

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**May 15, 2023
6:00 p.m. – Huntersville Town Hall
101 Huntersville-Concord Road**

PRE-MEETING

None

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

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall, 101 Huntersville-Concord Road, at 6:00 p.m. on May 15, 2023.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the meeting to order.

Mayor Bales called for a moment of silence.

Mayor Bales led the Pledge of Allegiance.

STAFF QUESTIONS

None

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

National Public Works Week Proclamation. Mayor Bales proclaimed May 21-27, 2023 as National Public Works Week.

**Town of Huntersville
Proclamation**

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Huntersville; and

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public

buildings, and other structures and facilities essential for our citizens; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children in Huntersville to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and

WHEREAS, the year 2023 marks the 63rd annual National Public Works Week sponsored by the American Public Works Association.

NOW, THEREFORE, I, Melinda Bales, Mayor of the Town of Huntersville, North Carolina, do hereby proclaim May 21 – 27, 2023 as “**National Public Works Week**” in Huntersville and urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town of Huntersville to be affixed, this the 15th day of May 2023.

National Police Week Proclamation. Mayor Bales proclaimed May 15-21, 2023 as National Police Week.

**Town of Huntersville
Proclamation**

WHEREAS, every day across the Town of Huntersville, police officers bravely and courageously risk their well-being to protect and serve our community and preserve the peace and order to which every citizen is entitled; and

WHEREAS s, May 15 - 21, 2023 has been designated as “National Police Week” to honor the police officers who put their lives on the line to keep our communities safe; and

WHEREAS, the Huntersville Police Department consists of 105 full-time sworn police officers and 22 law enforcement support staff. The Police Department is responsible for 24-hour community wide law enforcement and responds to all requests for emergency services. The Police Department responds to an estimated 65,000 calls for service per year; and

WHEREAS, the members of the Huntersville Police Department are dedicated to ensuring public safety and enhancing the quality of life in the Town of Huntersville by serving as leaders and mentors, educating the community about the importance of public safety; and

WHEREAS, we appreciate the extraordinary efforts and sacrifices made by officers and their family members daily, to protect our schools, workplaces, roadways, and homes.

NOW, THEREFORE, I, Melinda Bales, Mayor of the Town of Huntersville, North Carolina, do hereby proclaim May 15 - 21, 2023 as “**National Police Week**” in the Town of Huntersville and on behalf of the Huntersville Board of Commissioners do hereby honor and thank all the police officers in the Town of Huntersville during this week and commend those officers for their willingness and dedication to protect and serve our community.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town of Huntersville to be affixed, this the 15th day of May 2023.

Crime Stoppers Presentation to Chief Hoyle. Representatives from Crime Stoppers presented plaque of appreciation to Police Chief Bence Hoyle.

Brad Rekens, 9312 Stawell Drive, presented Board with a Gilead Road Widening plat showing how the project directly affects his property. *Refer to plat attached hereto as Exhibit No. 1.* Mr. Rekens said what recently has changed, 40’ into my property is now going to be a permanent sloped easement, meaning changing the topography of my backyard. From where my ground level is to up to the road level is about 15’ to 16’ and 40’ it’s going to go up to that point and so it’s a 21° to 23° degree slope. Being in Charlotte, you guys know Charlotte Motor Speedway, the turns are 24° just as a perspective and so that

is going to be the backslope of my property. This is drastically going to change the topography. I should have started saying I'm a father of five children. I have two sets of twins, six and three, and also two years old, so this is drastically going to affect quality of life of my family and the resale value. We've already had two houses go up on the market and they are already being hard to sell in our neighborhood because of the Gilead Road Widening Project and that's not directly affecting them, it's affecting mine and then the two neighbors associated here. The people right next to us, the permanent sloped easement that's going to be changed is touching the back of their house, so either that house is going to have to be condemned or bought out by the city because it is literally touching the back, so you are putting a slope that touches the back of their house. What I'm asking and I don't know if this is a possibility for conversation, but one of two options of pushing it to the other side. There's wetlands on the other side. That was a pushback of we can't do it that way, but you are going over wetlands on our side of the road too, or building a retaining wall to make sure I can maintain the integrity of my backyard and not have \$100,000 damage that if I want to go sell my house I don't have a backyard. Especially with housing prices going up, this is drastically affecting not only my family and the length of the project and them renting the property from me if the project goes longer do I get compensated more, because it's essentially renting from the.....so raising those concerns that if this is directly affecting our neighborhood drastically.

Mayor Bales encouraged Mr. Rekers to reach out to staff.

Mary Ann Turetsky, 16977 Bridgeton Lane, said I was just wondering when the freedom of speech was taken away from Huntersville residents. Two people so far have been picked out of the 5,000 who oppose the Lagoona project. The threat is you speak against Jake Palillo and you get sued. The joke is you get sued for damages suffered to his reputation. He's the one that calls people morons, idiots and old boomers. He really has ruined his own reputation. It's unbelievable to many how he was appointed to two boards with his rage type mentality. This seems so lopsided to many. What does the Board think about his tactics. I think you should all think about that.

AGENDA CHANGES

Commissioner Boone moved Item 8.F under the Consent Agenda (Adopt Second Amendment to the Transportation Projects Capital Project Ordinance to transfer funds from Gibson Park Drive, Holbrook Street Extension, Walters Street and David Kenney Farm Connection to the Ranson Road Widening Project) to Item 10.J under Other Business.

Commissioner Kidwell moved Item 10.F under Other Business (Consider adopting Resolution to approve the awarding of a service firearm to a retiring law enforcement member) to Item 10.A under Other Business.

Commissioner Kidwell made a motion to adopt the agenda, as amended.

Commissioner Partee seconded motion.

Motion carried unanimously.

CONSENT AGENDA

Approval of Minutes – April 17, 2023. Commissioner Phillips made a motion to approve the minutes of the April 17, 2023 Regular Town Board Meeting. Commissioner Munger seconded motion. Motion carried unanimously.

Approval of Minutes – April 24, 2023. Commissioner Phillips made a motion to approve the minutes of the April 24, 2023 Special Town Board Meeting. Commissioner Munger seconded motion. Motion carried unanimously.

Acceptance of Streets – Stoneybrook Station Subdivision. Commissioner Phillips made a motion to accept streets in Stoneybrook Station Subdivision for Town maintenance. Commissioner Munger seconded motion. Motion carried unanimously.

Street Name	From	To	Apx. Length
Stoneybrook Station Pkwy	Old Statesville Rd	Hambright Rd	3120
Corleone Str	Stoneybrook Station Pkwy	Midnight Wy	910
Mesquite Rd	Corleone Str	Stoneybrook Station Pkwy	560
Silverheel Ln	Corleone Str	Topper Dr	585
Diablo Dr	Solstice Wy	Stoneybrook Station Pkwy	460
LaRue Ln	Solstice Wy	Stoneybrook Station Pkwy	550
Solstice Wy	Old Statesville Rd	Stoneybrook Station Pkwy	1060
Midnight Wy	End of Road	North Academy Parking Lot	1295
Topper Dr	Stoneybrook Station Pkwy	Stoneybrook Station Pkwy	400
Spritz Str	Hambright Rd	Midnight Wy	410

Resolution – Ranson Road Widening Construction Contract. Commissioner Phillips made a motion to adopt Resolution to accept Ranson Road Widening Construction Contract. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 2.

