

**MINUTES
HILLSBOROUGH TOWN BOARD
February 8, 2010
7:00 PM, Town Barn**

PRESENT: Mayor Stevens Tom Stevens, Commissioners Brian Lowen, Frances Dancy, Evelyn Lloyd, Mike Gering, and L. Eric Hallman.

STAFF PRESENT: Town Manager Eric Peterson, Assistant Town Manager/Public Works Director Nicole Ard, Town Clerk/Director of Administration and Human Resources Donna Armbrister, Planning Director Margaret Hauth, Town Engineer/Utilities Director Kenny Keel, Finance Director Greg Siler, Police Chief Clarence Birkhead, and Town Attorney TC Morphis.

Mayor Tom Stevens called the meeting to order at 7:02 p.m.

1. PUBLIC CHARGE

Mayor Stevens did not read the Public Charge but noted it would be followed.

2. AUDIENCE COMMENTS REGARDING MATTERS NOT ON THE PRINTED AGENDA

There were no members of the public who signed up to speak at this time.

3. AGENDA CHANGES & AGENDA APPROVAL

[7:02:35 PM](#) Commissioner Gering removed from the Consent Agenda Item 9.D, Consider Recommendation to Reduce the Service Interruption Fee from \$75 to \$50, for separate discussion.

[7:03:03 PM](#) Upon a motion by Commissioner Dancy, seconded by Commissioner Gering, the Board moved to approve the Agenda as amended to remove Item 9.D from the Consent Agenda for separate discussion by a vote of 5-0. The motion was declared passed.

4. INTERVIEWS

A. Interview of volunteer to fill vacancy on Historic District Commission

[7:03:43 PM](#) Zachary Read provided the Board with a brief background of his history and interests. He stated he moved to Hillsborough 4 years ago, that he grew up in Chapel Hill, and his mother also lived in Hillsborough. Mr. Read stated he owned a home in the historic district and valued the importance of historic preservation.

Mayor Stevens noted that the Historic District Commission was one of the most interesting and at times the most difficult board to serve on due to its quasi-judicial nature. He welcomed Mr. Read to Hillsborough and thanked him for volunteering.

B. Added Item – Interview of volunteers to fill vacancies on the Margaret Lane Cemetery Committee

[7:05:20 PM](#) Kaylor Robinson provided the Board with some brief information regarding her background and interests. She noted she had been working with cemetery preservation for the last two years prompted by the bulldozing of her great-grandfather's cemetery to make way for an apartment complex. Ms. Robinson said during that process she had discovered an interest in preserving other cemeteries, and believed she would very much enjoy serving on the Margaret Lane Cemetery Committee.

Mayor Stevens said the Town had many cemeteries and welcomed her expertise, and thanked her for volunteering.

[7:07:16 PM](#) David W. McCullough provided the Board information regarding his interests and background. He stated he had been in Hillsborough for 3 years and currently served on the Historic District Commission. Mr. McCullough said that Planner Stephanie Trueblood had mentioned to him that there were vacancies on the Margaret Lane Cemetery Committee, and he had a long interest in older cemeteries and gravestones. He said he had been a member of the Association for Gravestone Studies for a number of years and believed he could contribute to this Committee, noting the Margaret Lane Cemetery was a fascinating cemetery.

Commissioner Hallman noted Mr. McCullough was likely the most accomplished candidate they had ever had for the Cemetery Committee.

Mayor Stevens agreed, noting Mr. McCullough would certainly bring some expertise to that Committee. He welcomed Mr. McCullough to Hillsborough and thanked him for volunteering.

C. Interview of volunteer to fill vacancy on the Water Sewer Advisory Committee

[7:08:53 PM](#) Tony Kubisz stated he had lived in Hillsborough for about a year, and provided some information on his background and interests. He stated in the past he had been a plumber and crew foreman for a municipality near Chicago, so he was very aware of the internal workings and challenges that a municipality faced in terms of water and sewer services. Mr. Kubisz said he had always been civic minded and had been looking for an opportunity to serve, and a friend of his who served on the Committee had believed that his expertise would be valuable to the Water Sewer Advisory Committee.

[7:10:24 PM](#) Mayor Stevens said he recognized Mr. Kubisz from his attendance at past meetings. Mr. Kubisz replied he had attended out of interest.

Commissioner Lloyd asked how he liked living in Hillsborough. Mr. Kubisz said he had traveled throughout the Country and had come through North Carolina many times, and he also

had friends living in Hillsborough who had recommended the Town to him. He said when the opportunity came to move to North Carolina he had felt that Hillsborough was the ideal place to relocate.

Commissioner Lloyd commented that the availability of water was a big issue facing the Town. Mr. Kubisz stated that he and his wife were organic flower farmers and were very conscious of water and environmental issues. He said he believed it was very important for any community to provide clean water and odor-free sewers, and also to keep nearby waterways as clean as possible.

5. APPOINTMENTS

A. Consider appointing Zachary Read to serve a three-year term on the Historic District Commission which would expire February 8, 2013

[7:12:36 PM](#) Upon a motion by Commissioner Dancy, seconded by Commissioner Gering, the Board moved to appoint Zachary Read to serve a three-year term on the Historic District Commission to expire February 8, 2013 by a vote of 5-0. The motion was declared passed.

B. Consider appointing Kaylor Robinson and David W. McCullough to serve three-year terms on the Margaret Lane Cemetery Committee which would expire February 8, 2013

[7:12:56 PM](#) Upon a motion by Commissioner Lowen, seconded by Commissioner Dancy, the Board moved to appoint Kaylor Robinson and David W. McCullough to serve three-year terms on the Margaret Lane Cemetery Committee to expire February 8, 2013 by a vote of 5-0. The motion was declared passed.

C. Consider appointing Tony Kubisz to a four-year term on the Water Sewer Advisory Committee which would expire February 8, 2014

[7:13:30 PM](#) Upon a motion by Commissioner Lloyd, seconded by Commissioner Hallman, the Board moved to appoint Tony Kubisz to a four-year term on the Water Sewer Advisory Committee to expire February 8, 2014 by a vote of 5-0. The motion was declared passed.

6. COMMITTEE REPORTS (*Critical*)

[7:14:40 PM](#) Mayor Stevens stated he had received a letter today from Secretary of Transportation Conti, and DOT had embraced the no-build option for Elizabeth Brady Road.

Commissioner Hallman said they had the opportunity to keep the pressure on to get some kind of response. He said he had talked with the lead planner at the MPO today who said that in his experience this was precedent-setting, in that he could not recall a no-build option ever being selected by DOT. Commissioner Hallman said things were open as to how the Town moved forward, and the MPO planner's suggestion was that the Town try to arrange a meeting with the

Board representative and Mike Mills, and perhaps ask the County to help with that. He said they had some work ahead of them, noting it did not stop just because of DOT's decision.

Mayor Stevens asked Commissioner Hallman if he was willing to take the initiative to arrange a meeting as suggested.

[7:15:42 PM](#) Commissioner Hallman stated he would be happy to, noting he would contact the person responsible for arranging meetings for the County. He said the agenda for the joint meeting had already been finalized, and did not know if this issue could be included at this point.

Town Manager Eric Peterson stated he would send an email to the appropriate person to see if it could be included.

Mayor Stevens said he wanted to commend the Board members, department heads, and everyone else who had participated in the Board's planning retreat, noting it was a very effective meeting.

7. REPORT FROM THE TOWN MANAGER

[7:16:44 PM](#) Mr. Peterson indicated he had no report to offer.

8. DEPARTMENTAL REPORTS

[7:16:50 PM](#) Assistant Town Manager/Public Works Director Nicole Ard stated as a follow-up to the planning retreat, there was a February 26 deadline to submit applications for general appropriations from the House, noting they could also make contact with their Senators. She provided a draft of some of the major projects that had funding needs, and said as they went forward with meetings with the County they wanted to try to move some of those projects forward. Ms. Ard said projects of note were the Wastewater Treatment Plant expansion, the Hillsborough Train Station/Multi-mobile Center, and area roads such as South Churton and the Orange Grove Road and Eno/Mayo roads. She asked that the Board provide her with feedback so that she could meet the February 26 deadline.

Ms. Ard said they understood that there was competition and that funds were limited, so she did not know what would happen. But, she said, this was a small step that would help them potentially secure some funding.

Mayor Stevens said he had discussed the Wastewater Treatment Plant with Congressman Price, so he was aware of that.

[7:18:44 PM](#) Finance Director Greg Siler said that thanks to Sammy Lankford, the Maintenance Supervisor at the Water Plant, and the use of some new sewer camera equipment purchased a few years ago, they had discovered a business that was tied into the Town's sewer system who was not being billed. He said he had faxed to them today a copy of a bill dating back two years when the Town had taken ownership of that line, which was for \$6,300. Mr. Siler from his conversation with that business today, he believed a check would be in hand within 30 days. He added that the business was now being billed properly.

[7:19:54 PM](#) Commissioner Lloyd asked Mr. Keel about the property that would need to be purchased related to the wetlands. Town Engineer/Utilities Director Kenny Keel said he had nothing new to report other than he had a meeting with the Corp of Engineers next week to discuss that. He said they were working out what needed to be done and what the Corp would require the Town to do, and he would report back when he had more information. Commissioner Lloyd asked if he had any idea how much it would cost. Mr. Keel replied not yet. He said they still had around \$250,000 left over from the project that was for those purposes, but he did not yet know if it would be enough to cover what might be required.

9. ITEMS FOR DECISION – CONSENT AGENDA

- A. Consider Approval of the Minutes of the December 14, 2009 Regular Town Board Meeting; the December 14, 2009 Regular Board Meeting Closed Session; the January 11, 2010 Regular Board Meeting; and the January 11, 2010 Regular Board Meeting Closed Session
- B. Authorize the Mayor to Sign a Letter Applying for a Preserve America Grant to Fund \$110,000 of the Wayfinding Sign Implementation, Committing the Town to its 50% Match
- C. Consider Approval of Various Budget Amendments
- D. Removed for Separate Consideration

[7:22:19 PM](#) Upon a motion by Commissioner Lowen, seconded by Commissioner Gering, the Board moved to approve the Consent Agenda amended to remove Item 9.D by a vote of 5-0. The motion was declared passed.

10. ITEMS FOR DECISION – REGULAR AGENDA

A. Consideration of Preliminary Plan for Major Subdivision from Housewright Builders to create 8 lots on a new public road on the north side of Rencher Street

[7:23:04 PM](#) Ms. Hauth said that the applicant had submitted a complete traffic impact analysis which had been provided to the Board. She said the Planning Board had reviewed this application and recommended denial by a 7-1 vote due to the compounding impact of this project on the existing unsafe and congested intersection of Rencher Street and NC 57. Ms. Hauth said she felt compelled to let the Board know that while she respected the findings of the Planning Board, that reason was not well-supported in the evidence received. She noted that several members of the public were present who might wish to speak on this issue.

[7:24:34 PM](#) Michael Neal, the project engineer and representing the applicant, stated that he felt sure the Board remembered his previous presentation, and was available to answer any questions the Board might have.

Mr. Morphis noted that his colleague, Bob Hornik, had asked that speakers be sworn in and he was inclined to continue that process. He noted that if speakers had been previously sworn to speak on this issue, they could state that and it would be sufficient. Ms. Hauth said she knew that Mr. Neal had been sworn in at the previous meeting.

Mayor Stevens said that Mr. Neal would be considered to have been sworn in for the purposes of this meeting.

[7:26:29 PM](#) Commissioner Lowen asked if the subdivision were to be approved, what were the limits that the Town could require since Rencher Street was a State-maintained road, such as signs that read “Children at Play” or something of that sort. Ms. Hauth said the Board could take actions that would remediate impacts of this development, noting that the traffic study submitted by the applicant indicated that there would not be a change in the level of service on the streets from this 8 lot subdivision. She said signs such as Commissioner Lowen had mentioned were done by DOT, and did not know how DOT would feel about such signs being erected without going through its review process.

[7:27:46 PM](#) Commissioner Lowen asked could such a request come from this Board or would it have to come from the residents. Ms. Hauth responded the Board could make the request or the residents could do it, noting DOT considered that to be within the Town’s area of concern. She said she was sure DOT would entertain such a request, or they could ask the applicant to make the request to DOT.

Commissioner Lowen said he understood the residents’ concern and they had clearly spoken about their desire to not have this project, but he also understood that the applicant had the right to do the project based on the zoning. However, he said he had spoken to several residents and business owners and they would like to have signs of that nature posted to hopefully slow traffic. Commissioner Lowen said residents had also voiced their desire to possibly have one school bus pick-up spot that was signed to provide additional safety for the neighborhood children. He said he hoped they could find a way to make that happen.

Ms. Hauth said one thing that had come up in the Planning Board meeting was that because a lot of the issue was creating a gap in traffic so that vehicles exiting Rencher Street onto NC 57 had the opportunity do so safely, it was briefly discussed that if a traffic light for northbound traffic did not allow the opportunity for right turn on red, then that would be of help. She said she did not know if the State would allow that, but the Town could make the request to DOT to see if they would consider it. Ms. Hauth said there was a separate turn lane there so they may or may not entertain the concept because the lane had been put in to facilitate moving traffic.

[7:30:22 PM](#) Commissioner Hallman said the Board had talked about not wanting to fall back on the minimum standards that the State might set, and asked besides doing that did she see other road improvements needed on Rencher other than the intersection that would help alleviate some of the residents’ concerns. Ms. Hauth said in all honesty the intersection needed to be further away from that traffic light. Commissioner Hallman asked about the road itself as you approached the entrance, such as the road width. Ms. Hauth said the road width was standard and adding 80 trips a day was not a significant volume, although the neighbors may be able to tell the difference. She said even if they had a higher standard to impose she was not sure this situation would meet that threshold.

Commissioner Dancy asked if traffic calming devices would help, such as speed humps that would slow traffic. Ms. Hauth said that was something the Town could request from DOT, but she was unsure how DOT felt about such devices on State-maintained streets.

[7:32:15 PM](#) Commissioner Hallman said if the Town could put contingencies on traffic management on a State road. Mr. Morphis said the short answer was no, but what you could do, particularly if the developer was willing to work with the Town and the State, would be to ask the DOT to make additional requirements. But, he said, he believed DOT's answer would be that they had their standards and that was what they wanted abided by.

Commissioner Hallman said in terms of traffic calming devices, could the Town ask to have funds placed in escrow until it was determined if those devices would be acceptable. Mr. Morphis said the Town could ask the developer for whatever it wanted, but if this was indeed a quasi-judicial proceeding then the Board was in a position to place conditions on the developer that were outside the scope of the ordinance. He said when the Subdivision Ordinance talked about conditions; those conditions were to bring a project into compliance with the ordinance. Mr. Morphis said it was his opinion that the Town could ask the developer to escrow funds, but did not believe the ordinance provided the authority to require that.

[7:33:59 PM](#) Mayor Stevens said there were several people who had signed up to speak, and asked if that was appropriate and if there was anything else the Board needed to be aware of. Mr. Morphis said it was within the Board's discretion to allow citizens to speak and for how long. Mayor Stevens asked if speakers should be sworn. Mr. Morphis replied yes.

[7:34:50 PM](#) Tommy Sykes, after having been sworn, stated he was an adjacent property owner to the north. He said that he had no hard evidence relevant to traffic impact studies, but wanted to reiterate that there were two developments in close proximity to this property that had yet to be fully developed, those being Willow Bend directly across from NC 57 and Sterling Farms right across from Cameron Elementary School. Mr. Sykes said that those developments would bring additional traffic to that intersection.

Mr. Sykes said that Mr. Neal and Mr. Knight had been very gracious with residents of the community as far as providing open space, and asked that they attempt to leave as much of the old growth hardwood forest as possible. He said another request was that on that site there was the remnants of an old farmhouse with an open well, and suggested that the Town might want to have Tom Magnuson do a casual walkthrough of the property to evaluate the historical value. Mr. Sykes said he was also interested in what types of houses were planned for the development, including price ranges. He said as far as traffic at the intersection, since the Town had now gone forward with the no-build option for Elizabeth Brady Road he wondered if any of the funds previously earmarked for Elizabeth Brady Road could be dedicated to that intersection.

[7:39:02 PM](#) Patricia Clayton, after having been sworn, stated she lived at 200 Rencher Street and was concerned about a creek behind her house. She said she was contacting the EPA to see what might be done, and asked was the developer going to address that open stream that continued to get larger. Ms. Clayton said the surveyor had indicated the stream was not on private property, so she assumed it belonged to the Town.

Ms. Clayton said the residents were concerned about the traffic on Rencher Street, noting that 8 houses would likely produce 16 cars, and perhaps as many as 20. She said that would present a problem for others trying to back out of their driveways. Ms. Clayton said when visitation or funerals were held on Ms. Parker's property that produced traffic issues as well, noting at times traffic had been back up to NC 57 and when those 8 additional houses were built and occupied the Town would be receiving even more complaints. She said her concerns included the possibility that emergency vehicles would have difficulty when cars were parked on both sides of the road to attend a funeral or a visitation. Ms. Clayton said those conditions also increased the danger to pedestrians, particularly children. She said she had heard that another road would be built to access Fairview, so that would increase traffic in the area as well and the Rencher Street residents were caught in the middle. Ms. Clayton said the children played in the street because there was nowhere else to play, and they frequently played basketball in front of her house. She said they were constantly warning the children to get out of the street when traffic was coming.

[7:44:08 PM](#) Janice Ching, after having been sworn, said her property backed up to this new development. She said she would like to ask the developer about the sort of homes he intended to build, if he had a minimum square foot in mind, and what the price range might be. Ms. Ching said he developer had said he would be happy to entertain questions, and hoped he would be willing to respond to hers.

Debbie Stewart, after having been sworn, said that she was very concerned about the traffic, noting she actually avoided the circle in the mornings and instead took the longer route. She said there had been many close calls, noting that people did not always stop for the buses and she was concerned about the children in that area. Ms. Stewart said she was very concerned about how the new subdivision would affect her property value, and wanted to know the size the houses would be and the expected price ranges. She said she was also highly concerned about the buffer between their homes, and would like more explanation about what would be there.

Ms. Stewart said presently there was a hardwood forest but the trees were very sparse with tall trees allowing you to see through to the other side, and wondered if the builder would be willing to plant some pine trees or something that would provide more of a sound and sight barrier between their properties and this subdivision. Ms. Stewart said that there was a stream in back of the woods, which was quite large and quite long. She said there was a lot of wildlife in that area, and she would be sad to see them go elsewhere.

[7:47:09 PM](#) Commissioner Hallman asked if the stream being referred to was a listed stream. Ms. Hauth said she did not believe so, noting there was a drainageway shown on the map as a dotted line. She said she believed the buffer began where the stream reached the Cameron Estates neighborhood, noting the dotted circle at Lot 5 in the subdivision. Commissioner Hallman asked was that stream seasonal.

Mr. Neal said many years ago when the issue had first come up Orange County had done an assessment, and another assessment had been done when their application had been submitted. He said they had provided paperwork that indicated that was where the stream started, and the regulatory buffer required was shown on the plat that started at the edge of their property. Mr.

Neal said they had been concerned about the drainage coming through and had worked with DOT extensively to design a piping system to carry the water underneath the cul-de-sac that they would construct and transmit it through without causing any upstream impacts.

[7:49:42 PM](#) Commissioner Hallman asked about the drainage across those three lots once it left that piping system. Mr. Neal said that had been reworked and re-piped to carry it down, causing the lots to not be as impacted by the stormwater. Commissioner Hallman asked was the stream seasonal. Mr. Neal replied yes, adding that had been determined by Orange County and there was documentation in the Orange County file to that effect. He pointed out on the map where there would be a pipe installed to assist in that runoff, noting the buildings would be on the far side of that and pipes would be put under the driveways.

Commissioner Lloyd asked where that water would go. Mr. Neal said the same place it went now, which was down into Cameron Estates, with the same velocity and the same flow. He said as to other questions asked by residents, they did not yet know what the size of the homes would be. Mr. Neal said once the developer obtained approval he would then decide what the market point would be that they aimed for. He said he did know that this developer's past projects had been "homes for working people," such as police officers, firefighters, teachers, and the like. Mr. Neal said the short answer was he did not know, and it would be inappropriate for him to speculate further.

[7:51:35 PM](#) Commissioner Hallman said he understood they were speculating, but he was familiar with Mr. Knight's work and asked that Mr. Neal pass the word on to Mr. Knight that the Town would not like to see "snap" houses, such as houses with the garage doors in front in plain view.

Mayor Stevens asked about the comment regarding possible historical value on the property, and asked if they were willing to have an archeologist or an historian assess the property. Mr. Neal said that would be up to the owner, noting they were aware of the well and had plans to remove it and fill it. He said the old farm house was not much more than a foundation. Mayor Stevens said sometimes a survey could be very helpful. Mr. Neal said anything the Town would want to do and had the right to do, they could. Mayor Stevens said that would not be something that was up to the Town but was of interest to the Town. He said they wanted to capture as much archeological history as possible. Mr. Neal said he would pass that request along to the owner.

[7:53:11 PM](#) Commissioner Gering said he had a couple of questions regarding the traffic study. Mr. Neal said their traffic engineer was present who could speak to their analysis and answer questions.

Commissioner Gering said he would like to know the assumptions that were built into the analysis and especially how they included the proposed future traffic from projects already approved but not yet built. Donald Morton, with Morton and Morton Design Services, having already been sworn, stated that the traffic study was based on a 3% growth in traffic per year for a 3-year period. Commissioner Gering said then it did not consider what they knew would be more of an impact than the average growth in the area. Mr. Morton said they took the existing traffic counts and analyzed it for current level of service, and then projected that out at a 3%

growth rate per year for 3 years, and then analyzed the level of service again based on a no-build scenario. He said then they took the traffic generated by the Rencher Oaks subdivision and added that to the projected traffic volumes to give them a maximum amount of traffic once the subdivision was built. Mr. Morton said the analysis showed the subdivision did not affect the level of service.

[7:55:18 PM](#) Commissioner Gering said if he understood correctly, the assumptions did not include anything having to do with future developments already approved for the area and what effects that future traffic would have. Mr. Morton said that was a part of the 3% growth rate. Commissioner Gering asked what the 3% projection area would be valid for, asking would it be valid for south of Hillsborough or some other area. Mr. Morton stated that using the 3% growth rate was industry standard for most traffic impact studies. Commissioner Gering said they knew for small areas not everything was uniform or average. Mr. Morton said there may not be a 3% growth rate, noting it could be only 1% or 2%. Commissioner Gering said if the approved projects were built and the connection to Fairview Park was constructed, they would expect more than a 3% increase in traffic. Mr. Morton said he would not anticipate that based on industry standards. He said the 8 single-family homes planned for Rencher Street would not create enough traffic to change the level of service. Mr. Morton said their analysis had used the ITE equations, which was 102 trips per day instead of the projected 80 so that the worst case scenario was used for the study.

Commissioner Gering said he was questioning the “common sense” analysis that said to him there would be more than a 3% growth in future traffic, and when you considered the impact of those vehicles to Rencher Oaks that could push them over into a higher level of service. Mr. Morton said Rencher Oaks would have very little impact regardless of how much growth takes place in the area, in that the 8 single-family homes would not generate that much traffic.

Commissioner Gering asked what how many trips per day it would take to push that area over into a higher level of service at peak hours. Mr. Morton said that was a difficult question to answer because of the algorithms built into the software used for the analysis. But, he said, the worst case level of service was “C”, and an acceptable level of service used by DOT was “D”. Mr. Morton said that “B” and “C” were very acceptable levels, and that was what their analysis told them. He said if they had a traffic impact of 5% or even 10%, he believed they would still be at a level of “D” or better, and he based that on his professional knowledge after having done a number of those types of analyses.

[7:58:05 PM](#) Commissioner Gering asked what was the Town’s standard of evaluation as far as the level of service of traffic impacts. Ms. Hauth responded they did not have one, noting they deferred to DOT on whether they would require additional improvements at the intersection such as a turn lane to try to accommodate the level of service.

Mr. Morton said with traffic signals it was based on delay time, with stops sign control as an algorithm that incorporated the delay at a stop sign versus a traffic signal. He stated he had a chart with him that provided the breakdown of the different levels of service if the Board would like to see that. Mr. Morton said the ICU level of services of stop sign control went from level of service “A” to “H”, and for signalized intersections it went from “A” to “F”, with F being a

parking lot scenario, “E” being operational, and “D” being acceptable. He reminded the Board that they had just reached level of service “C” with their traffic study so there was room for a lot of growth, and Rencher Oaks would not affect current operation of that intersection.

[7:59:45 PM](#) Commissioner Hallman said regarding buffers, he asked was the interior outline of the lot the buildable area, and would there be a homeowners association. Mr. Neal said the Town’s current ordinance required that you have a minimum frontage at the setback line, and when you were on the radius of a cul-de-sac the buildable area within the building envelope not within the setback was pushed farther back on the lot. He said Mr. Sykes had brought that up at the Planning Board meeting, and they had gone back and adjusted the lot lines so that they could get larger building envelopes allow them to pull the houses further away from the back property lines. He said in regards to buffers and setbacks, they would meet the minimum requirements in the Town ordinance.

Commissioner Hallman asked if the developer would be willing to include covenants that you could not clear cut outside of the building envelope. Mr. Neal said he could pass that request on, but emphasized that they would meet the Town’s minimum regulations.

[8:01:33 PM](#) Ms. Hauth clarified that the areas on the map that were hatched with diagonal lines were the areas set aside for open space and would not be part of the lots, and those areas would be owned by the homeowners association. She said there would be no reason for any clearing to take place on them. Ms. Hauth said in particular lot 4, while it still had a buffer requirement on it due to the difference in lot size, the rear setback would coincide with the land use buffer in the rear of the parcel. But, she said, that would remain part of that private parcel so would be much harder for the Town to regulate and ensure that the trees remained on it.

Commissioner Hallman asked was there some way to enforce the no clear cut. Ms. Hauth said within the open space areas, the answer was yes, but it would be much easier if that was specified as a condition of approval. She said the Board could also specify that as a condition in the land use buffers, but it would be much harder to regulate because once it became private property it would be up to the homeowner.

[8:03:08 PM](#) Commissioner Lloyd asked where the stream was that Ms. Clayton had talked about. Ms. Hauth said she did not know, noting there was only one that showed on plan and it was noted as a dotted line, adding it flowed to the north away from the property.

Commissioner Lloyd asked Ms. Clayton to come forward and point out on the map the stream she was concerned about. Ms. Clayton said the stream Ms. Hauth was referring to was State-maintained and had a pipe through it. She pointed out on the map the stream she was referring to next to the Pearson property.

[8:04:38 PM](#) Mayor Stevens stated that stream was outside the scope of this project. Ms. Clayton said that water came from other properties and flowed beside her property, and her mother had had a pipe installed to protect the house’s foundation and direct the water to the back of the property. She said when the 8 houses were built, it would cause more flooding in that area.

[8:05:26 PM](#) Mayor Stevens said that the open space was not continuous. Ms. Hauth said that was correct, and it was not required to be. She said the Town's ordinance did not envision open space as having any purpose, that it was just open space that was set aside and was not meant to be recreational or anything else.

Commissioner Hallman said the Parks and Recreation Board had pushed for years that any time they had sewer easements that the Town obtain a walking easement along it, and asked was there any reason to look at connectivity out through that cul-de-sac that might connect to something. Ms. Hauth said they could think only of further sewer easements to take it to the streets in Cameron Estates. Commissioner Hallman said then there could actually be a walking trail out through that sewer easement. Ms. Hauth said if they could obtain access on both sides.

Mr. Keel stated that they did not legally have any actual pedestrian access on those sewer easements.

Commissioner Hallman said he was remembering that at one time the Board had talked about every time they had a sewer easement that they ask for a pedestrian easement. Ms. Hauth said that was correct, but they did not do that because it made it very difficult to get the sewer easements. She said that was why they only did that in targeted areas, and this was not one of those targeted areas.

Ms. Ching said she did not understand how you could approve a subdivision without knowing what kinds of houses were planned to be constructed or what the concept for the entire subdivision was. Mr. Morphis responded that what the Town's Subdivision Ordinance covered was the land use and spacing of lots within the property but did not regulate building size. He said the only things the applicant was required to submit were drawings indicating the lot lines and where the building envelopes were located, which were created by the setback requirements. Mr. Morphis said the short answer was that the Town could not require the developer to tell them what kinds of houses they were going to build, noting that even if that information had been offered tonight the Town could not obligate the developer to honor that commitment.

[8:08:58 PM](#) Commissioner Lowen stated that he knew many of the residents on Rencher Street and had talked to them at length about their concerns regarding the impact of additional traffic and its effect on the many children who played in the street. However, he said, in reality they were only talking about 8 houses, and believed that the Town should work with NCDOT to ask them to do whatever was possible to place the proper signage on the street and that the developer should stress to the eventual homeowners that they respectfully reduce their speed, which would allow them to all work together to address those issues. Commissioner Lowen said while he did not want anyone to be hurt he believed the Board should approve the project with the conditions that NCDOT be asked for signage to help slow traffic and that the open areas remain uncut. Ms. Hauth suggested the signage would be "Children at Play", that no right turn be allowed at NC 86, and that other traffic calming measures be considered if necessary. Commissioner Lowen said he would include that NCDOT be asked to consider reducing the speed on Rencher Street from 35 mph to 20 mph.

[8:10:49 PM](#) Commissioner Lowen moved to approve the Preliminary Plan for a Major Subdivision from Housewright Builders to create 8 lots on a new public road on the north side of Rencher Street, with the added conditions that NCDOT be requested to provide the proper signage to slow traffic such as “Children at Play,” that NCDOT consider a no right turn at NC 86, and that NCDOT consider reducing the speed on Rencher Street from 35 mph to 20 mph.

Commissioner Gering suggested a friendly amendment to include that the open space areas remain uncut. Commissioner Lowen agreed.

Commissioner Hallman said the Board had somewhat of a precedent that when they did things like this that they requested annexation, but at the same time water and sewer funds would benefit from not being annexed, so he was just throwing that out as food for thought.

[8:12:14 PM](#) Mr. Morphis said to clarify, the Town could not condition subdivision approval on annexation into the Town, although the Board could certainly ask them to consider it.

Commissioner Lowen said the developer might consider it, noting that had happened in the past with the Red Oak Subdivision. Ms. Hauth said that was because annexation was attached to the water and sewer extension contract, but this subdivision did not require a water and sewer extension contract.

Mr. Morphis said what had been done in the past was if you wanted public utilities you could require annexation, but in this case you could certainly ask.

Mayor Stevens said it was an interesting concept, but at the same time he would be worried about providing police and fire protection.

Commissioner Lowen said it would create even more traffic because then garbage trucks would need to access the neighborhood.

[8:13:34 PM](#) Ms. Hauth said the applicant had just brought to her attention that in the open space area closest to Rencher Street where the creek was located, there was some infrastructure that would need to be placed in that open space area. She said the applicant wanted to make sure that infrastructure would be accommodated even though the Board was asking for no cutting in the open space.

Commissioner Gering said he would view that as an administrative decision. Ms. Hauth said then the motion should be no cutting to the extent reasonable based on the plans approved.

Mayor Stevens said he believed that would be fine, and perhaps some offsets could be found on some of the other properties where available.

[8:14:31 PM](#) Mr. Neal said they would offer that the unopened right-of-way remain uncut until such time as it was opened as a right-of-way to provide additional open space.

Commissioner Lowen said he would like to see that, and would like to add that as an amendment to his original motion.

[8:15:02 PM](#) Commissioner Hallman seconded the motion, as amended to include that the unopened right-of-way would remain uncut until such time as it was opened as a right-of-way.

Commissioner Gering said he felt compelled to say that he was not happy with this proposal, and believed his vote on it was against his will.

Commissioner Lloyd said she was not happy with it at all because of the number of people in the community that would be impacted. She said she had heard some things tonight that made the project look better to her, but she continued to be concerned about the people who would have to live around it.

[8:16:28 PM](#) The vote was 4-1, with Commissioner Lloyd voting Nay. The motion was declared passed.

B. Consider request from Orange County to rebroadcast BOCC Meetings on the Town's Government Access Channel

[8:16:55 PM](#) Mr. Peterson stated that Assistant County Manager Gwen Harvey had made a request to rebroadcast Orange County Board of Commissioner meetings on the Town's public access channel. He said they did have programming time available, and rebroadcasting the meetings might encourage more viewership. Mr. Peterson said he saw no issue with granting the County's request.

[8:17:46 PM](#) Commissioner Gering said another good reason for doing this was because the only other way citizens had to view these meetings was through a digital channel, and not everyone had digital cable. He said he did not have digital cable, and Time Warner Cable was required by the County's franchise agreement to supply people in Orange County with a digital converter box, but they were not set up to do that in a way that worked. Commissioner Gering said he did not have digital cable, and Time Warner had failed in his case.

[8:18:27 PM](#) Commissioner Lloyd said her only concern was that it would give the Town staff more work to do. Mr. Peterson said he was not aware that would be the case, and believed allowing the broadcast would be an asset. Commissioner Lloyd agreed, but said she did not want to give the Town Clerk extra work.

Town Clerk/Director of Administration and Human Resources Donna Armbrister said it would only require a minimal amount of effort to post it onto the schedule.

[8:19:24 PM](#) Upon a motion by Commissioner Gering, seconded by Commissioner Lowen, the Board moved to approve the request from Orange County to rebroadcast Board of County Commissioner meetings on the Town's Government Access Channel by a vote of 5-0. The motion was declared passed.

[8:19:51 PM](#) Mayor Stevens said one caution was that there was sometimes confusion about what was County and what was Town, and wanted to make sure the labeling used was specific so that it would not contribute to that confusion.

Commissioner Lowen agreed, noting there were many people who did not know, and that indicated how far removed they were from the political process that they did not know who their County and Town representatives were.

C. Discussion of need for possible “Pooper Scooper” Ordinance

[8:20:23 PM](#) Mr. Peterson stated the agenda materials included an email provided by Arsenio Sandoval of the Kenion Grove community articulating his concern about a neighborhood dog. He said Mr. Sandoval had talked with Bob Morotto and Rosemary Summers with the County and determined that the County had no pooper scooper ordinance, and Mr. Sandoval had asked that the matter be brought up to the Town Board. Mr. Peterson said Mr. Sandoval was not present to speak, but the question to the Board was if they wanted to direct the staff to investigate pooper scooper ordinances and alternatives and bring this issue back for consideration, and if so how rapidly they wanted that to happen.

Mayor Stevens asked did Chapel Hill, Carrboro, or other nearby communities have such an ordinance. Mr. Morphis said he did not know about Chapel Hill, but was fairly sure Carrboro did not have one. He said the Town Board had the authority to adopt such an ordinance, and he would be happy to do some investigation to identify some sample ordinances.

[8:21:54 PM](#) Commissioner Lowen said he remembered the Board talking about this subject quite some time ago in regards to the downtown, in that there was concern about people walking their dogs downtown. He said it had been brushed aside and nothing was ever done to address it. Mr. Morphis said if the Board wanted to consider an ordinance they would need to focus on what it would take to enforce the ordinance. Commissioner Lowen said the issues outlined in the materials were valid concerns, noting people at times got into verbal arguments and the issue caused neighbors to not get along. But, he said, the issue was how to enforce such an ordinance. Mr. Morphis said such an ordinance would be similar to a noise ordinance in the way it was enforced. He added he was not sure he was comfortable asking a Police Officer to cite someone unless they had actually observed the dog in the act. Commissioner Lowen agreed.

Commissioner Gering said although he would like to think such an ordinance would have a positive effect, he doubted that it would. He said it basically came down to a conflict between neighbors, and if they wanted to resolve it one neighbor would have to testify against another neighbor in court, and he did not see that happening. Commissioner Gering said he wondered if Mr. Sandoval was present that he would admit to being willing to go to that extent. He said he really did not believe such an ordinance would be enforceable, and getting the Town in the middle of it was not useful.

[8:24:23 PM](#) Commissioner Dancy suggested that the Board ask the HOA management of Kenion Grove to put up pooper scooper signs recommending that residents pick up after their dogs.

Ron Butler said as a former HOA manager his recommendation would be as Commissioner Dancy had suggested, noting there should be something in the restricted covenants for Kenion Grove that spoke to cleaning up after pets. He said if they already had that language then the HOA board already had a mechanism in place to address it.

Mr. Peterson said he would share that information with Mr. Sandoval.

D. Announcement of Receipt of the Bronze Award Certificate of Achievement in Service Efforts & Accomplishment Reporting by the AGA (Association of Government Accountants)

[8:27:00 PM](#) Mr. Peterson stated that last year was the first year they had done a performance report, and a representative of the Association of Government Accountants (AGA) had seen a presentation on Hillsborough's balanced scorecard at a budget conference and had suggested submitting the report for an award. He said they had submitted the report and had won the Bronze award.

Mr. Peterson said last week he had received a call from AGA indicating that they did not usually call recipients to announce awards, but he was calling to let the Town know that Hillsborough had actually qualified to receive their highest award on points, which was the Gold award, but was being awarded the Bronze award only because they had not included in the annual report where the statistics had come from.

Mr. Peterson said several Board members had suggested that staff add a summary page where they recapped the highlights from the annual report, and they had done so and that version had been submitted to AGA, which had won this award. He thanked the Board for that suggestion, noting they hoped to do even better next year.

[8:29:06 PM](#) Mayor Stevens asked that the Public Information Officer do a press release announcing receipt of that award. Mr. Peterson said he would pass that request on.

Consent Agenda Item D. Consider Recommendation to reduce the Service Interruption fee from \$75 to \$50

[8:29:29 PM](#) Commissioner Gering said he had asked that this item be removed from the Consent Agenda for discussion because he wanted to understand what the Water Sewer Advisory Committee's reasoning was for not reducing it more than \$50. Mr. Siler said he had taken his recommendation of reducing it to \$50 to the Water Sewer Advisory Committee and they had supported that. He said his thinking behind that was that the cost to the Town to disconnect and reconnect was just over \$31, but he had asked that the Water Sewer Advisory Committee bear in mind that the Water Department, unlike General Government, was an enterprise business and as such in their financial reporting were treated like for-profit businesses. Mr. Siler said the goal here was to make some profit from the service that they had to perform. He said for most homes when water service was disconnected they made two visits, one to disconnect and one to reconnect. Mr. Siler said in about 10% of the cases they had to make a third and at times a

fourth visit because their policy was that when they connected the water if the water dial did not stop spinning after about 10 gallons then that indicated that water was running in the home somewhere. He said they then had to turn the water back off and leave a door hanger asking the customer to contact the Town so that they could return when the customer was at home. He said they did that to avoid flooding in the home, which had happened in the past. Mr. Siler said all of those factors were behind his thinking in charging more than just what it cost the Town.

[8:31:38 PM](#) Commissioner Gering said he believed Mr. Siler was telling him two things, one of which was that it cost the Town more than \$31 because they often had to go back to a home more than twice. Mr. Siler said that was only in about 10% of the cases. He said for most customers it was two trips. Commissioner Gering said then the \$31 was a round trip, for a disconnect and reconnect, and sometimes there was more than just a reconnect. Mr. Siler said that was correct.

Commissioner Gering said the issue that bothered him was that they wanted to make a profit from people who were struggling to pay their bills. Mr. Siler said if you looked at it in that sense, in his view everything that the Town did to provide water was for profit, and that was so that funds were available when things came up unexpectedly. He said those things would include wear and tear on facilities, and if you did not run it like a business for profit, then you would find yourself years later with no funds to maintain or replace the system. Mr. Siler said a case in point was that they had a sewer facility that would need a major overhaul and the Town had not yet exhausted the process of identifying where they would get the millions of dollars needed.

[8:34:12 PM](#) Commissioner Gering said he understood the point in general, but it did not translate for him that every possible service that the Town performed needed to make some profit. He said in particular, this kind of fee was onerous to people who were struggling to pay their water bills. Commissioner Gering said he understood that the impact on the water/sewer fund was non-trivial, but his response would be that they had to find a way to recover that money in other ways with other services rather than in this particular area.

Mayor Stevens said to restate that, the reconnection should pay for itself and should not be a profit center.

Commissioner Gering said that was exactly right, noting it was a fair thing to recoup their costs and perhaps charge even more than the \$31, but to build into the equation the idea that the Town was going to profit in order to build future capital projects was a problem for him.

[8:34:52 PM](#) Ron Butler, a member of the Water Sewer Advisory Committee, stated that one of the things Mr. Siler had provided to the Committee was a breakdown based upon different municipalities, and it seemed that the lowest was around \$25 and Hillsborough was the highest. He said they had then looked at \$40 to \$50 as a mid-point not so much as a profit seeking venture but because of the possibility that it may take two, three or even more trips to perform a reconnect. Mr. Butler said after discussion, the Committee had settled on \$50.

[8:36:05 PM](#) Commissioner Gering said his idea of comfort was an area that the Town Board felt was policy. Mr. Butler said the bottom line was it was the Town Board's decision.

Commissioner Hallman asked if a large percentage of the disconnects and reconnects came from non-payment of bills. Mr. Siler said they were all from non-payment.

Commissioner Lowen asked was there a way they could charge what the service cost, but add on an additional fee only if an additional trip or trips had to be made back to the house. He added he understood that might mean more work for staff, but he fully understood Commissioner Gering's point. Commissioner Lowen said the goal was to reduce the fee to a reasonable amount, and if only 10% of the time they had to make multiple trips then that customer should be charged an additional fee. He said at this point he would be more comfortable with a fee of \$40, and if more than two trips were necessary then an additional fee could be added. Mr. Siler said the fees were added at the close of the last business day the bill was due, and it would be more work in that they would then have to go back and do an adjustment to the account. But, he said, it was possible to do that.

[8:38:16 PM](#) Mr. Peterson said there was not a right or wrong answer, in that it came down to how the Board viewed it. He said the term "enterprise fund" did not necessarily mean making a profit, but it should be run like a business and you should be able to run surpluses, or profit, to build that fund up. Mr. Peterson said the beneficiary of the system would be the owners, which were the citizens. He said he believed a simple solution would be to consider that 10% added to the cost, to take into account the 10% of times that additional trips were necessary, would bring the cost up to cost to around \$35, and then factor in fines that were sometimes placed to encourage or discourage behavior. Mr. Peterson said \$35 might be appropriate, but the Board might want to increase that somewhat to provide incentive for people to pay their bills on time.

Mr. Siler said what they were doing was industry standards, in that those that could not pay got hit multiple times. He said the Town's system was the same, in that if you did not pay your bill by the 25th you got a 15% late penalty. Mr. Siler said if you asked was that fair to people who were already struggling, the answer would be probably not. But, he said, it was the only system they had in place.

[8:40:28 PM](#) Mayor Stevens said he was present at the Water Sewer Advisory Committee the night this was discussed, and the discussion had been based on Mr. Siler's recommendation that the fee be set at \$50 and whether than fee made sense or not, which was a different conversation from what the fee should be. He said he was sensing from this Board that they would likely be more comfortable with \$35 or \$40.

Mr. Butler said the Advisory Committee had believed that \$40 was a workable number based upon the figures provided by Mr. Siler and compared to other municipalities, and the fact that it required additional manpower to have to make return trips to a home.

Mayor Stevens suggested they consider \$40, noting they all agreed that \$75 was too high. He said he believed that would be in keeping with the spirit, noting that he would rather the fees be more reflective of the costs and that fines be used as a proper incentive.

Commissioner Lowen asked how much work it would take to change the fee. Mr. Siler said it would require only a software adjustment, in that they would need to recode what the disconnect penalty would be.

[8:42:25 PM](#) Upon a motion by Commissioner Dancy, seconded by Commissioner Gering, the Board moved to reduce the Service Interruption fee to \$40 effective March 1, 2010 by a vote of 5-0. The motion was declared passed.

Mr. Peterson thanked Mr. Siler for his work, noting the research he had conducted had made the issue easier to understand. Mr. Siler noted that he believed the Water Sewer Advisory Committee planned to re-evaluate the 15% penalty, and would likely have some recommendations before the new fiscal year.

Mayor Stevens stated that the Water Sewer Advisory Committee was very thorough in its work, and their efforts were very much appreciated.

E. Discuss “Hot Topics” for the February 22, 2010 Monthly Workshop

[8:45:24 PM](#) Upon a motion by Commissioner Dancy, seconded by Commissioner Lloyd, the Board moved to cancel the February 22, 2010 Workshop by a vote of 5-0. The motion was declared passed.

Mayor Stevens reminded everyone that the State of the Town address was scheduled for February 23 at the Senior Center at 7 p.m.

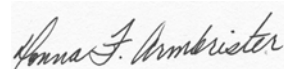
11. CLOSED SESSION

A. Closed Session as authorized by North Carolina General Statute Section 143.318.11 (a)(6) regarding Personnel Matters

[8:46:43 PM](#) Upon a motion by Commissioner Lowen, seconded by Commissioner Dancy, the Board moved to go into Closed Session by a vote of 5-0. The motion was declared passed.

12. ADJOURN

Upon returning to Open Session, and upon a motion by Commissioner Gering, seconded by Commissioner Dancy, the Board moved to adjourn at approximately 9:45 p.m. by a vote of 5-0. The motion was declared passed.



Respectfully submitted,
Donna F. Armbrister, MMC
Town Clerk

9.B

February 6, 2010

Mr. Hampton Tucker; Chief, Historic Preservation Grants
Preserve America Grants
National Park Service
1201 "Eye" Street, NW
6th Floor (ORG. 2256)
Washington, DC 20005

Dear Mr. Tucker:

This is a letter of support for the Town of Hillsborough's grant application under the *Preserve America* program. The Town of Hillsborough is a Certified Local Government and has applied for the *Preserve America* Community designation.

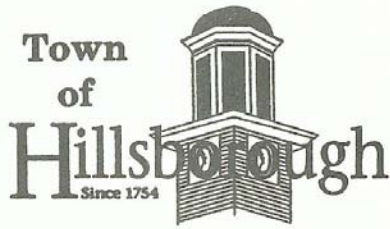
Our grant request is to support the town's efforts to install a wayfinding signage system to assist residents and visitors in our historic community. We have realized, with our growing heritage tourism program that many of our most highly treasured sites are difficult to locate and that coordinated comprehensive signage will greatly enhance visitor's experience of our town.

During 2008, the community developed a Wayfinding Signage Plan and Design Manual in coordination with our local branding efforts and redesign of the municipal and Visitors Center websites. The plan calls for the fabrication and installation 78 signs. The town has already supported the planning effort with \$35,000 of design fees as well as significant staff time. The Town has further committed \$115,000 of matching funds for this grant and intends to implement the project over the next two years. Orange County has agreed to finance the portion of signs that advertize Orange County resources, committing \$47, 661 in repayment.

The Town looks forward to working closely with the Advisory Council on Historic Preservation and the *Preserve America* program to implement this necessary tourism improvement in our community.

Sincerely,

Tom Stevens
Mayor



9.C

BUDGET AMENDMENTS
February, 2010

<u>GENERAL FUND</u>	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
1. Expenditures			
10-30-5550-5400-910 Fleet Maint. - Debt/Fleet Maint. Building	\$ -	\$ 56,100	\$ 56,100
10-30-5550-5700-730 Fleet Maint.- Capital/Motor Pool Design	<u>135,454</u>	<u>(56,100)</u>	<u>79,354</u>
	<u>\$ 135,454</u>	<u>\$ -</u>	<u>\$ 135,454</u>

To fund FY10 debt payments on the new fleet maintenance facility

2. Expenditures			
10-10-6200-5300-155 Parks and Rec - Maint./Fairview Park	\$ 29,250	\$ (12,000)	\$ 17,250
10-10-6200-5300-156 Parks and Rec - Maint./Gold Park	<u>10,638</u>	<u>12,000</u>	<u>22,638</u>
	<u>\$ 39,888</u>	<u>\$ -</u>	<u>\$ 39,888</u>

To fund re-grading and re-seeding/planting of the Gold Park field

Gold Park/Riverwalk Phase I

3. Revenue			
65-00-3850-3850-000 Interest Earned	\$ 5,358	\$ 9,092	\$ 14,450
65-70-3980-3980-200 Instalment Loan	<u>1,100,000</u>	<u>126,000</u>	<u>1,226,000</u>
	<u>\$1,105,358</u>	<u>\$ 135,092</u>	<u>\$ 1,240,450</u>

Expenditure			
65-10-6200-5700-720 Construction	<u>\$1,250,000</u>	<u>\$ 135,092</u>	<u>\$ 1,385,092</u>

To increase Gold Park's budget to match revenues received

APPROVED: on 02-08-10 by 5-0 vote

VERIFIED: Donna F. Armibrister
 Donna F. Armibrister, Town Clerk