for the people has long been a cherished American value; and the people's fundamental and inalienable right to self-govern, and thereby secure rights to life, liberty, property, and the pursuit of happiness is guaranteed in the U.S. Constitution and the Declaration of Independence; and

**WHEREAS**, free and fair elections are essential to democracy and effective self-governance; and

**WHEREAS**, corporations are not mentioned in the U.S. Constitution, and the people have never granted constitutional rights to corporations, nor have the people decreed that corporations have authority that exceeds the authority of the people of the United States; and

**WHEREAS**, corporations are artificial entities, created for the purpose of conducting commerce inside and outside of our country's borders and should be designated as such; and

**WHEREAS**, interpretation of the U.S. Constitution by appointed Supreme Court justices to include corporations in the term "persons" has long denied the peoples' exercise of self-governance by endowing corporations with constitutional protections intended for the people; and

**WHEREAS**, the illegitimate judicial bestowal of political rights upon corporations usurps basic human and constitutional rights guaranteed to human persons; and

**WHEREAS**, corporations are not and have never been human beings, and therefore they do not vote in elections and should not be categorized as persons for purposes related to elections for public office; and

**WHEREAS**, the recent Supreme Court decision, *Citizens United v. Federal Election Commission*, that rolled back the legal limits on corporate spending in the electoral process creates an unequal playing field and allows unlimited corporate spending to influence elections, candidate selection, and policy decisions, and to sway votes, and forces elected officials to divert their attention from the peoples' business, or even vote against the interest of their human constituents, in order to ensure competitive campaign funds for their own re-elections; and

**WHEREAS**, tens of thousands of people, organizations, and municipalities across the nation are joining with the Move to Amend movement to call for an amendment to the U.S. Constitution to abolish corporate constitutional rights and the doctrine of money as free speech;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of Highlands calls on the North Carolina General Assembly to petition Congress that the U.S. Constitution be amended to firmly establish that money is not speech, and that human beings, not corporations, are persons entitled to constitutionally protected political speech.

Upon motion duly made by Mayor Pro Tempore Gary Drake and duly seconded by Commissioner Brian Stiehler, the above resolution was duly adopted by the Board of Commissioners at their regularly scheduled meeting held on the 17<sup>th</sup> day of April, 2012 in the Highlands Conference Center, 71 Poplar Street, Highlands, North Carolina.

Upon call for a vote the following Commissioners voted in the affirmative: Mayor Pro Tempore Gary Drake, Commissioner Amy Patterson, and Commissioner Brian Stiehler.

And the following Commissioners voted in the negative: Commissioner John Dotson and Commissioner Eric Pierson.

This the 17<sup>th</sup> day of April, 2012.

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David Wilkes, Mayor

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Rebecca R. Shuler, Town Clerk

Mayor Pro Tempore Drake made a motion to adopt the resolution, which was seconded by Commissioner Stiehler.

Commissioner Dotson commented that he had given a lot of thought to this matter over the last week. He didn't feel that he as a Town Board member was empowered to this degree to speak for the citizenry. He would support such a movement as an individual if it appeared on a ballot but couldn't support it as a Board member.

The Board then voted and upon a 3 to 2 vote, the resolution passed. Mayor Pro Tempore Drake, Commissioner Patterson, and Commissioner Stiehler voted yae and Commissioners Dotson and Pierson voted nay.

## **8. Financial Matters**

### **Highlands Playhouse Request**

Manager Frye stated that the town had received a request from the Highlands Playhouse for assistance in repairing the heating and air conditioning system. The costs have been estimated at \$7,500 and the Playhouse currently has no funds with which to make the repair. The Playhouse's current lease states they are responsible for all maintenance and repairs. Given this situation and that the Playhouse is a town owned building, it falls upon the town to resolve this situation and make the necessary repairs.

Commissioner Stiehler made mention of the Board's previous discussion to look at the Playhouse's lease and asked how this would play into that discussion. Manager Frye responded that in his opinion the town needed to look at the lease and consider rewriting it so the town had control of all maintenance issues so that we could better control our maintenance costs. Mayor Pro Tempore Drake questioned where the amount of \$7,500 came from. Manager Frye said it was the Playhouse's estimate.

Commissioner Patterson wanted to know what the estimate entailed. She stated that several months ago the Board discussed the need to look into these types of repairs especially since most repairs at the Playhouse had been on a "Band-Aid" type schedule. The town should be able to say this is our building and take a look for ourselves as to the best solution for repair. Mayor Wilkes agreed that the town needed look at the matter. Mayor Wilkes said he would rather wait two weeks before voting and get staff to look into the matter and bring it back at the next meeting.

