

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
REGULAR MEETING
MONDAY, AUGUST 24, 2009
7:00 PM

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

ATTENDANCE

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

Staff present: Town Manager Bill Terry, Town Clerk Alice F. Lloyd, Attorney Paul S. Messick, Jr., Planner David Monroe, Assistant Planner Paul Horne, Finance Director Scott Borrer, and Water Plant Superintendent Frank Efird.

APPROVAL OF AGENDA

Motion made by Commissioner Harrington seconded by Commissioner Walker to approve the Agenda as amended to move Item #2 under New Business, a request from Active Chatham regarding Support of the Annual 5K Reindeer Run, to the first item under the Regular Meeting Agenda, and to add to the agenda an update from the Solid Waste Advisory Board immediately following Citizens Matters.

Vote Aye-5 Nay-0

CONSENT AGENDA

The Consent Agenda contains the following items:

1. Approve minutes of the August 10, 2009 regular meeting.
2. Resolution to Declare the Month of October 2009 as Chatham Habitat for Humanity Month.

**A RESOLUTION TO DECLARE THE MONTH OF OCTOBER 2009
AS "CHATHAM HABITAT FOR HUMANITY MONTH"**

WHEREAS, Chatham Habitat for Humanity was incorporated on October 10, 1989 in order to, inter alia, implement the gospel of Jesus Christ by working with economically disadvantaged

people in Chatham County, North Carolina, to help them create a better human habitat in which to live and work; and

WHEREAS, Chatham Habitat for Humanity has been affiliated in good standing with Habitat for Humanity International since 1989; and

WHEREAS, Chatham Habitat for Humanity has defined its mission to work in partnership with God and people to create self-help opportunities for families to own affordable homes, improve their lives and strengthen their communities; and

WHEREAS, Chatham Habitat for Humanity has constructed 89 homes in partnership with families: 43 in Pittsboro, 40 in Siler City, 4 in Bear Creek, 1 in New Hill, and 1 in Moncure; and

WHEREAS, Chatham Habitat for Humanity has worked actively and cooperatively for 20 years with local government, churches, businesses, communities, and individuals to achieve its mission; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro that October 2009 be, and it hereby is, declared and proclaimed to be “Chatham Habitat for Humanity Month” in the Town of Pittsboro.

This 24th day of August, 2009

Commissioner Harrington said on pages 14 and 15 of the August 10, 2009 minutes, there were comments attributed to him that were actually made by Commissioner Walker. He said directly after Commissioner Concerns on page 14, paragraph one as well paragraph two should be attributed to Commissioner Walker. Commissioner Harrington said on page 15, the second full paragraph and the fourth paragraph should be attributed to Commissioner Walker as well. Commissioner Walker agreed that was correct.

Commissioner Brooks said the first speaker under Citizens Matters on August 10, Rita Cileo, had made a comment that the vote to establish the Urban Archery program had not been unanimous. He said he wanted to clarify that Ms. Cileo was mistaken, that the Board had voted unanimously to establish that program.

The Commissioners agreed by consensus that Commissioner Brooks was correct, in that the vote on the Urban Archery program was unanimous. The Commissioners briefly discussed Ms. Cileo’s comments and the importance of addressing tick borne diseases.

Motion made by Commissioner Walker seconded by Commissioner Harrington to approve the Consent Agenda with the modifications noted by Commissioner Harrington.

Vote Aye-5 Nay-0

Proclamation regarding Women's Health Day

Mayor Voller read into the record a Proclamation recognizing and honoring August 23, 2009 as Women's Health Day to bring attention to the critical issues of women's health.

Motion made by Commissioner Brooks seconded by Commissioner Walker to approve the Proclamation honoring August 23, 2009 as Women's Health day as a resolution.

RESOLUTION

HONORING "WOMEN'S HEALTH"

WHEREAS WOMEN are the first and most enduring health care providers in our community and their wellness is essential to meet the basic needs of Chatham County's families who have the greatest distress. And

WHEREAS according to online data from "medical news today", 7 of 10 women are uninsured or underinsured, and/or have medical bills, debt and access problems to reliable healthcare. And

WHEREAS according to the American Heart Association, heart disease, stroke, and other cardiovascular diseases are the No. 1 killer of American women, claiming the lives of more than 450,000 American women each year, which is more than the entire population of our state capital of Raleigh. And

WHEREAS according to the Centers for Disease Control and Prevention, as many as one in five women in the United States are living with disabilities and these women with disabilities have conditions that make them more vulnerable to a range of secondary conditions such as pain, fatigue, obesity, osteoporosis, and depression. And

WHEREAS according to an article written by Dr. Arthur Schoenstadt, depression affects twice as many women as men, regardless of racial and ethnic background or income. Furthermore, it is often noted that depression frequently goes hand-in-hand with alcohol abuse and only about one-fifth of all women who suffer from depression seek treatment. And

WHEREAS according to information from the Department of Health and Human Services "Centers for Disease Control and Prevention", the health conditions and health care needs of women differ from those of men in a variety of ways. For example, some health conditions are unique to women and others are just more prevalent in women. And for some illnesses, there are marked distinctions between men and women, not only in the onset and progression of the disease, but also in the approaches necessary to combat them specifically in women. And

WHEREAS if women are not healthy, our families, our communities, our nation and our world cannot be healthy either. And

WHEREAS the exceptional work and effort of the women in our Town and County bring honor and achievement to our entire community---

NOW, THEREFORE BE IT RESOLVED for these aforementioned and other good and substantial reasons the Board of Commissioners of the Town of Pittsboro do hereby resolve August 23, 2009 as Women's Health Day in the Town of Pittsboro.

Approved this 24th day of August, 2009.

Vote Aye-5 Nay-0

A RESOLUTION HONORING WOMEN'S HEALTH IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 141

A RESOLUTION TO DECLARE THE MONTH OF OCTOBER 2009 AS "CHATHAM HABITAT FOR HUMANITY MONTH" IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 142

REGULAR MEETING AGENDA

Citizens Matters

There were no citizens who expressed a desire to speak at this time.

Active Chatham Request for Support of the Annual 5K Reindeer Run on December 12, 2009 (Don Lein, Active Chatham).

Don Lein, 13 Crosswinds Estates, stated that he was a member of the Board of Active Chatham. He requested that the Commissioners grant a loan of \$1,500 for operating expenses for the fifth annual 5K Reindeer Run scheduled for December 12, 2009, to be repaid no later than February 2, 2010. Mr. Lein added that in addition to repayment of the loan, the donation gift of the proceeds would also be contributed at that time.

Commissioner Harrington said he believed the Town had received last year a good return on its money, and asked what that amount was. Mr. Lein said he believed it was about 120% return on the Town's investment. He said the economy may impact them somewhat this year since they did ask for contributions from the community.

Commissioner Harrington said he believed the route would be changed somewhat this year due to ongoing construction. Mr. Lein said that was correct, due to the library construction.

Motion made by Commissioner Walker seconded by Commissioner Bryan to approve the request by Active Chatham for a loan of \$1,500 to fund operational expenses of the Active Chatham 5K Reindeer Run, to be repaid no later than February 2, 2010.

Vote Aye-5 Nay-0

Presentation by the Solid Waste Advisory Board regarding Long Term Solid Waste Disposal

John McSween, Chair of the Solid Waste Advisory Committee (SWAC), said that the SWAC had held public hearings around the County over the last few months regarding long term solid waste disposal. He introduced Doug Carver, Vice Chair of the Advisory Board, to provide some details of those presentations.

Mr. Carver provided the Board with a copy of the public comment survey that had been given to persons attending SWAC public hearings to be used to provide the SWAC with feedback, and a copy of the handout provided to the attendees that contained information regarding short and long term disposal of solid waste.

Mr. Carver said that they had been working as a County on this issue since 1993, when the old landfill had closed. He stated at that time the SWAC was attempting to determine if a landfill was needed in the County, and it was determined that they did. Mr. Carver said at about the same time the idea of a transfer station was studied and it was decided to use that method rather than search for a location for a landfill. He said in 2007 it had cost the County \$47.68 a ton plus fuel to deliver the solid waste to a landfill in Sampson County, and in 2008 that cost had risen to \$49.73 a ton. Mr. Carver estimated that the cost would average about \$52 a ton for 2009, plus fuel.

Mr. Carver said due to that escalation it was obvious that something needed to be done. He said they had requested that a study be done to site a landfill in Chatham County, which was completed the end of last year, and the results were that siting a landfill in the County was a viable option and in fact a lot of money could be saved by doing so. Mr. Carver said it was potential revenue for the County and provided opportunities for economic growth in that it would assure businesses a predictable place to dispose of waste at a reasonable cost. He said the County did not have a long-term contract for the transfer station, so they were vulnerable to fee changes.

Mr. Carver said there were some drawbacks to a County-owned landfill, including public resistance in the immediate area around any selected site, responsibility and liability for any potential site problems, and expensive up-front costs associated with site purchase and development which would take about five years and possibly longer.

Mr. Carver said that the municipalities of Siler City and Pittsboro controlled about 1/3 of the solid waste, with 1/3 controlled by the collection centers and 1/3 by haulers. He said their research had determined that since 1993 the County had spent \$6,631,933 for solid waste disposal with no return, of which about 1/6, or \$1,105,000 was spent by the Town of Pittsboro.

Mr. Carver said justifications for siting a landfill in the County included:

- The average cost of continuing to use the transfer station would be about \$95.07 a ton over the next 45 years.
- If they sited a landfill in the County and continued to generate about 180 tons per day, it would cost about \$58.18 a ton in 45 years, and if they imported solid waste from

surrounding communities up to about 500 tons per day, it would cost about \$33.74 a ton on average.

- In 45 years, the cost of a transfer station would be about \$132.19 per ton, and the cost for a landfill at 180 tons per day would be \$67 a ton. If solid waste was imported to get that total up to 500 tons a day, it would cost \$50.11 per ton.

Mr. Carver said those figures would indicate that it was a “no brainer” financially to site a landfill in the County. He said they had looked at various alternatives for solid waste disposal, including incineration, mixed waste processing also known as a material recovery facility (MRF), and waste conversion also known as composting. Mr. Carver said other options were technical in nature, including waste gasification. He said the issue with each of those alternatives was that none were affordable for the County, noting there was a tremendous amount of capital outlay required. Mr. Carver said another issue was no matter which of those options you might choose, you would have something left at the end that would have to be disposed of. He said the end result of their research was that a landfill was needed.

Mr. Carver said the next issue was what it would cost if they did not take the option of a landfill. He said the cost to do nothing and continue with the transfer station was estimated at \$356 million over the next 45 years, with Pittsboro’s portion being about \$60 million. Mr. Carver said if they developed a landfill and the County generated 180 tons a day at \$45 a ton, the cost would be about \$198 million over the next 45 years, with a savings over the transfer station of \$158 million. He said the savings for Pittsboro would be between \$26 and \$30 million. Mr. Carver said if they went to 500 tons a day by importing trash, the cost would drop to \$35 a ton or \$117 million over the next 45 years, saving \$238 million for the County. He said Pittsboro’s portion of that was about \$40 million.

Mr. Carver said in summary, the SWAC had told the County Commissioners that they should move towards siting a landfill in Chatham County and the SWAC had recommended 500 tons a day which would require partnering with communities outside of the County. He estimated that a landfill sized for 180 tons a day would be about 150 acres, and at 500 tons a day it would require about 400 acres. Mr. Carver explained that did not mean that the larger landfill would be 250 acres larger because each cell would be only about 3 acres larger in size. He said it would mean just a small amount of increase in size where you would actually have trash buried to get them up to 500 tons a day to realize that savings.

Mr. Carver then referred to the survey provided to those who had attended the public hearings. He said that none of the respondents wanted to maintain the status quo, and all felt that there should be some type of landfill in the County, adding there were zero votes to retain the transfer station. Mr. Carver said that 39% said they would prefer a 180 ton per day landfill, and 61% said they would prefer the 500 tons a day landfill. He said the primary reason stated by those preferring 500 tons per day was the revenue it would bring in. Mr. Carver said the SWAC agreed, and it was the primary reason they had recommended a landfill that would handle 500 tons per day.

Mr. Carver said the County Commissioners had taken an informal poll at last Monday’s meeting, and all five agreed to pursue siting a landfill of some size in Chatham County. He said it was his

understanding that the next step would be to have a representative from DENR come and talk with the County Commissioners about what was involved and expected of a County with a landfill, and what the State's responsibilities were to that County. Mr. Carver stated that once that meeting was set representatives from each municipality would be invited to attend.

Commissioner Walker said that one of the options Mr. Carver had mentioned had caught his interest, and asked him to explain waste gasification. He said he had read something about that this summer where the methane gas that built up at a landfill near a Dupont Plant was purchased by Dupont and powered some or all of the plant. Commissioner Walker asked if that was waste gasification. Mr. Carver responded no, that waste gasification was a method to reduce the gas that was generated. He said that the methane gas was created as a result of the deterioration of the waste, and they had to capture that methane. Mr. Carver said he would see them capturing that gas and burning it for their own facilities at the landfill. He said the issue with that was that over time the amount of gas would wane so it was not viable long term.

Commissioner Walker asked had the SWAC considered the option of selling off the methane. Mr. McSween said that anyone developing a landfill had to have plans in place for how the land would be used after its use as a landfill, such as for park land. He said that they had to collect the leachate, they had to treat the water that came out of it, and they had to collect the gas. Mr. McSween said what they were attempting to do would be to have a landfill that would help them improve their waste production and would allow them to do something like a MRF.

Mr. Carver said if the County proceeded with siting a landfill, the cost would be about \$9 million to open the door and accept its first load at an average of 180 tons per day. He said it would only cost \$14 million to collect 500 tons a day. Mr. Carver said he used the word "only" because a 180 ton a day landfill would generate about \$2.3 million a year in revenue, and a 500 ton a day landfill would generate \$4.9 million. He said you could see how investing an additional \$5 million would more than double the revenue. Mr. Carver said the break even point of a 180 ton per day landfill was 23 years.

Mayor Voller said he believed it was important that all the members of Pittsboro's Board as well as relevant staff attend the meeting when the DENR representative gave his presentation.

Commissioner Harrington said at the Moncure public hearing someone raised an interesting point, and he believed it may have been County Commissioner Mike Cross. He said the statement was that conceivably they had discussed the possibility of even siting a landfill at the current site, digging and simultaneously moving old debris into the higher standard while also bringing in new debris. Commissioner Harrington asked how feasible that might be, and would that support both the small and large ton option. Mr. Carver said that had been looked at, and it was a process called piggybacking, where you have a lined landfill and go over top of it and since it was impermeable it stopped water from going all the way through. He said another process was called mining, where you took a landfill that was not too deep, you take what was there and put in the lined landfill, and that freed up that space for expansion for another cell. Mr. Carver said the life of a 180 ton per day for the current sized facility without further purchase of land was about 36 years, and for a 500 ton per day it was about 16 years.

Mr. Carver said that just because that site looked good did not mean it was the best site in the County, so they needed to consider other sites and determine that they were on the very best site possible. He said SWAC's recommendation to the County was that they conduct a study and pinpoint the best four or five locations, and then do a more in-depth study to determine the best one.

Mr. McSween said the Web address on the handout would provide more information, noting the address was www.chathamnc.org/wastemanagement.

Commissioner Baldwin asked how much acreage would be needed for a new site. Mr. Carver responded 150 acres would be required for a 180 ton per day facility. Commissioner Baldwin asked about the acreage of the current landfill. Mr. Carver said the old landfill was approximately 100 acres.

Commissioner Baldwin asked had the study looked into the different type of vermin and other issues that would be a result of the trash that would be brought onto the site. Mr. McSween responded that a modern landfill was covered every night so those types of issues were abated as much as was possible. He said their study had not included that, but a siting study would. Commissioner Baldwin asked how long a siting study would take. Mr. McSween said five to six years, but it could go much longer particularly if there were siting difficulties. He said one key factor that would result in a good site was that the fewer people near or surrounding a site that would be impacted the better it would be. Mr. McSween added that only about half of the County should be considered for a site due to population, utilities, and other factors. He said that a 150-acre landfill would not all be landfill, in that a large portion of it would be used to supply dirt to cover the trash and only a small portion used for the actual landfill. Mr. McSween said they would have to also consider any impact to stream flows and other issues.

Mr. Carver said the footprint of an actual landfill that would take in 500 tons per day, which was about 400 acres, would be about 90 acres, and for a 180 ton per day landfill of 150 acres only 60 acres would be used to actually dispose of the trash.

Commissioner Brooks said he would assume that certain types of soil were better suited for a landfill than others. He said given all the variables described, did they take into consideration the location of any site. Mr. Carver said that geological studies would have to be performed once the search for a site commenced.

Commissioner Brooks said in 1989 he attended a meeting about this very thing, and the person representing the County said then that a significant portion of the waste that was going into the landfill was from industrial and commercial operations, such as cardboard. He said he believed the figure quoted was 70%, which seemed to be very high. Mr. McSween said that cardboard was now banned from landfills.

Commissioner Brooks wondered if there was some way to differentiate between what came from homes and what came from industrial operations, and the way that waste might be processed and perhaps even charge for it. Mr. McSween said that process would be called a MSW landfill,

which was a municipal solid waste landfill that could accept only municipal solid waste. He said that construction and demolition materials, called a C&D facility, would go elsewhere.

Mr. Carver said that the revenue generated would make up the difference.

Mr. McSween said that inert land clearing and inert debris were also different types of waste that would not be accepted at a municipal landfill and would have to go elsewhere.

The Board agreed by consensus to accept the report, and thanked the SWAC for its hard work.

PUBLIC HEARING

Motion made by Commissioner Walker seconded by Commissioner Brooks to go into Public Hearing.

Vote Aye-5 Nay-0

1. Amendment to the Zoning Ordinance regarding landscaping requirements for non-residential development.

Planner David Monroe said the intent of the proposed requirements were to enhance the visual quality of non-residential development, to soften the appearance of expansive paved areas and building mass, to create and maintain a pleasing appearance in the community, to reduce the effects of glare and heat caused by parking areas, and to reduce visual clutter along commercialized streets. He stated that the Planning Board had reviewed the proposal that would regulate landscaping of non-residential properties and had recommended approval of the changes.

Mayor Voller noted that he had received an email today from Michael Fiocco, a land development manager, who was unable to attend tonight's hearing. He read portions of Mr. Fiocco's statement into the record, summarized as follows:

- The Demolition Bond idea is a policy worthy of pursuing and one that represents a reasonable protection for the Town from the real and perceived ill effects associated with abandoned buildings of that size.
- The Reuse and Compartmentalization section is untenable and wrought with what appears to be subjective and arbitrary metrics which ultimately would only serve to make approval and enforcement cumbersome at best and litigious at worst.
- Regarding Section 1 for large retail establishments, was it the intent of the ordinance that a structure that expanded by less than 50% and as a result of the expansion equaled or exceeded 60,000 square feet would not be subject to a SUP? What percentage of the building needed to be in use to avoid the claim of vacant? How often must the use occur? What was the minimum duration of the use? What would be the disposition of the proceeds of the bond should the Town not exercise its right to have the structure demolished? Three years seemed too long before the Town Board should consider/exercise its options.
- Regarding Section 5, item g, would that disallow the Lowe's Garden Center, as an example?

- Regarding Section 6, that was a great concept but could benefit from some definition as to the intensity/size of areas dedicated to this amenity.
- Regarding Landscaping as it pertains to parking lots, the benefits of landscaping in parking lots do not diminish to the rear of facilities and as such should not be excluded from the requirements of the Ordinance. It is redundant and not necessary for the landscaping required to satisfy the on-site parking to be excluded from satisfying the buffer requirements when the two areas were in close proximity to each other. Four inch diameter trees at plantings were onerous. Suggest that islands also be required at the end of parking bays.

Mayor Voller determined that no one had signed up to speak on this issue.

A COPY OF THE LETTER FROM MICHAEL FIOCCO IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 144.

2. Amendment to Sections 5.2.1 and 5.3.3.29 of the Zoning Ordinance to establish supplemental development standards for large retail establishments.

Mr. Monroe said that the Planning Board had reviewed the proposal to create some development guidelines for retail establishments exceeding, or expanding by, 60,000 square feet in area. He said the essence of the proposal was to facilitate compartmentalization of the structure if the occupant decided to close down. Mr. Monroe said the proposal would also require the provision of a demolition bond to guarantee the Town that it would have the ability to remove the building if it was not occupied in a reasonable period of time. He commented that he had learned that Lincolnton, NC currently had this ordinance in place, and he had modified that ordinance to apply to Pittsboro. Mr. Monroe said their purpose in pursuing such an ordinance was to avoid what had happened in Hillsborough, where a Wal-Mart had remained empty for more than five years. He said the site had had a detrimental effect on adjoining retail development, and had become a focal point for gang activity and misdemeanor activities. He said that the Planning Board had concluded that these were reasonable controls and voted to recommend approval of the amendments.

Public Comment:

Ricky Spoon, 2475 Red Bud, said that he had no problem with the landscaping amendments, noting he had been responsible for bringing the first big box store, Lowe's, to Pittsboro. He said as far as the large retail establishment guidelines, the Town would be receiving a big box request in the next three to six months which would bring in a lot of tax revenue to the Town. Mr. Spoon said he was concerned that these guidelines would be a deterrent, noting that if they were forced to put windows on the front and if the Wal-Mart moved out and smaller retail wanted to move in, it would not be possible because you would have a space 1,000 feet long and a store that would take up only about 60 to 80 feet of that frontage. He said the building would have to be redesigned in order to do that.

Mr. Spoon said regarding the demolition bond, he believed those issues could be addressed when someone brought plans forward. He said he believed Mr. Monroe was trying to be proactive, but believed they were being premature to do that before someone brought forward a plan.

Motion made by Commissioner Brooks seconded by Commissioner Walker to close the Public Hearing.

Vote Aye-5 Nay-0

Discussion:

Commissioner Brooks said regarding large retail establishments he believed they needed to study the amendments in more detail, noting he believed there was much merit but more time was needed. He said Mr. Spoon's comments were on target, and that the Town very much needed more businesses. Commissioner Brooks said he believed they needed to approach these amendments very carefully, and that they should table it and not discuss it at this time.

Commissioner Baldwin agreed they needed more time to review the amendments for large retail establishments in more detail.

Commissioner Harrington said he would not have a problem tabling that issue for a period of time.

Mayor Voller asked for the record, what was the Planning Board's assessment and was it a unanimous vote. Mr. Monroe said that the Planning Board's recommendation was to adopt the amendments, and the vote was unanimous. He said he understood Mr. Spoon's concern and the Board's desire to have the opportunity to look at the amendments more carefully. He said if a large retail business were to want to come here and submitted a plan, and then the Town took up the process of trying to regulate it, they would already be out. Mr. Monroe said that had happened when Lowe's came in and they now had a sea of asphalt with no shade at a home improvement store that sells plant materials with dead trees in its parking lot. He said he would caution the Board not to wait until they receive an application for a big box store, but consider some provisions before that time.

Commissioner Harrington said in regards to compartmentalization, was the Lowe's in Apex like that. Mr. Monroe said he believed there had been a comment made in the Planning Board meeting, but it was not in reference to the Lowe's in Apex.

Mayor Voller asked that Michael Fiocco's comments be entered into the record in its entirety. He said he believed that Mecklenburg County had some form of an ordinance regarding large retail establishments as did other counties. Mayor Voller agreed with Mr. Monroe that if they were going to take some proactive steps then it needed to be done prior to receiving an application for a big box store.

Motion made by Commissioner Walker seconded by Commissioner Baldwin to approve the amendment to the Zoning Ordinance regarding landscaping requirements for non-residential development.

Commissioner Harrington said when they were talking about non-invasive species and native species, he believed people could be very picky about that and wondered why those species were not listed. Mr. Monroe said he had a plant list created by Karen Hall of NC State as well as an arborists list of the State's native plants recommended for specific purposes. He said those lists could be culled down and added to the Zoning Ordinance as an amendment.

Commissioner Harrington asked what a sight triangle was as referenced in the amendment. Mr. Monroe explained that a site triangle was the measured space at an intersection where when a vehicle approached there had to be a 15-foot setback from the right-of-way of the main street to the first point where anything above ground could be situated. He said the purpose was to allow clear sight for any vehicle approaching the intersection.

Commissioner Harrington said that shade requirements were fairly standard in that other communities had such requirements. Mr. Monroe said that was correct.

Commissioner Harrington stated the requirements said that screening and landscaping were required prior to issuance of a certificate, but screening was not really specified. He asked was that referencing something else. Mr. Monroe said that screening was for the front of buildings.

Commissioner Brooks said he would like to say to Mr. Spoon that the Lowe's area might not be perfect, but when compared to places like Sanford, Albemarle, and Asheboro he believed they had done a pretty good job. Mr. Spoon thanked him for his supportive comments.

Vote Aye-5 Nay-0

Motion made by Commissioner Walker seconded by Commissioner Brooks to table Item #3 under Old Business, which was the Amendment to Sections 5.2.1 and 5.3.3.29 of the Zoning Ordinance to establish supplemental development standards for large retail establishments, for thirty days to the second meeting in September.

Vote Aye-5 Nay-0

OLD BUSINESS

1. Manager's Update on Capital Projects.

Mr. Terry provided the following update on Capital Projects:

- Disinfection Byproducts Reduction Project – Work on sediment removal equipment is about 20% completed. Each of the five sedimentation tanks will need to be emptied, cleaned, and repaired one at a time, so that work would progress slowly over the next few weeks. NC DENR letter of July 14, 2009 issued an "Administrative Order" to comply with the TTHM standards in the 3rd and 4th quarters of 2009. The order and the Manager's reply were included in the packet. A second letter dated August 13, 2009 assessed a fine of \$3,000 for failure to maintain the required minimum disinfectant residual concentration. The next testing would be conducted in the month of September,

and test data would be available for the last three months of operation. If those results indicated they were still out of compliance, he would come back to the Board with a recommendation on how to proceed.

Motion made by Commissioner Brooks seconded by Commissioner Walker to authorize the Town Manager to appeal the Administrative Order issued by NC DENR.

Commissioner Harrington said it was only 14 days after the transition to chloramination, and it sounded reasonable to appeal.

Vote Aye-5 Nay-0

Mr. Terry continued his update:

- 3M Reclaimed Water System Project – Modifications to the wastewater treatment plant have not yet begun. The concrete foundation for the storage tank had been completed and the contractor was awaiting delivery of the steel tank component. The fact that the modifications had not yet begun would not cause a delay in the project, and all work was expected to be completed by the end of November.
- 3.22 MGD Wastewater Treatment Plant Construction – Chatham County Manager Charlie Horne provided the requested response to questions from the EIS review that related to County/Town cooperation with respect to the wastewater infrastructure projects in the County. A copy of the letter had been included in the packet. Hobbs & Upchurch was suggesting that they were close enough to the end of the process to work on the EIS permitting.
- Short-term Wastewater Treatment Plant Improvement Project – The pre-bid conference was held on Tuesday, August 18 and was attended by nine general contractors indicating a high level of interest in the project. The bid opening was originally scheduled for Thursday, September 3 at 2 p.m. but they had learned that there were projects in other jurisdictions with the same bid opening time and date, and that some of the contractors were interested in those projects as well. In response to that, the bid opening was rescheduled for 10 a.m. and would be handled by Stearns and Wheler.
- 3M Park – Contact was made with Tony Aulisa last week to get an update on the transfer of the park land. Mr. Aulisa indicated he was actively working to move the land transfer to completion and they were now in the process of getting the land reappraised. Paul Horne made an informal inquiry about the process of requesting an extension of the PARTF Grant funding and was advised that it would be better to make the grant extension request after we had clear title to the land from 3M. Mr. Aulisa is seeking a letter from the Town signed by the Mayor expressing our continued interest in moving forward with the project, and a letter would be drafted for review.
- Powell Place Park (Pittsboro Town Park) – Due to an administrative error, it would be necessary to reconsider the recommendation to award the bid that was presented on August 10. A revised recommendation will be presented under Old Business tonight.
- Downtown Area Water System Improvement Project – NC DENR, Public Water Supply issued an Authorization to Construct for the water main portion of the project. They have not yet submitted the pump station design for review; however, design work continues on the overall project. Since they were not successful in acquiring grant funding, the project remains unfunded. It may be necessary to delay borrowing money for the work until the

