

TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
REGULAR MEETING
MONDAY, OCTOBER 22, 2007
7:00 PM

Mayor Randolph Voller called the meeting to order and requested a moment of silence.

ATTENDANCE

Members present: Mayor Randolph Voller, Commissioners Max G. Cotten, Pamela Baldwin, Clinton E. Bryan, III, Chris Walker, and Gene T. Brooks.

Other staff present: Bill Terry, Town Manager, Paul S. Messick, Jr., Town Attorney, Alice F. Lloyd, Clerk, and Planner David Monroe.

APPROVAL OF AGENDA

Motion made by Commissioner Cotten seconded by Commissioner Bryan to approve the Agenda.

Vote Aye-5 Nay-0

CONSENT AGENDA

The Consent Agenda contains the following items:

1. Minutes of October 8, 2007 regular meeting.
2. Application presented by Crosland, LLC to rezone 268.33 acres situated west of Old Graham Road, north of the Hwy 64 by-pass and south of Russell Chapel Road from R-A5 to R-A.
Action Required: Set a public hearing for November 13, 2007 at 7:00 p.m.
3. Application presented by Crosland, LLC for a Special Use Permit to allow a Planned Unit Development on 268.33 acres known as the Gaines property.
Action Required: Set a public hearing for November 13, 2007 at 7:00 p.m.

Motion made by Commissioner Walker seconded Commissioner Cotten to approve the Consent Agenda.

Vote Aye-5 Nay-0

REGULAR MEETING AGENDA

CITIZENS MATTERS

Margie DeLuca, 303 May Farm Road, President of the Potterstone Village Homeowners Association, stated their neighborhood was experiencing problems with speeding. She said they

had considered speed humps but were told they were not allowed by the Town; they had looked at rumble strips but had not identified a homeowner who would allow them in front of their home; and, they had looked at traffic calming circles and had determined there was not enough room on their streets and no one was willing to sacrifice several feet of their yard for installation. Ms. DeLuca said several years ago they had requested that the speed limit in Potterstone be reduced from 35 mph to 25 mph, and two signs were erected at the entrances noting the reduced speed limit.

Mayor Voller asked who had erected the two signs. Ms. DeLuca stated she understood the Town had installed them.

Mayor Voller asked Planner Monroe if the Town had installed them. Planner Monroe said he would have to check. Ms. DeLuca said she had spoken on Friday to John Poteat and he had acknowledged putting them in. She said she had talked with him about additional stop signs and about placing additional 25 mph signs throughout the complex.

Ms. DeLuca stated that their Vice President, Cliff Webb, had spoken to this Board about the stop signs at the last meeting. She said that two of the signs at Windsong and May Farm were gone, noting they had disappeared within 48 hours of being erected. Ms. DeLuca asked that the stop signs be replaced and measures taken to make sure they remained. She said she had talked with the Town Manager about having the signs erected immediately and he had suggested a “cooling off” period, which she had trouble with because they had already disrupted the traffic pattern when the signs were first erected and now that they were gone the traffic pattern had been disrupted again. Ms. DeLuca said to wait another week to replace the signs would disrupt the traffic pattern once again, and that, to her, felt like “a bully in the neighborhood.”

Ms. DeLuca stated that speeding was the number one complaint from the residents in that neighborhood, and asked the Board to help them provide a safe environment for the residents.

Commissioner Baldwin asked who were the individuals speeding, were they residents or outside individuals. Ms. DeLuca said both, noting some were residents of Cornwallis cutting through Potterstone, as well as construction crews and service people coming into the neighborhood to work. In other words, she said, nearly everyone was speeding.

Commissioner Baldwin said when they held Homeowners Association meetings, were the residents in favor of the reduced speed limit and other traffic calming measures. Cliff Webb, 40 Farmingdale Road and Vice President of the Potterstone Homeowners Association, said this had been an ongoing issue for several years at every annual meeting. He said once the speed limit was reduced to 25 mph, there was no way to enforce it without calling the Police. So, he said, the Town erected the stop signs but now they had been removed.

Ms. DeLuca said they had never polled the community, but had relied on the volume of complaints at their meetings and the ongoing communication with residents throughout the year.

Commissioner Walker said he was assuming the Town did not take down those stop signs. Ms. DeLuca said that was correct. Commissioner Walker asked had anyone seen the stop signs. Ms. DeLuca said not since they were lying on the ground the first day they were erected.

Town Manager Terry stated as far as they knew, the signs were removed by an unidentified party.

Commissioner Walker said he assumed that was against the law. Town Manager Terry responded certainly.

Commissioner Walker said that speeding was not just a problem in this neighborhood, but in many areas of the Town. He said the Police Department was small staffed and they could not be everywhere. Commissioner Walker encouraged the citizens to slow down and to encourage their friends and neighbors to slow down. He said he was as tired of it as Ms. DeLuca and Mr. Webb were, and hoped that citizens would “wake up” before someone was killed.

Mayor Voller asked where the stop signs were located. Mr. Webb stated at the corner of May Farm and Windsong, which they had requested be a 3-way stop.

Nichole Webb, 40 Farmingdale Lane, stated the issue with the stop signs was safety. She said she watched from her deck as people repeatedly ran through the stop signs, and had called the Police on several occasions to report it but had seen no response. Ms. Webb said the stop signs needed to be replaced, and if they were taken down again they needed to find the responsible parties and deal with them.

Jason Hartness, 411 May Farm Road, stated he was there to speak not to the stop signs, but to the misrepresentation of Potterstone Village. He said they had a Poteation signed by 80 residents of Potterstone stating they were either not informed or were not in favor of the stop signs. Mr. Hartness said he and others had felt that it was a long-term solution to a potentially short-term problem based on the construction taking place in the neighborhood. Mr. Hartness said to his knowledge no study was conducted to determine if the speed limit should be lowered or even if they actually had a traffic problem.

Mr. Hartness suggested that erecting the stop signs was a jump ahead, noting that perhaps speed limit signs or warning signs should have been erected first.

Matt Harrison, 52 Brookridge Court, stated that he had been informed by Chief Collins last week that since there were no State-regulated signs installed along the public thoroughways, that the streets, by Code, were 35 mph. He said Chief Collins had indicated that since the signs were not there, then the speed limit remained at 35 mph. Mr. Harrison said those that signed the Poteation believed that the Homeowners Association Board overstepped its authority by coming to this Board without receiving input from the residents first. He said they would like to see if an enforced speed limit would help reduce the speeding before the stop signs were put back up. Mr. Harrison said placing stop signs at every street corner in the neighborhood was not a solution.

Mr. Harrison said their request was to have the three-way stops removed at May Farm and Farmingdale, returning the flow back to its natural flow; at May Farm and Windsong, returning that flow back to normal; removing the stop sign at Windsong and Brookridge Court, which was a cul-de-sac; and, that no further three-way stops be installed.

Mayor Voller said they could gather that everyone here was concerned about safety, so they had one point in common. He said he believed the Town had reached the point where they would have to look towards some creative traffic calming that may be beyond just “vanilla” solutions. Mayor Voller said he also believed that everyone agreed that speeding in the neighborhood was an issue. Mr. Harrison said that was correct, but they also wanted to know if that was a real issue; that is, a car may look as if it was moving fast but in fact could be at 35 mph. So, he said, he believed a traffic study should be conducted. Mayor Voller said the Police had placed radar in that area in the past. Mr. Harrison said research showed that stop signs were not a deterrent to speeding and were not a traffic calming solution, and people were more concerned with getting back up to speed and would likely not come to a full stop.

