

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**November 7, 2016
6:30 p.m. – Huntersville Town Hall**

PRE-MEETING

The Huntersville Board of Commissioners held a pre-meeting at the Huntersville Town Hall at 6:00 p.m. on November 7, 2016.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Mark Gibbons, Charles Guignard, and Danny Phillips. Commissioner Rob Kidwell was not present.

Max Buchanan, Public Works Director/Town Engineer, reviewed proposed revisions to the Traffic Impact Analysis ordinance. *Refer to Exhibit No. 1.*

The Town Board suggested a workshop be scheduled to discuss in further detail.

There being no further business, the pre-meeting was adjourned.

**REGULAR MEETING
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall at 6:30 p.m. on November 7, 2016.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Mark Gibbons, Charles Guignard, Rob Kidwell and Danny Phillips.

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a moment of silence.

Mayor Aneralla led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS

Mayor Aneralla

- No report from the Metropolitan Transit Commission.
- No report from Commerce Station Management Team.
- The next meeting of the North Meck Alliance is November 10.

Commissioner Bales

- Expressed appreciation to citizens who dropped off school supplies for the Lake Norman Education Collaborative.
- Lake Norman EDC currently has 21 active projects, 14 of which are in Huntersville.
- The Town, Lake Norman EDC and the Lake Norman Chamber of Commerce are hosting an informational meeting on Exit 23 construction for tenants of The Park and the surrounding area this Wednesday.
- The Lake Norman EDC is working with the Lake Norman Education Collaborative, Hopewell High School and Keller Technology to educate students on manufacturing careers.

Commissioner Boone

- Jesse Helms from Huntersville Police Department, Henry Cook from Huntersville Fire Department and Michael Tessari from North Mecklenburg Rescue Squad were recognized at the Lake Norman Chamber's Public Safety Luncheon.
- Played a public service message from the Huntersville Police Department reminding everyone to keep their cars locked.

Commissioner Gibbons

- The next NC 73 Council of Planning meeting will be in January.
- The Veterans Council met last week.
- Huntersville will have groundbreaking for Veterans Park and parade on November 11.

Commissioner Guignard

- No report from Centralina Council of Governments.
- The Planning Coordinating Committee met last week and received presentation on the Charlotte airport.
- Expressed appreciation to people who donated items to be sent to the eastern part of the state.
- Encouraged everyone to vote.

Commissioner Kidwell

- The next meeting of the Charlotte Regional Transportation Planning Organization is November 16.
- Encouraged everyone to vote.
- Commended effort on educating students on manufacturing careers.

Commissioner Phillips

- The Lake Norman Chamber Annual Elected Officials Luncheon is November 17.
- Updated Board on Visit Lake Norman events.
- Encouraged everyone to shop local and vote.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Mayor Aneralla proclaimed November 27, 2016 as World Pancreatic Cancer Day and presented proclamation to Kara Helf.

Town of Huntersville Proclamation

WHEREAS, in 2016 an estimated 53,070 people will be diagnosed with pancreatic cancer in the United States and 41,780 will die from the disease; and

WHEREAS, pancreatic cancer surpassed breast cancer this year to become the third leading cause of cancer death in the United States and is projected to become the second leading cause by 2020; and

WHEREAS, pancreatic cancer is the only major cancer with a five-year relative survival rate in the single digits at just eight percent; and

WHEREAS, when symptoms of pancreatic cancer present themselves it is generally in later stages and 71 percent of pancreatic cancer patients die within the first year of their diagnosis; and

WHEREAS, approximately 1,240 pancreatic cancer deaths will occur in North Carolina in 2016; and

WHEREAS, pancreatic cancer is the seventh most common cause of cancer-related death in men and women across the world; and

WHEREAS, there will be an estimated 418,451 new pancreatic cancer cases diagnosed worldwide in 2020; and

WHEREAS, the good health and well-being of the residents of the Town of Huntersville are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments.

NOW, THEREFORE, I, John Aneralla, Mayor of the Town of Huntersville, do hereby proclaim November 17, 2016 as ***“World Pancreatic Cancer Day”*** in the Town of Huntersville.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 7th day of November, 2016.

Representatives from Lake Norman Teen Council shared the Council’s mission and updated the Board on their service projects.

Beejay Caldwell, 14521 New Haven Drive, said I’m here representing the Pottstown community, New Haven Park and the other sections of Huntersville’s African-American communities. I’m here about the landfill at the end of Holbrooks Road. Ever since hearing of the 40 year extension request that the landfill owners made to you I have become before the Board in opposition to it. Last month the group WII FM suggested I use another approach. Tonight with me are some of the WII FM people that I want to acknowledge. And what is WII FM.....What’s In It For Me. And these young people here will be impacted by the landfill if and when that 40 year request is granted. If the extension is granted the oldest child here is probably 18 and the youngest one is 8. Forty years from now, you can do the math, you will see that these young people will grow up with that landfill and that’s a long time to be in harm’s way of a demolition landfill. For me that 40-year period is not within my lifespan. It just won’t happen. But for them it will be all of their youth, their teenage years, young adult and well into their senior years and that could affect their health. For this reason I implore you to truly think long and hard before making a decision that will have such a lasting impact on their lives and those who live in close proximity to the landfill such as myself. After all that has been said and done I understand that a vote will take place tonight or at some point in time. I have made several appeals to you as to why a negative response should come forth. Now I rest my case. Whatever your decision is about the landfill, I will accept. I can live with whatever decision you decide. Thank you for allowing me the opportunity to express my true feelings for the last four months.

AGENDA CHANGES

Commissioner Guignard made a motion to adopt the agenda. Commissioner Phillips seconded motion. Motion carried unanimously.

PUBLIC HEARINGS

Mayor Aneralla recognized Planning Board members present: Hal Bankirer, Joe Sailers and Ron Smith.

Petition #R16-08. Mayor Aneralla called to order public hearing on Petition #R16-08, a request by Sports Village Land Group, LLC to rezone approximately 24.82 acres (Parcel 01740104) from Corporate Business to Special Purpose Conditional District to allow the construction of an estimated 225,000 sq. ft. mixed-use development including indoor recreation, retail and office uses.

Brad Priest, Senior Planner, reviewed the request. *Refer to Staff Report attached hereto as Exhibit No. 2.*

Stephen Trott, Town Transportation Engineer, gave a quick overview of the Traffic Impact Analysis. A draft traffic study was completed and submitted to the Town about a month ago. We have reviewed that and returned comments. There are some things that need to be addressed before the traffic study is finalized. One of the things to note is the uses and intensities on the site plan provide a lot of flexibility but what was identified in the TIA was a little more specific than what was shown on the site plan, so some further discussion will have to occur with the applicant to determine if they want to limit themselves or not limit themselves and then some adjustments to the TIA may be needed based on that.

Sixteen off-site intersections were studied. There are four proposed driveways. Out of those sixteen intersections, six are ones that have impacts per the current ordinance. There are some revisions that need to take place in the TIA so I don't want to get into the details as to what those improvements would be because those could change with the revised TIA.

One thing to note in the TIA itself that's not on the site plan, the TIA indicates the applicant pay a portion of the cost for the off-site improvements at five of those intersections based on the increase in site traffic at those intersections. That's in the TIA and not on the site plan and that proposed portion of improvements, whatever that cost is which is not included in the TIA, ranged between 4.2 and 12.2 percent. It varied at each intersection, so what they did was they looked at what portion of traffic they were projected to increase the total traffic at the intersection from the site and said we will contribute the cost to fixing it based on our portion of traffic that's in the TIA. We are waiting on a revised TIA before we make a final list of improvements.

Commissioner Guignard said will you reiterate that although this is a proposed sports complex that under the proposed rezoning situation that they could build mixed-use there.

Mr. Priest said there's flexibility built in. The actual building site plan shows labels on each of the buildings what the uses are proposed to be. But a note on the sheet after the rezoning plan in your package identifies what the uses are going to be, and there's a list of them, and it specifically says it reserves the right to change the uses based on the development requirements at the time of when they build. Any use that's not prohibited from that note could be developed on this site plan. It could be 120,000 sq. ft. of office. It could be all indoor recreation. It could all be retail. Staff is requesting that a little bit more information be determined to understand what's proposed where and how much.

Commissioner Guignard said can all of this 120,000 sq. ft. be mixed-use.

Mr. Priest said it's proposed to be mixed-use because they want to do some office. On the corner building they would like to do office on the top and retail on the bottom. They want indoor recreation as the center building. It's going to be mixed-use. I guess staff's point was it could be 100 percent one or none of some.

Commissioner Guignard said can we have 120,000 sq. ft. of mini-warehouses if this is approved the way it's presented.

Mr. Priest said yes. At this point staff does not recommend approval or denial of the application based on (1) the Traffic Impact Analysis has not been finalized and accepted, nor has the mitigation described on the rezoning plan been committed to; and (2) the rezoning, site, and building issues remain outstanding as described in the Staff Report. At this point we're waiting for another review and resubmittal so we can clarify some of these items.

Commissioner Gibbons said as far as this second comment in Part 2, what are we asking them for and at this time they've said that they couldn't accommodate that.

Mr. Priest said for the determination of no available capacity. Essentially I think what that letter said is in the Adequate Public Facilities Ordinance we have to have the available capacity for capital improvement programs and the calculation needs to work to be able to give capacity and usage for the proposed use. What that letter is saying is right now according to the numbers in our capital improvement plan we are short on a certain percentage of a police vehicle. We need to at some point between now and by the time they get their certificate of occupancy be able to amend the capital improvement plan to make more room for those vehicles or mitigation will be required. That's how the current ordinance is read.

Joe Sailors said at the intersection of Hambright and McCoy, right now it shows there won't be any improvements. But if you go just half a block down the street to the next little road, there will be improvements. Please be ready to explain to me how one intersection gets by with it versus the other at the Planning Board meeting.

There being no further comments, Mayor Aneralla closed the public hearing.

Petition #R16-09. Mayor Aneralla called to order public hearing on Petition #R16-09, a request by Daniel Phillips, Madeline Phillips and Helga Haddix to rezone 9.25 acres (portion of Parcel 00902202, known as 14936 Brown Mill Road) from Rural to Special Purpose Conditional District to allow the construction of a 123,225 sq. ft. mini-warehouse facility.

Commissioner Guignard made a motion to recuse Commissioner Phillips. Commissioner Gibbons seconded motion. Motion carried 5-0.

Brad Priest, Senior Planner, reviewed the Staff Report. *Refer to Staff Report attached hereto as Attachment No. 3.*

Staff can't support the rezoning at this time based on the inconsistency with the Beatties Ford Road Corridor Small Area Plan that calls for mixed-use type of design and development. The project doesn't incorporate those mixed-use recommendations. It currently conflicts with the Comprehensive Transportation Plan and the preferred and locally adopted NC 73 Alternative Alignment and then the site plan and the architectural and the transportation issues that are listed on Page 4 through 6 of the site plan are outstanding.

Bruce Andersen, 16125 Weatherly Way, said the proposal you have before you appears to be a simple application for a rezoning of a small portion of land. However, the history of the area shows that is quite

far from the truth. In 1985 Vance Road Extension from I-77 Exit 18 to this location at Highway 73 and Beatties Ford Road became part of the 2005 plan. The intent was to provide an alternate route for heavy traffic on Highway 73 and an alternate north/south path for traffic using the narrow Beatties Ford Road. When Northlake Mall was built that road became W. T. Harris Extension. The road was discussed, studied and designed during many hundreds of hours of work by Huntersville staff and CRTPO staff. The road was engineered in detail and placed on the thoroughfare map. In fact a portion of the road has already been built in the Gilead Village development. The Northwest Huntersville Plan later studied several options including the two shown on the map earlier for replacing the poorly designed intersection of Beatties Ford Road with Highway 73. The recommended plan was approved by the Town Board and sent to CRTPO and that plan is expected to be reviewed in 2017 and 2018 as part of the Highway 73 widening. Approval of this petition will result in the elimination of the recommended plan since the location is right in the middle of the proposed road alignment. Due to the many power lines crossing the area, there are very few ways future roads can be built in this area. Duke is rather specific about how you can go under their lines. Approval of this application could result in the loss of this improvement to traffic forever. I personally do not want to see one more carefully planned thoroughfare lost for our residents who experience traffic woes daily.

Charles Rapp, 15834 Pine Knoll Lane, said I'm opposed to the rezoning until the application and design work is complete for the rezoning application. I'm also concerned that the application conflicts with the adopted Comprehensive Transportation Plan mentioned earlier with the NC 73 realignment of which the surrounding Lake Norman and Huntersville subdivisions are very involved. The development proposed does not represent a mixed-use pattern recommended in the Beatties Ford Road Corridor Small Area Plan and Huntersville 2030 Plan. Because of these and other reasons I'm requesting denial of the rezoning until the application for rezoning follows the Town of Huntersville policies and ordinances.

Sarah McAulay, 300 Gilead Road, said I request that you not approve this Special Purpose Conditional District Petition R16-09 located at 14930 Brown Mill Road in Huntersville until the application has been corrected and all planning issues have been resolved and is in full compliance identified by the Huntersville Planning, Zoning and Transportation ordinances and the approved area planning documents. The application request is for 9.38 acres of an 11.29 acre parcel listed by Mecklenburg County as Tax Parcel 009-022-02. The questions are what is being requested to be rezoned, how much land and what zoning classification would apply to the remaining land of this parcel. The property is located in the adopted Huntersville Charlotte Regional and North Carolina state transportation plans as a realignment alternative for Highway 73. The Highway 73 project plans and designs are currently being finalized by the North Carolina Department of Transportation so right-of-way and construction funding can be allocated and adopted for the next five year transportation improvement plan. The Town of Huntersville approved Beatties Ford Road Corridor Small Area Plan and the Huntersville 2030 Community Plan recommend mixed-use development which has been stated to you in the area of this subject property. Several years ago I wanted to locate a local carpet cleaning service. An online search located a carpet cleaner with the address of a local Huntersville mini-storage warehouse facility. The business just stored equipment and chemicals to be used as needed for local jobs. The business office was located in another county. Mini-storage facilities are individual private units. What is stored could be of environmental concern to the area property owners, residents and traveling public. Again, I request that you not approve this Special Purpose Conditional District rezoning until the applicant has corrected it and all of the planning issues have been resolved in full compliance identified by the Town's Planning, Zoning and Transportation ordinances and the approved area planning documents.

Commissioner Gibbons said I've read through all of this and on the mixed-use portion what is going to have to happen to this to get it to be within the ordinance of the mixed-use. Do we need to have a separate retail business.

Mr. Priest said I think that would go a long way. I don't think there's any specific one thing that staff is looking for to accommodate that, but yes to have some kind of mixed-use component with it would go a long way in meeting those requirements. A lot of times you will see offices along the street frontage and then the mini-storage is recessed to the back. That's a nice mixed-use component to go along with that.

Commissioner Boone said I'm concerned about the storm ponds. Are they going to continue to have two of them and are they going to stay in the present location.

Mr. Priest said it's really an unknown at this point. One of the things that staff is looking at is trying to have a better understanding on the engineering and submitting what's called a concept plan for storm water purposes to understand how big the ponds need to be, how the land falls and where they need to specifically be located. The locations proposed are kind of tight in between buffers and screening areas and easements and this and that and so it's not quite understood where those storm water ponds are going to need to be. That's an outstanding issue that we would like more clarification on.

Commissioner Boone said is there any thought of putting a flexible note on the plan saying what businesses can and can't go in there.

Mr. Priest said we usually recommend that to just specifically list what proposed uses you would like to do and then prohibit others. We commented on it and the second plan I don't think had it. They don't need to have it. If they have a plan that says only mini-storage uses and there's no note that allows flexibility then that's the only use that's going to be allowed and if they want to do something different they would have to come amend the rezoning to do a different use.

Commissioner Kidwell said I read in the Staff Report about an 80' buffer and then I'm looking at the plans of a 15' buffer. Can you go into a little more detail with that.

Mr. Priest said according to the ordinance when a Special Purpose or Corporate Business zone is developed, an 80' is required along the street and along the property lines of properties that don't abut other SP or Corporate Business zones. In this application you've got an 80' buffer that's required along this whole frontage, so because you've got Highway Commercial here, I think you've got Rural here and to Commissioner McAulay's point if this is the zoning line here then you've got Rural Residential here and then of course you've got the street. All property lines are required to have the 80' buffer. There's a footnote in the ordinance that says if you have a building that relates to the street in these zones, for instance in the package we highlighted a few examples like the Wal-Mart in Bryton. Another example is the DMV on Mt. Holly-Huntersville Road. Those are buildings that are architecturally significant. They have windows. They have doors. They have a 15' build-to line. They actually place the building close to the street and they have pedestrian accesses from the street sidewalk to the front door. When that's the case you can move the building up when the architecture calls for it and the frontage relationship calls for it then the 80' buffer can go away. But that's only for the street frontage. The other areas that are adjacent to Rural and to Highway Commercial they do not have that flexibility note in the ordinance, so the 80' buffer is applicable. But through this process as described in the Staff Report the Town Board can modify the buffers when the intent of the ordinance is intact and is kept. We assume that is what is being asked for. It's not specifically clear and that's one of the things that staff is trying to clarify about

what the elevations look like for each specific building and what buffer is proposed where and if a modification is called for what's included in that buffer, what kind of plantings, is there a fence. Those type of details will go a long way in helping us understand if the intent of the ordinance is being kept in the different applications that you see here surrounding the perimeter of the property.

Commissioner Kidwell said I would like to touch a little bit on the thoroughfare. Currently for a thoroughfare plan if a neighborhood is going to be built they have to accommodate said thoroughfare.

Bill Coxe, Transportation Planner, said under the Town of Huntersville's Subdivision Ordinance, that is an accurate statement.

Commissioner Kidwell said but if it's a business they do not.

Mr. Coxe said if it does not involve subdivision of land or the definition of a subdivision which is contained in our ordinance which could be multiple building sites such as the multiple multi-family building sites. This use as I understand the proposed use would not be required to respect the thoroughfare alignment by law.

Commissioner Kidwell said have we begun the public involvement – it says Fall 2016.

Mr. Coxe said the general public has not yet been involved in the process. The process thus far has been with staff. I do not know that there is a public involvement workshop that is yet scheduled. On the tentative schedule it was to be this fall. I could easily see it slipping to winter.

Commissioner Kidwell said as I looked at the Staff Report there seemed to be a lot of unanswered questions from the applicant.....tree survey, storm water, Duke Power. Is there any changes to what's been submitted so far.

Mr. Priest said we've had one formal review in the process. They have submitted the plans and we made comments and sent those comments back to the applicant. They addressed and resubmitted. Some of the comments were addressed, some weren't and so the result of the Staff Report is the summation of that second review. It's foreseen that we could certainly have more conversations with the applicant and their engineer and clarify hopefully many of the items, but yes, there's a lot of questions that staff currently still has.

Commissioner Kidwell said there was a note mentioned here under Article 11, Section 11.4.7(e) "Although there is no Special Purpose (SP) zoning anywhere in the area of the proposed development, commercial activity is common near NC 73 and Brown Mill Road to the north, with a gas station and oil change facility both zoned Highway Commercial (HC) and retail at the corner of Brown Mill Road, therefore with the building facing and addressing the street the proposed development along Brown Mill Road has the potential to be consistent with surrounding development." That statement is going back to if they meet the mixed-use requirements that Commissioner Gibbons spoke about earlier.

Mr. Priest said not so much in regard to the mixed-use nature. That was more of a use issue but in regard to being consistent with what's around it – visually, architecturally to front the street like those examples we talked about with the DMV or Bryton instead of just being maybe a monotonous mini-storage facility wall like sometimes you see if it's articulated and built up and brought close to the street it certainly could. We've seen that in other locations and proposals.

Commissioner Bales said when should the environmental surveys come back so that we know whether or not this alternate alignment is the one that's going to be adopted and actually utilized. Are we looking at Fall 2017 or Summer 2018.

Mr. Coxe said the environmental assessment document which is the document that formally enters into the public record the implications of the choices available is Summer 2018, at which point there's a public hearing that would be held in the fall after the public has the opportunity to inspect that document and then there would be discussions as to what is considered the least environmentally damaging practicable alternative which is a requirement under the law in terms of damaging the water resources of the United States. Once that least environmentally damaging practicable alternative is picked you can enter into potentially what's called a finding of no significant impact in Summer 2019. My belief is that in the Summer of 2018 we will have a 90 to 95 percent certainty of knowing which way to go.

Commissioner Guignard said some of us have been discussing.....you'll always call it Vance Road and I'll always call it Harris Boulevard Extension. We've heard from somebody that's probably retired twice from Duke Energy saying Duke is not going to move those power lines to suit us or the DOT or God for that matter. And then you told Commissioner Kidwell that if this were designed correctly to suit the Planning Department that we've heard that these buildings might be able to front some of those streets but I personally am heavily concerned that if the buildings are built anywhere near what we see on this map and with what we've heard from Bruce Andersen who probably knows more about those power lines than the rest of us.....somebody needs to look at a map and tell us can Vance Road Extension then be built without a major realignment of what we've been studying since 1974/1975.

Mr. Coxe said the answer is simple, 73 realignment which is the important issue dealing with this particular piece of property could still be built. It would simply be considerably more expensive for the public to acquire the right-of-way if this is the route that is chosen.

Commissioner Guignard said so this does not affect the Vance Road Extension.

Mr. Coxe said the alignment that you see here on this map before you showing how Vance Road Extension which at this point essentially the same as Gilead Road would connect with NC 73 would have to be reconsidered if the alignment for 73 follows the existing route of Highway 73. That's what got us into this study to begin with. So you go back to figuring out how you tie Vance/Gilead into 73 on its current alignment and that will have to be part of the study that's conducted over the next couple of years on the 73 study.

Commissioner Guignard said some of us are correct that if we don't move 73 that in 2 years that's what you engineer types are going to find out. Some of us believe we will not. Vance Road Extension/Harris Boulevard will have to have something done with it.

Mr. Coxe said that's correct. What Brad referenced early on in his presentation on the old alignment for Vance Road and the history of the proposed previous rezoning on this tract of land was because at that point in time the Vance Road Extension ran through the middle of this piece of property and aligned with Henry Lane.

Mayor Aneralla said does it matter in terms of our 80' setback if obviously one portion, Commissioner Phillips still retains the right for that land and any of the neighbors waive their right to have an 80' buffer. Does that matter at all.

Mr. Priest said it doesn't, not in the ordinance. But again through this process there's specific circumstances and topography and the ordinance talks about different issues that come into play to say okay this makes sense to reduce the buffer based on these special situations. So, no, not an ownership signing off because in the future there could be different owners that might not be so keen on it but if there was topography, if there were powerlines, all those types of things come into play when we are looking at a buffer and seeing what's appropriate and what needs to meet the ordinance.

Commissioner Gibbons said on the question that was brought up in regards to the full tract of line vice the acreage that was requested to be rezoned.....one tax parcel, but a portion of one tax parcel, how does that work as far as rezoning.

Mr. Priest said that's something that we have to clarify with the applicant.

Commissioner Gibbons said let's say I have 10 acres and my house is on 2 and I want to sell 8 and I have to rezone that 8, is that something that is allowed and the other 2 acres remain whatever I'm already zoned or how does that work.

Mr. Priest said my understanding is yes. Zoning lines don't necessarily have to be along property line boundaries but they usually are and it's best that they are. In this situation they are proposing a new lot line. They are going to recombine and they are going to do something, but we have to understand what's going on as far as what's proposed. That's currently an unknown as well.

Joe Sailors said essentially they are now subdividing this piece of property. If they are subdividing this piece of property then it falls in the guideline that doesn't allow a change.

Jack Simoneau, Planning Director, said today it's two pieces of property. If there's already two parcels out there and they just realign the property lines, it's not a subdivision, it's a realignment of the property lines. If they create a new lot, it is a minor subdivision. We will verify when I see the tax map.

Hal Bankirer said there's only a week before it goes to Planning Board. I would like staff to work with the applicant and determine whether or not this is ready to go to the Planning Board.

There being no further comments, Mayor Aneralla closed the public hearing.

Commissioner Guignard made a motion to allow Commissioner Phillips to come back.

Commissioner Kidwell seconded motion.

Motion carried 5-0.

Petition #TA16-05. Mayor Aneralla called to order public hearing on Petition #TA16-05, a request by Mike Clapp to amend Article 3.2.10 of the Huntersville Zoning Ordinance to add Indoor Recreation uses as a use permitted by right in the Special Purpose zoning district.

Brad Priest, Senior Planner, reviewed the request. *Refer to Staff Report attached hereto as Exhibit No. 4.* Staff recommends approval of this proposed text amendment. The Land Development Ordinances Advisory Board met on November 3 and unanimously recommended approval for the application.

Mike Clapp said on behalf of the Sports Village Land Group I would like to thank you for having us here. We have done a good bit of homework on this project and we feel that we have identified a great site, a great transition area. We've spent time with Planning over the past year and working with Dewberry closely. I currently have two kids, a 10 and 8 year old at St. Marks, so I guess I'm just getting into the thick of it with the activities and so forth on the weekends. We've been traveling the southeast and visiting several sites similar to what we are proposing. We've spent a good bit of time even in the corporate sector and we feel that at Exit 23 and where we are residing with this site is a good transition area to bring in also Corporate as well. We have considered a great deal on the job creation. We have spent a lot of time with your local participants at AAU level and we feel that we are going to do a good justice of creating more jobs for their businesses and growing their day-to-day.

Commissioner Guignard said how much do you think it's going to cost to build an eight court indoor basketball facility.

Mr. Clapp said we have our estimations and they are changing monthly, but we are putting that out to proposal right now. We are waiting on final specs and floorplans. I have not seen final numbers. A roundabout number for a fully finished 120,000 sq. ft. facility can range anywhere from \$15-16 million up to \$22 million for eight courts.

Commissioner Phillips said how many people capacity-wise will this facility hold.

Mr. Clapp said we estimate a couple thousand people on a weekend for a tournament.

Commissioner Phillips said and so for a season.

Mr. Clapp said we're guesstimating anywhere near 500,000 to 600,000 yearly.

Commissioner Phillips said are you familiar with Cherry Park in Rock Hill.

Mr. Clapp said I am.

Commissioner Phillips said do you think you will be able to generate those types of numbers by this being for basketball/volleyball and those types of things.

Mr. Clapp said our pro forma is based on our local community groups Monday through Friday and that would be a share with the local Huntersville facility as well. And then on the weekend basis we have not only ties with those local groups but we've also reached out in the southeastern and national level, so we feel that we can pull in that base.

Commissioner Boone said the floor on your \$15-22 million facility, is that your typical basketball wooden floor that you would see.

Mr. Clapp said we have proposed synthetic and we might have one quadrant that we will do hardwood flooring.

Joe Sailors said concerning the TIA, the focus granted the morning timeframe will not be a peak scenario because the parents will not be bringing kids at 8 in the morning to go to these gyms and participate. But they will be bringing those kids at 5 p.m. and 6 p.m. in the evening every day, because this operation is going to operate 7 days a week or it's not going to be profitable.

Mr. Clapp said we will operate 7 days a week.

Commissioner Guignard said if this is mixed-use and there's quite a few of these buildings that become offices etc. there will be quite a bit of traffic at 8 a.m. and 9 a.m.

Hal Bankirer said was traffic on the weekend taken into consideration.

Stephen Trott, Town Transportation Engineer, said what was included in the current TIA was the typical weekday morning peak hour and typical weekday afternoon peak hour. One thing to note, the weekend traffic patterns around the development will be different than they are for the commuting weekday.

Commissioner Phillips said this is going to be a perfect example of why our TIA is so obsolete and does not work and that is the reason that I brought it up earlier when he was talking about 20 and 40 cars.

Commissioner Kidwell said are we able to get the information for weekend traffic.

Mr. Trott said I can check to see is data available for the uses that I can check to see. I'd have to look to see if there's trip generation data, how much traffic a use like that could generate on the weekend and then conversely you would have to look at what the traffic volumes are in the area as well on the weekend.

There being on further comments, Mayor Aneralla closed the public hearing.

Petition #TA16-06. Mayor Aneralla called to order public hearing on Petition #TA16-06, a request by Susan Lurz to amend Article 12.2.1 of the Huntersville Zoning Ordinance to modify the Farm, Bona Fide definition.

Meredith Nesbitt, Planner I, reviewed the request. *Refer to Staff Report attached hereto as Exhibit No. 5.*

Town staff supports the text amendment because it is consistent with the Huntersville 2030 Plan. The Land Development Ordinances Advisory Board also recommended approval at their October 6, 2016 meeting.

Commissioner Phillips said by North Carolina state law the definition of a bona fide farm, isn't it excluded from county and municipal ordinances.

Jack Simoneau, Planning Director, said just the county and the ETJ, not municipal ordinances. Hence, this change makes it clear that educational activities on a farm in the town limits in the Rural/Transitional zone is allowed.

Commissioner Phillips said so you are saying municipalities can pass ordinances against farms.

Mr. Simoneau said they can have different standards. What we are proposing is to be more consistent with what's in the county, so we are agreeing it should be more relaxed.

Susan Lurz, 14412 Beatties Ford Road, said I have been in the Huntersville area for about 5 years and just recently purchased my farm on Beatties Ford Road. When I did I noticed that the farm is perfectly

laid out and set up to be an outdoor classroom and personally my business is I'm a writer and I have a publishing company that produces empowerment programs for early childhood education, specifically for social and emotional health and so basically what I would like to do on the farm is teach my program to children and also we are now producing a program for nutrition and physical activity. I would really love to use my property as an outdoor classroom for kids, teach these programs and be set up like a regular classroom Monday through Friday. We possibly could do some afterschool programming as well so that would make our hours of operation about 9 a.m. to 5 p.m. Monday through Friday. And then I also would like to extend to the community that we are open one Saturday a month for family engagement where families would come out and do the same programs with their children and then another Saturday a month just to be open for the community because I do have animals.

Commissioner Guignard said I don't know what's going to happen when the weather is inclement. Do you intend on having some type of regular classroom.

Ms. Lurz said I am blessed to have a regular main house on the property but also the former owner built a small cottage. She was a yoga instructor and massage therapist and built a beautiful cottage that I'm turning into an indoor classroom. So I'm making provisions for that as well.

There being no further comments, Mayor Aneralla closed the public hearing.

Petition #TA16-08. Mayor Aneralla called to order public hearing on Petition #TA16-08, a request by the Town of Huntersville to amend Article 8.26.4 of the Huntersville Zoning Ordinance to exempt the lighting of official public civic monuments from lighting standards.

Meredith Nesbitt, Planner I, reviewed the request. *Refer to Staff Report attached hereto as 6.* Staff recommends approval of this application because it meets several of the policies in the 2030 Community Plan and the Land Development Ordinances Advisory Board heard this on November 3 and also recommended approval 6 to 1.

There being no comments, Mayor Aneralla closed the public hearing.

OTHER BUSINESS

Petition #R16-06. Petition #R16-06 is a request by Greenway Waste Solutions, LLC and William Hammill to conditionally rezone 135 acres (parcels 01910102, 01910109 and portions of 01918135, 01918162 and 01934118) from Transitional Residential and Neighborhood Residential to Special Purpose Conditional District.

Brad Priest, Senior Planner, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 7.* Instead of again going over the project in detail, I wanted to just highlight the main difference in the plan from the public hearing.

Commissioner Boone said I have attended all of the Board of Adjustment meetings and all of the Planning Board meetings on this application and I'd like to thank the Board of Adjustment and the Planning Board for their efforts in one of the more complex special use and rezoning cases that I've seen. We've come down to one issue concerning the contributions of money and the amount of that money. I don't think we should discuss that tonight. What I'm going to put in the motion is that we delay Petition #R16-06 and SUP#16-01 so the applicant, the Town, NCDOT can come to some agreement on the maintenance contribution. I'd like to delay this for no more than two months.

Commissioner Gibbons seconded motion.

Commissioner Gibbons said we put in a no more than two months delay, but I don't know where you are in these discussions right now. There's some language here about what's been agreed to and the payment of the previous agreement, so do you feel that two months easily will work for you and the applicant to have these discussions, get back to us with what they are and have us see this within the next couple of meetings.

Mr. Priest said in regard to having a discussion with NCDOT, I think two months is probably okay. I would talk to staff about that as well, but I think that could be done in two months.

Commissioner Phillips said to our second meeting in January.

Mr. Priest said let me just clarify real quick the motion is specifically for the rezoning.

Commissioner Boone said it's for both of them – the rezoning and the SUP. We are going to do it all at one time and we are going to delay them both at the same time.

Commissioner Guignard said it sounds to me like the majority of the reason that we're proposing to postpone this decision for 60 days give or take is to figure out how much more money we can ask the petitioner to give us to do whatever somebody decides they want to do with a lot of money. Is that what I'm hearing.

Commissioner Boone said that's correct.

Commissioner Guignard said what are we going to do, put a 4-lane road down through there. The petitioner.....it appears that because we're in dirty business does not mean that we can continue to tax them when we bring in the number of let's say maybe \$100,000 would suit some people at the dais, I don't know. The petitioner is going to make some money at this business and my opinion is the only way they can make money is tipping fees. They don't make money selling water. They don't make money doing a lot of other things there. Maybe eventually they might make some money when they are able to deal with reconstituting some of this landfill material that goes in there and being able to sell that, but they are going to make an exorbitant investment in order to do that to try to help the environment and the rest of us. So those tipping fees are going to go up, which means the cost of housing goes up and I think the cost of housing in Huntersville is already quite a bit higher than the surrounding counties. There's another alternative. I am not suggesting to do this, but you can close that facility and you can really cause havoc, because then you are going to have some 600,000 to 700,000 miles of vehicle traffic either going to Lincoln County or to the Ballantyne area or to Harrisburg and then you are going to have more trucks that we are not going to enforce the speed limit on around this area and they are going to really wear out the roads with 700,000 more miles of traffic. I for one cannot, will not, support postponing this just to determine that we want to figure out a way to siphon more money out of this business. We certainly don't do that to the pretty businesses. This is absolutely wrong. Some people at the dais and I don't blame them say well they never gave the first \$25,000. Well, there's probably pros and cons as to why that didn't occur and misunderstandings as to why that didn't occur. I sat at this dais 12 to 15 years ago and found out that \$150,000 of money for a road improvement had not come to the Town because the lawyer didn't know where to send his money out of the escrow account. I'm not suggesting that's what happened with this \$25,000. I'm just saying that money is available. But I cannot, will not support adding a tax which is what this is in order to increase the tipping

fees in order to turn right around and pass those back along to the cost of houses in this region which are already exploding as it is.

Commissioner Boone said the applicant has suggested that they would like to contribute to the improvement of Holbrooks Road. We don't know exactly what the maintenance is going to be for the next 9 years on that road and for us to sit up here and say it's \$24,000, \$40,000. It was an x amount in 2008, whatever that amount is I'm sure has escalated since then. I am not an expert in deciding the amount of money it will take to maintain this road. Take the Engineering Department and the Town Manager along with the applicant and NCDOT and let them work out a comparable rate that everybody can live with. We could be here until 1 a.m. or 2 a.m. deciding either \$18,000 or \$118,000.....I don't know. I just think we should bring the people who have the knowledge to sit down and figure this out.

Commissioner Kidwell said I personally could care less how much money they make. I don't care how much money any business makes. That's their choice. You own a business to make money, you don't go into it to lose money. I rarely see a business with a red cross painted on the top of the building saying we're giving away, everything's free. Personally if they are going to make money, they're going to make money. It was mentioned that the tipping fees are increasing home prices and we could see trucks traveling out of this area down to Ballantyne or to another county. Part of me says that isn't a bad idea. We don't see the traffic on Holbrooks Road. We don't see the trucks coming in and out of our town that's headed on down to another part of the city where another dump is. That doesn't make it less appealing to me. We're moving the problem away. But as far as home prices, you know what, Mecklenburg County has been more expensive than some of the surrounding counties. That's a given fact. But I don't think the tipping fees are playing directly with that. I think our location plays a pretty good part of that. And as far as the Lake Norman region, Huntersville still seems to be one of the most desired places to live. We can't keep a house on the market in this area more than a week it seems like under \$200,000. Tonight I was prepared to hear and go back through this. I asked Staff earlier today and Jack thank you for responding and Max you were a part of that in regards to the alternative road because I would like to see the traffic come off of Holbrooks. We have a residential area there and I know it's been going on for a while. But fact of the matter is we don't own the land that allows us to do that. If the Town owned the land or if the applicant owned the land, I'm sure that secondary road would be in there and that traffic would be out of there and this wouldn't be a conversation at all. But for the \$25,000 from 2008.....the check has been lost in the mail somehow. I get that. It can happen. A lot of what we do is on good faith with businesses. We work with them, the Town does, and we say okay you do this, we'll do this. Here it is 9 years later and that hasn't happened. I can understand where this motion is coming from to make sure that we are protecting that community, protecting the road, in getting more information. The original \$25,000 is going to come to us I'm assuming and then what is it going to lead until we get that second road built because originally when they expanded said we're going to put a road in there, just never happened. If we wait until 2034 for the road to come through it may not happen again. We have to protect the Town infrastructure. We have to protect that neighborhood. And truly have to protect the business, because what if it comes down to we just settle with what we've got and it's not enough and then every taxpayer in here is going to be forking that over somehow. This is not a matter of trying to tax a company or upset that they are making money, in my opinion. I didn't make the motion and I sure didn't second it, but listening to the arguments it's about making sure that we are doing what's right for the entire community not just the business, not just the neighborhood, but every taxpayer, even people that live off of Beatties Ford Road could potentially be affected by this down the road.

Mike Griffin, said I appreciate the opportunity to speak. I was very frustrated sitting there thinking I would not have an opportunity to speak. First and foremost the first \$25,000 that was agreed in 2009

that was Commissioner Jeter's discussion. The staff made a recommendation to DOT and DOT blessed the recommendation that we should pave the entire 1.2 mile road and I think Charlie Jeter from his background in trucking said this is a double taxation, that our customers pay a tremendous amount of taxes on an annual basis and that's what's supposed to be used to take care of that state road. The state has a statutory obligation to maintain that road. There has been a waste facility down that road for about 60 years and we've been on that road since 1988, well before the Town of Huntersville put us in the ETJ and now well before we've been annexed by the Town of Huntersville. I do think it is the state statutory responsibility to maintain that road. Our obligation, that \$25,000 in 2009 was directed to the Town staff if they ever needed the money, call us and we'd write the check that day. There's some understanding that we forgot to give the check or we were supposed to give that check when the DOT did the work in 2013. In 2013 they did their statutory duty to maintain that road. To even slightly insinuate that my family or me did not pay money when we were supposed to pay money is 1,000 percent wrong. That's the thing that has me upset more than anything else. Some insinuation that money we somehow forgot to pay it. We would and we will pay that when we are asked to pay that. Now the thing I was working with Brad and the staff is our hope and intention was to use that money to improve Holbrooks Road. Speaking of improvements, we put the right-turn lane in there in 2005. We spent about \$50,000 to do that. We spent about \$75,000 with Bill Cox to get the Verhoeff Road study done 16 years ago to try to come up with an alternate road. We spent thousands of hours, many dollars to maintain that road, cleaning it and so forth. We've worked with DOT in the past to make sure that road is maintained. That's a well maintained road with zero potholes in it. It's in great shape. Our thought process was to now because there was some confusion that we somehow didn't pay that money that we told the town that we'd put that \$25,000 into an escrow account, hopefully controlled by the Town to look for opportunities to improve that road. The other thing that we agreed in 2025, which is 9 years, that we would put another \$25,000 into that, again for the same aspect to hopefully improve that road. The road should be repaired and maintained by DOT. Our customers pay a lot of taxes for that. We would gladly see that \$50,000 should be spent to improve that road. We have been working diligently for more than 16 years looking for alternative ways to get to that facility. I am confident working with the Commerce Station Management Team that there will be a solution pretty soon from the south side. I'm also confident that from growth of our area that Asbury Chapel Extension road coming from north Huntersville-Concord will soon come our way. I'm confident that there will be alternative paths to our facility and I'm confident that will happen before 2034. We've committed to be off that road 2034 regardless. We've also committed to if we're not off of it by 2025 to supply more money for hopeful other improvements.....not maintenance in my opinion, but improvements. I think we've been an above and beyond corporate citizen to try to make things happen in the right way. I appreciate Commissioner Guignard's comments but I just want to clarify what I think he was articulating.....if our facility is not there, the impact on our existing roads in North Meck will be dramatically increased because those trucks have to go to another facility. There's only three facility choices. You've basically got Lincoln County, our facility in Harrisburg or the county facility in Ballantyne. Therein lies the extensive more impact on our roads overall. I thought we had this 100 percent figured out. The only fine tuning was the \$25,000. And the other \$25,000 if we're still on that road in 2025 should go to the Town's staff at their discretion to figure out how to use. I had no idea that there was still some confusion with that process. We are trying to build a recycling center to further improve our facilities and we have demonstrated its very minimal impact. Building a recycling center doesn't mean more customers are coming. Building a recycling center means that existing customers that come in with their waste we are going to process it more. It does mean that it extends the longevity of our facility, this is true, but it doesn't increase traffic, it doesn't increase anything. In other words, we can run our facility as is with no recycling center to 2034 and the only responsibility we have is the \$25,000, so we thought we were doing good adding the other \$25,000. In November 2009 Louis Mitchell with DOT asked that we should do more extensive work. We asked to have meetings with him.

I made many efforts but did not have those meetings. This time and I'm sorry I cannot remember Wendy's last name but the current DOT person responsible, I've called her twice personally and left voicemails. I've left e-mails asking for the last couple of months to have meetings. We have not. I don't know that that's necessary. I thought we had a satisfactory arrangement with Brad and the staff that was an amicable and fair resolution to any type of concerns for the road. I guess I'm taken back. We've been working with this since February and we're kind of chomping at the bit to try to take the next step to get this recycling center approved with DEQ. So I guess my motion also is one I feel like I've been called a liar and two that we are getting another delay on a facility that we think this community needs.

Mayor Aneralla called for the vote to delay Petition #R16-06 and #SUP16-01 so the applicant, the Town and NCDOT can come to some agreement on the maintenance contribution to January 17, 2017.

Motion was tied 3 to 3 – Commissioners Boone, Gibbons and Phillips in favor; Commissioners Bales, Guignard and Kidwell opposed. Mayor Aneralla broke the tie by voting in opposition of the motion.

Commissioner Boone said we have two motions. The first one is the Petition #R16-06. The motion I'd like to make is it is consistent with the 2030 Community Plan and applicable long-range plans. The Board of Commissioners recommend approving the conditional rezoning plan for the Greenway Waste Landfill as shown in Rezoning Petition #R16-06. It is reasonable and in the public interest to rezone this property because proposed changes include a recycling facility, will provide economic and environmental methods and negative impacts on rezoning have mitigated to a satisfactory level. These recommendations are contingent upon the following:

- (1) Amended to show a 100' easement to accommodate the future greenway along the stream.
- (2) Note #11 on the plan is amended to clarify that Holbrooks Road will be abandoned as a primary access by 2034.
- (3) A note is added to the plan addressing the proposed clean-up of the contamination of the existing fill areas.
- (4) Note #6 is clarified to state that any adjacent development or construction of a greenway will trigger the construction of a fence for the active area of the site within 90 days.
- (5) The proposed evergreen trees proposed as a buffer are installed in a way that creates an opaque screen.
- (6) That the alternate locations of the greenway shown on the plan, if approved by the Town, will be supported and land will be provided by the applicant for them.
- (7) Clarification of all references on the plan to Holbrooks Road, not Holbrook Road.

Commissioner Guignard seconded motion.

Mr. Priest said just one quick clarification. This is the rezoning motion, so I just wanted to make sure that the applicant was agreeing to those conditions. I didn't hear anything that was out of place, but I wanted to make sure.

Commissioner Boone said did he say yes.

Mr. Priest said yes, he did. He agreed to those conditions.

Commissioner Bales said did your motion also include the staff recommendations in the report.

Commissioner Gibbons said I think those bullet points was what staff recommended.

Commissioner Bales said those were under Planning Board recommendations.

Commissioner Boone said I included the Planning Board recommendations in conjunction with the Staff Report.

Mr. Priest said I think that did include all of them except staff recommendation No. 4.

Commissioner Boone said I'm just moving that over into the SUP motion.

Mayor Aneralla called for the vote.

Motion carried 5 to 1, with Commissioner Kidwell opposed.

Petition #SUP16-01. Mayor Aneralla called to order evidentiary hearing on Petition #SUP16-01, a request by Greenway Waste Solutions, LLC and William Hammill for a Special Use Permit allowing the 135 acre landfill located at 15300 Holbrooks Road to expand its boundaries, add another fill area in the existing site (Parcels 01910102, 01910109, and portions of 01918135, 01918162, and 01934118), and construct a recycling facility onsite.

Mayor Aneralla swore in Brad Priest, Jack Simoneau, Max Buchanan, Mike Griffin and Hal Bankirer.

Brad Priest, Senior Planner, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 8.* I don't have any additional information that I didn't have for the rezoning. The important aspect to remember in regard to the Special Use Permit is the findings of fact. Article 9.23 of the ordinance outlines various requirements for construction and demolition landfills and so the Special Use Permit should be based on findings of fact that identify and show evidence that the proposed application is going to conform to those ordinances. Staff has itemized and identified several findings in regard to the application along with a couple of recommended conditions on the bottom and these are also represented in your Staff Report. The Planning Board also has that recommendation and has findings listed in regard to their recommendations. Most of the findings overlap and they are not conflicting. The one different one as discussed already is in regard to Holbrooks Road and the maintenance of Holbrooks Road. Planning staff finds that the proposed condition that the applicant has forwarded is acceptable in regard to the \$25,000 for maintenance and improvements of Holbrooks Road now and then an additional \$25,000 come 2025 for maintenance and improvements of Holbrooks Road.

Commissioner Gibbons said with what we just heard from the applicant, could we clarify that at this point. Are we going to continue to say maintenance or are we going to say improvements that the applicant and Town staff would agree upon needed in the future.

Mr. Priest said I think from Planning staff's perspective, I'm not speaking for Transportation staff, I think we believe it's appropriate that at some point in the future if the road is degenerating because of the heavy truck use that if it needs to be repaired with the money submitted that be done and forwarded to NCDOT. Certainly the improvements can be made but we think it's appropriate that the maintenance be included if needed.

Commissioner Gibbons said that's fine but I think we need to make sure that clarification is agreeable to both because that's not what we just heard from the applicant.

Mr. Priest said if the Town Board deems that they would like to itemize it specifically for a certain use, I don't think we have any objection.

Mike Griffin said my hope would be that it would be used for improvements and not maintenance because I strongly feel the DOT is responsible for maintaining it and over the last 20 some odd years we've had a great relationship with DOT. But to Brad's point I'm okay with maintenance or repair because if the DOT changes and they are not as progressive at repairing as they have been in the past, it's logical that you are going to use this money for repair instead of improvements. Brad and I have had long discussion about it. I hope it's really just used for improvements and there's things that could be done.....there's a curve in that road that in partnership with residential developers that could be used to improve. But I understand and agree with Brad putting or maintenance.

Commissioner Phillips said I was in a meeting earlier today and I was under the impression, as a matter of fact on Page 4, that we were led to believe that this \$25,000 that was not paid in 2009 has never been paid. I was going to ask Max Buchanan, have we ever spent any money on Holbrooks Road as far as maintenance, because I know we've done ditching and stuff down there.

Max Buchanan, Public Works Director/Town Engineer, said no we have not. It's a state maintained road. The Town has not spent any money on Holbrooks Road.

Commissioner Phillips said who done the ditches from Central back to 115 and the railroad track when that was done approximately 2 years ago.

Mr. Buchanan said it would not have been us.

Mr. Griffin said it would have been the state.

Commissioner Phillips said the Town has spent no money since 2009 out there.

Mr. Buchanan said we would be precluded from using Powell Bill money on a state maintained system and we haven't used any General Fund money. We may have picked up litter or done a sidewalk or it would have been a storm water repair if there was a blocked pipe. But we have not done any street or roadway improvements or maintenance.

Commissioner Phillips said we are getting two conflicting deals here.

Mayor Aneralla said an improvement, could that be sidewalks or could that be in addition to a project that maybe our town is going to be involved in widening the road or right-turn, could the money be used on that.

Mr. Priest said sure. Planning Staff is open to that.

Mr. Buchanan said if I can give my perspective. I think the applicant and we all agreed that the goal is to get off of Holbrooks. I think there's a commitment long-term to be off of Holbrooks. Hopefully we are off of Holbrooks before then. I'm not sure what improvements could be done and \$25,000 won't go a long way for fixing a curve. It goes further with maintaining our transportation system. Thinking about where DOT is in the funding of their maintenance programs, they keep trimming their maintenance budget in favor of building new stuff. I think you are going to probably see a need for any money to go toward maintaining a safe and passable facility to the plant, more so than doing any improvements.

That's my perspective. You could use it for sidewalk. I'm not sure if it would be a benefit or a safety benefit from a turn-lane.....we could solve some curves but we are talking a lot of money to do that work.

Commissioner Boone made a motion in considering the Special Use Permit #SUP16-01, Greenway Waste Landfill, we the Town Board find that the request meets all required conditions and specifications, is reasonable and does not pose an injurious effect on adjoining properties, and finds that the character of the neighborhood or health, safety and general welfare of the community will be minimized subject to certain conditions. This decision is supported by the following findings:

- (1) The site will operate in compliance with all NCDEQ requirements.
- (2) The applicant will cooperate with NCDEQ in addressing its contaminated ground waters.
- (3) The \$25,000 that was agreed upon in 2008 needs to be paid on or before December 31, 2016 and to be used for street improvements.
- (4) The proposed use will not be in conflict with the objectives of the long and short range adopted area plans.
- (5) The comprehensive site plan addresses necessary environmental and development standards.
- (6) The condition of Holbrooks Road will be assessed by the applicant and the Town as well as with the participation of NCDOT if available on a five (5) year basis.
- (7) The bore test for Holbrooks Road will be taken within ninety (90) days of approval of the SUP and provided to NCDOT as requested.
- (8) The applicant will maintain an internal 100' driveway from the public street in good condition.
- (9) The escrow account for the applicant to contribute to the improvements and maintenance for Holbrooks Road will be established. The amount to be contributed will be determined by a negotiation between the Town and applicant with the aid of NCDOT if possible with 180 days of conditional SUP approval. The SUP will become effective once the subject agreement has been finalized. If the agreement is not agreed upon then the SUP will come back to the Town Board for further action.
- (10) All right-of-ways which serve the site must be wide enough to accommodate two way traffic for a distance of at least 100' from a public street so that traffic waiting to enter the site will not be backed up onto any public right-of-way.
- (11) The landfill operator will commit to routinely washing Holbrooks Road with a specialized truck designed to remove dirt and mud at least once a week or more frequently as needed across the entire right-of-way of Holbrooks Road.
- (12) That the use of the site shall be limited to the hours of 7 a.m. to 6 p.m. Monday through Saturday.
- (13) That a time table be submitted indicating the development phases and life expectancy of the landfill.
- (14) That a closure plan (reclamation plan) is provided in accordance with applicable state regulations and the applicant commits to make updates to the plan as circumstances dictate.
- (15) The applicant will meet all appropriate state operating and reporting requirements pertaining to C&D recycling.
- (16) Due to the contamination in the landfill and surrounding areas the applicant will provide updates to the Town with compliance of the SUP conditions 10 years following the approval of the SUP and every 5 years thereafter upon the closure of the landfill.
- (17) That all provisions and findings of Article 9.23 be complied with as identified by staff.

Mr. Priest said one clarification that I wanted to add. It was an important one and I failed to discuss it. Mr. Griffin and I had a discussion about the clarification on abandoning Holbrooks Road by 2034. That

was a condition that's in the SUP in the rezoning. What's implied but is not specifically stated is if a road becomes available up to their property would they at that time prior to 2034 abandon Holbrooks and then go to the new access on the commercial street. Mr. Griffin replied that yes they would be willing to offer that as a condition and that's an important one that we just want to make sure it's in the record that if it becomes available before 2034 that they would abandon that and go to the commercial street within one year.

Mayor Aneralla said you don't have a second yet so if you would like to add anything.

Commissioner Boone said first of all Brad, I'd like to go ahead and include your recommendation of whenever an alternate route becomes available within one year they'll be off of Holbrooks Road.

Commissioner Phillips seconded motion.

Commissioner Gibbons said based on our conversations we just had, No. 9 in what you read, the amount of the contribution will be determined by a negotiation.

Mayor Aneralla said would you like to amend the motion.

Commissioner Gibbons said I would amend that the amount of the contribution will be \$25,000 toward improvement going forward, because I think this negotiation portion we've just gone over. I would say as an amendment to the escrow account for the applicant to contribute to the improvements and maintenance for Holbrooks Road will be established. The amount of the contribution will be \$25,000 for future improvements of Holbrooks Road and then continue with the SUP will become effective once the subject agreement has been finalized. If the agreement is not agreed upon then the SUP will come back to the Town Board for further action.

Mr. Priest said one clarification that I had as well, the amended motion included improvements. Does that include maintenance or only improvements.

Commissioner Gibbons said I said maintenance and improvements and that was based on the applicant's last comment that he was fine with it.

Mayor Aneralla said we have an amendment to the motion. Is there a second for that.

Commissioner Bales seconded motion for discussion.

Mayor Aneralla said we have a second. Discussion on Commissioner Gibbons' amendment to the motion made by Commissioner Boone.

Commissioner Boone said Commissioner Gibbons, the way I'm looking at this is that any amount of contribution is great, but what if there is something that the road was paved two years ago and if something happens I don't think what we have is \$50,000 now for improvements and maintenance might not qualify for that. That's why I put in here is that let the people who know this business sit down and negotiate some type of cost that could be put in there but again I just don't think \$25,000 would be enough to maintain or make road improvements.

Commissioner Phillips said Mr. Griffin, isn't that what y'all agreed to in your application right here. GW will extend the \$25,000 donation to the Town of Huntersville for improvements to Holbrooks Road as long as GWS customers use Holbrooks Road.

Mr. Griffin said that was our commitment.....the 300' of overlay and improvements at our entrance, should that be included in part of this process.

Mr. Priest said yes, that's still included as a separate entity.

Mr. Griffin said we had committed to basically paving a football field from our entrance up Holbrooks Road, widening the shoulders, in addition to that paying \$25,000 now and in addition to that paying \$25,000 at 2025. We think that's more than enough for the time that we are going to be on that road. I do think that hopefully the DOT will continue to work with us like they have the past three decades where when that road needs improvements, they'll do those repairs. That's what we had committed to.

Mayor Aneralla called for the vote on Commissioner Gibbons' amendment.

Commissioner Gibbons said are we just voting on my amendment or the whole motion.

Mayor Aneralla said just on the amendment.

Commissioner Guignard said can we restate the amendment.

Commissioner Gibbons said an escrow account for the applicant to contribute to the improvements and maintenance for Holbrooks Road will be established. The amount of the contribution will be \$25,000 for future maintenance and improvements. The SUP will become effective once the subject agreement has been finalized. If the agreement is not agreed upon then the SUP will come back to the Town Board for further action.

Motion carried 5 to 1, with Commissioner Phillips opposed.

Commissioner Guignard said the way I understand the motion with the amendment, especially on No. 9, is that if the petitioner and the staff and the DOT and whomever get together next week, but it has to be done within 180 days, that if we approve this tonight and they come to an understanding with staff, DOT and themselves, of a dollar figure to be donated to the cause, the SUP is approved. Is that the intent of Item 9 within this or did you change it.

Commissioner Gibbons said I just amended it. I took all that out. There will be no more negotiation beyond tonight. If this is approved.

Commissioner Guignard said then I've got a question about No. 11. Do we really want to tell them to wash that road once a week if it's not dirty. I ride up and down that place at least a couple of times a week and unless it's rained and we've created mud I don't think we want to go and put truckloads of water that's pretty precious right now on that road and I don't know where they are going to get the water if they don't come get it out of a fire hydrant. I'm just asking a legitimate in my mind question that the only time that there's mud and dirt on that road, not the only time the majority of the time when there's dirt and mud on that road, is if it has rained and they've been on a construction site.

Mayor Aneralla said so your question could be to the applicant.

Mr. Griffin said we already do that at a minimum weekly. The one thing I will say is we don't wash the whole 1.2 mile portion of the road partially for what Mr. Guignard said. I think there would be perhaps more damage to the auxiliary sides to the road than necessary. We do always wash at least 600' or so up the road and that's a minimum weekly. And then we do it more often when it has rained. I don't think it's necessary to wash the whole road.

Commissioner Guignard said in the motion he says over the entire right-of-way of Holbrooks Road. If there's mud that happens to come out of the landfill it's slung out of those tires most of the time before they get out to the public right-of-way. I can't imagine the amount of water it's going to take to wash the road that I'm understanding the motion. I think I understand the intent of the motion as far as No. 11 is concerned, but I don't think that's what you want to be doing. I think what you are saying is keep the road clean and what they have been doing is keeping the road clean for decades.

Mayor Aneralla said would you like to amend this part.

Commissioner Guignard said I'm trying to understand if that's what we are asking.

Mayor Aneralla said you could potentially cross the right-of-way part out. Strike the entire right-of-way.

Commissioner Guignard said I'm going to put a friendly amendment to the motion that after if needed the comma after that becomes a period and across the entire right-of-way of Holbrooks Road is deleted.

Commissioner Gibbons said our intent is that we want Griffin Greenway Solutions to keep the road clean when it needs to be cleaned so I would say remove dirt and mud when required period.

Commissioner Guignard said that's fine with me.

Commissioner Gibbons said then we're saying if the road needs to be cleaned, clean it.

Commissioner Guignard said I'll allow that to be a clerical correction to my motion.

Commissioner Gibbons said the landfill operator will commit to routinely wash Holbrooks Road with a specialized truck designed to remove dirt and mud when required.

Commissioner Bales seconded motion.

Motion carried 5 to 1, with Commissioner Phillips opposed.

Commissioner Bales said did the applicant actually agree to all of these.

Mr. Griffin said yes, that's consistent with what we had been working with the staff for. Thank you for those amendments.

Mayor Aneralla called for the vote on the amended motion.

Motion carried unanimously.

Petition #SUP16-02. Mayor Aneralla called to order evidentiary hearing on Petition #SUP16-02, a request by James Ward of GreenPower of NC and Jonathan Brown, property owner, for a Special Use Permit allowing a minor residential solar energy facility (solar panels) on the front roof slope above the façade of the house facing a public street.

Mayor Aneralla swore in Meredith Nesbitt, Jack Simoneau and Jonathan Brown.

Meredith Nesbitt, Planner I, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 9.* Before you is a Special Use Permit for a minor residential solar facility at 7218 Chaddsley Drive. It is zoned Neighborhood Residential. In the NR zoning district minor residential solar facilities are allowed with a Special Use Permit, so that's why we are in front of you tonight.

To orient everybody, here is Chaddsley Drive, so the two solar panel clusters that are circled are the two solar panel clusters in question that will require a Special Use Permit because they are facing the public street. Planning staff recommends approval of this Special Use Permit request based on the findings of fact that are listed in the Staff Report, also listed here 1 through 7. Staff recommends two conditions, that all ground level equipment be located at the side or rear of the house and that there is no glare produced from the solar panels onto the public right-of-way or onto adjacent properties. The Planning Board heard this Special Use Permit request at their last meeting and they also recommended approval of the application based on the findings of fact you see 1 through 4 and they added the same two conditions that Planning staff recommended. The applicants are here to answer any questions you have and staff is here to answer anything as well.

Commissioner Kidwell said this is for solar panels on a house. You are not running a business out of the house.....you're just adding solar panels to a house. And the HOA already said it's cool.

Commissioner Guignard said you said the equipment can be on the side or the back.

Ms. Nesbitt yes, side or rear.

Commissioner Guignard said am I correct that there's empty land on one side but a house right next to it on the other.

Ms. Nesbitt said yes. Here in green you can see the parcel.

Commissioner Guignard said excuse me, that's your land on that side, that's not another lot. I can't envision that equipment between those two structures. That's all I was asking. I cannot vision the equipment on the right-hand side of their house so when you say on the side and I see that equipment sitting there.....I don't have a problem with what these gentlemen are wanting to do.

Commissioner Bales made a motion to approve Petition #SUP16-02.

Commissioner Kidwell seconded motion.

Mr. Simoneau said just for clarification that motion of approval incorporated the staff findings.

Commissioner Bales said yes it does.

Ms. Nesbitt said and just for clarification do you include the two conditions from staff.

Ms. Bales yes.

Mayor Aneralla called for the vote.

Motion carried unanimously.

LNCES Roadway Improvements Design Contract. Commissioner Kidwell made a motion to approve proposal with AMT for engineering and surveying for roadway improvements associated with the Lake Norman Charter Elementary School.

Commissioner Guignard seconded motion.

Motion carried unanimously.

Proposal attached hereto as Exhibit No. 10.

Torrence Creek Tributary #2 Resolution. The proposed resolution is to approve allocating \$300,000 from the non-motorized transportation funds to the Torrence Creek Greenway Trib #2. This project was identified as the top project by the Greenway and Bikeway Committee and they made a recommendation at their October 18 meeting to allocate these funds to partner with Mecklenburg County in getting this project ranked in their next five year CIP Plan for FY 19-23. Mecklenburg County staff is waiting on instructions from management to submit projects for their next five year CIP. We hope by partnering with the County that we can get this project ranked higher to get it into the next CIP. The previous ranking system used for ranking CIP projects included additional points for partners and for outside funding. The estimated cost for this project is around \$1.8 million.

Commissioner Guignard made a motion to adopt resolution committing \$300,000 to be used by Mecklenburg County for the Torrence Creek Tributary #2 project.

Commissioner Bales seconded motion.

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 11.

CONSENT AGENDA

Approval of Minutes. Commissioner Guignard made a motion to approve the minutes of the October 17, 2016 Regular Town Board Meeting. Commissioner Phillips seconded motion. Motion carried unanimously.

Capital Project Ordinance – Intersection Improvements. Commissioner Guignard made a motion to approve Capital Project Ordinance for Lake Norman Charter School intersection improvements. Commissioner Phillips seconded motion. Motion carried unanimously.

Capital Project Ordinance attached hereto as Exhibit No. 12.

Budget Amendment – Public Works. Commissioner Guignard made a motion to approve budget amendment recognizing insurance revenue in the amount of \$500 and appropriate to the Public Works Department's insurance account. Commissioner Phillips seconded motion. Motion carried unanimously.

Budget Amendment – Police Department. Commissioner Guignard made a motion to approve budget amendment recognizing insurance revenue in the amount of \$500 and appropriate to the Police Department's insurance account. Commissioner Phillips seconded motion. Motion carried unanimously.

Call for Public Hearing – Petition #R16-10. Commissioner Guignard made a motion to call a public hearing for Monday, December 5, 2016 at 6:30 p.m. at Huntersville Town Hall on Petition #R16-10, a request by MI Homes of Charlotte, LLC to rezone approximately 50.337 acres located south of Ramah Church Road and west of Ewart Road from Transitional Residential to Neighborhood Residential – Conditional District. Commissioner Phillips seconded motion. Motion carried unanimously.

Call for Public Hearing – Petition #TA16-07. Commissioner Guignard made a motion to call a public hearing for Monday, December 5, 2016 at 6:30 p.m. at Huntersville Town Hall on Petition #TA16-07, a request by LStar Management, LLC to reduce the minimum lot size, side yard setback and lot width in the Transitional Residential zoning district. Commissioner Phillips seconded motion. Motion carried unanimously.

CLOSING COMMENTS

Commissioner Guignard suggested that Advanced Disposal be notified of Friday's road closures for the Veterans Day event.

Mayor Aneralla reminded everyone of the Mayor's luncheon on November 15.

There being no further business, the meeting was adjourned.

Approved this the _____ day of _____, 2016.