Mayor Pro Tempore Drake questioned where we were on the maintenance tracking software. MIS/GIS Director Shuler informed Mayor Pro Tempore Drake the software was implemented, training had occurred, and Joe Deppe was inputting the data.

Mayor Wilkes informed the Playhouse Board to use Commissioner Dotson as "conduit" to get information into the Manager's office so they didn't have to wait on matters. Commissioner Dotson informed the Board he wasn't aware of this failure until it came out in the agenda packet.

## **9. Planning Matters**

### **A. Adoption of Unified Development Ordinance**

Planning and Development Director David Clabo presented the Board with items that had been adjusted, revised, needed clarification, or that had been questioned during the Board's review, public hearing, and staff review of the UDO.

Having made those changes and with the UDO being up to date, Commissioner Stiehler made a motion to adopt the Ordinance, which was seconded by Mayor Pro Tempore Drake.

Commissioner Patterson wanted it to be recorded that she still had a problem with the Planning and Zoning Director being placed under the Town Manager, without any rights given to the employee, and could be dismissed by one man.

Mayor Wilkes stated it was so noted and upon a unanimous vote, the UDO was approved.

## **B. Right of Way Encroachments**

Planning and Development Director Clabo presented the Board with pictures of items that were currently on the sidewalks in town.

The town's current ordinance reads that "Certain types of permanent structures, such as lamps, streetlights, handrails, and decorative planters, shall be permitted to encroach on public sidewalks in conjunction with a commercial building on a case by case basis by the Board of Commissioners, provided they shall not interfere with pedestrian traffic along the sidewalk."

Mayor Wilkes said there were three things the Board could do: approve or disapprove, look at amending the ordinance, and look at whether or not to leave the tables in place while amending the ordinance.

Commissioner Patterson recollected the case by case scenario with Paoletti's benches. Mayor Wilkes said the rocking chairs at the Highlands Inn were another good example of this case by case scenario.

Commissioner Dotson stated he felt there were two different matters at hand. The town has encroachment issues, but it really is dealing with conducting business on town property. The town doesn't allow businesses to put merchandise on the sidewalk, and this is nothing more than putting out wares on sidewalk as well.

Commissioner Stiehler asked what the difference in the benches and the tables was and was told that the benches were the town's and the tables were the business owners. Commissioner Stiehler felt they were still in good taste and needed to stay.

Commissioner Dotson reiterated it was still two different scenarios. Paoletti's is not doing business, and the Ugly Dog's tables are on their own property.

Mayor Wilkes asked for a motion. Commissioner Dotson made a motion to deny the request for tables and chairs and that they are removed in the morning, which was seconded by Commissioner Patterson and passed on a 3 to 2 vote. Commissioners Dotson, Patterson, and Pierson voted yae. Mayor Pro Tempore Drake and Commissioner Stiehler voted nay.

## **10. Miscellaneous Matters**

### **A. Insurance Committee Nominations**

### **B. Updated on Insurance Rates**

Staff is proceeding with putting the Insurance Committee together. As discussed during the last meeting, staff would recommend that two council members be appointed to serve on this committee.

Mayor Wilkes appointed Mayor Pro Tempore Drake and Commissioner Pierson to the Insurance Committee. Mayor Pro Tempore Drake would be a continuation of knowledge as he was on the Finance Committee the previous year and Commissioner Pierson would be a new member. Mayor Pro Tempore asked Manager Frye if there would be a set of guidelines for this committee. Manager Frye said there would, and he would present them the first or second meeting in May. He wanted the committee up and running no later than July.

Mayor Pro Tempore Drake questioned whether or not we actually were thinking about making a change. Manager Frye stated that the town has rates from its current vendor,

but that three other vendors had contacted the town with interest in quoting as well. Manager Frye recommended not making a major change this year, however. He would simply recommend capping the costs of dependent care which we can discuss once we review the quotes.

Mayor Pro Tempore Drake expressed his hope to have this information by the next meeting. Manager Frye said all quotes are supposed to be in by next Friday. Mayor Wilkes said there was more to deciding about changing insurance plans than just simply swapping, for example: Sonjia and the payables people can take up to six months at a minimum to get the billing under control with contact people, due dates, etc.

Manager Frye stated he had one further item. When the Board approved the UDO, we did not approve the Statement of Change required under NCGS §160-383. We need a second motion for that adoption.

Town Attorney Coward said the statement needed to be approved before the UDO, so we would need to adopt both the Statement and then the UDO again as well.