Mayor Voller said the issue of speeding had been on the agenda of this Board many times in the past, and his point was that they would have to look at some creative solutions.

Commissioner Walker asked if Mr. Harrison and Mr. Hartness were saying there were no speed limit signs in their neighborhood at all. Mr. Harrison responded there had been none until those that had been installed today. He said one had been installed at the entrance to the neighborhood, but it was not enforceable according to the Police Chief because it was not a State-regulated sign.

Town Manager Terry remarked that the signs had to meet DOT standards, so the signs in Potterstone had been replaced this morning with signs that met DOT standards.

Commissioner Walker asked if the signs in Chatham Forest were State-regulated signs. Chief Collins stated they were State-regulated and met DOT standards. Commissioner Walker said normally with new neighborhoods the developer was responsible for putting those signs in, so that should be looked into.

Mr. Harrison said the signs erected today were the State-regulated signs, so now the 25 mph could be enforced by the Police.

Commissioner Walker said he was glad to hear that. He said there appeared to be several other people from this neighborhood signed up to speak, and suggested that the Homeowners Association hold a special meeting and talk about these issues, then come back to this Board. Commissioner Walker said in the interim, since the Board had already approved it, the signs should be put back up. He said he could only speak for himself, but if the residents came back as a group after having that special meeting, perhaps the Board could then take more appropriate action.

Mr. Hartness said the 80 signatures on the Poteation were residents who did not want these stop signs, and he and Mr. Harrison were speaking on their behalf and with their authority. He said those 80 people were actually a majority vote of the neighborhood. Mr. Hartness said when you had a majority of the residents who were not informed of the changes and who did not want those signs, then other solutions, such as an enforceable speed limit, should be explored before other measures were taken such as the stop signs.

Mr. Harrison noted that two stop signs had been placed directly in front of someone's driveway, one at Windsong and May Farm, and one at Windsong and Brookridge. He said to think someone would stop before turning into their driveway was inane.

Commissioner Baldwin said there was definitely a problem within the neighborhood when you have a large group of people saying they had no knowledge of the request for the stop signs. She agreed with Commissioner Walker that the neighborhood needed to meet together to try to resolve the issues and form some type of consensus, and then come back to this Board with a recommendation of what they would like the Board to do to alleviate the problems. She said then, the Board could review the request and try to move forward to resolve the issues.

Mayor Voller asked how the signs came to be removed. Mr. Hartness replied he did not know, but he had called the Police Chief the day they were removed but had discovered that the Town did not remove them.

Mr. Harrison said he had driven through that intersection and discovered one of the signs was gone, and an hour later the opposite sign had been removed as well.

Mayor Voller asked Mr. Terry had the Town removed the signs. Town Manager Terry replied no, they were unaware of who had removed the signs.

Commissioner Brooks said he understood the signs would be replaced and would remain until the neighborhood held its meeting, came to some consensus, and appeared back before this Board for some potential future action.

Commissioner Brooks said Commissioner Walker's and Commissioner's Baldwin's proposal was reasonable.

Commissioner Walker said the one thing he agreed with was that they would be setting a pattern of vehicles stopping and perhaps disrupting that pattern if the signs were removed. He said he was unopposed to leaving them down, but agreed the Homeowners Association needed to hold a special meeting and address the situation. Commissioner Walker said if they did not put the stop signs back up, that meeting may not take place.

Mayor Voller said there was a very good point made about the traffic flow, and they needed to get more information on the projected traffic at build out to get a better handle of where those traffic signs should or should not go, where traffic calming should or should not go, and how this should be handled. He said he believed Larry Witek needed to be brought in to provide more information. Mayor Voller said he believed the Board had been trying to react to the Homeowners Association Board, and had had no intention of putting signs in places that would cause people aggravation. Obviously, he said, deficiencies in that plan had been pointed out, so the Board needed to determine where they were going to go and why. Mayor Voller suggested that this special meeting of the neighborhood take place within the next 30 days or less.

Mr. Hartness asked how they would go about holding such a meeting. Mayor Voller said he would be happy to attend and be a part of the discussion. He said the point was to solve the problem and

not have neighbor against neighbor, and no one wanted to have stop signs put in places where they made no sense.

Mayor Voller said the consensus of the Board was that the signs should be put back up, that the neighborhood would hold a neighborhood-wide meeting and try to come to some consensus to resolve the issues, that the Police would put the radar equipment back up, and in the meantime the Town would begin collecting data. Mayor Voller indicated that he and Mr. Witek could attend that meeting. He reiterated that the meeting should take place in 30 days or less.

Vanessa Olyphant, 250 May Farm Road, stated her 8-year-old son had broken his arm while avoiding a speeding car on May Farm Road. She thanked the Board for installing the stop signs on May Farm Road and for the 25 mph speed limit signs so quickly. Ms. Olyphant stated she hoped both of those measures would improve the safety of her community.

Ms. Olyphant stated that on behalf of the Homeowners Association Board, they had held an informative meeting at a pool closing party where they had plans laid out and all members were invited to come and take a look at it. She said because people chose not to attend, she did not feel it was right for them to now start speaking out.

Jay LeBlanc, 46 Knob Hill Lane, stated he wanted to reinforce what Ms. Olyphant had said. He said he was retired and as such was home during the day to witness people speeding at all hours. Mr. LeBlanc said he did not agree that stop signs would not slow people down within a neighborhood.

Amy Perkins, 262 May Farm Road, agreed that speeding was a major issue and was pleased that something was being done to alleviate the problem. She said now that the signs had been erected, she did not have to continually look both ways to dart out into the street to get her mail then dart back into her driveway.

Mayor Voller said that image was striking, in that mailboxes were usually back off the curb but that was not the case in this neighborhood. He said people should not be afraid to get their mail. Ms. Perkins said it was scary. She said there was a lot of construction traffic, but it was the residents she was most scared of because for some reason they did not see you.

Temple Richmond, 25 Creekside Circle, #72, made the following statement as summarized: The weather, always known for its propensity to change, today is in even greater flux. Climate change in the form of global warming is without a doubt beginning to interrupt and alter long established patterns of temperature and rainfall. The recent small rise in average world temperature is rippling out to affect all sorts of factors bearing upon the continuation of life. This small rise in temperature is sufficient to fuel the unprecedented melting of the polar ice caps, a phenomenon the total ramifications of which are simply not yet known. The small upward shift in average global temperature also affects the position and direction of the prevailing winds on our planet. It is these prevailing winds, in interaction with geological features and other climatological factors, which determines where and how much rain will fall.

As a result, previous patterns of rainfall can no longer be assumed normal. To state this in local terms, the drought experienced at present by all 100 counties in the State may well prove to be trend and not anomaly. This new fact of life must be taken into consideration when making decisions based on the availability of water.

In addition to climate change, a second and much more local set of influences figures as well. As Chatham County Commissioners Carl Thompson and George Lucier stated in a recent public meeting, Chatham County is set to see the construction of 12 – 20 thousand new homes in the next 7 years, effectively doubling the population of the County from 60,000 to approximately 120,000. The bulk of this development and consequent population increase is clustered more or less surrounding Pittsboro.

Meaningful response to the twin and competing issues of climate change and local development will require genuine perspicacity on the part of our leaders if Pittsboro is to survive as a viable location. These are large questions, but relevant all the same, and it's only natural that the citizens of Pittsboro should wonder what policies in response will govern the direction of our community.

Last Tuesday, local candidates for Town election were invited to a public forum sponsored by the League of Women Voters to articulate their readings of and responses to all the challenges before us. Eight were invited, 4 attended: Michelle Berger, Jim Hinkley, Gary Simpson, and Randy Voller. All four outlined in detail their plans to address Pittsboro's present environmental and economic challenges. It was a shame and a disappointment that Chris Bradshaw, Gene Brooks, Clinton Bryan, and Hugh Harrington did not attend and share their points of view, although all four had accepted the invitation. It was also a loss that Max Cotten declined the League's invitation, leaving voters in the dark regarding the specifics of his approach.

The issues before Pittsboro are perplexing, but the public good would only be served by the airing of ideas designed to address the important topics of our day. I urge all present Town Commissioners and those who aspire to such seats to explicate fully, when time and circumstance allow, so that all voters may think and judge in the light of full information regarding the approach of each candidate and public servant to the great questions of context facing Pittsboro today.

Jim Hinkley, 126 Evergreen Drive, stated there was a residential traffic model in Chapel Hill that ran from Mason Farm Road to Columbia Street, which was very successful. He recommended that those interested visit the area and see for themselves how well it worked, noting that model could be a solution for Potterstone.

Mr. Hinkley made the following statement as summarized: I have been reviewing Town records over the last 6 to 8 weeks, and found one interesting Town-approved agreement with Ricky Spoon Builders, Inc. The 2005 agreement was to lease 800 acres for the development of a waste water spray field, with the agreement to expire in 2015. The Town agreed to pay Ricky Spoon Builders the amount of \$8,000 per month to lease the property, amounting to a cost of \$96,000 per year. Although the agreement is dated June 2005, I was only able to find that Pittsboro had been paying the \$8,000 per month since June 20, 2006, amounting to a cost of \$128,000. As I understand the situation, the County was to have paid a share but is unwilling to do so because no spray field

exists. Chatham County Manager Charlie Horne stated that County payments were to begin when the selected site came on line and was actually being used; that is, the spray site was active. Mr. Horne inquired as to whether there is a timeframe to make the Spoon site an active spray field.

From what I gather, Pittsboro is nowhere near installing a spray field on that site. Why? The site is north of the withdrawn River Oaks proposal, which is no longer being built. A soil survey has shown that only 10 percent of the nearly 800 acres has decent soil. Are we leasing a boondoggle?

What does \$96,000 per year mean? It means that by the end of 2007, the Town will have spent \$96,000 in rent for this unused site. It could mean they could pay salary costs for 1½ to 2 Planners; it could mean a new pocket park or new play facility every year; it could mean 3 new tennis courts or 3 new basketball courts, it could mean two new police cruisers every year with computers for those police cars; it could mean 1.2 miles of sidewalks every year; it could mean a lease on over 6,800 square feet of new office space for the Town; it could mean a better health plan and merit raises for Town employees; it could mean a lease on new Police Department space and a first response satellite police, fire and rescue station in Powell Place; it could mean additional funding to help the new library; it could mean funding for affordable housing; and, it could even mean a 3-cent reduction off of our real property tax rate.

Or, we could just continue to throw away the \$8,000 per month as we are doing now. The thing that frightens me is that there could be more boondoggles like this to be found in our Town records and minutes.

Timothy Keim, 93 Cynthia Lane, stated the League of Women Voters sponsored a candidate's forum last Tuesday, and four of the sitting Board members were running for re-election but only one attended. He said as a citizen, he had wanted to hear their views, and wondered why Commissioners Brooks, Bryan and Cotten chose not to attend.

Commissioner Brooks stated he never received an invitation. Mr. Keim stated the League of Women voters had indicated that he had returned an RSVP. Commissioner Brooks stated he would like to see it, and would bring charges against anyone who had falsified his signature. Mr. Keim asked if he was calling the League of Women voters a liar. Commissioner Brooks said he did not receive an invitation and did not RSVP.

Commissioner Bryan stated he had received a letter on August 16, and did not RSVP and heard no more from them.

Commissioner Cotten stated he had sent his regrets, for several reasons. He said first of all, he was not satisfied with the reply he had received from Ms. Hardison to his question regarding the conduct of the forum. Commissioner Cotten said it had been his experience that when you had an open forum where anyone could stand and ask a question, you arrive nowhere. He said another reason was he was concerned that the forum would not be controlled and did not want to participate in a forum that did not indicate to him that his rights and responsibilities would be covered. Commissioner Cotten said his impression was that it was an arranged affair that would have no control over the questions.

Commissioner Cotten stated one of his questions had been would all candidates be asked the same question. He said the reply was no; questions would come from the audience.

PUBLIC HEARING

Motion made by Commissioner Walker seconded by Commissioner Bryan to go into public hearing.

Vote Aye-5 Nay-0

1. Ricky Spoon rezoning request for a tract between Powell Place and US 64 Bypass from R-A2 to O&I.

Planner Monroe stated this property consisted of 1.501 acres which was a residual tract of land on the south side of the Bypass. He said the property was bounded by the eastbound exit ramp from the Bypass and Powell Place. Planner Monroe stated Mr. Spoon was requesting that the tract be rezoned to O&I.

Public Comments:

Patrick Bradshaw, who practiced law in Pittsboro at 128 Hillsboro Street, stated he was here on behalf of the Powell Place Development Company, the developer of the Powell Place MUPD. He said commercial uses in Powell Place were concentrated along 15-501 with open space and transitional uses between that and the residential areas. Mr. Bradshaw said Mr. Spoon's property was surrounded by the 64 Bypass and residential portions of Powell Place. He said that if Mr. Spoon's property was rezoned to O&I without conditions, Powell Place Development Company believed that it would adversely affect the values of the surrounding residential properties in Powell Place.

Mr. Bradshaw stated that Powell Place Development Company was requesting that Mr. Spoon's property remain as R-A2, and if it was to be rezoned, to use a Conditional Use District zoning so that it could be developed pursuant to a Special Use Permit with appropriate conditions to protect the surrounding properties.

Ricky Spoon, 2475 Redbud, stated that Powell Place Development Company made no attempt to talk with him about their concerns, although he had made several attempts to do so. He said that Wade Barber had owned the land adjacent to it, but the highway was split when the road came through his property and he now owned a small 2.89 acre tract north of this tract that he had also asked the Town to rezone. He said Mr. Barber's property was then rezoned C-2.

Mr. Spoon said he had talked with Mr. Monroe about it, and had asked if his property could be rezoned C-2 since it was adjacent to Mr. Barber's property. He said Mr. Monroe had suggested that it be O&I, since the plan was to put an office building there. Mr. Spoon said if Powell Place wished to purchase the property from him he would be glad to talk with them. But, his plans now were to place an attractive and appropriate office building on that property. He asked the Board to approve his request to rezone this small piece of property to O&I.

2. Plummer rezoning request for property adjacent to Al's Diner from R-10 to C-2.

Public Comments:

Matt Jasper, 1054 Old Sanford Road, stated he had been acquainted with the proprietors of Al's Diner for approximately 20 years, noting they were good friends of his. He said the restaurant provided good service and good food to the community, and had taken pride in being involved in the community. Mr. Jasper said his concern was that every morning, the restaurant was packed, noting their business had grown and could not expand any further. He said the adjacent property would be a suitable expansion for them, and trusted that any expansion would be a valuable addition to the neighborhood.

