

**TOWN OF HUNTERSVILLE  
TOWN BOARD MEETING  
MINUTES**

**May 6, 2019  
6:30 p.m. – Huntersville Town Hall**

**PRE-MEETING**

The Huntersville Board of Commissioners held a pre-meeting at the Huntersville Town Hall at 5:15 p.m. on May 6, 2019.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Danny Phillips and Nick Walsh. Commissioner Mark Gibbons was not present.

Commissioner Hines made a motion to go into closed session for property acquisition and personnel. Commissioner Bales seconded motion. Motion carried unanimously.

Upon return from closed session, there being no further business, the pre-meeting was adjourned.

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**REGULAR MEETING  
TOWN OF HUNTERSVILLE  
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall at 6:00 p.m. on May 6, 2019.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Danny Phillips and Nick Walsh. Commissioner Mark Gibbons was not present.

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a moment of silence.

Mayor Aneralla led the Pledge of Allegiance.

**MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS**

Mayor Aneralla

- Announced that Commissioner Mark Gibbons was inducted into the North Carolina Military Veterans Hall of Fame.
- Clean-up day in the Pottstown community is May 11.

Commissioner Bales

- Provided update on Visit Lake Norman events.
- Hello Huntersville was a success.

- Expressed appreciation to the Huntersville Police Department for helping Mooresville who lost one of their officers in the line of duty.
- Lake Norman Economic Development Corporation is working on eight new projects. The EDC in partnership with the Lake Norman Chamber and Lake Norman Education Collaborative hosted a speed networking event at Hopewell High School.

Commissioner Boone

- Hello Huntersville was a success.
- Provided update on Lake Norman Chamber of Commerce events.
- An AED at one of the Huntersville parks was used to save a man's life last month. The AED's were recently donated to the Town by Operation Sweet Tooth.

Commissioner Hines

- Provided update from the Huntersville Ordinances Advisory Board.

Commissioner Phillips

- The old jail will be open for tours on Saturdays during Farmer's Market hours.

Commissioner Walsh

- Next meeting of the Centralina Council of Governments is Wednesday.
- Provided update on Parks & Recreation events.
- Provided update on Huntersville Chamber of Commerce events.

**PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS**

Bruce Andersen, 16125 Weatherly Way, addressed the Board in opposition of Petition #R18-14, a proposal by EPCON to build an age restricted community on Eastfield Road. *Written comments attached hereto as Exhibit No. 1.*

BeeJay Caldwell, 14521 New Haven Drive, addressed the Board concerning Greenway Waste Solutions at North Meck LLC. *Written comments attached hereto as Exhibit No. 2.*

Rob Kidwell, 7219 Handon Lane, encouraged the Board to allocate funds during the budget process for additional testing related to ocular melanoma.

Marlene Huneycutt, Huneycutt & Associates CPA, addressed the Board in support of the Huntersville Chamber of Commerce.

Jerry Bryant, 14111 Eastfield Road, addressed the Board in support of the EPCON project.

Commissioner Boone recognized Nicholas Lay, Lake Norman Charter student, for raising funds to purchase K-9 Cirro a bulletproof vest.

Anthony Roberts, Town Manager, presented the Manager's Recommended Budget for FY19-20. *PowerPoint attached hereto as Exhibit No. 3.*

**AGENDA CHANGES**

Commissioner Bales removed Item 10.E (Call a public hearing for Monday, June 3, 2019 at 6:00 p.m. at Huntersville Town Hall on Petition #R19-04, a request by the property owners of 11031 Mt. Holly-Huntersville Road (tax ID #01703211) and 11431 Mt. Holly-Huntersville Road (tax ID #01703206) to rezone their properties from Rural to Special Purpose Conditional District and Rural Conditional District to construct a 30,000 sq. ft. indoor recreational facility and associated outdoor ball fields) and Item 10.F (Call a public hearing for Monday, June 3, 2019 at 6:00 p.m. at Huntersville Town Hall on Petition #R18-06, a request by the owners of 412 S. Old Statesville Road (parcels 01711306 and 01711316) and 116 Watkins Street (parcel 01711303) to rezone 2.72 acres from General Residential and Neighborhood Center Conditional District to Neighborhood Center Conditional District) from the Consent Agenda.

Commissioner Hines made a motion to adopt the agenda, as amended. Commissioner Boone seconded motion. Motion carried unanimously.

### **PUBLIC HEARINGS**

Mayor Aneralla recognized Planning Board members present: Frank Gammon, Scott Hensley and Joe Sailors.

**Petition #R19-05.** Mayor Aneralla called to order public hearing on Petition #R19-05, a request by Fairway Birkdale II, LLC to modify a Conditional District Rezoning Plan R97-22 located at 16633 and 16639 Birkdale Commons Parkway, Parcels 00917184 and 00917186, to reduce the western buffer yard from 80' to 40'.

Brian Richards, GIS Administrator, reviewed the Staff Report. *Staff Report attached hereto as Exhibit No. 4.*

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

### **OTHER BUSINESS**

**Petition #TA19-03.** Petition #TA19-03 is a request by the Huntersville Planning Department to amend Article 3.2.3 to modify the General Requirements section to be consistent with Article 11.5.5 Nonconforming Vacant Lots.

Sierra Saumenig, Planner I, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 5.*

Commissioner Boone made a motion in considering the proposed amendment TA19-03 to amend Article 3.2.3 General Residential District to modify the *General Requirements* section to be consistent with Article 11.5.5 Nonconforming Vacant Lots, the Town Board recommends approval based on the amendment being consistent with Policy H-1 and Policy E-3 of the Huntersville 2030 Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it will help eliminate an inconsistency between sections of the Zoning Ordinance and amend Article 3.2.3 to be consistent with the way the town has historically regulated nonconforming lots in the General Residential zoning district.

Commissioner Hines seconded motion.

Motion carried unanimously.

**The Pines Subdivision Sketch Plan.** Mayor Aneralla pointed out this item would be heard as quasi-judicial.

Mayor Aneralla swore in Meredith Nesbitt, Jack Simoneau, Max Buchanan, Dan Putman and Tim Coey.

Meredith Nesbitt, Senior Planner, said the applicants are requesting a subdivision sketch plan approval. The site is located on the north side of McCord Road adjacent to the Oaks at McIlwaine and very near to Stonegate Farms. The property is currently zoned TR and it is developed with just one single-family home site. The applicants are proposing 63 lots on approximately 56.75 acres, making the density 1.11 units per acre. They are also proposing 66.5 percent of the site to remain as open space, so this does meet and exceed the TR density requirements. The applicant is also proposing lots that are compliant with the TR minimum lot size and lot width requirements. There will be two areas of urban open space that are highlighted in purple. These areas will be improved open space and usable for the residents of the neighborhood.

The applicants are also dedicating property to Mecklenburg County Park and Recreation along the McDowell Creek for a future greenway development and at the request of Mecklenburg County Park and Recreation staff they are going to provide a public access easement for a possible future greenway trail connection. The applicants are also meeting the tree save requirements of the town. There was an edit that needed to be made to the tree save calculations. Those details can be found in your Staff Report, which I would like to enter into the record and are also shown here in red. *Staff Report attached hereto as Exhibit No. 6.*

The applicants are proposing to connect into an existing stub street coming from the Oaks at McIlwaine and proposing one stub street to the east of the property.

There are two block length waiver requests. One along Public Street A which is highlighted in green. The block length is 1,166' and one on public street B which is 803' and highlighted in blue.

The applicants are also requesting a modification from Article 3 which requires a landscaped entry median. The Town Board has the authority to grant both the block length waivers and the entry median waiver. Staff does support all three waivers.

A TIA was not required for this development but staff is recommending an eastbound left-turn lane on McIlwaine Road into the subdivision. Engineering staff will speak to the rationale of why that turn-lane is being required in just a moment.

The applicants.....at the time of writing the Staff Report that you guys received, this was an outstanding issue. Since then they agreed to the left-turn lane if there is a note on the plan that kind of addresses right-of-way acquisition. One of the concerns that the applicants did have was acquiring the right-of-way needed for the turn lane. This note here that you see is language that the developers have proposed and Planning Staff has worked with them on. At this time, Max can you come up and speak to the need for the left turn lane.

Max Buchanan, Public Works Director/Town Engineer, said we feel a left-turn lane.....as engineers we have to protect the public health, safety and welfare and over the last 10-12 years what we've been doing in Huntersville is putting in left-turn lanes on roads into developments that were not required to put in. McIlwaine Road in this area probably is close to 4,000 vehicles a day, maybe to the west it might

be a little less and to the east a little more. That 4,000 is a critical rule of thumb number that DOT uses to where they start requiring a left-turn lane. I'm not sure if DOT has weighed in on whether they are going to require one here or not. I think maybe there's some differences of opinion in their office. We feel like 63 homes, 63 trips an hour, 630 trips a day coming in and out of there just for safe ingress and egress a left-turn lane is probably the right choice given that the traffic volumes on McIlwaine Road are likely to increase as development continues. Additionally, I know the Planning Department is supportive of the note. I do have some serious administrative concerns about the note where the town would exercise the eminent domain authority to go acquire the right-of-way. That's never been done as far as I know. We've told a lot of people no in the past that we would not do that for private development. And my concern to put that note on the plans now would be likely we would end up on every plan going forward.

Ms. Nesbitt said the detailed staff recommendation can be found in your Staff Report on Page 6. Staff finds that the application is complete. We are recommending approval of all three waivers that were presented and we find that the sketch plan complies with the regulations subject to storm water concept approval, the left-turn lane being added with 100' of storage on McIlwaine Road and all minor comments being addressed. Planning Staff would recommend approval of the request with these three items as conditions.

The Planning Board heard this request on April 23. They are also recommending approval 5 to 1, finding the same findings of facts that staff has pointed out and also recommending the same conditions. So when the Board is considering a motion on this request, if you do so move to approve, I would ask you to address the waivers and any conditions in your motion. The applicants are here to speak to the request and staff is here to answer questions.

Commissioner Hines said the Planning Board was 5 to 1. Can you share with us the one person that was opposed and why.

Ms. Nesbitt said there was one member of the Planning Board opposed purely on the basis of the entry median waiver. They did not agree with that waiver request and voted to deny the plan.

Commissioner Hines said do we know how much right-of-way is there now on McIlwaine.

Ms. Nesbitt said I do not off the top of my head, but I can get you that number.

Mayor Aneralla said any other questions or are we waiting for the answer.

Dan Putman, Cole Jenest and Stone, said we're the landscape architects and civil engineers on the project. The question was the amount of right-of-way, I believe, that was going to be required. It's a project that will have to be coordinated with NCDOT. We don't know. We don't have the design yet, we are working on that. So it's just hard for me to say right now.

Commissioner Hines said have you done surveys – so you don't know if there's 60', 45' on.....the centerline of the road.

Mr. Putman said there was not a survey that was done out behind here. Our concern would kind of be off of our site.....so 61' was the section that was proposed out there, that would add another 10' or 11' with the turn lanes.

Commissioner Phillips said on your site plan where you've done the notation over the taking of the right-of-way with eminent domain, we've never used this in the Town of Huntersville, have we.

Ms. Nesbitt said I believe that right-of-way has been acquired by condemnation.

Commissioner Phillips said I'm totally against taking people's property.

Jack Simoneau, Planning Director, said there at Caldwell Station there was a person, a developer, who tried to get right-of-way from an adjoining property owner, couldn't work out the deal, tried to get it worked out, came to the Town Board with a request for condemnation and at that hearing the property owner showed up and asked the Board not to go through condemnation, that they would work with the developer to dedicate the right-of-way, and so the Town in turn didn't take action and the applicant and the developer worked it out. In the case of Bryton, you may recall there was a situation where the developer of Bryton needed additional right-of-way across 115. The property owner actually asked the Town to go through the condemnation process and so it was the property owner who said I want the Town to go through the condemnation process and we did go through that process. Those are the two examples that I'm aware of. There also was a Town policy that was adopted back in 2002 that said this would be the kind of process.....the developer has to go make a good faith effort to get the right-of-way and if they don't get the right-of-way then they can come to the Town and ask the Town to consider condemnation.

Commissioner Bales said Mr. Simoneau, but we've never had a note like this placed on a plan.

Mr. Simoneau said no, we have never had a note like this placed on a plan.

Commissioner Phillips said the width of the road there, the way this thing is looking to me and the way.....they had plenty of room on their side in order to get this in for their turn lane. Why was this put in here.....because they could come into their property.

Mr. Buchanan said I think probably what you will see, you'll see that if they widened all to their side and added an additional lane, the tapers would probably extend out into the.....and if you did a turn lane and you widen it your tapers are probably going to extend out along and especially this way, you've got to accommodate the three lane section and then taper back to a two lane section, so you are going to have to have some improvements that will probably take place not along their frontage given that you've got to widen 12', 14' for 100' of storage and then you have to taper that 12'-14' back for 300'-400' which puts them out beyond the limits of their frontage. Probably what you will see on McIlwaine like all the other secondary roads in the state DOT maintained roads is that you probably do not have recorded right-of-way. You probably have what would be a prescriptive right-of-way to the back of the ditch. Those property lines probably go to the center of the road if you were to do deed research.

Commissioner Phillips said I really have a problem with this note being on this plan like it is.

Mr. Buchanan said Jack mentioned two instances where we made some condemnation. That note has never been on.....we've told a lot of developers no that we could not condemn. The state's practice is that the state would not condemn on behalf of private development for right-of-way for improvements required of that development.

Commissioner Phillips said I'd like the applicant to remove that for me to support this project.

Commissioner Walsh said all this note is really saying is either the developer will get the land, the Town will get the land, but we won't hold them up per chance that neither one of us....either we use our right of eminent domain or acquire it somehow, but we won't hold the project up basically.

Mr. Buchanan said I think what I interpreted and maybe Ms. Beeker can speak to it is I take it that if they show a good faith effort and that's all subjective that the Town would either go acquire it or we would say never mind we don't need a left-turn lane. That's kind of what that the note says.

Commissioner Walsh said I don't have a problem with the note.

Ms. Nesbitt said I do believe that the applicant would like to speak to the note if the Board so chooses to hear from him.

Tim Coey, 10413 Blackstone Drive, Huntersville, said we are partners in the development of this property with the applicant Smith Douglas Homes. With all due respect to Max, we all love Max and have worked with Max for a long time, we believe what makes this one different is that neither the Town required TIA or the State DOT requires the turn lane. It is simply because Planning staff and Engineering staff feels like it's in the best interest of the Town in making it a condition of the approval of the project. As a team, and I mentioned this at Planning, as a team we debated back and forth whether to just say no and still hope to get majority vote. We've decided as a team that we want to be the good neighbor and the good citizen and do the turn lane and agree to do the turn lane. However, what could happen on a deal where the turn lane is not required is a landowner out there could say no and we could not acquire the right-of-way and therefore could not build the turn-lane and have really paid a lot of money for a piece of property we can't develop. It may turn out that we don't need eminent domain. It may turn out that all the property owners say yes. We would make every effort we can to pay what is required to acquire the right-of-way but we had requested through discussion with Jack and Meredith some language that gives us an opportunity to utilize the Town powers if we hit a brick wall and somebody says absolutely not. Once again, what we feel makes this one different is the traffic counts don't show or DOT doesn't show that a turn lane is needed. It's simply, and I don't want to say simply because it's important, but it's simply made a condition of the approval and we are agreeing to do it but we could run into problems and we may not run into a problem at all.

Commissioner Phillips said the only thing is I'm scared this sets a precedent moving forward with other plans and that. I'd like for the Town Attorney to weigh in on this. Does it set a precedent that if other developers come in here and start adding these notes....what does that put us to and that's the reason I will not support it as long as it's on there. If you will remove it then I'm good with your plan.

Mr. Coey said I would just say its setting precedent on deals where turn lanes not required and the developer is agreeing to do it anyway.

Commissioner Phillips said that's not what it says.

Commissioner Hines said Ms. Beeker, I believe this is exactly what we spoke about on Thursday afternoon. So is this a great example about exaction versus regulation and can you share that with the Board.

Ms. Beeker said so it is an exaction that's being requested of the developer. It's exactly text book of what we talked about and if you'll recall we also talked about what you can and cannot do through a subdivision ordinance which is I'm sure why you are asking the question. So I searched through our

Subdivision Ordinance and our Zoning Ordinance and if you also recall I talked about that we have some additional authority through driveway connections and there is a provision of the Zoning Ordinance that I hadn't found on Thursday. There's a provision in the Zoning Ordinance, General Standards for Driveway Permitting and No. 4 talks about having the authority where it's determined necessary by professional review, so I do think you have the legal authority to do it if you choose to do it. It is stepping outside of the norm because I do think it is the first case where you have been asked to require it when your TIA doesn't require it and the NCDOT isn't requiring it, so that's something to consider because it would be a new step. And it could, as far as the use eminent domain, if that's not been a practice of the Board then yes in this particular circumstance if this particular circumstance arose again where it's not otherwise required, yes of course you have to treat people the same.

Commissioner Phillips said could we do that by changing that.

Ms. Beeker said you could change the note.

Commissioner Phillips said and they just agree to do the turn.

Ms. Beeker said you first need to decide I think if you want to require the turn lane, if it's possible to do it. And if you do want to require the turn lane then you have to make it so that it's possible for the developer to comply with the requirement that you put in place or provide the mechanism to waive it. If this Board is not willing to exercise the power of eminent domain then I think probably at this point the most you could do would make it a requirement, require a good faith effort and then have them come back and ask for a waiver if they can demonstrate a good faith effort but they weren't able to acquire it. And the Board always has the power of eminent domain for streets and roads so ultimately down the road if the Board felt like it was a problem and that to alleviate traffic on the main part of the road a turn lane was necessary for safety, the Board always has the ability to do that in the future regardless of whether it's on a note or not.

Commissioner Walsh said I think the note doesn't say it's required that we do that, just an option, but it gives them a way out, correct.

Ms. Beeker said well, no, it says the Town will either, so it's saying you're going to do one of two things. You'll either take it or you will waive it if the Board does not want to obligate itself.

Commissioner Walsh said that's my point is if we decide not to do eminent domain then the developer is off the hook for the turn.

Ms. Beeker said right.

Commissioner Walsh said it's not requiring us to do it, it's just requiring us.....

Ms. Beeker said if you don't waive it then you're kind of saying you would exercise and I guess if you took out the eminent domain piece you would just be saying that you would be willing to consider waiving it, but they would have to demonstrate good faith effort.

Commissioner Walsh said right, but I don't want to hold them up.

Mayor Aneralla said we are not taking questions from the audience, sir, sorry.

Mayor Aneralla said I have a question. Is there a magic number why 100' versus 50'.....100' is what, eight cars.

Mr. Buchanan said I'm not sure what the storage length is. I don't know if that design has been taken into consideration, I just used 100' as.....generally you don't.....oh, 100' storage, yeah. That's probably the minimum that the state would require.

Mayor Aneralla said but the state's not requiring it.

Mr. Buchanan said I understand, but we're not sure of the state's requirement because the driveway permit application hasn't been submitted to the state yet.

Mayor Aneralla said I would say that this is the slippery slope of government helping a developer where it shouldn't necessarily. And so in my opinion what you should really do is say we think there should be a left turn. They can try their best efforts, whatever that is defined as, and if you want the development to go through then you allow that because then you are going to get another developer who wants something and we're going to have to.....

Mr. Buchanan said there's a couple of points I want to address. Over the last 10 or 12 years we've seen several developments go away or at least delay development because they couldn't get the right-of-way. So it's happening. We've been asked several times, probably dozens of times, would the Town consider condemning in order to get the improvement in and the answer has always been no. The issue of this turn lane into this new driveway, I'm going to call it a driveway, is not a TIA issue. A lot of times the access management or the driveway access ingress egress of a development is addressed in the TIA. A TIA addresses existing intersections and the capacity impacts of that intersection. If you think about it, this is a new driveway, so there's no existing data in which to compare to. So while a lot of driveway access, left-turn lane, right-turn lane, into a driveway is addressed in the TIA, it's not a true traffic impact intersection capacity utilization number. Just because it's not addressed in the TIA, I don't think a TIA was even done on this one, so to say that it's not being required because it wasn't required by a TIA is kind of a misrepresentation. We always want to look at ingress/egress – safe ingress/egress in the development, commercial driveways etc. whether you have a TIA or not. And that's what we are doing is Town of Huntersville is looking at the safe ingress/egress in this development independent of the congestion that they may be creating on existing intersections not part of the TIA.

Ms. Beeker said what would your professional.....

Mr. Buchanan said we use the word recommended because we are recommending to the Town Board that a turn lane be required. So I don't want to get hung up on the recommended versus required.

Commissioner Hines said so if they do their driveway permit, NCDOT requires a left turn lane, if they cannot obtain right-of-way is it the state's policy to condemn.

Mr. Buchanan said nope, the state will not condemn for private development.

Commissioner Hines said so then either they wouldn't be able to do the project.

Mr. Buchanan said the state wouldn't approve the driveway permit unless they show that they have secured the necessary right-of-way in order to get the improvements in shown on the approved

drawings. They wouldn't even issue the driveway permit. If the state was going to require a left-turn lane, they require proof that they have the right-of-way in order to do the improvements.

Commissioner Boone made a motion the Town Board finds the application is complete and recommends approval of the waiver request for the block length due to natural constraints of the property and the waiver request for the landscaped entry median due to improved traffic safety and finds the sketch plan complies with all applicable requirements and is supported by the findings of fact outlined in the Staff Report with the following conditions: (1) PCO-1 Approval from Mecklenburg County must be provided; (2) Address all minor comments to the notes of the subdivision sketch plan.

Commissioner Walsh seconded motion.

Commissioner Bales said question.

Mayor Aneralla said just to be clear, so you are requiring the 100' or you're going to do the right-of-way.

Commissioner Boone said I did not agree with that.

Commissioner Bales said you are not adding in the turn lane.

Commissioner Boone said no, I did not in my motion.

Commissioner Phillips said let me get this right, now. You are not requiring.

Commissioner Boone said no, I'm not.

Commissioner Phillips said so their note on there would not come into play.

Commissioner Boone said no, sir, not according.....

Commissioner Phillips said I will not vote for a project we take or give the option to take land for private development. I will not support that.

Commissioner Boone said that wasn't my motion.

Ms. Beeker said as I interpret it the note would go away.

Commissioner Bales said I just want to be clear because I would like to see the turn lane in there. I do not want that note regarding eminent domain on there but I would like to make sure that we are forward thinking because I travel McIlwaine quite a bit and there is traffic and there will be more traffic coming through there especially once Harris gets connected. I think that turn lane into that community would benefit those folks that are going to be living there. So if the developer would make a good faith effort in making the attempt to install that turn lane that would be great.

Commissioner Boone said I agree with you 100 percent, but the state won't condemn property to make that lane and I don't think the Town should either. I think that the developer said he's going to do everything in his power to get that lane in there by doing his job the way it should be done.

Commissioner Bales said if it's not on the plan, it will not happen. I completely hear what you are saying regarding eminent domain. I do not want anything to do with it on this project, but I do believe we need to add it, not the eminent domain but the lane, the turn lane, the left-turn lane into the development so that they do make that good faith effort.

Mayor Aneralla said would you like to amend the motion with language that states you would like.....

Commissioner Bales said to add the left-turn lane with 100' of storage on McIlwaine Road and remove the.....

Ms. Beeker said if I could, regardless of whether there's a note on the plan I was going to ask the Board's permission, actually this is what we need to be doing anyway, to bring back or to allow the Mayor to sign a findings of fact and decision that would have those requirements in the decision and then what the requirements are could be put back on as a note if you wish, but the condition would be that the turn lane be required and that the developers could come back and ask for a waiver of the Board, which the Board would consider if they could demonstrate that they made a good faith effort to acquire the necessary right-of-way, but you would have to make it a requirement first.

Mayor Aneralla said is that your amendment.

Commissioner Bales said yes.

Commissioner Hines seconded motion.

Mayor Aneralla said the amended motion basically states that you are good with the plan, you are going to ask for the 100' left turn lane, however.....or there is no however.

Ms. Beeker said you are going to require it but then allow them to come back and ask for a waiver if they can demonstrate good faith efforts in acquiring it have been unsuccessful.

Mayor Aneralla said however you define good faith.

Commissioner Hines said if I could get clarification, Ms. Beeker, so when we talked the other day, this is voluntary. So with them, with us recommending the turn lane, them volunteering the note, then that is permissible.

Ms. Beeker said what you are doing is you are requiring it unless they can't get it, so it's a little bit further than being purely voluntary, because you are requiring it, but the developer has agreed to that condition so I would like for him to come up and say that on the record that you would be agreeable to having to make a good faith effort to acquire the right-of-way.

Mr. Coey said absolutely.

Mayor Aneralla said so we have a second to the amendment. Any other comments/questions.

Motion to approve The Pines Subdivision Sketch Plan carried unanimously.

**Petition #R18-14.** Petition #R18-14 is a request by EPCON Communities Carolinas to rezone 34.77 acres located at 14211 Eastfield Road (Parcels 02112213, 02112214 and 02112215) from Rural to Neighborhood Residential – Conditional District.

Commissioner Hines requested to be recused due to a conflict.

Commissioner Bales made a motion to recuse Commissioner Hines.

Commissioner Walsh seconded motion.

Motion carried unanimously.

Commissioner Boone made a motion to defer this until the May 20 Town Board Meeting.

Commissioner Phillips seconded motion.

Motion carried with four (4) yes votes.

Commissioner Bales made a motion to bring Commissioner Hines back.

Commissioner Walsh seconded motion.

Motion carried with four (4) yes votes.

**Resolution – Proposed Acceptance of Negotiated Offer – Gilead Road.** The Town of Huntersville has received a Negotiated Offer Received Pursuant to N.C.G.S. § 160A-269 for the purchase of the +/- 2.081 acres the Town owns on Gilead Road, next to Town Center. The Offer was received from North State Development, LLC. North State Development has offered to pay the lump sum of Six Hundred Thousand Dollars (\$600,000.00) for this tract. Pursuant to N.C.G.S. § 160A-269, if the Board wishes to consider the sale of the +/- 2.081 acre tract to North State, the Board must adopt a resolution, issuing a proposed acceptance and authorizing the advertisement of the Offer for upset bids. The Offer would then be advertised, and if no upset bids are received, it would come back to the Board for final consideration. If an upset bid is received, the property would be re-advertised for another upset bid period of 10 days. The upset bid process would continue until no further upset bids are received, and the last and highest bid received will be presented back to the Board for final consideration.

Commissioner Walsh made a motion to accept the negotiated offer and start the upset bid process.

Commissioner Bales seconded motion.

Commissioner Phillips said we know that coming down the road that we are going to widen Gilead Road. And so are we retaining the right-of-way width that we are going to need or are we going to come back and buy our own property back again.

Anthony Roberts, Town Manager, said all I can tell you is I don't know what the right-of-way width is yet. Have we got the final plans on that Max? And most of that will be pushing to the opposite side.

Max Buchanan, Public Works Director/Town Engineer, said if it's just on Town Center I think most of the widening would be toward the north side of Gilead, not to say that we don't need more right-of-way,

depending on where the right-of-way is along that frontage. I think it's a good point that we probably need to try to secure the right-of-way of Gilead Road that would accommodate any of our future improvements.

Commissioner Phillips said so I can't support this at this time until that's resolved.

Mr. Buchanan said in the past I think we've made that a condition of the sale.

Angela Beeker, Town Attorney, said we can, it's just not something that we've put in here. We'd have to go back and reopen the negotiations.

Commissioner Hines made a motion to defer this.....

Mayor Aneralla said if we could just put up and down the first motion. You can't change.....you're doing a negative from a positive so you can't do that.

Mayor Aneralla called for the vote to accept the negotiated offer and start the upset bid process.

Motion failed - there were no votes in favor.

Ms. Beeker said you could reject it or you could just make a motion to accept it if it's modified to include the reservation of right-of-way.

Commissioner Boone said there needs to be a motion.

Commissioner Phillips said why wouldn't we defer it to our next Board meeting for those corrections.

Mayor Aneralla said you want to do that motion.

Commissioner Phillips said let me make that motion.

Mayor Aneralla said alright go ahead.

Commissioner Phillips made a motion to defer this until we can find out or redraft this to include reservation of right-of-way to our next Board meeting.

Commissioner Boone seconded motion.

Motion carried unanimously.

**Huntersville Chamber of Commerce Dues.** Commissioner Walsh made a motion to officially recognize the Huntersville Chamber of Commerce as we do the Lake Norman Chamber of Commerce and pay the annual dues currently set at \$175 per year.

Commissioner Bales seconded motion.

Commissioner Hines said was this request submitted to the Town by the Huntersville Chamber. Have we heard from the Huntersville Chamber.

Commissioner Walsh said they did submit a request/invoice a month or two ago.

Commissioner Phillips said why wouldn't they have come through the normal channels like all the other non-profits where they submitted their application, come before us, just like the Hugh Torance House and Store, just like all the other organizations. Why did this come in as some type – I call it slipping through Parks and Rec.

Commissioner Walsh said if you are looking for an official request we can bring somebody up to make the official request.

Jill Swain, Executive Director, Huntersville Chamber, said point of clarification, actually a department or a staff member with the Town of Huntersville did make the request for us to send an invoice so we could help publicize events that are going on in Huntersville. We didn't send the invoice without going through proper channels. We did that at the wishes of Town staff.

Commissioner Boone said all of our other non-profits have come before the Board and given us their officers, their financial statements and I haven't seen any of that paperwork at all from the Huntersville Chamber. Is that in the paperwork process or does anybody know. I'm all for small businesses but three years ago we set a program up here that if somebody was going to look for money, taxpayer money, for a non-profit they would have to come in front of the Board fill out this paperwork and then we would have an opportunity to hear a presentation from them. At this time I haven't seen that or heard any of that.

Commissioner Walsh said the Huntersville Chamber represents over 100 businesses here in town, has for several years and we are talking about small mom and pop places to the Burkerts and I think that it's time that we officially recognize them just like we do our other chamber in town.

Commissioner Boone said I completely agree with you except that we have set a procedure here that we set it up that they have to have their paperwork in and we haven't seen any of that.

Mayor Aneralla said actually we have recognized, they have been linked to the website for three years.

Mayor Aneralla called for the vote to pay the annual dues of \$175 to the Huntersville Chamber of Commerce.

Motion carried 3 to 2, with Commissioners Boone and Phillips opposed.

### **CONSENT AGENDA**

**Approval of Minutes – April 1.** Commissioner Bales made a motion to approve the minutes of the April 1, 2019 Regular Town Board Meeting. Commissioner Hines seconded motion. Motion carried unanimously.

**Approval of Minutes – April 15.** Commissioner Bales made a motion to approve the minutes of the April 15, 2019 Regular Town Board Meeting. Commissioner Hines seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #R19-02.** Commissioner Bales made a motion to call a public hearing for Monday, June 3, 2019 at 6:00 p.m. at Huntersville Town Hall on Petition #R19-02, a request by Lee's

Firewood to rezone 2.732 acres from Highway Commercial to Special Purpose Conditional District to allow outdoor storage and other uses in the SP zone at 15326, 15336, 15412 and 15430 (partial) Old Statesville Road. Commissioner Hines seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #R19-03.** Commissioner Bales made a motion to call a public hearing for Monday June 3, 2019 at 6:00 p.m. at Huntersville Town Hall on Petition #R19-03, a request by Travis Adams to rezone 1.58 acres located at 11928 Ramah Church Road (parcel #01926407) from Corporate Business to Corporate Business Conditional District. Commissioner Hines seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #TA19-04.** Commissioner Bales made a motion to call a public hearing for Monday, May 20, 2019 at 6:00 p.m. at Huntersville Town Hall on Petition #TA19-04, a request by the Huntersville Planning Department for Zoning and Subdivision text amendments related to Huntersville taking on duties previously performed by LUESA. Commissioner Hines seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #TA19-05.** Commissioner Bales made a motion to call a public hearing for Monday, June 3, 2019 at 6:00 p.m. at Huntersville Town Hall on Petition #TA19-05, a request by Frank and Ellen Loncz to amend Article 3.2.5(a) to allow temporary mobile foods sales in the Neighborhood Center Zoning District. Commissioner Hines seconded motion. Motion carried unanimously.

**Call for Public Hearing – FY 2019-2020 Budget.** Commissioner Bales made a motion to call a public hearing for Monday, May 20, 2019 at 6:00 p.m. at Huntersville Town Hall to receive comments on the proposed budget for Fiscal Year 2019-2020. Commissioner Hines seconded motion. Motion carried unanimously.

**Call for Public Hearing – Amendments to Fee Schedule.** Commissioner Bales made a motion to call a public hearing for Monday, May 20, 2019 at 6:00 p.m. at Huntersville Town Hall on amendments to the fee schedule to reflect Huntersville taking over LUESA duties. Commissioner Hines seconded motion. Motion carried unanimously.

**Resolution – Reese at Mt. Holly-Huntersville Project.** Commissioner Bales made a motion to adopt resolution to acquire right-of-way and easements necessary for the construction of the adopted and funded Reese at Mt. Holly-Huntersville Project. Commissioner Hines seconded motion. Motion carried unanimously.

*Resolution attached hereto as Exhibit No. 7.*

**Resolution – Patterson Hambright Project.** Commissioner Bales made a motion to adopt resolution to acquire right-of-way and easements necessary for the construction of the adopted and funded Patterson Hambright Project. Commissioner Hines seconded motion. Motion carried unanimously.

*Resolution attached hereto as Exhibit No. 8.*

**Sewer Easement.** Commissioner Bales made a motion to approve the granting of a sewer easement to the City of Charlotte across the Public Works property located at 420 Seagle Street and authorize the Town Manager to sign the easement document in such form as may be approved by the Town Attorney. Commissioner Hines seconded motion. Motion carried unanimously.

*Easement attached hereto as Exhibit No. 9.*

**CLOSING COMMENTS**

Mayor Aneralla noted that details of Mooresville Officer Sheldon's procession will be announced later in the week.

There being no further business, the meeting was adjourned.

Approved this the 20<sup>th</sup> day of May, 2019.