#### STATEMENT UNDER N.C.G.S. 160A-383

In connection with the adoption of the Highlands Uniform Development Ordinance (UDO), the Board of Commissioners of the Town of Highlands hereby adopts the following statement as required by N.C.G.S. 160A-383:

1. Description of how its action is consistent with the Highlands Land Use Plan (updated on July 20, 2005):
  - a. The Highlands UDO is, for the most part, a consolidation and revision of existing ordinances with no substantive changes related to land use, and no changes in the Zoning Map for the Town of Highlands.
  - b. The substantive changes and how they are consistent with the Highlands Land Use Plan are as follows:
    - i. Article 3, Section 3.5.4.E – Appearance Commission review of Planned Cluster Developments is new.
    - ii. Article 4, Section 4.18.1 – All administrative variances are new.
    - iii. Article 6, Table 6.2 – State owned construction is now a Special Use in R-2.
    - iv. Article 6, Table 6.2 – Restaurants are now permitted in B-1, not a SUP.
    - v. Article 6, Section 6.5.6.A – Added requirement that Adult Establishments must be 200 ft. from residential zones, schools, parks, libraries, etc.
    - vi. Article 8, Section 8.1.2.A.8 – Zero lot line allowed in cluster developments is new.
    - vii. Article 8, Section 8.3.2 – Floor Area Ratio is new.
    - viii. Article 9, Section 9.1.1.B.2 & 3 – New exceptions for off-street parking for first two (2) apartments and Churches on Main Street.
    - ix. Article 9, Table 9.1 – Parking dimensions table is new.
    - x. Article 9, Section 9.1.7 – Parking schedule has some new requirements, including places of assembly with or without fixed seating.
    - xi. Article 10, Section 10.4.1.B – Allowing shared driveways is new.
    - xii. Article 10, Section 10.5.1.C – Required minimum width of sidewalks to be 5 ft.
    - xiii. Article 11, Section 11.4.2 – Table for Landscape Buffers requirements.
    - xiv. Article 11, Section 11.4.3.A.5 – Requirement for 10 ft. wide buffer around stormwater management facilities.

- xv. Article 13, Section 13.2.1.B – Signs with angle projections up to 45 degrees may be considered.
- xvi. Article 13, Section 13.4 – Maximum height for all permitted temporary signs is 42 inches.

Each of these changes are made to improve the current standards for parking, incidental apartments, sidewalks, cluster developments, and other clarifications of land uses in order to make the Unified Development Ordinance (UDO) consistent with the currently adopted Land Use Plan’s Mission Statement and Goals for the Town’s Residential and Commercial areas, Cultural and Historic Resources, and Natural Environment. In addition, the UDO will provide an orderly method of making applications and allowing permits for future developments, re-developments, and subdivisions of land, with the requirements for all land development activities, including Code Enforcement authority, in one location and in one document.

- 2. Explanation of why the Board of Commissioners considers the adoption of the UDO to be reasonable and in the public interest:
  - a. The adoption of the UDO will greatly assist the Town’s staff and citizens in quickly finding and understanding the provisions relevant to proposed uses.
  - b. The enforcement procedures under the Town’s various development ordinances have been consolidated and revised and are, to the benefit of the public, more organized, understandable, consistent and uniform.
  - c. The amendments related to the Town Manager’s duties were required by State Law and the Town’s Charter, which provides for the Manager-Council form of government. It is reasonable and in the public interest for the Town’s ordinances to be consistent with State Law.

Upon motion duly made by Commissioner \_\_\_\_\_ and duly seconded by Commissioner \_\_\_\_\_, the above statement was duly adopted by the Town of Highlands Board of Commissioners at their regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in the Highlands Community Building, 45 Poplar St.

Upon call for a vote the following Commissioners voted in the affirmative: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

And the following Commissioners voted in the negative: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 David Wilkes, Mayor

Attest:

\_\_\_\_\_  
 Rebecca Shuler, Town Clerk

Commissioner Stiehler made the motion to approve the Adoption Statement required under NCGS §160A-383 for the Unified Development Ordinance’s consistency with the

Highlands Land Use Plan, which was seconded by Commissioner Pierson and the vote was unanimous.

Commissioner Pierson then made a motion to adopt the UDO, which was seconded by Commissioner Stiehler and the vote was unanimous.

## **11. Adjournment**

As there were no further matters to come before the Board of Commissioners, Commissioner Dotson moved to adjourn, which was seconded by Mayor Pro Tempore Drake and upon unanimous vote, the Town Board adjourned at 7:56pm.

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David Wilkes  
Mayor

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Rebecca R. Shuler  
Town Clerk