Chris Gambos, 87 North, stated he agreed the restaurant was popular and stayed crowded. He said the owner of Al's, Shannon Plummer, had been successful and would be successful if he expanded the restaurant. Mr. Gambos said it would behoove the Town to allow Mr. Plummer to increase the growth of his restaurant to keep up with the growth in the Town. He said Highway 64 was already a business zoning, with only a handful of homes remaining. Mr. Gambos said he could not imagine anyone wanting to live in that area with all the surrounding businesses. He said his last point was that he had known Mr. Plummer for about 10 years and he was a good friend, and anything that he had done had been successful, and with his integrity and commitment you could trust him. Mr. Gambos asked that the Board approve the rezoning.

Mark Clark, 7649 Hwy. 64 West, stated that he knew Mr. Plummer and his family. He said he had worked on a small construction project as well as a home project with Mr. Plummer. He added his support of the comments of the previous two speakers, and asked the Board to approve the rezoning.

Jennifer Andrews, who practices law at 60 West Street in Pittsboro, noted she was an attorney representing John Hajenga and Beverly Gore who lived at 86 Thrift Street behind Al's Diner, Sandra Butler, who lived at 51 Thrift Street, Jim and Susan Timmons, who lived at 125 Thrift Street, and Samuel Hancock and Vickie Grossman, who lived at 78 Thrift Street.

Ms. Andrews said unlike the people who had already spoken, her clients would be directly affected by a commercial rezoning in this spot. She said that Mr. Hajenga adjoins the property, and the others live in the neighborhood in back of the Diner called Indigo Ridge. Ms. Andrews said she had hoped she would not have to be here, adding the Board may have seen a letter from her that went to the Planning Board in September to deal with the project at the outset. She said she had appreciated the Planning Board allowing her to speak on behalf of her clients since it was an odd situation with Mr. Plummer sitting on the Planning Board.

Ms. Andrews provided an overview of her clients' concerns. She said the Land Use Plan identified that area as a mixed-use traditional neighborhood; these mixed uses are to be residential and business uses that were area-appropriate. Ms. Andrews said right now, the property was bound on two sides by residential uses and on two sides by business uses. She said they believed that established a balance in the zoning envisioned by the Land Use Plan. Ms. Andrews said rezoning

this additional property next to the Plummer tract would nearly double the commercial square footage. She said she and Mr. Plummer disagreed about that comment, but in fact it would add another ½ acre of so to commercial use that was previously residential.

Ms. Andrews stated a straight rezoning of this area would require this Board to consider all potential uses in the table permitted for C-2 properties. With that in mind, she said, and without a plan for review or any conditional uses imposed on the C-2 property if rezoned, neither affected citizens nor the Town could protect against potentially inappropriate or unforeseen uses of the property.

Ms. Andrews said she agreed that Mr. Plummer was well-liked. What he was proposing here, she said, would put her clients in a situation where they had absolutely no ability to foresee what might happen on this property. She said they could not get a commitment from Mr. Plummer regarding just what his plans were for the property.

Ms. Andrews said for the present adjoining property owners and other interested citizens, the current application for a straight, unconditional rezoning meant that there was no way to evaluate whether any resulting project would have negative impacts on their property values, adverse impacts on their use and enjoyment of their own property, or whether any such use would cause noise, odor, light, or other disturbances. Ms. Andrews said they had spoken with Mr. Plummer about ways to resolve some of these issues so that they would not have to come before the Board this evening opposing the rezoning, but could not reach an agreement.

Ms. Andrews stated the damage was obvious; if the current application for rezoning was granted, and this applicant assigned or sold control of this property to an entity that moved to develop the site, or even if he decided to develop the site in a way that may be adverse to the neighbors, citizens and joiners had no notice or opportunity to review and comment on the development. She said the site plan review process was not afforded a public hearing like the rezoning request this evening.

Ms. Andrews reiterated that they had tried to meet with Mr. Plummer. She said to give the Board a feel for what she considered the very benign request they had asked for, her clients had asked that: the dumpsters be 75 feet off the residential neighbors; that if a new building was constructed or if the drive-thru was rebuilt, that the drive-thru be oriented to the north or east of the site so it would not be “shouting” into these neighbors’ properties; that the hours of operation be limited to not operate between midnight and 5 a.m., which were longer hours than the Diner currently operated; that the Magnolia trees on the adjoining residential property line not be cut, and that a specific opaque screening be provided in that location.

Ms. Andrews said she believed that these were very benign requests in light of the comments made by Mr. Plummer at the Planning Board meeting, when he said that: he would not do anything to injure the property values; that he would do everything in his power to allow a buffer greater than what was required by the Zoning Ordinance; that he closed at 10 p.m. on Saturdays and did not open on Sundays and would continue to do that; that he would exercise care about the dumpster location and did not want to hurt any of his neighbors; he would gladly sit down with the neighbors any time, having her mediate; and that he wanted to do things in a neighborly fashion.

Ms. Andrews said unfortunately at that Planning Board meeting, they were not able to come to any agreement, and they had understood that Mr. Plummer did not want to place deed restrictions on the land. She said they did not understand why since their requests were fairly benign and might be something that would be handled in the site plan review in any case. Ms. Andrews said they had then offered something even more casual, that was a Memorandum of Understanding or a Letter of Agreement, something that could be placed in the files, so that if this Board was no longer here and Mr. Monroe was no longer here, that the files could be looked at in later years when and if Mr. Plummer decided to develop that property. Ms. Andrews said Mr. Plummer had also refused that request.

Ms. Andrews said unfortunately, that was where they now stood. She said her clients wanted to make sure the Board understood their concerns and for that reason they had to oppose the rezoning request because they had no other opportunities to proceed otherwise.

Mayor Voller asked what her clients would like to see, that is, what would be the best case scenario. Ms. Andrews replied they would have like to be involved in the site plan review process, but without this being a Conditional Use rezoning or an SUP they had no opportunity to represent themselves in the future. She said the main issues were those she had previously stated, noting they felt that with regard to odor and lighting those issues would be resolved on their own through the ordinance provisions. Ms. Andrews said potentially the odor was a concern, but if the dumpsters were oriented away from the residential property line and the neighborhood that would take care of itself. She said the orientation of the dumpsters, the orientation of the drive-thru, hours of operation, the more specialized opaque buffer along the approximately 21 feet of property line on the south end, and that the Magnolias not be cut were the primary concerns. But, as she had said, they were unable to come to terms with Mr. Plummer on any of those issues.

Mayor Voller said they had not come to terms of any of those issues? Ms. Andrews said that was correct. She said she had checked with Mr. Plummer again this evening and he had stated it was in his best interest to proceed as planned, so he had refused.

Shannon Plummer, 116 Thrift Street, provided the Board with photos of the site. He said he believed there was some suspicion that since he sat on the Planning Board that he had some kind of "inroad" with the Board. Mr. Plummer said he had met with Ms. Andrews two weeks after the Planning Board meeting to try to address the concerns of her clients, and he had said if she would put something on paper and get it to him he would consider it. He said four weeks passed and he heard from no one, but on Thursday of this past week he had received an email of what the four demands were.

Mr. Plummer said in regard to the dumpster location, placing the dumpster 75 feet from the property line essentially negated the property under consideration for rezoning tonight. He said the only option he would be left would be to place the dumpster at the road near the intersection. Mr. Plummer said at present the dumpsters were 15 feet off the property line and he had never had a problem with that location, and to him 75 feet sounded unreasonable for this small piece of land.

Regarding the hours of operation, Mr. Plummer said he opened at 5:30 a.m. and closed at 9 p.m. on weekdays, closed at 11 p.m. on Saturdays, and was closed on Sundays. He said he planned to continue those hours, but did not want to promise anyone anything since he did not know what the future might hold. Mr. Plummer said he doubted that there was any commercial lot in this Town that had deed restrictions that told someone when they had to open or close. He said as they grew he may want to stay open until 11 p.m. on weekdays, or something of that sort.

Mr. Plummer said regarding the Magnolias trees, there was one very large tree on the property line, and he would like to try to keep it. He said there was also a grove of small Magnolia trees there, and the neighbors had reiterated over and over that no Magnolia tree be cut. Mr. Plummer said some were as small as his little finger, and they may have to be dug up and replanted elsewhere.

Mr. Plummer said the adjoining property owner had 21 feet, and if you looked at the perimeter of the property it was over 500 feet of common boundary. He said the other neighbors on both sides of that boundary had offered their support, noting that as long as he was following the Town's guidelines then they were okay with his plans. Mr. Plummer said he appreciated Ms. Andrews' attempt to look after her clients' interests, but the adjoining property owner only had 21 feet. He said he was open to providing something more than what was required by the Town, but was not willing to place deed restrictions on his property that might hinder him in the future.

Mr. Plummer said he did have plans to rebuild in the future, but could not stand here tonight and say unequivocally that he would do so because no one could guarantee the future. He said if he placed deed restrictions on that property for 25 or 30 years, and if something happened to him or his family during that time, he could not guarantee that he would continue in the restaurant business.

Mr. Plummer said he had to have options opened to him, and he still planned to be a good neighbor and would try to do what he could. He said he was in an old building badly in need of upgrading. Mr. Plummer added that growth was coming, in that a KFC, a Taco Bell, and a MacDonald's were all on the horizon. He said he was also thinking about what he needed to do to be proactive to address the new comPoteation, and that was what he was trying to do here. Mr. Plummer said he would go on record tonight that if and when he submitted a site plan, he would go to the adjoining neighbor to discuss his plans. He added that he did not appreciate these issues being brought forth in an untimely matter and the attempt to force them on him.

Mayor Voller asked if this was rezoned, how the impervious surface from the one site and the other would be calculated, or would they be separate. Mr. Plummer said his lot was nonconforming and it did not meet the impervious surface standards. He said he did not believe he could combine the lots until some dwellings were removed.

Mayor Voller said the stormwater rules would be an issue. But, he said, an existing site that was nonconforming was allowed, and that was why he wanted to know what would be his plan. Mr. Plummer said he would basically like to raze the lot and build a new structure but it would have to sit about where the property line was; that was why he would have to combine the two lots. He said the only way to make it conforming was to have one building.

Mayor Voller asked where the Magnolias were located. Mr. Plummer pointed them out on the photos.

Robyn Allgood, 69 Robyn's Nest Lane, stated she owned and operated Robyn's Nest Creative Learning Center in Pittsboro. She said as a fellow business owner and customer at Al Diner's, she encouraged the Board to approve Mr. Plummer's request for a rezoning. Ms. Allgood said the extra space would create a safer environment for parking and enable him to serve his customers better. She said for the past 7 years Al's Diner had provided her preschool as well as other child care centers with catered meals when needed. Ms. Allgood said the meals were always well-balanced, nutritious meals and most importantly were from a Grade A kitchen.

Ms. Allgood said that was a service that could be made easier if Mr. Plummer was allowed to expand his facility. She said Mr. Plummer and his wife were good private and public citizens of the Town and had provided a nice family atmosphere at their Diner for many years. Ms. Allgood said in the child care business food was very important, and home-cooked, nutritious and well-balanced meals were mandatory. She said there were not many of those around, but Al's Diner was one that served centers County-wide. Ms. Allgood said that service would be easier if his kitchen were larger. She asked the Board to approve the rezoning request.

3. Zone Text Amendment; Section 13.7D, Planning Board conflicts of interest.

Planner Monroe stated that currently if a Planning Board member had a conflict of interest they were allowed to sit at the Board table and take part in the discussion but be excused from voting. He said the amendment as proposed would require that the interest be disclosed prior to discussion, and that the member leave the table and sit in the audience and not participate in the vote. He said it would also require that any member who had a pre-disclosed opinion in a quasi-judicial case had to disclose that opinion and not participate in that discussion.

Public Comments:

None.

Mayor Voller asked if that would necessitate that they should perhaps be filling alternate seats or expanding the Board membership, so that in situations where several were recused they would still be able to meet a quorum. Planner Monroe said he knew of only two cases where members had recused themselves due to a conflict.

Mayor Voller said should the alternate seats be filled to remove the potential that a quorum could not be seated. Planner Monroe said that would be at the Board's discretion.

Commissioner Walker asked how that amendment compared to other municipalities in the Triangle. Planner Monroe stated for most it was the same standard.

4. Amendment to Sections 8.3A(2) and 8.3B of the Subdivision Regulations regarding standards for Planned Unit Developments.

Planner Monroe said this was an amendment to make the PUD standards in the Subdivision Regulations consistent with the recent amendments to the Zoning Ordinance. When those amendments were adopted, we overlooked the subdivision regulations.

Public comments:

Patrick Bradshaw, 128 Hillsboro Street, stated this Board had recently made amendments to the Zoning Ordinance to allow more flexibility in designing Planned Unit Developments and preserving open space in the Town. He said these proposed changes to the subdivision regulations were necessary to give effect to those changes already made to the Zoning Ordinance. Mr. Bradshaw said one of those amendments would remove a 20-acre minimum size for PUDs; 20 acres in his opinion was not a practical minimum in the Town and did not believe a minimum was needed at all. He said it would have no effect on density which was controlled by the Zoning Ordinance, and all PUDs required a SUP after public hearing and review by the Town as to the conditions to be placed on that PUD in the SUP.

Mr. Bradshaw said the other amendment before the Board was to adopt a 5% open space requirement for PUDs in the subdivision regulations to make it consistent with the recent amendments to the Zoning Ordinance. He urged the Board to adopt the two amendments.

5. Annexation of property owned by Ricky Spoon.

Planner Monroe stated this was an application to annex approximately 152.6 acres at Belmont Station.

Public Comments:

Ricky Spoon, 2475 Redbud, asked the Board to approve the annexation. He said the Board had already approved the MUPD and he was ready to start the project and begin paying taxes on the property.

6. An Ordinance establishing a Moratorium on the approval of Major Subdivisions, Planned Unit Developments and Non-residential Development within the Town of Pittsboro and its Extraterritorial Jurisdiction.

Town Manager Terry stated that Jay Johnston and Adam Kiker from Hobbs, Upchurch and Associates were present to provide the Board with information on the Town's wastewater capability.

Jay Johnston said he had been asked to respond to the question of why Pittsboro might consider extending the moratorium on major developments. He said the essence of the matter was capacity versus demand, and provided slides to explain that concept. Mr. Johnston said once the Town reached 80% of the action level, then they would have to have a plan in place or the State would begin placing pressure on the Town.

Mr. Johnston said earlier this year the Town had commissioned a planning study to look at future demand on the system, so some target points had been developed. He said in 2012 it was already more than the capacity in the permit for the plant; in 2015, 4.5 million gallons of the demand could be attributed to projects that have a name and a location in the ETJ of the Town; and, in that same year the potential had included the large parcels that did not yet have named projects associated with them but could potentially develop. He said they had applied a proportional flow to those pieces of land and come up with 8.6 mgd.

Mr. Johnston said clearly, the demand exceeded capacity, or would very soon. He said other key issues was that for 2006 the average daily flow was .365 mgd, which was about half of the capacity of the plant. Mr. Johnson said it would appear that there was a lot left, but it was important to remember that the plant did not efficiently treat wastewater much more than 500,000 gallons per day. He said the stream that the plant discharged to, Robinson Creek, was already on the 303d impaired waterways list, and if they got more water coming to the plant than the plant could efficiently treat, then the Town would exceed its permit limits.

Mr. Johnston said the water plant operator believed he could efficiently and continuously treat about 1.5 mgd; in 2010 the demand projections were 1.54 mgd. He said with some improvements to the plant, about 2 mgd could be treated. Mr. Johnston said demand projections toward the end of this planning horizon associated with named projects was around 6.7 mgd. He said if you were to build out all of the potential space it would be on the order of 8.6 mgd. Again, he said the point was that the capacity in Town was limited by the infrastructure and permits that were presently in place and demand could clearly be shown to outpace that capacity. Mr. Johnston exhibited graphics to visually illustrate the numbers he had just explained.

Mr. Johnston said all was not lost; the Town was not sitting dormant in projects, and planning and engineering was underway. He said one project that would begin to add some help in regards to sewer was the reclaimed water project that may bring some improvements to treatment at the plant and would distribute treated wastewater for beneficial uses. Mr. Johnston said another project was a wastewater treatment plant expansion with initial phases proposed of about .6 mgd, as well as a new wastewater treatment plant at or near the Haw River or at least discharging to the Haw River some time in the future. He said that could bring the total treatment capacity for Pittsboro to around 4 mgd compared to the current permit capacity of .75 mgd.

Mr. Johnston stated other potential solutions to capacity included getting permits to discharge to public water courses which could come about through land application, applying either all or some of the wastewater to such places as golf courses, or by developing dedicated land application sites. He said there were also options yet to be evaluated, including regional solutions, with some options more viable than others.

Adam Kiker, Hobbs, Upchurch & Associates, provided some information on the Town's future and where to go from here. He stated the reclaimed water system to serve 3M was getting closer to fruition, which would provide roughly 100,000 to 125,000 gallons per day to 3M. Mr. Kiker said the Town was in the planning stages of a new wastewater treatment plant, and an environmental impact statement was underway that would feature 4 mgd of discharge capacity into the Haw River.

He said anything beyond 4 mgd would have to come from such options as reclaimed water systems, and there was a potential for a need beyond 4 mgd.

Mr. Kiker summarized different options: if the Town did desire to grow, there was a need for increase in sewer treatment capacity; they were pursuing a discharge permit into the Haw River that would greatly expand the treatment ability the Town had currently; additional capacity beyond what could be discharged into the Haw River would have to come from alternative sources, whether it was golf course irrigation, parks, or public areas; the Town could require new developments to incorporate reclaimed water systems; the Town must develop an efficient mechanism to fund capital improvements, noting that treating over 4 mgd was not cheap and there needed to be mechanisms in place to help fund those; and, future options beyond 4 mgd or reclaimed water component could come from regionalization.

Public Comments:

Ricky Spoon, 2475 Redbud, stated he had approximately \$10 million invested in Pittsboro, and understood the Town would have to have the moratorium. He said Commissioner Cotten had stated several weeks ago that they were using 350,000 gallons of sewer now; they had 200,000 allotted to Powell Place and they were using only 17,000 gallons. Mr. Spoon said the contract stated they had to make it available to them when they needed it, but he did not believe they would need it any time soon.

Mr. Spoon said the Town would have to upgrade the existing plant because the new plant was too far into the future. But, he said, the existing plant after upgrade could not treat more than 4 mgd. Mr. Spoon said they needed to upgrade the existing plant, determine what that cost might be, and whatever the Town could not pay he and Patrick Steele would bring them a check for the difference. He said they needed to stop hesitating and act as quickly as possible to upgrade the plant, noting he could not develop any more commercial property because he had no sewer. Mr. Spoon said they needed to take action and to do it for the right reason, to repair the damage already done and allow commercial growth and other growth to proceed.

Mr. Spoon said the downtown was most important to him, even though he owned no land there. He said it made him cringe to see the downtown merchants struggling, and they needed to do whatever it took to revive the downtown. Mr. Spoon stated they needed to work together, and not against each other.

Patrick Bradshaw, 128 Hillsboro Street, said he wanted to raise a side issue to the substance of the moratorium. He said it was his understanding that the State statute that governed developed moratoria by municipalities provided that a land use proposal that had to be applied for before the call for the moratorium was not subject to the moratorium if the moratorium was ultimately adopted. Mr. Bradshaw said he believed there was language in Article 8 that was not consistent with that, and suggested some changes to the language:

- In Article 8, the second sentence in the first paragraph, after the word “hereto” he suggested inserting the following: “submitted after the call for the public hearing on this ordinance” then continue on with the remainder of that sentence as written.

- In the second paragraph of Article 8, first sentence, strike the word “existing” and change it to “applied for or”, then continue with the sentence and then add “prior to the call for the public hearing on this ordinance.

Mayor Voller asked Town Attorney Messick to respond to these suggestions. Mr. Messick stated he agreed with the changes.

Mayor Voller stated the EDC had brought forth a statement regarding existing buildings, and asked Mr. Monroe to read that statement. Planner Monroe stated the EDC had requested consideration for infill projects to occur in the downtown area, particularly in existing buildings, and he offered for consideration:

“The moratorium established by this ordinance shall not apply and shall not prevent consideration of an application for or issuance of a modification of:

- a. modification of a utility permit for an existing permitted non-residential development;
- or
- b. a utility permit for a new non-residential development in an existing structure within the Town of Pittsboro.”

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

Vote Aye-5 Nay-0

OLD BUSINESS

1. Ricky Spoon rezoning request for a tract between Powell Place and US 64 Bypass from R-A2 to O&I.

Commissioner Walker asked to be recused from this vote due to a potential conflict of interest with the owner of the property.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to recuse Commissioner Walker due to a potential conflict of interest with the owner of the property.

Vote Aye-4 Nay-0

Motion made by Commissioner Cotten seconded by Commissioner Baldwin to accept the recommendation stipulated by the Planning Board.

Vote Aye-4 Nay-0

Motion made by Commissioner Brooks seconded by Commissioner Cotten to readmit Commissioner Walker.

Vote Aye-4 Nay-0

Town Attorney Messick remarked that the Board should remind Mr. Spoon that his property would need to be annexed prior to beginning development. Mr. Spoon responded that would be forthcoming.

2. Plummer rezoning request for property adjacent to Al's Diner from R-10 to C-2.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to approve as submitted by Planning Board.

Vote Aye-5 Nay-0

3. Zone Text Amendment; Section 13.7D, Planning Board conflicts of interest.

Motion made by Commissioner Walker seconded by Commissioner Cotten to approve.

Vote Aye-5 Nay-0

Mayor Voller stated that Commissioner Walker had pointed out that one of the public hearings, Item #4, had not come down to Old Business and asked if that was an oversight. Planner Monroe stated that was an oversight. Mayor Voller said then they would need to amend the agenda at this point.

Motion made by Commissioner Walker seconded by Commissioner Baldwin to amend the agenda to move Item #4 under Public Hearing to Item #4 under Old business.

Vote Aye-5 Nay-0

4. Amendment to Sections 8.3A(2) and 8.3B of the Subdivision Regulations regarding standards for Planned Unit Developments.

Motion made by Commissioner Walker seconded by Commissioner Baldwin to approve the amendment.

Vote Aye-5 Nay-0

5. Annexation of property owned by Ricky Spoon.

Motion made by Commissioner Baldwin seconded by Commissioner Walker to approve the annexation to become effective October 31, 2007.

Vote Aye-5 Nay-0

6. An ordinance establishing a Moratorium on the approval of Major Subdivisions, Planned Unit Developments and Non-residential Development with the Town of Pittsboro and its Extraterritorial Jurisdiction

Commissioner Walker stated he wanted to address a comment made earlier by Mr. Hinkley. He said he knew of no one on the Board who was not "sick" about having to pay Mr. Spoon for the lease on that land; however, there were various options being explored and they did not have the answer just yet. Commissioner Walker said one of the problems was the size of the tract, 800 acres, and what was available, and did not know what they would get out of that. He said the

previous offer had been 1,000 acres for \$15,000 a month. Commissioner Walker said with the options out there and also the variables that had to be considered, they must continue to pay that lease.

Commissioner Walker stated that Mr. Spoon had verbally stated that he would not require 90 days notice of cancellation as stated in the contract, but would allow the Town to cancel it immediately upon notification. Mr. Spoon stated that was correct. He said one thing worth noting for Mr. Hinkley's benefit and others was that he currently paid \$15,000 a month interest on that land with a fair market value of \$25 million. He said that land was good red dirt and was all useable.

Commissioner Walker said with spray field applications you must have a large tract of land, and there were very few in the area. He said hopefully they would soon be able to determine if they needed a spray field or not, and then perhaps be able to cancel the contract.

Mayor Voller said that Commissioner Cotten had reviewed the records and brought forward a study on the River Oaks project and on Mr. Spoon's property.

Commissioner Cotten said the study had revealed that due to the terrain and other factors about only 10% of that tract would be suitable for a spray field. Mr. Spoon remarked there was about 200 acres of open fields that were flat, so they were useable.

Mayor Voller said they were not trying to denigrate Mr. Spoon's property, but that report was brought to the Board during the River Oaks property review. He said certainly additional information could be gathered. Mayor Voller said if only 10% of it was useable, the question would be what 10% and where.

Commissioner Brooks said even if they had little growth, they still needed to do something about improving the sewer. He said right now, they were dependent on developers to help them solve their problems because they did not have the money or the capacity to borrow enough to make the improvements as suggested in Mr. Johnson's and Mr. Kiker's presentation. Commissioner Brooks said as the area grows, there were 3 schools being served by Pittsboro's water and sewer and those schools were expected to grow. So, he said, they had to do something but did not yet know what that might be. Commissioner Brooks stated Mr. Spoon and Mr. Steele had made a substantial offer this evening, and he hoped that other developers would do the same since they would not be able to build here until the problems were solved. He said this moratorium affected the ETJ but they had left it open so that if a developer wanted to build something there and they did not need water and sewer, then they could build.

Mayor Voller asked if the Board wanted to make a motion to include the suggested amendments.

Commissioner Cotten stated the Board had voted at the last meeting to add language under Article VI stating that upgrading of the present plant was one thing they would undertake, but he had not found that language in the current ordinance.

Mayor Voller said it was in the last sentence under Article VI. He said after this morning's meeting with a number of the stakeholders, upgrading the plant to reuse quality and getting it up to 750,000 gallons a day was the wisest course of action as part of the long term plan.

Motion made by Commissioner Cotten to include the recommendations made by Patrick Bradshaw in the ordinance.

Mayor Voller asked about the suggested change to Article VIII.

Planner Monroe said the projects that would benefit from the amendment to Article VIII were projects such as Chatham Mill where additional uses could be added to a building that already existed. He said as of now that owner was being constrained.

Mayor Voller said the same would be true for Mr. Spoon's building, or buildings in the downtown.

Patrick Steele stated there were property owners in Town that had been waiting for additional capacity, and he took issue with people getting in front of the line for allocation. Mr. Steele said he and Mr. Spoon had openly committed to split the bill to upgrade the plant, and that should be taken into consideration.

Commissioner Walker asked if there was a maximum or minimum that would be designated. Planner Monroe suggested 1,800 gallons.

Mr. Steele stated that was where they were before.

Mayor Voller said the situation they had now was that there were people who had buildings but no capacity. But, he said, they could not get restaurants built in the Town in existing buildings. Mayor Voller said that would take limited capacity and would not have a severe impact. Then again, he said, these people had also been waiting and they had owned those buildings for decades. He said they needed to do something and they needed to have some flexibility, but at the same time control it to help property owners bring businesses into the Town.

Mayor Voller said the 1,800 gallons per day did not give much to anyone, so perhaps a cap could be put on. He said if you limited it to 5,000 gallons that would handle a normal restaurant.

Commissioner Baldwin asked Mr. Monroe his thoughts on that. Planner Monroe said if you limited to 5,000 gallons that would provide some relief to property owners in Town.

Commissioner Cotten said his concern was that if they worded it in that way, they could be opening themselves up to legal challenges to the moratorium. He said the moratorium should apply equally to everyone.

Mayor Voller said then he was saying that if there was a business owner or property owner on the Bypass that had an existing building they were not going to try to work with them to get them capacity?

Shannon Plummer asked what the difference was, noting the property owner on the Bypass could build a restaurant out there.

Mayor Voller said it was not yet built. He said these other properties that had been built and were now in existence.

Shannon Plummer asked how that would affect him. Planner Monroe stated he had an existing utility connection and he would be an exception to the moratorium and be allowed to expand his business. Mr. Plummer said he was not sure that was fair to Mr. Steele.

Mayor Voller said the bottom line was that money needed to be put into that plant.

Sharon Bynum said she lived near a sewer plant, and it was offensive to her that two people had offered to upgrade that plant and the Board did not appear to be taking that into consideration.

Commissioner Walker stated that tonight was the first time that offer had been made officially. Mr. Spoon said he had asked that the Town identify how much money it would take, how much money the Town had available, and then he and Mr. Steel would split the difference.

Commissioner Walker said that as of tonight, the rough estimate was \$34 million to upgrade the plant to 3.8 mgd.

Commissioner Walker stated he was in favor of including Patrick Bradshaw's changes but not the changes to Article VIII, because it would create too much confusion.

Mayor Voller said the motion made by Commissioner Walker was to adopt the ordinance with Patrick Bradshaw's changes, but not Article VIII changes.

Commissioner Cotten seconded that motion.

Mayor Voller said he would like to go on record to say that even though it was difficult to conceive as to why they would do that, and in no way would he want to be unfair to anyone in the development community, it was difficult to explain to people the reason why they don't have and cannot get restaurants in the downtown was because they were not willing to have some flexibility. Mayor Voller said that was his personal opinion, and he was stating that as vice Chair of the EDC.

Vote Aye-5 Nay-0

8. Update on Reclaimed Water System Project to Serve 3M.

Town Manager Terry stated they had received a letter from the Department of Water Quality requesting additional information. He said the elements requested were:

- the detailed plans or specifications, which had been provided by the Engineer and were under review at this time.
- the plan for how we would decontaminate the system in the future when it came time to transition that system from wastewater that would not meet totally the definition of reclaim water at the current plant to a future situation where in a new plant reclaimed water would

meet the more stringent standards. With the help of the Engineer a plan had been developed.

- that we work with 3M to revise the agreement between the Town and 3M that would deal with issues around first using sewer affluent that did not fully meet the standard of reclaimed water. A resolution had been prepared that would authorize the Town Manager to work with 3M to amend that agreement.

Commissioner Cotten stated he had read the original communication from the State concerning this matter, and there were two items in that communication that needed to be addressed by the Town. He said the remaining items were for the Engineers to reply to, and frankly he needed to do a little more research to discover exactly what they needed from the Town.

Commissioner Cotten made a motion to table this item until November 13.

Mayor Voller asked what would tabling this issue do that might be detrimental. Town Manager Terry stated he did not believe it would mean a substantial delay because concurrently they would still be working with 3M to re-craft the agreement between 3M and the Town. He said while that was taking place, if Commissioner Cotten wanted time to look into these other issues, he did not think that would cause a substantial delay. Town Manager Terry stated that two more weeks would not be a problem.

Commissioner Cotten said one of the issues was that the State wanted to know where we were on the agreement with 3M. He said this Board had, in May, directed Mayor Voller and the staff to meet with 3M, but he had not been invited to any meetings and he had strong feelings about what that agreement needed to be. He said that was why he wanted to research this.

Commissioner Cotten said the other thing was that the State was asking if we wanted to rescind the pre-approved project. He said in his experience, when the State asked that they were really asking if we were going to spend the money on that project or spend it somewhere else. He said that was the question he needed answered by the State.

Town Manager Terry said they may have asked us to rescind that first authorization to construct, but we were going to go back with a counteroffer that ask to have it modified instead. Adam Kiker said that is correct

Commissioner Cotten said in another part of the letter it mentioned the sources of money for the new plant. He said he needed time to get clarification from Raleigh on these issues.

Commissioner Brooks seconded the motion.

Mayor Voller asked if the Board was comfortable with Commissioner Cotten representing the Board when he was talking with Raleigh about these issues.

Commissioner Brooks said he would hope that Commissioner Cotten would report back to the Board on what he had discovered.

Commissioner Cotten responded he would ask for any reply in writing, and would bring it back to this Board.

Vote Aye-5 Nay-0

Mayor Voller stated Commissioner Baldwin had brought up the issue of the money mentioned earlier by Mr. Steele and Mr. Spoon, which they had thought would be discussed along with that item. Attorney Messick stated it would be more appropriate to discuss that at another meeting when more time was available. He suggested holding a work session on that issue, or at least deferring it to some later date.

Mayor Voller stated that sounded reasonable.

NEW BUSINESS

1. Issues related to ongoing regional drought conditions.

Commissioner Walker stated everyone was aware of the drought, noting the Governor today had asked that all citizens and businesses to do a 50% reduction in water usage until the end of the month in order to gauge accurately how much was left. He said he believed Pittsboro was in a somewhat different situation, in that they got their water from the Haw River and right now there was a good flow.

Commissioner Walker said he had ceased watering his lawn back in May when he had heard that we would have a long, hot, dry summer. He said he would personally like to see Pittsboro do what other municipalities had done, and go ahead and limit or cease outdoor watering of yards and washing of cars. Commissioner Walker said he would also like to continue discussions with Siler City in regards to any excess water and finding a way to get it to them. He said the two major employers in Siler City had cut operation in order to save water, and farmers were in even worse shape. Commissioner Walker said that all of these issues would have an indirect effect on all of Chatham County as well as the Town of Pittsboro. He said he would like to see all outdoor water limited or stopped altogether, to stop the washing of cars, and continue conversations with the Town of Siler City to perhaps provide them with excess water.

Commissioner Brooks agreed with Commissioner Walker, and suggested moving with all due speed to find a way to assist Siler City. He stated he also agreed with the statements regarding limiting or ceasing outdoor watering and the washing of cars.

Commissioner Brooks said he believed he was still seeing contractors with the State spraying cuttings between Pittsboro and Chapel Hill.

Mayor Voller said that was correct. He asked where they were getting the water from. Town Manager Terry said he did not know for certain if those contractors were getting the water from Pittsboro, but the Town did sell water at the hydrant behind Town Hall. He said that customers were still demanding it because there were no restrictions at this point.

Mayor Voller said they had a unique situation because we can process more water, can store more water, and we would have an issue of TTHMs if that water was stagnant. So, he said, they had to move water through the system. On the other hand, we should not be seeing people watering their lawns several times a day. Mayor Voller said he was in favor of sending water to Siler City.

Commissioner Brooks asked if anyone knew the status on getting the line extended from Pittsboro to Siler City. Town Manager Terry stated that Mr. Brower was working closely with the Rural Center and the FDA and another agency, and the last time he had spoken to him he was about \$1.5 million short of having enough funds identified to do the project. He said Mr. Brower was working aggressively to pursue other options. Town Manager Terry said the resolution he had prepared would simply authorize him to continue to work with Mr. Brower to facilitate that process. He said all of the financial risk would be taken on by Siler City, according to the discussions thus far.

Commissioner Walker said he did not want to see car washes go out of business, and wanted clarification as to whether the Board wanted to restrict residential car washing or commercial as well. Town Manager Terry stated that he had looked at the Town's different stages of water restrictions, and the closest to what the Governor had asked them to do was to suspend all outdoor uses, which was Stage 3. He said he had modified that because Stage 3 also included some fairly severe commercial business water restrictions, and did not believe the Board had said they would want to restrict commercial businesses at this point.

Commissioner Walker said he was looking at restricting residential uses, not commercial or industrial uses. Town Manager Terry said the ordinance he had prepared would restrict outdoor use including swimming pools and certain kinds of air conditioning units, but it did not restrict commercial or business uses, which would include car washes.

Motion made by Commissioner Walker to approve a Resolution authorizing the Town Manager to continue to work with Siler City and to begin conservation measures as described.

Commissioner Baldwin said if they were going to have water restrictions, then they would certainly need to stop selling water to be used by contractors to water cuttings on the highway. Town Manager Terry said he would consider that an outdoor use and the ordinance would restrict that.

Commissioner Cotten said his concern was if they restrict water usage, they would have to stop processing so much water in order to prevent an increase in stagnation. He said he was afraid that if they stopped moving water that they would create even more problems for themselves and their water system.

Attorney Messick stated that Commissioner Walker had made a motion to include the resolution prepared by Mr. Terry, and they should deal with that and then consider an amendment to the ordinance.

The motion was seconded by Commissioner Baldwin.

Vote Aye-5 Nay-0

Town Manager Terry said if it was the Board's intention to set water restrictions this evening the ordinance he had prepared would do that, and the Board could amend it to make it more or less restrictive.

Mayor Voller asked if a public hearing was needed to do that. Attorney Messick replied no. Mayor Voller said he believed it was a wise course of action, but they needed to have their engineers monitor the situation that he and Commissioner Cotten had referred to in regards to moving the water through the system and not creating stagnant water.

Vance Brooks stated that as you move into cooler temperatures in the winter, if the drought continued water quality would become less of an issue. He said if the drought did continue into the warmer season next year, or if water was being conserved to provide it to Siler City, then it would become an issue. He said when the line to Siler City was completed the Town would be moving a significant amount of water through those lines, so water quality should increase. Mr. Brooks said for the near term, the next few months, water quality should not be an issue if they were conserving water.

Motion made by Commissioner Walker seconded by Commissioner Brooks to amend the ordinance under Chapter 5 regarding emergency water conservation as prepared by the Town Manager.

Vote Aye-5 Nay-0

Mayor Updates

Mayor Voller stated he had given the Board information from the RPO as to where they were with transportation. Jeffrey Starkweather said the EDC would hold a summit on the evening of November 8 from 6 to 9 pm. at the Siler City Senior Center and on the morning of November 9 in Pittsboro from 9 a.m. to noon. Mayor Voller stated those meetings would be posted and all board members and staff would be notified.

Commissioner Concerns

None.

ADJOURN

Motion made by Commissioner Walker seconded by Commissioner Bryan to adjourn the meeting at 9:55 pm.

Vote Aye-5 Nay-0

Randolph Voller, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk