

MINUTES  
TOWN OF PITTSBORO  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
MONDAY, APRIL 28, 2008  
7:00 PM

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

**ATTENDANCE**

Members present: Mayor Randolph Voller, Commissioners Pamela Baldwin, Clinton E. Bryan, III, and Hugh Harrington.

Absent: Commissioners Gene T. Brooks and Chris Walker, absence excused.

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

**APPROVAL OF AGENDA**

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

Vote    Aye-3    Nay-0

**CONSENT AGENDA**

The Consent Agenda contains the following items:

1. Approve minutes of the April 14, 2008 regular meeting.

Commissioner Harrington said at the middle of page 10, the paragraph read “Commissioner Harrington said the letter from Leslie Landis had stated that they agreed to the roundabout, traffic narrowing, paving, and turning lanes.” He said he did not believe that turning lanes had been included, and only partial paving had been agreed to.

Commissioner Harrington said on page 15, there was a statement that said “Commissioner Harrington suggested that at the next meeting the Board consider a resolution requesting NCDOT to reduce the speed limit in that area, perhaps to 35 mph to the Town limit.” He said that statement was made by Commissioner Walker.

Commissioner Harrington noted two additional minor points through a written statement: 1) on page 11, the statement “Commissioner Harrington stated there would be a major expense for the Town for such a retreat” should read “Commissioner Harrington questioned if there would be a

major expense for the Town for such a retreat.” 2) On page 18, the statement “Commissioner Harrington said his biggest frustration was when people asked him to do something he could do nothing about” should read “Commissioner Harrington said he was told his biggest frustration would be when people asked him to do something he could do nothing about.”

Motion made by Commissioner Baldwin seconded by Commissioner Harrington to approve the Consent Agenda as amended.

Vote Aye-3 Nay-0

## **REGULAR MEETING AGENDA**

### **Citizens Matters**

No comments were offered by citizens at this time.

### **PUBLIC HEARING**

Motion made by Commissioner Baldwin seconded by Commissioner Harrington to go into public hearing.

Vote Aye-3 Nay-0

### **REZONING REQUEST FROM ALLEN BADDOUR TO REZONE 157 WEST STREET FROM R-12 TO C-2**

Planner David Monroe said Allen Baddour was requesting a rezoning of property at 157 West Street from R-12 to C-2, which was adjacent to a property currently zoned C-1. He said the other end of the block was zoned for an assisted living facility, and the middle of the block had two properties zoned R-12. Planner Monroe said he had met with Louise Harward who owned the property adjacent to this one, and she had expressed concern not about the rezoning request but about the possibility of people parking on her property because there was a curb cut onto her property although there was no driveway. He said Ms Harward had requested the Town put something on record that would prevent people from parking on her property.

Planner Monroe stated the Planning Board had reviewed the request and found it was consistent with the Land Use Plan and recommended approval.

Allen Baddour, 416 Smith Avenue, Chapel Hill, said that he believed the rezoning being sought was consistent with the goals of the Land Use Plan. He said though the property was not technically in the downtown, it was in an area of the Town that was changing from purely residential to almost purely commercial or office use. Mr. Baddour stated that Larry and Karen Webster intended to live in the house and operate a business there, which was the reason for the rezoning request. He said it was the Webster’s intent to use their lot for parking for this business, and would certainly support Ms. Harward’s request for no parking on her property.

Mr. Baddour stated he had spoken to Mr. John Justice whose family owned the two adjacent lots, and on behalf of his family expressed no concerns with the rezoning request.

Louise Harward, PO Box 416, NC 87 North, stated she objected to anyone parking on her property, but the curbing was put in for a driveway onto her property but one did not exist. She said she believed people would try to park there and wanted some help in making sure that did not happen.

Commissioner Bryan said he had talked with Ms. Harward and indicated it clearly was not Mr. Baddour or his tenant's intention to allow that to happen. He said he understood her concern because of the curb cut, and suggested that perhaps some attractive stakes be placed on the back side of the curb cut to make it obvious it was not for use.

Commissioner Baldwin asked what Mr. Monroe would suggest to address Ms. Harward's concerns. Planner Monroe said the simplest thing to do would be to get permission from NCDOT to extend the curbing and take out the curb cut.

Commissioner Bryan asked what would happen in the future if Ms. Harward wanted the curb cut. Planner Monroe said then a driveway permit could be applied for, which should not be a problem.

Commissioner Baldwin asked Ms. Harward would she agree to that. Ms. Harward said she would prefer just to put some stakes in across the curb cut. She said if that didn't work, then they could go to NCDOT as Planner Monroe had suggested.

Commissioner Bryan said the Board was agreeable to whatever she wanted to do.

Mayor Voller agreed, and believed the Board agreed as well.

Mr. Baddour said because the use would be changing, it was his and the Webster's intention to have some sort of parking on site, likely in the back on the Courthouse side where the existing driveway was located.

## **ZONE TEXT AMENDMENT TO SECTION 14.5 AND 14.6 – MAJOR TRANSPORTATION CORRIDOR OVERLAY**

Planner Monroe said this request was being made by Patrick Bradshaw to make relatively minor changes to the Major Transportation Corridor Overlay ordinance. He said currently the ordinance impeded some residential development opportunities, and an additional change suggested was that the sign regulations mentioned in Section 14.7 be modified so that minor text signs identifying housing developments would be allowed.

Planner Monroe stated the Planning Board had reviewed the application and found that it was appropriate and recommended approval.

Patrick Bradshaw, 128 Hillsboro Street, said he was representing Crosland, LLC in proposing these amendments to the zoning ordinance. He said the amendments were being proposed because the MTC provisions in the zoning ordinance were not consistent in the way they were

applied to residential uses of land. Mr. Bradshaw explained that one section of the ordinance said that lot sizes for residential uses in MTC were controlled by the underlying zoning district, but in another section it said that all lots in the MTC whether residential or commercial had the same setbacks. He said that was 50 foot front setbacks, 25 foot side setbacks, and 30 foot rear setbacks. Mr. Bradshaw said lot sizes and setbacks went together, and those were setbacks designed for larger sized lots. He said they made it difficult, or nearly impossible, to design a planned unit development and preserve open space in the MTC.

Mr. Bradshaw said the amendment would just provide for setbacks on residential property in the MTC to be controlled by the underlying zoning district, just the same as lot sizes were. He said it would also allow PUD's and other residential uses to be treated the same as MUPD's which were already exempt from the specific requirements of the MTC even though by definition they usually included commercial uses. Mr. Bradshaw said the proposal also provided that the Town's usual sign regulations would apply to residential uses in the MTC. He said the way the current language read seemed to prohibit subdivision entry signs, directional and regulatory signs, and real estate for sale and for rent signs. Mr. Bradshaw said he did not believe those sign provisions were originally designed to apply to residential uses, but written with an eye towards commercial uses. He said those commercial uses and sign restrictions would not be affected by these amendments.

Mr. Bradshaw said to offset any possible negative impacts on the highway corridors from the other two changes, they were proposing to allow the option of having buffers for residential uses in the MTC in appropriate locations. He said those buffers would be more effective than the setback and sign restrictions in achieving the MTC regulation's goals of limiting visual clutter and inappropriate site layout along the highway corridors.

Mayor Voller said essentially, the Town would have the control of the PUD when doing the approval, so what was being suggested was to clean up an inconsistency with the Town's Code between residential and non-residential, and ultimately when they did an approval for a PUD there would still be the ability to stipulate some of the buffers and signs as part of the negotiations. Mr. Bradshaw said he agreed that was their intention.

Motion made by Commissioner Bryan seconded by Commissioner Baldwin to go out of Public Hearing.

Vote Aye-3 Nay-0

## **OLD BUSINESS**

### **1. Manager's Update on Capital Projects**

Town Manager Bill Terry stated that he had been requested to provide occasional updates, and to that end he had provided a report for the Board's use. He provided highlights of several of the issues noted in the update where changes had occurred, and offered to answer any questions the Board might have.

- Credle Street Basin – that work was still underway, at about 80% complete. They had received the first payment request and had approved that. Project was expected to be completed in April or May.
- Kiwanis Park plantings – a bid had been accepted for that work and a contract awarded in the amount for \$5,550.
- Wastewater Treatment Plant Operational Effectiveness Analysis – they have entered into a contract with Sterns and Wheeler. An update report would come to this Board on June 9.
- Disinfection Byproducts Reduction Project – design was proceeding on schedule by Hobbs and Upchurch. The project was at about 50% complete, and at about 85% complete a set of draft plans and specifications would be submitted for staff review. That should take place in about three weeks.

Commissioner Harrington asked if they had an estimate of how long it would take between site plans and actually building in the chloramination. Manager Terry stated the original projection was that the work would be done by the end of September, and they were still on that schedule.

Commissioner Baldwin asked had the results from the corrosion testing by Virginia Tech been received. Manager Terry said he had not received or heard those results, but he would ask about them.

Mayor Voller stated that he and Manager Terry had been talking with the Rural Center, and it was very competitive for those grants. He suggested sending another letter that all of the Board members would sign, and asked former Commissioner Max G. Cotten if he would be interested in signing as a former member. Mr. Cotten responded he would if the Board believed it would do any good. Mayor Voller said he believed it would.

Mayor Voller said the letter would say that all of the Board members were united and were unanimous in fixing the water issue. He said the more communication they received from this Board the better.

Commissioner Harrington said related to disinfection byproducts reduction, how were they doing on their sampling; what were their measurements coming in at. Manager Terry stated at the last report they were within specifications. Commissioner Harrington asked on how many sample points. John Poteat responded six. Commissioner Harrington asked had that been done once or twice. Mr. Poteat stated they were almost in compliance last quarter, and they were in compliance this past quarter. He said they were about .5 micrograms above limit, but you had to keep in mind it was based on the quarter of the yearly average, so you had to have at least 3 or 4 quarters in a row of compliance before you actually were compliance by State standards.