Resolution – On-call Property Acquisition Contracts. Commissioner Phillips made a motion to adopt Resolution to accept on-call property acquisition contracts. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 3.

Resolution – Old Statesville Road (Damson Drive) Sidewalk Project. Commissioner Phillips made a motion to adopt Resolution to acquire right-of-way and/or easements for the construction of the Old Statesville Road (Damson Drive) Sidewalk Project. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 4.

Resolution – Covington Crest Sidewalk Project. Commissioner Phillips made a motion to adopt Resolution to acquire right-of-way and/or easements for the construction of the Covington Crest Sidewalk Project. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 5.

Resolution – Huntersville-Concord (Warfield Avenue) Sidewalk Project. Commissioner Phillips made a motion to adopt Resolution to acquire right-of-way and/or easements for the construction of the Huntersville-Concord (Warfield Avenue) Sidewalk Project. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 6.

Resolution – NC 115/Greenway Street Project. Commissioner Phillips made a motion to adopt Resolution to acquire right-of-way and/or easements for the construction of the NC 115 at Greenway Street Project. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 7.

Budget Amendment – Transit Tax. Commissioner Phillips made a motion to approve budget amendment appropriating Local Option Transit Tax Revenue in the amount of \$1,000,000 for Transit Tax expense account. Commissioner Munger seconded motion. Motion carried unanimously.

Budget Amendment – Art Piece. The Town was awarded funds from ElectriCities Smart Communities Grant in the amount of \$5,000 to be used towards the SculpTOUR project. The SculpTOUR exhibition will be located in Holbrook Park along the Downtown Greenway.

Commissioner Phillips made a motion to approve budget amendment appropriating \$5,000 to Downtown Revitalization Revenue for an Art Piece. Commissioner Munger seconded motion. Motion carried unanimously.

Budget Amendment – Main Street Project. Commissioner Phillips made a motion to approve budget amendment appropriating interest income in the amount of \$13,183.97 on the 2013 GO Transportation Bonds for Main Street Project. Commissioner Munger seconded motion. Motion carried unanimously.

Budget Amendment – Insurance. Commissioner Phillips made a motion to approve budget amendment appropriating \$29,756.05 to Insurance Proceeds – Police for the replacement of a police car. Commissioner Munger seconded motion. Motion carried unanimously.

Budget Amendment – Memorial Tree Fund. Commissioner Phillips made a motion to approve budget amendment appropriating \$2,100 to Memorial Tree Fund revenue for two trees along the downtown greenway and one bench at Veterans Park. Commissioner Munger seconded motion. Motion carried unanimously.

Budget Amendment – Mobility Study. On April 4, 2022 the Town Board approved the Interlocal Agreement with the City of Charlotte through CRTPO for the Town of Huntersville Mobility Study. The total amount of the grant is \$128,000 (80 percent), with a 20 percent local match of \$32,000.

Commissioner Phillips made a motion to approve budget amendment appropriating \$128,000 to Mobility Study Grant revenue for the cost of the study. Commissioner Munger seconded motion. Motion carried unanimously.

PUBLIC HEARINGS

Budget for FY2024. Mayor Bales called to order public hearing on the proposed budget for FY2024.

Anthony Roberts, Town Manager, presented the Manager's Recommended Budget for FY24. *Refer to PowerPoint attached hereto as Exhibit No. 8.*

There being no questions or comments, Mayor Bales closed the public hearing.

Petition #ANNEX23-03. Mayor Bales called to order public hearing on Petition #ANNEX23-03, a petition by Whitby Bowman, LLC to annex 34.082 acres into the Town of Huntersville.

Jack Simoneau, Planning Director, entered the Staff Report into the record and reviewed the request. *Staff Report attached hereto as Exhibit No. 9.*

Petition #ANNEX23-03 is a request for a contiguous annexation into the Town of Huntersville of 34.082 acres consisting of one parcel (Parcel No. 019-212-28).

Since all statutory requirements have been met in full, staff recommends approval of Petition #ANNEX23-03.

Commissioner Munger questioned why a neighborhood meeting was not held.

Mr. Simoneau explained that neighborhood meetings are not required for annexations.

There being no further questions or comments, Mayor Bales closed the public hearing.

OTHER BUSINESS

Resolution – Awarding Service Firearm. Commissioner Boone recognized former Mayor Sarah McAulay who was present in the audience.

Commissioner Partee made a motion to approve the awarding of a service firearm to the retiring law enforcement member.

Commissioner Kidwell seconded motion.

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 10.

Petition #ANNEX23-03. Petition #ANNEX23-03 is a request by Whitby Bowman, LLC to annex 34.082 acres into the Town of Huntersville.

Jack Simoneau, Planning Director, entered the Staff Report into the record.

Commissioner Partee made a motion to approve Annexation Brownleigh Subdivision into the Town of Huntersville, 34.082 acres consisting of one parcel.

Commissioner Kidwell seconded motion.

Motion carried unanimously.

Annexation Ordinance attached hereto as Exhibit No. 11.

Petition #SUP23-01. Mayor Bales said we will now conduct a quasi-judicial evidentiary hearing and consider decision on Petition #SUP23-01, a request by hep Petra Development LLC on behalf of the City of Charlotte for a Special Use Permit for a major solar energy facility at 5824 Jim Kidd Road, Huntersville.

This hearing is a quasi-judicial hearing on the application submitted for Petition #SUP23-01. Quasi-judicial hearings are evidentiary in nature. Only parties with standing including the applicant, property owner, local government, and individuals who can show they will suffer special damages have the right to participate fully in the hearing.

Special damages must be particularized, separate, and distinct from damages to the public at large. Special damages are a fact-specific inquiry. While proximity may bear weight in the determination of special damages, proximity in and of itself is insufficient to grant standing.

Parties may present evidence, call witnesses, and make legal arguments. Other individuals may, but are not required to be, allowed to speak as a witness; however, they will not be allowed to participate fully as a party, such as by questioning other witnesses, or by calling other persons to testify.

Witnesses must swear or affirm their testimony. General witness testimony is limited to facts, not personal preferences or opinions.

Certain topics require expert witnesses including projections about impacts on property values and traffic impacts. Individuals providing expert opinion testimony must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Mere conclusory testimony lacking the foundation of the expert's opinion is insufficient to establish the existence or nonexistence of a fact or conclusion.

The Board must base quasi-judicial decisions upon competent, material, and substantial evidence in the record.

Competent evidence is evidence that is sufficiently trustworthy and reliable, and that is legally fit and acceptable for consideration by the Board. Speculative, irrelevant, or vague evidence; non-expert opinions as to something that requires an expert; and non-expected hearsay evidence will likely not be competent evidence.

Material evidence is evidence that shows that the standards will or will not be met.

Evidence is substantial if it is relevant and regarded by a reasonable person as sufficient to support a specific conclusion. Speculation, unsubstantiated fears of the community, or vague assertions do not constitute substantial evidence.

Quasi-judicial hearings are constrained by the standards in the ordinance and the facts presented.

Even though the Board may hear other evidence if it is not objected to, the Board should rely on competent, material, and substantial evidence in the decision making.

The Board will recognize the applicant as a party, as well as the property owners, if different than the applicant.

At this time, is there anyone here who has standing. So, I have staff here. Is the property owner here?

An adjacent property owner was present.

Mayor Bales said I will call you up in a second. And the applicant.....and you are the applicant, thank you. Are there other persons who believe they have standing to participate fully as a party? If so, come forward at this time.

No one came forward.

Mayor Bales said however, if you do wish to participate as a party, please wait to come up until after we've identified parties with standing. I'm sorry, it does not say that. However, if you do not wish to participate as a party, please wait. I'm sorry, there was a little typo here.

Do you believe you have standing?

Adjacent property owner said I do.

Mayor Bales said go ahead and come right on up here for the time being. What I need from each of you is to come forward at the microphone and introduce yourself and your address, and briefly state the reasons why you believe you have standing. You don't have to because you are the applicant.

Daniel Austin, 5730 Jim Kidd Road, said I'm actually the only adjacent property owner. I have 4.08 acres that is on the west and north line of the project. I believe it substantially affects my property and I particularly want to talk about the buffer.

Mayor Bales said do you have an expert here to talk?

Mr. Austin said I don't.

Mayor Bales said repeat for me one more time why you said you believe you had standing.

Mr. Austin said I believe it will affect my property value is the primary issue. The other is the visual aspects of it.

Mayor Bales said in order to discuss property value you would have to have an expert here.

Mr. Austin said the reason I didn't get an expert is because I believe there's a public necessity clause that says they don't have to prove to me that my property will be affected because of that clause, so I didn't think an expert witness would be.....

Jack Simoneau, Planning Director, said if I can clarify. There's specific criteria for special use permits. It is you can't adversely affect someone's property unless it is a public necessity. There's going to be testimony presented that in order for them to operate the solar farm, they will have to get a state certificate of public necessity, which negated the property value issue. This property owner does want to talk about buffers. We can show you specifically the language that we are talking about when we do our presentation.

Emily Sloop, Town Attorney, said as a point of clarification, the standing issue is distinct from whether or not the ordinance requirements are met, and the standing issue is a preliminary threshold matter that has to be established. Sir, if you feel that you are trying to prove special damages, in order to show that you have standing and those special damages are related to your property values, you would have to have an expert witness to be able to establish the effect on your property value. If you feel that you have standing in another way, we are happy to hear testimony in that regard.

Mr. Austin said is the visual affect of my property to the solar property considered standing?

Ms. Sloop said no sir, it's not. If it's something that is going to be something that the general citizenry as a whole would experience, which the visual affect would be, that's not specific to you in regards to being special damage.

Mayor Bales said what I can do is we can hear you as a non-party, so just stay right here, because we will still have to get you sworn in. Mr. Austin, like I said earlier, you do not have standing, however we will swear you in as a non-party participant. I am going to swear them all in now.

Mayor Bales swore in Jack Simoneau, Lauren Speight, Daniel Austin and the applicant (Wayne Marshall).

Mayor Bales said the parties to this case are entitled to an impartial Board. A Board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any Board member have any conflicts of interest to offer at tonight's meeting?

Commissioner Phillips said I would like to be recused. I am the Executive Director of an adjoining property and also friends with Mr. Austin.

Commissioner Munger made a motion to recuse Commissioner Phillips due to the proximity to the item being discussed.

Commissioner Kidwell seconded motion.

Motion carried unanimously.

Mayor Bales said it is the policy of this Board that a recused member shall step down from the dais and be excused from the room. The Board member may return for the next matter.

The parties to this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside of the hearing. That may be email communications, we well as conversations with parties, staff, or the general public. Does any Board member have any ex parte communications to disclose?

None were disclosed.

Mayor Bales said seeing none, I'd like to call on Planning staff for the presentation of their Staff Report.

Staff Report and Staff PowerPoint attached hereto as Exhibit No. 12.

Lauren Speight, Senior Planner, said Special Use Permit #23-01 is for a major solar energy facility on Jim Kidd Road. What you see is the Zoning Map that indicates where the parcel is located in which the project area will be developed. It's not the entirety of this site. The site is almost 200 acres. It's just a portion of this site.

As you can see, the parcel that the project will take place within and the surrounding parcels are in the Rural zoning district and major solar energy facilities are permitted in the Rural zoning district with the issuance of a special use permit. That's the project area there approximately.

As Mr. Simoneau was mentioning, special use permits have general criteria that are outlined in Article 11 of the Zoning Ordinance that apply to any use that requires a special use permit and then there are specific criteria that may be applied for individual uses. For a major solar energy facility, there are specific requirements that are outlined in Article 9.54 of the Zoning Ordinance. What you'll see and what you saw in the Staff Report were the findings that were presented by the applicant in response to the general criteria, as well as some additional findings by staff, and then you will also see responses that were included in the Staff Report with regard to the specific criteria.

Some of the general criteria, one of which was just mentioned, is that the proposed special use will not substantially injure the value of an abutting property or it constitutes a public necessity and one of the pieces of evidence that the applicant included was that they will have to get the certificate of public necessity from the State of North Carolina to even build the energy facility, so they are using that evidence to meet this requirement.

They also indicate that the use will be in harmony with the area in which it's located and in general conformity with the comprehensive plan and any applicable small area plan. The project is within the boundaries of the Beatties Ford Small Area Plan and it is consistent with that area, as well as the comprehensive plan with the specific criteria that are outlined in the Staff Report.

What you will see here is the most recent site plan that was presented by the applicant. It is kind of zoomed in on the project area. The area with kind of the blue stripes are the proposed panels that are proposed to be built on the parcel. And then it also shows the red hatched area is the drive that will be access for maintenance. A portion of the drive will be constructed with gravel and then the remainder of the drive will not have any impervious area built upon.

One of the items that staff presented to the applicant when we first received that application, it was originally proposed in this general area here but there's a large amount of hardwood trees that are mature in this area, so the applicant shift the site back to some newer growth pines that are in the rear here to better protect the existing mature canopy that's in the area. The applicant is also meeting the minimum 10' vegetated buffer that's along the shared property line with this interior lot here. This interior lot has its own access easement as well out to Jim Kidd Road.

What you will also see around the perimeter of the project area is the outline of a fence that is proposed around the solar panels. On the fence it will include Danger High Voltage signs for anyone who may be in the area just to warn them of potential danger in the area. It also includes, which is a little difficult to see here on this screen, but it should be more clear in the Staff Report, the typical which is at the bottom that it demonstrates that the proposed height is 7.9' and the maximum height that solar panels are allowed to be is 8' in height.

Just for some context staff has included this map for your consideration just to give you a better idea of what is going on in the general vicinity. The project area is approximately located here and the lime green outline is the boundary of the entire parcel, so you will see that a significant majority of the parcel will be remaining even if this project is developed on site. The shaded parcels are properties that are publicly owned. This lime green color here are parcels that are owned by the City of Charlotte and then this what appears to be like a gray color, these are owned by Mecklenburg County and then Charlotte-Mecklenburg Schools here, and the remaining parcels are privately owned.

Staff's recommendation in considering the Special Use Permit SUP23-01, the McDowell Creek WWTP Solar, Planning staff finds 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 the health, safety and general welfare of the community will be minimized. This decision is supported by the findings of fact on Pages 2-3 of the Staff Report.

That is all we have for the staff presentation and are happy to take any questions.

Commissioner Kidwell said if you could go back a few slides to the map. The property that is to the right, I guess the east, Mr. Austin is that your property?

Mr. Austin said yes.

Commissioner Kidwell said so you have property smack dab in the middle of this.

Mr. Austin said yes. The city calls me a doughnut hole.

Commissioner Kidwell said so you are across the street and you own that property.

Mr. Austin said not across the street, it's just a gravel drive access [inaudible].

Commissioner Kidwell said if you can go back to what you said about the state certificate. Can you bring that verbiage back up for me. Thank you.

Commissioner Partee said I want to follow-up on what Commissioner Kidwell was referring to, that's the Certificate of Public Convenience and Necessity required by the State of North Carolina. Isn't this like putting the cart before the horse because they would need their certificate in order to build, so therefore would approval be upon considering approval, should we include that in our decision-making process.

Ms. Sloop said I'm not sure that I'm following the question, Commissioner Partee. As to the ordinance requirements, one of the general requirements for this specific type of special use permit is that it would not materially endanger the public health or safety, or I'm sorry, the value of the abutting

property or it constitutes a public necessity. Now the burden is on the applicant to show that this requirement is satisfied and that what they are proposing does constitute a public necessity.

Commissioner Munger said if you go back to the very first slide, I believe. It says total parcel size is 194.4. If I go into Staff Findings, the total area of the parcel to include the solar energy facility is 196.017 acres. Not that it's going to make a whole lot of difference, but the numbers don't match.

Ms. Speight said staff has made comments about the difference in the numbers for the applicant to correct in a future site plan submittal. We noted it as a minor correction because they were going to meet the project size, because the project size minimum is 10 acres. We indicated that they just need to clarify that because they are still meeting the minimum requirement for the use.

Mayor Bales said are there any other questions for staff?

Commissioner Boone said you said the solar panels height is 7' to 7.5'. How tall are the solar panels?

Ms. Speight said 7.9'.

Commissioner Boone said that's almost 8'. How tall is the security fence around it?

Ms. Speight said the fence is proposed to be 7' in height.

Commissioner Boone said can you describe what the fence is going to look like?

Ms. Speight said I cannot, but the applicant is here and they may be able to describe what the fence will look like.

Commissioner Boone said I'll hold that question until later.

Mayor Bales said do we have any other questions for staff? We'll now turn our questions to the applicant. Are there any questions for the applicant?

Commissioner Boone said how tall will the security fence be?

Mr. Marshall said typical utility fence would be 6' tall with 3 strands of barb wire across it and then the buffer outside of that. Typically, the buffer is outside of it for protection purposes.

Commissioner Boone said what's the life of the solar panels?

Mr. Marshall said 35 years is what these projects are projected.

Commissioner Boone said what happens in 35 years to this property?

Mr. Marshall said typically what we see is the value of the materials is worth more than just leaving it there, so it's recycled at that point. That's what we are seeing right now with most of the studies.

Commissioner Boone said can somebody build a home on this solar farm after you leave?

Mr. Marshall said yes. There's no damage, other than we just need to remove that material at the time.

Commissioner Kovacs said why did you choose.....I understand you moved it from a previous site, but why around the doughnut hole?

Mr. Marshall said the best reason I can give is that we were looking for an area where we could do minimal damage to the trees on the property that were there. This area, I was trying to think of a proper term that was technical, but it's basically scrub pines for the most part, so it's smaller trees. We've been working very closely with the City of Charlotte and Charlotte-Mecklenburg Utility Department on trying to find a location that was less intrusive for purposes of building a renewable project.

Commissioner Kovacs said there's nowhere else on this site?

Mr. Marshall said none that we can find that have less impact, and that's what we were looking for was something with less impact.

Commissioner Kovacs said less impact on trees?

Mr. Marshall said less impact on the natural resources of the area.

Commissioner Kidwell said this is for the wastewater treatment plant?

Mr. Marshall said it's associated with the wastewater treatment plant.

Commissioner Kidwell said is the electricity going to the wastewater treatment plant?

Mr. Marshall said this project actually is being built in conjunction with Charlotte-Mecklenburg Utility Department and Energy United who is the utility provider there. Electricity will be sold as required by the CPC and the public necessity requirement. At this point the utility Energy United will buy the electricity. Renewable projects generate renewable energy credit and Charlotte-Mecklenburg Utility will receive those credits. That is part of the discussion. They have an environmental ESG goal that they are trying to meet.

Commissioner Kidwell said thank you for that, but it's not to power the treatment plant?

Mr. Marshall said not directly, no sir.

Commissioner Partee said who is hep Petra Development LLC and do you have other solar farms in and around the Charlotte-Mecklenburg area or in the country?

Mr. Marshall said hep Petra Development is located in the business park, right behind Joe Gibbs Racing at 11330 Vanstory Drive. We are the largest user of the Huntersville business park facility. We've been there since 2016 and have built projects all over the southeast, as well as the northeast and Oregon, as well as have developments in Texas, Georgia, Alabama and other facilities. We've not only developed projects, but we also build those projects, will operate this project, and then along with a sister company own this project.

Commissioner Munger said total area of this parcel is 190+ acres of which 10.7 is being set aside for the solar energy facility. Is this a phased approach or what are you planning on doing with the additional acreage.

Mr. Marshall said this is all Charlotte-Mecklenburg land, so we are essentially leasing a parcel and this is typical to a project for us, whether it's here or in a rural area in eastern North Carolina for example, we are not going to lease the whole parcel. We will simply lease the site that fits with what we are building from a generation standpoint.

Commissioner Munger said so the intention is not to do an additional phase?

Mr. Marshall said no.

Commissioner Munger said I'm assuming given your background you are probably somewhat familiar with this, I know in California at the Ivanpah solar power facility a number of birds have been killed by the solar panels. Do we have any concerns about that happening here?

Mr. Marshall said I have not seen that. My background is a licensed professional engineer working with projects over the last 20 years starting in the bioenergy sector and now I'm solar and we haven't seen that in the southeast. We've had to move turtles, we've had to move snails, and we've had to do other things like that from an endangered species.....but this particular project doesn't have any of those type attributes to it.

Mayor Bales said any other questions?

Commissioner Kovacs said I just wanted to clarify, in here it says the applicant states the site will not be visible from any adjacent parcels or from any angle other than aerial, but it's almost 8' tall and the fence is going to be 6'.

Mr. Marshall said it's 7' by the time you get through adding.....this parcel in particular one of the things we chose because of the topography of the site we expect that there's a pretty significant buffer on most of the areas already from hardwood trees. If you will look at some of the maps, the drawings that are there, so we are expecting that it will not be seen except from above. We've run the topography, looked at the topography and with the buffer area in place we expect that you won't be able to see it.

Commissioner Kidwell said this is for the Board to consider. Two things, with the state certificate not being approved, I think that's what Commissioner Partee was getting at, we're approving something before they have the state's write-off on it. The other one is, is it in harmony with the area and while it might fit a node, there's a school down at one end, there is a historical property at the other end, and rural farmland all around. While Mecklenburg County doesn't own this 194.4 +/- acres, it is right next to a property owner's property and if I'm looking at all the specifics of how this will be built with a 8' solar panel, a 7' fence with barb wire, whether you can build a house on it or not, you are going to be able to see it through that brush. And that's what that is, brush and that's what I'm hearing is it's easy to build there because it's not hardwood trees and it's brush, easy to take down brush, but there's property right next to the brush you are going to be able to see it. I think that's something to consider and can you go back to the state.....does it constitute a public necessity. I question that. I don't know if this solar panel because it's not feeding directly into wastewater treatment, it's being sold to a co-op to Energy United to sell to their end users and as a member of Energy United, I mean I do buy solar from them, so I would be buying solar potentially from this plant or it could be elsewhere. I don't think that this is a necessity.

Energy United is a big company. They can contract to have solar panels built anywhere around Mecklenburg County or the state to gain that energy to resell. Personal opinion, it's not meeting the general requirements for me on this.

Commissioner Kovacs said can I ask Ms. Sloop a question?

Mayor Bales said yes.

Commissioner Kovacs said what is the definition of reasonable?

Ms. Sloop said reasonable in this situation would be defined as it is in the dictionary.

Commissioner Munger said on the setback, your 20' setback from property line....I'm getting a nod in the negative behind you, I just want to make sure, is the first solar panel 20' behind the property line.

Ms. Speight said no. There's a few different rules here. One is that the site has to be consistent with setbacks of the underlying zoning district, which is the Rural zoning district, and they will be with those. The sideyard setbacks for the Rural zoning district are 8' because I think we're particularly concerned about the sideyard in this case here. The use also has a buffer requirement from Article 7. Typically, the buffer would be a little bit wider, however for commercial uses in the Rural zoning district the use is allowed to have a minimum 10' buffer along the sideyard, so there's the minimum 8' that you have to have as a setback and then there's a 10' opaque vegetated buffer that is required here. There are some existing trees.....

Commissioner Munger said did you say opaque?

Ms. Speight said opaque. The applicant would be required by the minimum standards of the ordinance to supplant the existing vegetation if it is not opaque.

Commissioner Munger said by opaque you mean essentially non-deciduous trees, something you can't see through it period.....I just want to throw it out there. Quick question for the applicant. Would you be open to changing that to 20'?

Mr. Marshall said I think there's space there, yes, so certainly we are open to the direction as given for making sure we have the proper space. One of the things we want to go into every project with is with the neighbor satisfied and the community satisfied, so we are very open to those discussions, yes.

Commissioner Munger said general question to the gentleman who may or may not have standing. Would that be somewhat more appealing if it had a 20' barrier and it was opaque?

Mr. Austin said if it was opaque. Article 7.5.3 allows some existing vegetation, but the existing vegetation won't provide that.

Commissioner Munger said absolutely, so the applicant would have to put in something that would make it opaque to the point where you wouldn't really be able to see it from your property.

Mr. Austin said another point for me, can you pull up the full site plan. The whole tract, and this was my grandparents' farm and there are some hardwoods over here that's close to the creek that feeds into the river. There are hardwoods right here but there's maybe 100 some acres of 10, 12, 15 year old pines

that the city planted, so they are not hardwoods. Most of it is in relatively new pine growth which will eventually be harvested. My problem is that if you've got an 8' fence and the buffer doesn't block it, then what happens....I just see solar panels. And the site is almost 200 acres and they picked 10 acres right beside me, and these aren't hardwoods.

Commissioner Munger said I do understand where you are coming from. I hope you understand I'm trying to look for some form of compromise and I'm sure they have gone through an extensive study for where it works and for them this is probably where it works best, but to try and make it so it's less of an impact on you.

Mr. Austin said therefore my main hot topic is the buffer.

Commissioner Munger said the applicant has agreed that they would do a 20' buffer and it would be opaque in nature, and I think this is a fair compromise.

Mr. Austin said may I read the option.....the buffer was reduced to 10'. If evergreen shrubs are used, a minimum of 8' at maturity and shrubs shall be planted to create a complete visual buffer, what's going to be planted and how will it be maintained? If you've got evergreens that get bagworms, they're leaves are gone, they die. Will they be replanted? Will it be continuous buffer?

Commissioner Munger said I'm getting a nod from staff that indicates it would be a requirement that they maintain said opaque buffer.

Mayor Bales said Lauren, would you like to speak to that?

Ms. Speight said if the required plantings are diseased or they die, they would be required to be replanted.

Mayor Bales said are there any other questions?

There were no questions.

Mayor Bales said does the Board have any more questions for the parties or witnesses before we move into deliberation? And that answer is no. Hearing no additional questions or presentation of relevant facts, the Board will now begin deliberation.

The evidentiary hearing remains open so that the Board may ask clarifying questions if needed. As a reminder, this Board is tasked with deciding if based on competent, material, substantial evidence presented at the hearing before this Board this proposal meets the applicable standards.

If the applicant meets their burden of producing competent, material, and substantial evidence that the standards in the ordinance will be met, the burden shifts to the other parties opposing the application to show by competent, material, and substantial evidence that the standards in the ordinance will not be met. If conflicting evidence as to a standard is presented, the Board will weigh the evidence and determine which side's evidence is more credible and more reliable.

The application as originally submitted was considered by the Planning Board and the Planning Board made a recommendation. Nothing that occurred at the Planning Board level, including the Planning Board's recommendation, is considered evidence that you can base your decision on. However, the

Planning Board's recommendation may be used to the Board in identifying issues that this Board may want to consider and evaluate based upon the evidence that was presented at the hearing before this Board.

Is there any discussion? Is there a motion?

Commissioner Boone made a motion to approve the Special Use Permit SUP23-01, McDowell Creek WWTP Solar. In considering the request, we the Town Board, find the request meets all the required criteria for granting the special use permit for a major solar energy facility in the Rural zoning district as outlined in the Zoning Ordinance and is supported by staff's findings of facts on Pages 2-3 of the Staff Report which are incorporated herein. In addition, the applicant will have a minimum 20' buffer around the facility and maintained through the life of the facility the opaque buffer.

Commissioner Munger seconded motion.

Mayor Bales called for the vote to approve Petition #SUP23-01.

Vote was 3 to 2 (Commissioners Boone, Munger and Partee in favor; Commissioners Kidwell and Kovacs opposed).

Mayor Bales said with a special use permit there needs to be a supermajority vote, we need four votes. Is there any additional discussion or is there another motion?

Commissioner Munger said is there anything specific that could sway Board members into voting for this or being in favor of this. I absolutely heard what was said and I definitely took the adjacent neighbor, his concerns into consideration, and I believe I looked for a middle ground and solar energy is essential decision, it makes great sense especially in an area that is essentially rural. No one is living in that area other than this gentleman and I believe we have addressed some of his main concerns. It's one thing I try and stress and I say from the beginning, find the path to yes and ask for it. In this case, I found a path to yes and I ask for a specific consideration. I'd like you to do the same.

Commissioner Kidwell said I appreciate you doing that. However, as I stated earlier, it's not in harmony what they are asking for. Just because it's rural doesn't mean we go and tear up the ground and put in solar farms. To the point where the adjacent landowner said they've got all that other land to use and they put it right up on his, I have an unprofessional opinion on that, it's because it's close to the road and they don't have to draw the lines so far out or whatever they've got to do, but also it goes back to that this is being put in to sell electricity. It's not like it's going to be putting all of that in for the water treatment center. It's not going to be delivered to the homes in the area to reduce their electric bill. It is being sold by a company. That to me does not make sense. It does not meet the requirements that they are asking for. I also go back to Sections 2 and 3 of the state certificate, which they don't have, and it doesn't meet that either. I appreciate both the applicant and the neighbor saying they'll meet it, but up here it does not meet that, and we have as a Board had plans come before us in the past that may or may not have been in a specific node or a specific area plan and said no. No, we don't think it's going to be the right thing for that area plan even though it matched it. It's not out of context for a Board member up here to disagree.

Commissioner Kovacs said I appreciate you, Commissioner Munger, with trying to find the path to yes and the 20' buffer. Honestly, I was stuck on the definition of reasonable and it says appropriate, fair and

sensible and to me it is not sensible to put it where the only people live when you have the entire property. It just doesn't seem like a rational decision.

Mayor Bales said in a quasi-judicial hearing you have to make your decisions based off of the evidence. I need to hear what evidence are you saying it does not meet, because staff is saying it's meeting these.

Commissioner Kidwell said it's not in harmony with the area.

Mayor Bales said it says the special use will not substantially injure the value of abutting property or it constitutes a public necessity, so are you saying you don't believe it's a public necessity.

Commissioner Kidwell said I do not believe it's a public necessity at that location, no. I didn't bring anything up about property value in anything I've said.

Mayor Bales said I'm agreeing, I was reading the or.

Commissioner Boone said I have a question for the applicant. Would you go into a little bit more detail on the information and the permit you have to get from the state and why didn't you do that first versus waiting?

Mr. Marshall said the application has been made to the state. PUC provides that they make decision on whether necessity of need is made, that's under state law, so this goes through a regular process with them, staff recommendation, and then they'll review and then they'll actually make that decision at the staff level. They've got to make sure all the information is whole. They are going to confirm that information. There will be some back and forth with those questions, but it's under state law that we are meeting the public necessity.

Commissioner Boone said is there any other time that you've gotten the state permit before you came to the Town Board for a rezoning?

Mr. Marshall said typically they go hand-in-hand. Like here we are making the application for both the public necessity of need and in some cases we've had to prove that we had that necessity of need post approval for the actual approval to be validated.

Commissioner Partee said have you ever been denied a certificate of need by the State of North Carolina for any of your facilities?

Mr. Marshall said we've been involved with projects that have not met the environmental requirements or have had problems with their ability to satisfy that requirement. Under the state guidance for certificates of public necessity of need it has to be a project that feeds into the grid that is between 2 megawatts and 80 megawatts AC for the purpose of general consumption by the public through either a co-op, a municipality, or an investor-owned utility.

Ms. Sloop said can we please go back to the required findings as far as the ordinance requirements, both the general and the specific so that we can go back over those? I think there may be some confusion in terms of what the applicable criteria are that need to be satisfied. Just run back through, please, the specific requirements of 9.54 and also the general requirements of our ordinance.

Ms. Speight said there are general requirements for any special use permit and then there are specific criteria for just major solar energy facilities. The general requirements are on the left here and the first is that the proposed special use will not materially endanger public health or safety. Second is that it will not substantially injure the value of abutting property, or it constitutes a public necessity. On the third is that it will be in harmony.....

Ms. Sloop said just to go back to that one, so we said “or” there. That means that it has to satisfy one or the other. I just want to make that clear on the record and you can proceed with the rest.

Ms. Speight said the third is that the proposed special use will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and any applicable small area plan. Of course, it’s up to this Board to determine whether or not they agree with staff findings and the applicant’s responses. With this one as well there are a few things that were considered when staff analyzed the application. One, were the uses that are permitted in the Rural zoning district and this is an existing permitted use, it just carried with it the requirement that a special use permit be granted by the Town Board.

The second thing that staff considered was the comprehensive plan, which of course is the long-range plan. It’s adopted to guide the development in the town and this is consistent with the proposed long-range uses for the Rural zoning district tier. One of the things that we considered with that, there are several requirements to do with the preservation of existing vegetation that we considered with this use because such a small area of the parcel is being.....which I understand their concerns about the location of where it is, but because of the small scale of the project with regard to the large size of the parent parcel, staff found that they were preserving the majority of the existing vegetation to be aligned with the guidance of the comprehensive plan for preservation of existing canopy.

The small area plan as mentioned, there’s the Beatties Ford Small Area Plan which does call out future uses for some areas. It does not indicate any specific future use for the general vicinity of the area that is proposed for the solar project.

The next criteria is the proposed special use will comply with all lot, size, yard, and other standards in which this ordinance applies to all uses permitted in the zoning district in which the property is located. As mentioned, there are the base setback requirements that are specific to single-family detached homes, but that is one of the primary uses in the Rural zoning district. They are relatively small in consideration to the scale of this type of project. The project is meeting those setbacks. And then there are additional requirements with regard to the buffers that are required for a commercial use in a residential zoning district and they were proposing to meet the minimum 10’ and as we asked the applicant to find a middle ground with the adjoining property owner, it’s being increased to 20’ there or proposed to be increased to 20’ and that this proposed special use will comply with all general and specific standards as required by the appropriate section which is Article 9.54.

There are very few criteria on the right side of the screen for major solar energy facilities. The first is that the project area the minimum lot size is 10 acres, so the parent parcel is almost 200 acres. The size of the project area is a little over 10 acres and as mentioned by Commissioner Munger, there’s minor discrepancies with the actual acreage that’s listed. Staff has made comments about that. The setbacks meet the minimum for the underlying zoning district which is also in the general criteria and that it be a minimum of 20’ from any property line in the SP zoning district. This is not in the Special Purpose zoning district.

The last is that the facilities are a maximum of 8' in height. The applicant is proposing a facility that is 7.9' in height as measured from the grate at the base of the structure and then they also have to include an existing features plan which they included in their submittal package as well.

Mayor Bales said it sounds to me like they've met all of the criteria, not only for the special use permit but for the specific to solar facilities as well. Is that your assessment?

Ms. Speight said based on the responses from the applicant and staff's further analysis of the criteria, staff's conclusion is that the criteria are met.

Ms. Sloop said I would like to add one point of clarification. The requirements, both general and specific, are in front of you, so anything else that's in the packet would not be considered a requirement. Part 4 for example, that's some language that staff had added into the agenda package but reasonable in this statement is not required for a special use permit. It is required for a rezoning. I don't want to confuse that with an actual requirement.

Ms. Speight said I just want to add one other thing which I believe, and Commissioner Partee may correct me if I'm mistaken, I believe it was asked earlier with regard to the certificate of public necessity, whether or not that can be conditioned with the special use permit. My understanding is that it is allowed for the Town Board to place conditions upon the approval of a special use permit.

Mayor Bales said so if there was a motion, the Board could make a requirement that that certificate be received.

Ms. Speight said that is correct.

Mayor Bales said Commissioner Boone, I apologize to you earlier, I didn't realize you had another question and I want to make sure I go back to you.

Commissioner Boone said I've got one question for the applicant. If this Board approves your request and the state turns it down saying that there is no need for this, the project is over, correct?

Mr. Marshall said correct.

Commissioner Boone made a motion it's the same motion I had as before or do I have to read the whole thing?

Mayor Bales said please read it.

Commissioner Boone made a motion to approve the Special Use Permit SUP23-01 McDowell Creek WWTP Solar. In considering the request, we the Town Board, find the request meets all the required criteria for granting the special use permit for a major solar energy facility in a Rural zoning district as outlined in the Zoning Ordinance and is supported by staff's findings of facts on Pages 2-3 of the Staff Report which are incorporated herein. In addition to that, a minimum 20' buffer will be maintained by the applicant and the buffer will be opaque. The second condition is that this motion is subject to the state approval of your necessity of need certificate. Ms. Sloop, is that legal?

Ms. Sloop said yes, as long as that is the correct name of the permit that is required.

Commissioner Boone said certificate of public convenience and necessity.

Commissioner Partee seconded motion.

Motion carried 4 to 1 (Commissioners Boone, Kovacs, Munger and Partee in favor; Commissioner Kidwell opposed).

Mayor Bales said staff will draft and I will sign a final written decision to reflect the vote and the reasoning for this decision. I would like to thank everyone attending this hearing today and we welcome you to stay for the other items. If you are leaving, please do so quietly at this time.

Commissioner Boone made a motion to bring back Commissioner Phillips.

Commissioner Munger seconded motion.

Motion carried unanimously.

Petition #TA22-11. Petition #TA22-11 is a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to amend Article 10 Signs to increase flexibility of sign regulations and codify current practices.

Lauren Speight, Senior Planner, entered the Staff Report into the record and briefly reviewed request. *Staff Report attached hereto as Exhibit No. 13.*

Ms. Speight said the purpose of this text amendment is to increase flexibility with the sign regulations based on customer feedback and to clarify existing regulations and codify current practices of the department.

Commissioner Munger made a motion in considering the proposed amendment #TA22-11, the Town Board recommends approval based on the amendment being consistent with Policy LU-8 of the Huntersville 2040 Community Plan, with the exception of Section 9. It is reasonable and in the public interest to amend the Zoning Ordinance because it will clarify the current language and increase the flexibility of the sign regulations while still meeting the intent of signs being for identification purposes and not for advertising.

Commissioner Boone seconded motion.

Mayor Bales called for the vote to approve Petition #TA22-11.

Motion carried unanimously.

Petition #TA23-02. Petition #TA23-02 is a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to amend Article 14.2.3 of the Zoning Ordinance, TIA reference no longer applicable as a result of the current administrative review of Sketch Plans; Section 6.300 of the Subdivision Ordinance for a TIA reference no longer applicable; Articles 11.8 and 14.4.4 of the Zoning Ordinance regarding the withdrawal of amendment petitions; Section 6.320 of the Subdivision Ordinance, Sketch Plan Community Meeting notification requirements; Article 11.4.3 of the Zoning Ordinance regarding Conditional Zoning Community Meeting notification requirements.

Lauren Speight, Senior Planner, entered the Staff Report into the record and briefly reviewed request. *Staff Report attached hereto as Exhibit No. 14.*

There is one item I do want to go over. This is a text amendment in six parts, not four parts. There are two sections that are revised with TIA reference ...two for withdrawal of application amendments and two with required mailings for sketch and amendments.

The one that I want to call to your attention is with regard to the withdrawal of applications. This is in response to a question that staff received during the Planning Board meeting. There was a question about the timing of resubmittal of applications that are denied and that are withdrawn and the language had previously just addressed applications that were denied and so the highlighted text is a change since the Planning Board meeting to include specifications for the withdrawal of applications to be consistent with the reapplication of denied applications, so it's a year whether its denied or withdrawn.

Commissioner Munger made a motion in considering the proposed amendment TA23-02, the Town Board recommends approval based on the amendment being consistent with Policies LU-1.1 and T-6.6 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because the amendment will remove references no longer applicable, provide community members more opportunities for input in public processes, and allow petitions for amendments to be withdrawn at any time before final action.

Commissioner Kidwell seconded motion.

Commissioner Kidwell said in the community meeting notification Sections 5 and 6, I want to thank staff for altering that for certified mail. We often do hear from neighborhood meetings I wasn't aware, I didn't know, I live in the sphere of influence and I wasn't contacted, so I think this is a step in the right direction.

Commissioner Boone said I echo the same thing that Rob just said. I think this is a step in the right direction by going to registered mail. The other thing is as far as when the year starts of a withdrawal of an application or a denial, when does the clock start – the day of the vote from the Board or in the case of withdrawal is it the date of the withdrawal notice.

Ms. Speight said if the application is denied, then the clock will start from the date of denial and if the application is withdrawn, the additional language is indicating that it is one year from the date the petition was withdrawn.

Mayor Bales called for the vote to approve Petition #TA23-02.

Motion carried unanimously.

Electric Rate Changes. David Lucore, Electric Systems Manager, ElectriCities, said for your consideration are the proposed FY24 electric rate changes. There are very few changes in total, but I have outlined them. The industrial on-peak rate has the most significant change and that's a 2 percent increase and also an increase in the basic charge. The renewable energy portfolio standards have changed slightly. They have actually been reduced just a little bit and the renewable energy credit rate rider that kilowatt hour credit has increased slightly.

Commissioner Boone made a motion to approve the proposed FY24 electric rate changes.

Commissioner Kovacs seconded motion.

Mayor Bales called for the vote to approve the proposed FY24 electric rate changes.

Motion carried unanimously.

FY24 Electric Rate Recommendations Summary attached hereto as Exhibit No. 15.

Law Enforcement Services Interlocal Agreement. Jackie Huffman, Deputy Town Manager, said our current policing the ETJ agreement with Mecklenburg County ends at the end of this fiscal year. The county proposes to renew for a 4-year term. That will align their agreements up with the other agreements they have on policing the ETJ and they propose renewing at the consistent \$1.4 million rate that we've been receiving each of the last five fiscal years.

Commissioner Partee made a motion to authorize the Town Manager to sign 4-year renewal of the Law Enforcement Services Interlocal Agreement between Mecklenburg County and the Town of Huntersville.

Commissioner Boone seconded motion.

Commissioner Munger said you mentioned this is a \$1.4 million per year that we are getting paid to police the ETJ. That's what we have been paid in previous years. Why no increase based on basic inflation rates? Was that not a point of negotiation for us?

Ms. Huffman said we asked for an increase. The county has a cost per call ratio that they held firm with.

Commissioner Kidwell said just to be clear, the county could have actually told us that they were taking this away if they wanted to, couldn't they.

Ms. Huffman said I'm satisfied they could have chosen somebody else to police the ETJ. My understanding before we did it, CMPD did.

Commissioner Kidwell said prior was CMPD was doing it for the Sheriff's office. I was around when we first brought this under our umbrella. I agree with Commissioner Munger, it is unfortunate that they did not increase it, I'm just glad they kept it with HPD.

Commissioner Munger said I do agree with you that it should be under HPD, but our officers in our town should be adequately compensated.

Commissioner Partee said I had this conversation with Ms. Huffman and moving forward we are going to sit down with the Town Manager and come up with a plan as far as increasing the fees as the ETJ starts to grow and we are monitoring it and servicing it.

Mayor Bales called for the vote to approve the Law Enforcement Services Interlocal Agreement Renewal.

Motion carried unanimously.

Law Enforcement Services Interlocal Agreement Renewal attached hereto as Exhibit No. 16.

Resolution – GO Bond Intent to Apply to LGC. Anthony Roberts, Town Manager, said two items that are coming up that's related to the bonds. The first one deals with the publication of the notice intention that we apply to the LGC for the bonds. You'll see in the language for both of them we have in there the amount – it's \$50 million for Transportation related and \$8 million for Parks & Recreation, so two different bonds. The bond counsel has looked at this. The second one basically is the same item, same language, but a separate resolution that makes certain statements for the findings of fact related to both the Transportation bond and the Parks & Recreation bond.

Commissioner Boone made a motion to approve the Resolution directing the publication of notice of intention to apply to the Local Government Commission for the approval of the general obligation bonds.

Commissioner Partee seconded motion.

Commissioner Kidwell said at the retreat or one of our work sessions where we talked about where we were at, I was at \$45 million and other commissioners were at \$70 million. I think this is a good compromise to present to the people to vote for and allow them their feelings on it come election time.

Mayor Bales called for the vote to approve Resolution.

Motion carried 5 to 1 (Commissioners Boone, Kidwell, Kovacs, Munger and Partee in favor; Commissioner Phillips opposed).

Resolution – GO Bond Authorizing Application to LGC. Commissioner Boone made a motion to approve the Resolution making certain statements of fact concerning the proposed general obligation bond issuance and authorizing the application to the Local Government Commission for the approval of the general obligation bonds.

Commissioner Kidwell seconded motion.

Mayor Bales called for the vote to approve Resolution.

Motion carried 5 to 1 (Commissioners Boone, Kidwell, Kovacs, Munger and Partee in favor; Commissioner Phillips opposed).

Second Amendment to Transportation Projects Capital Project Ordinance. Commissioner Kidwell made a motion to recuse the Mayor from the last item on the agenda.

Commissioner Kovacs seconded motion.

Motion carried unanimously.

Commissioner Phillips said we are moving on to adopt Second Amendment to Transportation Projects Capital Project Ordinance to transfer funds from Gibson Park Drive, Holbrook Street Extension, Walters Street and David Kenney Farm connection to the Ranson Road Widening Project.

Pattie McGinnis, Finance Director, said this is a second amendment to the Capital Project ordinance in the bond fund where we would like to move dollars from these projects to the Ranson Road Widening Project to cover increased expenses for construction.

Commissioner Boone said I brought this off of the Consent Agenda and I think we need to tell the folks that live around these projects what does this mean with the Town taking, let's say from Walters Street, \$99,000 and putting it into another project. What are we telling those folks that live on that street.

Stephen Trott, Director of Engineering, said there's several projects listed. Specifically for the Walters project there's \$99,000 of bond funds for that project. Total project cost on that I think is over \$3 million and it's also a project that is not programmed in the CIP to start for many years, so the money would just be sitting there until such time that the project gets started.

Ms. McGinnis said and that's all the money that's left in that project.

Commissioner Boone said I'm sitting on Walters Street and I had some hope that my street was going to get fixed. There's almost \$100,000 in there for that project and now the Town has decided to take that to offset the additional cost of another road. Am I understanding that correct?

Ms. McGinnis said yes.

Commissioner Boone said when are the people on Walters Street going to see any improvements to their street?

Mr. Trott said that's part of the budget process and the Board would make that decision.

Anthony Roberts, Town Manager, said let me expand a little further. I think it's a \$3.5 million project out in a future year, so it's not as simple as paving Walters and putting curb and gutter. There's some realignment stuff. That's where the majority of money would come from, but being that's in a future CIP a board would need to advance that project forward. Most likely the \$99,000 was probably some funds set aside to do some design.

Mr. Trott said that may fund a portion of the design work.

Mr. Roberts said that would have been maybe it, so I'm not sure why \$99,000.

Commissioner Kovacs said I know some of these might have been done, some of these other projects we are taking money from that's leftover money, so that makes absolute sense. I just think it's unfortunate for people because was Walters ever on the CIP to be funded. It was, correct, and then we took it off.

Ms. McGinnis said we didn't take it off. We moved it out because I guess the project wasn't ready.

Mr. Trott said it kept getting moved out. I think the Vermillion Village project kept getting moved out from the developer.

Commissioner Kovacs said I think if we are going to take funding from this, we need to think about other ways that we could fund starting this because we can't expect residents to wait on a project by a developer.

Ms. McGinnis said which would be bonds.

Commissioner Kovacs said yes, I'm saying to my fellow Board members mostly, we need to think about starting to fund things for actual smaller streets that people are using.

Mr. Trott said that's a project that we haven't started on. The Ranson Road project as you approved it earlier in the budget is letting for construction, so that project is moving forward. The Walters Street project hasn't been started on yet, so using money towards a project that's well underway was the thought process on that one.

Commissioner Boone said what happens if this Second Amendment to the Transportation Project Capital Program is denied, what happens then?

Mr. Roberts said we will pull funds from somewhere else to pay for the Ranson Road project. The Walters Street, the \$99,000 will stay there. It will do basically nothing for that project until the Board decides to move it forward.

Commissioner Boone said the David Kenney Farm connection, I believe we postponed that until Highway 73 project was completed by DOT.

Mr. Roberts said yes. The Board at that time said we want to get it to a certain stage, stop it until after 73 and then bring it back. But based on 73 it could be two boards from now.

Commissioner Boone said the Holbrook Street Extension, can you comment on that?

Mr. Trott said both the Holbrook Street Extension and the Gibson Park Drive Phase 1 projects are complete and have been complete, so no more additional expenses on those.

Commissioner Boone said but if we pull this money out, then the planning will stop for the second phase.

Mr. Trott said that's a separate project. This is just money for those two projects that are already complete and it's sitting there and not planned to be spent on anything.

Commissioner Kidwell said the Walters Street project, it is currently not in the CIP, correct.

Mr. Trott said it's in the future CIP.

Commissioner Kidwell said when you say future, where does it lie, what year.

Ms. Huffman said post 28.

Commissioner Kidwell said \$100,000 in designing and building a street project is a drop in the bucket. You can't buy machinery for that. I appreciate Commissioner Boone bringing this up. I think it's good to alert our neighbors and our citizens of what's going on in the area. If we are talking about \$100,000 for a project that's way down the line, I think we need to move forward with the Ranson Road project and then this Board if it comes up again or the next board or the 2030 board, whenever that happens, can appropriate the necessary money to complete that project for those folks.

Commissioner Boone made a motion to approve and adopt the Second Amendment to the Transportation Projects Capital Project Ordinance to transfer funds from Gibson Park Drive, Holbrook Street Extension, Walters Street and David Kenney Farm Connection to the Ranson Road widening project.

Commissioner Munger seconded motion.

Commissioner Phillips called for the vote to approve Second Amendment to the Transportation Projects Capital Project Ordinance.

Motion carried unanimously.

Commissioner Munger made a motion to bring back Mayor Bales.

Commissioner Partee seconded motion.

Commissioner Phillips called for the vote to bring back Mayor Bales.

Motion carried unanimously.

MAYOR AND COMMISSIONER REPORTS/CLOSING COMMENTS

Commissioner Phillips

- No report.

Commissioner Boone

- Huntersville Fire Department is still selling shirts commemorating their 100-year anniversary.

Commissioner Kovacs

- Provided update from Lake Norman Chamber.

Commissioner Kidwell

- Next meeting of the Charlotte Regional Transportation Planning Organization is this Wednesday. Commissioner Boone will be attending that meeting.

Commissioner Partee

- Pottstown clean-up day is May 20.
- Advocate for gun safety. Huntersville Police Department has free gun safety locks.

Commissioner Munger

- Public Arts Commission met on May 10.
- Wine on the Vine event is May 25.
- Consider supporting local non-profits.

Mayor Bales

- Participating with the Charlotte MTC working group looking at transit and CATS on May 17.
- Next meeting of Affordable Housing Task Force is May 17.
- Expressed appreciation to Parks & Recreation for the successful Hello Huntersville event.

- Lake Norman Economic Development Corporation is currently working a total of 39 projects. Adam Power announced expansion. Application process is ongoing for the advanced manufacturing internship program.

Commissioner Kidwell announced a fundraiser will be held on June 3 at Jack's Corner Tap for 6 year old girl in Huntersville community fighting a disease called vanishing white matter.

Commissioner Munger announced 760 Craftworks has opened in downtown Huntersville.

There being no further business, the meeting was adjourned.

Approved this the 5th day of June 2023.