

**AGENDA**  
**HILLSBOROUGH TOWN BOARD**  
**September 11, 2006**  
**7:30 PM, Town Barn**

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

**STAFF:** Town Manager Eric Peterson, Assistant Town Manager/Public Works Director Demetric Potts, Police Chief Clarence Birkhead, Town Clerk/Personnel Officer Donna Armbrister, Planning Director Margaret Hauth, Town Engineer/Utilities Director Kenny Keel, Finance Director Greg Siler, and Town Attorney Bob Hornik.

7:31:40 PM Mayor Stevens called the meeting to order at approximately 7:31 p.m.

Mayor Stevens noted that today was September 11, and events five years ago today touched everyone. He said when remembering that day, three things stood out: remembering the people who lost their lives on that tragic day; remembering all the people who worked so hard and diligently to save lives and to respond to the events that were unfolding; and that everyone was here in this room tonight because we aspire to the best of our ability to be a government of the people and by the people and for the people, and for that way of life that was so important to us all.

7:32:34 PM Mayor Stevens requested a moment of silence to remember the events of September 11, 2001.

**1. PUBLIC CHARGE**

7:33:12 PM Mayor Stevens did not read the public charge, but indicated it would be followed.

**2. AUDIENCE COMMENTS REGARDING MATTERS NOT ON THE PRINTED AGENDA**

7:33:23 PM There were no comments at this time.

**3. AGENDA CHANGES & AGENDA APPROVAL**

7:33:57 PM Commissioner Gering removed Item #10k from the consent agenda, and added a short discussion related to requesting the staff to conduct research and come back with proposals for nuisance problems and drug abatement. He suggested that item be discussed after Item #11L. Mayor Stevens commented it would be renumbered Item #11.L.b. He suggested discussing Item #10K at the end of the regular agenda. Commissioner Gering agreed.

7:35:03 PM Mayor Stevens noted that regarding Item #11N, Habitat for Humanity was not yet ready to make their presentation, so that item would be removed from tonight's agenda and rescheduled.

7:35:21 PM Upon a motion by Commissioner Gering, seconded by Commissioner Lloyd, the Board moved to approve the agenda with the specified changes by a vote of 5-0. The motion was declared passed.

#### **4. PUBLIC HEARING**

A. Continued Public Hearing from July 25<sup>th</sup> regarding partial closing of Webb Street

7:35:40 PM Planning Director Margaret Hauth noted that at the July 25 public hearing the Board had received public comment about a request to partially close a portion of Webb Street that went beyond a sharp curve in the road. She said she had requested at that time to continue the public hearing to allow an improved ad to be placed in the newspaper. Ms. Hauth said unfortunately, the ad was not placed in the newspaper properly and did not run for the full four weeks as requested, and therefore they could not open the hearing tonight.

Ms. Hauth requested that the Board adopt the resolution provided that would reschedule the public hearing to allow for full notice to the public. After a brief discussion, the Board agreed by consensus to place this item on the October Workshop schedule.

Upon a motion by Commissioner Lowen, seconded by Commissioner Hallman, the Board moved to approve the resolution, amended to insert the date of October 23 by a vote of 5-0. The motion was declared passed.

#### **5. APPOINTMENTS**

A. Consider Re-appointment of Kate Faherty, Laura Oaks, Mariah McPherson, and Nan Dameron to the Margaret Lane Cemetery Committee

7:37:41 PM Upon a motion by Commissioner Dancy, seconded by Commissioner Lloyd, the Board moved to approve the Re-appointment of Kate Faherty, Laura Oaks, Mariah McPherson, and Nan Dameron to the Margaret lane Cemetery Committee by a vote of 5-0. The motion was declared passed.

B. Consider appointment of Max Preston to a second term on the Historic District Commission with a term to expire July 31, 2009

7:38:23 PM Upon a motion by Commissioner Lloyd, seconded by Commissioner Gering, the Board moved to appoint Max Preston to a second term on the Historic District Commission with a term to expire July 21, 2009 by a vote of 5-0. The motion was declared passed.

#### **6. COMMITTEE REPORTS**

7:39:01 PM Commissioner Hallman noted he had provided an update on issues address at the last Triangle Advisory Committee (TAC) meeting and with the NCDOT. He called attention to the contract resurfacing schedule for Orange County, and the update on the Elizabeth Brady Road extension and the Draft Environmental Impact Statement. Commissioner Hallman said one report said that Statement would be released in a matter of days, and another said after the first of the year, so he would have to get back to the Board with that.

Commissioner Hallman said the Transportation Improvement Plan was just released, and that it would be discussed at the TAC meeting later this week. He said he doubted there would be any significant funding changes.

7:40:42 PM Commissioner Hallman said regarding the Parks and Recreation Board, that Stephanie Trueblood was now their staff liaison and was doing a wonderful job. He said she had put the Board on a tight schedule to produce a Parks and Recreation Master Plan by the first of the year. Commissioner Hallman said they were preparing to get public input on Waterstone Park and its design, and this past weekend the Board had walked the Waterstone Park area and the HYAA field. He said that Mayor Stevens had arranged for someone to talk with the Board about how to develop greenways, which they hoped to schedule for October.

7:42:09 PM Commissioner Hallman said regarding the Economic Development Commission, he had obtained information from the green studies. He said that within five miles of downtown Hillsborough the population of 18,444, and within ten miles, which put us on the edges of Carrboro and Chapel Hill, the population was 121,000.

7:42:55 PM Commissioner Hallman said regarding the Strategic Growth Plan, they had held their last meeting and were pleased with their progress. He said at the last meeting they had received a report from Ms. Hauth and Roger Waldon based on the surveys conducted at Hog Day and at Last Friday events about what people inside and outside the Town saw as issues regarding growth and development. Commissioner Hallman said that would soon be placed on the website. He said they now had real data on the implications of growth and what the outcomes would be based on particular scenarios.

7:44:27 PM Mayor Stevens said regarding the Economic Development Commission, he had also talked with County's Economic Development office to gather some reports and research about what could be done about incubator space, since we were concerned about the loss of some small shop areas in the Daniel Boone complex as well as others around Town. He said he had also asked for information regarding affordable housing and helping businesses with affordable sites.

7:45:04 PM Commissioner Hallman said the Orange County Partnership to end Homelessness had met last month and received information from the focus groups who had talked with officials from schools, churches, governments and others. He said that information had been compiled and they were coming back with recommendations for goals and strategies. Commissioner Hallman said there was still much work to be done, so they may not reach their goal of completing this within a year.

7:45:57 PM Commissioner Hallman said in regards to Parks and Recreation environmental concerns, there was a fish kill reported on the Eno over the weekend, with 20+ fish found dead. He encouraged anyone who had witnessed something odd or out of place in that area to report it to the Town staff so that they could have DENR follow up on that.

7:46:48 PM Commissioner Lowen said the US 70/Cornelius Street Committee met and had focused on things that could be done in the short-term, with one suggestion being to increase lighting along US 70. He said he had spoken to the Town Manager and he suggested that this come before the Board. Commissioner Lowen said he would like to hear ideas from the Board regarding that.

Commissioner Lowen said they were also looking at the large grassy area next to the fish market, and possibly working with the State to provide some plantings in that area. He said since that was an entranceway into Town that would be an attractive way to enhance the area at a small cost.

7:48:19 PM Commissioner Lowen said the Solid Waste Management Committee would meet later this week, and that he, Commissioner Lloyd and the Town Manager would meet with the Fire Department tomorrow.

## **7. REPORT FROM THE TOWN MANAGER**

7:48:46 PM Town Manager Eric Peterson said as part of the joint committee with the Fire Department, tomorrow night they would have their first meeting to investigate the possibility of a long-term partnership and the feasibility of that, as well as looking at different alternatives. He said they would also be scheduling a bi-annual meeting with the Fire Department within the next two months, possibly in mid to late October.

## **8. REPORT FROM THE TOWN ENGINEER**

7:49:36 PM Town Engineer/Utilities Director Kenny Keel said work was moving forward on the wastewater treatment plant expansion/Durham pump station alternative study. He said he expected to have a draft report by the end of this month and would share that with the Board at its next meeting. Mr. Keel said the fish kill was caused by a sewage spill on Friday evening near the railroad tracks at Exchange Club Park. He said about 8,000 gallons had been spilled, due to roots growing into the sewer line as well as grease that had clogged the line, as well as some erosion near the creek that had caused problems with the pipe. Mr. Keel said repairs had been completed, and noted they had attempted to pump some of the spill back into the sewer and had not been aware that the fish kill had taken place. He said they had attempted to alleviate that by increasing the flow into the Eno over the weekend to assist in dilution. Mr. Keel said they were required by the State to provide them with a written report within five days, and that would be done this week.

Mr. Keel stated that they had been compliant with their discharge limits during the third quarter, noting their average was down to .072 and the limit was .080. He said they were continuing to make progress in that area.

7:52:56 PM Commissioner Gering asked if we used the same treatment process that Durham was currently reviewing for their lake contamination problems. Mr. Keel responded we used different chemicals than Durham was using when they were experiencing that problem, and was not sure if they had switched chemicals to get a better hold on that problems.

Commissioner Gering asked if we conducted testing. Mr. Keel responded that we were required to conduct testing every three years, but we were planning to conduct some additional testing since it had been a year or more since the last round of testing. He said in previous testing we had not had an issue with it.

7:53:38 PM Commissioner Hallman asked if the spills at Elizabeth Brady were pump sizing problems or ionide problems, or something else. Mr. Keel said the Neuse River spill on Friday night had taken precedent over that, but the last time he had reported to the Board they had experienced only one spill,

then they had four in one night due to an intense rainfall on July 14<sup>th</sup> that had overwhelmed a few of the pump stations. He said the total amount spilled was just over 2,000 gallons.

## **9. REPORT FORM THE PLANNING DIRECTOR**

7:54:39 PM Margaret Hauth noted that the usual updates were provided in the Board's packet. She said that the Old 86 Commons project was not included on the agenda for this evening due to the applicant's unavailability, so that item will be scheduled for the October meeting. She said they were moving forward with the text amendments relating to Prevention of Demolition by Neglect, changing the site plan review process, and freestanding sign requirements. Ms. Hauth said she hoped to have all of those ready for the October hearing.

Ms. Hauth said the Town Attorney had been in contact with the previous contractor with Heritage Townhomes and was pursuing all legal options. She said thus far the person of interest was denying responsibility to act. Ms. Hauth said regarding Riverwalk, she and the acquisition agent were pleased with their progress, and more about this would be covered during the Closed Session.

7:56:14 PM Commissioner Gering said regarding the noise abatements, had that been delayed. Ms. Hauth responded yes, that the Planning Board felt strongly that Piedmont Minerals needed to be involved in those discussions. She said with other things taking precedent, this had been delayed. Ms. Hauth said they were trying to take a more holistic approach and add a little more specificity to some of the language. She said that would consist of both zoning ordinance and Town Code amendments when it came before the Board.

7:57:03 PM Town Attorney Bob Hornik said regarding Heritage Townhomes, when working with the Homeowners Association they had obtained more information about who owned what. He said it appeared that one of the principles of the company that developed the apartments now owned several of the garage units, but did not own any residential units on the property. Mr. Hornik said it also appeared that the LLC that was formed by one of the developers of the property had not been dissolved, although he never conveyed out the common property. He said the common property, being the apartment complex, was still owned by a dissolved LLC. Mr. Hornik said they were trying to unravel that to see if it perhaps provided them with some leverage to discuss with that principle again his legal responsibility or other obligation to make good on what he should have done in the first place.

Mr. Hornik said the Homeowners Association wanted the Town to pursue this if litigation became necessary, and he was attempting to work it out so that litigation could be avoided. He said he would have a more detailed progress report at the Board's next meeting, and decide on a course of action, if any, for the Town to take.

7:58:47 PM Commissioner Hallman asked if applications had been received for the open seat on the Planning Board. Ms. Hauth responded the application process had closed in mid-August, and they had received approximately 15 applications. She said the pool had been narrowed and two candidates had been selected for interviews, though no dates had been scheduled as yet. Ms. Hauth said she hoped that process would be completed in October.

7:59:38 PM Commissioner Hallman said he knew there had been some discussion with the Planning Board in regards to shifting some meeting times, and asked where they were with that. Ms. Hauth said

she would bring that to the Board at the October meeting. She said having Planning Board minutes available for this Board was helpful, and they were attempting to sequence events so that information would have a better flow.

## 10. ITEMS FOR DECISION – CONSENT AGENDA

- A. Consider approval of the Minutes June 12, 2006 Regular Meeting; the June 26, 2006 Monthly Workshop; the July 10, 2006 Regular Meeting; the July 10, 2006 Closed Session; the July 25, 2006 Joint Public Hearing; and the July 25, 2006 Joint Public Hearing Closed Session
- B. Consider approval of Position Description for Assistant Utilities Director and amendment of the Town's Job Classification Listing
- C. Consider adoption of memorandum of Understanding with the Brough Law Firm for Attorney Services in Fiscal Year 2006-2007
- D. Consider approval of Local Governmental Resolution to the NC Governor's Highway Safety Program appropriating \$15,000 toward the project
- E. Consider approval of Resolution endorsing the Mountains to Sea Trail Route
- F. Consideration of request to extend the vested rights period for the Waterstone Master Plan
- G. Consider approval of the Public Works Department Standard Operating Guidelines
- H. Consider approval of Miscellaneous Budget Amendments
- I. Consider authorizing Orange County to collect the 2006 city taxes on behalf of the Town of Hillsborough.
- J. Direct Staff to Investigate Additional Lighting Along Highway 70
- K. Removed

8:00:44 PM Mayor Stevens reminded the Board that Item #K was removed, to be addressed after consideration of the Consent Agenda.

8:00:53 PM Upon a motion by Commissioner Lowen, seconded by Commissioner Gering, the Board moved to adopt the Consent Agenda with Item #K removed.

8:01:13 PM Mr. Peterson noted that Item #G regarding the Public Works Standard Operating Guidelines contained an appendix with some fee schedules being requested, and he was pulling the fee schedule off to be considered with the budget.

8:01:33 PM Mayor Stevens said regarding Item #E, he wanted to acknowledge the forward progress with the Mountains to the Sea Trail Route. Commissioner Hallman stated we were not the first municipality in this central Piedmont section to approve, but we were likely the second or third.

8:02:02 PM By a vote of 5-0, the motion was declared passed.

- K. Consider Approving an Agreement with Raftelis Financial Consultants, Inc. to perform an Economic Evaluation of Proposed Wholesale Water Rates from City of Durham

8:02:11 PM Commissioner Gering stated that under Task 2 was a list of issues that Raftelis proposed to help us outline and understand. He said one of his concerns with this study for Durham supplying water and sewer services to Hillsborough was understanding better what were the fallback positions for the commitment points that we might have to consider. Commissioner Gering said if at some point we

decide that this arrangement did not work for us, could be go back and how much would that cost us, and was there a point at which we could not go back.

8:03:09 PM Mr. Peterson said if we go through the study and the Board decided to proceed, there would be capital costs associated with it for us and for Durham. He said those costs would have to be folded into the rates, so after we make those types of capital commitments it would not be financially feasible to move backwards.

8:03:52 PM Commissioner Gering asked was there another point at which it would not be possible for us to go back in terms of the Hillsborough expense beyond the capacity of our ability to entreat our own customers. He said from an engineering and financial point of view, he would like those points to be identified and address. Mr. Peterson said they would address those issues and bring that back to the Board.

8:04:34 PM Upon a motion by Commissioner Gering, seconded by Commissioner Lowen, the Board moved to approve the proposal as amended by a vote of 5-0. The motion was declared passed.

## **11. ITEMS FOR DECISION – REGULAR AGENDA**

- A. Discuss and Consider Request from the Piedmont Electrical Membership Corporation to approve a Resolution Granting Piedmont the Right to Serve their Assigned Territory that has been annexed into the Town's Corporate Limits

8:05:43 PM Randy Brecheisen, President and Chief Executive Officer of Piedmont Electric Membership Corporation, requested the Board's approval of a resolution that would allow them to serve their assigned territory, which had been assigned to Piedmont since 1965. He stated that the Town had the authority to approve the resolution based upon an amendment made to territorial law in 1997 that gave the Town the choice of electric suppliers within the Town limits.

Mr. Brecheisen said in support of the request, he wanted to make three points. First, he said, it took several years of negotiation between Duke Power Company and Piedmont Electric Cooperative back in the mid-1960's to arrive at the territory agreements currently in place. He stated these agreements were designed to divide the territory in a way that allowed for the most efficiency delivery of power in the most economic way. Mr. Brecheisen said this agreement had worked well in eliminating duplication in electrical facilities and from the standpoint of orderly planning.

Mr. Brecheisen said his second point was as a result of the territory assignments, they had maintained service readiness throughout their service territory. He said they had made expensive investments to be able to serve those areas. Mr. Brecheisen said in the specific instance of the Waterstone project, we had recently invested in a substation at the corner of NC 86 and New Hope Church Road. He said they had also made significant improvements to the 3-phase feeder that ran up NC 86 in anticipation of the Waterstone project and other growth in that area, and that growth would assist in distributing their cost more efficiently.

Mr. Brecheisen said his third point was that Piedmont had a very good reputation as it related to service reliability, noting they were good community citizens and were involved with the Town.

8:10:45 PM Mr. Hornik asked about the map provided with the Board's materials. He said he wanted to make sure what that map represented and what the different shaded areas indicated. Mr. Brecheisen said the different shaded areas represented the different service areas. Mr. Hornik asked how the service areas were arrived at. Mr. Brecheisen said the pink areas were Piedmont's assigned territory, reiterating that those areas had been negotiated with Duke Power back in the 1960's and approved by the NC Utilities Commission. He displayed one of the territory maps filed with the Utilities Commission and explained its contents.

8:13:33 PM Mike Parker, General Counsel for Piedmont Electric, added that those territorial rules remained in place until an annexation took place, and when that happened the rules changed.

8:13:43 PM Mr. Hornik asked if that was by operation of law. Mr. Parker responded that the statute provided that once an area was annexed then the primary supplier had the right to service it unless the Town Board considered a secondary supplier, which is what Piedmont is.

8:13:58 PM Mr. Brecheisen said that was the amendment made to the territory law in 1997 that he referred to earlier. Mr. Parker said both the Town and the primary had to consent, and generally the primary would not want to consent to allowing the secondary to provide the service. He said the statute had controlled that so that the Town controlled that, not the primary supplier.

8:14:02 PM Mr. Parker said as he understood it, prior to annexation Piedmont was the primary in the green area of the map, and Duke Energy was the primary in the pink area. But, he said, once the annexation became effective then that portion of the green area that is in the annexation area became pink, so to speak. Mr. Parker added that became automatic unless the Town chose to do otherwise.

8:14:20 PM Mr. Hornik said the question before the Board was essentially to choose between the two providers.

8:14:38 PM Mayor Stevens said he wanted to make sure from the Board's perspective that they acted in a fair and equitable way for both parties.

8:15:04 PM Mr. Hornik said that was one of the questions he had regarding the resolution, noting he wanted to make sure that when we referred to the annexed areas that we were talking specifically about the Waterstone annexation area. Mr. Brecheisen said that was their intent.

8:16:48 PM Susan Cashion, Key Accounts Manager for Piedmont Electric, stated it was for future annexations that were currently in Piedmont's assigned territory, not to gain new annexations that were not already assigned to them.

8:17:05 PM Commissioner Lowen said if that was in fact what was being requested, then he wanted that language in the resolution. He agreed that the language as it stood now was too vague. Mr. Brecheisen said the resolution would not give Piedmont service rights in any of the Duke assigned territory. He said it would simply allow Piedmont to retain the service rights in areas that they had been assigned.

8:17:32 PM Commissioner Gering suggested that this item be deferred to allow time for staff to conduct an analysis and also to allow scheduling so that Duke representatives could be present at the

same time to be fair to both parties. Mr. Brecheisen noted that Duke Energy representatives were present tonight. Commissioner Gering asked if the staff had been given enough time to analyze this issue. Mr. Peterson replied they had analyzed the issue but were not yet ready to make a recommendation.

8:18:03 PM Mayor Stevens asked if hear from the Duke Energy representative.

8:18:12 PM Davis Montgomery, Customer Relations Manager for Duke Energy, clarified that in the resolution Piedmont was asking for the right to serve those areas that were previously assigned to them prior to annexation. He said in the case of Waterstone it would not be the entire project, but the portion that fell within Piedmont's previously assigned territory. Mr. Montgomery noted that Mike Lopez, Manager of Business Development, was also present to answer questions.

Mr. Montgomery reiterated the conditions of the Territorial Assignment Act and how it removed confusion on who served what, when, and where. He said just as the Act prevented duplication of services, they believed that the franchise did as well. Mr. Montgomery said the franchise with the Town allowed the Town to know who would be providing service to its citizens, and allowed the providers of that service to invest in infrastructure to serve those citizens.

8:20:21 PM Mr. Montgomery explained how the location of infrastructure dictated who would be served, noting that if infrastructure were in place, the company who owned that infrastructure had the right to provide service to anyone within 300 feet of it. Regarding the resolution, he asked that the Commissioners considering delaying action to allow for future study. Mr. Montgomery said that the word "exclusive" was used in the resolution, and that was problematic for Duke Energy. Mr. Montgomery said that language indicated that the resolution would overrule the Territorial Assignment Act. He requested that the word "exclusive" be removed from the resolution.

Mr. Montgomery said there was no expiration date on the resolution as there was on the franchise, noting that once the franchise neared its expiration the Town could begin a dialogue for renewal. He said they believed the resolution should have an expiration along those same lines.

Mr. Montgomery noted that Duke Energy had a very good working relationship with Piedmont, adding that even though Duke Energy should provide service to customers, many times if Piedmont had infrastructure in place that was closer than theirs, then they allowed Piedmont to provide the service because it made sense. He said that had been done several times.

8:24:21 PM Commissioner Gering said they had heard arguments as to why it was beneficial for the power companies, but wanted to know what was the benefits for Hillsborough customers to stay with the existing supplier or go with the alternative. Mr. Montgomery said the benefit would be the ability to look at the rates and service and choose what was best for the customer.

8:25:21 PM Commissioner Gering asked if the two providers were on an equal footing. Mr. Montgomery said he believed that currently, Duke Energy might have about a 20-kilowatt hour advantage. He pointed out that Piedmont Electric was a very good customer of theirs, noting they sold power to them at a wholesale rate.

8:25:55 PM Mr. Hornik asked when the current territorial agreement was reached. Mr. Montgomery said in 1965 after several years of negotiation.

8:26:13 PM Commissioner Hallman said he understood about the rights to provide service within 300 feet of existing infrastructure to cover their costs, but if you priced that infrastructure out with the expectation of recovering that cost from the customers of the entire area, then you were not allowing them to recover the cost of that infrastructure beyond the 300 feet. Mr. Montgomery said like Piedmont, they did a five-year service analysis to make the best estimate possible. He said he did not know if Waterstone was contemplated five years ago or if it was a part of the consideration for infrastructure investment.

Mr. Montgomery said the area was annexed in 2004, which was another point about the resolution. He said that if the Board were to consider the resolution, they would say that because it was annexed in 2004, that it not be retroactive at the very least. Mr. Montgomery said it should go forward as opposed to looking backward.

8:27:30 PM Commissioner Lloyd said as it now stood, would all of Waterstone be served by which every provider was chosen by the Board. Mr. Montgomery said if the Board adopted the resolution, Piedmont would have the right to serve that portion noted in green on the map.

8:28:16 PM Commissioner Lloyd asked if Piedmont would serve the Beckett's Ridge development. Mr. Montgomery said that was correct. Commissioner Lloyd asked if Duke Energy was okay with Piedmont providing service to Waterstone. Mr. Montgomery said they were not. He said their position was that the franchise was an excellent agreement in that it let the Town clearly know who would be provided service to its citizens. Mr. Montgomery said the resolution would add a third layer, on top of the Territorial Assignment Act and the franchise, which they believed was not needed.

Mr. Montgomery said the resolution contained several problems for them. He said he had already discussed the use of the word "exclusive" and that it did not contain an expiration date. Mr. Montgomery stated that things worked well as they now stood, and they would always use common sense to figure out whom the most likely provider should be based on what made the most sense. To be clear, the franchise was the very best agreement, and it should stand as it is with no modifications. Mr. Montgomery said that franchise would not expire until 2035, at which time the Town would have the opportunity to renegotiate. He said their recommendation would be to keep it simple.

8:31:09 PM Mr. Peterson asked what would that mean in regards to the dispute or the question of service to Waterstone and Durham Tech, and asked for elaboration on his understanding that regardless of what decision the Board made that either Piedmont or Duke Energy would appeal the decision to the Utilities Commission. He said there were some cases current under consideration that could set precedents and ultimately override what the Board decided. Mr. Montgomery noted that the Durham Tech site was currently in their assigned service quadrant and they had already built the infrastructure into that area. Mike Lopez said the decision on whether or not to adopt the resolution was the Board's decision and there was no appealing that by law. He said it was the "exclusive" piece of it that was problematic.

8:32:32 PM Mr. Hornik asked for elaboration of the perceived problem with the work "exclusive." Mr. Lopez noted that franchises were not exclusive, adding that it was unconstitutional. Mr. Hornik

asked if in the abstract could the Town grant a franchise to Piedmont Electric that covered the same territory as Duke Energy. Mr. Brecheisen replied that was not possible because of the qualifications that franchise would require.

Mr. Hornik said if the resolution were adopted then would Piedmont become the primary server, with Duke Energy the secondary. Mr. Lopez said they would not be primary, but would be the “exclusive” provider.

8:34:38 PM Mr. Montgomery said he believed that Piedmont and Duke Energy shared the concern that with any dispute of service rights, the customer was of primary concern.

8:34:56 PM Mr. Brecheisen clarified that they did not have a dispute, noting that the law was very clear about what they could do. He said the issue was that with the modification to territorial law, the Town did have the choice to approve the resolution that would allow them to serve the territory that previously was assigned to them. Mr. Brecheisen said any challenge to that, there was no process other than the Board’s decision, which would be final.

8:35:37 PM Mayor Stevens stated that Duke Energy had a franchise agreement, and Piedmont had assigned territory and the Board could choose either one. He said both companies were servicing their customers adequately although there might be some price differential or crossover of services in a particular area.

8:35:59 PM Mr. Brecheisen said that Duke and Piedmont worked together well, and even if the Town were to grant their resolution which would grant them their assigned territory, that would still not affect the need for the two entities to work together.

8:36:58 PM Mr. Montgomery agreed, noting it would be mayhem for the two not to work well together.

8:37:15 PM Mr. Hornik asked if the Town could say that because one area in Waterstone was all part of the same pod it would be served by Duke Energy, and if there was a break in the development pod that roughly coincided with the line on the map, could the Board say that part would be Piedmont. And, he continued, if there were other areas in question would the Board decided who would provide the service to that area. Mr. Hornik said in other words, could the Board make that delineation when adopting the resolution.

8:37:58 PM Mr. Montgomery said he did not know if passage of the resolution would supercede the Territorial Assignment Act.

8:38:18 PM Mr. Brecheisen said he believed that with the modifications of the law, the law would give the Board the flexibility to designate anything beyond giving Duke Energy the franchise or primary supplier in Piedmont’s assigned territory.

8:38:37 PM Mr. Hornik asked what would happen if the Board did nothing. Mr. Brecheisen said then it would revert back to territorial law, which basically said that Duke Energy would be the primary supplier and Piedmont’s lines would be frozen, in that they would have the ability to serve only within

that 300 foot corridor mentioned earlier. He noted that it was possible to erode that 300-foot corridor, in that Duke could build a line within 300 feet of Piedmont's line.

8:39:26 PM Mr. Brecheisen said that the statute used the word "consent," which he believed meant that if the Board consented now, that it could withdraw that consent at some point. He said if that were to happen, they would still have those corridor lines in place and they would have the same rights along that corridor.

8:40:00 PM Commissioner Hallman said he did not believe the Board was ready to vote on this tonight, and suggested that if the Board had additional questions that they be given to the Manager or the Attorney so that both parties could address them. He said there were some legal issues that might be open to interpretation that needed to be better explained.

8:40:25 PM Commissioner Gering said he believed the staff needed to digest the information and come back with an analysis.

8:40:58 PM The Board agreed by consensus to table the issue until the staff had adequate time to analyze the information and report back to the Board.

B. Update and Discuss Enforcement Action at 106 US 70 East (The Crocker Property)

8:41:04 PM Ms. Hauth explained they were proceeding with Minimum Housing Code enforcement against this property, which the Board had given high priority. She said the owners were making efforts to clean up the property, but their primary concerns remained about the structure being inhabited without electrical or water service. Ms. Hauth said that Ms. Mansfield had been responsive and had allowed them access to the property to conduct inspections. She said the primary issue was an internal family issue, and communication amongst the variety of heirs made the situation difficult, although Ms. Mansfield was their contact and was responsible for the taxes on the property.

8:43:07 PM Commissioner Hallman said he believed this was a public health issue, and perhaps public health could help in moving this along. Ms. Hauth said they could do that, noting they would probably have to take the same action as the Board would take in forcibly condemning the property and asking law enforcement to escort people from the property, and making sure they stay off the property. Ms. Hauth said they were also attempting to discover if it were possible to use the structure as a practice fire to assist the family with the cost of removal of the structure.

8:43:45 PM Commissioner Gering said since we knew this was a health issue he did not believe we could be anything but move expeditiously. Ms. Hauth said they stood ready to do that. She said she had expected Martha Johnson, one of the heirs, to be present this evening to discuss concerns, but she had not appeared. Ms. Hauth said she would contact Ms. Johnson to see if she wanted to address the Board.

8:44:14 PM Mr. Hornik said there were some "tricky" ownership estate issues, and we might have to start dealing with those as well as any legal processes necessary. He said we also needed to determine whom the correct person or people were to serve with notice. Mr. Hornik said that although Ms. Mansfield had given the Town authority to do some things, he believed there were other family members who had taken the position that Ms. Mansfield did not have their permission to given the Town authority to do other things. He said as we move forward, we may encounter difficulties in that regard.

Mr. Hornik said they would attempt to get clear authority from the owners, but if not they would be prepared to move ahead.

8:45:19 PM Commissioner Lloyd asked if the Board would give Ms. Johnson the chance to appear before the Board. She said she had spoken to Ms. Johnson and there were more heirs involved. Commissioner Lloyd said that cold weather was approaching, and these issues needed to be addressed. Ms. Hauth said she would contact Ms. Johnson. Commissioner Lloyd suggested sending Ms. Johnson a certified letter to make sure she was notified of when this would be back on the Board's agenda. Ms. Hauth said she would call Ms. Johnson, noting she was not hard to reach.

8:46:41 PM Mayor Stevens said the health issue was priority, with the clean-up being secondary. He said the Town would cooperate with Social Services and Public Health to get these issues resolved.

C. Consideration of rezoning request from Mr. Dwight Walters regarding 1.67 acres on St.Mary's Road from Residential-20 to General Commercial (TMBL 4.21.C.7)

8:46:56 PM Ms. Hauth said this item was heard during the July 25 public hearing, noting that a valid protest petition had been filed which meant that approval of the rezoning had to carry at least 4 positive votes. She said the packet of information included the statement needed for compliance with the new General Statute 160A-383, stating how this request did or did not match the Vision 2010 Plan or other plans for the Town. Ms. Hauth noted that the Planning Board minutes were included for the Board's information. She added that gravity sewer was not readily available to the site, although there was a force main nearby but that was not normally tapped. Ms. Hauth said having a gravity main readily available to the site was one of the criteria for General Commercial zoning.

8:48:27 PM Mr. Hornik reminded the Board that this was an application for rezoning to General Commercial, so when the Board considered this request it had to consider that the law required that the Board must consider whether the property was suitable for the full range of uses that were permitted as of right in the zoning district to which the property sought to be rezoned. He said if the Board concluded that the property was not suitable for each and every one of those uses, then the Board ought to deny the request for rezoning. Mr. Hornik said only if the Board was satisfied that each and every one of those uses on this particular site would be acceptable, then they should grant the rezoning.

8:49:36 PM Ms. Hauth noted that the Planning Board had voted to recommend denial of this rezoning request, by a 5-1 vote.

8:50:01 PM Commissioner Gering said he found the Planning Board discussion enlightening, and it was clear to him that rezoning would be a clear benefit to the property owner but much to the detriment of the neighbors. He said it was not at all clear to him that it would be a benefit to the Town. Commissioner Gering said the notion that the property was adjacent to some district such as a commercial district and that gave it some greater impetus to be rezoned was ridiculous. Commissioner Gering said one thing that bothered about this type of application was that much discussion had taken place but not specific use of the property had been given. He said he could not support the application

8:51:10 PM Commissioner Hallman said he had also benefited from the Planning Board's discussion, noting that there appeared to be a clear delineation between the residential and commercial property. He said this property was on the residential side of that clear delineation. Commissioner Hallman said he

believed that residential boundary was established, and he would not support the request for the rezoning.

8:52:00 PM Commissioner Dancy said she wanted to make sure that the Board tested the requirements of the ordinance to make sure that they were making the best decision based on General Statute 160A-383 and the full range of uses as noted in the zoning ordinance. She said if the Board denied the request she wanted to make sure it was entirely legal based on the general criteria for rezoning from Residential to General Commercial.

8:53:22 PM Commissioner Gering said he believed the Board should go through the list of uses and make sure that every one of those uses were or were not appropriate for that property.

8:53:45 PM Commissioner Dancy agreed, noting she wanted to make absolutely sure that the Board followed the appropriate procedure

8:53:55 PM Mr. Hornik replied that if the Board were to approve the rezoning, it would have to go through the list and state that each and every one of the uses were appropriate for the site. However, that did not mean that the Board would then have to grant the rezoning, because there may be other reasons for denial. For example, Mr. Hornik said, traffic patterns around the site may not be suitable, or any number of other reasons.

8:54:47 PM Mayor Stevens said the compelling part was that the adjacent property owner had similar zoning, and he understood that argument. But for him, he said, we were talking about extending commercial zoning into a residential area on St. Mary's Road, which would change the nature of that road.

8:55:30 PM Mr. Hornik said no matter what, the Board had to adopt the draft 160A-383 statement, with any necessary modifications. He said the statement in the packet had three reasons included, but there may be additional reasons to be considered.

8:56:22 PM Mayor Stevens asked if a super majority vote was needed. Mr. Hornik responded a super majority vote was not needed to adopt the statement, noting that was only necessary to approve the rezoning.

8:57:01 PM Ms. Hauth clarified the second paragraph of the 160A-383 statement, based on the assumption that the rezoning would be denied. She said in the first line the Board would want to choose the word "inconsistent."

8:57:36 PM Upon a motion by Commissioner Gering, seconded by Commissioner Hallman, the Board moved to adopt the 160A-383 statement with the word "inconsistent" included in the description by a vote of 5-0. The motion was declared passed.

8:58:58 PM Upon a motion by Commissioner Gering, seconded by Commissioner Dancy, the Board moved to deny the rezoning by a vote of 5-0. The motion was declared passed.

D. Provide direction to staff regarding two annexation requests:

- Corbinton Commons – receive petition and set hearing date

8:59:29 PM Ms. Hauth said as part of the settlement agreement we had a petition for a non-contiguous property from the McKee Trust which was the owner of the property that would be Corbinton Commons. She said the Board had requested this as part of the settlement and the staff was requesting direction regarding whether the financial analysis should be updated and whether the Board was ready to schedule a public hearing for that annexation. Ms. Hauth said this was 12.25 acres on East Corbin Street and it was contiguous to the property. She said the property owner did not intend to rezone the property so it would be just an annexation hearing at this point. Ms. Hauth said the next step in that process would be to request the financial analysis if the Board were interested in pursuing annexation. She said the Board needed to decide whether to schedule this for a quarterly hearing where there was not a rezoning component or whether they wanted to schedule it for a regular Board meeting and when.

9:01:28 PM Commissioner Lowen said this was a unique situation, and he did not expect that it would be a drawn out process and he did not expect to see any new information. He suggested that it be scheduled for the Board's October regular meeting.

9:02:10 PM By consensus, the Board agreed to place this issue on the October Regular Meeting agenda.

9:02:34 PM Commissioner Hallman asked if this property was currently served by water and sewer. Ms. Hauth responded yes to water. She stated that the dark area on the map was the existing Town limits, so it was contiguous on the entire east side and on the southern boundary on Corbin Street.

- Edmund Purcell - receive letter of interest

9:03:18 PM Jim Parker, Summit Consulting, stated he was available to answer questions. He said the intent was to access Corbin Street at the Mitchell Street intersection. Mr. Parker said the annexation was for the purpose of accessing city services.

9:03:46 PM Commissioner Gering said he was not sure what that meant. Mr. Parker said currently there was water available to the site, but not sewer. Commissioner Gering asked if the Town was obligated at this time to supply this site with sewer. Mr. Parker said no.

9:04:22 PM Mr. Keel said if the annexation moved forward for a vote, a water and sewer extension contract would be drawn up and available for vote at the same time.

9:04:34 PM Mr. Hornik said current policy was that before annexation we wanted to have an agreement in place, so that the Town would not foot the bill for extending services into the annexation area. He said ordinarily it was the developer would pay the cost and performed the work, then the developer would convey or dedicate those facilities to the Town.

9:05:00 PM Commissioner Hallman said were they to understand that if they did the annexation and then a subdivision plan came back, it would necessarily have to come before the Board. Ms. Hauth said

if they pursued a regular subdivision they would see it at the preliminary plan stage. She said if they pursued a cluster subdivision they would see it as a Special Use Permit, so the Board would see it regardless.

9:05:30 PM Commissioner Hallman said he would prefer to see the subdivision plan and the annexation at the same time.

9:05:52 PM Commissioner Lloyd said if the property were annexed, she may not to see whatever was planned at that site. She said she was hesitant to vote in favor of the annexation without knowing what was planned for the site.

9:06:12 PM Commissioner Gering said that was very much how he felt, noting that since they had the discretion they should require more detail. He said he was worried that there was a possibility that it would employ a cluster subdivision ordinance which he believed was badly broken, and he did not to contemplate that possibility until they had a chance to redress the “broken” ordinance.

9:06:52 PM Mayor Stevens said he was hearing a general consensus that the Board wanted to see what was planned for the site before they considered the annexation.

9:07:06 PM Ms. Hauth asked if there was enough interest in the annexation to request the financial analysis, or did the Board want to wait until the developer submitted a preliminary plan.

9:07:28 PM Commissioner Lowen asked if an effective analysis could be prepared if you didn’t know what would be done with the property. Ms. Hauth said the financial analysis would be based on whatever they told us, which would indicate which process they would use.

9:07:42 PM Commissioner Gering said he believed it was premature to request a financial analysis. He asked if the Strategic Growth Plan would provide necessary input, and should the Board wait for that to be completed. Ms. Hauth replied that given the location of this property, she did not see anything other than residential uses being recommended in the Strategic Growth Plan, noting the presence of the cemetery and that the primary access was a residential street.

9:08:50 PM Commissioner Gering asked if the growth scenarios in the Strategic Growth Plan suggest that we would avoid development in another area rather than committing water resources to this lot. He said that was a tradeoff that the Board would be making more and more in the future. Ms. Hauth said with this lot being contiguous with the existing Town limits she did not questioning pursuing this. She said she did not know how realistic it would be to have this property zoned or developed commercially.

9:09:40 PM Commissioner Hallman agreed, noting he understood the reason for distributing residential usage throughout the Town. He said this property was contiguous and he had not problem with the usage, but he wanted to exercise whatever control was possible over what happened here.

9:10:13 PM Mayor Stevens said they were looking forward to receiving further plans from the developer and proceeding to the next step. The Board agreed by consensus to move forward and receive additional information.

E. Receive letter of interest for annexation of the Collins property and discuss public involvement process

9:10:47 PM Ms. Hauth commented that the Town had received a letter of interest in annexation from Joseph Dye, Executive Vice President of the American Asset Corporation for the Collins property, which was approximately 146 acres adjacent to the existing Town limits. She said the applicant was interested in pursuing Entranceway Special Use zoning and submitting a master plan for the property for both this and the Boone property.

Ms. Hauth said the Board had previously talked about holding a public design charrette for this property prior to being contacted by American Asset. She said she had talked briefly with Mr. Dye about that and he had indicated interest in pursuing public input on the process. But, she said, rather than starting with a blank page they would like to have some preliminary sketch drawings to ensure that the discussion was on things that were feasible in the market as well as things that they had an interest in developing. Ms. Hauth said that was a different process that what had originally been discussed, but it would help make sure that the public input allowed the project to move forward rather than be input that was not relevant.

9:12:34 PM Joe Dye said they would encourage the public to look over their presentation and have an idea for what was planned, and offer their comments and input and either incorporate it or respond to it in a more structured fashion. He said they had some ideas that were consistent with the Town's wants and needs for the land area, and they welcomed the public's input on their preliminary ideas for that property.

9:13:31 PM Mayor Stevens said he believed they should establish parameters for the discussion and retain openness so that they could generate ideas and discussion. He said having public input before being locked into a process was beneficial. Mr. Dye agreed.

9:14:01 PM Commissioner Gering said Ms. Hauth had suggested that the Town host the public input event and provide a facilitator. Mr. Dye said they were open to the idea, noting it was an appropriate suggestion that the Town host such an event. He offered to host it jointly, noting their design team could participate and hear the input firsthand. Mr. Dye said he would prefer a collaborative process that was structured.

9:15:00 PM Ms. Hauth said she had expected the design team to be present. She said sometimes when you were trying to keep a meeting organized and moving forward it was difficult to respond as well to some things that were happening, and she had thought that if the Town took the role of host along with a facilitator the input period would progress more smoothly. Ms. Hauth said she believed that would allow the applicant and design team to interact better and focus more on the comments being presented rather than worrying about the time or other issues.

9:16:02 PM Mayor Stevens agreed. Ms. Hauth said the next step in the process would be to begin the financial analysis before requesting the petition. She asked if the staff should move forward with that.

9:16:29 PM Mr. Peterson said before we needed to wait until after the open house and the applicant had a better idea of what types of buildings would work and the types of uses before they could generate revenue information, and then we could compute expenditure information. He said if the Board wanted

to proceed, they should direct the staff to pursue the financial analysis and we would begin that when it made the most sense.

9:17:06 PM Ms. Hauth said they would proceed with scheduling the open house when Mr. Dye was ready.

9:17:19 PM Mayor Stevens commented the Board should have already heard from the Strategic Growth Plan and received that analysis, noting they had already taken a look at the Churton Street portion, and that would be incorporated into this process.

9:17:35 PM Commissioner Lowen asked if Ms. Hauth needed confirmation to proceed with the financial analysis. Ms. Hauth said yes, as well as with the open house.

9:17:47 PM Mayor Stevens said the Board was in consensus for her to proceed as stated.

F. Discuss and consider route for proposed sewer easement for Riverbend II subdivision

9:17:59 PM Mr. Keel noted that the owner of the property wanted to address the Board regarding the proposed route of the sewer easement. He stated that the Board had approved in May a water and sewer extension agreement for the property. Mr. Keel said there were three potential routes for the sewer, with the US 70A route being ruled out due to its shortsighted service capability. He said the developer preferred a route that would require condemnation of an adjacent property. Mr. Keel said the adjacent property owner had offered an alternative route that would be longer, but would not require any substantial land clearing. He said the developer wanted to address the Board regarding his preferred route.

9:21:13 PM Mr. Hornik asked if the third alternative had to cross someone else's property. Mr. Keel responded it crossed two other properties, one of which was the Classical American Homes Preservation Trust, adding that both second and third alternatives crossed that property. He said the third alternative also crossed the Vietri property, and it was believed that easement would be attainable.

9:21:58 PM Commissioner Hallman said if we had to pursue a condemnation, it would be a significant added cost as compared to the third alternative. He noted that the third alternative might cost essentially nothing if we received voluntary easements.

9:22:34 PM Commissioner Lloyd said if a condemnation took place, would that be the responsibility of the Town. Mr. Hornik replied that condemnation cost would be passed on to the developer, since it would take place to benefit the developer.

9:23:27 PM Wesley Cook, owner of the property proposed as a route, suggested boring under the creek so as not to disturb it, and connect with the existing manhole. He said that Bill Crowther preferred the other route, but he did not control the property. Mr. Cook said he had tried for two months to negotiate with Mr. Crowther, but had not been successful.

9:24:47 PM Mayor Stevens asked Mr. Cook if his preference was for the second alternative. Mr. Cook said that was correct, since it would disturb the least property, it would not disturb the creek, and it would provide service to all of Tuscarora Drive and possibly some of the Collins property across the

road. Mr. Cook said Mr. Crowther was asking with the third alternative for an easement that went three or four times further.

9:25:47 PM Commissioner Hallman said Mr. Cook's primary issue was time. Mr. Cook said that time was money, and he had spent several thousand dollars in the last two months trying to get this resolved. Commissioner Hallman asked if Mr. Cook would agree to the third alternative if it were done quickly. Mr. Cook said he would like to see the authorization that would permit the crossing of the other property before he would commit one way or the other. Commissioner Hallman said that was fair.

9:26:49 PM Bill Crowther said he had with him a letter from the President of the Classical American Homes Trust, which authorized him to negotiate this issue. He said that alternative three that he had proposed would take the sewer easement away from the Cate's Creek floodway, and given the occasionally fish kills he presumed that it was advantageous to keep sewer lines out of floodways. Mr. Crowther said that alignment would also allow it to be taken all the way to Elizabeth Brady Road on Classical American Homes property, which would cross the Vietri property. He said that would take the line through property that needed little clearing.

Mr. Crowther said just for the Board's information, the owner of the Vietri property was married to the NC Secretary of Natural Resources, who was in charge of the Mountains to the Sea trail. He said they had already expressed an interest to him to continue their master trail plan back into Hillsborough from the host site, allowing us to build a trail on their property. Mr. Crowther said he was sure they could work with Vietri on this matter, because that was the aligned choice for the Mountains to the Sea trail, and it was likely in the Town's best interest to have both aligned in the same alley.

Mr. Crowther said that Classical American Homes was fully against the second alternative, which would take 30 to 50 feet of cutting through the forest to clear it to Cate's Creek, and then travel underneath the creek to connect to the sewer line on the other side. He said he had a copy of the conservation deed restrictions that called for no cutting or clearing of the land, and he would abide by those.

Mr. Crowther said that as their position. He said they were trying to preserve natural resources, to build trails, and to work with the Town in finding a sewer easement for the Tuscarora area.

9:30:15 PM Commissioner Hallman asked if Mr. Crowther had an idea of when Vietri would respond. Mr. Crowther said they had not yet approached Vietri, because they had not been given approval to proceed with that. He said he would be happy to visit them and get that process started.

9:30:29 PM Mayor Stevens asked if that could be fast tracked. He said he was hearing that time was an issue here. Mr. Crowther responded that if Mr. Dye and he both visited Vietri tomorrow, they could likely make something happen.

9:31:02 PM Mr. Cook said he did not want the right-of-way from Vietri, noting he already had a sewer right-of-way from US 70. He said he was asking the Town to give him a yes or no on the second option.

9:31:46 PM Commissioner Lloyd asked Mr. Keel to explain again the second alternative, noting she understood the Cate's Creek issue. She said if the second alternative were used, that would cross the Classical American Homes property. Mr. Keel said that was correct.

9:32:33 PM Mr. Hornik said the Town could acquire to take the right, notwithstanding the deed restrictions. He said the only issue would be how much we would have to pay Classical American Homes for that right as just compensation.

9:33:16 PM Mr. Keel said the only way that the second alternative would happen would be to go through a condemnation process. He said the water and sewer extension contract was approved in May, but the Board could amend that or dissolve that contract, he believed. Mr. Hornik said it was a contract, and that contract agreed to the first alternative. He said that could result in a court battle as well.

9:34:39 PM Commissioner Gering said he did not understand why this could not be worked out with Mr. Crowther and Vietri, at least in the short term to discover if the third alternative was viable. Mr. Cook said Mr. Crowther could not speak for Vietri. Commissioner Gering asked if Mr. Cook would visit Vietri with Mr. Crowther and talk about this with them. Mr. Cook said he would be glad to do that, but he had already Mr. Crowther an amount of money to take the second route. He said he was not willing to offer dollars for the third alternative. Mr. Cook said that the second alternative was the closest route and made the most sense environmentally. He reiterated his earlier statements, noting that it amounted to \$32 per foot for 300 feet as opposed to \$32 per foot for 900 feet, and that was his primary concern.

9:37:23 PM Commissioner Gering suggested that Mr. Crowther and Mr. Cook make the attempt to see if the third option could be made to work. He said he was not interested in delaying, but Mr. Crowther had made some compelling arguments. Commissioner Gering said it would be for the future benefit of the Town and the people who would use that trail.

9:38:04 PM Mr. Hornik said using Mr. Cook's figures of \$10,000 as opposed to \$30,000, that difference of \$20,000 was far less than what a court proceeding would cost.

9:38:24 PM Commissioner Hallman pointed out that there would be additional expense involved in traveling beneath the creek.

9:38:37 PM Mayor Stevens stated that alternative three might be the faster and less expensive option, as well as the most environmentally sound. He said both alternatives two and three served the Town's interests. Mr. Cook said he would give it one more month and see what Mr. Crowther and he could work out, and if not then he would use his easement down US 70. He said a contract was a contract and the Town had approved it in May, and that contract was still viable.

9:39:55 PM Mayor Stevens said if all parties would make a good faith effort, then he believed that 30 days would provide adequate time to reach an agreement. The Board agreed by consensus to table the item.

G. Discuss requiring Developers who are seeking Approval for Projects in Hillsborough to prepare a "Due Diligence Package"

9:40:16 PM Commissioner Hallman asked the Board's permission to work with Mr. Hornik on this issue. He said he wanted to formalize some of the information received from developers so that the Board would have a clear idea of who they were working with and what their past track record was, as

well as their capacity to do what they say they are going to do. Commissioner Hallman provided examples of the type of background information that might be beneficial.

Commissioner Hallman said Mr. Hornik had some guidelines of what we could and could not do, but he was seeking permission to formalize the process. He said it would allow the Board to know who the principals were, their past record, any record of litigation, and other information. Commissioner Hallman said he wanted to bring back to the Board a package for approval that would fit within the guidelines of what the law allowed and give the Board and developers a clearer idea of what was expected.

9:42:47 PM Commissioner Dancy said she was in agreement with that suggestion.

9:43:00 PM Mr. Hornik said in some context there were ways that the Town could be asked for that type of information, but in other contexts there was not that ability, based on how our ordinances were worded. He said there may be some consideration for amending the Code, or deciding whether to ask for some information informally from developers. Mr. Hornik said there were several avenues to explore and to figure out the best way to approach this, and there may be a way to “tweak” out process to make it more likely that we could receive such information in the proper context and in the proper way.

9:44:06 PM Commissioner Lowen asked if the request was that Commissioner Hallman work with Mr. Hornik to determine what we could ask for and what our limitations might be in gathering such information. He said he wanted to make sure that we were not inadvertently sending out a negative message to developers that this process would be used with every proposal. Commissioner Lowen said he envisioned using this process with larger developments, not smaller ones.

9:44:26 PM Commissioner Lowen said he envisioned using this process just with Special Use Permit requests and entryway requests.

9:45:03 PM Commissioner Hallman said in principle that sounded good, but you would have to consider all factors including how much more difficult it would make the process for the developer

9:45:46 PM Commissioner Gering asked that they receive a small sampling from developers to determine the receptivity to the process.

9:46:08 PM The Board by consensus agreed to allow Commissioner Hallman to proceed.

#### H. Consideration of a resolution adopting the Churton Street Corridor Plan

9:46:19 PM Ms. Hauth noted a resolution was in the packet for consideration by the Board, adding that a sheet had been prepared that noted the recommended revisions in the language of the Churton Street Corridor Plan based on earlier discussions to address concerns. She said a revised implementation list of things to be done and the priority assigned to them was also included. Ms. Hauth said the Planning Board had recommended approval of the Plan.

9:47:29 PM Upon a motion by Commissioner Dancy, seconded by Commissioner Gering, the Board moved to adopt the Churton Street Corridor Plan with the noted amendments by a vote of 5-0. The motion was declared passed.

I. Consider request from the Beckett's Ridge Homeowners Association for Road Improvements

9:47:56 PM Assistant Town Manager/Public Works Director Demetric Potts stated that the Beckett's Ridge Homeowners Association had requested that the Board consider the installation of sidewalks and widening Millstone Drive and Beckett's Ridge Drive extension. He said they also desired a traffic signal be installed at the intersection of Millstone Drive and Old NC 86, and that the Town study the area and devise a plan of action to remedy the situation.

9:48:40 PM Commissioner Hallman asked if the proposed sidewalk as in the Town's current sidewalk plan. Mr. Potts said it was planned for the future, adding that the sidewalk on the south side of Beckett's Ridge Drive extension was a part of the requirement for development of that area.

9:48:59 PM Paul Newton, President of the Beckett's Ridge Homeowners Association, said there were several areas of concern. He said one had to be with the Town's right-of-way within Beckett's Ridge, in particular the intersection of Baycourt Trail/Woodbury Drive/Beckett's Ridge to a few feet before the intersection of Cate's Creek Parkway. Mr. Newton said that area of land had been torn up continuously as infrastructure had been laid during various construction activities. He said they wanted that area restored back to the way it was before that disturbance occurred, which was a nicely sodded area that would be easily maintained by the adjacent homeowner.

Mr. Newton said regarding road improvements, they were asking the Board to authorize Mr. Potts and any other resources he needed to analyze the situation and devise an action plan. He said they were saying anecdotally that perhaps a traffic signal would be good or widening would be good, but they were not traffic experts. So, Mr. Newton said, they were seeking assistance to determine what would be the best solution on this hilly and curvy road.

Mr. Newton said that road was a major thoroughfare with much traffic, and when Waterstone was developed that issue would become much worse. He said on top of that, it was an unsightly area, and they wanted to determine once the construction was completed who would clean the area up and return it to its natural beauty. Mr. Newton said these problems were serious and needed to be addressed, and asked that the Town ensure that the developer of the Old Mill Business Park install the sidewalk that was agreed upon. He said the residents would appreciate any help the Board could extend.

9:52:46 PM Commissioner Hallman asked who had torn up the landscape, and had the Homeowners Association contacted them. Mr. Newton said no, that they had expected the Town to do that. He said that was Town right-of-way property, and he believed the companies laying the infrastructure had been responsible for tearing up the landscape in that right-of-way.

9:53:46 PM Mr. Potts said he believed the construction in that particular right-of-way was completed. He said he had visited the area with Public Works and they intended to address that area in the fall. He said that October and November would be the appropriate time to plant grass and provide other plantings.

9:54:22 PM Mr. Peterson asked if we would use sod or seed. Mr. Potts said they wanted to seed the area, and if that failed then they would look at providing sod. He said they believed that they could seed the area and that grass would grow there.

9:54:38 PM Commissioner Lowen said regarding traffic calming, he passed through that area often. He asked if it would be helpful to put a centerline through the area. He said traffic moved fairly quickly, and placing a centerline on the roadway would make it narrower and perhaps force traffic to slow somewhat by having them remain on their side of the road. Mr. Potts said he could determine the cost of putting in a centerline, but could not guarantee that it would slow traffic. Commissioner Lowen said he realized there was a cost and that it would take some time, but believed a centerline could be provided fairly quickly.

9:55:59 PM Mr. Peterson said if it was affordable, they would just do it rather than coming back to the Board. He asked if the Board wanted the staff to pursue other avenues, such as contacting NCDOT regarding the intersection of Old 86 and Millstone. Mr. Peterson said regardless of the answer that would give them some data points on what they may want to do. He asked if the Traffic Engineer should be asked to conduct an analysis of the traffic load, what future improvements were planned, and discover if there were other recommendations to be considered. Mr. Potts said they could be any and all of the above, with the Board's direction.

9:57:04 PM Commissioner Hallman asked if the traffic analysis prepared by the Waterstone developer would reflect that area and the impact on Old 86. Mr. Potts said they would research that.

9:57:25 PM Mr. Peterson said he did not believe any of the staff could exercise a traffic engineering opinion on the way the road operated.

9:57:41 PM Commissioner Hallman said if we had a petition from the neighborhood to take before the NCDOT, that would have more impact than a request from the Town Manager. Mr. Newton said their property manager had been in contact with NCDOT, but the answer had been effectively no. He said they would still like to pursue a traffic light.

Mr. Newton said regarding the Old Mill Stone Business Park and Millstone Drive, traffic in that area during peak hours made it impossible to make a left-hand turn onto OLD 86. He said their concern was not one of traffic calming; rather it was one of traffic safety and vehicular access. Mr. Newton said the roads were already narrow, and doing anything to make them appear even narrower was not much help. He said another alternative might for the Oakdale/Old 86 intersection to connect into Millstone, which would give people a signalized intersection to travel to.

10:00:29 PM Commissioner Hallman said with Lafayette Drive crossing over, that would probably need to be signalized, as well as Oakdale. Mr. Newton agreed that was one way to achieve it. He said the problem existed now and was posed to only become worse, especially as Waterstone was constructed and built out. Mr. Newton reminded the Board that one of the conditions of approval for Waterstone was that construction traffic now utilizes Cate's Creek Parkway, and noted that that small parkway was a primary access point for construction vehicles. He said if it was the Town's intention to prevent that, it had not been successful.

Mr. Newton noted that the Montessori School also added a component of traffic to the situation, adding that traffic tended to line the streets just before and just after school hours. He added that there was no passing in that area, so traffic backed up during drop-off and pick-up of school children.

Mr. Newton reiterated that they were requesting for Town staff time and an action plan.

J. Consider revising the Water Sewer Advisory Committee Term Schedule

10:02:31 PM Mr. Keel noted that the Water Sewer Advisory Committee was suggesting adjustments to their terms to ensure that one in-town member and one out-of-Town member from the Committee would be reappointed every year in October. He said the term lengths would remain at 4 years. Mr. Keel noted they currently had 3 vacancies, with only 5 members. Mr. Keel said the only impact to current members was that it did shorten two current members' terms by one year, that being Paul Kimple and Katherine Sanders. He said both members had agreed to that term change.

Mr. Keel said they had been actively seeking new members, and that had been a struggle. He said they would continue to work to fill those vacancies. Mr. Keel said they were asking the Board to endorse the amendment to the terms.

10:04:46 PM Upon a motion by Commissioner Lowen, seconded by Commissioner Dancy, the Board moved to approve the Water Sewer Advisory Committee term schedule by a vote of 5-0. The motion was declared passed.

K. Discuss the Possibility of Conducting a State of the Town Address Function in January of 2007

10:05:03 PM Mayor Stevens noted that several people had suggested the concept of doing a "State of the Town address this January. He said the same questions seemed to come up over and over, and thought this might be a way to address those key issues.

10:06:00 PM Commissioner Gering said he believed it was a wonderful idea, especially since it would be sponsored by the Town. He suggested that Board members should participate as well.

10:06:10 PM Commissioner Dancy said we should discuss the aspects of such an address, given the amount of development taking place and planned for the Town.

10:06:26 PM Mayor Stevens said even though they had talked about the Churton Street Plan and the Strategic Growth Plan, putting those pieces together would let us look more holistically at where we were as a town. He said he believed the address should happen on a regular basis. Mayor Stevens asked for suggestions as to the time of day such an event should be scheduled, and for any other ideas.

10:07:05 PM Commissioner Dancy said it would be more beneficial to hold such an address in the evening so that more people could come out. She said the address should have a set time limit so that people knew how much time to devote to it. Commissioner Dancy suggested one hour was adequate.

10:07:30 PM Commissioner Lowen said the address should be held in an environment that was inviting as possible, and perhaps provide snacks.

10:08:00 PM Mayor Stevens asked the Manager if that sounded feasible to him. Mr. Peterson replied it did.

10:08:36 PM Mayor Stevens said he would take responsibility for working on this item and checking with others for ideas.

L. Report on Nuisance and Criminal Activity Abatement Team (NCAT)

10:08:52 PM Police Chief Clarence Birkhead updated the Board on NCAT activities. He said they had been addressing issues such as noise, suspected criminal and drug activity, trash, high grass and others. Chief Birkhead said they had developed a number of ideas to try to reach out and engage the community to get them involved and assist NCAT in doing a better job. He said they had developed a Nuisance Abatement Criminal Activity Intelligence Sheet, included in the packet, which was designed to garner information about suspected activities

10:11:37 PM Commissioner Gering said he had exchanged email with Town staff, looking for ways to be more forceful in making property owners responsible for the source of activities that take place on their property, for instance drug activities. He said it was not a simple problem nor did it have simple solution. Commissioner Gering asked the Board to authorize the staff to conduct the research to discover any tools that might be available for law enforcement to use to go after property owners that allowed illegal activities to take place on their property. He wondered to what extent the NCAT could be extended to include the court justice system. Commissioner Gering said many times persons are arrested for illegal activities but the court system released them almost immediately. He wondered if we could partner with the court system to have such cases handled more appropriately, such as identifying “hot” cases, provide them with additional assistance, or whatever it would take to convince them to be more vigorous with such cases. Commissioner Gering said if the Board found this worth pursuing, he asked that the staff be directed to do that and come back with a report.

10:13:52 PM Mr. Peterson said he would discuss this with the staff and if it was possible to bring this back at the October workshop, they would do so. However, if more time was needed he would defer it to November. Mr. Peterson said if there were other similar topics that the Board would like to dedicate a portion of the workshop to, then the staff could try to address those issues as well. He said it might also bring some added attention to what many believe affected the quality of life in the Town.

10:14:47 PM Chief Birkhead added that in a separate setting they meet with judges and the District Attorney on a regular basis, particularly if it concerned a major case. He said recently they had addressed the “revolving door syndrome” with the Magistrate’s Office, and he knew that both judges and the District Attorney supported stiffer bonds and sentencing. Chief Birkhead said all of the Chiefs in the County had had similar discussions with them, so they were fully aware of our position.

10:15:51 PM Commissioner Hallman said one thing that had come out of the public hearing for Cornwallis Hills neighbors was the sense that they needed to wall themselves in, and his reaction to that was that we had a much larger problem if people in our Town felt safer if their neighborhoods had walls built around them.

M. Reminder that the September 25<sup>th</sup> Workshop will be used to Conduct Training for the Town Board, Planning Board, Board of Adjustments, and Historic District Commission on Conducting Quasi-Judicial Hearings

10:16:27 PM Mr. Hornik reminded the Board that the September 25 workshop would be used to conduct training for the Town Board, the Planning Board, the Board of Adjustment, and the Historic District Commission on Conducting Quasi-Judicial Hearings. He stated that the meeting room in the Holiday Inn Express had been reserved for this training, with the meeting beginning at 7:30, with limited drinks and snacks provided. Mr. Hornik said he and Mike Brough had developed a two-hour training session.

10:17:04 PM Mayor Stevens noted that he and Commissioner Hallman would be in Madison at that time, and would not be attending.

10:17:30 PM Commissioner Dancy noted she would not be attending that meeting as well, noting a conflict

10:17:33 PM On another subject, Commissioner Hallman noted he had talked with Robert Dowling with Orange Community Housing and Land Trust. Mr. Dowling, he said, would be presenting their Strategic report to Chapel Hill, Carrboro, and Orange County, and suggested that he make that same presentation to our Board. Commissioner Hallman said the presentation would address the long-term issues of affordable housing and what Hillsborough would be facing. He suggested November might be a good time to hear that presentation.

Commissioner Hallman said the other topic was the idea of setting up a payment-in-lieu process for developers, so that if it were not practical for a developer to provide affordable housing in one location a payment could be set aside so that such housing could be provided elsewhere. He said that Mr. Dowling wanted to address with the Board the issue of setting up a Housing Trust Fund to allow payment-in-lieu for affordable housing.

10:19:17 PM Mayor Stevens asked staff to get that issue on the agenda, possibly for November.

N. Request from Habitat for Humanity sign to document capital campaign

10:19:32 PM Mayor Stevens noted this item had been removed from the agenda.

O. Discuss Preparations for the Town Manager's Annual Performance Evaluation

10:19:57 PM Mayor Stevens asked about the form provided. Mr. Peterson responded it was just a generic evaluation form for a municipal manager, to be used as a guide.

10:20:38 PM Mayor Stevens asked if there was any need to look at the overall goals from the workshop, and to being moving toward some congruence so that we know collectively where we are going. Mr. Peterson said he could prepare a self-evaluation, using the identified major goals and the progress on each, as he saw it. He said that would be an additional resource the Board could use. Mayor Stevens asked about the timing. Mr. Peterson responded the October Board meeting would be suitable if the agenda was not too full.

10:21:54 PM Upon a motion by Commissioner Lowen, seconded by Commissioner Dancy, the Board moved to enter into closed session to discuss the evaluation of the Town Manager by a vote of 5-0. The motion was declared passed.

**12. CLOSED SESSION**

Upon returning to Open Session, and upon a motion by Commissioner Lowen, seconded by Commissioner Hallman, the Board moved to excuse Commissioner Dancy from the upcoming Workshop by a vote of 5-0. The motion was declared passed.

10:22:10 PM Short Recess

**13. ADJOURN**

11:26:00 PM Upon a motion by Commissioner Lowen, seconded by Commissioner Hallman, the board moved to adjourn the meeting at 11:26 PM by a vote of 5-0. The motion was declared passed.

Respectfully submitted,  
Donna F. Armbrister, CMC  
Town Clerk

RESOLUTION # RES20060911.4.A


**A RESOLUTION OF INTENT TO PERMANENTLY CLOSE  
A PORTION OF WEBB STREET**

IT IS HEREBY RESOLVED, by the Town of Hillsborough Board of Commissioners on this 11<sup>th</sup> day of September that the Town of Hillsborough intends to officially close that portion of a public right of way formerly known as Webb Street lying east of the sharp turn to the south which connects with Knight Street, such portion of the former Webb Street no longer being in use; and it is further

RESOLVED that the Town of Hillsborough Board of Commissioners shall conduct a public hearing to consider closure of the aforesaid portion of Webb Street described above on the 11<sup>th</sup> day of Sept 2006 at 7:30 o'clock PM in the Town Barn, at which public hearing any person may be heard on the question of whether or not the closing would be detrimental to the public interest or to the property rights of any individual; and it is further

RESOLVED that a copy of this Resolution shall be published once a week for four successive weeks prior to the public hearing and a copy of this resolution shall be sent by certified mail to all owners of property adjoining that portion of Webb Street which is proposed to be closed, as shown on County Tax Records, that a Notice of Public Hearing shall be prominently posted in at least two places along Webb Street, and that a map showing the portion of the former Webb Street that is proposed to be closed is available for review in the office of the Town Clerk.

ADOPTED this 11<sup>th</sup> day of September 2006.

  
Donna F. Armbrister, Town Clerk

10.C

NORTH CAROLINA

ORANGE COUNTY

MEMORANDUM OF UNDERSTANDING

1. Parties. The parties to this memorandum of understanding ("memo") are the Town of Hillsborough (the "Town") and The Brough Law Firm ("Law Firm").

2. Purpose. The purpose of this memo is to set forth the understanding between the parties concerning the nature of the relationship under which the Law Firm shall serve as the Town Attorney.

3. Scope of Service. In consideration of the compensation set forth below, Law Firm shall continue to perform for the Town all of the legal services required by the Town as set forth herein. Such services shall include, without limitation, consultation with the Board of Commissioners and town staff, attendance upon request at the Board of Commissioner's meetings, and the meetings of other boards, drafting and/or review of ordinances and other documents, and representation of the Town in litigation. Not included within the scope of covered services are services customarily performed by outside bond counsel.

4. Services Performed by Law Firm. The parties acknowledge and agree that the full resources of the Law Firm shall be available to the Town. However, the Law Firm may subcontract with other firms or individuals to have certain services performed for the Town, such as title searches, but the Law Firm shall remain responsible to the Town for the quality and timeliness of these services. Payment for these subcontracted services shall be made by the Law Firm and shall be charged to the Town on the Law Firm's monthly invoice.

5. Compensation. The Town shall pay to Law Firm for legal services rendered during fiscal year 2006-2007 on a monthly basis according to the services performed during each month. Monthly invoices shall indicate the number of hours worked and the fees shall be calculated according to the following rates.

Michael B. Brough	\$155.00
William C. Morgan, Jr.	\$150.00
Nicholas Herman	\$150.00
Robert E. Hornik, Jr.	\$150.00
Nancy Friel Hornik	\$150.00
T.C. Morphis, Jr.	\$120.00

Ordinary office expenses shall continue to be charged in accordance with the attached statement.

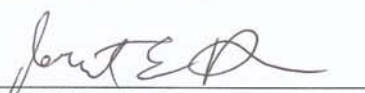
6. Duration, Termination. This memorandum shall govern the relationship between the parties for the period July 1, 2006 through June 30, 2007. The relationship established under this memorandum may be terminated upon ten (10) days written notice by either party. Payment shall be made for services rendered through the date of termination.

This memorandum of understanding is executed by the parties this 11th day of September, 2006.


TOWN OF HILLSBOROUGH

BY:   
Eric Peterson, Manager

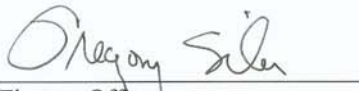
THE BROUGH LAW FIRM

BY:   
Robert E. Hornik, Jr.

ATTEST:

  
Donna Armbrister, Clerk

Provision for payment has been made by an appropriation duly made or bonds or notes duly authorized, pursuant to the Local Government Budget and Fiscal Control Act.

  
Finance Officer

RESOLUTION # RES20060911-10.D

North Carolina Governor's Highway Safety Program  
**LOCAL GOVERNMENTAL RESOLUTION**  
**Form GHSP-02-A**

(To be completed, attached to and become part of Form GHSP-02, Highway Safety Project Contract.)

WHEREAS, the Hillsborough Police Department (The Applicant Agency) (herein called the "Agency")  
has completed an application contract for traffic safety funding; and that the Town of Hillsborough  
(The Governing Body of the Agency)  
(herein called the "Governing Body") has thoroughly considered the problem  
identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE Town of Hillsborough IN OPEN  
(Governing Body)  
MEETING ASSEMBLED IN THE CITY OF Hillsborough, NORTH CAROLINA,  
THIS 25th DAY OF July, 2006, AS FOLLOWS:

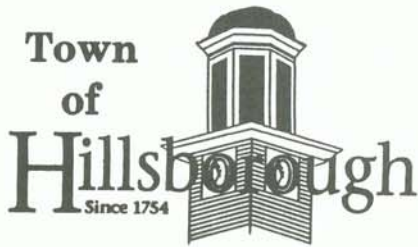
1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Clarence F. Birkhead, Chief is authorized to file, on behalf of the Governing  
(Name and Title of Representative)  
Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal  
funding in the amount of \$ 146,540.00 to be made to the Governing Body to assist in defraying  
(Federal Dollar Request)  
the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$ 15,000.00 as  
(Local Cash Appropriation)  
required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other  
appropriate persons to furnish such information, data, documents and reports as required by the contract, if  
approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by Tom Lane  
(Chairperson/Mayor)

ATTESTED BY Anna Schreiber  
(Clerk)

DATE 09-12-06





RESOLUTION # RES20060911-10.E

RESOLUTION OF SUPPORT  
FOR THE EASTERN PIEDMONT SECTION INCLUDING  
PREFERRED AND ALTERNATE ROUTING OPTIONS FOR  
NORTH CAROLINA'S MOUNTAINS-TO-SEA TRAIL

WHEREAS, the protection and preservation of our water, openspace, greenways and trails are important to our citizens and visitors, and

WHEREAS, we believe that providing public access to our public waters, openspace, greenways and trails is important, and

WHEREAS, we know that protected and preserved waters, openspace, greenways and trails often cross governmental jurisdictions, and

WHEREAS, we find it beneficial for there to be a coordinated plan for trails and greenways with our neighboring cities, counties and the state, and

WHEREAS, we know that the State of North Carolina through the Department of Environment and Natural Resources and the Division of Parks and Recreation's State Trails Program are charged with coordinating the planning and development of a system of trails across North Carolina, and

WHEREAS, we know that the Department of Environment and Natural Resources and the Division of Parks and Recreation's State Trails Program have endorsed North Carolina's Mountains-to-Sea Trail as the flagship trail for this growing system of trails across this State, and

WHEREAS, there is currently no state endorsed alignment for North Carolina's Mountains-to-Sea Trail for our region nor a regional trail or greenway plan for this central piedmont region, and

WHEREAS, our staff have worked with staff of the Department of Environment and Natural Resource and the Division of Parks and Recreation's State Trails Program and the Piedmont Triad Council of Governments to develop a comprehensive plan for trails and greenways for the Central Piedmont Region, including the Mountains-to-Sea Trail, and

WHEREAS, this Eastern Piedmont Trails and Greenway Plan outlines an implementation strategy defining how all signing partners can better work together to plan, acquire, develop and manage trails and greenways, and

WHEREAS, we understand by providing public trails and greenway, that we are improving our quality of life, providing opportunity for environmental tourism and enhancing our industrial recruitment activities, and

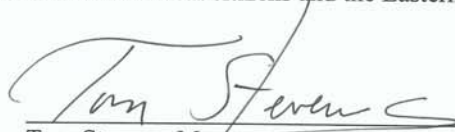
NOW THEREFORE BE IT RESOLVED, BY **THE HILLSBOROUGH TOWN BOARD OF COMMISSIONERS:**

Section 1: Endorse the Eastern Piedmont Trails Plan and the preferred and alternate alignments for North Carolina's Mountains-to-Sea Trail as indicated on the attached map

Section 2: Request that this plan in its entirety be endorsed by the Department of Environment and Natural Resources as the Eastern Piedmont Region's Trails Plan component of the State Trails System Plan

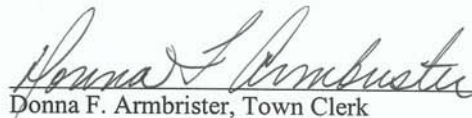
Section 3: Agree to continue this partnership of all governmental agencies included in the Eastern Piedmont Trails Planning effort, the Department of Environment and Natural Resource and the Division of Parks and Recreation's State Trails Program and the Piedmont Triad Council of Governments to further develop an implementation strategy that gives priority to the planning, acquisition, development, and management of trails or trail segments that are located within the agencies jurisdiction that will best serve the needs of the local citizens and the Eastern Piedmont Region.

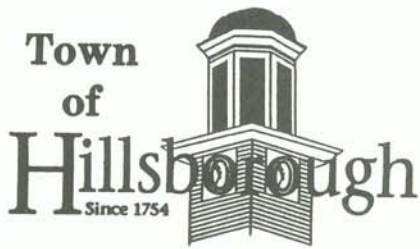
9/15/2006  
DATE

  
Tom Stevens, Mayor

SEAL



  
Donna F. Armbrister, Town Clerk



RESOLUTION # RES20060911-10.F

RESOLUTION EXTENDING  
VESTED RIGHTS TO THE WATERSTONE MASTER PLAN

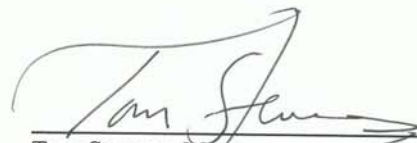
WHEREAS, The Hillsborough Town Board approved the Master Plan for the Waterstone development on March 8, 2004, and

WHEREAS, during that time the project was sold to The Stratford Company, and

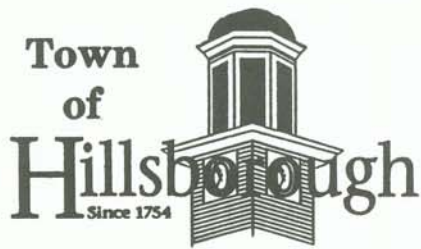
WHEREAS, The Stratford Company has pursued implementation of the Master Plan

NOW, THEREFORE BE IT REOLVED, by the Hillsborough Town Board of Commissioners, hereby extends the vesting period for the Master Plan through March 8, 2009 as permitted under North Carolina General Statutes.

Adopted this the 11<sup>th</sup> day of September, 2006.



Tom Stevens, Mayor



10.12

**BUDGET AMENDMENTS**

**September 11, 2006**

<b><u>1. GENERAL FUND:</u></b>	<b><u>BEFORE</u></b>	<b><u>ADJ.</u></b>	<b><u>AFTER</u></b>
<b>EXPENDITURES</b>			
10-4200-115 Administration- EOC/Satellite,Cable	\$ -	\$ 1,000	\$ 1,000
10-9990-000 Contingency	\$ 65,000	\$ (1,000)	\$ 64,000
	<u>\$ 65,000</u>	<u>\$ -</u>	<u>\$ 65,000</u>

To fund the monthly expense of satellite, cable and broadband for the Emergency Operations Center

<b>2. EXPENDITURES</b>			
10-5110-580 Police Patrol- Grant Match-MDTs	\$ 6,000	\$ (6,000)	\$ -
10-5110-741 Police Patrol-Capital MDTs	\$ -	\$ 6,000	\$ 6,000
	<u>\$ 6,000</u>	<u>\$ -</u>	<u>\$ 6,000</u>

To reclassify and move a non-capital expenditure to a capital expenditure

<b>3. EXPENDITURES</b>			
10-5100-731 Police Administration-Capital Improv.	\$ 10,000	\$ (10,000)	\$ -
10-5100-320 Police Administration-Supplies	3,000	10,000	13,000
	<u>\$ 13,000</u>	<u>\$ -</u>	<u>\$ 13,000</u>

To reclassify and move a capital expenditure to a non-capital expenditure

<b>4. EXPENDITURES</b>			
10-5110-742 Police Patrol- Capital/K9	\$ 12,000	\$ (1,345)	\$ 10,655
10-5110-574 Police Patrol-Misc./Police Dog	2,000	1,345	3,345
	<u>\$ 14,000</u>	<u>\$ -</u>	<u>\$ 14,000</u>

To reclassify and move a capital expenditure to a non-capital expenditure

**5. EXPENDITURES**

10-5300-573 Fire Inspections-Auto Tax/Tags	\$	-	\$	500	\$	500
10-9990-000 General Fund Contingency		<u>64,000</u>		<u>(500)</u>		<u>63,500</u>
	\$	<u>64,000</u>	\$	<u>-</u>	\$	<u>64,000</u>

To establish and fund auto taxes and tags for a new truck purchase for fire inspections

**6. EXPENDITURES**

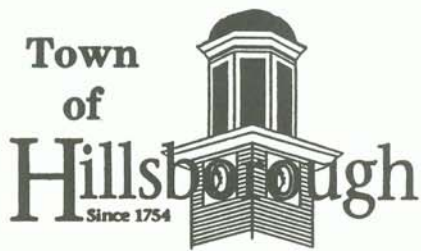
10-5300-740 Fire Inspections -Capital/Hybrid TK	\$	25,000	\$	2,200	\$	27,200
10-5600-360 Streets-Uniform Rental	\$	1,900	\$	(700)	\$	1,200
10-5800-360 Sanitation-Uniform Rental	\$	2,200	\$	(800)	\$	1,400
10-5800-571 Sanitation-Misc./Public Infor. Material		<u>5,000</u>		<u>(700)</u>		<u>4,300</u>
	\$	<u>34,100</u>	\$	<u>-</u>	\$	<u>34,100</u>

To fund the additional expense of a new truck purchase for fire inspections

APPROVED: 09-11-06 5-0 Vote

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

10.I



15

ORDER OF THE HILLSBOROUGH BOARD OF COMMISSIONERS  
IN ACCORDANCE WITH G.S. 105-321

State of North Carolina  
County of Orange

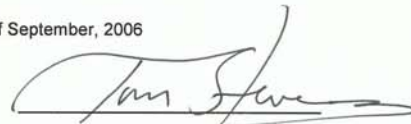
To Jo Roberson, Tax Collector of Orange County:

You are hereby authorized, empowered, and commanded to collect the 2006 taxes set forth in the tax records filed in the office of the Orange County Tax Assessor, and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Orange.


This order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 11th day of September, 2006

Tom Stevens

  
Mayor, Town of Hillsborough

Attest:

  
Clerk to the Hillsborough Town Board



■ 511 East Boulevard  
Charlotte • North Carolina • 28203

□ Phone 704•373•1199  
Fax 704•373•1113

□ www.raftelis.com

10.K

September 1, 2006

Mr. Eric Peterson  
Town Manager  
Town of Hillsborough  
P.O. Box 429  
Hillsborough, NC 27278

Dear Mr. Peterson,

Raftelis Financial Consultants, Inc. ("RFC") is pleased to submit this engagement letter to the Town of Hillsborough ("Town") to perform an economic evaluation of proposed wholesale water rates from the City of Durham ("Durham"). Durham is currently preparing a proposal to offer the Town wholesale water service through new and existing potable water system interconnections. The Town must determine the economic feasibility of accepting wholesale service or continuing to treat its own potable water for service within its retail system. RFC proposes to assist the Town in development of a model that will determine which option is in the long-term best interest of the Town's water system customers. RFC will also work with the Town to develop a list of important issues to be included in a wholesale contract and negotiation positions for each issue. The exact timing and scope of this project will be dependant on submission of a proposal by Durham and the course of the negotiations. The following Work Approach describes how we plan to support the Town in evaluation of Durham's wholesale proposal.

### **Work Approach**

The Work Approach for this engagement will have two major tasks: (1) development of a model to evaluate the economic feasibility of becoming a wholesale water customer of Durham; and, (2) development of a list of issues and negotiating positions for the wholesale contract.

#### Task 1

RFC will construct an economic evaluation model to project revenue requirements of the water system under continued operation of the Town treatment facility ("the status quo") and under wholesale service from Durham ("wholesale service"). Initially, the modeling will focus on itemizing the cost of treatment under the status quo and estimating the costs that would go away if treatment were no longer needed. Costs that could be reduced or eliminated under wholesale service may include both operating and capital costs. Once Durham proposes a wholesale rate, the model will project Town usage and calculate total wholesale service costs to the Town. Comparing projected status quo costs and projected wholesale service costs will allow the Town to determine the economically superior alternative.

- DRAFT -

Mr. Eric Peterson  
Town of Hillsborough

September 1, 2006  
Page 2

Task 2

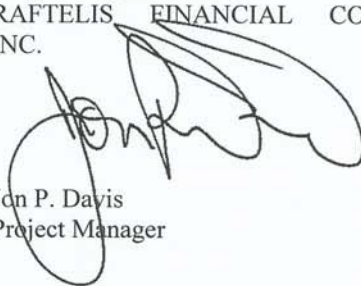
RFC will assist the Town in compiling a list of issues that should be addressed in a comprehensive wholesale contract. Issues are likely to include both economic and non-economic considerations. We will assist in the development of the Town's preferred position for each issue. Issues may include:

- Capacity requirements and timing;
- Service requirements;
- Take-or-pay provisions;
- Value of contributed assets/capacity; and
- Capital financing alternatives.

Since the nature and timing of this project cannot be precisely determined, we propose that it be completed on a time and materials basis. At this point, we estimate that fees and expenses would be approximately \$15,000, based on an allowance of 80 hours of consultant time and expenses for two person-trips to Hillsborough. Trips would include one data gathering meeting with Town staff and one meeting to convey the results of the analysis and discuss the wholesale agreement. We would be available for additional meetings, as necessary, to present findings to the Town Council or the Water and Sewer Advisory Board.

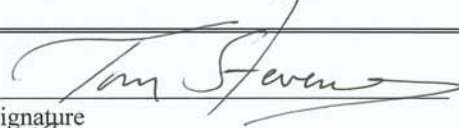
If actual hours incurred are less than the estimated hours, then this savings would be retained by the Town. We look forward to working with you and your staff on this update. Should you have any questions, please do not hesitate to contact me at (704) 373-1199. If the provisions of this engagement letter are acceptable, please sign and return one copy of the letter for our files. We are delighted to have this opportunity to work with you on this project.

Respectfully submitted,,  
RAFTELIS FINANCIAL CONSULTANTS,  
INC.



Jon P. Davis  
Project Manager

We accept the terms of this engagement letter:

	09-12-06
Signature	Date
Mayor	TOM STEVENS
Title	Name of authorized agent

- DRAFT -

ORDINANCE # ORD20060911-11.C

AN ORDINANCE AMENDING THE ZONING MAP  
OF THE TOWN OF HILLSBOROUGH

THE BOARD OF COMMISSIONERS OF THE TOWN OF HILLSBOROUGH ORDAINS:

**Whereas an application has been made for the rezoning of the property herein; and**

**Whereas the application has been referred to the Town Planning Board for its recommendation and the Planning Board has provided the Town Board with a written recommendation addressing the consistency of the proposed rezoning with the Town's comprehensive plan and such other matters as the Planning Board deemed appropriate; and**

**Whereas the Town Board has, prior to acting on the application, adopted a statement describing the consistency of the proposed rezoning with the Town's comprehensive plan and explaining why the action contemplated by the Town Board as reflected herein is reasonable and in the public interest.**

**NOW, THEREFORE, be it ordained as follows:**

- Section 1. The Zoning Map of the Town of Hillsborough is hereby amended to rezone approximately 1.67 acres from Residential-20 to General Commercial near the intersection of St. Marys Road and US 70 Bypass. The parcel is identified at Tax Map 4.21.C.7.
- Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.
- Section 3. This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote received the following vote and was duly ADOPTED/DENIED this 11<sup>th</sup> day of September, 2006.

Ayes: 5  
Noes: 0  
Absent or Excused: 0

  
Donna F. Armbrister, Town Clerk

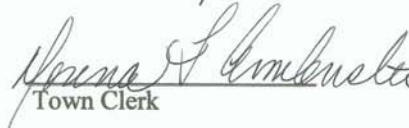
**Town Board's Statement per N.C. Gen. Stat. 160A-383**

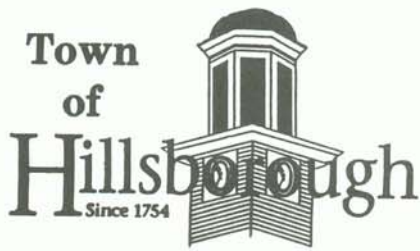
The Town of Hillsborough Town Board has received and reviewed the application of Mr. Dwight Walters to amend the Town of Hillsborough Zoning Ordinance/Map to rezone approximately 1.67 acres from Residential-20 to General Commercial near the intersection of St. Marys Road and US 70 Bypass. The parcel is identified at Tax Map 4.21.C.7.

The Hillsborough Town Board has determined that the proposed action is consistent /inconsistent with the Town of Hillsborough's comprehensive plan, and the Town Board's proposed action on the amendment is reasonable and in the public interest for the following reason(s):

- 1) The area is designated for Retail Activity on the Vision 2010 Land Use map and the General Commercial Zoning District is too broad in the list of permitted uses to ensure compliance with the Land Use designation.
- 2) The General Commercial Zoning District and list of permitted uses is not consistent with the residential uses currently existing in the abutting parcels and these uses would be subject to adverse impacts from uses in the General Commercial district.
- 3) Gravity sewer service is not readily available to this site.

Adopted by the Town of Hillsborough Board of Commissioners this 11 day of Sept. 2006

  
Town Clerk



RESOLUTION # RES20060911-11.H

RESOLUTION ADOPTING  
CHURTON STREET CORRIDOR STRATEGIC PLAN 2006

WHEREAS, The Hillsborough Tourism Board initiated a corridor planning process for Churton Street to build on the student design competition and downtown improvements plan, and

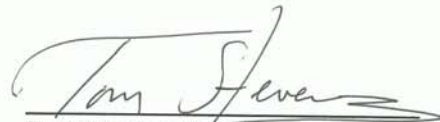
WHEREAS, The Division of Community Assistance provided technical support and guidance to a citizen task force over approximately 18 months, and

WHEREAS, The task force undertook significant public involvement activities to determine the public's preferred development for the Churton Corridor, and

WHEREAS, The Plan includes an implementation plan to ensure the recommended changes and projects are realized,

NOW, THEREFORE BE IT REOLVED, by the Hillsborough Town Board of Commissioners, that the Churton Street Corridor Strategic Plan 2006 is adopted as a planning document for the Town and will be used in the completion of the Strategic Growth Plan for Hillsborough and the comprehensive development code update. This document may also be referenced in the review of development proposals and used as a model for other corridor planning efforts.

Adopted this the 11<sup>th</sup> day of September, 2006.



Tom Stevens, Mayor