

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**September 8, 2020 – 6:00 p.m.
Huntersville Recreation Center
11836 Verhoeff Drive**

PRE-MEETING

The Huntersville Board of Commissioners held a pre-meeting at the Huntersville Recreation Center, 11836 Verhoeff Drive, at 5:15 p.m. on September 8, 2020.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Stacy Phillips and Nick Walsh.

Mayor Aneralla called the Pre-meeting to order.

Stephen Trott, Director of Engineering, provided update on NCDOT TIP projects. *Refer to Exhibit No. 1.*

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 Recreation Center, 11836 Verhoeff Drive, at 6:00 p.m. on September 8, 2020.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Stacy Phillips and Nick Walsh.

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

Commissioner Bales

- Lake Norman Economic Development Corporation is currently working 27 total projects. The EDC will be participating in two building tours next week with the Charlotte Regional Business Alliance.
- Update was sent to Board members on where Charlotte-Mecklenburg Schools is at currently with the rubric.

Commissioner Boone

- Provided update on Lake Norman Chamber of Commerce events.
- Several new officers have started with the Huntersville Police Department.
- Olde Huntersville Historic Society will have a non-perishable food drive on September 19.

Commissioner Hines

- NCDOT will present their recommendation for reprioritization of the STIP projects on Wednesday.

Commissioner Munger

- There is a new ice cream shop beside Slice House Pizza.
- Mail-in ballots started going out last Friday.
- Encouraged people to donate to the local non-profits.

Commissioner Phillips

- Thanked everyone for coming out.

Commissioner Walsh

- Announced upcoming Parks & Recreation committee meetings and events.
- Provided update from Huntersville Chamber of Commerce.

Mayor Aneralla noted that a representative from Colonial Pipeline is present to give an update on the spill.

Greg Glaze, Director of Operations for Colonial Pipeline Southeast District, provided update on the Colonial Pipeline spill. Throughout this response our priorities have remained the same – protecting the people with the local community and those who are responding; protecting the environment and making sure we recover product as quickly as possible; restoring the community assets; and maintaining open communication.

We recognize here at Colonial that this release of product in your community has brought concerns to this community and so we are here tonight to make sure that we are addressing those concerns. We want to make sure that we are keeping an open line of communication. To start out with, I want to give an environmental update. But the first thing is I want to make sure everyone understands that we want to assure the community that there has been no detection of petroleum product compounds in any residential water wells. To date Colonial has installed 48 shallow wells, roughly around 30' or so.....29 are monitoring wells and 20 are recovery wells. The 29 monitoring wells surround the impacted area and there are no signs of product in those 29 monitoring wells. Monitoring wells are installed as part of the response and they are used to monitor the product if it moves. This allows us to remove product if we discover product. If we do discover product in any of these monitoring wells, we are quick to respond and we make sure that we immediately start recovering product because we want to make sure that we prioritize the health and safety and we want to make sure that the drinking water wells do not become impacted.

To date we have 20 recovery wells installed and they are actively recovering product at the site. This past week we completed our third round of residential well monitoring and there were no petroleum compounds found in any of those wells. We also continue our weekly sampling of surface waters and once again there were no petroleum compounds found in any of those sectors. To date we have

excavated and removed 798 tons of soil and we still have four active drill rigs on the site. These rigs are still there because we are installing additional recovery wells so that we can aggressively recover product at the site. Colonial has sought permission from local landowners to close active residential wells within 1,500' of the site. I'll restate once again that we are requesting to close those wells, but there has not been any petroleum products found in any of those wells. Closing the wells is really a proactive thing from Colonial and it's really to provide a peace of mind to the local community. This is not a requirement by the state or local government. This is our way of proactively trying to make sure we're doing what's right in a consistent and proactive manner. We cannot force anyone to change their water supply and that's fine by us. You can continue to maintain your water well. We will continue sampling as long as this process goes on.

Our next steps are to continue to work with the local community to make sure that we are providing an alternate means of water supply, if so desired within that 1,500'. We are going to continue to work with NCDEQ and submit an initial abatement report, a site assessment report and a corrective action plan. We are going to supplement our current recovery systems to put in more aggressive technologies so that we can quickly recover product and we are going to submit a 30-day update to the Pipeline Hazardous Materials Safety Administration. And we are going to continue to receive questions and we're going to continue to post updates on our website.

Colonial has been in this community and our folks have worked in this community for over 50 years. We are committed to this response and this recovery. Our people are committed to this community and we are not going anywhere. We are looking forward to working with the local community to address any concerns.

Erin Kohen, 13800 Pavilion Estates Drive, said I really hoped that you would have a bit more to say about the handling of the gas leak and I would like to go on record to say that from what I'm understanding of what Colonial Pipeline is doing regarding trying to cap people's wells, it's kind of like do it now or don't ever do it. This is control and manipulation and the ball is still in their court to answer questions that still are not answered from the last meeting. During the last meeting I asked for somebody to send someone who could answer those questions and Mr. Glaze is back here again. Mr. Glaze, I respectfully ask you to review the questions that our community has stated and asked of you and the next time we get an update we would like and expect those answers to those questions.

Rick Lyke, 15136 Pavilion Loop Drive, said at the informational meeting held at the end of August, Colonial Pipeline received questions from residents concerning the environmental damage done, the safety of our families and the value of our homes. Hundreds of people living near this disaster count on well water for drinking, cooking, bathing, cleaning, irrigation, livestock and other important needs. We've heard from Mr. Glaze tonight. He talked about soil removed. We don't have answers to some critical questions. We understand that Colonial appears to be backing away from the original 63,000 gallon estimate for the spill. There was no update about that tonight. We were told that number is likely to climb. We also understand that there's offers, as Mr. Glaze said, to some residents within 1,500'. Those offers require residents to sign a multi-page release giving up their rights in return for the hook-up to water and a small cash payment which would amount to about 1-1/2 years' worth of water. We find the pressure that's being put on to them to sign this now to be unacceptable. We also would like to know if Colonial will stand behind the pledge that Mr. Glaze, Terry Mock, Angie Coulier, Jeff Titus and others from the company have made about being transparent. They've shown up here tonight, they haven't really given out much information that really tells us much about what's going on with this spill. They didn't exactly, as one resident said, at the last meeting shine when they came to that informational meeting. I don't think they shined tonight either. One question I have for the Town,

there's going to be some of these reports that are filed with regulators. I fully anticipate that they are going to be written by lawyers and engineers. We need another informational meeting once those are filed so that we can get some help and ask some questions about them. We would really appreciate the town holding another informational meeting when those reports are filed. I guess one should be in a few days because it's 30 days out and then there's another deadline of November 14. The last thing that I would like to ask, since that spill happened in the older nature preserve, do we have any information from the county, state or federal government on how long it will take before that place is safe again, if it ever will be. There's a lot of trees that have been taken down, a lot of soil removed. Is Colonial going to have to return that to the state it was before or will the town act to try to get them to require some replacement property, because as you all know, green space in this part of the county is disappearing pretty rapidly and that's a huge resource that we are losing right now.

Shannon Ward, 13835 Asbury Chapel Road, said my well is about 1,350' – 1,400' away from the spill. My family has been there a long time. My third great grandfather was George Oehler for whom the nature preserve is named. In the 1,500' range my family has three houses and three wells that are affected. I just wanted to let you know because I'm not sure that you are getting the whole story, I want you to know what my experience has been. The people from Colonial have been so friendly and so nice and so helpful. All the people that come from the county have been helpful. All the people that have come from the state to talk to us and from the water sampling place have been very helpful. I was very optimistic because of those. On Saturday morning somebody from Colonial came and brought me a contract and said that they wanted to cap my well, hook us up to city water and give us \$1,000. I thought that doesn't sound like a really fair price for me giving up my well that I love....we have the best water ever, in exchange for \$1,000 that won't cover a whole lot of city municipal water, treated water, for our family. I decided I wasn't going to sign the contract. I thought I'm not even going to take it to a lawyer because I know I'm not going to sign it and so I'll talk to the Colonial guy the next time he comes back and tell him that I'm going to need a little bit better offer if I'm going to pay the money to take it to an attorney and have them look at it. If this is the best you can do, I need you to pay for an attorney for me to talk to for them to convince me that this is a good contract. It took me a couple of days to actually pull it off of my refrigerator and read it. When I read it, I was shocked. The first paragraph, in exchange for my city water that I don't want and \$1,000, is that I will allow them to occupy my property as long as they need to with heavy equipment, storage tanks, roads, employees, whatever they need to recover the product and monitor wells that they dig with no compensation to me. I can't hold them responsible for any damages to my property and if it affects my property value, I'm out of luck. I felt like at that moment that they had shown their hand. They told me who they are, and they are not the people that are friendly and want to talk to me about fishing and grandkids and this kind of thing. They have a different agenda. I just wanted you all to be aware of that. At this point I want to cooperate with them because if there is gasoline running in the soil underneath my house, I would like for it to be found and taken care of, but I don't think anybody would think that it was reasonable for me to sign away my rights to my property for \$1,000 and city water or treated water that I don't want in exchange for them to do whatever they want on the property. It's my hope that they never have to come there and I'm sure that that's their hope too, that they don't need my property and they don't need to dig anything and they are going to capture it all and it's fine. But I'm already concerned about my property values independent of all of that. I just wanted you to know while they seem so nice, and they probably are really nice people, they do not have the best interest of the community at heart based on what they are offering us. I expected a low-ball offer because we can negotiate. This isn't low ball. This is offensive.

Vince Geramonti, 15120 Pavilion Loop Drive, said Terry Mock of Colonial said three things when you put it out. Number 1, that the regulators will dictate the clean-up process to ensure that my water is safe. Number 2, the regulators requested 1,500' testing of the wells. Pavilion Loop Drive is 3,000'. Number 3,

data will drive the decision. In my day job I manage \$2 billion in stocks around the world and data drives my decisions. But within the data, you have to differentiate between noise and signal. This may not go over well, but here is my first signal, that Colonial will do the right thing. The regulators whose incentives are to be conservative for the safety of our land and the quality of my water said 1,500', but we'll test you at 3,000'. The second positive signal came in the August 27 meeting, which I listened to again last night. The first regulator, remember the surface water guy, praised Colonial, explained in steps what they were doing. Other regulators said we will make sure that Colonial meets our standards. Greg Glaze, you're here. I thought he was fine on the 27th and I enjoyed his presentation just now. We are required.....corresponding to Terry Mock's comments to me in my home 8 days earlier by the regulators, the situation is active, it is fluid. When we are confident of our data, we will file a report with the regulators, then it will be made public. I don't want incomplete information. Incomplete information is noise. What I want is to be patient and confident of the data when the data is made public. I'm sorry to hear about the misfortunes of the prior speaker, but after three weeks we have these measuring wells that Mr. Glaze talked about and until Terry Mock comes to pay us a visit to tap my well, this is how I'm handicapping it – a 1 percent chance that my water is contaminated and at the end of the day a 1 percent chance that Colonial will not do the right thing and for you folks that are mathematically inclined and know probabilities, you multiply the two 1 percents together and the odds that I'll be disenfranchised is one in 10,000, because here's the thing, the regulators dictate the process.

AGENDA CHANGES

Commissioner Bales made a motion to flip flop Items 9.A (Consider Adopting an Ordinance to Grant a Franchise for the operation of the North Mecklenburg Construction and Demolition Landfill) and 9B (Consider decision on Petition #ANNEX20-01, a request by Greenway Waste Solutions at North Meck, LLC, to annex 5.47 acres along Holbrooks Road into the Town of Huntersville) – move Item 9.B to 9.A and shift 9.A down to 9.B.

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

Commissioner Phillips seconded motion.

Motion carried unanimously.

PUBLIC HEARINGS

Mayor Aneralla recognized Planning Board members present: Frank Gammon, Catherine Graffy and Derek Partee.

Mayor Aneralla called to order public hearing on Petition #TA20-01, a text amendment application requested by the Huntersville Planning Board to amend Articles 7.2, 7.4, and 12 of the Huntersville Zoning Ordinance to modify the required tree save mitigation requirements.

Brad Priest, Principal Planner, entered the Staff Analysis into the record. *Staff Analysis and PowerPoint attached hereto as Exhibit No. 2.*

Mr. Priest explained in 2019 the Planning Board noticed that mitigation requests were on the rise. More trees were being removed from sites than intended in the ordinance. The Planning Board formed a Tree Mitigation Committee to encourage mature tree save rather than mitigation and improve tree canopy in the community.

Mr. Priest reviewed the current tree save requirements in different zoning districts. The different zones have different percentages. The Tree Committee met through the summer and fall of 2019. The recommendation from the committee includes:

- Increase the mitigation to 100 percent of the caliper (from 30 percent).
- Define a "Specimen Tree" as 18" caliper tree down from a 24" caliper tree (to match "significant tree").
- Allow a maximum of 50 percent of trees to be used for tree mitigation.
- Require Zoning Ordinance plantings to be from the approved species list.

Commissioner Walsh said if I had a piece of property and it's heavily wooded, then I have an open area, I can chop down the trees but then plant in the buffer area.

Mr. Priest said that's correct.

Commissioner Walsh let's say I didn't have them in the buffer area, or I needed to put them in the buffer area for the buffer requirement, is that why staff is saying they don't have to be in the buffer area.

Mr. Priest said that's correct. You could plant the buffer and then just completely have very little tree save mitigation requirement.

Commissioner Walsh said what was the thinking for the recommendation to stay at 24" caliper.

Mr. Priest said the thought process of the committee was in order to preserve canopy in Huntersville to drop it down because the trees are worthy of being saved.

Commissioner Walsh said but you guys are recommending staying at 24".

Mr. Priest said if the desire is only to deal with mitigation and leave the tree save requirements alone, because if we change the definition of a specimen tree, then indirectly we're increasing the save tree requirement for specimen trees.

Commissioner Hines said I'm trying to recall, sometime ago we talked about this and I was at the Huntersville Ordinances Advisory Board meeting – take, for example, you have a one acre site, heavily wooded, Highway Commercial and it abuts up against somewhere where you need a buffer. Would there be a mechanism if you take it down based off Planning staff's recommendation to 0 can be planted in the buffer, with a small one acre, two acre site.....with the landscaping ordinance that we already have, let's say there's no additional room to plant those additional trees, would there be a mechanism where those trees could be planted in the buffer.

Mr. Priest said in the buffer on the site.

Mr. Hines said on the site, yes. I guess they couldn't contribute to the tree fund anymore.

Mr. Priest said yes, they could, it's just the amount of double dipping, so what we are proposing is to separate the requirements to count those buffer trees as mitigation trees, so what they could do if they don't have any room, the buffer is the only place, they planted the buffer now there's no room in the site to safely plant trees, yes that option is available to take that number of trees, do the calculation and

take the funds for those plantings and contribute them to the tree fund bank rather than planting them on site.

Commissioner Hines said and they haven't made a recommendation or changed that, because right now is it \$350 a tree.

Mr. Priest said it's market value.

Commissioner Hines said how much money do we have in our tree fund bank now.

Mr. Priest said right now the total is \$55,000.

Commissioner Hines said and what do we do with those funds.

Mr. Priest said we are in the process of looking for projects right now. What staff is looking to do and what I would like to see done is to use those funds perhaps for street trees, for new road improvements, new road projects and perhaps also schools, Parks & Rec Department plantings, to be able to put areas where trees would be put on public spaces.

Commissioner Munger said in regards to the tree fund bank, was there any consideration given to modifying the amount that was paid to the tree fund bank for tree mitigation.

Mr. Priest said that's essentially what's happening because the only time that someone is going to contribute to the tree fund bank is like was mentioned earlier, when there can't be a requirement on site. The requirement is basically if you take the mature trees down, the first option is you don't give us any funds, you just count up the calipers and you replace those trees on your site. That's the first step and that's the first desire. It's not a fee in lieu of. It's basically you plant the trees on site, but what you do is if there's no room and the trees wouldn't last, they wouldn't be healthy, then you calculate how much would it cost to plant the trees that you are required to plant somewhere else and you get a cost estimate of market value – if one landscaping company will do it for \$350, you know you've got your brother-in-law he can do it for \$250, well then that's great. We'll accept that when you take that estimate and take the money and put it in the tree fund bank in order to plant it somewhere else in the community to build up that canopy in the future years.

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

Petition #TA20-02. Mayor Aneralla called to order public hearing on Petition #TA20-02, a request by Jack Simoneau, Planning Director, on behalf of the Huntersville Planning Board to allow the Planning Board to have control of one deferral with or without applicant consent.

Lauren Speight, Planner I, entered the Staff Analysis into the record. *Staff Analysis and PowerPoint attached hereto as Exhibit No. 3.*

Ms. Speight explained that the current Zoning Ordinance allows the Huntersville Planning Board to defer action on a request two times for one of the following reasons: the public hearing remains open, ordinance required information is not completed, or the petitioner agrees and/or requests a deferral. The Planning Board would like to amend the Ordinance so that one deferral is limited to the current reasons listed and another deferral is not limited to the listed reasons.

Planning staff recommends approval.

Jack Simoneau, Planning Director, added that the intent is if somebody doesn't have ordinance required information after the second time, then the Planning Board just needs to recommend denial, it's not coming in. What this text amendment is doing, at the request of the Planning Board, is if all those three boxes of those first things are already met but there still is a number of changes that are being asked and needed for the Planning Board to make a recommendation of approval, the Planning Board just wants the option to be able to recommend that case be deferred for one more meeting and give the applicant one chance to get the rest of those things cleaned up and in order.

Frank Gammon, Planning Board, said I would just like to add it's not specified in this, but it's implied because of procedure, that it's not the Chair of the Planning Board saying we are going to defer this. This requires a motion, it requires discussion, it requires a vote by members of the Planning Board. A recommendation of a deferral could be voted down by the Planning Board itself.

Commissioner Bales said I just want to be very clear this does not add to the scope for the Planning Board, what this does do is give a little bit of flexibility. Is that correct.

Ms. Speight said that's correct.

Commissioner Hines said the way it's written, I'm kind of having a little concern. Hypothetically, could the Planning Board, it's a long meeting, they get to another thing and their just tired. Could they defer it and not give a reason, because it says here may defer action on a request one additional time, not limited to the reasons listed above. There's three specific, but now it seems open ended to me. Maybe that won't happen, but could it.

Mr. Simoneau said I've been here 20 years and the Planning Board has never just said I'm kind of tired, I just need to defer. It just doesn't work that way. You would replace the Planning Board members if they did those kinds of things. If you feel more comfortable if there was language in there for reasons stated specifically as to why, we can add that in there if that's your desire. That's what will happen anyways.

Commissioner Hines said it just seems a little bit open ended to me. I think something like that would be a little more helpful for me anyway.

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

Petition #TA20-07. Mayor Aneralla called to order public hearing on Petition #TA20-07, a request by The Barnes Real Estate Co., LLC to allow 100% attached houses in the Highway Commercial zoning district on one lot or a combination of lots that are less than or equal to 3 acres net of any SWIM Buffer. The maximum density is proposed to be limited to 10 units per acre net of any SWIM Buffer and the Building Lot Types would comply with Article 4: Attached House.

Commissioner Phillips requested to be recused because her family owns land that could be affected.

Commissioner Boone made a motion to recuse Commissioner Phillips.

Commissioner Walsh seconded motion.

Motion carried unanimously.

Lauren Speight, Planner I, entered the Staff Analysis into the record. *Staff Analysis and PowerPoint attached hereto as Exhibit No. 4.*

Ms. Speight explained that the current Zoning Ordinance allows major subdivisions in the Highway Commercial Zoning District a maximum of 30 percent attached houses, apartment buildings and mixed-use buildings with three exceptions as listed in the Staff Analysis. The Barnes Real Estate Co., LLC would like to add a fourth exception to the maximum 30 percent attached house limit as follows:

(d) With a focus on allowing for infill attached residential development fronting major thoroughfares and boulevards zoned Highway Commercial (HC), the percentage of dwelling units contained in the attached houses is not limited. To qualify, the size of the lot or combination of adjoining lots, at the date of this amendment, is less than or equal to three (3) acres net of any SWIM buffer. Maximum density will be limited to 10 units per acre net of any SWIM buffer and the Building Lot Types would comply with Article 4: Attached House.

The Huntersville Ordinances Advisory Board recommended denial of the proposed text amendment and as outlined in the Staff Analysis, staff also recommends denial of the recommendation for reasons outlined in the Staff Analysis.

Commissioner Walsh said why is it 3 acres. Why not 2 acres. Why not 5 acres.

Donovan Barnes, 15533 Old Statesville Road, said the reason the 3-acre tract was proposed is kind of in line with what she was saying. We wanted to think about the number of properties that would be affected. If you went out with larger plots, we thought that it might not be in line with what the intent was. Tracts as small as 2 acres and 3 acres are pretty limited and with that it decreased the number of exposure and I think that's the reason why I thought about it to be 3 acres instead of larger tract which may not be in line with what the spirit of what you guys were thinking of.

Commissioner Hines said does an applicant/landowner have another option, because doing a text amendment like this affects the entire town. Does an applicant that owns a piece of property in Highway Commercial, do they have any other options coming to us for a conditional rezoning, site plan review – do they have any other options to still accomplish this without a text amendment like this allowing it.

Ms. Speight said the Zoning Ordinance also allows in Highway Commercial Zoning District that you can have one building on one lot that is 100 percent attached.

Commissioner Hines said could you do one row of townhouses that are 10 units connected, is that one building.

Ms. Speight said one building on one lot, yes you could.

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

Commissioner Boone made a motion to let Commissioner Phillips back in.

Commissioner Walsh seconded motion.

Motion carried unanimously.

Greenway Waste Solutions Franchise. Mayor Aneralla called to order public hearing to receive public input on a request received from Greenway Waste Solutions, LLC, and Greenway Waste Solutions of North Meck, LLC, for a new franchise to continue operations of the C&D Landfill located at 15300 Holbrooks Road.

The Town has received an Application for a new franchise to extend the life of the North Mecklenburg Construction and Demolition Landfill located at 15300 Holbrooks Road. The first reading and approval of the ordinance to grant the franchise agreement was at the Regular Town Board Meeting on August 3, 2020. After the public hearing, the Board will have to again vote to approve the ordinance to grant the franchise. *Proposed Ordinance attached hereto as Exhibit No. 5.*

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

Petition #ANNEX20-01. Mayor Aneralla called to order public hearing on Petition #ANNEX20-01, a request by Greenway Waste Solutions at North Meck, LLC to annex 5.47-acres along Holbrooks Road into the Town of Huntersville.

David Peete, Principal Planner, entered the Staff Analysis into the record. *Staff Analysis attached hereto as Exhibit No. 6.*

Mr. Peete noted the property owners, Greenway Waste Solutions, LLC have filed a petition to consider voluntary contiguous annexation pursuant to North Carolina General Statutes Section 160A-58.1. The Board of Commissioners adopted a Resolution of Intent to Annex on August 17, 2020. The proposed area to annex is 5.47 acres. All statutory requirements have been met. Staff recommends approval.

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

Petition #ANNEX19-04. Mayor Aneralla called to order public hearing on Petition #ANNEX19-04, a request by EPCON Eastfield Road, LLC, to annex 35.908 acres (Courtyards at Eastfield Road Subdivision) into the Town of Huntersville.

David Peete, Principal Planner, entered the Staff Analysis into the record. *Staff Analysis attached hereto as Exhibit No. 7.*

Mr. Peete noted the property owner, EPCON Eastfield Road, LLC, has filed a petition to consider voluntary, non-contiguous annexation pursuant to North Carolina General Statutes Section 160A-58. The Board of Commissioners adopted a Resolution of Intent to Annex on August 17, 2020. The proposed area to annex is 35.908 acres. All statutory requirements have been met. Staff recommends approval.

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

OTHER BUSINESS

Petition #ANNEX20-01. Petition #ANNEX20-01 is a request by Greenway Waste Solutions at North Meck, LLC, to annex 5.47 acres along Holbrooks Road into the Town of Huntersville.

Commissioner Walsh made a motion to approve Petition #ANNEX20-01, a request by Greenway Waste Solutions at North Meck, LLC, to annex 5.47 acres along Holbrooks Road into the Town of Huntersville.

Commissioner Bales seconded motion.

Motion carried unanimously.

Annexation Ordinance attached hereto as Exhibit No. 8.

North Mecklenburg C&D Landfill Franchise. The Town received an Application for a new franchise to extend the life of the North Mecklenburg Construction and Demolition Landfill located at 15300 Holbrooks Road, Huntersville, NC. All franchises must be adopted at two regular meetings of the Town Board. The Board approved the first reading on August 3, 2020. This is the second reading.

Commissioner Walsh made a motion to adopt Ordinance to Grant a Franchise for the operation of the North Mecklenburg Construction and Demolition Landfill, 15300 Holbrooks Road.

Commissioner Bales seconded motion.

Motion carried unanimously.

Ordinance attached hereto as Exhibit No. 9.

Petition #ANNEX19-04. Petition #ANNEX19-04 is a request by EPCON Eastfield Road, LLC, to annex 35.908 acres (Courtyards at Eastfield Farm Subdivision) into the Town of Huntersville.

Commissioner Boone made a motion to approve Petition #ANNEX19-04, a request by EPCON Eastfield Road, LLC, to annex 35.908 acres (Courtyards at Eastfield Farm Subdivision) into the Town of Huntersville.

Commissioner Phillips seconded motion.

Commissioner Hines noted that he recused himself from this project when it was approved last year and questioned if that would have any impact on this.

Karen Wolter, Town Attorney, stated there was not a problem.

Motion carried unanimously.

Annexation Ordinance attached hereto as Exhibit No. 10.

Salem Ridge Road Traffic Calming. Stephen Trott, Director of Engineering, reminded the Board that two options for speed humps were presented at the public hearing in August. Option 1 included five speed

humps and Option 2 included four speed humps. The vast majority of citizens are in favor of Option 1.
Refer to Exhibit No. 11.

Commissioner Boone made a motion to approve Option 1 of the traffic calming option presented for Salem Ridge Road in Skybrook.

Commissioner Hines seconded motion.

Motion carried unanimously.

The Hills Subdivision Sketch Plan. The Hills Subdivision Sketch Plan was heard as quasi-judicial. A transcript of the proceedings prepared by Westmoreland Reporting, Inc. is attached hereto as Exhibit No. 12.

Action Taken: Commissioner Walsh made a motion in considering the evidence presented regarding The Hills subdivision sketch plan, the Town Board finds the application is complete, the sketch plan complies with all applicable requirements and there is consistency with adopted public plans and policies of the 2030 Community Plan, including Policy ED-2, E-3, T-5, T-6, T-7, T-8 and TF-2. The application complies with all requirements of the ordinances. This decision is supported by the findings of fact set forth by the staff in the Staff Report. Town Board approves the following: The block length modification request is approved finding that it will reduce stream crossings and result in an arrangement of lots and public space more consistent with Articles 5 and 7. The landscape median modification request is approved in the interest of public safety. Town Board approves the subdivision sketch plan contingent on all other plan comments are addressed.

Commissioner Hines seconded motion.

Motion carried 5 to 1, with Commissioner Boone opposed.

Hill Street Phase 2 Subdivision Sketch Plan. The Hill Street Phase 2 Subdivision Sketch Plan was heard as quasi-judicial. A transcript of the proceedings prepared by Westmoreland Reporting, Inc. is attached hereto as Exhibit No. 13.

Action Taken: Commissioner Boone made a motion to approve based on the application being complete, with a condition that all minor site plan comments be addressed. The sketch plan complies with all applicable requirements, including the 2030 Community Plan and Policies H-1 and H-9, development pattern focusing on high-density development generally within two miles of the I-77 and NC-115 corridor.

Commissioner Hines seconded motion.

Motion carried unanimously.

Vermillion Front Subdivision Sketch Plan. The Vermillion Front Subdivision Sketch Plan was heard as quasi-judicial. A transcript of the proceedings prepared by Westmoreland Reporting, Inc. is attached hereto as Exhibit No. 14.

Action Taken: Commissioner Walsh made a motion in considering the evidence presented regarding Vermillion Front subdivision sketch plan, the Town Board finds the application is complete, the sketch

plan complies with all applicable requirements, and there is consistency with the adopted public plans and policies of the 2030 Community Plan, including Policy H-1, H-9, E-2, T-5, T-6, T-8, CD-5 and PF-2. The application complies with all requirements of the ordinances. These decisions are supported by the findings of fact set forth by staff in the staff report. The Town Board approves the subdivision sketch plan contingent on all minor site comments are addressed.

Commissioner Bales seconded motion.

Motion carried with five (5) yes votes (Commissioner Hines was recused).

Petition #SUP20-01. A Special Use Permit hearing on Petition #SUP20-01, an application for a Special Use Permit to operate a banquet facility at 14418 NC 73 in the Rural zoning district, was heard as quasi-judicial. A transcript of the proceedings prepared by Westmoreland Reporting, Inc. is attached hereto as Exhibit No. 15.

Action Taken: Commissioner Walsh made a motion in considering Petition #SUP20-01, NC 73 event venue, we the Town Board find that the request meets all required conditions and specification, 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. The decision is supported by the following findings: the request meets the Zoning Ordinance criteria of Article 3.2.1 and Articles 9.59.1 through 9.59.11 as described in the staff findings of fact included in the Staff Report. The Town Board approves the petition contingent upon approval of the stormwater plan by the Huntersville Engineering Department and approval of the driveway connection to NC 73 by NCDOT.

Commissioner Phillips seconded motion.

Motion carried unanimously.

Petition #MBS20-01. An evidentiary hearing on Petition #MBS20-01, an application from the Hope House for a multi-building site at 15604 Northcross Drive, was heard as quasi-judicial. A transcript of the proceedings prepared by Westmoreland Reporting, Inc. is attached hereto as Exhibit No. 16.

Action Taken: Commissioner Walsh made a motion in considering Petition #MBS20-01, the Hope House multi-building site, we the Board find that the request meets all required conditions and specifications as reasonable and does not impose an injurious effect on adjoining properties and finds that the effect on the character of the neighborhood or the health, safety and general welfare of the community will be minimized. The decision is supported by the following findings: the application meets the submittal requirements and review process for multi-building sites within the Huntersville zoning jurisdiction as outlined in Section 6.800 of the Huntersville Subdivision Ordinance. Specifically, the application has met the preliminary plan requirements of Section 6.820, elevation standards as stated in Section 6.830, as described in the findings of fact included in the Staff Report. The Town Board approves the petition contingent on all minor recommendations being addressed following a formal staff review of the submittal site plans.

Commissioner Hines seconded motion.

Motion carried with five (5) yes votes (Commissioner Phillips was recused).

Proposed Electric Rate Modifications. Anthony Roberts, Town Manager, stated ElectriCities did a Cost of Service study to look at the rate structures for the various classes. That Cost of Service study determined that we needed to do some rate adjustments and what you have before you tonight, which you actually saw at the public hearing back in August, is a couple of those rate modifications to the industrial service rate. Staff recommends moving forward. *PowerPoint Slide attached hereto as Exhibit No. 17.*

Commissioner Hines made a motion to approve the proposed rate modifications to the industrial Huntersville ElectriCities' customer. Commissioner Boone seconded motion.

Motion carried unanimously.

Senator Marcus/Representative Clark Letter. Commissioner Bales stated it was brought to this Board's attention through a public records request that Senator Marcus and Representative Clark had sent a letter to our Board of Adjustment members, as well as our Planning Director, Mr. Simoneau. It also showed that they copied Ms. Warner from Community School of Davidson, along with Sheriff McFadden of Mecklenburg County. We would not have known about the letter had there not been a public records request that then triggered us being notified of said public records request and the issue really isn't about per say the topic, if you will, of the Board of Adjustment and the Broken Arrow Shooting Range, it has more to do with the fact that this Board was not copied and no one from their office or themselves reached out and had conversations with us about it. What I would like to do is send a letter, because while we all, each and every one of us, had the opportunity to pick up the phone and call, which I have spoken with Representative Clark, I think that sending the letter where we are speaking with one voice carries more weight. *Letter attached hereto as Exhibit No. 18.* We know this evening after doing five quasi-judicial hearings the importance of having the facts presented to the Board and not having hearsay or opinion and I feel it is very important that we open the lines of communications. This is a non-partisan board. We need to have open lines of communications with our representatives and it's very important that we continue to reach out and reaching out collectively through this letter I think makes the most sense. I also think that it's important to send this letter publicly and reading it out here so that our Board of Adjustment understands that we recognize the issues that the letter may have impacted them because they did receive it to their personal e-mail addresses, but that we responded appropriately and respectfully with the letter that we are sending.

Commissioner Munger said I did a lot of research related to quasi-judicial based on the fact that we were having all the hearings tonight and that we were putting together this letter. One of the things that I ran across was something out of Coates Cannon, UNC School of Government. Legally, the Board must base its decision on competent material and substantial evidence in the record. But in practice as a result of the process, the record may include incompetent material or insubstantial evidence. So, what do we do with all of the insufficient evidence. Do we strike it from the record. No, insufficient evidence may remain in the record, but may not be the basis of the quasi-judicial decision. Quasi-judicial boards must adhere to the procedural requirements of constitutional due process, but boards are not required to follow the strict rules of evidence that apply in a courtroom. Some informality is allowed for the quasi-judicial Board. As such, courts allow that the inclusion of some insufficient evidence as part of the record is not a due process violation. One of the questions I have for our attorney at this time is what should the Board of Adjustment do with that letter.

Karen Wolter, Town Attorney, said they should disregard the letter. It was never entered into evidence.

Commissioner Munger said is that what they did.

Ms. Wolter said I'm under the assumption that is what they did. I didn't participate in the hearing.

Commissioner Munger said additionally, I passed on to Commissioner Bales last Friday six questions I had specifically related to this letter. At this point I don't have answers for them and that's very troubling to me, so I just want to read the six questions I had.

1. What, if any, citation to statute or any other official document that an ex parte letter from elected officials to a quasi-judiciary board is improper, unethical or inappropriate?
2. Can you provide a legal opinion of the matter from the UNC School of Government?
3. If neither of these are available, how about the attorney or high up official in Mecklenburg County? Can either of them provide any legal citation?
4. It is my understanding that a complaint has been made with the Ethics Commission and that the Ethics Commission has not made a ruling whether the complaint is valid or not. Should we not wait to hear this ruling prior to proceeding with any action?
5. It is also my understanding that an additional party submitted a letter to the Board of Adjustment. What, if any, actions will we be taken against that party?
6. What, if any, precedence exists for the Town of Huntersville in writing this letter? Have we done this before? If so, can you provide documentation to that effect or links to where I might find it.

The point is, in quasi-judicial, as you saw tonight, there are a number of people who want to express their opinion. It is incumbent upon the Board, in this case the Board of Adjustment, to only look for the facts, but as I stated before, it is not a due process violation for someone to express their opinion or say something to a board even if it's a quasi-judicial matter. With that being said, I absolutely will not support this letter.

Commissioner Bales said if I may, Commissioner Munger, yes I did receive your e-mail about 12:30 on Friday and unfortunately trying to get answers to those questions on Labor Day weekend was a little bit challenging. I will say that I did find a few answers for you. In regards to additional parties submitting a letter, I have talked with the Town Clerk and cannot find any additional letter, so unclear where that came from but it's my understanding this was the only letter that had been submitted to the Board of Adjustment outside of the purview of the quasi-judicial hearing. In regards to if this has ever happened before, I can only state, and I did follow up with the Town Clerk, but I can state that in my tenure I have never seen a state elected official weigh in on a quasi-judicial hearing. In addition to that, I believe there has been open lines of communication and this is not an indictment about due process or the quasi-judicial piece in and of itself with this letter, it has more to do with the fact that the lines of communication had broken down. They have broken down and frankly if the role had been reversed, I think their expectation should be that we would respond to them and cc'ing them on our comments to their board. The Board of Adjustment needs to be able to work free of influence. I think that is very important. In the almost 9 years now that I have served, we have always had open lines of communication with our state representative and that's been regardless of party affiliation. We are a non-partisan board and we need to do our part to continue to build better lines of communication with our representatives and I think that's a piece that I'm happy to own and say I need to work harder at those lines of communication, but the fact that we were not at the very least cc'd on the letter I find troubling and like I stated earlier, we could each individually call and have these conversations, but if we have learned anything out of Ethics Training, we speak with one voice collectively and there's more weight to that collectively and that's the reason why I feel it would be appropriate to send a letter. I do not think the letter is scathing in any way, shape or form. I think that it's simply let's communicate better.

Commissioner Munger said I do understand where you are coming from. Obviously, I would hope that the lines of communication with our state representatives and state senator obviously are more open. This to me is a terrible way to try and jumpstart that. There are far better ways than putting this out in public. This should be a conversation we should invite them to one of our town meetings to have them address the board to be able to have that communication, to understand what they are trying to do for Huntersville. I almost guarantee they would jump at the chance to speak to our board and to be able to have that communication. We could possibly even have a special meeting to bring them in, express what we would like to see from them so that they can understand specifically and that would be a fantastic way to start this conversation. Putting a letter like this together to jumpstart communication is absolutely the wrong way to go about this.

Commissioner Phillips said I'm the second on this, but the thing is I represent 65,000+ people of Huntersville. While one of our representatives does live in Huntersville, she's one of 65,000 people. I think tonight we really showed how seriously we take quasi-judicial, if we agree with it or not, but at the end of the day I feel that our Board of Adjustment was put in precarious situation where 2/3 of the people in the NCGA that represent the Huntersville area put some type of pressure directly or indirectly and that's a very danger precedent that I do not want to look forward to in the future. I think by saying please don't do this, it's not a slap on the wrist, it's not being ugly. We are protecting our Board of Adjustment and our citizens. My whole thing's been while I'm here I'm going to make sure when I leave that I leave the town in a better situation and it's not political. It's about respecting the 65,000 people that we represent.

Mayor Aneralla said I did reach out to both Senator Marcus who is an attorney and Representative Clark who works for a law firm. I expressed to them both my displeasure because when you send something on state senate/house letterhead, there's a certain intimidation factor. I believe my conversation with Ms. Clark went much better than Ms. Marcus, but I do believe that we do need to say you should have called, you should have not sent this letter. At least three attorneys I have spoken to all said it was inappropriate at a minimum for them to send this letter.

Commissioner Bales made a motion that we send this letter to our representatives in Raleigh and in addition to sending the letter I would like for us to also set up an opportunity for us to whether it's a Ring Central call to start putting forth the opportunity to build relationship.

Commissioner Phillips seconded motion.

Motion carried 4 to 2, with Commissioners Munger and Walsh opposed.

Commissioner Bales I think it would be better for the signatures of everyone simply because the whole point was for us to speak as one voice.

CONSENT AGENDA

Settlements of Litigation Report. Commissioner Hines made a motion to accept Report of Settlements of Litigation approved in Closed Session. Commissioner Phillips seconded motion. Motion carried unanimously. *Report attached hereto as Exhibit No. 19.*

Call for Public Hearing – Petition #R19-18. Commissioner Hines made a motion to call a public hearing for Monday, October 5, 2020 at 6:00 p.m. at Huntersville Recreation Center, 11836 Verhoeff Drive on Petition #R19-18, a request by Cambridge Properties, Inc. to revise the +/- 25.6-acre Huntersville Market

Conditional District Rezoning located north of the Eastfield Road and Prosperity Church Road intersection (Parcel #s: 02119171, 02119172, , 02119170, 02119169, 02119168, 02119173, 02119174, 02119175 & 02119101) from Highway Commercial - Conditional District to Highway Commercial - Conditional District REVISED to permit senior apartments. Commissioner Phillips seconded motion. Motion carried unanimously.

Call for Public Hearing – Petition #R20-03. Commissioner Hines made a motion to call a public hearing for Monday, October 5, 2020 at 6:00 p.m. at Huntersville Recreation Center, 11836 Verhoeff Drive on Petition #R20-03, a request by North State Development, LLC. to rezone +/- 9.947-acre to develop Huntersville Town Center Mixed-Use Conditional District located south of Gilead Road, west of NC 115 and north of Greenway Street. (Parcel #s: 01711616, 01711617, 01711618, 01711619, 01711627, 01711643, 01711699, 01711625, 01711626, 01711632, 01711633, 01711634, 01711637, 01711638, 01711639, 01711640, 01711801 & 01711811) from General Residential, Neighborhood Residential and Town Center to Town Center - Conditional District for a mixed-use development with commercial uses, apartments and townhomes. Commissioner Phillips seconded motion. Motion carried unanimously.

Resolution – Commerce Station Sidewalk. Commissioner Hines made a motion to adopt resolution to award Commerce Station Sidewalk Project. Commissioner Phillips seconded motion. Motion carried unanimously. *Resolution attached hereto as Exhibit No. 20.*

Resolution – 2021 Resurfacing Contract. Commissioner Hines made a motion to adopt resolution to award Town of Huntersville 2021 Resurfacing Contract. Commissioner Phillips seconded motion. Motion carried unanimously. *Resolution attached hereto as Exhibit No. 21.*

Resolution – Gibson Park Phase 1. Commissioner Hines made a motion to adopt resolution to award Gibson Park Phase 1 project. Commissioner Phillips seconded motion. Motion carried unanimously. *Resolution attached hereto as Exhibit No. 22.*

Resolution – Accept Road for Town Maintenance. Commissioner Hines made a motion to adopt resolution to accept Carver Avenue from NCDOT for Town maintenance. *Resolution attached hereto as Exhibit No. 23.*

CLOSING COMMENTS

Commissioner Bales expressed appreciation to the Board and Town Staff for the kindness shown during the death of her father.

There being no further business, the meeting was adjourned.

Approved this the 2nd day of November, 2020.