

MINUTES
Board of Commissioners Monthly Workshop
October 27, 2008 at 7:00 P.M.
7:00 PM, Town Barn

Town Board Members Present: Mayor Tom Stevens, Commissioners L. Eric Hallman, Mike Gering, Frances Dancy, Evelyn Lloyd, and Brian Lowen.

Town of Hillsborough Staff Present: Assistant Town Manager Nicole Ard, Town Clerk/Director of Administration and Human Resources Donna F. Armbrister, Planning Director Margaret Hauth, Utilities Analyst Julie Vance, Public Works Supervisor Ken Hines, and Town Attorney Bob Hornik.

Orange County School Board Members Present: Superintendent Patrick Rhodes, Chair Dr. Stephen Halkiotis, Vice Chair Tony McKnight, Chief Operating Officer Dr. George McFarley, and Board Members Debbie Piscitelli, Anne Midenblik, and Susan Hallman.

Tree Board Members Present: Chair Phil Ray and Joe Rees, and recently appointed member Liz Waters who would soon be seated on the Tree Board.

PUBLIC CHARGE

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

1. OPEN THE WORKSHOP

7:03:15 PM Mayor Stevens called the Workshop to order and welcomed members of the Orange County School Board and the Hillsborough Tree Board.

2. Agenda Changes & Agenda Approval

7:03:17 PM Planning Director Margaret Hauth added an item to receive direction related to a Code Enforcement issue at 133 E. King Street as Item 6.A.

Utilities Analyst Julie Vance added a Resolution for a Grant to be applied for related to a contaminated well and extending a water line. She said there was one change to the resolution, in the third paragraph, in that the Division of Water Quality should be changed to the Division of Health and Environmental Health/Public Arts Supply Section. Ms. Vance noted the grant amount included plumbing fees and hiring a contractor.

Commissioner Gering asked if the timing of the grant would collide with their increasing the capital facility fees next year. Ms. Vance replied it would not, adding the grant application had to be sent in by Wednesday in order to allow time for the application to be reviewed. She said if

for some reason they did not receive the grant, the Town would not be obligated to fund the work.

Upon a motion by Commissioner Dancy, seconded by Commissioner Lloyd, the Board moved to approve the resolution by a vote of 5-0. The motion was declared passed.

[7:07:05 PM](#) Upon a motion by Commissioner Dancy, seconded by Commissioner Gering, the Board moved to approve the agenda as amended to include new Item 6.A. by a vote of 5-0. The motion was declared passed.

3. Committee Updates and Reports

There were no committee updates or reports offered.

4. Joint Meeting with the Orange County School Board and Town Board

- **Opening Comments by Mayor & Chair**

[7:07:39 PM](#) Mayor Stevens again welcomed the members of the School Board, noting there were several issues to be discussed.

[7:08:19 PM](#) Dr. Stephen Halkiotis, Chair of the Orange County School Board, said that on behalf of the School Board he wanted to thank the Town Board for inviting them to attend and allowing them the opportunity for an information sharing session. He pointed out that Board Member Eddie Eubanks was not present this evening due to a family illness. Dr. Halkiotis stated that Board Member Treybull was representing the Board in a somewhat official capacity at a meeting this evening where the issue of an airport was being discussed, where he would have an opportunity to speak with Senator Ellie Kinnaird. He stated they did not have taxing authority, and had gone on unofficial record to say they were not interested in having taxing authority. Dr. Halkiotis said so, they may be in position to lose some liability protection they had had with the State for many years, and they were trying to defend themselves against that loss.

Dr. Halkiotis then introduced School Superintendent Pat Rhoades and the members of the School Board in attendance.

Mayor Stevens introduced members of the Town Board in attendance, and Assistant Town Manager/Public Works Director Nicole Ard introduced Town staff present.

- **Update on Anticipated Development in the Hillsborough Area (Planning Director Margaret Hauth)**

[7:11:35 PM](#) Ms. Hauth displayed a map of Hillsborough and its surrounding areas, and provided an update on anticipated development in the Hillsborough area:

- ◆ Areas shaded in light grey and dark grey were the Town's jurisdiction, noting that Churton Grove was outside both of those areas.

- ◆ County projects in Town included the County offices downtown and the Justice Facility expansion.
- ◆ Town projects included the park project on Dimmocks Mill Road for Gold Park.
- ◆ Many projects were not residential in nature so would have no impact on schools.
- ◆ Habitat project in northern Fairview had 18 single-family lots completed last year on Tuliptree Road; 7 additional lots were now under construction and had been annexed into the Town; Habitat was in the process of acquiring additional lots within the Fairview community, with the help of HOME funds being used to extend sewer to those lots on Tuliptree and Locust; these were existing lots so no CAPS (Certificates of Adequate Public Schools) were issued.
- ◆ Willow Bend subdivision on NC 57 included 16 single-family lots with one occupied home and another under construction; this new subdivision was approved after the CAPS ordinance went into effect, so those homes had been issued CAPS.
- ◆ Kenyon Grove just behind the County Agricultural and Planning Building on Revere Road contained 55 single-family lots; KB Homes was now the developer; there were about 30 homes either complete or under construction; this was the only subdivision in the city limits that had lots and were created prior to CAPS, so those lots had been grandfathered in under the old ordinance.
- ◆ Corbinton Commons under construction across from Abundant Life Church on US 70; age-restricted development with no one under the age of 18 living there, so no CAPS required; eastern portion of the site had approval for a CCRC (Continuing Care Retirement Center) with Duke Wellness as a partner; infrastructure currently under development; CCRC regulations required significant pre-sale and pre-leasing, so it may be many years before construction actually began.

[7:15:44 PM](#) Dr. Halkiotis asked who assumed the cost for the tremendous infrastructure being installed at Corbinton Commons. Ms. Hauth responded the developers. She continued her update:

- ◆ Riverbend Phase II on US 70A across from Eurosport; contained 12 single-family lots with CAPS now under review; site was annexed into the city limits and it would create another access point from Tuscarora Drive from US 70A so that school buses would now be able to go down Tuscarora Drive without having to turn around.
- ◆ Waterstone had been in place for some time and approvals were still in place and recently extended for the 134 single-family homes and the 128 townhomes in the two northern-most sections of the property; Durham Tech was already located there and was open; construction expected to be underway by July 2009; CAPS not yet secured; Little School recently approved to be located there as a day care facility; a third road connection opposite Lafayette Drive expected to be under construction in April 2009; community park near the traffic circle near completion.
- ◆ Eno Haven proposed to be near the Sportsplex and the Hospice; it would have access to US 70A; would be an elderly rental development so no CAPS required; mix of one and two-bedroom units; combination of affordable tax credits from the State and County Housing Bonds approved for that project; property annexed into the city limits.

- ◆ Bellevue Mill project was a renovation of the old fabrics building on South Nash Street; proposed to be 85 apartment units using a variety of tax credits including those for historic mills and Brownfields; CAPS need to be secured.
- ◆ Boone-Collins project was withdrawn in December of last year; Town acquired 20 acres on the northernmost portion of that site where the HYAA ball fields were located; lease had been signed extending agreement with HYAA for use of the ball fields.
- ◆ Regarding the market, there were about 40 lots available in the planning jurisdiction; still had significant number of approvals on the books, unchanged from 2007, with only about 25 to 30 permits for new homes issued last year; the Town had issued as of October 1st more permits than was issued for all of 2007, indicating the market in Hillsborough remained strong; over 400,000 square feet of non-residential space either newly completed or under construction; six lots under construction in Meadowlands and an equal number on Mill Stone Drive that were new business or businesses that were growing or expanding.
- ◆ Tables were displayed that showed how the CAPS worked, indicating how figures were laid out to indicate where they were with each of the three levels of schools: how many students they had, how many students they were projected to have, what the capacity was of each school, and at what point in the future might they need to start talking about a new school.

[7:22:54 PM](#) Debbie Piscitelli said two developments currently had families most likely with children. Ms. Hauth stated that was Willow Bend and Kenyon Grove.

Commissioner Hallman stated he wanted to touch briefly on the joint effort on the Kenyon Grove plan with the County. He stated the first phase was complete and during that phase they had looked at where the logical boundaries for providing services outside of Hillsborough might be, which they had pulled back in from the line of possible extension. Commissioner Hallman stated they were now in the second phase that was being called a local agreement initiative, working closely with the County looking at areas around Hillsborough and deciding who should have planning jurisdiction over them. He said if you took Hillsborough's boundaries and extended two miles from the boundaries, you would encompass about 20,000 acres, so if you developed those 20,000 acres to the one unit per acre requirement that would equate to about 40,000 more people around Hillsborough. Commissioner Hallman stated that was a shocking realization, and they needed to work with the County in regards to planning for density and control over that area as it developed. He stated they were six months to a year from getting something before the Board of County Commissioners and developing Interlocal agreements that would define where Hillsborough logically had zoning or planning jurisdiction and where the County did, as well as where there was overlap. Commission Hallman said it was important for planning purposes to note they were still encouraging more residential growth north and south of Town as far as school placement, and then more growth likely towards the east and west where there was a protective watershed.

[7:26:26 PM](#) Commissioner Gering said at the last joint meeting they had discussed the need for land banking and other creative arrangements to accommodate new school locations. He wondered if there were any plans for new schools, noting that looking at the figures there did not seem to be a need for new school capacity at this time.

Dr. Halkiotis responded at present he knew of no plans for a new school, noting the School Board had discussed capacity but not new schools even though there were a couple of schools at or above capacity.

Commissioner Gering asked how they generated their growth projections.

Dr. Halkiotis stated a study was done several years ago that anticipated school population based on planning models. He said those models had been fairly accurate, although some had complained that the CAPS had not really controlled growth but had only made sure that schools came on line accordingly to take care of the growth that was already planned. Dr. Halkiotis said they had talked about asking Mr. Benedict to make another presentation to the School Board, who in the past had pointed out that the big growth area was along US 70 heading towards Efland, which was where a significant amount of growth was taking place in the County's jurisdiction and that was where the new middle school had been sited.

[7:29:34 PM](#) Anne Midenblik stated she had been struck by the number of elderly, assisted living and/or age restricted development mentioned by Ms. Hauth. She wondered if there could be some planning or coordination possibly with a future elementary school built jointly with some kind of elderly facility, noting that in the past such coordination had been very successful. She said that the elderly had the love, time and patience to work with children and volunteer at elementary schools.

Ms. Hauth provided some additional information about the models, noting there were about seven used by the County and were checked each year against the hard data. She said there was an annual report produced each year, and if one of the models was not doing a good job in predicting then the staff had the ability to recommend that the County Commissioners follow a different model or to average two or three of the models to get a closer match.

[7:31:11 PM](#) Commissioner Hallman asked how far out did they plan for new schools. Dr. Halkiotis responded for an elementary school they needed at least a three or four year window.

Commissioner Hallman stated one of the models he was familiar with was that used by the MPO for traffic analysis, and assumed that was one of the models referred to. Ms. Hauth said actually that had not been tied into the schools generation rate, but they probably should compare the two to see how similar or different they might be. Commissioner Hallman stated they were in the middle of a 2035 Transportation Plan, and those numbers indicated another 1 million people in the Triangle area in the next 20 years, so they clearly would need new schools.

Dr. Halkiotis stated any assistance would be appreciated by the School Board, noting the cost of building schools had skyrocketed over the last few years. He said a new elementary school in the past had cost between \$9 and \$10 million, but today you were looking at close to \$20 million, \$35 to \$40 million for a middle school, and \$50 million and up for a high school. Dr. Halkiotis said the School Board would accept any help, particularly with land costs. He applauded the Town for purchasing the 20 acres at the Collins property, noting it was a wise investment.

Ms. Piscitelli commented that two areas to keep an eye on were Mebane and Carolina North in Chapel Hill. She said people who worked in those areas could very well decide to live in Hillsborough and other parts of the County, and that should be kept in mind as they looked at issues regarding schools.

[7:34:35 PM](#) Mayor Stevens said part of the Town's Strategic Growth Plan looked at where new residents would live, and they had also realized that there were limits to that growth due to the Town's limited water capacity. He said under their current capacity study the Town likely had a capacity of 1,900 homes left, so they were not talking about a huge number of homes. Mayor Stevens said they had seen a lot of interest in combining playgrounds or multi-use facilities, and there had been openness from this Board to look at different models while looking into the future, and would like those kinds of discussions to continue.

Dr. McFarley stated when the Boone-Collins property was being looked at for redevelopment that was the first time the School Board had looked at a non-traditional style school for a small parcel of land, and they were prepared to entertain that kind of idea.

Commissioner Gering said the Town knew that growth was limited by their water capacity, but if growth occurred in the County outside of their city limits, it seemed likely there would be children attending school at a facility supplied by Hillsborough water. He said he was not sure to what extent they needed to be concerned about their own water model in planning for future capacity for institutional use.

- **Update on Nash Street Sidewalk Project (Assistant Town Manager Nicole Ard)**

[7:37:51 PM](#) Ms. Ard provided an update on the Nash Street sidewalk project:

- ◆ Planning had been in process for several years.
- ◆ Highest priority was to provide walkability and a safe access route to Town from the neighborhoods as well as a link to neighborhoods.
- ◆ The sidewalk was currently in the design phase.
- ◆ The project would provide sidewalk and curb and gutter over 8,000 linear feet, which amounted to over three miles.
- ◆ The sidewalk would link the Fairview neighborhood going from Fawcette Mill Road, crossing the highway, coming down Revere Road, and bringing you to Nash Street.
- ◆ Links had been added for both elementary schools as well as a connection to the new Gold Park, the upcoming Riverwalk, and Allison Street.
- ◆ Design would include feedback gained at a community meeting held in February, comments from the Tree Board regarding tree preservation, and information regarding traffic impacts on the schools, existing businesses and neighbors.

Ms. Ard said that two items that might be of interest to the joint boards was the Safe Routes to School program and the Health and Community Ambassador program. She stated she had included information on both programs with the agenda materials.

[7:42:16 PM](#) Susan Hallman stated she had participated with a group in Town called the Walkable Hillsborough Coalition, and that group had applied for a grant to establish the sidewalk on Nash Street but had been unsuccessful. She said the Town had stepped in and took on that project, and she was very grateful that the Town had taken that on, noting it was a large and expensive project but one that was needed. Ms. Hallman noted the Walkable Hillsborough Coalition had experienced some success with the Safe Routes to School program, having received a grant award this past summer.

Commissioner Hallman asked if they had an update on the pedestrian overpass to Grady Brown, noting there was suppose to be a feasibility study that was moving forward. Ms. Ard responded that engineers were looking at an overpass over Highway 70, and they would be coming back to the Board with those findings and those findings would likely require them to make improvements to the intersection.

Ms. Ard also noted that funds had been received through the efforts of Commissioner Hallman and Ms. Hauth from the Regional Planning Organization as well as funds through the efforts of Representative Bill Faison, which would be incorporated into the funding for the project.

Mayor Stevens asked what kind of timeline they were looking at. Ms. Ard stated likely 12 months, noting that once they got more input from the community as well as the Tree Board, they would bring it back to the Town Board.

Mayor Stevens thanked Ms. Hallman for her kind words, noting they all struggled with funds and resources. He said the Town believed this project was a great investment in order to connect neighborhoods, schools, and parks.

- **Update on Town's Efforts to Get a Public Access TV Channel (Assistant Town Manager Nicole Ard)**

[7:49:57 PM](#) Ms. Ard provided an update on the Town's efforts to get a Public Access TV channel:

- ◆ The Town had requested Time Warner Cable to honor the terms of their Franchise Agreement which provided the Town with a local government channel, solely dedicated to Town government issues.
- ◆ They would start out with a Town bulletin board, but in future if funds became available and the Board decided to move in that direction they would consider videotaping Board meetings for rebroadcasting and having other kinds of video offerings.
- ◆ The bulletin board would include information on services, scheduling, emergency information, and other information.
- ◆ Initial estimates received from Action Audits indicated the cost would be about \$12,000.
- ◆ The Town was aware that the School Board would like to participate in the use of the access channel in some way.

Mayor Stevens stated the Town Board's thinking was that if they invested in the channel there did not need to be a separate channel for the schools, the County, and the Town.

Dr. Halkiotis stated he believed the School Board would be interested to having a discussion about that in one of its work sessions. He stated any way they could collaborate on something like that and lower the cost, then that would be a great opportunity that should not be allowed to slip by. Dr. Halkiotis stated he believed the estimate was very reasonable.

Tony McKnight stated he believed that was an avenue the School Board had discussed in the past, which was to have a bulletin board that would provide better access to the community about what was going on in the school system. He said he would look forward to having that opportunity.

Mayor Stevens suggested having the respective staffs work together to figure out how to move forward with that.

- **Identify/Discuss Potential Future Collaborative Efforts**

[7:52:46 PM](#) Commissioner Lowen stated that several years ago there had been discussion about the possibility of expanding the School Board's offices downtown, and asked was that still on their radar. He said he knew they had needed additional space for many years.

Dr. Halkiotis stated they had not had that discussion but expected that they would at some point. He said he believe they had lived up to their commitment to move the alternative school setting from where it had been located to the A. L. Stanbeck School. Dr. Halkiotis said that more space would be on a future agenda for discussion at a work session, and how they might interface with the Town on that issue would be of interest. He stated his personal opinion was that nothing would ever be built at the present site, noting he had heard it referred to as "sacred ground," and he did not believe people would be pleased to see a large edifice rise at that particular location. Dr. Halkiotis stated they did need space, noting the current facility could not house all the people working for the Orange County School System in a support capacity, of which many of those positions were mandated by law.

Ms. Piscitelli remarked that they had limited finances and they were focused mainly on how to better the schools and increase student achievement. She said that meant that space needs would always come second, and the result was that support staff was disbursed throughout all the schools. She said when a school got close to capacity those staff had to be shipped off to another school. Ms. Piscitelli stated it was not very efficient when you were constantly moving staff around trying to find working space.

Commissioner Lowen said they fully understood those issues, but added that the longer they waited, the more expensive it would be. He stated the County would be vacating some space and he believed the School Board, the County, and the Town needed to collaborate on how that space could best be used and how it could be effectively shared.

Dr. Halkiotis stated he believed that issue should be at the top of the collaboration list.

Orange County School Superintendent Patrick Rhodes stated it would possible for the Town to use school auditorium space when meeting space was needed.

Tree Board Chair Phil Ray noted that from an architectural standpoint, the School Board's educational building at the end of King Street may be one of the finest brick buildings in the State.

5. Joint Meeting with the Tree Board and the Town Board to Discuss a Possible Tree Ordinance Rewrite

• **Opening Comments by Mayor & Tree Board Chair**

[8:03:19 PM](#) Mr. Ray introduced himself and the other members of the Hillsborough Tree Board. He noted that Liz Waters was also present, who had recently been appointed to the Tree Board but who was not yet seated.

• **Discuss Possible Tree Ordinance Rewrite**

Mr. Ray stated the Tree Board had worked many hours on the Tree Ordinance in an effort to clarify and better define the ordinance. He then described a few of the major suggested changes:

- ◆ The Tree Board for some time has had only five members, which had caused problems with achieving a quorum. They were recommending that the Tree Board membership be increased to seven members, making it possible for occasional absences but to still achieve a quorum.
- ◆ Under the Penalties section, they were recommending raising the ceiling from \$1,000 to \$2,500. They based that recommendation on the true cost of doing business as well as the true value of trees and their replacement costs.
- ◆ The Tree Board had tried to clarify exactly what the definition was of a Town tree, which was defined as trees and shrubs that were on Town property as well as what was located on what was usually considered rights-of-way.
- ◆ Quite a few minor changes were also recommended for clarification or to correct errors.

Joe Rees commented that he would like to place a particular emphasis on the education of the value of trees to the Town, both monetarily and environmentally, and language related to that was also recommended for inclusion in the ordinance.

Ms. Waters stated they had brainstormed some ideas on how to educate the general population, and hopefully as more people became familiar with the ordinance and the Tree Board it was their hope that private tree owners would come to the Tree Board for advice on how to care for their trees.

Mayor Stevens stated what was being suggested was that the Tree Board would take on the responsibility of educational projects.

Ms. Waters responded yes, noting one idea was to include a brochure in the water bills, distribute information during Hogg Day, Last Friday events, and at the Farmer's Market, as well as other ways.

Mr. Ray stated they were also considering distributing brochures produced by the ISA (International Society of Agriculture) which had about 20 different educational brochures on subjects such as proper mulching.

8:10:49 PM Commissioner Gering said with these types of projects in mind, was the Tree Board worked into the Town Board's budget cycle so that if they had monetary needs they could be considered during budget deliberations.

Mr. Ray stated the Tree Board's budget had remained about the same for the last 15 years, which generally provided enough funds to handle only dead trees and hazardous tree assessment and removal, and perhaps plant a few trees. He stated that Ken Hines had suggested perhaps earmarking funds for particular projects, or to have a special fund for projects such as at the cemetery or Town Hall.

Commissioner Hallman suggested that he believed the Tree Board could entice the Walkable Hillsborough Coalition into incorporating visits to notable trees into their walks conducted every year as a part of the education effort. He said it appeared they were trying to put more teeth into the ordinance, and asked would it now go to the Planning Board for discussion and a recommendation, and then come to the Town Board for consideration. Ms. Hauth responded the Tree Ordinance was a part of the Town Code, so it would come straight to the Town Board. Commissioner Hallman asked when that was expected to happen. Ms. Hauth said she believed it would be in November.

Commissioner Gering asked would it require a public hearing, and if not required should they hold one anyway. Town Attorney Bob Hornik stated there was no legal requirement to hold a public hearing on it, but if the Town Board believed it was a topic of general interest and that the recommended amendments were substantial enough to warrant a public hearing for public input, then a public hearing would be appropriate.

8:13:13 PM Commissioner Hallman stated with what they had learned from the incident on West Tryon he assumed something had been incorporated into the changes to address such situations, noting he was referring to the issue of the driveway access. Mr. Ray stated the Tree Board had wanted to protect the two significant trees on West Tryon Street, so the property owner's plan for development had been rejected because it would require taking the trees down which were located in the street right-of-way.

Commissioner Gering asked was there language recommended to be included in the ordinance that would clarify or strengthen the ordinance in such situations. Mr. Ray stated it would provide a stiffer penalty if trees were removed or damaged during construction.

Commissioner Gering asked had that particular application been a challenge against the ordinance. Public Works Supervisor Ken Hines stated the challenge was made against the Tree Board's recommendation, which was rejection of the site plan.

Commissioner Gering stated then the ordinance was strong enough to address that situation. Mr. Hines responded that was correct, noting that the Tree Board had made their recommendation and it had been appealed to the Town Board, who had upheld the Tree Board's rejection.

Mayor Stevens stated technically it was the Historic District Commission who had eventually rejected the site plan based on the Tree Board's recommendation. Mr. Hornik stated that site plan application was a "perfect storm," in that anything that could be wrong with it was wrong. He said the contract purchaser and not the current owner was the one who made the application, and the major problems were not with the Town Code but with the lot and the circumstances of the site plan. Mr. Hornik stated there was not much the Town Board could have done that would have changed how that process played out. He said the property owners could have tried to come up with a better plan that would have given the trees a better chance of survival, but because of the way the property was laid out it provided limited opportunities for a driveway. Mr. Hornik stated the method the potential owners had chosen would have impacted several trees, but they were not willing to change their plan.

Mr. Ray stated if the driveway had been placed on the west end of the property, there would have been little problem, but the potential owners wanted that as well as a circle in front of the house which would have encircled the trees and would have eventually damaged the root system. He said basically you could not have their plan and save the trees.

Mr. Rees stated there were suggestions being made to the amended ordinance that might improve the way such situations would be handled in future, including a definition of a "citizen of the Town" because the potential property owners in this case were not residents of Hillsborough. He commented another thing they were suggesting being added was the need for a liaison from the Tree Board to other entities, agencies, and commissions like the Parks and Recreation Board and the Historic District Commission. Mr. Rees stated one of the reasons for that was that they had learned after the fact that the Parks and Recreation Board had plans for sidewalks which the Tree Board would have liked to have had input on how to put in sidewalks without disturbing trees that belonged to the Town. He suggested taking the current Tree Ordinance and comparing it to the "struck through" version being recommended by the Tree Board to note the differences.

[8:20:02 PM](#) Mayor Stevens asked had the Town Attorney read over the changes being suggested. Mr. Hornik stated he had read over it at least once over the summer, but believed some additional minor changes had been made since then.

Mayor Stevens stated they certainly wanted the ordinance to work the way it was intended, and wanted to make it easier for citizens and property owners to be aware of the regulations and of the Town Board's and the Tree Board's mission. He said particularly if the Tree Board wanted to expand to seven members, several of the advisory boards had representatives that served on other boards as a liaison for their board and the Tree Board should consider doing the same.

Ms. Waters stated they understood that when putting in sidewalks there was limited space, but it was possible to do so without removing trees. She said it was their hope that when something like that came along that the Tree Board would be consulted, noting that some trees were more significant than others. Ms. Waters said regarding education, they had also produced a list of

trees that were appropriate to plant and not appropriate to plant so that particularly types were not overplanted or that trees that would grow to be very tall were planted in appropriate places.

Mayor Stevens stated the more such things could be documented the better, and that information was the kind of thing that would be appropriate to post on the Town's Web site. Ms. Hauth asked that information about trees and plants that were recommended and not recommended be sent to her and they would try to figure out the best way to include that information in the Zoning Ordinance. She said the current plant list in the Zoning Ordinance was not as complete as it should be, and having the Tree Board provide that information would be very helpful.

Mr. Ray stated they had spent a fair amount of time on small, medium and large recommended trees, as well as the list for non-recommended trees. He said leaning cypress trees had been off the preferred planting list for some time because of root and health problems. Mr. Ray said Bradford Pears were also an issue, unless you were willing to replant them every 12 to 14 years.

Mr. Rees remarked that one other issue they had discussed was the possibility of a review of private planned developments to see if the Tree Board could perhaps talk with the developer or developer's landscaper to influence them to work in a way that would be compatible with the mission of the Tree Board, which was to preserve and protect the Town's trees and shrubs.

[8:24:15 PM](#) Commissioner Gering stated he would like more discussion by the Town Board on how to proceed with the proposed rewrite of the Tree Ordinance. He said the Tree Board had been working on it for a long while and it appeared to be ripe for consideration of adoption. Commissioner Gering said how quickly they could get to it was perhaps the next question, as well as whether or not it should include a public hearing.

Commissioner Hallman said he knew they had little control on what happened on private property, but it did seem like a good idea to have a survey of notable trees in the Town, particularly considering the one they had lost on Tuscarora Drive. He asked if such a survey was possible of private and public significant trees. Mr. Ray stated they had a survey of trees, but it was only Town trees and that survey was now about 20 years old. He stated the surveys were now done by GIS mapping, and it was not inexpensive. Mr. Ray said in his opinion, someone needed to be made responsible for inspecting those trees, noting there were some trees on particular properties that may not be in the best shape and even some that may be significant trees that were in a location that they could be saved. He said when it came time to development or replant, site appropriate planting, or placing the right tree in the right location, was absolutely what should be done. Mr. Ray stated they wanted sustainable trees that were site appropriate, that could have a long life and could be an asset.

[8:26:27 PM](#) Commissioner Hallman stated if a property owner knew that they had a significant tree that had been identified by a tree survey, then perhaps they would take better care of the tree or if the property were being developed they would make arrangements to save that tree. He asked if that was something the Tree Board would want to be involved in. Ms. Ard stated the Tree Board had generally discussed such a program, noting Raleigh had such a program.

Mr. Hines stated the County Extension Agent had mentioned a “treasure tree” program, so that was something he would follow up on to see how they might have such a program in Hillsborough.

Mr. Ray stated that both Greensboro and Winston Salem had a very good Treasure Tree program, noting they produced brochures with pictures of actual trees that had been identified. He added that Burlington had a similar program.

Mayor Stevens said in terms of input on development projects, if the Tree Board provided a liaison to the Planning Board, that Board looked at all aspects of a development and the liaison could then provide information to the Tree Board about upcoming projects. He stated when those proposed developments went to public hearing, it would be helpful to have comments and recommendations from the Tree Board.

Mr. Ray asked if plats that developers were required to submit to the Town showed utilities on those maps. Ms. Hauth replied yes, but they were not always shown on the landscaping layer. She said combining the grading, landscaping, and utilities on one map made it more difficult to review, but in some ways it made it easier to identify any conflicts.

- **Other**

[8:29:54 PM](#) Mayor Stevens said the question had been asked where they went from here. He encouraged the Town Board to consider a public hearing or a public input session, even though it was not required, prior to it being placed on the Town Board’s agenda.

Commissioner Lowen agreed, noting that having a public hearing or public input session would allow them to spread the information about the purposes and mission of the Tree Board. He said as an example, in talking with people in the Fairview community they did not understand what was meant by right-of-way. Commissioner Lowen said many people in that community believed that the right-of-way was their property, and he believed it was important that residents be educated so they would have a better and clearer understanding of such issues. He said it was important for residents to understand that even though a tree might appear to be in their front yard, if it was in the right-of-way they could not remove it or chop away limbs.

Commissioner Gering agreed they should schedule a public hearing, and wondered if it could be scheduled for the regular November meeting. Ms. Hauth stated that would be possible. Commissioner Gering stated he would not like to delay it until the January quarterly public hearing.

Commissioner Lloyd wondered if people would attend a public hearing about trees.

Commissioner Gering stated he believed people would come if they were interested regardless of when it was scheduled.

Commissioner Lloyd said that once the Tree Ordinance was adopted, she believed anyone who came to apply for a building permit should be provided a copy of it so they would know what

was and was not appropriate. She said hopefully that would prevent trees being removed in the Town's right-of-way.

[8:33:03 PM](#) Commissioner Lowen stated he believed that would be addressed during the educational process that would take place.

Commissioner Lloyd agreed, but believed it was important for as many people as possible to understand the Tree Ordinance and adhere to it. She said there were people who built houses in Town who had no idea the Town had a Tree Ordinance.

Mayor Stevens said he would argue that the Tree Ordinance needed to be considered sooner than later. Commissioner Lloyd agreed, noting it needed to be widely publicized.

Mayor Stevens asked what was coming up on the Town Board's agenda, and could this issue be accommodated soon. Ms. Ard stated that the Riverbend Phase II was coming up.

Ms. Hauth stated until today she had only one item on the November agenda. Mr. Ray noted a public hearing would be one more opportunity to communicate and educate.

Commissioner Dancy suggested putting the proposed revised Tree Ordinance on the Web site to allow citizens an additional opportunity to see it prior to the public hearing. Mr. Rees stated that would be helpful as long as the current ordinance was included so that citizens could compare it to the revised version.

Mayor Stevens stated he believed there was a consensus to get this on the November regular meeting schedule as a public hearing item and to get it advertised.

Commissioner Lloyd complimented the Tree Board on its good work in getting the ordinance updated. Mayor Stevens agreed, noting a lot of hard work and long hours had gone into it.

6. Other

6.A. Added Item: Receive Direction related to a Code Enforcement Issue at 133 E. King Street

[8:36:13 PM](#) Ms. Hauth stated at the September workshop they had conducted the hearing on whether the situation at 133 East King Street was or was not prejudicial to the public health, and after some discussion the Board had determined that it was but said the property owner would have 30 days to complete corrections to the property or the Town could take action to do so. Ms. Hauth said the 30 days had now come and gone, and the property owner had alerted the Town that their contractor was preparing to perform some work. She said they had met with that contractor on site and it was their impression that they were going to put everything back the way it was, but that was not the way the owners had chosen to proceed. Ms. Hauth said they wanted to go through the process to keep the changes that had been made to the property and then do further changes to stabilize the property which could not have been rectified at this point within that 30-day timeframe because the work would require board reviews. Ms. Hauth stated

she was saying tonight that with the change in what the outcome wanted to be, what did the Town Board want to direct staff to do in terms of taking action to correct the situation, or to allow the owner time to address the situation and see whether the public health and safety issues could be addressed with the new proposal. Ms. Hauth said the only thing staff would be doing would be trying to return the property to the way it was, not putting in what the owner wanted to do.

Mayor Stevens said then the owner had changed the plans. Ms. Hauth stated yes, noting it had never been their understanding that the owner wanted to keep the property the way it was. She said it may have simply been a misunderstanding, because they kept coming back to statements such as they did not change the grade, but then how did they explain a pile of dirt ending up in the back yard. Ms. Hauth said she needed further direction from the Board as to how to proceed. She said if there were reviews needed by advisory boards, how would the Town Board like staff to address a situation that had been previously declared a nuisance.

[8:38:50 PM](#) Commissioner Hallman said if they granted another extension, what kind of teeth would they have at the end of that extension to pursue some kind of action to correct the situation. Mr. Hornik suggested granting an extension only if the property owner posted some kind of security to guarantee the work would be done. He said that was the Town's best chance of making sure that something got done, and if it did not then Town funds would not have to be spent to correct the public health and safety issue.

Ms. Hauth asked if an estimate of the work required would need to be provided so that they would know how much security would need to be posted. Mr. Hornik replied if that was the Board's preference.

Commissioner Gering stated the Town should not be left holding the bag on this because it was not the Town's problem. He said it was the owner's problem to follow through on enforcement but the Town should not have to pay to correct the problem. Mr. Hornik said he would prefer using the town's workforce but the property owner's security to get the work done, and having the owner post the money would provide more incentive to correct the problem and get the approvals needed.

[8:40:25 PM](#) Commissioner Gering asked then what would be the Town's proposition to the owner, that they either provide a security deposit for the estimated cost of the work and grant the extension, or, what was the alternative. Mr. Hornik said the alternative was the Town would do the work and the owner would have to pay for it.

Ms. Hauth remarked the Town doing the work was not the owner's desired end result.

Commissioner Gering said that was because the Town would require payment. Ms. Hauth said that was correct, noting it was the Town's intent to take the pile of dirt from the backyard and pull it back forward the way it was, remove the gravel, and secure the wall. She said that was not how the owner wanted things to end up.

Commissioner Gering stated based on the whole history of this property, he did not have any faith that the owner would follow through on anything, even if a security deposit was made. He said he believed the extension would expire, and the Town would use the security to do the same work in any case. Commissioner Gering said in the meantime, they had already made a finding that this was a public health and safety issue that was being delayed. Commissioner Gering said he did not know how justifiable that was. He said it sounded like in any case HDC approval would be needed before they moved forward, and then they would have to get the work lined up and completed. So, he said, they were talking about multiple months. Ms. Hauth agreed, noting the owner had been prepared to move forward with the work today, and had they not met with them last week that work would have been done, but it would not have been resolved the way the Town wanted.

Ms. Hauth said to get through the permitting process, the Town could give them priority. She said assuming things went according to plan it would be the first week of December before they could get through the process.

Commissioner Gering said that was assuming they did what they were supposed to do. He said his position was that it sounded like a waste of money, but in the interest of time and public health and safety he believed they should begin the remedy themselves.

8:43:06 PM Commissioner Dancy asked had she seen the plans of what they wanted to do, and would it fix the problem. Ms. Hauth stated the contractor had orally described to them what they intended to do, but they did not have documentation that it would address the problem because the Town was coming from the standpoint of returning the ground level to the way it was which should put the situation back to the way it was. Ms. Hauth said now that the owner wanted to leave the gravel where it was and haul the dirt off site, the Town needed something that told them that would be acceptable. She said other than hauling the dirt out of the backyard, the owners were not changing anything. Ms. Hauth said obviously they would do something to secure the sharp cut and do something to protect and secure the rock wall. But, she said, from a stormwater standpoint if all they were doing was hauling out the dirt and leaving the gravel where it was, she did not have anything that told her that that would solve the problem. Ms. Hauth said she did not have the confidence level that the work would be done and that the Town would know that the situation was any better.

Mr. Hornik stated there had been two safety issues, the first being the rock wall being cut underneath and the other was the drainage coming between the buildings. Ms. Hauth stated yes, noting that the hole dug for a grease pit would be filled in, which was the simplest problem to solve. Ms. Hauth said some of the stormwater being suffered by the County was not coming from this site, but was coming from the SunTrust lot and other directions. She said so to say they would be addressing the stormwater issues the County was having was not a fair statement. Ms. Hauth said protecting the historic wall and then either protecting the sharp cut with a retaining feature or filling the dirt back in around it so that it did not erode was the other option. But, she said, she had not seen an estimate of cost.

[8:46:38 PM](#) Mayor Stevens said that one option would be to grant an extension and do nothing now; another would be for the Town to restore the property to the way it was, and if the owners wanted to do something they would have to go through due process.

Commissioner Gering stated that option would include the owners paying the cost. Mayor Stevens agreed. He said they could give the owners time to go through due process with some clarity of the Town's expectations.

Ms. Hauth said it may be conceivable, although not highly probable, that if the Town got the owner, the grading contractor, a representative from Erosion Control, and the Town all in the same room to discuss the issue, they may then get a full understanding that the way it was may or may not be the best end resolve.

Commissioner Gering asked why go to all that trouble. Ms. Hauth said because she would prefer that people understand why they were being made to do something, and perhaps would not do it again if there was complete understanding of the situation. She said it was conceivable that they could find some middle ground that addressed the safety issues, somewhere between putting it back the way it was and leaving it the way it was now, which may or may not need a review.

[8:48:55 PM](#) Commissioner Gering said that Ms. Dwyer knew the deadline was 30 days, and nothing happened. Ms. Hauth said Ms. Dwyer proceeded to hire a grader to do the work, but she was still not certain it was understood that the work being planned required review.

Mayor Stevens said he had some frustrations, but in principle he believed in due process and affording that due process to people even if they did not make the best decisions. He said there were limits to what the Town could do, but he did want to adhere to due process. Mayor Stevens said he was still thinking that a security bond should be required.

Commissioner Gering asked Mayor Stevens what he meant by due process in respect to the option of the Town remedying the problem.

Mayor Stevens said the owners had said there was something they wanted to do to the property which needed review, and they needed the time for that review. He said if they had a contractor ready to do the work, then what was holding them up was the time required for the review.

Commissioner Gering stated that was process, but not due process. He said people were entitled to due process, but were not entitled to an arbitrary process in which they defined the terms, timelines and deadlines, and that seemed to be what was happening here.

Commissioner Lloyd agreed that was what the owners were doing. She asked if Ms. Hauth was saying they wanted the property put back the way it was. Ms. Hauth said that was the quickest way to resolve the situation. Commissioner Lloyd said then once that was accomplished, the owners could begin the correct process. Ms. Hauth said yes, or, the Town could allow them additional time and they could try to get what they wanted to do approved and then do it. Commissioner Lloyd said but in the meantime, Ms. Hauth was saying it should be put back the

way it should be. Ms. Hauth said not necessarily, adding that was why she had suggested getting all the appropriate people together and discussing the most appropriate way to move forward.

[8:52:43 PM](#) Commissioner Lloyd stated she believed they needed to put the property back the way it was and start again. She said that was the fair way to proceed, and wondered why the Town should have to do that.

Commissioner Hallman stated he was leaning that same way, noting he believed the only way out of this was to start over.

Commissioner Gering said they should still sit down and try to work it out with the owners.

Commissioner Lloyd said the owners should definitely pay to have the property returned to the way it was.

Commissioner Hallman stated his only caveat to that statement was to get a security from them. He said the question was did they want to win, or did they want to get something good out of the situation.

Commissioner Gering said the probability of the owners putting the property back together was not good. He said in the meantime, it was a public health and safety issue.

Commissioner Hallman said there was winning and there was getting something out of it, and he would support putting the property back to the way it was.

[8:54:44 PM](#) Upon a motion by Commissioner Gering, seconded by Commissioner Lloyd, the Board moved to direct staff to immediately undertake correcting the three problems identified by returning the property at 133 East King Street back to its original state by a vote of 5-0. The motion was declared passed.

7. Adjourn

Upon a motion by Commissioner Dancy, seconded by Commissioner Lloyd, the Board moved to adjourn the meeting at 8:56 p.m. by a vote of 5-0. The motion was declared passed.



Respectfully submitted,
Donna F. Armbrister, MMC
Town Clerk

**RESOLUTION OF INTENTION TO PROVIDE CLEAN DRINKING
WATER FOR COLONIAL PARK WATER ASSOCIATION FOR A HIGH
UNIT COST GRANT APPLICATION**

- WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water distribution systems, and
- WHEREAS, The Town of Hillsborough has need for and intends to connect out-of-town residents, which are members of the current Colonial Park Water Association, to existing distribution lines in the area, and
- WHEREAS, The State of North Carolina, Division of Environmental Health-Public Water Supply Section, has requested the Town of Hillsborough connect the current Colonial Park Water Association members which now have a primary and secondary water source that has been deemed unusable with E. coli contamination, and
- WHEREAS, The Town of Hillsborough intends to request state grant assistance (High Unit Cost Grant under 15A NCAN 01J Rules) for the project,

**NOW THEREFORE BE IT RESOLVED, BY THE TOWN BOARD OF
COMMISSIONERS OF THE TOWN OF HILLSBOROUGH:**

The Town of Hillsborough, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State Revolving Grant award.

That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance and administration of the system.

That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Town Manager Eric J. Peterson, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.

That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Applicant has substantially compiled or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to Federal and State grants pertaining thereto.

Adopted this the 27th day of October, 2008 at Hillsborough, North Carolina.



Tom Stevens, Mayor

Ayes: 5
Noes: 0
Excused: 0

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting Town Clerk of the Town of Hillsborough does hereby certify: That the attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Town of Hillsborough Board of Commissioners duly held on the 27th day of October, 2008; and, further, that such resolution hereunto set my hand this 27th day of October, 2008.




Donna F. Armbrister, Town Clerk