

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
REGULAR MEETING
MONDAY, NOVEMBER 23, 2009
7:00 PM

Mayor Randy Voller called the meeting to order at 7:00 p.m. and called for a brief moment of silence.

Mayor Voller remarked that this would be Commissioner Walker's last meeting after eight years of service to the Town of Pittsboro. He stated that anyone who gave the Town and its citizens eight years of public service deserved everyone's respect.

Commissioner Walker thanked the citizens for their support over the years, stating that he thanked God for giving him the ability to serve on the Board and to make decisions. He stated the Town had a great Board and he had been proud to work with them through the good, the bad, and the ugly.

ATTENDANCE

Members present: Mayor Randy Voller, Commissioners Pamela Baldwin, Gene T. Brooks, Clinton E. Bryan, III, Hugh Harrington, and Chris Walker.

Staff present: Town Manager Bill Terry, Town Clerk Alice F. Lloyd, Attorney Paul S. Messick, Jr., Planner David Monroe, Assistant Planner Paul Horne, and Police Chief David Collins.

AGENDA

Motion made by Commissioner Walker seconded by Commissioner Baldwin to approve the Agenda as submitted.

Vote Aye-5 Nay-0

CONSENT AGENDA

The Consent Agenda contains the following items:

1. Approve minutes of the November 9, 2009 regular meeting.
2. Resolution of Endorsement for Town of Pittsboro's Participation in the "Fit Community Program."

Motion made by Commissioner Brooks seconded by Commissioner Harrington to approve the Consent Agenda as submitted.

Vote Aye-5 Nay-0

REGULAR MEETING AGENDA

Citizens Matters

Michele Siscko-Rogers, 25 Cobble Ridge Drive in Powell Place, stated that residents had received a letter from East-West Partners explaining the proposed apartment complex in Powell Place. She said she was concerned about the parking that already existed on Millbrook Drive and whether there would be a second access for that complex. Ms. Siscko-Rogers said she understood this would be a senior complex, and questioned the wisdom of providing a second access.

David Richter, 30 Dunmore Lane, spoke about the proposed senior complex by East-West Partners and made the following five points:

- That 48 apartments were proposed, 24 being one-bedroom units and 24 being two-bedroom apartments. He would assume that each household would have 2 vehicles and only 39 parking spaces were proposed, and that would mean that any overflow parking would have to go on Millbrook Drive which was a narrow road and the main access into his neighborhood. Mr. Richter stated that was a safety hazard and should be addressed.
- The complex was proposed to be located on the lot 17 feet back from the curb, and that would mean that a massive structure would basically be right on the street. He said he did not believe that fit in with the neighborhood or with the Town, noting there was no landscaping to block the view.
- There were environmental concerns about how the complex was placed on the lot, noting there was a stream in that area that must be protected.
- The proposal had a very strong chance of reducing the value of homes in the neighborhood, and in today's economy they did not need to have anything that would affect their property values. For many of the residents, their homes were their major asset and should be protected.
- The last concern was overreaching. Mr. Richter said the first they had heard of the proposal was through a letter of just a few paragraphs saying that here is the proposal and thank you. He said East-West Partners had not included the residents in any discussions or plans, and it appeared to him that the residents should have some form of involvement in what was happening in their neighborhood. He said they did have an HOA, but East-West Partners owned and managed that HOA and had authority over that HOA. Mr. Richter said so far, that HOA had not proven to be effective in addressing any of the residents' concerns.

Mr. Richter asked the Mayor and the Board to help the residents resolve the issues surrounding the current proposal as well as other issues with East-West Partners.

David Groves, 730 Millbrook Drive, agreed with the comments made by the previous speakers. He said he initially had not been against the project for seniors, but the more he learned he

realized that he did not want a three-story structure in the midst of homes that were mostly two-story. Mr. Groves said there were already apartments proposed for his neighborhood and assumed they would also be at least three-story structures. He said he was very concerned about the effect on property values, especially to those property owners who lived directly across Millbrook and faced the proposed senior complex.

Mr. Groves said that East-West Partners had done a lot of good projects, particularly with Meadowmont in Chapel Hill. But, he said, the single-family dwellings and the apartments in that complex were separated by a retail area, and the apartments were somewhat more sophisticated than what was planned for Powell Place. Mr. Groves said he was concerned that the residents of his neighborhood had not been given the opportunity to weigh in and had in fact not even been contacted about it until the letter announcing it had arrived. He said he hoped that the Board could help them resolve those issues.

Melanie York, 9 Cobble Ridge Drive, agreed with the previous speakers and said they had already covered the target issues. She said she had a deep concern that they maintain the quality of their neighborhood, noting the residents had invested a great deal, and asked for the record that all those residents present to stand. Ms. York said they were all concerned that their investment was protected, and were also concerned that the actions that had been taken had not honored the residents because it had not allowed them to have an equal voice in how that complex continued to be planned. She asked that the Board listen to their concerns and help them to facilitate a dialogue with East-West Partners.

Steven Mulholland, 599 Millbrook Drive, stated that his residence was right across the street from the site of the proposed senior complex. He said when he had purchased his property he had chosen that particular lot because he had been informed that the proposed apartment complex would not be built right across the street because it would be too near the wet area. Mr. Mulholland asked that the Town work with East-West Partners and perhaps get the building set back further from the road so that it would not be right on top of the nearby residents. He stated that the issue of parking needed to be addressed as well, noting the complex should be able to handle its own parking.

Mr. Mulholland stated another concern was that there was a pedestrian entrance planned directly across from his house which would encourage more people to park in the street and walk in. He said his fear was that Millbrook Drive would be flooded and he would not be able to park in front of his own home. Mr. Mulholland asked that they all work together and come up with a good solution to the issues and concerns expressed by the residents.

Jackson Naftel, 34 Cobble Ridge Drive, said he was concerned about the setback from the wetlands, noting that the current proposal indicated the complex would be only 7 feet from that wetland and would be clear-cut. He said it did not take a scientist to figure out that was not good for erosion, and asked that the Town at least study that to see what could be done about it. Mr. Naftel said he believed the State and the Town were pushing for new regulations to require at least 30 feet of setback from similar wetlands to this one, so this would be a good opportunity for the Town to show that that was the direction they wanted to go.