Commissioner Harrington said he was wondering that since they were beginning the flushing program if that would help. He said he knew they would have problems in the summer when the temperatures rose, but wondered even if their numbers were not down where they should be over the year but they were showing what they were putting out now was good, it would appear that that was a good faith effort. Commissioner Harrington said he knew they had to proceed with

the chloramination and be ready to do it, but he was also wondering if they should also be preparing to say they had brought those numbers down, that the average might not be down but they were on track to be down with their yearly average based on their trend and their decrease. He said it seemed that they should have that as a contingency and be ready to do that, to go to them again and say they had not brought the yearly average down, but... . Manager Terry said if fines were forthcoming, that type of information could be used to make the Town's case.

Mr. Poteat pointed out that they were getting ready to enter the hottest quarter of the year, and they should expect a rise in the levels. He said he was sure the levels would be much better than previous hot quarters, but it would likely be above the average.

Mayor Voller said he did believe it was good that they were showing some success, and that should be put on the website and made available to the public. He said their failures were out there for everyone to see, and they rarely showed the efficacy of this program. Mayor Voller said the public needed to know what they were doing and that there was some success.

## **2. Update on Water and Sewer Rates Review**

Manager Terry said at a previous meeting the issue of water rates was raised, and again when the audit for the prior year was presented. He said the Enterprise Fund had operated at a loss and they were only able to support that fund by using their excess fees and capital recovery fees to offset the losses. Manager Terry said essentially they were using the capital recovery fees to pay salaries and utility bills. He said there was some discussion on how to fix that, and part of that discussion was consideration of hiring a professional consultant to do a rate study. Manager Terry said he had suggested letting the staff do a first run on it, and they had now completed that. He said what they had found was a fairly complicated picture of the rates with lots of parameters. He said they now had a clearer picture of the situation, and that would help to take the next step forward to determine how to make up that \$400,000 shortfall.

Manager Terry said tonight he was making an aggressive recommendation and asked for the Board's guidance on moving forward; what sort of changes they were looking for in the rates, if the recommendation was too aggressive then what level of funds did they want to capture with the rate increases, and did they want to make the in-town rates match the out-of-town rates. He said in North Carolina most municipalities did charge higher out-of-town rates than Pittsboro, and the early rationale for doing that was that most small town water utilities supported or augmented the system with taxpayer fees, so it was determined that those not paying taxes should pay more for the water.

Manager Terry said in a utility where your goal was to make it self-sustaining and to operate it as a business, then that rationale fell away and it made sense to separate the in-town from out-of-town. He said his recommendation was aggressive, with 100% rate increases for some on the in-town side, and a zero increase for those out-of-town. Manager Terry said that may not be an easy public relations job, but that was the best way to capture the \$400,000.

Mayor Voller asked what they were doing with the idea that if someone was buying more water to pay more instead of less. He said the idea brought forth by former Commissioner Cotten was

that if you were buying more and more water, it would not necessarily get cheaper. Manager Terry said the flat rate took that component out, noting that right now their minimum rate for 2,000 gallons was the most expensive, and over that amount the rate became less expensive. He said by using the flat rate method, all the water cost the same for each 1,000 gallons.

Manager Terry said in Attachment 2, he had offered a different option, where the first 2,000 gallons of water was the cheapest water, and then each additional 1,000 gallons would be higher. He said Attachment 1 gained you the most at \$600,000, and Attachment 2 did the same thing except that it took the current in-town minimum rate and applied it to out-of-town. Manager Terry said that made the first 2,000 gallons the same cost for everyone.

Commissioner Harrington asked what percentage of their customers now were paying right at the minimum. Mr. Poteat replied he believed at the present time around 30% to 40% used less than 3,000 gallons, and 25% to 30% used 2,000 or less.

Manager Terry said if the goal was to capture the \$400,000 shortfall and to do that by just an across-the-board rate increase and affecting every customer the same, that would amount to a 28% increase if applied equally.

Mayor Voller asked how that applied to the water they were selling that was going to the master meter that fed Chapel Ridge and others. Manager Terry stated the contract put that water rate at the same rate as other out-of-town commercial customers.

Commissioner Bryan said then they were at the out-of-town commercial rate. Manager Terry said it was very close, almost to the penny.

Mayor Voller said then everyone, including those customers, would be at the same rate. Manager Terry responded that was correct.

Commissioner Baldwin said with Attachment 1, everyone would be at the same rate, but with Attachment 2 it was a "floating" rate. Manager Terry said the primary difference in Attachment 2 was the fact that they had taken the minimum rate and set it at an old in-town rate for everyone. So, he said, in-town customers would keep the same rate and out-of-town customers would get a price break.

Mayor Voller said an interesting correlation would be an annexation study matched up with that. He said why not just annex Chapel Ridge, noting they would not have to raise the rates for lower-income people in Pittsboro if they annexed Chapel Ridge. Mayor Voller said Chapel Ridge was not in the ETJ and would have to be connected, but believed they were connected by what was known as an "umbilical cord," which was the Town's water. He said that was how Wakefield Plantation had been annexed by Raleigh instead of Wake Forest. Mayor Voller said if they were going to study that then they needed to look at longer term implications of the land use, because they would be facing a much larger land mass in the next few years, and the rates should be matched up against all of those potentials.

Mayor Voller said the justification for selling the water to Chapel Ridge was because it was a good deal and out-of-town users would pay the Town's rates. He said when you double and triple the rates for in-town uses, and they were matching the out-of-town users, then citizens would ask why they had sold that water out of town and they were now all paying the same. Mayor Voller said staff could think about that, noting they did not need answers tonight.

Planner Monroe said that issue may shortly be moot for the time being, because a committee of the State Legislature was making a recommendation that there be a moratorium on annexations, both voluntary and involuntary, even applying to those annexations currently in process. He said the Legislature may interrupt the Town's ability to annex. Planner Monroe said at some point the Committee would make a recommendation to the Legislature, adding he did not believe the moratorium was intended to be a permanent condition but was intended to give the Committee time to study the effects of annexations.

Mayor Voller said he believed one of the intents was to give Cary pause from annexation into Jordan Lake. Manager Terry said it would be useful to him as he moved into budget preparation to be able to calculate revenue for the water and sewer utility, and if the Board had a sense as to how they would like to proceed he would appreciate the guidance. Manager Terry called attention to the bullet list in the agenda item that outlined why he was recommending an aggressive approach.

Commissioner Baldwin stated she liked the aggressive approach but did not like the idea of increasing rates for in-town users and having out-of-town rates stay the same. She said she would like to see an alternative to that.

Commissioner Harrington asked was it rare to charge the same in-town versus out-of-town rate, and to make it more like a business were others trending towards perhaps having uniform rates. Manager Terry replied he had not found that as he had researched State-wide, but there were water authorities in county systems where the rates were uniform. He said for cities to do it, it was rare and could be considered an emerging trend.

Commissioner Harrington agreed with Commissioner Baldwin, stating they had to have rates in place to pay for the utility. He would like to see the possibility of at least lowering the minimum rate, noting there were many on fixed incomes and that may help them. Commissioner Harrington said that would lower usage as well, noting that the idea of the more water you use the cheaper it got was the wrong way to go. He said perhaps if they could even flip it a little bit and have increasing rates as they go up, then bigger users would pay more. Manager Terry stated they had looked at that, but had not had the time to pursue it.

Commissioner Harrington said he would like to look into that, using an increasing scale and perhaps lowering the minimum. He said one thing he was concerned about was the possible moratorium on annexation, noting that annexations could help pay for some of their needs. Commissioner Harrington said that meant they needed to be looking at those using the water to carry the burden.

Attorney Messick stated the Committee looking at that moratorium was a House committee, so it was not a done deal. He said that involuntary annexations had gotten a lot of bad publicity and unfortunately the recommendations cover involuntary as well as voluntary annexations, and the ones on the Town's horizon would be voluntary. Attorney Messick suggested the Board might want to communicate with its Legislators regarding that issue.

Mayor Voller said if any member of the Board wanted to write Senator Joe Hackney directly, they should do so.

Commissioner Bryan said not knowing the relationship on the in-town minimum and out-of-town minimum, he was concerned about the minimum users. He said he had run some quick numbers and if his math was correct, if you treated in-town minimum and out-of-town minimum the same and raised the rate 15%, and raised the in-town over minimum and out-of-town over minimum 50%, then did the same on the sewer at 50% and over minimum at 65%, and matched the in-town and out-of-town commercial, it would not put so much burden on residential but would put a little more of a burden on commercial. He said that came in at about \$50,000 less than Manager Terry's most aggressive approach.

Mayor Voller said it seemed to him that they did not want to hurt the minimum users that were on fixed incomes or had other issues, and/or people that were conserving water. He said they would only want to be able to charge more of people who were buying more and were using more.

Commissioner Bryan said by his calculations, the 2,000 gallon user currently paid \$25.87, and under his proposal it would be \$29.75. He said the 5,000 gallon user currently paid \$53.00 and it would increase to \$73.00, versus the \$92 with Manager Terry's proposal.

Mayor Voller said another issue was their attempts to improve water quality, and if they were going to raise rates then they would need to have a product to sell that people felt good about. He said they would have to be very good about vocalizing their successes and showing how they would make the water a better quality product.

Manager Terry summarized the Board's comments, saying it sounded like they wanted minimum users at below 2,000 gallons to pay the lowest rate, and users over that amount would pay a higher rate. He asked if the Board was still interested in trying to find the entire \$400,000 workable. There was general agreement from the Board. Manager Terry said in addition, the Board was not interested in putting the major burden on the in-town users. Again, there was general agreement from the Board.

Commissioner Harrington said when looking at the minimum, that may be 1,000 gallons or 1,500 gallons instead of the 2,000, since he knew of people who had said they never used the minimum.

Manager Terry called attention to several items on Attachment 3, noting they were trying to make the water system self-sufficient so that capital recovery fees would not be necessary. He

suggested not putting those funds in the operating revenues but aggregate it in another capital area so that it would not be a part of the Enterprise Fund revenue.

Mayor Voller said then that would create another category so they could begin tracking it and holding it aside.

Manager Terry said in regard to access fees, he was recommending substantial increases. He said on the water side, they were at \$3.50 and were recommending \$5.50. Manager Terry said that would be closer to the actual cost. He said on the wastewater side, they had raised that up from \$5.35 to \$10.00 a gallon, again putting them closer to the actual cost.

Manager Terry stated he had run some rough calculations, and the impact fees would go from \$3,500 to closer to \$7,500. He said they had done the same thing for capital recovery fees, which were the fees that paid for connecting to pipes between plants and into developments, and were recommending increases of 20% on the water and 40% on the sewer side as well as to add a requirement for reuse water which would require a second pipe.

David Hughes said that a lot of places had a flat administrative fee that captured a lot of the fixed costs of just doing the billing, including a meter reader, a vehicle, and software to track the data. He said even the minimum user would incur that fee.

Mayor Voller said what Mr. Hughes was talking about was an overhead fee to capture those fixed costs.

Manager Terry stated that OWASA was doing that now. Mr. Hughes said that was correct, noting that almost all utilities had some kind of fixed charge to cover those fixed costs. Manager Terry said that fee would not buy water but would cover the cost of reading the meter and sending out the bill, and processing the payments. Mr. Hughes said that was correct, noting a lot of costs were incurred in that process.

Manager Terry said one thing about the Town's water rates was that everyone in Town paid the lower rate for that first 2,000 gallons of water, whether they used 2,000 gallons or 40,000 gallons. He said it would seem to him that if the Board wanted to have a policy that was driving conservation, that as soon as you went to 2,001 gallons your water would cost more. But, he said, the Town's system did not do it that way.

Mr. Hughes noted that even for OWASA, that during drought conditions when you go to different stages of water conservation, the rates changed so that OWASA could capture that revenue that would be lost when people began to conserve. He said that method appeared to be the trend.

Mayor Voller asked were they exploring options for people to pay their bills on-line. Manager Terry said that was a big step, and they were nowhere close to doing that. He said the Town's current website was very rudimentary and it would need a lot of work to be able to handle that.

Commissioner Harrington said he would bet there were companies that would do that for them, and that could be included in the administrative fee just discussed.

Mayor Voller agreed, noting that many of the newer residents were used to conducting business on-line.

### **3. CCCC Sustainable Technologies Building.**

Planner Monroe stated at the last meeting there was considerable concern expressed about the design of the intersection that NCDOT had favored. He said he had followed up with NCDOT and it was made clear during the course of that conversation that NCDOT was not willing to contemplate a different design for that intersection. Planner Monroe said that put them back at the point of examining the site plan on its merits and accepting that NCDOT had a design for the intersection that it favored.

Mayor Voller said then that went to Commissioner Harrington's point at the last meeting that the site plan and the intersection were two separate items. He asked Planner Monroe if he had any concerns about the site plan. Planner Monroe responded no. Mayor Voller said then his recommendation continued to be to move forward on the site plan. Planner Monroe said that was correct.

Motion made by Commissioner Harrington seconded by Commissioner Bryan to approve the site plan for the CCCC Sustainable Technologies Building.

Vote Aye-2 (Bryan, Harrington) Nay-1 (Baldwin)

Mayor Voller asked could they send a letter to NCDOT summarizing again that the Board, even though it was understood that NCDOT would make the decision, would still like them to consider an alternative.

Commissioner Baldwin said she understood that NCDOT had said they would not change their minds and perhaps they would not, but it was important for the Board to send that letter. She said the NCDOT officials did not live here, and they did not see the traffic conditions as the Board and citizens saw them, and that that type of design might actually allow people to be killed. Commissioner Baldwin said she was very concerned about that. Mr. Hughes said they had proposed a different alignment from what NCDOT had proposed and had put that in the plan, but NCDOT had no desire to entertain that. Commissioner Baldwin said that design was very good, but when NCDOT had come back with its recommendation, she did not believe that they understood how dangerous that intersection would be.

Mayor Voller suggested incorporating the original plan into the letter to NCDOT and others as well as the comments from this meeting, and ask them to reconsider.

Motion made by Commissioner Baldwin seconded by Commissioner Bryan to approve sending a letter to NCDOT as outlined by the Mayor regarding the design intersection.

Commissioner Harrington said he wanted the letter to contain the Board's real concern about the driveway itself. Commissioners Baldwin and Bryan accepted the amendment.

Vote Aye-3 Nay-0

## **NEW BUSINESS**

### **1. Chatham Oak PUD-Habitat for Humanity Special Use Permit.**

Planner Monroe said that the Planning Board had reviewed this application and determined that the plan should proceed on its merits and not on an attempt to find an alternative source for wastewater, although the Planning Board had encouraged the applicant to find an alternative source for wastewater capacity.

Planner Monroe said with that in mind, the Planning Board had voted to adopt a resolution of approval and recommended that this project be approved. He said the first five lots were generated as a minor subdivision, and the balance of the additional 10 lots was the capacity needed in order for this project to be approved. Planner Monroe said the overall feeling of the Planning Board was that there was probably adequate capacity in the system to allow this project to go forward.

Mayor Voller said this was sort of a mixed use affordable housing project bringing Habitat together with market-rate builders.

Commissioner Harrington asked had the paper flows been reviewed on the sewer. Planner Monroe stated the Town had asked Jay Johnston with Hydrostructures to do reconciliation on paper flow, noting that phases of permanent developments had been fully occupied but their paperwork had not yet been closed out by the State because particular forms were still needed from the engineers. Planner Monroe said on paper there was capacity that they would recover if these phases are closed out. For instance, he said, Phase 2 of Potterstone Village could be closed out, and Phase 3 was close to being ready to close out. He said those two phases amounted to 14,000 gallons of paper capacity to be returned to the Town, and the flow was already being measured and recorded. Planner Monroe said there were a number of places where that kind of paper flow could be recovered.

Manager Terry said to expand on that, he reminded the Board of a recent briefing they had received on water capacities and paper flow. He said if every permit now outstanding for building construction, including Powell Place, were built out 100%, they would be at the 550,000 gallons a day level. Manager Terry said they had a study underway now that would answer the question of could they do that much. He said the small amounts of paper flow being discussed with this project were almost inconsequential. He said the point he would make was that this was roughly 3,600 gallons of flow, which was less than 1% of the total. Manager Terry said it would be his recommendation that if it was the sense of the Board that this was a project that matched their goals for affordable housing and would do good things for the community, then these 3,600 gallons would not be the "straw that broke the camel's back," either this year or the next.

Mayor Voller said that was his feeling as well.

Commissioner Baldwin said at one time when this was brought before the Board, there was concern about one of the citizens, Ms. Foushee, and asked had they met with her and resolved that situation. Harvey Harmon, 1108 Callicut Road, a builder/developer for Habitat, said he had met several times with Ms. Foushee and they had agreed to do the plantings. He said they had set a date to meet her on site to flag out where that would take place, but there was an issue involving some dogs that needed to be moved off Habitat's property so they had not been able to place the flags at that time.

Commissioner Baldwin said she had spoken to Ms. Foushee on Saturday, and she had indicated Mr. Harmon was supposed to have met her the previous Saturday. Mr. Harmon said he had not talked with Ms. Foushee for a month, and perhaps she had talked with someone else. Commissioner Baldwin said Ms. Foushee had said someone was supposed to meet her the prior Saturday but no one showed up. Mr. Harmon said when he had last had contact with Ms. Foushee over a month ago, she had indicated she would have the dogs moved and then she would contact him, but he had not yet heard from her. He said he would follow up with her tomorrow. Mr. Harmon said Habitat was very committed to doing the plantings and resolving Ms. Foushee's issues.

Mayor Voller said then Mr. Harmon was indicating Habitat was willing to do what was recommended. Mr. Harmon said that was correct.

Mayor Voller asked if Habitat would have to seek voluntary annexation based on the map, or was that already in process. Planner Monroe said Habitat would have to seek voluntary annexation. He said the Board could make that a condition of approval.

Patrick Bradshaw, attorney for Habitat, said that they had already indicated in writing their consent to voluntary annexation on the balance of the property.

Mayor Voller said it appeared that the issues raised thus far were that Commissioner Baldwin would like to see as a condition of approval the resolution of the planting previously discussed, and that another condition of approval would be annexation.

Commissioner Bryan said he understood that the wastewater flow was not significant, but asked were they not putting Habitat in front of some of their other developers that had been standing in line for quite some time. Planner Monroe stated the other developers waiting for capacity needed considerably more than this, so he did not believe they would feel slighted if the Board chose to approve this plan.

Mayor Voller said they were trying to be fair, but believed this was a good way to go. He said the capacity being requested here would not even get those other developers off the ground. Planner Monroe agreed that the 3,600 gallons being requested here would not even get another development through Phase 1. Mayor Voller added those other developers were not looking to build an affordable housing project.

Commissioner Harrington asked about places such as businesses, for instance, Al's Diner had an approval for an expansion but they were not able to because it would require additional wastewater capacity.

Commissioner Bryan asked wasn't Steven Carr looking for more capacity. Planner Monroe said Mr. Carr had modified his plan and his issues were resolved. He said his building was currently under reconstruction and would be open by summer.

Mayor Voller said he believed the answer to both questions was that if they were to revisit the idea now that the EDC had sent over a resolution to the effect of helping someone like Al's Diner get the extra capacity, then they should do so because they would be generating jobs and tax dollars and business in Town. Mayor Voller said as the Manager had stated, the amount being talked about would be very minor. He said they could go back to a moratorium and go through the public hearing process and revisit that again, and it may be that they would have to do that again sometime in the future.

Manager Terry said he felt confident that the effect of this development would be relatively minor and agreed with the recommendation for approval. He noted they would have much better information once the report was completed. Manager Terry noted that the 3,600 figure was the projected paper flow and did not believe they would achieve that, so they were talking about well below 1% of the total capacity.

Mayor Voller agreed that when the three large developments were completed and the permits reconciled, that fully half of their capacity would be returned to the Town. So, he said, there was a lot of paper flow that was not really tributary flow.

Commissioner Bryan said he had a little bit of concern in regards to Ms. Foushee, because the last time he had talked with her she had significant concerns but he had not heard from her since. Commissioner Baldwin agreed. Commissioner Bryan said he wanted to be fair to Habitat, but there were several three and four generation families that lived in that area, and he would like to keep as many of them happy as possible.

Mayor Voller suggested making the approval subject to the recommendations outlined and agreed upon in the public hearing, and asked Mr. Harmon to address the specifics. Mr. Harmon said what they had talked with Ms. Foushee about was that they would plant wax myrtles at ten foot intervals along that line, and between the wax myrtles smaller plantings to help fill in the gaps. He noted that wax myrtles expanded pretty far out. Mr. Harmon said he had also talked with Ms. Foushee about whether she wanted to do anything on her side of the line to further increase that, and she said she was open to that. He said they had offered to help her facilitate that. Mr. Harmon said that was what had been discussed and agreed upon, and that was what he had intended to flag out for her on the site so that she could look at it and visually see what it would look like so that they could adjust it if they needed to. He said that was where it had been left, and he would contact her tomorrow to get that underway.

Mr. Bradshaw said to make the condition that ended up in the SUP as clear as possible, he asked where along the boundary was Mr. Harmon talking about putting the plantings. Mr. Harmon

indicated the boundary on the map and how far back the screening would be planted. He said that was the boundary on lots 4 and 5. Mr. Harmon reiterated that they were very committed to working with Ms. Foushee as the project moved forward. He said if a year down the road it appeared that other screening was needed, they would be willing to maximize the screening.

Mayor Voller said he believed the Board wanted to make sure that Ms. Foushee's concerns were resolved, and that it could be incorporated into the approval so that it was in the SUP. He asked if that would make the Board more comfortable. Commissioners Baldwin and Bryan both responded yes. Mr. Harmon noted that Ms. Foushee also had two cars parked on Habitat's land, but Habitat was willing to ignore that at this time.

Mayor Voller said that frequently happened when property had been vacant for a long time; people no longer knew where the property lines were located. Mr. Bradshaw said he believed that was a fair characterization of Ms. Foushee's testimony at the public hearing, in that she had been there for a long time and this property had not been used and she would probably like that to continue. But, he said, Habitat had demonstrated a willingness to lessen any impact on her.

Motion made by Commissioner Harrington seconded by Commissioner Baldwin to approve the Chatham Oak PUD-Habitat for Humanity Special Use Permit subject to the plantings as stipulated by Mr. Harmon at this meeting, and that another condition of approval would be the voluntary annexation of the development, as well as any other conditions recommended by the Planning Board.

Vote Aye-2 (Baldwin, Harrington) Nay-1 (Bryan)

## **2. Request by Allen Baddour to rezone 157 West Street from R-12 to C-2.**

Commissioner Bryan asked should the issue of the stakes being placed in Louise Harward's driveway to prevent anyone parking there be added as a condition of approval. Mayor Voller said he believed it needed to be.

Commissioner Bryan said he understood she did not need it now, but in future she may want to. He asked whose responsibility that would be. Attorney Messick said it would be her responsibility. Commissioner Bryan asked would it have to be. Attorney Messick said all Ms. Harward would have to do would be to post the property, and if anyone parked there she could have them removed.

Mayor Voller asked what about the issue of the Town posting a No Parking sign. Planner Monroe said there was no place for parking on that side of the street, but there was parking on the other side of the street.

Mayor Voller asked if the Board could strongly encourage the applicant to assist Ms. Harward with the stakes.

Commissioner Bryan said he believed that was what Ms. Harward expected.

Mayor Voller said it was private property and the Board could not make that a condition of approval, but the Board could strongly suggest it and he believed Mr. Baddour would take that under advisement.

Motion made by Commissioner Baldwin seconded by Commissioner Bryan to approve the rezoning request and that a letter be sent to Mr. Baddour strongly suggesting that he assist Ms. Harward in putting stakes in her driveway access.

Vote Aye-3 Nay-0

### **3. Zone Text amendment to Sections 14.5 and 14.6-Major Transportation Corridor Overlay District.**

Motion made by Commissioner Baldwin seconded by Commissioner Bryan to approve the Zone Text amendment to Sections 14.5 and 14.6 – Major Transportation Corridor Overlay District.

