

Highlands Newspaper

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Institute of Justice urges town to reconsider STR crackdown

By Dan King
Institute for Justice

Last week the Institute for Justice (IJ) sent a letter to the town of Highlands calling on of-

ficials to scrap a new proposal to eradicate short-term rental properties in town.

The Highlands Board of Commissioners has proposed

amending the town's Unified Development Ordinance. The amendments would empower the town to use a controversial

• See RECONSIDER page 4

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Board of Elections wants new voting machines

By Brittney Lofthouse

Over the last few years, the Macon County Board of Elections has requested new voting equipment in their annual budget for capitol improvements.

"My board is pretty adamant about getting this going and getting new equipment," said Melanie

Thibault, Director of the Macon County Board of Elections. "Macon County's voting equipment, from what we gather, is over 20 years old."

Out of the 100 counties in North Carolina, Macon County is one of five counties that cur-

• See VOTING page 15

Hurricanes go to Jr. Olympics

By Steve Hott
Head Coach

Through July 28-31 the Highlands Hurricanes Swim Team joined four other teams in the Mountain Swim League (MSL) for the 2nd time to compete in the 2022 Jr. Olympic Games, which this year were held in Greensboro, NC.

The Hurricanes contributed 13 swimmers, FAST contributed 15, CCAC 2, JCST 1, and SMAC 0.

Competing against the likes of Team Florida, Team New England, Team Hawaii, and Team Arkansas, Team MSL did very well

finishing 10th out of 32 bringing home 33 medals.

Representing Highlands on the national stage were Jelehna and Aniah McKim, Finneas Garner, Conner Hughes, Paolo McRae, Tate Wilson, Jazmine Abranyi, Jack Sumner, Chase and Blake Kenter, Sophia and Lilliana Jandera Chambless, and Justin Powell.

The team stands ready for the next Jr. Olympic Games which is scheduled for Des Moines, Iowa.

For more information about the team, please call Steve Hott at 828.421.4121



209 racers of all ages ran their hearts out during Saturday's Twilight 5K.

Photo by Brian O'Shea

Twilight 5k raises \$25K for TL&LC

Brian O'Shea
Plateau Daily News

Hundreds gathered at Kelsey-Hutchinson Founders Park on Saturday for the annual

Rotary Club of Highlands Twilight 5K Race.

More than 200 racers competed in the event, which is slightly less than last year, but it still man-

aged to raise \$25,000 to be given to The Literacy & Learning Center.

Race Founder and Director Derek Taylor said Rotary Club of

• See TWILIGHT page 22

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• THE PLATEAU'S POSITION •

• MAYOR ON DUTY •

What to expect at tonight's TB meeting

Tonight (Thursday), is the August meeting of the Highlands Town Board of Commissioners. It will be at the Highlands Community Building which is located next to the ball field. The meeting begins at 7pm with public comment at the top of the agenda.

The agenda is rather short, but there will be a number of reports that will update the community on impending projects and initiatives. Several agenda items will be for "discussion only." For instance, an update on property revaluations that the Macon County Tax Assessors Department will be conducting this coming year will be of great interest to many homeowners on the plateau.

The board will also review several items related to the STR issue, but no final actions will be taken. On the agenda is a review and discussion of the March 3 letter that the attorney who represents the Save Highlands Group sent to the town attorneys.

The board will also go into closed session at the end of the meeting to discuss a letter the Institute of Justice sent



Highlands Mayor
Patrick Taylor

the board concerning proposed STR amendments. This letter was not a surprise to the board and the attorneys representing the town. The Institute to Justice weighing in on the STR issue was anticipated.

The agenda also includes proposed procedures for conducting the August 25 public hearing concerning the proposed ordinance amendments that the Highlands Planning Board reviewed, as well as the recommendations that they developed. The procedures that I will present are the same ones used in the first hearing that was conducted on February 24.

The STR public hearing will begin at 5 pm on Thursday, August 25, at the Highlands Community Building. Folks wishing to speak can sign up as they enter the building. Each speaker will have three minutes to make remarks addressing any of the proposals that the planning board reviewed.

One proposal is basically the same as the original one that the town board adopted. Another proposal drafted by the town attorneys includes the amortization provision. The planning board rejected both proposals and developed their own recommended proposal.

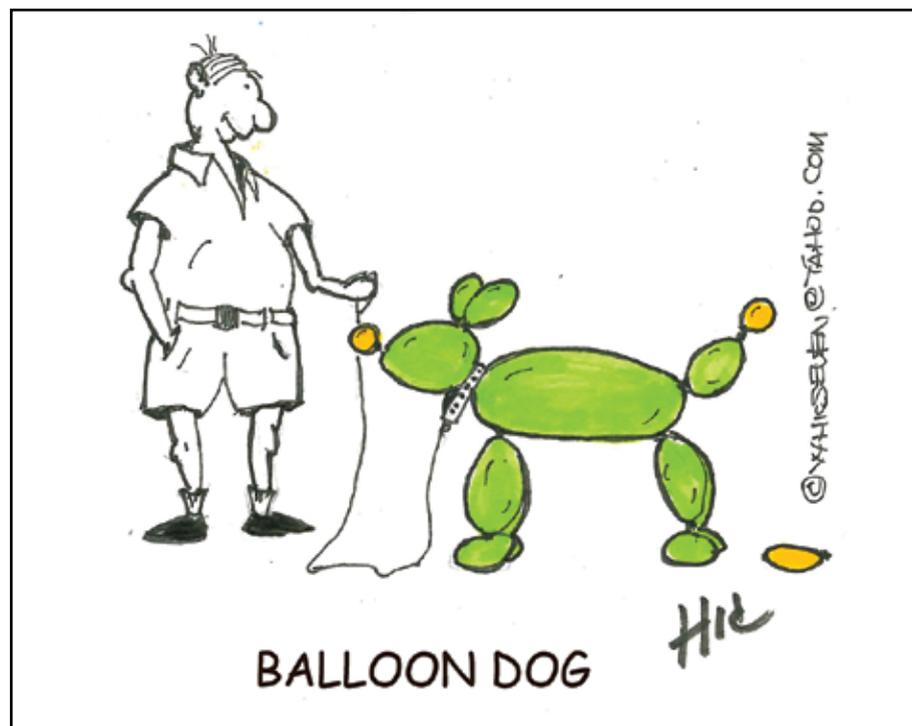
All of the proposals have been posted on the town website, as are the procedures that will be followed at the hearing.

As with the first hearing, there will be the option for people to submit written comments to the proposals. Those written comments must be limited to 500 words or less. They will become a part of the hearing record along with the oral statements.

At tonight's (Thursday's) meeting I will request the board to follow the procedure of the first hearing by taking no final action at the end of the hearing meeting. After the hearing, the board will need to schedule one or more work sessions with town staff to address specific details of any amendments prior to taking a final vote. These work sessions will be open to the public.

The meeting will be on YouTube by way of the town website. Also, new speakers have been added to critical areas in the meeting room and I am hopeful these new speakers will improve the sound for people at the meeting and for those who are streaming remotely.

• HIC'S VIEW •



• WEATHER •

Thu, 18-Aug	Fri, 19-Aug	Sat, 20-Aug	Sun, 21-Aug
			
72°F 58°F	73°F 61°F	75°F 61°F	81°F 59°F
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We reserve the right to reject or edit letters-to-the-editor. No anonymous letters will be accepted. Views expressed are not necessarily those of Highlands Newspaper.

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...RECONSIDER continued from page 1

tool known as “amortization” to reclassify short-term rental units that are currently in compliance with the town’s zoning laws as “non-conforming.” The proposed ordinance would then require these “non-conforming” property owners to submit to a permitting process to determine the appropriate “intensity” of their use. And regardless of their past legality, the proposed “amortization” will then force all short-term rentals to cease all operation within two years.

Many of the property owners who would be impacted by this use of amortization purchased their properties and invested substantial money with the understanding that their intended use as a short-term rental was, and would continue to be, legal in Highlands. Now, the town has effectively pulled the rug out from under them.

“This proposal from the town is an affront to the property rights of residents and property owners who simply want to do something that was perfectly legal at the time they purchased their property,” said IJ Attorney Ari Bargil, the author of the letter. “These are properties being used for residential purposes in areas that are zoned as residential. It is outlandish—and a violation of North Carolina law—for the town

to create a permitting scheme for these uses and then to extinguish them outright.”

Under the town’s proposal, owners of short-term rentals will have just two years to recoup the investment they’ve made in the property. The town argues this absolves them of providing just compensation for taking a person’s property, but that’s not true.

IJ fought against a similar use of amortization against short-term rental units in Wilmington. There, officials passed a law that arbitrarily capped the number of properties in the city that could be used for short-term rentals and prohibited any rental from operating within 400 feet of another rental property. Peg and David Schroeder had invested \$75,000 into their property to get it ready for short-term renters only for the city to throw them a curveball and change the law. In that case, the NC Court of Appeals struck down Wilmington’s ordinance as unlawful under North Carolina law. Wilmington had to refund over \$500,000 in illegally collected permitting fees and is on the hook for hundreds of thousands more in attorneys’ fees.

• See RECONSIDER page 19

REAL Impact Studies About Short-term Rentals

“Airbnb prevalence in a neighborhood appears to be associated with increases in...crime.”

Northeastern University

“(A)bsentee landlords are reducing the housing supply, which, in turn, increases the cost of living for local renters. According to our results, one way to reduce the latter effect while retaining the benefits of home-sharing would be to limit... the short-term rental market.”

The Harvard Business Review

“Affordable units are the major sources of both the negative and positive impacts of Airbnb: they cause a larger rental supply reduction, which harms local renters.”

Carnegie Mellon University

“It is striking to see that the issue (causing increased crime is) the conversion of units into short-term rentals.”



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“Importantly, when residents move out, the only buyers tend to be tourist investors. I call this process ‘collective displacement’, that is to say, a substitution of residential life by tourism.”

The University of Leeds

“(While the Airbnb expansion has) potential economic benefits and costs, the costs to renters and local jurisdictions likely exceed the benefits to travelers and property owners. The ‘Airbnb effect’ is...to the detriment of the indigenous residents, many of whom are pushed out due to financial constraints.”

The Economic Policy Institute

“Taken together, our results are consistent with the story that, because of Airbnb, absentee landlords are moving their properties out of the long-term rental and for-sale markets and into the short-term rental market.”

The Harvard Business Review

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• LETTERS •

What do we look for in a justice or judge?

Dear Editor,

Until 2018 Justices in NC had been non-partisan, after which the Republican legislature changed the law to require candidates for judges to declare party affiliation. Even though judges and justices are now partisan candidates, impartiality is still the cornerstone of their job.

One way to understand impartiality is to look at their listing of endorsements and their written decisions. Are they endorsed by other judges or leaders from both parties? Do they show respect by listening? Do they write opinions that show they are following the law? Do they cite rulings and precedent? And, do they deliberate and apply the law equally?

In the case of the NC Supreme Court, it is important to recognize the candidates experience in lower courts. Have they served on Superior court or the Appellate Court? In the best case, a Supreme Court Justices should have experience in either or both of the lower courts.

On the NC Supreme Court, there are Republican justices that seem to vote as a partisan block. Since the last election, it has been noted that Republican justices have ruled as a unit and demonstrated a lack of independent thinking until they were called out on this by the Raleigh News and Observer last fall. Then, all of a sudden, they changed their tack and did not vote "in lock step" for ONE decision.

Judges must be able to give assurance that justice is happening not politics.

**Karen Hawk
Highlands**

Just who do you care about?

Dear Editor,

This is to the Mayor and Town Commissioners.

I can't figure out if y'all are stupid or elitists, maybe it's both.

Your STR decisions serve the wealthy few and are without consideration to those of us who work hard to survive.

We might not boast the wealth you do, nor do we run in the same circles as you do, but we are good, honest hard-working people who shouldn't be stripped of our rights by those of you who think you're better than we are.

Not only are you trying to take away our rights, you are causing great emotional stress to my husband and me.

Our guests aren't the party-hearty, drunken, garbage-spewing people that you and whoever else is driving this ridiculous witch-hunt claim they are. They are responsible, respectable people enjoying a hike, a great dinner or in town for a family-member's wedding.

They travel to enjoy the outdoors, a glass of wine on the screened-in porch or the solace of reading a book in the peacefulness of our home.

How on earth is any of that harming any one of you or any single member of the community?

I used to say I would be proud to be a resident of Highlands, and that is what we've worked toward most of

• See LETTERS page 8



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The Institute For Justice Weighs In – Urging Caution to the Town Of Highlands Regarding Its Proposed STR Ordinance.

“The North Carolina Supreme Court has addressed amortization only once, nearly 50 years ago... That is nothing like what the town is considering here – the elimination of undesirable residential uses within an area zoned residential.”

“Attorneys’ fees – which Highlands, by law, will be responsible for paying in the event of a successful legal challenge to the proposed ordinance.

That is because North Carolina law, unequivocally, provides for attorneys’ fees...”

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...LETTERS continued from page 7

our lives, but your self-serving arrogance will rob us of our dreams and make a mockery of the hard work and investments we’ve made in your town.

You didn’t bother to respond to the first message I sent asking you to have an open mind. I now fully realize just how close-minded you actually are. I’m saddened and embarrassed by your actions, your attitude and your disrespect for people like me.

**Susan Hayes
Highlands**

We sprinkle ‘Tourist Money’ while at STRs

Dear Editor,

We were in your area in mid-July for our small wedding ceremony near Franklin and a honeymoon near Hayesville. I picked up your 7/14/2022 issue of the Highlands Newspaper and wished to comment on a couple of items.

We were, obviously, among the short-term rental folks who pass through your area. I do understand how difficult it must be for folks living near an STR home when the renters choose not to treat the locals with respect, I’m sorry community members have to deal with that. I wanted to share that we have rented several amazing VRBO and AirBNB homes in the Pisgah area and absolutely love it; we found your area absolutely lovely and hope to come back to hike and spend time in your community. We are over 60 and avid hikers, we visit an area to enjoy the local beauty and visit local restaurants and shops, leaving a good deal of “tourist money” as we go along.

For the wedding weekend, we rented four luxury cabins near Franklin and had a group of about 30 friends and family with us. Everyone loved the area and, again, we sprinkled a good deal of “tourist money” into venues around Franklin. We respected and enjoyed the properties and everyone we met; we had a wonderful time. I’m sorry that not everyone in this country has learned to respect those who are willing to share their beauty and bounty, I do hope a solution will be found that permits guests to share in the amazing communities’ people have worked hard to create.

I felt terrible, as does your entire community, about the accident that injured young Barrett McKim. That poor young man.

I will pray for Barrett that he can find some good in the evil that has been visited upon his young body and mind. Never give up hope!

Kimberly Mihaliak

Say ‘no’ to STRs in R1

Dear Editor:

We are writing to encourage the Mayor and Commissioners to stand firm against short-term rentals in the residential neighborhoods of Highlands.

To us, the ideal residential neighborhood is one in which you know your neighbors, where you share greetings and gath-

erings, where there is a mutual sense of respect and courtesy, and where you look out for each other. These attributes are lost when STRs bring a constantly shifting stream of unknown faces and cars and noises and contractors into an area.

Surely one of the main purposes of

• See LETTERS page 10



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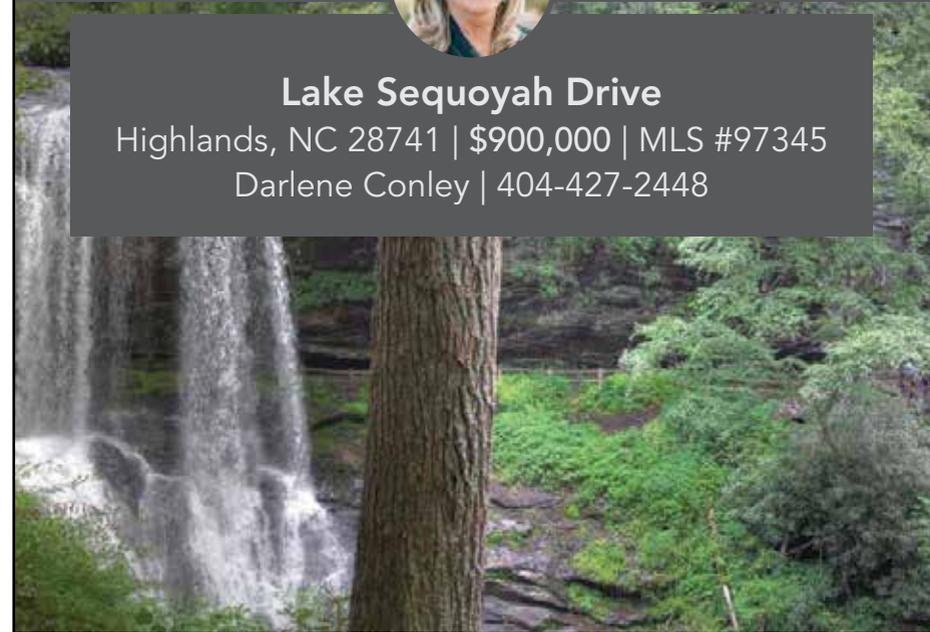


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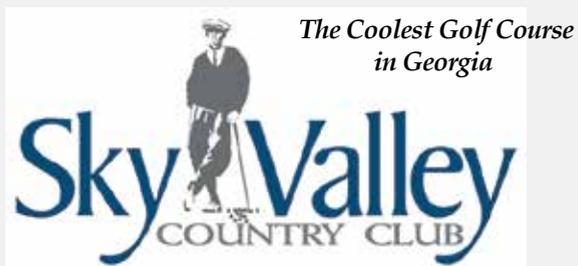
Cherie Anne Aynes Brannan

Cherie Anne Aynes Brannan, 78, passed away August 9, 2022.

No public services are planned.

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• See OBITUARIES page 17



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...LETTERS continued from page 8

zoning ordinances is to compartmentalize residential and commercial activities. Zoning ensures that traffic, noise, density, activity level, and services are appropriate to particular areas. A healthy community needs to have clear options for residential and commercial uses, and the Town has an obligation to ensure that residential-style living is a real option for its full-time residents.

We believe that that is exactly what the R1 designation is intended to provide, and we are asking the Mayor and Commissioners to take decisive measures to eliminate all STR activities in R1 areas.

STRs are a particularly predatory form

of tourism because they chip away at neighborhood fabric and because they are a magnet for exploitive investors. It is critical to Highlands' future that STRs – particularly absentee-ownership STRs – do not come to dominate.

Without neighborhoods that are protected from commercialization and tourism, Highlands will completely lose its sense of community and connection, and its foundation of community-minded residents who volunteer and who support local businesses year-round.

Patty Bennett & Tom Uffelman
Highlands

On Highlands' amortization of STR properties

Dear Mayor Taylor and Town of Highlands Board of Commissioner Members,

It has come to my attention that the town of Highlands is considering reclassifying the town's short-term rental properties as non-conforming uses and ordering their eventual elimination through the use of amortization. I have been contacted by concerned residents and property owners who see this as an affront to their property rights. I am writing to you because I believe they are correct.

The Institute for Justice ("IJ") is the

nation's leading law firm for liberty and a nationally recognized advocate for property rights. In addition to successes at the state and federal level, including the United States Supreme Court, IJ also successfully represented Peg and David Schroeder in their challenge to Wilmington's short-term rental amortization scheme. Highlands' proposal shares several similarities with the Wilmington restriction, which, it should be noted at the outset, was deemed unlawful under North Carolina law and was struck

• See LETTERS page 14

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Second Mondays

• The local chapter of PEO, an off-campus sorority founded in the 1800s that provides grants and loans to women with financial need who want to return to school or further their education meets at 10 a.m. More meeting places call president Paula McDonald at 706-372-3004

2nd Tuesdays

• Highlands Writers Group meets on alternate Tuesday afternoons at 3pm. Writers still uncomfortable with in-person gatherings may participate via Zoom meetings held on the second or third Tuesday of each month at 3pm. Members receive weekly notification regarding when and how the group will assemble. "We welcome participation from anyone interested in writing, or just hanging out with writers," said Bud Katz. For more information contact Bud Katz at either 828-526-3190 or at budandlynn@me.com

Thursdays

• At Hudson Library, Family Storytime at 10:40a. For more information about any of these summer activities, contact Hudson Library at 828-526-3031.

• At Hudson Library, Kids Zone at 3:30 pm with a wide variety of STEAM, nature, and craft activities. For more information about any of these summer activities, contact Hudson Li-

brary at 828-526-3031.

Mon-Fri

• Water Aerobics 18 years plus 10:15-11am.

Mon., Tues., Thurs.

• The Food Pantry behind the Methodist Church on Spring Street is open from 10a to 6p.

Mon. & Wed.

• Cardio Kickboxing with Crystal Corbin 5:30-6:30 p.m. A full body workout for every muscle

• New Mobility Class with Anna Norton It's all about movement. 5:30-6:30pm and Wednesday 6:45-7:45. For more information, call Anna 267-825-0716.

Mon, Wed, Fri

• Heart Healthy Exercise Class 8:30-9:30am. \$25 a month, The class is led by Cathy Hodgson. Contact the Recreation Department at 828-526-3556 for more information.

• Aerobics w/Tina Rogers 8-9a.

1st Tuesdays

• Indivisible Highlands from 5-6:30 pm at the Hudson Library.

Tuesdays

• Strength Training 8:15-9:15am. Aim for strong, lean muscles using light weights, body weight, and high repetition to shape and tone.

Tues. & Thurs.