Mr. Naftel said his other issue was the parking, and because he had spent four years as an apartment developer he knew that there was no better way for an apartment complex to fail than to have inadequate parking, and less parking spaces than units was a recipe for disaster. He said Millbrook was 300 inches wide, and currently half of the south side of Millbrook had homes on it and those residents parked on that part of Millbrook. Mr. Naftel said if cars from the proposed apartment complex tried to park on Millbrook on the other side, it would turn it into a one-lane street. He said it took 80 inches for his Honda Accord to park, and if cars were parked on both sides of the road that would leave only 140 inches in the middle of that road for cars to come in and out on their main thoroughfare.

Randal Fritz, 440 Powell Place Lane, said he was not directly impacted because he resided at the very front of the Powell Place development, but had a real concern that if cars were allowed to park on both sides of Millbrook then it would essentially be a one-lane road. He said he was concerned about how emergency vehicles would be able to maneuver, noting that even with residents parking on the south side of Millbrook you had to wait for a car to pass in order to move forward. Mr. Fritz said if an emergency occurred in that area, he was concerned that parking on both sides of the street would prevent large vehicles such as fire trucks from safely entering the area.

Mayor Voller asked Mr. Monroe to explain the mixed-use development process for the benefit of those residents present. Planner David Monroe said the process was essentially a creation of a zoning district specific to each mixed use development project. He said the proposed complex technically satisfied the standards to which the Town and East-West Partners had agreed when the Master Plan and the standards were established. Mr. Monroe said clearly the proposal pushed the limits with the issues of parking, proximity to the street, and the size and height of the building. He said the project was scheduled to be reviewed by the Planning Board in November but had been delayed until the December agenda due to lack of a quorum at the November meeting. Mr. Monroe said all the emails that had been received concerning the proposed complex had been forwarded to the Planning Board members so that they were aware of the expressed concerns. He said he had met with several of the residents who had visited the office to look over the plans, and he had posted the plans on the board tonight so that those present could clearly see what had caused the residents of Powell Place to have such concerns.

Commissioner Brooks remarked that this was the first time he had heard of any concerns by the residents.

Mayor Voller said he believed it would be a good idea to revisit the Master Plan with residents of Powell Place and representatives of East-West Partners just so that everyone was brought up to date on the issues. He said as had been alluded to, there were likely things in the Master Plan that many might not know were a vested right or approved. Mr. Monroe said he would say that was a fair statement. Mayor Voller said this was definitely an issue that had upset a number of residents and it would be good to revisit it.

Mayor Voller said this was the most Powell Place residents they had ever had attend a meeting in the four years he had been Mayor, and invited those residents to consider serving the community

by volunteering for advisory boards. He said obviously the Town was invested in Powell Place and is working on a Town park there.

Mayor Voller asked what would be the next step as far as the Planning Board's role. Mr. Monroe stated that the Planning Board meeting would be public, but noted their policy was not to be an interactive forum because their charge was to review technical specifications of plans and to make recommendations to the Town Board. He said for the Board's information and the residents of Powell Place, he had strongly suggested last week to Mr. Bryson Powell of East-West Partners that it would be highly advisable for him to facilitate a meeting between the residents and Evergreen Construction who was the proposed developer of the apartments. Mr. Monroe said he did not know what action East West Partners would take, if any.

Mayor Voller said he would like to have Mr. Monroe communicate on his behalf and he hoped on the Board's behalf that they would like the Board to be included in any meeting, because there were other issues related to Powell Place that he believed the Board needed to discuss with them so they would be better informed. He said he knew the plan but did not know all the technicalities of the Master Plan, and believed it would be a good idea to revisit it and know what they should be expecting over the next 5 to 10 years.

Mayor Voller thanked the citizens who had provided input, and said he hoped they could move forward in a positive fashion and get East-West Partners to sit down and discuss the issues of concern. He said the Planning Board chair as well as other members of that board were present this evening and had heard all comments.

Ken Hoyle, Chair of the Planning Board, stated that the Board and the residents could rest assured that each one of the concerns expressed tonight would be addressed by the Planning Board.

Mr. Terry asked that Mr. Monroe provide some information on the Planning Board's process. Mr. Monroe said that the Planning Board would meet on December 7 and would hear a presentation by Evergreen Construction and believed at that meeting there would be materials provided so that the board and the public would have a better idea of what the proposed development would look like. He said the board would discuss concerns that he had expressed in his staff memo as well as the concerns that residents had expressed in their emails, and they would look for resolutions to those concerns. Mr. Monroe said once the Planning Board had concluded its review, it would make a recommendation for either approval or denial, and at that time it would come to the Board of Commissioners at its next regularly scheduled meeting. He said if there were a number of revisions requested or demanded by the Planning Board, then it could possibly be scheduled to be discussed again at the next Planning Board meeting, and would come to the Town Board once the Planning Board made its final recommendation.

PUBLIC HEARING

1. Environmental Impact Statement (EIS) for a New 3.2 mgd Wastewater Treatment Plant Construction Project.

Mr. Terry stated there were 3 representatives from Hobbs and Upchurch to introduce this item. He introduced Eric Wagoner, PE, Dr. Morella Sanchez King, PE who was the primary author of the Statement, and Barry King who was also involved in the report. Mr. Terry stated the Board would need to move into public hearing in order to hear the report and to hear from the public.

Motion made by Commissioner Brooks seconded by Commissioner Walker go into public hearing.

Vote Aye-5 Nay-0

Eric Wagoner with Hobbs, Upchurch & Associates, provided some brief information of the process used to prepare the EIS document, which included extensive review by multiple agencies. He stated prior to the public hearing, NCDENR requested that the Town inform the public of the details of the project, which had been accomplished, and the next step was to open it up for public comment, which was why they were here tonight. Mr. Wagoner explained that prior to public comments, they would provide information on four items: identification of the problem this project would address; discussion of the selected alternative; identification of any funding sources or the currently proposed funding plan; and, discussion of any Interlocal agreements required.

Mr. Wagoner said that the public comments received tonight would be submitted to the State for review, and those comments would be addressed before any final decision on the EIS was made and it was sent to the next level.

Mr. Wagoner said identification of the problem was that the development growth in the Town had resulted in demand exceeding the current wastewater treatment capacity. He said the current capacity was 750,000 gallons per day, and the projected 20-year need was for 3.2 million gallons per day. Mr. Wagoner said the selected alternative to handle that projection was the construction of a 3.22 MGD wastewater treatment plant with two separate discharge points, one being the existing 750,000 gallons per day discharge point into Robeson Creek, and an additional 2.5 million gallon discharge point into the Haw River.

Mr. Wagoner said that identified funding sources consisted of a public/private partnership which the Town was exploring, as well as any grant and loan opportunities that were available. He said that Interlocal agreements would continue to be discussed as the project moved forward.

Public comments

Catherine Deininger, 124 Goldberry Lane and representing the Haw River Assembly, read into the record a letter written by Elaine Chiosso, Executive Director of the Assembly, summarized as follows:

- They were dismayed that they received no notification of tonight's meeting until earlier today, and supplemental information may be provided by them on November 30.
- The Assembly had been working to protect the Haw River and Jordan Lake since 1982, and they have had concerns about Pittsboro's potential new discharge site since the issue was first raised. Their concerns about the chosen Haw River site was underscored by Hobbs, Upchurch as follows: "The Haw River between US 15-501 (below Bynum Dam)

and Jordan Lake is heavily used for canoeing and kayaking, plus it supports populations of one federally endangered fish and two State endangered river mussel species that may be sensitive to wastewater effluent discharges (page 3).” They believe that the Haw River is too environmentally sensitive to be receiving a new discharge of treated wastewater. Hobbs, Upchurch also stated, “...water quality of the discharge will be maintained at the designated quality in order not to impact either the human or biotic considerations...” and that did not in any way assure them that reduced assimilative capacity of the river in drought conditions, or failures that lead to sewage spills, would not be harmful to either recreational users or aquatic life. Any discharge to a river would have an impact regardless of design or intentions.

- They found the EIS to be inadequate in addressing the serious concerns about the federally listed endangered species that was found in that part of the Haw River – the Cape Fear shiner, and in fact found no mention of it in the document. More information about that species, as well as the two State listed mussel species, should be a part of the EIS.
- They had concerns about the 3.2 MGD of additional discharge of treated wastewater being put into the Haw River just upstream of Jordan Lake. Table 3 on page 16 showed nutrient allocations of 27,800 lbs of nitrogen and 3,770 lbs of phosphorus, at a time when local governments were being asked to reduce their nutrient loading into the lake due to the lake’s impaired water quality and new State rules to restore it.
- The Town had said the new WWTP would treat wastewater to reuse quality, which was commendable. But if that was the case, it would make sense to use it as a resource and reuse that water for landscaping, agricultural and industrial uses, and other non-potable uses instead of dumping it in the Haw River

Ms. Deininger read that the Assembly did not believe the Haw River was the best or only alternative to deal with Pittsboro’s treated wastewater, and encouraged the Town to look at alternatives that would avoid negative impacts to the river and to endangered aquatic species and to look into opportunities to better reuse the water. She read that they believed that water recycling and conservation was going to be increasingly important in the coming years, and that Pittsboro had an opportunity right now to be a leader in that field.

Dr. Hal House, 1434 Farrington Road, Apex, and a small business owner in Chatham County, stated that he had been working on wastewater issues for some years and had a doctorate in Soil Science, Water Quality Studies. He commented that when you wanted to do a stream discharge you had to show complete justification, and you had to show the most environmentally sound process which was usually documented through engineering and other analyses. Dr. House said in looking at the alternative analysis, the land strategy was underestimated as being a part of the mix.

Dr. House said a lot of good work was done on the EIS, but in his opinion at the end, all of the pieces had not been integrated together. He said he believed they would gain some ground if they took the alternatives and integrated them in a creative way, noting it would save the Town some money, it would increase environmental protection, and would lead them towards more water reuse in the future. Dr. House said whenever reuse water was discharged into the river that was an investment that the Town was throwing away, and moving towards reuse as quickly as possible was in his view a sound strategy.

Dr. House said the Town had a wonderful opportunity to prepare themselves for the 21st century, noting that EDC's, or endocrine disruptive compounds, was receiving a lot of attention now. He said those compounds were found in water in very small concentrations, and if you had environmental impacts then you had health impacts, and there were technologies that could treat EDC's and the Town could get ahead of the curve if they integrated those into their strategy.

Dr. House emphasized that when you had reuse quality water that did not necessarily mean you had zero impact or only a small impact on the Haw River. He said the fact that it was reuse quality did not negate the fact that it would have an environmental impact, and in fact most likely would have an impact.

Dr. House said a critical point was that there were other alternatives, and wanted the Board to look at those alternatives. He said he would very much like the Board to have a work session so that those alternatives could be laid out in detail.

Mayor Voller asked if the solutions Dr. House was referring to would be biological solutions in nature. Dr. House said that was correct, noting the idea was that they wanted to take discharges out of streams because discharge on land was a better way of processing nutrients. He said in his view the alternative analyses underestimated that potential. Dr. House said he also had a land-based treatment strategy which would save the Town money on treatment and was less susceptible to mechanical breakdowns as other strategies would be. He said as an added bonus of discharging on land, they would be creating green space and park space for the Town. Dr. House said you would get less pollution, less cost, and more open space using a land-based strategy.

Mayor Voller said the Board had had discussions about some of those issues in the past, and believed they would be open to receiving more information.

Simon Lobdell, 934 Bill Thomas Road, Moncure, a resident of the ETJ, said that he had not realized this issue was on the agenda for tonight and he would be very interested in the opportunity to comment on it when he had reviewed it more closely. He asked if it would be possible to submit his comments in writing.

Mayor Voller responded he could do that, noting for the record that Mr. Lobdell was an environmental engineer and was currently serving on the Town's Recreation Board. Mr. Lobdell said he would submit his comments in writing by November 30.

Motion made by Commissioner Brooks seconded by Commissioner Baldwin to go out of public hearing.

Vote Aye-5 Nay-0

OLD BUSINESS

1. Manager's Update on Capital Projects.

Mr. Terry provided the following updates on Capital Projects:

- Disinfection Byproducts Reduction Project – Work continued on a few punch list items. In a November 16 letter to the NC Rural Center, the Town formally requested extension of the grant period to April 30, 2010, which would allow them to test the results of their ongoing efforts to reduce their TTHM's.

Commissioner Harrington asked what their remaining balance was. Mr. Terry responded the bids came in very favorably on that project, noting the grant approval was for \$182,500 which carried a 50% match. He said he would report the remaining balance at his earliest opportunity, and noted that the grant had been awarded after they had written their CIP to fund the project, so there was cash remaining in the project fund.

Mayor Voller said he recalled they had funded around \$365,000, and the first bid had come in at around \$176,000 with just a few change orders, so he believed there was a significant amount of money left over. Mr. Terry stated that the Rural Center had said they were open to the extension, so he did not anticipate any difficulties.

Mr. Terry continued his update:

- 3M Reclaimed Water System Project – Painting of the water tank was completed, with installation of the perimeter fence and final inspection of the electrical work all that remains. Work is in progress on the electrical portion of the modifications at the WWTP. Final testing and disinfection of the entire system will take place as soon as all aspects of the project are completed in late December or early January. At a meeting with 3M regarding the \$200,000 REDLG loan, they informed him that they do not need that funding; their project is fully funded and will be completed around December 14. The paving of Cornwallis Street has been delayed by the recent rainy weather.

Mayor Voller said if the REDLG money was returned to the USDA, would it be returned for use in North Carolina. Mr. Terry said he did not believe so, that it would be recycled to other projects at the federal level. He said he had discussed with the USDA grant representative how to alternatively use the money, and was told that it needed to be related to this project but that did not appear to be possible.

Commissioner Harrington asked had they considered using it to begin pushing a reuse distribution line across the park so the reuse water could be used on the fields, or something of that nature. Mr. Terry said they had not discussed that, but he could certainly ask that question. He said if they were to undertake such a project there would have to be conceptual planning and design work, and was not sure the funding would cover that. Mr. Terry said this was a very old loan that had been out there for 6 or 7 years. Commissioner Harrington said such a project would certainly be directly related and it was something that would be used eventually. Mr. Terry said if they could identify reuse customers that would have a use for the water, then it might be a possibility. He said with the output they were getting now from the plant and the demand by 3M, they would be challenged to produce enough reuse water to meet just their demands.

Mayor Voller asked if Mr. Terry would look into when the sunset date was for the grant in the next day or so. He said they should be able to work with the EDC and Chatham County to find some methodology for using the funds rather than just turning it back in since it was a zero interest loan. Mr. Terry said he would talk with the grant administrator and see what he could find out.

Mr. Terry continued his update:

- Short-term Wastewater Treatment Plant Improvement Project – They received the formal Authorization to Award the construction contract on November 12 and a pre-construction meeting with the contractor was held later that same day. The Notice to Proceed was issued on November 13 with a December 14 start date. The terms of the contract call for final completion of the project by October 29, 2010.
- 3M Park – A meeting was held last week with 3M representatives and they were informed that the transfer of title on the land for the 3M Park was on schedule to take place sometime in January, 2010. They will be working with 3M to coordinate a ribbon-cutting and start-up of the reuse water project and the transfer of land title. An appropriate press release will be developed and coordinated with 3M for that event.
- Powell Place Park (Pittsboro Town Park) – Construction in progress with some delays due to recent rainy weather, which may cause the completion date to be pushed out to January rather than December.

Commissioner Harrington asked had any settlement been negotiated on the trees that had been cut down. Mr. Terry responded that Paul Horne was working on that but they had not yet come to a final resolution. He said they continued discussions back and forth, and Mr. Horne was developing a document that documented the timeline and who was consulted and when they were consulted. Mr. Terry said he believed their next meeting with the contractor was tomorrow to continue those negotiations.

Mayor Voller said he had been approached by someone last week who asked why local contractors could not receive some preference, and he had explained that the law would not allow that. He said the person went on to say that in regards to the tree issue, if the subcontractor had been local then perhaps they would have behaved differently.

Mr. Terry concluded his update:

- Horton Booster Pump Replacement – Project is on hold pending the hiring of a new Water Plant Superintendent. They hope to be able to schedule interviews in December.

Commissioner Harrington asked had the current interim Superintendent expressed any interest in staying on long term, noting that he had been highly recommended. Mr. Terry said that the gentleman was retired from OWASA and he had greatly appreciated his willingness to come out of retirement to help the Town out. He said the gentleman was not interested in any long term employment, although he had done a great job and provided a wealth of experience.

Commissioner Baldwin said in reference to the Pedestrian Conveyance System project, the last update was on September 14 with authorization to construct. She asked where they were with that project and where were they in regards to the grant to fund that project. Mr. Terry said he

did not know the expiration date of the grant but believed they still had ample time on that. He said the project was somewhat on hold at the moment because of sequencing, noting it was integrated with the Community College library construction project and the NCDOT improvement of the road. Mr. Terry said their sidewalk work would have to wait until NCDOT completed its improvements.

Commissioner Brooks said in a related matter the manager of Pittsboro Village Apartments had approached him and said a lot of pedestrian traffic and a lot of people using motorized wheelchairs were traveling along Old 87 and it was very dangerous to do that without any sidewalk. He said it was his understanding that that project would extend the sidewalk past Camp Street. Mr. Monroe replied just a little bit past Camp Street. Commissioner Brooks said in the future he would like to find some way to extend that sidewalk out to accommodate those pedestrians mentioned by the apartment manager. Mr. Terry said when they began to work on next year's capital improvement plan budget they could certainly make that part of the discussion along with other sidewalk needs.

Mayor Voller said they did have a Pedestrian Master Plan that ranked 12 sidewalks as a priority, and that plan had been submitted to Senator Hagan's office to go in the Transportation Reauthorization bill. He said as well NCDOT and the Rural Planning Organization had submitted their scoring, but of that list the Town had not made the top 5 in the 4-county district, including the crosswalks along the courthouse. But, he said, he believed they would begin to see funding during the next budgeting cycle.

2. Manager's Update on Efforts to Reduce TTHMs.

Mr. Terry stated that the Town had hired Camp, Dresser & McKee to do a Disinfectant Contact Time (CT) study of the water treatment plant to make sure that the chlorination levels were up to standards. He said all the necessary supplies and equipment for the ferric sulfate coagulant trials were now in place, although the beginning of those trials was delayed due to excessive turbidity in the raw water during the recent rainy weather. Mr. Terry said that staff would begin that trial as soon as the raw water supply recovered, and they planned to run the test for 6 to 8 weeks.

Mr. Terry said they continued to get very encouraging results from the TTHM testing, with the results from November 3rd and November 6th noted in the staff report. He said that was the first time they had used the in-house Hach kit, and the results were sufficiently close to the contract lab results that they could be used by their lab technician and the water plant staff to analyze for TTHMs without the long processing time associated with a private contract lab.

Mr. Terry said he had received a call late this afternoon from John Poteat who had said that for the first time in a very long time the water at Chapel Ridge had passed the TTHM testing for the quarter with the State.

Mayor Voller said that was good news, noting their focus was beginning to bear fruit.

Commissioner Brooks remarked that the spokesperson from the Haw River Assembly had said that one of their concerns was the two species of mussels noted as endangered. He said he knew

that mussels could only survive in decent water, and he had thought it good news that aquatic life that needed good water could live in the Haw so close to the Town's intake.

Mayor Voller said that was a good point, and believed that was a result of the efforts of all parties over the last 30 years to clean up the river, and that was bearing fruit as well. He said the river certainly was not in that good a shape in the 1970's. Mayor Voller added that clearly they were seeing an improvement with the trend line in TTHMs over the last 45 days.

NEW BUSINESS

1. Budget Amendment: NPDES Permitting of the New 3.2 MGD Pittsboro Wastewater Treatment Plant.

Motion made by Commissioner Walker seconded by Commissioner Brooks to adopt the budget amendment in the amount of \$68,000 to fund the engineering services for preparation and submission of the NPDES Permitting of the New 3.2 MGD Pittsboro Wastewater Treatment Plant.

Vote Aye-5 Nay-0

2. Budget Amendment for the 2009 Adopt-A-Trail Grant Project at Town Lake Park.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to approve the budget amendment for the 2009 Adopt-A-Trail Grant Project at Town Lake Park in the amount of \$5,000.

Vote Aye-5 Nay-0

3. Acceptance of \$4,000 Grant Award: NC Department of Crime Control and Public Safety.

Mr. Terry said the resolution would accept the offer of a grant from the NC Department of Crime Control and Public Safety Governor's Crime Commission for equipment to simulate and demonstrate the affects of driving while impaired by alcohol or drugs. He said the grant was in the amount of \$4,000 and would include a motorized cart and simulator goggles similar to those that were used at the 2009 Pittsboro Street Fair.

Motion made by Commissioner Baldwin seconded by Commissioner Bryan to adopt the resolution accepting the \$4,000 grant award from the NC Department of Crime Control and Public Safety.

Vote Aye-5 Nay-0

Commissioner Brooks remarked it had been some time since he had seen the mechanism on the roadside that warned people of their speed, and would like to see that brought back. He said he believed it was an effective tool. Mr. Terry stated that equipment was shared with the Sheriff's Department, and he would inquire as to when it would be sent back.

Mayor Voller asked Chief Collins about the speed trailer Commissioner Brooks was referring to, and asked what the cost would be if the Town decided to go after a grant to purchase one just for them. Chief Collins replied the cost would be about \$20,000. He said they had no problem sharing the equipment with the Sheriff's office, noting they worked hand in hand and he could have it set up tomorrow wherever the Board would like it to be.

Commissioner Brooks said he would like to see it set up towards the end of Thompson Street, noting it appeared that people just naturally increased their speed on that newly paved road. He said there was one curve there that was dangerous and he would like to find somewhere in that area to put that equipment to remind drivers to slow down. Chief Collins said he would try to get that set up tomorrow.

4. Hydrostructures Report on Wastewater Flow Reconciliation.

Mr. Terry said on November 9 there were two items tabled in regards to the amount of sewer capacity that could be reserved for Westmoore and Bellemont Station/Bellemont Point. He said the items were tabled at the request of the Board, who had asked for a reconciliation of flows and to give the Hydrostructures' engineer an opportunity to look at the procedures and the possibility of developing alternative allocation methods. He said that Jay Johnston had been working on that and was ready to report his findings.

Jay Johnston with Hydrostructures provided a slide presentation on the current state of wastewater capacity in Pittsboro, highlighted as follows:

- The first thing was to state what the baseline was, and the State gave you what they wanted you to use for planning and for presenting numbers to them, which was the last complete annual cycle's average daily demand. The Town's average daily demand at December 31, 2008 was 401,000 gallons per day, which was tributary flow that actually came to the plant.
- The next piece of flow to be concerned with was what was often referred to as paper flow, which existed only on paper. The Town's paper flow at December 31, 2008 was 110,120 gallons, and that was indeed the current paper flow that was in permits that were still open, including Powell Place. The tributary flow and the paper flow were the two numbers that put together were referred to as the flow reconciliation. The State did not recognize that number as the flow reconciliation because the Town had not asked the State for an update since 2005. The State saw that number as about 257,000 gallons, but after tonight and with some direction from the Board they would submit the flow reconciliation to reflect the current numbers.

Commissioner Walker asked how did 2008 stack up against the current year of 2009 as far as the tributary. Mr. Johnston said he believed that question would be answered later in the presentation.

Mr. Johnston continued:

- The next number of concern was what the Town had committed in contracts to various developers, and that number, called the allocated flow, was 89,250 gallons. The State's process did not require that that number be included in the report. That number was

important to the Town as a planning number, and it was almost all Powell Place with just a little to Pittsboro Place.