Vote Aye-3 Nay-0

### **Mayor Updates**

Mayor Voller said the Town was beginning to have Wake Up Wednesday with downtown merchants, and the first one was attended by Planner Monroe and Manager Terry. He said the next one would be in May, and encouraged any interested Board members to attend. Mayor Voller said it was being held in the Community Building beginning at 8:30 a.m., and over 50 people had attended the first meeting. He said refreshments were served, and discussions took place about projects to enhance the Town.

Mayor Voller said there was a project that may be considered regarding improvements to the stage area at the fairgrounds, and he would bring that to the Board if that came to fruition.

### **Commissioner Concerns**

Commissioner Bryan said it had been brought to him by several people, one being Mr. Wilson of the Parks and Recreation Board, that the tennis courts that were redone last year were not level. He said it appeared that they were not prepared properly because there were many dips and unlevelled areas, and that grass had begun coming up through the asphalt not long after they were finished. Commissioner Bryan said that Mr. Wilson said that some time back he had approached former Commissioner Cotten, and it was his understanding that the Town Attorney was going to write the contractor, Court One, a letter. He asked had that been done.

Attorney Messick said that had been done, and asked Mr. Poteat if a response had been received. John Poteat said the contractor had been made aware two weeks after they pulled out that grass was growing in the courts. He said he had made numerous calls and had ended up turning it over to the Parks and Recreation Board so they could deal with it. He said that Court One had been made aware of the problem and he had met with them at the site twice, but after that point they stopped returning his phone calls.

Commissioner Bryan asked was the asphalt that was laid just too thin. Mr. Poteat said it was thick, but grass had popped up in several spots which was very strange. He said there may have been grass seed in the asphalt. Mr. Poteat said the asphalt did not break away from the grass; that the grass just sprouted up out of the asphalt. He said Court One had sprayed weed killer but that was all.

Commissioner Bryan said tennis courts were everywhere without grass growing up through the asphalt.

Mayor Voller said that begged the question as to what the next action should be. Attorney Messick said Mr. Wilson's concern was that the court was not level. Mayor Voller said that was a more important concern. Attorney Messick said he would try to get back in touch with Court One.

Mayor Voller said they needed to get moving on that. Commissioner Bryan agreed, noting that Court One was responsible for the problems. Mayor Voller said Court One was a professional business and these problems needed to be addressed.

Manager Terry stated he had talked with Commissioner Baldwin about this issue a couple of weeks ago, and had visited the site after a recent rain to take pictures of the "bird baths" in the courts, and frankly he had not found them to be dramatic. He said there was one place where there was a severe dip, but it was under the net where no one would stand. Manager Terry said it was his judgment that the tennis courts were in pretty good shape, and he saw no defects that he would make a warranty claim on.

Mayor Voller asked about the drainage coming to the courts, and were they doing well with keeping water off the courts. Mr. Poteat said there was some flow, but it appeared to drain fairly well.

Mayor Voller said the whole key was keeping water from getting into the subgrade. Mr. Poteat said they had installed the drainage themselves and had gotten advice from Karen Hall's engineers, and that the drainage was installed as per their advice.

Mayor Voller said another question that came from the Parks and Recreation Board was in regards to a wind break, in that on a windy day you could not play tennis at all. He said they could look into that if the price was reasonable.

Commissioner Baldwin said her only concern was the issue with the breakaway barrier at Springdale. She asked had that been completed. Manager Terry stated they had put zip ties on the chain, but they still had work to do in regards to signage and the public information piece of it. He said as well, they had not yet sent the letter to public responders.

Commissioner Harrington asked if they were going to contact people to let them know that breakaway was there, and asked that they communicate with emergency responders as well. He said a simple thing that could be done was to put a piece of L-shaped metal with red tape on it made from a door hinge, which would go straight through the zip tie. Commissioner Harrington

said that would quickly identify the breakaway, and you could quickly pop it to break the tie and the chain would drop. He said the way it was now the zip tie was around the link in the eyelet, and his method would have the zip tie around the hinge and the eyelet. He said that method would make it extraordinarily easy to pop the tie.

Mr. Poteat said the sign had been ordered and would arrive shortly, and he had contacted Daryl who was the first responder representative, and he was aware of the zip tie.

Planner Monroe said he had placed at the Board's places a memo attached to the US 64 Corridor Study newsletter. He said David Wasserman, the project leader from DOT on this study, had asked the Board to consider holding a public information meeting on May 20, beginning at 2 p.m., with a public meeting and workshop beginning at 5 p.m. at Northwood High School on the same day. Planner Monroe asked the Board to communicate to him in the near future regarding their ability and willingness to attend so that he could forward that information to Mr. Wasserman. He noted that the County Commissioners were being invited to the same meeting.

Mayor Voller said he would encourage any Board members who were able to attend to do so, noting this was an important potential project that had been brought forward many times over the years, and they were now moving forward on it.

Motion made by Commissioner Baldwin seconded by Commissioner Harrington to adjourn the meeting at 8:40 p.m.

Vote Aye-3 Nay-0

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Randolph Voller, Mayor

ATTEST:

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Alice F. Lloyd, CMC, Town Clerk