• Pilates-Strength and Stretch with Autumn Lucas

• New Zumba class with Gay Chalpin from 4:30-5:30p.

• Exercise Class with Michelle Lane at 5:30. A combination class with different types of exercise.

Thursdays

• Kickboxing 8:15-9:15am. An exhilarating and fun mix of martial arts for a calorie-burning workout.

Fridays

• Friday Night Live Concerts in Town Square on Main Street. 6-8:30 p.m. Bring chairs.

Saturdays

• Saturdays on Pine in K-H Founders Park on Pine Street. 6-8:30 p.m. Bring chairs, blankets and a picnic.

2nd Saturdays

• The Western North Carolina Woodturners Club meets in Highlands at The Bascom at 10 a.m. March thru November.

3rd Saturdays

• The American Legion Post 370 meets at the First Methodist Church at 315 Main Street in their Community Room/ 909 Chapel. We serve breakfast at 9AM and hold our monthly meeting at 10AM We invite ALL Veterans to attend. Contact Ed McCloskey, Commander for any information @828-787-1660.

Aug. 17-19

• At The Bascom, Realism vs Abstraction in Landscape with Chris Groves (Session 2), 10 am – 4 pm. For more information go to thebascom.org.

Fri. - Sun., Aug. 19-21

• At The Bascom, Places We Go Clay Workshop with Kim Bernadas, 9am – 4pm. For more information go to thebascom.org.

• Michael Hofman Trunk Show at Acorns. Creations using lace and quality porcelain clay have a defined elegance and lightness.

Sat., Aug. 20

• Highlands Emergency Council Fundraiser from 12-3pm in KH Founders Park featuring the Lisa Boone Band. There will be raffles, and a silent auction. Hot Dogs with fixings for \$5 per plate.

• Highlanders Youth Mini Cheer Camp (Cheers, Jumps, Dance and Stunts) Saturday from 1-5pm. Ages 4-13. Campers will receive T-Shirt and Bow. Cost for the camp is \$25. Call the Rec Park for more information at 828-526-3556.

• At The Bascom, The Moulthrop Family Turns Wood into a Refined Artform presentation, at 4pm. | FREE. For more information go to thebascom.org.

Sat., Aug. 20

• The Nantahala Hiking Club (You do not have to be a member to hike with us) will take a moderate 2 mile hike on Saturday to Rufus Morgan Falls We will meet at Westgate Plaza in Franklin, NC, across from Burger King, at 9am and carpool to the trailhead, about 13 miles driving distance each way. Bring food and fluids as needed. Call hike leader David Stearns, 828-349-7361, for more information or in case of foul weather. There is no charge. Reservations are not needed. Visitors and well behaved dogs are welcome.

Sun., Aug. 21

• Our free, monthly summer concert series continues on Sunday from 2-4p on the deck at Wayfarers Chapel in Dillard, GA. Bring your favorite folding chair and hear local favorites, Loose Shoes duo. Concert is on the deck of Wayfarers Chapel by the beautiful Estatoah Creek at 182 Wayfarer Lane, in Dillard, GA. Please call Jennifer Uteley at 901-581-2404 if you have any questions or need more information.

Aug. 24-26

• At The Bascom, Painting an Alla Prima Portrait in Oil with Marc Chatov, 10 am – 4 pm. For more information go to thebascom.org. For more information go to thebascom.org.

Thurs., Aug. 25

• At the Highlander Mountain House. Salon Series with Alexa Rose at HMH 9 PM. For tickets call the hotel (828) 526-2590.

Fri., Aug. 26

• Community Coffee with the Mayor. Mayor Patrick Taylor will be joined by Director of Public Works Lamar Nix with a Public Works Update. 11am in the Hudson Library Meeting Room.

Sat-Sun, Aug. 27 & 28

• Highlands Mountaintop Rotary Art & Craft Show will be held in Kelsey-Hutchinson Park on Pine Street from 10a to 5p. Attendance

Sentimental Journey at The Playhouse



This unique and nostalgic production pays tribute to the legendary USO shows of World War II. Filled with classic 1940s songs, soldiers, starlets, and sensational swing dancing, this toe-tapping, finger snapping, high-stepping musical revue is one that you don't want to miss. Take a Sentimental Journey with The Byrd Sisters, and celebrate a time when all of America was listening and dancing to the same kind of music. Featuring over 40 classic hits of the 1940s: "Sentimental Journey," "Don't Sit Under The Apple Tree," "Almost Like Being In Love," "Your Feet's Too Big," "Smoke Gets In Your Eyes," "It Had to be You," "Boogie Woogie Bugle Boy," and MANY MORE! September 4, Wed. - Sat. at 7:30p | Saturday & Sunday at 2p.

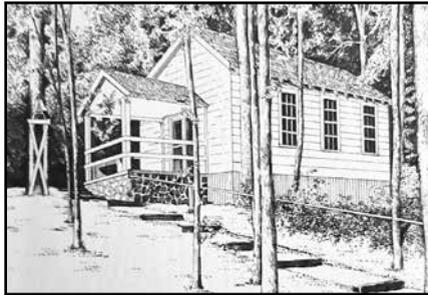
• HIGHLANDS EVENTS •

Church in the Wildwood reopens Sun., Aug. 21

The bell will ring again and Sunday evening hymn singing from the Cokesbury Hymnal will resume at the Church in the Wildwood on Horse Cove Road this Sunday, August 21 beginning at 7pm.

For most of the summer, the little church has held its summer hymn singing at the Highlands United Methodist Church since the building on Horse Cove Road had maintenance issues that had been deferred, and money had to be raised to begin the repairs.

"The Church in the Wildwood has friends who live locally and in distant states. Many folks have told us how much the hymn singing in this special place has meant to their families over the years, said Gwyn Hardin, on behalf



of the Board. "We are extremely grateful to everyone who contributed and to HUMC for providing a temporary home for our Sunday evening services. We look forward to seeing old and new friends who enjoy singing during the remaining Sunday evenings."

is free, dogs are allowed, and food will be available. For info contact coordinator Cynthia Strain at (828) 318-9430 or visit: www.mountaintopshow.com

Thurs., Aug. 27

• At the Highlander Mountain House.

Pop-Up exclusive shopping experience with Baybala, Varnish Collection, & Massey Gordon

Sun., Aug. 28

• Sunday Supper at OEI's The Farm with Chef Cole Ellis of Delta Meat Market in Cleveland, MS and Chef Rob McDaniel of Helen in

Birmingham. Book at OldEdwardsHospitality.com/chefdinner

Mon., Aug. 29

• The Art League of Highlands-Cashiers will hold its monthly meeting on Monday at THE BASCOM. Social Time starts at 4:30 PM, followed by an Artist Presentation from 5-6p. Our meetings are FREE. Welcome all Art Enthusiasts and Like-Minded Folks. JOIN US. For more information visit www.artleaguehighlands-cashiers.com, email: johnbauknight3@aol.com or call 828-421-1466



HIGHLANDS

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Friday, August 26, 2022

Highlands Plaza

(Near Bryson's Food Store)

9:30 a.m. – 12:30 p.m.

Donations will be collected to support our area's first bilingual mental health counselor for the Plateau Behavioral Health Collaborative, a partnership of The Counseling Center, the Community Care Clinic of Highlands-Cashiers, and the International Friendship Center.

For more information:

events@highlandschamber.org

828-526-5841

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...LETTERS continued from page 10

down as such by the North Carolina Court of Appeals. Given many of those similarities, the town's proposal is deeply concerning, both practically and legally.

First, practically speaking, forcing property owners to register or permit their properties, submit to a novel and ill-defined "intensity determination" to establish the extent of their permissible use, and then to eliminate that use entirely in a period of two years is problematic to say the least. Most obviously, it offends the settled expectations of property owners, many of whom purchased their property and made improvements—often incurring substantial expense—based on their reasonable belief that their intended use was (and would continue to be) legal.

Next, the town's proposal funnels all of those property owners into a seemingly yet-defined process that will review their past use and apply that as a guidepost for defining what they may do in the future. In other words, past

conduct will define future legality. And then, in the end, the ordinance would extinguish property owners' preexisting rights without compensation or sincere consideration of the time and expense incurred. All of this is objectively unfair.

From a legal perspective, there are other problems. My understanding is that the town council is under the impression that amortization of non-conforming uses—a controversial landuse tool to say the least—has already been approved by the North Carolina Supreme Court. Given this understanding, I suspect that the town council further expects that it will be successful in a potential legal challenge to the town's use of amortization here. I recommend caution. The North Carolina Supreme Court has addressed amortization only once, nearly 50 years ago. See *State v. Joyner*, 286 N.C. 366, 211 S.E. 2d 320 (1975). And Joyner hardly involved property interests like those at issue here. For one thing, the challenging party in Joyner did not even own the

land; he was a lessee. Nor did the case involve the elimination of a common, low-intensity use like a residence. To the contrary, Joyner dealt with a nonconforming industrial scrap-yard in a business district. That is nothing like what the town is considering here—the elimination of undesirable residential uses within an area zoned residential. And even in Joyner, that town gave the property owner more time (three years) than this town is considering here.

Again, Joyner was the first and only time the North Carolina Supreme Court addressed amortization. And in the intervening time since Joyner was decided, amortization decisions (in the North Carolina intermediate court of appeals) have uniformly dealt with the elimination of billboards and signs, not residences. See *Naegele Outdoor Advert., Inc. v. City of Winston-Salem*, 113 N.C. App. 758, 760–61, 440 S.E.2d 842, 843–44 (1994) (billboards); *Summey Outdoor Advert., Inc. v. Cty. of Henderson*, 96 N.C. App. 533, 544, 386 S.E.2d 439, 446 (1989) (outdoor advertising signs); *Goodman Toyota, Inc. v. City of Raleigh*, 63 N.C. App. 660, 664–66, 306 S.E.2d 192, 195 (1983) (billboards); *R. O. Givens, Inc. v. Town of Nags Head*, 58 N.C. App. 697,

702, 294 S.E.2d 388, 391 (1982) (outdoor advertising); *Cumberland County v. E. Fed. Corp.*, 48 N.C. App. 518, 521, 269 S.E.2d 672, 675 (1980) (signs). In other words, amortization has been upheld where it has been used to eliminate typical nuisance-like uses. As in, not homes. This understanding makes sense, given that Joyner is itself rooted in North Carolina nuisance jurisprudence. Joyner, 286 N.C. at 373, 211 S.E. 2d at 324–25 (relying on *Town of Wake Forest v. Medlin*, 199 N.C. 83, 154 S.E. 29 (1930); *State v. Moye*, 200 N.C. 11, 156 S.E. 130 (1930)).

As I understand it, several members of the town council or planning board have expressed curiosity regarding whether any other localities have attempted to amortize short-term rentals in the man-

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...LETTERS continued from page 14

ner considered by the town here. I am unsure whether you were given an answer, so I will provide one. Outside of Wilmington's doomed attempt to amortize its short-term rentals through licensing and registration, I am aware of only one fully litigated legal action involving an approach like what the town is contemplating. That case, *Zaatari v. City of Austin*,

615 S.W. 3d 172 (Tex. App. 2019), involved a six-year amortization of short-term rentals in Austin, Texas. Austin lost. In its decision, the Texas Court of Appeals ruled that Austin's amortization ordinance was an unconstitutional disruption of the property owners' settled expectations—the very same reason the town's proposal is legally problematic here.

None of this, of course, addresses the issue of attorneys' fees—which Highlands, by law, will be responsible for paying in the event of a successful legal challenge to the proposed ordinance. That is because North Carolina law, unequivocally, provides for attorneys' fees:

[i]n any action in which a city or county is a party, upon a finding by the court that the city or county violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action.

N.C.G.S. § 6-21.7 (emphasis added). Here, this attorneys' fees statute will almost surely be triggered because the town's proposal involves a permitting scheme—something that is unambiguously foreclosed by state law. See

N.C.G.S. § 160D-1207(c) (“In no event may a local government . . . adopt or enforce any ordinance that would require . . . any permit or permission . . . from the local government to lease or rent residential real property or to register rental property with the local government.”). This is precisely the statute that was at issue in the *Schroeder v. Wilmington* matter. And because the appeals court in that case said—literally ten different ways—that Wilmington's ordinance was unambiguously foreclosed by state statute, plaintiffs' counsel (the undersigned) has claimed an entitlement to fees. The amount sought: \$324,564.20, plus costs.

In sum, the town's proposal deploys legally dubious land-use tools to eviscerate the settled expectations of property owners. And the supposed legitimacy of the town's approach rests on a half-century-old legal decision upholding, unremarkably, the power of government to moderate nuisances. Finally, the town's implementation of the proposed ordinance calls for the creation of a permitting system—something the North Carolina Court of Appeals struck down as unlawful earlier this year. Accordingly, the proposed ordinance also exposes the town to substantial financial liability, in the form of attorneys' fees, in the seemingly likely event that it will have to defend its unlawful permitting/amortization scheme in court.

I urge you to reconsider your proposal in light of this information.

**Attorney Ari Bargil
Institute for Justice**

...VOTING continued from page 15

rently utilizes the 20-year-old software, with three of the five counties, Macon, Graham, and Swain, all being in WNC.

According to Thibault many of the counties in the state upgraded their equipment with COVID-19 funding provided to Board of Elections during the height of the pandemic, however Macon County utilized the funds to pur-

chase health safety supplies for voting precincts.

“We are looking at new scanners,” said Thibault. “Our scanners are almost 20 years old. There will be a day soon when the vendors will no longer service our current scanners because they do not make them anymore. We will still have paper ballots. In NC, paper ballots

• See VOTING page 16



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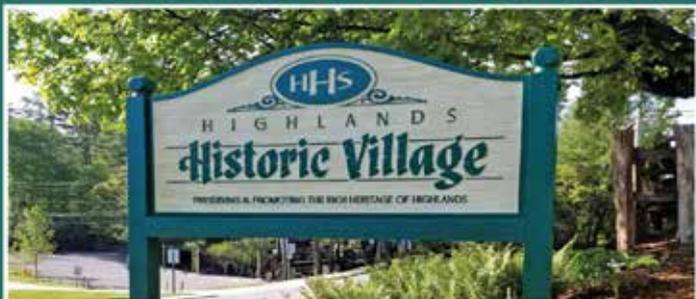
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...VOTING from page 15

are required for use in elections. This is why we are urging everyone to come out so there are no questions unanswered at the time the vendors are here.”

North Carolina requires several steps be taken before new voting equipment is utilized, the first step being to witness demonstrations of the potential voting equipment. The demonstrations must not only include a demonstration of the current vendor's system, but also a second certified voting equipment vendor.

The public demonstrations of the voting equipment is scheduled for August 23 and August 30 both at 6 p.m. August 23 will be a demonstration of ES&S systems, which is the county's current vendor, and August 30 will include a demonstration of HART systems. The demonstrations will take place at the Robert C. Carpenter Building in Franklin.

Following the public demonstrations, the Macon County Board of Elections will then return to the Board of Commissioners with a recommendation on which voting equipment to purchase.

After a vendor is selected, a stimulated election will be held to test the equipment. Thibault said ideally, she would like to see the equipment purchased in time for the next municipal election, which typically sees fewer voters than in a General election.

The new equipment will strictly be upgraded from what is currently being utilized and will not change the process for voters. Paper ballots will still be utilized and the new voting equipment does not connect to the internet in anyway.

The new equipment – 24 new machines – is expected to cost around \$250,000.

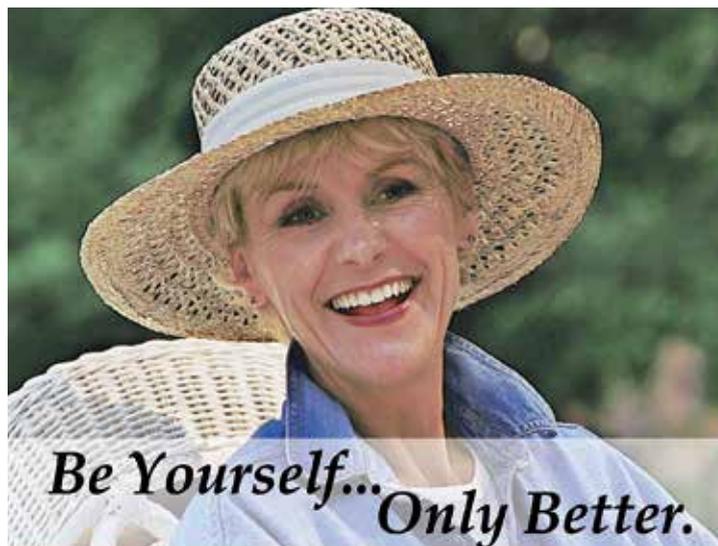
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...OBITUARIES continued from page 10

Carol Anne Lamb Ball

Carol Anne Lamb Ball, born February 2, 1948, ended a stoic bout with leukemia and other health issues on Monday, August 15, 2022.

She was proudly a "mountain girl" and a graduate of Highlands High School and Western Carolina University. For 20 years she was a stellar, beloved math teacher at Andrews High School in Cherokee County.

A very unpretentious, private person, her main focus in life was her family, whom she loved fiercely. A voracious reader, she also loved books, her tablet, music and flower arranging, especially when assisted by a granddaughter.

She was preceded in death her parents, Floyd and Anne Lamb, a twin brother, Steve, whom she adored, and three older brothers: Jack, Mitchell and Billy Lamb.

Carol Anne doted on five grandchildren: Alex, Anna, and Alyson Dayton and Grayson and Fara Ava Rose Ammons.

She leaves behind her husband Ken, daughters Fara Robinson (Doug) of Charlotte, Bonnie Dayton of Highlands and Jennifer Ammons (Randy) of Hayesville.

She took comfort in this verse of a favorite song:

*"I cannot tell my daughters
All the things I am scared of.*

*But I am not afraid of that bright glory above.
Dying is just another way to leave the ones you
love."*

At her request, there will be no funeral. However, friends and family are invited to drop by the family home at 2236 Dillard Road in Highlands any time between 1 and 5 p.m. on Sunday, August 21 to offer condolences, share memories, and join the family to celebrate the life of their Carol Anne.

The family wishes to acknowledge Care Partners Hospice and express their gratitude and appreciation to nurses Lisa and Bonnie Sue.

In lieu of flowers, the family requests contributions be made in Carol Anne's memory to the Highlands Food Pantry: The Internal Friendship Center, 248 South Fifth Street, Highlands, NC 28741.


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• THANKS •

Dear friends,

Losing my home was an experience I hope none of you ever have to endure and I thank God that I am here. I also hope that if you have such a tragedy that everyone will be as good to you as all of you have been to me.

As all the donations poured in, I kept a record of each one with intentions of sending "thank you" notes to each person who donated, but it soon became apparent that it was just too overwhelming.

There were a lot of anonymous donations. I didn't want to leave anyone out or hurt anyone's feelings.

I don't even know where to begin. Thank you doesn't seem to be sincere enough to cover the overwhelming love and caring that has been shown to me.

If you donated clothing, food, automobile, jewelry, made BBQ, bought BBQ, sent gift cards, made monetary donations,

• See THANKS page 22

• SPIRITUALLY SPEAKING •

Announcing a new church for Our Lady of the Mountains

Fr. Jason Barone
Our Lady of the Mountains
Catholic Church

It is with great joy that I announce to the town of Highlands the public phase of a capital campaign to build a new church on the property of Our Lady of the Mountains Catholic Church (OLM).

The history of our community begins with only a handful of Catholic families meeting in the 1940s and constructing the oldest section of the current church on N. 5th Street in 1950. As the number of Catholics grew, so was the church expanded lengthwise in 1964. In the late 1980s, a north wing of the church was added, giving the church the shape of an "L" one sees today. No significant improvements or alterations have been made in over 30 years.

Upon my arrival at OLM three years ago, it was my intention to lead the development of a comprehensive plan to identify and address the needs of the community. Unfortunately, the pandemic soon postponed those plans. Nonetheless, in the fall of 2021, in collaboration with the Diocese of Charlotte, we began to consider how best to move forward. A strategic planning committee of OLM members was then assembled last January and began working in earnest.

The committee quickly discovered that while our building has served us well for many decades, our facilities were not aging well, and the prospect of a new church proved evident. As a result, we hired a consulting firm to evaluate the feasibility of a capital campaign to meet this need. Confident that both the support and financial means existed within OLM's membership, the consultants recommended we proceed. Preparations began for a capital campaign, including the engagement of McCrery Architects of Washington, DC, to develop conceptual designs.

We plan to build a roughly 300-seat church to be located on our campus, with the entrance centered on Pine Street. The baroque style selected for the new church dates to the late 16th century. This choice may come as a surprise to some, but as the other churches in Highlands reflect their faiths' architectural traditions, we too seek to embrace ours and so complement the other churches.

To me, this particular style is a sign of hope and renewal. Prior to the baroque period, the Catholic Church was seemingly in decline due to years of scandal and corruption. Nonetheless, reform and renewal did finally come, and the Church was renewed, like a phoenix rising from the ashes. Events of the last several decades have also resulted in a seeming decline of the Catholic Church, but renewal, I believe, is already budding forth. Christ promised He would remain with us always. We envision

• See SPIRITUALLY SPEAKING page 19

Proverbs 3:5

• PLACES TO WORSHIP •

John 3:16

BLUE VALLEY BAPTIST CHURCH

Rev. Oliver Rice. Pastor (706) 782-3965
Sundays: School: 10 a.m.; Worship: 11
Sunday night services every 2nd & 4th Sunday at 7
Wednesdays: Mid-week prayer meeting: 7 p.m.

BUCK CREEK BAPTIST CHURCH

828-269-3546 • Rev. Jamie Passmore. Pastor
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Testimony meeting: 3rd Wednesday at 5:30 p.m.

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1st & 3rd Sunday night Service: 7 p.m.
Wednesdays - Supper at 6 p.m.

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Sun: 10:45am Children's Program, HS 4:30-6:30pm
Mon: 4:30-6pm Women's Bible Study; Tues: 7-8am Men's Bible
Study@Zookeeper Bistro; 10am-Noon Women's Bible Study@
Wed: MS 5:30-7pm; Thurs: 7-8:15am Men's Bible Study@
Zookeeper Bistro

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Pastor Steve Kerhoulas
Worship: Sun. 10:30 a.m. Holy Communion 2nd Sunday
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Rev. V. Bentley Manning, Rector • 526-2968
5th and Main streets • www.incarnationwnc.org
Sunday Services Chapel: Rite I spoken, 8a. Rite II with Choir in
Sanctuary 10:30a; Morning Prayer Mon-Thurs 8:30a in Chapel

FIRST BAPTIST CHURCH HIGHLANDS

828-526-4153 • www.fbchighlands.org
Dr. Mark Ford, Pastor • 220 Main Street, Highlands
Sun.: Worship 10:45 am; Sun.: Bible Study 9:30 am
Wed.: Men's Bible Study 8:30 am; Choir 5p; Prayer Mtg 6:15p

FIRST PRESBYTERIAN CHURCH

Curtis Fussell & Emily Wilmarth, pastors
828-526-3175 • fpchighlands.org
Sun.: Adult Ed.: 10 a.m.; Worship 11 a.m.
Tues: Men's Group 10 a.m. Wed: Bell Choir 4 p.m.. Choir: 6p

GOLDMINE BAPTIST CHURCH

(Off Franklin/Highlands Rd)
Sunday School: 10 am. Worship Service: 11 am
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www.gracecashiers.com • Pastor Steve Doerter 743-9814

Services: Sundays 10am - Wed. - 7pm; Dinner - Wed. 6pm

HAMBURG BAPTIST CHURCH

Hwy 107N. • Glenville, NC • 743-2729 • Nathan Johnson
Sunday: School 9:45a. Worship 11a & 7p. Bible Study 6p
Wed. Kidsquest 6p.; Worship 7p.

HIGHLANDS ASSEMBLY OF GOD

Randy Reed. Pastor 828-421-9172 • 165 S. Sixth Street
Wed. Bible Study: 6 p.m.; Sundays: Worship: 11

HIGHLANDS CENTRAL BAPTIST CHURCH

Pastor Dan Robinson • 11339 Buck Creek Road
The Highlands Central Baptist Church is temporarily
sharing the facilities of the Shortoff Baptist Church.
Sunday Worship is at 9a. Wednesday Worship is 6:30p

HIGHLANDS UNITED METHODIST CHURCH

Rev. Dr. Randy Lucas. Pastor 526-3376
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www.highlandsmethodist.org

HOLY FAMILY LUTHERAN CHURCH: ELCA

Rev. Angie Ballard • 2152 Dillard Road • 526-9741
Worship/Communion: 10:30 All are welcome.
We wear masks and social distance.

MACEDONIA BAPTIST CHURCH

8 miles south of Highlands on N.C. 28 S in Satolah
Pastor Zane Talley
Sundays: School: 10 a.m.; Worship: 11. Choir: 6 p.m.
Wed: Bible Study and Youth Mtg.: 7 p.m.

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Franklin • 828-634-1312
Services 2x/month May-Sept.; 1x/month Oct. -April
mountainynagoguewnc.com.

MOUNTAIN BIBLE CHURCH

743-2583 • Independent Bible Church
Sun: 10:30 a.m. at Big Ridge Baptist Church.
4224 Big Ridge Road (4.5 miles from NC 107)
Weds: Bible Study 6:30 p.m.; Youth Group 6 p.m.

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CATHOLIC CHURCH
Rev. Fr. Jason K. Barone - 526-2418
Mass: Wed. noon (Latin); Thurs. 9:30a; Sat. 4p; Sun. 11a
SCALY MOUNTAIN BAPTIST CHURCH

Rev. Marty Kilby
Sundays: School - 10 a.m.; Worship - 11 a.m. & 7
Wednesdays: Prayer Mtg.: 7 p.m.

SCALY MOUNTAIN CHURCH OF GOD

290 Buck Knob Road; Pastor Donald G. Bates • 526-3212
Sun.: School: 10 a.m.; Worship: 10:45 a.m.; Worship: 6 p.m.

SHORTOFF BAPTIST CHURCH

Pastor Rev. Andy Cloer
Sundays: School: 10 a.m.; Worship: 11 a.m.
Wednesdays: Prayer & Bible Study: 6 p.m.

ST. JUDE'S CATHOLIC CHURCH

Mass: Tues. noon (Latin). Thurs. 9a.; Fri.. noon;
Sat. 5:30p; Sun. 9a

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Sunday Worship - 11 a.m.

WHITESIDE PRESBYTERIAN CHURCH

Rev. Sam Forrester/Cashiers
Sunday School: 10 am. Worship Service: 11 am

• POLICE & FIRE REPORTS •

Highlands Police entries from Aug. 9. Only the names of persons arrested, issued a Class-3 misdemeanor or public officials have been used.

Aug. 9

• At 2:22 p.m., officers responded to a medical call at a residence on S. 4th Street.

Aug. 10

• At 11:13 a.m., officers responded to a two-vehicle accident on Maple Street.

• At 3:45 p.m., officers responded to a two-vehicle accident on US 64 west and Holt Knob Road.

• At 3:30 p.m., officers responded to a two vehicle accident in Highlands Plaza

Aug. 13

• At 11:44 p.m., Mariana De Dios May, 31, of Highlands was arrested for DUI. Her trial date is Sept. 28.

The Highlands Fire & Rescue log from Aug. 7.

Aug. 7

• At 4:44 a.m., the dept. provided mutual aid to Cashiers FD.

• At 11:08 a.m., the dept. was first-responders to a location on Main Street.

• At 12:51 p.m., the dept. was first-responders to a residence on Song Bird Lane.

Aug. 9

• At 6:35 p.m., the dept. responded to a fire alarm at a residence at VZ Top.

• At 7:54 p.m., the dept. was first-responders to a residence on Cotswold Way.

Aug. 10

• At 11:23 a.m., the dept. responded to a motor vehicle accident on Maple Street.

• At 3:03 p.m., the dept. provided public assistance on Walhalla Road.

• At 3:18 p.m. the dept. responded to a fire alarm at a residence on Biscuit Rock Road.

• At 3:46 p.m., the dept. responded to a motor vehicle accident on US 64 west.

Aug. 11

• A little past midnight, the dept. responded to a fire alarm at a residence on Biscuit Rock Road.

• At 9:15 p.m., the dept. responded to a fire alarm at a residence on S. Old Walhalla Road.

Aug. 12

• At 8:22 a.m., the dept. was first-responders to a residence on Wilson Road.

• At 9:20 a.m., the dept. responded to a fire alarm on Skyline Lodge Road.

• At 10:04 p.m., the dept. was first-responders to a location on Main Street.

Aug. 13

• At 8:18 a.m., the dept. responded to a fire alarm at a residence on Western Rhodes Drive.

• At 1:38 p.m., the dept. responded to a call of a downed tree blocking US 64 west.

• At 5:14 p.m., the dept. responded to a fire alarm on Skyline Lodge Road.

At 10:29 p.m., the dept. responded to a CO2 alarm at a residence on Wyanoak Road.

Aug. 14

At 1:22 a.m., the dept. was first-responders to a residence on Blue Valley Road.

Aug. 15

• At 2:32 p.m., the dept. was first-responders to a location on S. 5th Street.

• At 10:40 p.m., the dept. was first-responders to a residence on Old Orchard road.

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- MACON MIDDLE SCHOOL
- MOUNTAIN VIEW INTERMEDIATE (MVI)
- NANTAHALA SCHOOL
- SOUTH MACON ELEMENTARY
- UNION ACADEMY
- MACON EARLY COLLEGE

AUGUST 18, 2022

@7:00 PM

“PRAY WITHOUT CEASING”

1 THESSALONIANS 5:17

CHURCHES & BELIEVERS OF MACON COUNTY, NC

...SPIRITUALLY SPEAKING from page 18

OLM's new church to be a sign of such hope and promise. We intend to fill this building with beautiful art to lift men's hearts to God, as well as their minds, incorporating ecclesiastical art and architecture in explaining the tradition of our faith.

The OLM family is praying together for a successful capital campaign that will lead to a new, beautiful church that not only will serve the needs of our faith community, but also will shine as a gem in the diadem of Highlands.

...RECONSIDER continued from page 4

In addition to Wilmington, IJ has also fought an amortization case in Dallas, where officials targeted an auto mechanic with a land grab. IJ has also litigated against government land grabs at the United States Supreme Court in a case called Kelo v. New London, which led to states throughout the country passing new laws to protect Americans from having their land seized and given to private companies without just compensation.

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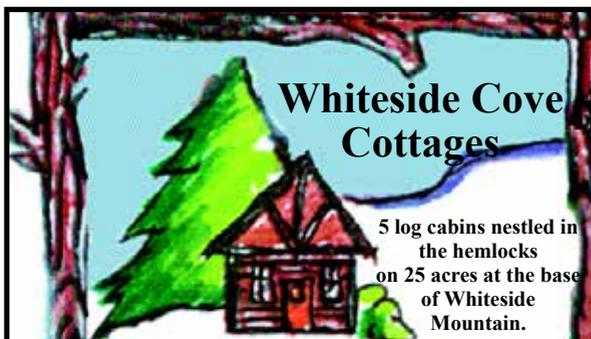
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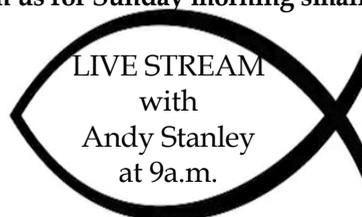
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HIRING! Join our hardworking team and be a part of the organization that is conserving the Plateau's natural places for ours and future generations. Seeking a Development and Outreach Assistant who will be responsible for several duties including meticulously managing HCLT's donor database and processing donor gifts/donor acknowledgments; assisting with other fundraising, PR, and administrative tasks; assisting with event planning and implementation; and providing office reception services such as greeting visitors and directing telephone calls as well as other duties as needed. This is a part-time position (20-30 hours/week) with the possibility of transitioning to full-time and other growth potential. Hourly wage commensurate with experience. This position reports to the Development Director and has the option for some flex scheduling. Send your resume to julie.hitrust@earthlink.net. (st. 8/11)

PART TIME OFFICE ASSISTANT – The Bascom M-F 10 am - 2pm \$16-\$20 / hour depending on experience This position provides general administrative support to the development function of The Bascom, and includes handling daily correspondence with donors, including producing gift acknowledgments and solicitation mailings, as well as daily updating of our constituent data base (Bloomerang). This position also handles inquiries from our constituents, providing prompt, thorough and accurate information. The full job posting can be found at TheBascom.org Please submit, via email, resume and cover letter to: Karin Peterson, Executive Director kpeterson@thebascom.org (st. 7/21)

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SUMMIT CHARTER SCHOOL IS HIRING FOR THE FOLLOWING POSITIONS: Business Officer, Exceptional Children Teacher, School Counselor Please visit www.summitschool.org/careers or call 828-743-5755 for more information or to apply. (st. 6/30)

DOMESTIC IRONING – Needed In Highlands. Pick up and return when finished. Call Dottie Butler at 941-735-8996. Leave message. (st. 6/19)

MCCULLEY'S IN HIGHLANDS AND CASHIERS is seeking full- and part-time help. Inquire at 828-200-0928. (st. 6/9)

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...TWILIGHT continued from 1

Highlands chooses the nonprofit recipients with the goal of supporting Highlands School and local youth activities.

TLLC Executive Director Bonnie Potts said the funds raised will be used for free educational programs that include an after-school program, the Dolly Parton Imagination Library, the GED, and ESL program.

“We are extremely grateful to Highlands Rotary for choosing us as the recipient of the Twilight 5k,” said Potts. “The Literacy Council was founded as a Rotary project, and we’re thrilled that we continue to grow through their support.”

Top overall male and female race finishers include William Whitaker from Colorado Springs, Col. with a time of 18:26, and Taylor Sherrill of Statesville N.C. who finished in 23:08.

Taylor said the event is held each year for community togetherness, tourism, and to raise money for youth activities.

...THANKS from page 17

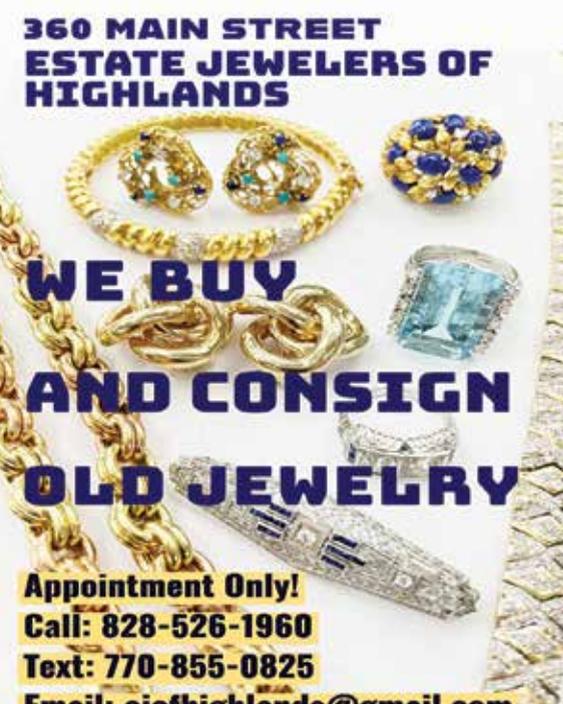
or just hugged my neck and cried with me, just know it meant the world to me.

A big shout out to Highlands Fire Dept., Scaly Fire Dept., and Cullasaja Fire Dept. for being there when I needed you and for diligently searching for my sweet Lucy and giving her a resting place.

Thank all of you so very much. You are forever in my heart, and I love you all. God Bless!

Mary Lee Simmons

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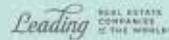


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