various other grant funded projects now underway were near completion. They would be in a better financial position to proceed after they have received all grant reimbursements associated with the 3M Project and the Disinfection Byproducts Reduction Project. It would also be necessary to confirm that the Project had achieved the desired TTHM reduction goals, and if those goals were not obtained their next most pressing priority would be to revisit TTHM reduction and develop an action plan to get into compliance. The Board may choose to reorder its priorities and spend money on the Disinfection Byproducts Reduction Project rather than this project in light of the fact that the disinfection byproducts changeover had not yet had the desired effect.

- Pedestrian Conveyance System Project – The project had proven to be somewhat more complicated than first thought, including the need to acquire a sidewalk easement in the name of the Town. During verification of survey data some problem areas were discovered, for example there were areas where NCDOT right-of-way was not as wide as expected and the project footprint encroached on private property. Those issues are being resolved and the design work continued to make good progress.

Mayor Voller said the Division of Commerce was still considering funding the Downtown Area Water System Improvement Project, and perhaps there might be an opportunity to talk to them again about that. He said they may be interested in what the Town was doing and may be more amenable in considering funding.

Mayor Voller asked would they be working on Thompson Street soon. Mr. Terry responded yes, that Mr. Poteat had some contractors in today to talk about that.

Commissioner Harrington said he believed there was some issue with the contract that was presented, in that it made the Town responsible for some of the road work around the library project. He said Mr. Terry had indicated that the contract was not acceptable, and asked what the status was. Mr. Terry said that eventually DOT had agreed with the Town via a phone call, but he had not received that in writing as yet. He said originally NCDOT had wanted the Town to bear the cost of any overruns, but that project was totally a County project.

Commissioner Harrington said he had questions about the TTHM levels. He said that until next year the standard to meet was the running annual average, and asked was that correct. Water Plant Superintendent Frank Efird said currently they were operating on a running annual average. Commissioner Harrington said then the numbers noted were individual measurements, so the State was applying next year's standards to the numbers. He said he would bet that if you looked at the average over the last year and applied it to the current standard that the Town would be in good shape. Mr. Efird said one of the problems they had was that they had entered into the initial Stage 2 which was preliminary testing, and there were certain times that they had to take those samples. But in the meantime, he said, they had to continue with Stage 1 which was the running annual average testing. Commissioner Harrington asked if they had to apply the individual limit to every site. Mr. Efird replied only on the Stage 2 sites.

Mr. Terry said looking at the chart he believed Commissioner Harrington was right, and pointed out the readings that had been taken. He said they clearly were headed in the right direction.

Commissioner Harrington asked if the fine had been levied on the individual numbers. Mr. Terry responded yes, and based on those numbers the State had made the determination that the Town's project was not successful. He said he wanted to challenge that because it was not a reasonable conclusion.

Mr. Efir said because of their population, they were required to do preliminary testing under Stage 2 during the second quarter.

Commissioner Harrington said to clarify, that was preliminary testing to see if they were going to meet the standards for next year. Mr. Efir said the Stage 2 rule was not yet in effect for the Town. Commissioner Harrington said that was his point; the State was saying the Town was in violation of the Stage 2 rule. Mr. Efir said he was unsure of that, but knew that their Stage 1 numbers were high for the second quarter. Commissioner Harrington said that was based on running averages that were taken before the Town had transitioned so to him that made no sense. He said then the State had applied individual measurements and that had resulted in the fine.

Commissioner Brooks asked were they aggressively flushing every chance they had. Mr. Efir said he did not know. Commissioner Brooks said the Board had been told that that was a major component on getting the new plan to work and to satisfy the State. He said if they were aggressive in flushing he believed that would be most helpful.

Commissioner Harrington asked if they had an auditable flushing program, where someone could come in and actually see a program schedule and the results. Mr. Terry said that issue had been raised when discussing accounting for water that was wasted during flushing and could not be sold. He said he believed the answer would be no because of that flushing. Commissioner Harrington said he had understood that when they changed over to chloramination that flushing would be even more important. He said it appeared they did not have records of their flushing program. Mr. Terry said part of the issue was that personnel were pulled off to do repairs and other tasks throughout the day, but hydrants were being flushed every day.

Mayor Voller said what bothered him about the flushing was that it seemed they were taking good water and running it down the street. He said there had to be a better way to utilize that resource.

Commissioner Harrington said that was secondary, because they needed to have fresh water in the system.

Motion made by Commissioner Harrington seconded by Commissioner Brooks to have staff come back at the next Board meeting with information regarding the Town's current flushing program.

Vote Aye-5 Nay-0

Mayor Voller said what he was getting at was that when they had erosion control issues and people could not get water to grow grass and other things to stop erosion which contributed to problems in some of the creeks, it appeared there should be a way to flush that water into tanker trucks and allow people to use that water.

Ricky Spoon said he had brought up that very point and had offered to provide the Town with a tanker truck, but Mr. Poteat had said that was not possible due to infiltration and concerns of backflow.

Mayor Voller said he would like to see them find a way to do that so that the water was not wasted.

Commissioner Brooks agreed, but said right now they were facing fines and they had to focus on that and do something quickly.

Mayor Voller said that was a separate issue. He said the Town had made a lot of strides to try to improve the issue and had taken it seriously, and did not believe it was fair that the Division of Water Quality and DENR had issued that fine considering that they had just gotten the new program up and running. Mayor Voller said everyone should know that when you changed over to a new system it would take more than ten days to get it running perfectly, and in some cases it could take up to a year. He said he was not trying to excuse the Town, but did believe the Town had to consider all possible options to get the problem solved.

Finance Officer Scott Borrer commented that if the State was going to use rolling averages, then it would take a year for the Town to get a true average figure.

Mayor Voller said that needed to be pointed out in a strong manner in the Town's appeal. He said it did appear that there was a disconnect between what the quality of the water was versus what the public's perception was no matter how many times it was explained, noting he had received an interesting email from a citizen on that subject. Mayor Voller said the water quality had improved over time, but it needed to be better. He said they were working on that, but it was important that they communicate to the public the strides that had been made.

Commissioner Harrington said he had praised the flushing program and had not intended to cast aspersions that they were not doing enough. He said what he was saying was that they should be able to document exactly what their program was and adjust it if necessary.

Commissioner Brooks said they needed to remember that both Dr. Phil Seeker who was one of the nation's foremost water authorities and Dr. Mark Edwards from Virginia Tech both had recommended a lot of flushing. He said if they received criticism for doing that he believed they stood on solid ground to justify that because it was necessary to clean up their water for health reasons. Commissioner Brooks said they would have to continue to do it until some alternative was identified.

Mayor Voller said he did think it was important that the public realize that the quality of the water was much better, but they were lagging in public perception and the State had made the requirements more stringent. He said because of that they were still having trouble even with the improvements the Town had made. Mayor Voller said he looked forward to the Manager bringing back his report, noting the Town wanted to aggressively do what it had to do and the Board was committed to solving the problem.

Commissioner Baldwin said this was a very serious issue, but as well the testing was done on June 25 and they had only been on the new system for a very short time. She agreed that the testing did not give the Town a fair assessment of their water, and did not understand why DENR would look at such a short time span. Commissioner Baldwin said that fact certainly needed to be brought out in their appeal. Mr. Terry said he would make that case in the appeal.

Commissioner Bryan asked regarding the capital project on Springdale, what or who was stalling that process. He said it appeared that April or May was the last time anything had happened. Mr. Terry said he played a part in that, in that he had put it aside during the budget process, but he would do his best to get project up to speed.

2. Amendment to the Zoning Ordinance regarding landscaping requirements for non-residential development.

The Board took action on this item earlier in the meeting.

3. Amendment to Sections 5.2.1 and 5.3.3.29 of the Zoning Ordinance to establish supplemental development standards for large retail establishments.

This item was tabled earlier in the meeting to the second meeting in September.

4. Reconsideration of Bid Award: Pittsboro Town Park (Project Manager Paul Horne).

Mr. Terry said he had notified the Board when it was discovered they had made an error. He said that when the Board had received the bid tabulation at the August 10 meeting, the three alternate bid items were not included so Scotia Construction, Inc. was erroneously identified as the lowest bidder. Mr. Terry said since the Board had decided to approve inclusion of the base bid and alternates 1 and 2 in the project construction contract, the calculation of the lowest responsible bidder should have been the sum of the base bid plus alternates 1 and 2. He said the resolution and ordinance before the Board tonight would correct that error.

Mr. Terry said that the resolution would rescind the bid award of August 10 to Scotia Construction, Inc. in the amount of \$420,000 and award the bid to Triangle Grading and Paving in the amount of \$419,712. He said that the ordinance would amend the project budget by adding \$48,212 from the General Fund Balance, Capital Reserve Fund for Parks and Recreation.

Mr. Terry noted that a new chart had been provided that updated the summary of project funding. He said they continued to recommend a project contingency fund of about 5% of the project cost, or about \$25,000, rather than the usual 10% for such projects. Mr. Terry said accordingly, they were requesting a project budget amendment in the amount of \$48,212.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to approve the resolution reconsidering the award of a contract for the construction of the Pittsboro Town Park, and the ordinance amending the project ordinance to increase the project budget by \$48,212, as outlined by the Manager.

A RESOLUTION RECONSIDERING THE AWARD OF A CONTRACT FOR CONSTRUCTION OF THE PITTSBORO TOWN PARK

WHEREAS, the Town of Pittsboro formally advertised for bids for certain improvements to the Pittsboro Town Park more particularly described in the plans and specifications prepared by Lappas + Havener, PA dated July 6, 2009; and

WHEREAS, the Town of Pittsboro received bids for said improvements as set forth on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the bid from Scotia Construction, Inc. of \$420,000 was not the lowest responsible bid received after considering Alternates (1) and (2) as authorized by the Town; and

WHEREAS, the bid of Triangle Grading and Paving, Inc. in the aggregate amount of \$419,712 is the lowest responsible bidder for the construction of the Pittsboro Town Park specified including the Base Bid plus Alternates (1) and (2).

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Pittsboro that the resolution adopted August 10, 2009 awarding the contract for the construction of the Pittsboro Town Park described above to Scotia Construction, Inc. be, and it hereby is, withdrawn and rescinded; and

BE IT RESOLVED FURTHER that the contract for construction of the Pittsboro Town Park as specified including the Base Bid plus Alternates (1) and (2) described above be, and it hereby is, awarded to Triangle Grading and Paving, Inc. in the amount of \$419,712.

This 24th day of August 2009.

Vote Aye-5 Nay-0

A RESOLUTION RECONSIDERING THE AWARD OF A CONTRACT FOR CONSTRUCTION OF THE PITTSBORO TOWN PARK IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 143

NEW BUSINESS

1. Quarterly Financial Report – 4th Quarter FY 2008-2009 (Scott Borrer, Finance Officer).

Finance Director Scott Borrer said the quarterly report showed the actual revenue and expenditures in relation to budgeted amounts up through the end of the fourth quarter. He said that the figures in the report were not necessarily the figures that would be reported in the audit, because the report utilized a method of accounting, which was a cash basis, that differed from the audit, which was an accrual basis. Mr. Borrer said the primary difference was the lack of accounting for depreciation expense within the report.

Mr. Borrer said on page 4 was a summary of the General Fund and the Water and Sewer Fund, both of which showed the same trend as seen in recent audits. He said within the General Fund, revenues exceeded expenditures by roughly \$49,000, but in the Water and Sewer Fund expenditures exceeded revenues by roughly \$255,000. Mr. Borrer said the primary reason for the Water and Sewer Fund outcome was due to a decrease in gallons billed.

Mr. Borrer said for General Fund revenues, they had realized 95% of their targeted revenues for the fiscal year, with a shortfall of about \$150,000. He said the primary reason for that shortfall was the decrease in the sales tax portion. Mr. Borrer said that the revenue total did not include the budgeted fund balance appropriation of \$57,619. He said for the year their sales tax disbursements were down nearly 9%, and in terms of dollars that translated to about \$48,000. Mr. Borrer said the sales tax disbursement for the month of June of \$29,845 was one of only three during the past five years that was less than \$30,000.

Mr. Borrer said in terms of General Fund expenditures, the totals were shown at the bottom of page 5. He said that expenditures were at 93% of the budgeted figure, and that was \$90,000 less than revenue.

Mayor Voller asked if he would consider that amount to be surplus without factoring in depreciation. Mr. Borrer replied yes.

Mr. Borrer said on page 6, revenue for the Water and Sewer Fund was shown. He said the shortfall in that Fund was related to the decrease in gallons sold and was below what was projected for the year. Mr. Borrer said they had received only 91% of their projected revenue for the fiscal year, and explained the trend that was depicted in the chart on page 6. He said that trend had really minimized the financial benefit of the increases in the water rates.

Mr. Borrer said on page 7 were the expenditures within the Water and Sewer Fund, which exceeded budget by about \$22,000. He said one reason for that was an under-estimated increase in chemical costs and fuel costs. Mr. Borrer said on page 8 he had provided information regarding stimulus funding for the Wet Weather Flow project at the wastewater plant, noting that the \$1.3 million loan portion of the award would equate to approximately \$66,000 per year to the Town's annual debt repayment obligation.

Mr. Borrer said the audit field work would begin this week, and once completed it would be provided to the LGC and others. He added that the first two months of the new fiscal year saw a slight increase in the sales tax receipts.

Commissioner Walker asked if he was handling the CD's. Mr. Borrer said the CD's they had in place at the end of the fiscal year were brought back in house, so there were none out at present. He said he was waiting to see what their stimulus application results were so that he could calculate what their cash flow needs would be.

Mayor Voller said he had gotten a report from the Tax Office that their tax collections were above 98%, which was good. Mr. Borrer said he believed it was at 97.5%, which was a slight increase over last year. Mayor Voller said that had not included motor vehicle taxes. He said that the ABC Board had sent a report which indicated they were up 22% over the previous year, and asked had that been incorporated into the report. Mr. Borrer responded they had received roughly \$6,000 last fall, and that was included in the General Fund revenues. He said he did not recall any additional payments during the new fiscal year.

Mayor Voller asked why they had received so much more in franchise tax. Mr. Borrer replied he did not know. Mayor Voller commented it was 46% higher than the year before, and that was interesting. He said that almost offset the loss in sales tax.

Mayor Voller said he would like to compliment Mr. Borrer on his work and the data he had provided. He said receiving such data was exactly why the Board had chosen to hire a Finance Officer.

Commissioner Walker added his thanks to Mr. Borrer, noting the report was well written and it was helpful to have those numbers in front of them and to have them explained. Other Commissioners added their thanks as well.

2. Active Chatham Request for Support of the Annual 5K Reindeer Run on December 12, 2009 (Don Lein, Active Chatham).

This item was heard and action taken by the Commissioners earlier in the meeting.

Mayor Updates

Mayor Voller offered no updates.

Commissioner Concerns

Commissioner Baldwin said she would be attending the Triangle J COG meeting tomorrow, and if there was anything the Board wanted her to bring up then please contact her.

Commissioner Harrington restated his strong support for activated carbon in the treatment of water if it was needed. He said he believed the Board had said repeatedly that if they needed to do it then they would. Commissioner Harrington said he would like to add to the motion regarding the request for data on the flushing program. He said he would like to have a report come back to the Board to explain what a unit of direction flushing program would mean to the Town and how it could be achieved.

FYI –

Chatham County Manager's letter of July 31, 2009; RE: Statement of support for the Pittsboro 3.2 MGD Wastewater Treatment Plant Project.

Greater Triangle Stewardship Development Awards Program.

NC DENR Administrative Order dated July 14, 2009 with Town Manager's Response dated August 19, 2009.

TTHM test data from June 25, 2009.

Utility System Administrative Penalty dated August 13, 2009

ADJOURN

Motion made by Commissioner Walker seconded by Commissioner Baldwin to adjourn the meeting at 9:10 p.m.

Vote Aye-5 Nay-0

Randolph Voller, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk