

**TOWN OF HUNTERSVILLE
REGULAR TOWN BOARD MEETING
MINUTES**

**June 20, 2011
6:30 p.m. – Town Hall**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall at 6:30 p.m. on June 20, 2011.

GOVERNING BODY MEMBERS PRESENT: Mayor Jill Swain; Commissioners Danae Caulfield, Charles Jeter, Ron Julian, and Sarah McAulay.

Mayor Swain called for a moment of silence.

Mayor Swain led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS

Mayor Swain

- The MTC and the Red Line Task Force will meet tomorrow night.
- No report from the EDC Management Team or the ASC Board.

Commissioner Caulfield

- No report.

Commissioner Jeter

- The Lake Norman Transportation Commission met last Wednesday in Charlotte. It was more of a review session. We did get some fiscal updates from CATS as far as how theoretically you might pay for the Red Line. The next meeting will be the second Wednesday in July.

Commissioner Julian

- No report from the Lake Norman Chamber.
- From LNREDC, ABB is continuing construction.
- Concerning the Northwest Transportation Study, on June 20 the Town Board will be receiving comments. On June 28, public comments to date that have been made about the study will be presented to the Planning Board.
- Huntersville Connection will meet tomorrow at Fox & Hound.

Commissioner McAulay

- The next meeting of the MPO is July 20.
- Provided report on the discussions that have been taking place on the police facility bond referendum. The Huntersville Board of Commissioners during the last year discussed authorizing a police bond referendum on November 8, 2011. Town Manager Ferguson, Police Chief Potter and Finance Director Stoner along with others have provided the requested preliminary details and cost estimates. I am reporting that recently I talked with each commissioner individually and our collective opinion is that economic recovery remains lagging and does not warrant a major November 2011 bond referendum for the public's consideration

along with its associated future tax rate increase. Since the Huntersville Town Board of Commissioners has not officially recorded a bond referendum authorization, there is no action required at this time. It is my understanding that a new expanded policy facility remains a high priority for the Huntersville Commissioners. The detail documents and design plans will remain usable for the near future.

Mayor Swain recognized Planning Board members present: Joanne Miller, Jeff Neely, Hal Bankirer, Bruce Andersen.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Dee Jetton, HFFA Director, presented plaque to Our Towns Cinemas and Birkdale Animal Hospital for their sponsorship of the kids' triathlon series.

Bill Fesperman, 15826 Shoreway Drive, said I'm here in relation to Item E on your agenda – adding Shoreway Drive to the Huntersville street system. The Commissioners and Mayor received an e-mail from me a couple of weeks ago stating out case, so I'm not going to go into that detail again and take your time. As to whether the street was built to DOT standards and why it was never turned over to the state, I think Mr. Buchanan has the answers to those questions. I'm just here to let you know that I am here and that if you have any other questions for me, I'm available. Thank you for your support.

Joe Kluttz, 15015 Highway 73, said I'm here to speak on the Highway 73 project that I think we are all familiar with. For those of you who know where the Grease Monkey Service Center is on 73, my driveway is straight across from there, so that's why I have a lot of interest in this project. Shortly after I moved, I decided the speed limit on 73 needed to be 45 mph. I have to college aged boys and the week that Amy Powell was killed, the teacher at Southlake, I decided it was time to do something about it. We worked with Town staff, we worked with Barry Moose and the DOT and we got the speed limit changed on 73 from Blythe Park to McGuire Nuclear Plant. Anybody that is familiar with that area knows that just made sense. I like it when government does things that make sense. Now we are talking about putting a big interstate through that same section of road. That puzzles me because the same section that we changed the speed limit on has an opportunity for ingress and egress.....driveways, residential side roads and 310 private residential homes, several commercial business locations and a school with over 800 students. We are looking at taking that same section of road and making it a high speed corridor. I spent a little time talking to Mr. Coxe. I did some due diligence. There was no Option 4 when I bought my land and built my house. I'm puzzled as to where Option 4 came from. I still haven't quite figured that out, but I am familiar with some of the transportation zoning changes that were going to need to be done there and was fine with Options 1, 2 or 3. I'm really not good with 4. During the due diligence period there was no Option 4 and I would like to say that had there been an Option 4, I wouldn't have built my home there. I wouldn't have taken a chance on Option 4 happening and me building my home and having that interstate freeway in my front yard. I would like to know at what point, by whom and why do we even have an Option 4. This is not my professional opinion, this is my personal opinion, as a resident of the Town of Huntersville, an advocate for health protection and enjoyment of Lake Norman and the Catawba River watershed, you have to ask yourself these questions – will this project impact water of the United States, water of the state; will it impact an area of environmental concern or ACE; and will this project impact one of the designated riparian buffer protection areas. Based on my preliminary review, it appears that Options 1 and 3, the answers to all of those questions may be yes. The approval of Option 4 will result in illogical expenditures and will ultimately create a very litigious process that I can promise that will be the next

step. I strongly support Option 3 as the most viable option, which looking at all these letters and the recommendations from Town staff, from TAC, and from the Planning Board everyone supports Option 3. I'm confused as to why we are looking at another option.

Cari Smith, 16151 Grassy Creek Drive, said I'm here tonight to talk about the Town of Huntersville helping our neighborhood pay for the electricity for the streetlights in our neighborhood. The developer at our last HOA meeting had stated that they would install the remaining streetlights if in turn the Town of Huntersville would pay the electricity bill on the lights and now remove the electricity cost out of our HOA dues, since it is approximately about 20 percent of our HOA dues from the budget that we currently have. I think I did some math and we just want to kind of figure out the cost of.....there's approximately going to be a total of 34 lights in the neighborhood. As of this coming July we will have 19 lights in the neighborhood, so we are off by about 15 lights in the neighborhood, making some very dark areas in our neighborhood. It's more of a safety and concern for our neighborhood and that's pretty much all that I had was just more for the safety and installing some streetlights in our neighborhood.

Mayor Swain said will you let us know what neighborhood.

Ms. Smith said Parkside Skybrook North.

Kevin Gedney, 16026 Skypark Drive, said just to reiterate some things that Cari said, I think there's really two concerns there. One is the safety and security. We've had some break-ins there and the Police Department has been great in kind of squashing that and patrolling the neighborhood, so that's been wonderful. And then secondly is really the cost. That 20 percent we understand that there's been some past rules where, and I don't know the exact figures, but I think the builder would have to complete 52 percent of the homes or something of this nature before the town would pick up the electric bill and so our concern as homeowners is that we pay taxes and because of the stalled economy the builder hasn't been able to complete the neighborhood to the point where this builder is pulling out and we understand a new builder will be coming in at some point, but we don't know. Again, it's a situation where I think.....I don't know if hardship is the appropriate term, but obviously it's a good proportion of our homeowners association dues and we feel that we shouldn't have to pay for them because we are taxpayers and we are paying into that so really our concern here is for the Skypark neighborhood but really maybe it's something that we ought to look at for the Town of Huntersville as a whole. Why are taxpayers paying for electricity out of their HOA and then the city not picking that up when once the city does pick it up, it goes through their property taxes.

AGENDA CHANGES

Commissioner Jeter made a motion to remove Item H (Consider adopting resolution supporting Senate Bill 773 – An Act to Allow All Cities and Counties to Give Electronic Notice of Public Hearings) from Other Business. Commissioner McAulay seconded motion. Motion carried unanimously.

Commissioner Jeter made a motion to adopt the agenda, as revised. Commissioner Julian seconded motion. Motion carried unanimously.

PUBLIC HEARINGS

None

OTHER BUSINESS

2030 Community Plan. At the February 10, 2010 Annual Retreat, the Town Board directed staff to update the Huntersville Community Plan for a successful future. Since that time, staff has been working with the Planning Board, Board of Commissioners and public in preparing the Town of Huntersville 2030 Community Plan. As work has progressed on the plan, input and feedback was provided at eight Planning Board/Town Board meetings, fifteen Planning Board meetings, three public meetings and a citizen survey sent to a random sample group as well as made available to all residents on the town web site. In all, over 850 residents have taken the opportunity to provide input on the Town of Huntersville 2030 Community Plan.

The Huntersville 2030 Community Plan sets forth a vision for land use, preservation and development within the Town of Huntersville through 2030. The plan addresses the following six focus areas identified through the joint Town Board/ Planning Board input sessions at the beginning of the Community Plan process:

- Housing
- Environment
- Transportation
- Economic and Commercial Development
- Downtown
- Public Facilities

On May 24, the Planning Board voted unanimously to recommend that the Town Board adopt the Huntersville 2030 Community Plan.

Zac Gordon, Principal Planner, entered the Huntersville 2030 Community Plan into the record.

Mayor Swain said this has been a long process. You have done an incredible job. There have been a lot of people who have weighed in on this and I appreciate those who are here tonight who have weighed in on that – a lot of give and take. Thank you to staff.

Commissioner Caulfield said I just want to say thank you for going to great lengths to include the public in all this gathering of information.

Commissioner McAulay said I would like to thank everybody that was behind it, including the public and the Planning Board. I do intend to vote to approve it, but I know you won't be surprised at times when I argued that maybe things have changed a little bit since this was drawn up.

Commissioner Julian said I wanted to thank the Planning Staff and Zac for the Community Plan and I think the plan gives a road map to where Huntersville is going.

Commissioner McAulay made a motion to adopt the 2030 Community Plan.

Commissioner Julian seconded motion.

Motion carried unanimously.

The 2030 Community Plan attached hereto as Attachment No. 1.

Agreement with NCDOT – Bridge #100. The NCDOT proposes to make improvements to Bridge #100 over Gar Creek on SR 2120 (McCoy Road) in Huntersville. The project is currently shown in the latest NCDOT Transportation Improvement Program as beginning construction in 2011 and provides for a replacement structure including bridge approaches.

The NCDOT has requested the Municipal Agreement to serve as a notice only and includes no monetary contribution from the Town of Huntersville.

Staff recommends that the Agreement be executed for subsequent placement onto the next scheduled NCDOT Board Agenda.

Commissioner McAulay made a motion to authorize execution of Municipal Agreement with NCDOT for improvements to Bridge #100 over Gar Creek on SR 2120 (McCoy Road).

Commissioner Julian seconded motion.

Motion carried unanimously.

Agreement attached hereto as Attachment No. 2.

Agreement with NCDOT – Bridge #128. The NCDOT proposes to make improvements to Bridge #128 over a branch of McDowell Creek on SR 2131 (Bud Henderson Road) in Huntersville. The project is currently projected to begin construction within the next 12 months and provides for a replacement structure, including bridge approaches.

The Municipal Agreement provides that the Town of Huntersville reimburse NCDOT 60 percent of the construction cost associated with widening the bridge from 30' to 39' as requested by the Town. The widened bridge will accommodate both pedestrians and bicyclists. The total estimated cost of the additional work is \$100,000 with the Town of Huntersville being responsible for \$60,000 upon completion of the work.

Staff recommends that the Agreement be executed for subsequent placement onto the next scheduled NCDOT Board Agenda.

Commissioner McAulay made a motion to authorize execution of Municipal Agreement with NCDOT for improvements to Bridge #128 over a branch of McDowell Creek on SR 2131 (Bud Henderson Road).

Commissioner Caulfield seconded motion.

Commissioner Jeter asked how long do bridges typically last?

Max Buchanan, Public Works Director/Town Engineer, said typical design probably 50 to 75 years.

Commissioner Jeter asked the current width of Bud Henderson road is what?

Mr. Buchanan said the pavement width is probably 20' to 24'.

Commissioner Jeter said but it's not conducive for bikeways or pathways at this point.

Mr. Buchanan said not currently on the current facility.

Commissioner Jeter asked is Bud Henderson Road at any time in the near future being contemplated for widening as part of any current state project, TIP process, or anything in writing that says this is going to be built any time in the next 25 years?

Mr. Buchanan said not as part of a public project.

Commissioner Jeter said I'm going to vote against this motion, because as I voted against it the first time we discussed it I still don't understand why we spend \$60,000 for a bikeway, pedestrian friendly bridge on a road that is anything but bikeway and pedestrian friendly and is going to be at least 25 years.....and there's things on the TIP that aren't going to get built in 25 years. This isn't even on any list, but we are going to spend \$60,000 on the hope that 30 years from now this road is capacity. I just don't think that's a good use of money and I'll vote against the motion.

Commissioner Julian said I'm going to support the \$60,000 bike path on the bridge. I'm sitting here looking at two parcels right across down from the bridge.....again, my vision is Huntersville in the future having the bikeway paths and the connectivity sidewalks to be able to move through Huntersville. With these couple of parcels here developed that bikeway path and sidewalk become very viable, very usable and could happen in 5 years, 3 years, so again I think for me I've got to look at the future of Huntersville and the quality of life and what we want to have. Again, partnering with DOT to put in that sidewalk and bike path is very positive, so I will be voting for it.

Commissioner McAulay said I was going to point out that on the east side of the bridge as you approach it there's several subdivisions, including Henderson Park which is the closest to it, and then as you go west on Bud Henderson on the right side the northwest, there is an approved subdivision plan that has not yet been built, but it's one that I suppose would come back. It is on smaller lots and my way of thinking it's probably one of the ones that would be developed sooner than some of the larger lots that we might have approved. As I drive Bud Henderson, the road is a little bit wider than the bridge currently is or my impression is. I'm going to vote for it.

Commissioner Caulfield said I'm definitely going to vote in favor of this as well. Speaking to several residents who drive across that bridge, not even including the bike/pedestrian pathway, have asked me to address that as well as other bridges in our town that are dangerous just a car to go across and if you come across an oncoming bus, they say they end up having to stop and let that bus go through. One of our vision statements when I first came on the Town Board said that we will be a pedestrian friendly town. One of my first questions to our Town Manager was what happened, because I looked at our sidewalks and they didn't connect and I look at our bike paths that just end in the middle of nowhere and I wonder where in the world will those bicyclists go when it just ends in the middle of a road. For me, if we are going to have a vision to be pedestrian friendly and bicycle friendly, then we have to look long range and a bridge being something that would last 50 to 75 years, hopefully I won't be on the Town Board at that time and I have no idea what will be on the agenda at that time but with something this expensive, I would not want to say I wish we would have done that for something that we already have in our budget in our transportation funding. I'm definitely going to support it. I definitely support pedestrians and bicyclists in our area.

Commissioner Jeter said the \$60,000 we have has no bearing on the widening of the bridge. That's happening anyway. The only monies that the town is apparently getting ready to spend is for the widening of the bridge to make the bike path or the sidewalk.....the bridge is going to be extended to 30' which is wider than the road regardless of what action we take. I think it's great to say we are pedestrian friendly and we just approved a 2030 Community Plan that says we are and I agree with that. I don't have a problem with saying we are pedestrian friendly. We need to be pedestrian friendly. Putting a bike path on the road that you can't get to on a bike.....you put a bike path on a bridge that you can't get to on a bike without taking your life in peril doesn't strike me as being very pedestrian friendly. We are going to agree to disagree.

Commissioner Caulfield said if we didn't participate in this, the bridge would be built not as wide. Is that correct?

Mr. Buchanan said yes, it will be built to 30' if we don't contribute \$60,000.

Commissioner Caulfield said if we participate it's expanded from 30' to 39', correct?

Mr. Buchanan said yes.

Commissioner Jeter asked why is it expanded 9'.....for the bikeways and the sidewalk, not actual road, right?

Mr. Buchanan said yes.

Mayor Swain called for the vote.

Motion carried 3 to 1, with Commissioner Jeter opposed.

Agreement attached hereto as Attachment No. 3.

Agreement with NCDOT – Bridge #130. The NCDOT proposes to make improvements to Bridge #130 over a branch of McDowell Creek on SR 2130 (McIlwaine Road) in Huntersville. The project is currently projected to begin construction within the next 12-15 months and provides for a replacement structure, including bridge approaches.

The Municipal Agreement provides that the Town of Huntersville reimburse NCDOT 50 percent of the construction costs associated with widening the bridge from 30' to 39' as requested by the Town. The widened bridge will accommodate future sidewalks and provide for pedestrian bridge railing. The total estimated cost of the additional work is \$80,000 with the Town of Huntersville being responsible for \$40,000 upon completion of the work.

Staff recommends that the Agreement be executed for subsequent placement onto the next scheduled NCDOT Board Agenda.

Commissioner McAulay made a motion to authorize execution of Municipal Agreement with NCDOT for improvements to Bridge #130 over a branch of McDowell Creek on SR 2130 (McIlwaine Road).

Commissioner Caulfield seconded motion.

Commissioner Jeter said I could rehash the same arguments that we just went down, but I think it's pointless. I think everybody knows my position. I will say that this Board is getting ready to approve \$40,000 after approving \$60,000.....that's \$100,000 to widen two bridges that can't be used for bikes or pedestrians any time in the near future and also \$0.25 of your newly increased taxes also approved by the three members of this Board who are getting ready to approve this \$100,000 tonight.

Mayor Swain called for the vote.

Motion carried 3 to 1, with Commissioner Jeter opposed.

Agreement attached hereto as Attachment No. 4.

Mayor Swain said according to Secretary of Transportation Conti we are going to see more opportunities for the towns to partner with NCDOT. This is going to come much more frequently. He believes that in order to achieve all that we need to achieve with regard to roads, we all have to work in partnership. That's not a threat, it's just that is I think what we should be expecting and again, no bearing on anything that you just voted on.

Shoreway Drive. Max Buchanan, Public Works Director/Town Engineer, said Shoreway Drive is off of Hagers Ferry Road, which is still maintained by NCDOT. There are five total homeowners adjacent to the right-of-way on Shoreway Drive. The additional streets off of Hagers Ferry are currently Town of Huntersville streets and all branches off of those are Town of Huntersville streets. They were added to the Town of Huntersville system in 2002 and/or 2006, depending on which street you are talking about. Shoreway Drive is 340' long and again, there are five parcel owners fronting Shoreway Drive. Mr. Fesperman and I discussed prior to the meeting about the year he moved to Shoreway Drive, I think in the mid-80's, and that's about when the developments came online and the plats were recorded. I think he said he was the first property owner on Shoreway Drive and he approached the developer at that time about making it a public street. I think the developer at the time had indicated that he thought that it had already been done and I guess the issue was dropped. In talking with Mr. Fesperman, maybe I had an epiphany, I know in middle of 1985 NCDOT would not have added the street unless there were at least four homeowners on the street. If that's when that had played out and the developer had petitioned NCDOT to take that on to the DOT system, they would have turned it down until there were a total of four homeowners. My guess is that's the reason it never was added, why it never was petitioned at the time with four homeowners, maybe just oversight or whatever, I'm not sure. Currently it's been a private street since 1985. The pavement condition is in severely deteriorated condition. Doing a quick estimate to bring that up to a minimum public standard would probably require full depth patching over 100 percent of the area and then an overlay. A quick estimate gives you about \$20,000-21,000 cost to bring that up to an acceptable public standard. A couple of other issues are highlighted in your package. If the 340' were to be added to the Town of Huntersville system, that would generate an additional \$300-400 in Powell Bill revenues. It would take you about 50 years to recover that \$20,000 investment to bring it up to standard. We have received a petition from Mr. Fesperman. He's taken it upon himself to be the spokesperson and we do have all signatures from all five property owners. Typically our policy requires that the street be brought up to minimum standards before we would consider it, but we wanted to bring that before you guys for consideration and discussion.

Commissioner Caulfield said I spent about a half hour on the phone with Max today just going over some of the questions that I had so I wouldn't have to bother you with all them. One of the things that I had asked him was if it would be possible to look at whether or not that road back in the 80's, and I think you probably addressed it by your epiphany there about why they weren't added, but what my

question was would there be a way to look at that road to discover whether or not it was up to the same standard as all the other roads at the time so that when we look at that we would have said they would have taken that road too because it met the same standards. Just looking at the map, I can't imagine that they would have made that road different than all the roads coming off of it.

Mr. Buchanan said I wouldn't think so, if it was all developed at the same time and I've not pursued that. DOT has no record of why it was or was never added. It would be an easy investigation to go compare the pavement structure on the other streets compared to Shoreway Drive. My guess is they were constructed at the same time with the same quality construction.

Commissioner Caulfield said just as a follow-up question then, if NCDOT would have taken that road at the time, let's just say for a minute that it was a mistake, they would have then given it to the town to take over at some point like they did all the other roads, so for all those years we would have actually been maintaining that road and spending the money on maintaining that road so it would have been actually up to par at this time had that of all happened.

Mr. Buchanan said yes, my guess is if that had been added to the NCDOT system at the time the others had been, it would have gotten transferred to the Town of Huntersville system at the same time.

Greg Ferguson, Town Manager, said one point I would make is that when the Town accepted the three roads in 2002, you did not have a Town Engineer, so I can't tell you what kind of condition those roads were in when we accepted them in 2002. Our position is it's consistent to go ahead and accept this street, to kind of make it right. It didn't get accepted on time back in the day, but they've been in town for quite a while and we feel like it's the right thing to do.

Commissioner Caulfield made a motion to accept Shoreway Drive into our system.

Commissioner McAulay seconded motion.

Mr. Buchanan said I just wanted to point out and I haven't discussed it with Mr. Fesperman, there's some discussions about the general taxes. Typically our streets are maintained with Powell Bill money and Powell Bill money only, so the taxes that are generated from the property taxes are generally not used to maintain our street system.

Commissioner Julian said from what you have been able to determine, this road was just missed as far as the turn over, but it was built to the same standards the other roads were at that time.

Mr. Buchanan said we have a plat that DOT reviewed and it was designed to meet minimum standards. That doesn't say it was constructed, but my gut feeling says if they were constructed at the same time, they were constructed with the same quality. The only reason, and I'm 90 percent sure if the dates Mr. Fesperman has given me, that it didn't get added was there were not a minimum of four homes on Shoreway Drive at the time.

Commissioner Julian said there are roads not built to DOT standards – the farmhouse clusters, alleyways and so forth. By accepting a road that's not to standard, we won't be setting a precedent for our street acceptance policy.

Mr. Buchanan said I'm not sure if I get your point. Alleys are private streets. I'm not sure about this farmhouse cluster stuff. It has to meet a minimum standard. It has to be designed to meet a minimum standard and constructed to meet a minimum standard.

Commissioner Julian said so your recommendation for acceptance is coming from it met that standard back at the original time.

Mr. Buchanan said that's correct.

Commissioner Jeter said you are not certain whether or not the road met minimum standards. That's your gut feeling. Is that correct?

Mr. Buchanan said that's correct.

Commissioner Jeter said my real concern is setting a precedent when it comes to farmhouse clusters and alleyways. I'm an advocate of eliminating those two types of structures in our neighborhood because I've got a feeling that sometime in the next 10-15 years we are going to have a lot of Mr. Fesperman's, pardon the reference there because I think you are an exception here, but I think we are going to have a lot of people say well my road wasn't taken over by the town and I don't know why. Well, you live on an alleyway. Well, we can't afford a \$300,000 new street.....we've been paying property taxes. My concern is that's how it was approved and that's how it was done. What I would like to get from you today if we are going to vote on this on apparently your gut as opposed to allowing you to have the time to go back and actually verify your gut, can you give us some tangible difference so 15 years from now when somebody looks back and says well you did it for Shoreway Drive, why can't you do it for the alleyway homes at MacAulay.

Mr. Buchanan said I would hang my hat on the fact that the plat that I think was part of your package includes a statement from the Department of Transportation that the street was designed and platted and the details that were associated with that showed the minimum pavement structure, the widths, the right-of-way, showed it to be public on the platting as part of the recordation of that development. I think with the alleys and the other private streets it's never implied that it would be a public street. It wasn't designed to be a public street.

Commissioner Jeter said it always concerns me when you say you are going to hang your hat and you are not wearing a hat. But tangibly speaking on the record you are saying that this instance is tangibly different than an alleyway or farmhouse cluster that would come to us in the future.

Mr. Buchanan said yes.

Bill Coxe, Transportation Director, said if you will note in the bottom left corner of that map you will see a signature of Kenneth Hoffman who was the County Engineer at the time and I was employed by Mecklenburg County Engineering Department at that time. These streets were built under the county's subdivision standards to the standard that was appropriate for the street construction at that time. It would have been taken over by the North Carolina Department of Transportation at such time as (a) it met their standards for occupancy of at least four homes or full development along the street, which I would suspect was not the case and (b) a validation that it had been built to public street standards, which would have been easily enough done.

Commissioner Jeter said the Town Engineer and the Town Transportation Director both say they are tangibly different and not relevant.

Mayor Swain said I also would just say that our record keeping with the staff that we have now and based on the number of files that we have over on the third floor, I think we have monitored absolutely every decision.

Commissioner Caulfield said I just want to ask our Town Manager, because if we are going to approve something that's requiring funding, how will we handle the funding of this if this is passed.

Mr. Ferguson said it will be Powell Bill eligible. It will come from Powell Bill.

Commissioner Caulfield said just for the people in the audience to understand what Powell Bill is.

Mr. Ferguson said those are monies that are appropriated....when you pay a gasoline tax, there's a certain portion of that that comes back to cities that maintain town and city streets and Powell Bill funds are set up to maintain those inside the city limits from the State.

Mayor Swain called for the vote.

Motion carried unanimously.

Streetlights – Parkside at Skybrook North. Max Buchanan, Public Works Director/Town Engineer, said I included in your package and on the overhead is kind of an aerial from the Mecklenburg County POLARIS. I'm not sure the date of that, but I put a little "x" on all the properties inside that development that I believe Google Earth maybe shows a newly constructed home, so the point being Polaris represents a certain build-out and....we are probably in the order of about 50-55 percent build-out in that neighborhood. I guess some of the confusion and discussions have centered around a build-out percentage. There was some misunderstanding or miscommunication there. The build-out percentage that's been quoted and that's 75 percent build-out only applies to the Town of Huntersville adding the streets to the street system. That policy is to avoid adding a street in a neighborhood that still has a lot of construction yet to happen. You don't want to complete a street and put a final inch of overlay to the street when you've got to build a lot of homes. You get a lot of construction traffic, concrete trucks, lumber trucks, those type things that just tear the street up. Homeowners like to drive on new streets in their new neighborhoods, so that's what that build-out is.....you satisfy the build-out percentage 75 percent then you start the process of adding that street to the system. The process is you finish the asphalt, you make repairs to any damaged areas, you change or you convert what is a construction bond, which is a bond to ensure that the construction is finished and that the developer doesn't run away or go bankrupt, to a one-year maintenance bond. And once all that happens is when the streets are finished and the construction bond is transferred to a maintenance bond and you have 75 percent build-out, then you can add the streets to the Town of Huntersville street system. That's yet to happen at Parkside at Skybrook North. The streetlight issue is a total separate issue. That's totally independent of the addition of streets to the Huntersville system. Streetlights can only be considered once we add the streets to the system, so the first order of business before you start adding streetlights is to make sure the streets are added. If the streets were part of the system, adding streetlights is a separate petition process. It's two things that have to qualify – the Board has to make funds available as part of the budget process and then the developer, HOA, property owners have to satisfy what is called the buy-down of the decorative light feature. The Town of Huntersville usually only pays for the electricity for the lights. The decorative component of the lights, the fancy poles and the lamps, the HOA's

typically pay a higher rate because they are buying that down from the energy provider. Two things have to be satisfied – the buy-down and then the funds have to be made available. For the last two years we've not been able to add any additional streetlights to our system as part of the budget process. We currently are working under a waiting list. We have about 15 developments that are on that waiting list. Fortunately for me is that we were able to include that in this year's budget, because I've been telling people no for two years about adding streetlights. I think 2009 might be the oldest. We've got several in 2009 that are still waiting to be added. Hopefully we can capture those and get caught up.

Mayor Swain said I remember this from moving into Cedarfield when the last of Cedarfield was relatively young, there was some rule with the homeowners association as part of their bylaws, and Greg maybe you know this as well, that the developer would not turn that expense over or certain expenses over to the homeowners association until there also are those percentages of occupancy. Is there a standard there, do you know?

Greg Ferguson, Town Manager, said it's by development.

Mayor Swain said I don't know if that applies with you all as well.

Commissioner Jeter said what you are saying then is in essence prior to us even discussing the streetlights, we would have to accept the street.

Mr. Buchanan said according to policy we have not been considering the addition of streetlights unless the streets have been added.

Commissioner Jeter asked is that a Board policy that's been pretty well established?

Mr. Buchanan said yes.

Commissioner Jeter said I guess I'm trying to think of this from a chronological perspective for the attendees in the room tonight because I think this is near and dear to their heart and their driveway. If the first thing is to get the street approved before you can even consider the streetlights, then you have to go back to the street issue. If we have a 75 percent policy, which I know has been approved by this Board officially because I remember having the discussion about it fairly recently regarding another development, my concern is if you violate the goose gander rule which I've said a lot up here at this dais you open up the box for a lot of people to walk in this door saying we're at 52 percent or we're at 53 percent and if we take that path, we can't take it once, we have to commit to it across the board. Do we have any concept of how many neighborhoods are in this similar predicament through no fault of their own where they are at 50 or 55 percent or some number that's slightly less.....let's say between 45 and 75 percent occupancy that don't quite meet yet, but are pretty close and as in this it doesn't appear that they are getting there real close because of the economic situation which is certainly beyond their control. Do we have any idea what we could be opening to?

Mr. Buchanan said I think you have significant numbers. Most developments that are not complete are having difficulty either in the community as a whole...the development as a whole or as in one phase. A lot of developments happen in phases, so where we might have accepted Phase 1, Phases 2 and 3 are having difficulty reaching that.

Commissioner Jeter said Skybrook is a prime example.

Mr. Buchanan said I mentioned to Commissioner Caulfield earlier, we've got Vermillion that Bowman Development Group has been maintaining their streets for 5 or 6 years now, because they have not been able to meet that build-out percentage. If you would like I could put a list together, but most of the developments that are showing private streets that will eventually be Town streets, they are having to maintain those streets and they are having trouble meeting that build-out.

Commissioner Jeter said I certainly can understand the residents' concerns. I think their concerns are legitimate, but if we are going to make a decision I think it is hard to make that decision tonight without knowing the ramifications and I think these ramifications going to your words can be considerable. It could be millions of dollars.....the road itself is going to be significantly more than the streetlights. Streetlights to me is a secondary issue.

Mr. Buchanan said we have worked with developers. Again, we typically don't allow the developers to finish the street construction, in other words put the final inch of asphalt down until they reach that build-out. We have worked with developers from a standpoint of its been 3 to 4 years since they've built the street and now there are residents that have moved in that are riding on streets that have not been properly maintained and we can't allow them to put the inch down. We've worked with developers in allowing them to do that, but that doesn't imply that they are added to the public system, it just allows them to put the final inch down and that the developer maintains that one year maintenance bond until he's satisfied. If you would like I could put a list together of all the developments. I agree that I think it's significant. And I think there's developments that have waited 3 to 4 years before they have been able to meet that.

Commissioner Jeter said I'm just one commissioner. I would personally like to see that list because I don't think this problem is isolated. I think this problem is probably permeating the town as a whole and we may need to make a policy change, but I don't think we can make a change for one neighborhood. If we are going to make it, I think it has to be made across the board, which means I think we have to look at what the ramifications of that decision are. I would prefer it that way, but once again I'm just one member.

Commissioner Julian asked what is the budget line item for streetlights for the whole town?

Mr. Buchanan said these are ballpark, but I think we are in order of about \$330,000 per year for streetlights. This budget I think we added the \$39,965 to capture all those on the waiting list, or it might be less than that because two of those were added.

Commissioner Julian said some of these, of course, have been waiting for a couple of years.

Mr. Buchanan said Skybrook has two in there from 2009 and they've been paying the rate from I guess it's Duke Energy for those, so you've got 15 others.....2009 to date. And again it's a monthly call from those folks about what's the status, can you add my streetlights.

Commissioner Julian said I would like to see the Board discuss a policy change. I think I would have a hard time with just accepting lights without the street and so forth. I know you have been working with developers for certain build-outs and how we can take over those streets in a timely manner but yet not cause problems. I understand the reason you haven't accepted these has been a budget item.

Mr. Buchanan said that's the streetlights.

Commissioner Julian said I think the Board is going to really need to look at those items ongoing as to how to address it.

Mayor Swain said it sounds like you are agreeing that information that Commissioner Jeter is interested in seeing, too, may lead us to a policy change but you need to see that first.

Commissioner Julian said yes.

Commissioner Jeter said he just hates to admit he's agreeing with me on something.

Mayor Swain said I was trying not to say that in public.

Commissioner Julian said one item that I wanted to bring out is \$330,000. This is not a small budget item – the street lighting dollar value. I think the Board needs to look at that policy.....I think street lighting is very important. I think it's a safety item for our community. It's a quality of living, but how we can administrate it and pay for it.

Commissioner Caulfield said I agree. I'll put that on the record – Commissioner Jeter and Commissioner Julian, I agree. I understand the residents' concern about having dark streets, but we can't just rush into something that's going to have a brush effect on so many neighborhoods in our town. I would like to see that data brought back to us to see what all it would affect. On the bottom of your page there where it says 26** not town streets, what does that mean?

Mr. Buchanan said Monteith Place Phase 1 – that's down 115 near Verhoeff. That's a phased development. If you think of that development and if you go in the whole right side of it is constructed and those streets have been added to the Town of Huntersville street system. There are 20 lights on those streets. Phase 2 the streets are constructed but there are no homes on them. On that part, those are not Town streets, there are 26 lights that are located on those streets. So what we have done is we've added the 20 that are on Town streets to the waiting list – the 20 under Monteith Place. I'm not 100 percent sure, I think Monteith Place may be one of two locations in Huntersville and I know there are others in Cornelius that the energy provider has turned off the lights due to non-payment.

Commissioner Caulfield said just a follow-up on that. It's a question that you might have to think about. If we changed our policy on when we accepted our streets and then we took over the lights, what if the developers put that final inch on, they brought it up to standards so they made it so that it would meet our policy and then they put a bond aside so that while they are finishing out their construction that at the end of that there would be an agreement that they would have money set aside so that when the construction took place that then we could use those funds to go back and bring it up to par. I'm just kind of putting it out there for you to think about. If we did something like that and then that would allow us to bring in lights a little bit quicker to our system.

Mr. Buchanan said I wouldn't want to tie the acceptance of streets with the acceptance of streetlights. I think they work appropriately as two separate things, because it's two budget items.

Commissioner Caulfield said I thought you said they were tied together, that we couldn't do the lights until we did the streets.

Mr. Buchanan said they are tied, but I don't think by accepting the streets I don't think we need to infer that the streetlights automatically become part of the system.

Commissioner Caulfield said I agree.

Mr. Buchanan said if you are going to consider relaxing the build-out requirement, I think you've got to look at increasing the bonding requirement because invariably if you finish the street and we take it on, the public takes it on, to spend Powell Bill money only to fix and I've said to the Board several times that the Powell Bill money we get if we spend every dollar of it to resurface our streets, your streets get resurfaced every 30 years. It's not sufficient money to properly maintain your streets. If we start taking streets that are going to get damaged due to construction as development builds out, then there's going to be that issue that we need to consider. As you said, it's a broad impact to different aspects of that so if you are going to do it, you need to look at changing the bonding requirement somehow to cover our interests.

Commissioner McAulay said in looking at this I understand that of course all the lots are not built on and there's probably not any activity. I'm not sure which are the ones building, but have streetlights been established all over and are we talking about considering paying for lights that are lighting up vacant lots. I think there should be.....there might be a halfway point or some.....or if there is a cluster of houses that we could do. I don't know. I would like to have some thought on that brought back to us and I'd like the opportunity to go out and ride through this area. I was in there about 8 months ago and there are segments that there are lots contiguous that are not built on, but there might be an isolated house further back that deserves to be protected by light.

Mr. Buchanan said as a general rule as the streets are constructed the curb and gutter is constructed, the installation of the lights happen at that time. When they install the lights there's typically no homes and they don't add them as homes get built.

Commissioner McAulay asked but are they activated?

Mr. Buchanan said yes, generally they are activated or turned on when somebody pays the bill.

Commissioner McAulay asked how much of the money is being paid for the decorative light?

Mr. Buchanan said each energy provider has a rate. It depends on what kind of light, what the wattage is, but there's a rate for the decorative component and then there's a rate that we pay which is the electricity. Again, typically before we would accept the lights onto our system there's that buy-down and that rate that the HOA or the developer pays is a higher rate than we do....that's the component of the buy-down. You could write a lump sum check to Electricities, Energy United or Duke Energy or you can do it monthly per light, but they are buying that down and we require that it be brought down fully before we will add it and we require confirmation from the energy provider.

Commissioner McAulay said and we would think that these have not been bought down.

Mr. Buchanan said that would be my guess.

Commissioner McAulay asked is the provider Duke or United?

Mr. Buchanan said Duke Energy I think in this area.

Scott Moore, representative for Skybrook, said they have been bought down.

Commissioner Jeter said perhaps the easiest solution is to go to the Board of Adjustment and put this into two phases theoretically speaking. Back to reality, they can work on that themselves. I'm just offering solutions. One of my concerns is that if we lower from 75 to 50 or 40 or 55 or whatever the number is.....and I think Commissioner Caulfield's point is solid in the fact that if you could get the developer to put up additional funds, then it makes more sense because otherwise if you don't do that they get construction trucks and all the backhoe loaders and all these things and it does damage that normal everyday car use won't do. These roads are not designed for those types of things. When I first got on this board looking forward in this town we had almost the opposite problem. We had the problem for a while where we had streets come to us that we were required to accept even when we didn't want to because we didn't think they were sufficient, but they met the technical and it got to the point and I remember having a conversation and I don't think it predates you Max, but I remember having a conversation at one point saying we cannot accept them but they are ours anyway, the bond money is coming off. I don't want to see us to go back into that dilemma. I think that unfortunately I think we've got a problem here that's going to be citywide or townwide. I don't know how the best to address it because I think these people have legitimate concerns that need to be addressed. I don't know how you do it without causing significant financial impact such that we can't currently envision and going to your point the other concern I have and not to mislead these folks is if we get past the street issue, right now they are 17th or 16th on the streetlight issue and that's certainly not happening this year because we don't have it budgeted. They are at least a year away from streetlights. Is that a fair assessment?

Mr. Buchanan said they are as far away as funds are made available.

Commissioner Jeter said right now we've got people that have been on the waiting list since 2009, taking the street issue off the table.

Mr. Buchanan said I've told Mr. Moore "no" several times. I think he's got two on Skybrook up there. There's 15 on the list that we've been telling no for two years.

Commissioner Jeter made a motion to task staff, at the Town Manager's direction, to gather data of what ramifications would be if the Board considered a policy change, bring it back to us and let's really sit down and hammer it out. I think we don't need to leave these people hanging. We need to try to come up with a resolution if at all possible.

Commissioner Julian seconded motion.

Commissioner Julian said Max made a comment that the street acceptance and the street lighting policy should be separated. Why?

Mr. Buchanan said the addition of streets kind of impacts your Powell Bill. Streetlights are paid from the General Fund that's a separate budgeted item. We added 7 miles this past fiscal year. We added 10-12 miles last year that it will be hard to capture to project as part of the budget process the addition of those streets what that impact has on the General Fund that you have already budgeted.

Commissioner Julian said my mindset was thinking new construction not the other....the old lights we have out there.

Commissioner Jeter said prior to voting do we need to have a specific date in mind.

Mr. Buchanan said I would like a specific date.

Mr. Ferguson said we can have a preliminary report back on July 18

Commissioner Jeter amended his motion to set the preliminary report for July 18.

Commissioner Julian seconded amended motion.

Motion carried unanimously.

Property Agreement – 15316 Seigle Drive. Greg Ferguson, Town Manager, said as the Board is aware there is a cell tower located on the Public Works maintenance yard. There has been some question about the legality of the lease. This agreement outlines the proper legal lease language and indicates that they are in compliance with where they should be. It is conditioned on the provision of us receiving \$25,000 before it could be signed.

Commissioner Julian made a motion to approve Acknowledgement and Agreement.

Commissioner McAulay seconded motion.

Commissioner Jeter said I read over the agreement. Particularly on Page 2 of the agreement, the final paragraph, after we get past all the whereas stuff, it gets into “NOW, THEREFORE, for and in consideration of the premises.....as well as the sum of Ten Dollars (\$10.00).....” I guess my point is I don’t see anywhere in this agreement where it refers to the \$25,000 that is listed.

Bob Blythe, Town Attorney, said that’s just a condition of the settlement. The \$25,000 is being paid by the cell tower company’s title insurer to clear up the title.

Commissioner Jeter said and you are satisfied that it does not need to be a part of this contract.

Mr. Blythe said yes. We won’t sign it until we get the money.

Commissioner Jeter said my second question regards #8.

Mr. Blythe said I know what you are going to say. It was unclear from reading the original lease agreement what the starting date was because it was based upon the earliest of two dates – 1 year from the original date of the lease or when the cell tower building permit was issued. There’s about a month’s difference and this just clarifies what that was.

Appointment to Visit Lake Norman and School Advisory Committee. Commissioner Jeter made a motion to appoint Commissioner McAulay to the Visit Lake Norman Board. Commissioner Julian seconded motion. Motion carried unanimously.

Commissioner Caulfield made a motion to appoint Commissioner Julian to the School Advisory Committee. Commissioner McAulay seconded motion. Motion carried unanimously.

CONSENT AGENDA

Approval of Minutes. Commissioner Jeter made a motion to approve the minutes of the June 6, 2011 Regular Town Board Meeting. Commissioner Julian seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner Jeter made a motion to approve budget amendment recognizing DARE Camp revenue in the amount of \$5,100 and appropriate to the Summer Youth Program account. Commissioner Julian seconded motion. Motion carried unanimously.

Budget Amendment – HFFA. Commissioner Jeter made a motion to approve budget amendment recognizing Carolina Kids' Triathlon sponsorship revenue in the amount of \$2,000 and appropriate to the Programming Carolina's Kids Triathlon account. Commissioner Julian seconded motion. Motion carried unanimously.

Budget Amendment – HFFA. Commissioner Jeter made a motion to approve budget amendment recognizing SS Triathlon sponsorship revenue in the amount of \$2,203 and appropriate to the Programming SS Triathlon account. Commissioner Julian seconded motion. Motion carried unanimously.

There being no further business, the meeting was adjourned.

Approved this the 18th day of July, 2011.