- If the Town issued no more permits and no more allocations through contracts, then the tributary flow to the plant was predicted to be 533,913 gallons per day. The important thing here was what was referred to as the 80/90 rule, which was when your plant's tributary flow reached 80% of capacity, and in the Town's case that was 600,000 gallons. The Town was at 401,000 so they were well under the 80%.

Commissioner Walker said what Mr. Johnston had done was take the paper flow and the allocated flow and turned it into actual flow based on the unrealistic levels that the State put out as far as what paper flow was. Mr. Johnston said if the Town hit 80%, what was required by Statute was the Town had to present to the State a lucid discussion on why and how they were proceeding toward fixing its capacity problem. He said a demonstrated part of what the Town was doing was an EIS that was subject to public hearing tonight and appeared to be on track to be approved, and they had a lot of effort that had taken place over the last several years heading them in the direction of solving capacity. Mr. Johnston said they had all of that now, and they were only two-thirds of the way to the 80%.

Mr. Johnston continued his presentation:

- The next number, 169,250 gallons, was what had been suggested to be allocated to Westmoore and Bellemont. The State would only be looking at the tributary flow number when it came to the 80/90 rule, and with the paper flow included it became the flow reconciliation. Even if that converted to tributary the Town would still be below the 80%, and they already had in hand what they would need to give to the State if they were to hit 80%. The important point was that the Town was well below 80% and complied with State statutes.
- In 2008, which was the baseline year, the Town had 6 months that were considered wet months. Prior to that the Town had only 4 months that were considered wet in a year. When this discussion had started they had used 366,000 as the baseline number, but because of the wet weather that number had risen to 401,000. Using the first 10 months of 2009, he predicted that the baseline number would be 363,000 gallons.

Mayor Voller said if you looked at all the numbers from 1999 to 2008, they had added about 700 units in Town as well as some commercial but they had only increased the flow by a very small amount.

Mr. Johnston said the tributary prediction for 2009 was 507,913 gallons, which was still well below the 80% mark of 600,000 gallons. He said he had been asked earlier if the sale of reclaimed water to 3M would benefit the Town, and his response was that was still treated wastewater and would still flow through the plant and was metered and reported. So, he said, they would still be measuring the same flow per the NDPS permit.

Mayor Voller said that was what was going into Robeson Creek. Mr. Johnston said that was what was going through the plant which was what the permit said they had to measure. Mayor Voller said if they had a biological solution that was land-applied in some form, then they could

change that number on the back side. Mr. Johnston replied that was correct, explaining that flow rates could be reduced if they could get some amount permitted as a spray field.

Commissioner Harrington asked didn't it have to be of reuse quality on the spray field. Mr. Johnston said it did not have to be reuse quality, but it had to meet the land application rules. He said it had to be of reuse quality to spray on people's yards, but if there was a dedicated discharge spray field then the water did not have to be as clean. But, he said, it was still clean, treated wastewater. Commissioner Harrington said he had seen fields that had signs that said "keep off," but not a park. Mr. Johnston said there was not a lot of differences but there were subtle differences, and did not believe it had much bearing on getting permits or the cost of treatment.

Mayor Voller said then, in theory, if they were to utilize a strategy such as that referred to by Dr. House they could theoretically affect the numbers on the back side if the State were to allow it. Mr. Johnston said that was correct, because they would have legitimized a place to put the water other than Robeson Creek. He said at present, there was nothing to assure the State that the flow would not go to Robeson Creek on the days that 3M did not need it. Mayor Voller said it appeared to him that they had an opportunity. He said they had constructed a line and they were sending it to that tank, but in theory they could send all of it if they had a place to land apply it or to address it biologically some other way.

Commissioner Harrington suggested it could be sent to the park across the street from 3M to water the soccer fields. Mr. Johnston said there were communities that got rid of all of their wastewater by land applications. Commissioner Harrington said then they could have a zero discharge if they sprayed it all. Mr. Johnston said generally speaking those communities were in sandier areas than Pittsboro, noting the difficulty factor in land application was often availability of large tracts or the cost of those tracts.

Commissioner Walker commented that they could possibly get rid of all their wastewater through land application if they could get it to reuse quality, but that was part of the problem. He asked what would it cost to do that, noting what they were doing now would not get it to the level that it could be discharged on land. Mr. Johnston agreed that what they were doing now did not take it to reclaimed quality so it could not be distributed on a ball field or in yards. Commissioner Walker asked could they still discharge it and get credit, or did it have to be of reuse quality to get the credit. Mr. Johnston said they were likely very close to the water quality they would need to permit for land application. He said there may need to be some upgrades, but they were very close.

Mayor Voller said that was why he wanted to bring in others to talk about that. Mr. Johnston said the Town's waste water, even without the EQ plant, on low or normal flow days was very close to reclaimed water quality, and that was why the State was able to issue that sort of hybrid permit to send it to 3M.

Mr. Johnston said he was asked to address the impact of the EQ basin project. He said if they imagined a line on the chart at the 450,000 gallon mark, without the EQ basin project the flow was coming to the plant at about 450,000 gallons or better. He said if they started growing their

limits, in that they discharged more BOD than the permit allowed and more nitrogen and phosphorus than the permit allowed, with the addition of the EQ basin then they could just move that line up to where it was supposed to be, which was 750,000 gallons and their permit cap. Mr. Johnston said the important line that would be gone with that project was the 450,000 gallons, and the other important line was 600,000 which they did not touch which was the 80% part of the 80/90 rule. He said the other important line was the 90% line and none of the scenarios even touched that.

Commissioner Harrington said the 90% line was the automatic moratorium. Mr. Johnston said no, that the Town's own trajectory to answer adequately to the State on the 90% rule would be 675,000 gallons. He said if their tributary flow reached 90% and they stayed on that same trajectory with their EIS ongoing and their other efforts, then when they reached that 90% the statute said they would have to show evidence that they were moving towards construction, in that you had your permits and had your plans drawn, and if that happened then you could remain at 90%. He said the Town had in hand today the things necessary to be at 80% and moving towards the 90%.

Mayor Voller said if they were at that point, they could still allocate up to that 90%. Mr. Johnston said that was correct.

Mr. Terry said there was a question about another method which was the utility seeking an alternative allocation method other than the 120 gallons per bedroom. Mr. Johnston said that had come up several times over the years, and he was not an advocate of pursuing a reduction in flow amount per bedroom because he was an advocate for the Town by being its consultant. He said the statutory values that the State said you had to use to write permits protected the Town and gave them a level of conservatism in planning.

Mr. Johnston stated he had discovered recently a very good argument for why a town itself would want to petition the State to have that amount reduced, and that was when the flow reconciliation number was made up of a huge paper flow number. He said a town could have a large list of developments with some so old they did not even have contact with the owners any longer and the roads cut in were starting to become overgrown. Mr. Johnston said some projects had received flow allocations but the developers no longer had the wherewithal to go forward with the project, so the towns found themselves in technical violation with the State. But, he said, if the State would allow them to say it was 250 gallons per house instead of 360 gallons per house, then the State would not perceive them to be out of compliance with the rules. Mr. Johnston said that Franklin County was a case study that he had read through, but he did not know if they had been given the authority to reduce from 360 to 250. He said in Pittsboro's case, his calculations told him that if the Town tried to do that it would put them between 15,000 and 30,000 gallons to the good, which was not that much since they were on the trajectory for a new plant. Mr. Johnston added that if the Town chose to make that petition to the State, it would cost an amount of money to go through the steps required to make that petition.

Mr. Terry said his recommendation would be that the staff time and the resources spent to do that would be better spent on the long-term goal of a new plant.

Mayor Voller asked Mr. Johnston if he had an estimate of what it would cost to petition for that reduced number. Mr. Johnston said a ballpark estimate he had heard just a few weeks ago from one engineer was between \$20,000 and \$40,000, and another had indicated \$15,000 or more. He said the Town would have to prove to the State the value of going to a reduced number.

Mayor Voller asked was he saying that he did not necessarily feel that the Town should petition the State because the Town already had some flexibility, and that going to the new system they would not need to make that adjustment to squeeze out an extra 30,000 gallons per day. Mr. Johnston said he believed they would get 30,000 gallons a day back on January 1 for nothing. He said they could go through the petition process at a cost of about \$25,000 for an additional 30,000 gallons, or they could get that 30,000 gallons when the year reset on January 1. Mayor Voller asked would they get an additional 30,000 gallons on top of what they would get on January 1. Mr. Johnston said you might, but the State did not have to honor the Town's request.

Mayor Voller said the State would recalibrate to the lower figure, lower than the 401,000 gallons, on January 1. Mr. Johnson said it would be about 373,000 gallons. Mayor Voller said he did not want to have to tell a business owner, especially downtown, that they could not get their sewer capacity because the Town had not done what it could have done for less than \$30,000, which was \$1 a gallon. He said if Mr. Johnston was telling him they did not have to do that because they would be getting back 30,000 gallons, then that was different. But, he said, if they did not do everything that they could then they were missing out on growing their tax base and people would be stuck with buildings that otherwise could have had sewer capacity. Mr. Johnston said he saw that completely different, in that the real issue was the 80/90 rule. He said if the Town stayed on trajectory then they had only a slim chance of initiating the 80/90 rule and if they did they had in hand what it took to answer to the 80/90 rule.

Commissioner Harrington asked from his experience did the State see it different. He said for instance, in that they had "X" amount of houses that had designed flow rates that applied, or they had a contract that said they were willing to give a project 50,000 gallons. Mr. Johnston said the State only saw the first scenario. He said contracts that the Town made were not seen by the State, that the State saw only the tributary flow when it came across their desks as an addition to infrastructure.

Mr. Terry observed that they were shooting for an objective of getting a 3.22 MGD plant in operation sometime in 2012 or 2013, and right now their tributary flow was 410,000 and the magic number that concerned them was 600,000 which was the 80%. He said that would require a growth in the Town of about 50%, and intuitively it was a higher probability that they would get to the ribbon-cutting on the new plant before they reached the 600,000 gallon mark. Mr. Johnston responded that he absolutely agreed.

Ricky Spoon commented that if they had plans for a new plant, then they could actually go to 100% rather than stick with the 80/90 rules, meaning they could go to 750,000. Mr. Johnston said when they reached 90%, if they were still on their trajectory then the tributary could go to 750,000.

Mayor Voller said then if you had everything in hand, you could theoretically go to 750,000 gallons per day, even though it may not be a good idea. Mr. Johnston said he did not believe they would want to operate the plant that close to capacity.

Mayor Voller said he assumed that all of the data presented tonight would be available for public inspection. Mr. Terry stated they would make sure that happened. Mr. Johnston said the data was public information.

Mark Ashness, the engineer for Patrick Steele, remarked that he agreed with everything that Mr. Johnston had submitted. He asked was it fair to say that today with where they were in addressing future needs that if the Town wanted to they could allocate in paper up to 675,000 gallons which was 90% and they would still be fully in compliance from the State's perspective. Mr. Ashness said his point was that the Town had some flexibility to go to 675,000 gallons per day and still maintain a high level of safety.

Mr. Terry asked when the Board would like to bring the issue back for discussion with respect to the requests for water capacity by Westmoore and Bellemont Station.

Mayor Voller said the Board met in December on the 14th and that was the only meeting that month, so the next meeting after that would be in January, 2010.

Commissioner Baldwin commented she would like to see it on the agenda for December 14.

Commissioner Harrington said his concern had never been if the Town could support those projects. He said the way the contract was now written was that the sewer was attached to the land, and if it was sold and the bank became the owner then it could be sat on just like Powell Place was being sat on right now. He said the sewer capacity could be locked in indefinitely just as Powell Place was, so he looked forward to being enlightened as to how that could not happen. Mr. Terry said they would work on that language as well as language the Board had discussed at its previous meeting.

Mayor Voller said what Commissioner Harrington was stating was obviously an issue. He said Mr. Johnston had said the State looked at the tributary flow and the paper flow, not the contracted flow. Mr. Johnston said that was correct, noting the contracted flow was a planning issue. Mayor Voller said then they could have the situation that Commissioner Harrington had described, in that they would have capacity tied up in a particular piece of real estate, but the State would not actually be looking at that capacity when evaluating the Town as far as wastewater flow to Robeson Creek.

Commissioner Harrington said his point was that if it was tied to a piece of real estate it could not be handed off to someone who was ready to use it.

Commissioner Brooks said for clarity's sake, what was the worst case scenario that would get them in trouble with the amount of capacity they had now and in the future with the improvements they were making at the existing plant. Mr. Johnston said the worst case scenario would be if the combined numbers for tributary flow, paper flow, and allocated flow all came

true at face value, which meant that all of that flow became real flow to the plant. He said that number would likely be around 630,000 gallons a day. Commissioner Brooks said they were using just over 400,000 now, and asked how many could the Town actually sell. Mr. Johnston replied under the 80% rule they could sell about 275,000 gallons, and under the 90% rule they could sell 350,000 gallons. He said once they completed the equalization phase-in project in October of 2010, then the plant would treat 750,000 gallons per day.

Mr. Terry made the point that the Town could not ignore its contractual obligations, in that the paper flow could turn into tributary flow as soon as a developer came in for a permit.

Commissioner Brooks asked what that contractual number was. Mr. Terry said you could not let that grand total number go over 750,000 gallons. Mr. Johnston said what was now under contract was about 89,000 gallons per day that could go to a permit. Commissioner Brooks asked what were they committed to by contract right now. Mr. Johnston replied 200,000, of which there were written permits for about 130,000. Commissioner Brooks said then they had only about 70,000 gallons. Mr. Johnston said yes, in that range. Mr. Johnston stated that Powell Place had written permits for 125,750 gallons per day, leaving them 74,250 that they could write applications for.

Commissioner Bryan said that was in that 89,000 total. Mr. Johnston said yes, it was included in that number, with the remainder assigned to Pittsboro Place.

Mr. Terry said all of the permits had been extended for two years by the State. Mr. Monroe said that the State had pushed most of them out to 2012 or 2013.

Mr. Terry said if there no more questions he would bring this back to the Board on December 14 and they could continue the discussion then. He said he would bring back modified language to address the issues the Board had brought to their attention.

Commissioner Concerns

Commissioner Brooks said there were fire ant hills all over the rights-of-way throughout Town, between sidewalks and the streets as well as right on the edge of Town property. He said he was concerned that if someone in a motorized wheelchair was to get stuck on top of one of those, the ants could be deadly to them. Commissioner Brooks said the Town had been proactive in trying to get rid of them, but he believed they needed to make stronger efforts in order to protect their citizens.

Commissioner Bryan said several meetings ago it had been brought up about the possible extension of the water line on 87. He said he had been asked by a couple of citizens if the Town had made any progress on that. Mr. Terry said he believed that was a part of one of the capital projects in the CIP, but did not recall what year it was scheduled for. He said the Board would be revisiting the CIP budget very soon so they could look at it then.

Commissioner Harrington said he believed some action had come out of that previous discussion, in that they were going to look at a short piece of that water line.

Mayor Voller said he would like to have Mr. Johnston provide an estimate for that extension. Mr. Johnston agreed to do so.

Commissioner Baldwin said the article about the Kiwanis Park was very good, but she would also like to see parks in other parts of the Town such as on Small Street and other areas. She said small parks were very nice and she would like to look at doing something similar in other neighborhoods throughout the Town.

Commissioner Harrington observed that there was a creek that fed into Robeson Creek whose name appeared to frequently change.

Mayor Updates

Mayor Voller commented that the ABC store revenues at the end of October were up 12%, which was consistent, noting they were up 15% the month before. He said they had been so busy with other issues he did not believe they had had the time to follow up on the Grants Committee, but he wanted to suggest they go forward with the people who had already applied, noting he believed there were 4 or 5 applications in the Town Clerk's hands.

Mayor Voller commented that Misty Bonnau, who worked with the Chief on a number of recent smaller grants, may like the opportunity to work with this committee since she had an interest in that area. He asked that the Board authorize moving forward with that. Mr. Terry said they could bring that back to the Board on December 14.

Mayor Voller said they had had some recent great successes at Northwood High School, noting the Board might want to send a letter for the band and the soccer team, and perhaps the football team depending on what happened in the playoffs. He said the soccer team had finished second, playing three games in one week and going on to beat the top ranked team.

Mayor Voller remarked that the Town's Christmas Parade was scheduled for December 6.

Comments by Commissioner Chris Walker

Commissioner Walker said he wanted to thank the citizens, the staff, and all volunteers, noting it had been his honor and privilege to serve on the Board, noting they were a good group. He introduced Mr. Michael Fiocco, who would be taking his seat on the Board. Commissioner Walker said the Town had faced many challenges over the last eight years with only a small amount of money to address them. He said he was thankful to have been in Pittsboro and was able to serve its citizens.

FYI

1. NCDENR letter of November 9, 2009; RE: Authority to Award Pittsboro WWTP-Wet Weather Flow Improvements, Project N. 2W370413-04

2. Town of Pittsboro letter of November 13, 2009; RE: Notice to Proceed for the Pittsboro Wet Weather Flow Improvements Project; NCDENR Project No.: 2W370413-04.
3. Fact Sheet: Jordan Lake Regional Water Supply Partnership
4. The German Marshal Fund of the United States News Release of November 12, 2009; RE: GMF Selects 54 American Marshall Memorial Fellows for 2010.
5. Town Manager's letter of November 10, 2009; RE: Response to Rick Murray letter regarding wastewater allocations.
6. NCML Memo of November 17, 2009; RE: Increase in Employers' Contribution to Retirement System Likely.
7. Confirmation of Delegates to the Triangle J Council of Governments Board of Delegates.

ADJOURN

Motion made by Commissioner Walker seconded by Commissioner Baldwin to adjourn the meeting at 9:30 p.m.

Vote Aye-5 Nay-0

Randolph Voller, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk