

Minutes
Mooresville Board of Commissioners
Monday, March 7, 2011
6:00 p.m. – Mooresville Town Hall

Agenda Briefing

Friday, March 4, 2011 - 8:30 a.m. – Mooresville Town Hall

Present: Mayor Chris Montgomery. Commissioners Chris Carney, Rhett Dusenbury, Mac Herring, Mitch Abraham, Thurman Houston, Miles Atkins, Interim Town Manager Erskine Smith and Town Attorney, Stephen P. Gambill.

Also Present: Maia Setzer, Director of Administration and Finance; Craig Culberson, Senior Planner; Ryan Rase, Engineering Manager; John Vest, Public Services Director; John Finan, Public Works Director; Carl Robbins, Police Chief; Wes Greene, Fire Chief; Tim Brown, Planning Director; Jeff Brotherton, Risk Manager; Michelle Shepard, Budget Analyst; Janet Pope, Town Clerk.

Staff was present to address any questions or concerns pertaining to the agenda.

Mayor Montgomery adjourned the briefing at 10:10 a.m.

Regular Meeting

6:00 p.m. – Mooresville Town Hall

Present: Mayor Chris Montgomery. Commissioners Chris Carney, Rhett Dusenbury, Mac Herring, Miles Atkins, Thurman Houston, Mitch Abraham, Interim Town Manager Erskine Smith and Town Attorney, Stephen P. Gambill.

Also Present: Maia Setzer, Director of Administration and Finance; John Vest, Public Services Director; Ryan Rase, Engineering Manager; Carl Robbins, Police Chief; Tim Brown, Planning Director; Wes Greene, Fire Chief; John Finan, Public Works Director; Janet Pope, Town Clerk.

Public Comment: No public comment.

Mayor Montgomery opened the meeting at 6:04 p.m. Steve Gambill gave the invocation and Mayor Montgomery led the Pledge of Allegiance.

1. Commissioner Carney presented a Proclamation honoring U.S. Army Staff Sgt. James Michael Takes for his distinguished service in defense of our country. (attachment)
2. Mayor Montgomery presented a Proclamation recognizing Rotary International. (attachment)

3. Adjustments to the Agenda.

Action: A motion by Mr. Carney, seconded by Mr. Atkins, to approve the Agenda with the following adjustments and the Consent Agenda was unanimously approved.

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- A. Consent Item k. – Remove “and reflect that only the approval of the Towns of Mooresville and Davidson are necessary to approve such amendment”**
- B. Consent Items o. and p. – Move to regular agenda**
- C. New Business – Add stormwater and personnel freeze**
- D. Closed Session – Property Acquisition**
 - Add Norfolk Southern Railroad – 103 West Center Avenue (Depot property)**
 - Add Opal Sims – Cornelius Road**

4. Consent Agenda Items Approved:

- a. Minutes for the Town Board Meetings of January 18, 2011, January 31, 2011 and February 7, 2011.
- b. Adjustments to the Town Tax Scroll for 2011. (attachment)
 - Releases – 2009 - \$231.92
 - Releases – 2010 - \$3,527.06
 - Additions – 2010 - \$1,258.05
 - Additions – 2011 - \$39,348.85
 - Vehicles - \$121,293.73
- c. Approved a request from the MSI Chamber of Commerce to use the parking lot at Iredell Avenue and Church Street on April 12, 2011 for a Community Shred Day.
- d. Approved temporary “No Parking” signage along both sides of NC Highway 115 between Timber Road and Norman Drive. The no parking will be in effect for one (1) year to implement a corridor gateway landscaping plan. NCDOT has approved the temporary no parking and Public Works will install the signage. (attachment)
- e. Awarded a contract to Conner Construction Corporation in the amount of \$47,212 for pool and bathhouse repair.
- f. Approved a budget amendment in the amount of \$55,000 to appropriate fund balance to purchase network cabling and wireless infrastructure for the Operations Center. (attachment)
- g. Renewed a 3-year contract with ESRI in the amount of \$80,812.50 for GIS mapping software and \$2,275 for training. (attachment)
- h. Amended the Joint Operations Agreement between the Town and the Shepherd Volunteer Fire Department, Inc. The effect of this amendment is to clarify that if any part of the Shepherd service district is reduced by annexation, Shepherd’s annual payment to the Town will be reduced by the amount of the actual tax revenues lost by the annexation. The agreement currently provides that the amount lost is the percentage reduction caused by the annexation, not the actual amount of tax revenues lost. (attachment)
- i. Credited the Shepherd Volunteer Fire Department, Inc. with the tax revenues lost by annexation for the years 2007 (\$9,008.53), 2008 (\$5,232.97), 2009 (\$2,453.09) and 2010 (\$931.71) for a total of \$17,626.30. This amount to be credited against the amount owed to the Town as of January 1, 2011.
- j. Awarded a contract to Potter & Company, PA in the amount of \$45,000 for the annual external audit of financial statements for the year ending June 30, 2011. (attachment)
- k. Corrected the “First Amendment to the Cable Television System Interlocal Agreement for the Joint Operation of a Cable Television System” approved by the Board of Commissioners at their February 7, 2011 meeting to read “Second Amendment to the Cable Television System Interlocal Agreement for the Joint Operation of a Cable Television System” ~~and reflect that only the approval of the Towns of Mooresville and Davidson are necessary to approve such amendment.~~ The substantive parts of the amendment are not changed.

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- l. Awarded a contract to R.S. Braswell of Kannapolis in the amount of \$34,891 to purchase a Bobcat Compact Excavator for Line Maintenance at Water/Sewer Maintenance. This contract is based on bids received January 13, 2011. (attachment)
 - m. Awarded a contract to Randy Marion Chevrolet of Mooresville in the amount of \$28,587 to purchase a Special Response Team Van for the Police Department. This contract is based on bids received February 9, 2011. (attachment)
 - n. Approved a recommendation from the Recreation Advisory Board to amend the Mooresville Recreation Field Reservation Policy. (attachment)
 - o. *Move to regular agenda:* Consider accepting the offer of dedication to the town that area designated as Swift Arrow Road for use as a public right-of-way as recorded in Book 53, Page 19, of the Iredell County Register of Deeds Office on the condition that the North Carolina Department of Transportation accept the transfer of such right-of-way from the Town to the NCDOT and grade, improve and maintain such right-of-way. This offer of dedication is made per the recorded plat on the condition that such dedication will become effective “only after the area dedicated as a public right-of-way is graded in a condition suitable to the Town of Mooresville as an acceptable public right-of-way.” Such area will be graded, improved, and maintained by the North Carolina Department of Transportation and will require board action transferring such right-of-way to the North Carolina Department of Transportation.
 - p. *Move to regular agenda:* Consider transferring the right-of-way dedicated to the Town and designated as Swift Arrow Road as recorded in Book 53, Page 19, of the Iredell County Register of Deeds Office to the North Carolina Department of Transportation who will be responsible for grading, improving, and maintaining such right-of-way. This road will be constructed by NCDOT to connect Morrison Plantation Parkway to Brawley Middle School. This approval will authorize the Mayor to execute all documents necessary to transfer such interests the Town has in the property to the North Carolina Department of Transportation.
5. Maia Setzer, Director of Administration and Finance, presented the Financial Summary Report for seven months ending January 31, 2011. (attachment)
 6. Mr. Smith presented the Manager’s Report. He reported on the Planning Retreat, Dye Creek Enhancement Project is almost finished, the updated Public Services project list, drought advisory news release, Mazeppa Park opening Labor Day weekend and Cornelius Park is opening in August.
 7. Alan Hall, General Manager of MI-Connection, updated the Board on the MI-Connection operations. He reported a rate adjustment, the launching of 10 new HD channels, doing a database cleanup, phone statistics, launching a dish win back campaign, new fiber to the premise, expansion of MI-Connection Board and transition planning. John Kasberger introduced David Auger who will assist in the transition.
 - 8. Public Hearing to consider a Conditional Use Permit request from James Royce.**

The Town Attorney advised if you are here this evening and would like to present testimony or evidence to the board, please let me go over some of the guidelines that the Board must follow by law. First of all, the Board in order to approve the conditional use permit

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application that is before them must find that the development proposed in the application meets four standards or four findings of fact. First of all, the Board must find that the development proposed in the application does not materially endanger the public health or safety. Second, the Board must also find that the development proposed in the application complies with all relevant town laws and ordinances, state and federal laws and regulations and any regulations imposed by the Town Board and agreed to by the applicant. Third, the Board must find that the development proposed in the application will not substantially injure the value of adjoining or abutting property or is a public necessity and fourth, the Board must find that the development proposed in the application will be in harmony with the area in which it is located and be in general conformity with the comprehensive land use plan. I must also tell you that under North Carolina law the Board must receive testimony under oath or affirmation under North Carolina Law the Board must base its decision on facts as the Mayor has related. In that same vein also the Board, by law, cannot consider personal opinions unless it is the opinion of an expert. Generally speaking for our purposes an expert, again, an expert can render an opinion this evening but an expert is someone who is well trained and qualified in a particular subject during which they want to testify. It's not necessarily that the Board makes this rule up, they don't. They have to follow the rule on a Quasi-Judicial hearing that opinions are not admissible. In fact, North Carolina by law there is a General Statute in particular that says that opinions by non-experts may not be used to establish impacts on property value or the impacts of vehicular traffic on public safety, for example. So the Board is bound to listen only to facts. The Board also cannot consider hearsay testimony or hearsay evidence when reaching a decision. That is, the Board cannot consider something that someone else has told you or that someone else has written. In other words, the Board can only consider the testimony given by a person who testifies in its presence this evening. I also let you know that you're welcome to present exhibits. If you have them as part of your testimony that are relevant to the hearing and if you would, please provide the Town Clerk for a copy; she'll need that for the record. If I may, allow me to summarize what information the Board may consider this evening in reaching its decision. Again, testimony must focus on facts not opinions. If a person is testifying and is not an expert witness, that person cannot give opinions. Also hearsay testimony cannot be considered. It's a whole lot I know I've said, but please remember that your testimony is certainly welcome, but I hope you will understand that if the Mayor or I interrupt your testimony and ask that your testimony stay within the guidelines that I've gone over this evening, we're only trying to keep the hearing within the rules that the Board has to, by law, follow. I think I speak on behalf of everyone on the Board by saying that your cooperation in following this will certainly facilitate the decision that must be made this evening.

Commissioner Herring disclosed that prior to realizing this was a quasi-judicial process, Mr. Brewer asked if he had any concerns. He said perhaps transportation and left it at that. He would like staff to let the Board know when quasi's are in the pipeline so any communication can be averted.

Commissioner Carney disclosed that Mr. Brewer called and left a voice message asking if there were any questions he could help with. He does live close to the property. He will make a decision based upon the facts.

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Commissioner Abraham disclosed that he received an email from Mr. Brewer asking if he had any questions about this project. He replied that he had not read it yet.

Commissioner Dusenbury said he did not know the standard operating procedure is on the internal communication program for these applications. Should something be put on paper or whatever for a notification to commissioners and Town executive staff as to the date of these filings and a basic description so they have a heads up.

Mayor Montgomery opened the Public Hearing at 6:47 p.m.

Tim Brown was sworn to give testimony in this matter. He presented the request.

Mr. Atkins: When you're thinking through this and we think about Bluefield Road and how congested it already is and all the problems we have with it anyway and we think about America's Park and the influx of people that will be coming into Town...what study have you done. I would love to hear that information in terms of the impact that you have anticipated on Bluefield Road and what the residents can expect from that.

Neil Burke was sworn to give testimony in this matter. He is a transportation planner for the Town. Mr. Atkins, to answer your question we have not conducted a traffic impact analysis for this development for the reason that this site does not meet our minimum threshold for a TIA. Our TIA ordinance states that the development needs to have a trip generation of over 500 daily trips. Forty one apartment units would only generate 372 daily trips. For that reason he prepared a brief trip generation analysis to summarize that, summarize the average daily traffic on Bluefield Road and those pieces of data was the justification he used for that turn lane improvement. He did not reach his analysis out to look at America's Park. He felt that was outside of the area of influence for this particular study.

Mr. Atkins: With America's Park coming, would it be fair to say that in terms of how planning overall wants to maybe look at this whole area...There may be a change in the whole dynamics of how we want to look at Bluefield Road and the whole area. I guess my concern is we're only going to look at a little piece today and then when America's Park gets here I bet that's going to trigger some concerns. And you're going to say, boy...and I'm thinking about the residents if this ever happened. I want us to think about how transformative America's Park is going to be for this side of town and where people are going to go, where they're going to stay, where they want to go visit. As we're thinking through this and Mr. Gambill I hope I'm not going too far out of bounds, I just really want us to think through...not to take and just pull this one project out...that's really just the whole area because it really, I would think that when people are trying to get there Bluefield Road is going to be one of those ways to get there, getting in and out of the ballpark. Would that be fair in terms of some of the analysis you've done?

Burke: Mr. Atkins, I do agree with you on that it is always wise to look beyond the realm of the existing vicinity area. I will add that I have met with NCDOT to discuss the impacts with traffic related to America's Park and we have discussed the traffic volumes in the area. We have looked at possibly signaling and adding turn lanes to some of the intersections further north but we did feel like once you got down south of Cornelius Road that the impacts were not as severe as they might be on Cornelius Road itself. Again, I just felt like this is a relatively small impact if you just look at the peak hour. The morning peak hour generates forty trips in the morning and in the afternoon peak hour there's 24 trips. So

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the 372 is spread over a 24 hour time period so relatively speaking it's a small impact for the daily traffic volumes on Bluefield that are already there.

Atkins: That's today.

Burke: Correct.

Commissioner Herring: To follow on Mr. Atkins if you don't mind, there's several hotels in the vicinity of this exit and when America's Park is built up and these hotel rooms are filled with the families of these kids, what route are they going to take to America's Park? I would assume it would be Bluefield Road. And I would think that would be a significant traffic volume on nights when there are games during their playing season. That's just my assumption.

Commissioner Dusenbury: Mr. Burke, when you talked with DOT did you inform them of a possibility, well hopeful, that in the future, sometime in the future there might be an exit and grassy grass ramps on both sides of Cornelius?

Burke: We discussed that, yes.

Dusenbury: So Bluefield in all possibility might have to be re-routed? I mean we're seeing it right over here at Brawley School Road where they're re-routing and setting up for the exits. So I mean not only would we have ingress and egress traffic but also, like Commissioner Atkins said we'll have a high volume of just generated traffic coming from that exit over there as well. When was the last time that we did any kind of study on that backside of Bluefield besides putting up the turn lane at Target?

Burke: I'll defer to Tim Brown for that.

Tim Brown: Our most recent study was part of the small area plan for Cornelius Road. At that time, the

Dusenbury: What's the date on that?

Brown: It was adopted by the Town Board two years ago.

Dusenbury: So it's obsolete now that we have approved the All America's Park?

Brown: It was adopted at before America's Park but it did call for as a preferred option the construction of the interchange there at Cornelius and I-77.

Dusenbury: But like I said it's rather obsolete considering, I mean we can still factor in the interchange, however, we're going to have some other factors of volume from the park.

Atkins: Mr. Brown and Mr. Burke, I guess for me to really feel like I'm, because this is a finding of fact and we're going to be working with just the information, I think before I can, I know I'll be comfortable moving forward I really want to hear from NCDOT. I would really want to understand the impact a year from now when America's Park opens, what that's going to look like. So if you have that information and can share that, that would help me a lot.

Burke: Mr. Atkins, if I could when I did meet with NCDOT they said based on their standards that they would not require a traffic impact analysis for America's Park. They basically did some ad hoc calculations during the meeting and determined the mitigations that would be necessary. I would suggest that if you feel that it's in the Town's best interest to understand the larger impact of the traffic analysis, we could certainly hire a consultant to look into that further detail.

Commissioner Carney: We're talking about a lot of things that are very hard to put our arms around so if I may bring it back to a little bit more basic, ok? And just so nobody could complain, since I live not far from here, we've added Target; we've added the bowling alley, the apartments, the retirement home, the shopping, the office complex. So I think in fairness

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I've never been a complainer about growth. Ok? And I'm not going to complain about growth here. It's just a question of what kind of growth are we talking about. Because certainly we talk about residential growth being close to services makes perfect sense. People being able to walk to get a sandwich; do some shopping, things like that. I agree with that and actually that's the way my family behaves. But when we talk about Bluefield Road we must get back to one simple fact that it is a rural road. Once you pass the shopping area, once you pass where the office complex is, it becomes very rural. So my question is we've already talked about there's an apartment complex planned to be a little further down the road. Right? We've also talked about there is a retirement home group that has purchased property further down the road. Correct? They haven't built but they've purchased the property and so they're going to build. So as you look at what's already pressuring Bluefield, there is some residential, certainly, pressuring it but the end result is Cornelius will be a commercial corridor. That's our plan. Correct? Thirty-six is currently a heavy commercial corridor. One can only imagine that Bluefield will feel the pressures of those two situations. I am not sure how residential fits into that plan. Do you understand where I'm coming with that? I don't know that residential fits into what is already becoming office type growth. So I certainly applaud that somebody wants to do something with their property but I'm just not sure how this type of use fits into what is seeming to go on around it. The residential that's already there we can't really stop. But it seems as though that we don't want to encourage more residential in an area that's highest and best use seems to be commercial. Would anybody like to help me with that?

Brown: As far as the land use plan goes the...scroll back to that plan.

Carney: Just so we're fair, I think the question that I'm getting caught up with is "will it be in harmony with the area in which it is located and be at general conformity with the comprehensive land use plan?" In my mind the general land use plan of Bluefield Road is over time, I mean if you were to ask that road, there are people who want to stay agricultural forever. So certainly the question becomes that the ones that we are pressuring are commercial uses. Is that fair?

Brown: Correct. You're absolutely right Commissioner Carney. The pressure that's going to come to this road will be commercial. The land plan that's, the comprehensive land use plan and the Cornelius Road plan both anticipated that in the extent that the employment center, the flex employment office in the purple that you see in there extends north on Bluefield Road so the intent there is to have a strong transition to contain the commercial to the activity center along the 150 corridor. The exception is at the proposed interchange. We anticipate robust mixed use development in the small area plan

Carney: At Cornelius Road?

Brown: At Cornelius Road. And that, likewise, is contained to that interchange.

Carney: Mr. Brown, just so we can be clear because I know Mr. Abraham certainly knows this better than any of us. That is an unfunded, unplanned, currently on the transportation plan interchange that we are all working hard to try to be a funded plan at some juncture but as of right now that is unfunded and unplanned.

Brown: That is absolutely correct. And that from a land use standpoint that is the strategy that is represented in the land use venue that you see here. It does extend north to Bluefield and again, the intent of that strategy is to contain commercial development to the activity center but also likewise in the small area plan to contain commercial to the proposed interchange site proper as opposed to sprawling it on the Bluefield Road corridor. Really to

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address the character that was mentioned of the corridor. Also too, I wanted to just, there's another slide that I did want to mention to you. Staff did look at...we mentioned the trip generation for the apartment uses that are proposed, the existing, the use that's supported by the land use plan would be office that based on the IT trip generation manual that use would generate 782 daily trips and the analogy was a 50,000 square foot office building on the four acre site. The other would be a small retail facility. Again that could generate as many as 4,000 trips...so just to give you an idea, a baseline if you will for use trip generation. Neil can speak to that far better than I but that was...those are some numbers that we looked at as far as other uses that were permitted in the highway business district.

Herring: Price break of these apartments...what type of...are we looking at housing for workforce around the Target area and the assisted living there or are these high-end apartments? What are we looking at here?

Brown: Mr. James Royce, the applicant, is here this evening and I think that he would be the best person to answer that question.

Carney: Mr. Brown, one more question. I have a little bit of knowledge about square footage of office buildings and in a second I'm going to ask John to come up here and give us an idea of what a 50,000 square foot office building looks like. Can you tell me so people can put in their mind because we're going to go apples to apples right? What is a 50,000 square foot office building look like? Give us an example of one in town.

Brown: My guess would probably be...there's... I think of the one on Catalina.

Commissioner Abraham: You're talking about Mountain State University?

Brown: Yes.

Carney: Three stories...

Abraham: That's about 30,000.

Carney: May I help you? Dadgum big. Pretty dadgum big, Tim. Would you agree Mr. Abraham?

Brown: Again, we really wanted to give you an idea of what kind of trip generations other uses could generate with that number. And one other slide that I did want to show...these are photographs of the approach both from the southbound and the northbound lanes of Bluefield Road. You can see the existing northbound left turn lane into the access drive that would service the site and then likewise you can see the site distances the severe turn as you approach that same driveway heading southbound. Hence the recommendation to assist through movements with a deceleration lane and to enhance the public safety of that lane as you travel southbound.

Mayor: Any further questions to Mr. Brown or Mr. Burke? If not, would the applicant like to speak?

Dan Brewer was sworn to give testimony in this matter.

James Royce was sworn to give testimony in this matter. I'm Jimmy Royce sir and I'm with the Affordable Housing Group. We're a Charlotte based nonprofit. We're 46 years old. If you're familiar with the Curling Commons apartments on the corner of Overhead Bridge Road and 150. We're the developers of that project, 40 units, apartments for seniors. The project that we're looking to do...we're not just a developer that comes in and walks away from the projects. We make sure projects look nice the next 30 years and commit to doing good products. If you're not familiar with us, I encourage you to drive down to Overhead Bridge Road and check out Curling Commons, it's a beautiful project. With me today I have a market study from the North Carolina Housing Finance Agency on this site. The North

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Carolina Housing Finance Agency would be the main funder of this project. We're in a competitive process with other projects across the state to get funding for these apartments. The State's finding was that in the Mooresville Community there's a need of nearly 800 apartment units within the price range we're looking at...making rents affordable too. And also they recommend highly the site being appropriate for apartments. I'm kind of open to any questions that you have.

Carney: Affordable for seniors?

Royce: Curling Commons was for seniors. These will be two and three bedroom apartments...so it's open, it could be...

Herring: Not necessarily for seniors...could be for anybody of low income.

Royce: That meet the income I guess.

Carney: We don't need to know that and we shouldn't know that.

Mayor: Any further questions for Mr. Royce. Mr. Royce, if this were to approve, would you agree to the condition recommended to construct a southbound dedicated right turn lane on Bluefield Road with 75 feet of storage and a 100 feet of taper?

Royce: We would.

Mayor: Any questions for Mr. Royce?

Dusenbury: Just a question Mr. Royce on the elevations of the proposed buildings. These are pretty general elevations...they show some balconies. I don't anticipate a rowdy senior's crowd over there but I was just curious if the elevations that you're presenting to Bluefield will have the balconies facing Bluefield or would that be a full façade of windows?

Royce: There would be a mix on both sides. Basically it's a mirror image, the front and back are the same. And these are very preliminary at this point, you know, the design can be tweaked.

Dusenbury: So if we didn't want any balconies facing Bluefield, you'd be ok with that?

Royce: We could work....

Dusenbury: The reason I'm saying is that's going to be a very high concentrated road, you know, and things will catch my eye whether it be jumping jacks or blowing laundry or whatever like that and I'm just worried about any kind of distraction matter because we don't have any kind of other type of distraction out there with the office buildings. That's why I was just curious about the elevations.

Royce: Yeah, those aren't set in stone.

Mayor: Further questions?

Herring: This site according to the map I'm looking at here that you passed out, the access is off the drive to the bowling alley and not off of Bluefield directly?

Royce: There's an easement for this site off that driveway.

Mayor: Anything further?

Atkins: Mr. Mayor? I just want to make sure that when we're building residential so close to commercial, we've had the problem time and time again where we're building right in those areas and the residents...It's really nice and peaceful and quiet and then all of a sudden development occurs and it really does impact quality of life for the residents but they bought into something that they may not have been fully aware of. So I guess in terms of a condition, in terms of disclosure around to a new resident, would they be informed of what could go on around the area? So if there are families living there, children, will this be a conducive environment for families? Notifying whoever leases there that as the area develops that it's a safe environment for those families?

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Royce: I'm not sure I understand the question. Notification of future plans of development in the area?

Atkins: Well I guess I'm just...I'll be honest with you. I'm just really concerned about the product and the quality of life for the individuals there. I mean, it's not that, I think it's great that you're building (inaudible) housing or affordable housing or whatever the product is. We need it, there's no question. But if you're going to do it, I'd like to make sure that people living there have a good quality of life around them and they're not just put in an industrial commercial area.

Royce: Most certainly and that's why with the site plan that we sent in...basically we have a picnic area and a children's playground that's basically the most protected as possible away from the main road there.

Carney: I'm sorry. I've got to call on Mr. Gambill. We have got to be very careful of the fact of socioeconomics. It is not our business of the socioeconomics of this housing development that you're building. Is that fair Mr. Gambill?

Steve Gambill: That is correct. It's based solely on the four findings.

Carney: Only because we can't win on either side of that argument. So we...it's best that we don't discuss that argument. Ok?

Mayor: Is there further questions or discussion for Mr. Royce?

Abraham: Mr. Royce, for one thing I'm not sure why we didn't get this with our packet of...the kind of layout. I wish we would have gotten this with our packet. The upper section there of the three squares above the parking lot, which one... where's the playground and where's the picnic area, where's the amenities? I can't...I should probably just go up there and read it but our screen doesn't show it very well.

Royce: You can see in the center...

Abraham: Nope. In the center of the parking there? The playground's in the...

Brewer: Picnic shelter and then the community building is there.

Abraham: Is that green grass in the center of the parking there? What is that?

Brewer: Yeah that's a green area.

Abraham: It's a green area. Where's the dumpsters? Wherever that white dot...Is there two dumpsters there?

Brewer: One will be for recyclables.

Abraham: Just one dumpster? For 40 units? Is there a recycling dumpster there?

Brewer: A standard dumpster and a recycling dumpster.

Herring: Single stream?

Abraham: And the only entrance of course is that...the entrance that's already there by where Moor Lake Offices are at and stuff...that's going back to the bowling alley, that's the only entrance?

Brewer: Yes.

Abraham: You can go out back, you can go behind, so there's no other place coming out onto Bluefield?

Brewer: You could come out the back side behind the Executive...

Abraham: Over at the bowling alley and go out back behind the storage areas.

Mayor: Anything further? Thank you, Mr. Royce. Mr. Pappas, George Pappas. Come up to the podium please.

George Pappas was sworn to give testimony in this matter. He is the property behind the subject property to be discussed. As I said I own the property behind the subject property

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and it's a bowling center. It's also an office complex, office building and we basically...the area is basically a business park. It doesn't have anything to do with residential and it's my opinion that residential in that area could affect property values if not maintained properly and I'm sure the owners intend to maintain. You know we're business. My business is a family entertainment and bowling center; we have a lot of kids and families come in. I host a national bowling tournament annually there. We also have several regional tournaments that we have and one of my issues with this is in addition to the apartment I don't think is the best use for the property, the highest value.

Mayor: Mr. Pappas, I apologize for interrupting you, but I will remind you that it's based on findings of fact so if you'll keep that in mind.

Pappas: Ok. Thank you. To get back to the primary issue that I have. My business is a multi-million dollar cost business...upwards of \$6 million. I had an easement at the intersection of Bluefield and Moor Lake to put a sign so that I could...you know people would know where we were at. I went to build the sign and the sign company came to the zoning board or came to the city and because I don't own front footage on Bluefield was not able to put the sign up. So we were okay with the land being vacant and we also put the sign for the building, for the bowling center as high as we can get it that tells where the bowling center is. If a high rise development is permitted to go in front of the bowling center, any customers, new families to the area, bowlers that are going to come compete in the tournaments, they're not going to be able to find the bowling center. Because we're going to be behind...the office complexes are two stories. These I think that these are probably going to be two or three stories high. I believe our sign is about 20 feet high. The sign permit I believe permits me to build a 30 foot...I can have a sign 30 feet off the ground. I don't think that you can...if I build a sign and put the sign on my property, I don't believe that you can see the sign if the high rise is being built. And that will negatively impact my business extensive to a great deal and obviously going to lower the price of my land and my business.

Carney: Mr. Pappas, a couple things before you leave. Could somebody please put up the map of the overview of the property. Well, you might be able to see from there. Can you show us where your property is in location to the project?

Pappas: Can I go over there?

Carney: You're welcome to do it any way you want to do it.

Herring: You can probably draw your finger over...

Gambill: Mr. Brown, if you could help him perhaps.

Brown: (to George Pappas) This is Bluefield, this is the drive coming into your property and that's your subject property.

Pappas: Right here. Goes from there, to there.

Carney: So it's actually adjacent to the rear side of the property?

Pappas: It's exactly directly behind it.

Carney: Mr. Pappas, will you give me one more thing? Would you tell me your current operation hours as you are today? Your facility is open from what time to what time?

Pappas: We open at nine o'clock in the morning, Monday through Saturday. On Sunday we open at noon. We close at two o'clock in the morning on Friday and Saturday nights and whenever we have special events, otherwise it will be midnight we close.

Mayor: Thank you, Mr. Pappas. Is there anyone else from the public that wishes to speak? Does the applicant have any rebuttal to that or would you like to speak to Mr. Pappas?

Excuse me, Mr. Royce.

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Royce: In terms of use the state in terms of use, it's a competitive process for the sites, life sites where basically multi-family is between residential and commercial uses. They like people having the walkability, availability of the uses. I believe we could work something out with Mr. Pappas about making sign visibility as well for those type of uses. We just recently finished a project near downtown Charlotte, working through a lot of these same things with mixes of different uses and that's really the sites the State likes. It really increases the livability for the residents.

John Kinley was sworn to give testimony in this matter. I'm also...I've been in the real estate business in Iredell County for 30 years now and we did the office buildings adjacent to this property and I'm also the property manager of the office buildings next door. And I think that, I think I'm capable of saying that I don't think it's the highest and best use for the property as an expert on this. I think that the bowling center sitting there and him just telling you his hours until two o'clock in the morning and with Bluefield Road coming through there, I don't think anybody would really want to live in there. I don't think you'll even be able to sleep at night with the cars buzzing by and the people leaving the bowling center at two o'clock in the morning. No offense to Mr. Pappas but a lot of the time they're throwing beer bottles over there and squealing their tires and going through there at a pretty rapid rate. My office is right next to it and I watch these cars going in and out from the bowling center and Mr. Pappas has no control over that really. I mean they leave his facility and it's really a police matter but I think having apartments wedged in between businesses like this...the lights on until two o'clock in the morning. I think what will ultimately happen is I think it will hurt the property values of the apartments.

Mayor: Mr. Kinley, if you will remember that this is based on the findings of fact and we're entering into some opinion there so.

Kinley: Well, I think that...

Mayor: With all due respect.

Kinley: Well, I think if you're not able to get the rents or get people in there, you will impact the property over a period of time.

Mayor: I appreciate that.

Kinley: And that impact could be negative on the surrounding properties around it. That's my, that's pretty much my complaint with it. Having people close by...I think walking to Target to shop is a stretch from there really. I don't see many people walking that far to go to the Target or some of the amenities that will be close by; I think it's a little removed. Plus you've got to consider that across the street the property that Mr. Simpson owns, there's what? Seventeen acres there. That's going to be developed at some point. It's probably going to be more retail, office, that type of stuff. And I think you're going to have this 41 units surrounded by all these office buildings and commercial type, retail type uses. I just don't think it's going to fit. I think it will become an eyesore right there.

Mayor: Thank you, Mr. Kinley.

Kinley: Thank you. Any questions?

Carney: Just if you could touch on what those current buildings are used for, the current building within the project you just talked about. Are they any retail whatsoever?

Kinley: No, they're professional office buildings. And that's another concern is that you're going to have people...we've got professional office buildings there. We're not there on the weekends and we're not there all night. We leave at five o'clock.

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Carney: (inaudible) when Mr. Pappas' people are leaving squealing their tires. We'll get to that on another day.

Kinley: That's right. But what it could...people could leave the apartments and be meandering through the office buildings and those are private property over there and I just don't...I don't think it's a good mix.

Dusenbury: Mr. Kinley, you said something about the beer bottles and stuff. Just a fact I wanted to clarify to save Mr. Pappas a trip all the way back up here, I (inaudible) to get my question out. He serves alcohol at his establishment?

Kinley: Yes, he does.

Dusenbury: You know that for a fact? I'm just asking for fact.

Kinley: Yeah, I actually had a beer there one time.

Mayor: Come back up Mr. Pappas.

Herring: Come back up.

Dusenbury: You got away before I could get the attention to it. But since you have the license with the ABC crowd.

Pappas: We do serve beer and I might add, when I come into work I look at both sides of Moor Lake Drive to see if there's any litter or debris every day that I come in to work and when I leave. And I get out of the car and I pick up whatever debris is out there. But I might add that what I pick up are cans. I don't pick up...there are very few bottles out there. The beer that's out there are...the beer cans that's out there are cans. We do not serve cans. So, but I do pick it up and if there were a lot of bottles out there we would be, we would be even more vigilant than we are now addressing that problem. So I think that the alcohol that comes that's on Moor Lake and in the properties is from the people who are coming to the facility as opposed to leaving the facility.

Mayor: Thank you, Mr. Pappas.

Mayor: Mr. Brown, if you'll come to the podium please? Commissioner Atkins has a question.

Atkins: Mr. Brown, can you further educate me on the other, where the other locations are we have this proposed property and then there's a nursing home or maybe it hasn't gone through yet but there's another apartment. Just in terms of relationship, where everything...

Brown: I can. I'm going to scroll back to the land use plan. I believe that's shown on that site if I can get this to work.

Abraham: The plan doesn't show that. Do you have another plan because your plan doesn't show both of those?

Brown: And it may not.

Abraham: It might show Carriage Club but...

Brown: I can tell you generally where that location is. As Bluefield turns to head to...

Atkins: I'm going to need to see it, Mr. Brown, thank you.

Brown: Let me see if we have it on this map.

Carney: I'm sure they could Google map it for us if they needed to.

Brown: On the vicinity map, that site is located generally in this area here.

Herring: The CCRC that's planned. Is that what you were drawing?

Brown: No, that's the apartments. The Acts Retirement Community...that is north of this map. It's located at Big Indian Loop.

Herring: But adjacent here...

Brown: There adjacent to this site is the assisted living facility.

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Herring: That's the assisted living and apartments are here?

Brown: Correct.

Herring: And then Commissioner Carney's neighborhood is this way.

Brown: Yes, Sir.

Gambill: What is the circle again, Mr. Brown, I'm sorry. Oh, I'm sorry you took it off. What was the area that was...

Brown: This is an existing multi-family development. North of the site, roughly at the intersection of Big Indian Loop is the 100 acre site for the Acts Retirement Community.

Abraham: Is that on the west side or on the east side?

Brown: It's on the west side.

Abraham: So as it makes the curve and Big Indian Loop goes off its right, its right here.

Brown: That's correct.

Dusenbury: It's right where the old silo used to be that they tore down.

Brown: Yes but on the North side.

Mayor: Any further questions for Mr. Brown? If we have no further questions and there's no one else from the public that wishes to speak.

Herring: Mr. Brown, you say they could put a 50,000 square foot office building on this site?

Brown: That number was just for (inaudible) purposes. I can't speak to what specifically could go there from that standpoint. I was just trying to give you a gauge.

Herring: But in terms of the acreage of this site it would support that large...

Brown: If it was vertical, perhaps.

Herring: And there are no watershed issues in terms of...

Brown: The site is WS4 protected. So it is located in the WS4 area so it would have to meet any of the requirements for that.

Herring: So this current plan does. Would a 50,000 square foot office building meet that? Would they be able to do that?

Brown: I think it would be safe to say that it, in office use, if you gauge from the uses that are north of there, perhaps could. I can't really speak to whether or not the site...I don't have a site plan to really base my decision on. But...

Herring: I didn't know in terms of parking that would be required for that large of a building and if it could be developed in such a way that met the water shed requirements.

Mayor: If there is no further discussion, I will ask the Board. If there is no further discussion, we will close the public hearing and I'll ask the Board if...

Steve Gambill: I'm sorry, I think under the current...I think our current policy is to, unless there is a motion to consider this evening, it would have to wait until the next meeting to be heard, I believe is the correct procedure.

Carney: Mr. Gambill, if you could also touch on...is Mr. Royce the current property owner?

Royce: (inaudible)

Carney: So the actual property owner is not making the request. It's a company making the request on behalf of the property owner.

Mayor: If there is no motion on Agenda Item #10, we will move to Agenda Item #11.

Atkins: Could you just clarify Mr. Mayor what that means.

Mayor: On Agenda Item #10 no motion was made. Does that mean it died?

Gambill: What it means is...since there is not a motion to have the vote this evening, the motion to...on the matter will come back before the Board. Excuse me, the matter will come back before the Board at the first meeting in April for the Board's consideration and vote.

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Herring: Which means this remains a quasi-judicial process for all involved.

Gambill: That is correct.

Carney: Just FYI...so our goal is to either waive the rules and vote this evening or come back next month.

Gambill: Yes, the option...

Carney: But the hearing is closed so there will be no more comment or information taken between now and this month.

Gambill: That is correct. The only motion the Board can entertain right now is a motion to suspend the rules. If that motion is either not made or made and not approved, then the matter comes before the Board at its April Meeting. There is no more testimony. The hearing has been closed. The Board just votes upon the matter.

Mayor: Thank you, Mr. Gambill. With that said.

Action: A motion by Mr. Carney, seconded by Mr. Abraham, to suspend the rules of procedure to enable the Board to consider the Findings of Fact and the Conditional Use Permit was unanimously approved.

Mayor: Motion carried. Agenda item #11.

Gambill: No, if the motion to suspend has been approved now you will take up the matter and vote on it. No, you'll vote on it these evening

Herring: Mr. Bradford could you please put up the four findings of fact.

Abraham: For everybody's information we just suspended the rules so we can look at this and take a vote. There has not been a motion made to do that. Mr. Mayor, I'll make a motion that we consider the findings of fact and consider the Conditional Use Permit for this piece of property.

Gambill: Mr. Abraham, if I may interject. Is that included within that the condition as recommended by the Planning staff and as agreed to by the applicant? That the applicant construct a Southbound dedicated right turn lane on Bluefield Road with 75 feet of storage and a 100 feet of taper.

Abraham: It does.

Mayor: We have a motion.

Thurman Houston: I second that motion.

Mayor: I have a second to that motion.

Abraham: Mr. Mayor, I feel it's important we take a vote on this tonight and take a look at it because I find it hard that the seven of us would be quiet from now until the next meeting in April so that's one of my reasons for making this motion. Second was, can we...is it legal to make a condition to have the applicant work with Mr. Pappas and put a sign up at a right of way point at this point or am I past that?

Gambill: I think it's ok as long as the applicant does come and agree to the condition. He would have to agree to the condition.

Herring: One other condition I would have asked for earlier at that point in the process was a provision for right of way for sidewalk easements and as Bluefield is corrected at some point in the future that this be planned for with this community going forward if it was to be approved. I didn't realize we were ready to move on that piece of it yet but...

Gambill: I might add...I don't know...I'm sorry Commissioner Herring, is that for the...

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Herring: It would be an additional condition to what Mr. Abraham is looking at. He is looking specifically at signage for the bowling complex. I'm looking at preservation of right-of-way for pedestrian easements and/or curb and gutter along there as Bluefield Road would be improved at a future point. I would not want this built in such a way that it would impede the necessary improvements for Bluefield Road that we know are coming.

Gambill: I understand. That would be based, of course, upon the applicant acquiring the property of course. Yes.

Carney: Mr. Mayor, I would encourage that each of my fellow Commissioners and I certainly agree with Mr. Abraham's thinking is why I also agreed that we should have the vote this evening because I think the pressures to discuss this would be too much. Nothing we can do can make this project in harmony with the existing area. It can't be done because of the things that are already in place and the things that have been in place. I think an idea of a walkability factor would be wonderful but it's just far enough away from retail to be walkable. So again, it would basically it would be an area surrounded by commercial and we will forever have to understand how a two o'clock in the morning facility will not have a negative effect on housing, which is proposed family housing and I think we should just leave it at that. So with the fact of that this is already an office building type district with the fact that what use is currently there is not conducive to this project, we have to respect what's already been put in place and this does not fit that. So with that I am going to vote no based on D. that it is not in harmony with the area. And certainly encourage them to continue to look in the Mooresville area but I can't see this being the right place for this particular project and all we would be doing is trying to somehow take a square peg and put it in a round hole and that just doesn't ever work with government so.

Mayor: Thank you, Commissioner Carney.

Gambill: The question if I may though Mr. Mayor also remains... Commissioner Abraham and Commissioner Herring, do you want the applicant to step back up and ask him if he will agree to those two conditions.

Herring: Yes.

Abraham: I would. Mr. Royce, on the matter of the signage would you be...

Janet Pope: Then it doesn't pass. I mean, everybody has to agree to the findings of fact instead of...

Gambill: No, I understand, even if he agrees to the conditions or doesn't agree, the vote will still be taken accordingly. This is to...

Abraham: My condition would be that you would work with Mr. Pappas on a sign somewhere at the front of your development to aid his directional...

Royce: We would agree to that.

Gambill: The other question that was asked would you agree to a condition that, and Commissioner Herring, be sure I get it correct, that you would reserve a sufficient easement for the installation of curb, or excuse me, for sidewalks?

Herring: Sidewalks, curb and guttering and indeed build that piece of it as part of your development. Granted it would be a sidewalk that would stop at the end of your properties but as other pieces come along it would establish that right-of-way so that connectivity could be established at some point in the future. We often require that of developers.

Royce: We would agree to that.

Gambill: Then I would assume, if I may, Commissioner Abraham that your motion reflect those additional conditions in your motion. And who is the second I'm sorry. I'm sorry

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Commissioner Houston would your second then, ok. Now you're back to...

Abraham: Can I ask one more question too about that? Mr. Brown or actually Mr. Rase, I guess. We've had this question come up on the state; this is a state road, isn't it? We've had this question come up before on a state and county road that we've asked and wanted to put curb and gutter and sidewalks in. We've not been successful yet but I, I don't mind the condition, I just want the Board to understand that in the future the state might not curb and gutter and sidewalk. So, if he's amenable to it and it happens, then that's great but our expectations aren't that great with the state as far as curbing, guttering and sidewalking that road.

Herring: But we do know that this particular road will need some significant improvement so if we can maneuver what pieces of it we have control over going forward, I think with each thing that comes along it's a step in that direction.

Abraham: I agree. I appreciate that.

Mayor: Thank you, Commissioner Abraham. Is there any further discussion? If not, all in favor say aye.

Herring: Aye.

Mayor: Opposed?

Abraham: That would be aye for the entire motion or are we going to the individual findings of fact?

Herring: Aye with the findings of fact and if you disagree you need to state which one.

Gambill: That's correct. Thank you Commissioner Herring, that is correct. If you are voting aye on the findings of fact that would be a vote of yes for all four findings.

Mayor: So again, all in favor?

Houston: Aye.

Abraham: Aye.

Herring: Three Ayes.

Carney: Does the, I'm sorry, you're asking me, does not materially endanger the public health or safety, is that the question?

Gambill: No. No, he's not. If, may I interject? The question is, you're voting on, do you agree with all four findings of fact.

Carney: I thought so, Ok. I just wanted to make sure.

Gambill: And if I may also add, if the vote is no then you would be asked to identify the ones you are voting no for.

Mayor: So, with that, any opposed?

Gambill: No, I'm sorry. You...how many ayes do you have?

Mayor: All in favor?

Ayes (collective).

Gambill: Three.

Mayor: How many no's?

Atkins: No.

Dusenbury: No.

Atkins: Mr. Mayor, I too am in agreement with Commissioner Carney in terms of it not being in harmony with the area. So in terms of findings of fact, I would say it would not be in harmony and that's number four.

Gambill: So Mr. Atkins is voting no on finding of fact, I'm sorry, finding of fact number four. You're voting no based on the...it will not be in harmony with the area in which it is located.

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Atkins: That's correct.

Gambill: Ok.

Dusenbury: I'm voting no. I think it is A. a safety issues over there and also D. with harmony and also, although the project is allowed on the perimeter, I feel as though just the predominant conformity and harmony over there is an industrial area.

Gambill: So are you voting no on findings of fact A. and D. A. being it...that you believe it will materially endanger the public health or safety and secondly you're voting no because you believe that it will not be in harmony with the area in which it is to be located.

Dusenbury: Correct.

Gambill: Thank you. Commissioner...

Carney: I am for D. that it is not in harmony with the area.

Gambill: Thank you. The vote rests with you, Mr. Mayor.

Mayor: My vote is no and also on the condition that it will not be in harmony with the area in which it is to be located and be in general conformity with the comprehensive land use plan.

Gambill: So your vote is no on finding of fact D. that it will not be in harmony with the area in which it is located and that it will not be in general conformity with the comprehensive land use plan.

Mayor: That is correct.

Herring: Mr. Mayor, given that this has failed I would encourage this particular developer to look for other sites for similar. I think that housing stock is of great value to this community and regardless of where we stand on this particular site, I think your product is certainly something that is worth looking. I will consider you to consider keeping Mooresville as an option.

Action: A motion by Mr. Abraham, seconded by Mr. Houston, to approve the Findings of Fact and the Conditional Use Permit request subject to staff recommendations with Commissioners Abraham, Houston and Herring voting for the motion and Commissioners Dusenbury, Carney and Atkins voting against the motion. Mayor Montgomery broke the tie with a no vote. The property located at Bluefield Road is further referenced by Iredell County Tax Map PIN's 4657-58-4028 and 4647-58-6078. The request for a Conditional Use Permit to allow for a 41-unit multi-family development was denied. (attachment)

9. Public Hearing to consider a Rezoning request from Michael Heinen.

Mayor Montgomery opened the Public Hearing at 7:50 p.m.

Mr. Brown presented the request.

Dick Brolin with Piedmont Design Associates is working with Dr. Heinen on this property. The property has a stream that runs through the southern portion of the property. Being in the water shed it comes with substantial buffers with development of any kind. The development will occur from the middle to the northern portion of the site.

Mike Heinen said if you've been out there the topography is such that is would not be economically feasible. The water and sewer lines run through the property along that stream

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so those improvements were done a few years ago. It has some pretty rough terrain and vegetation is already there. He doesn't see anybody in the future wanting to access any of the streets on that side.

Frank Rader said if you drive Hillside you will find two stubbed out roads that could be connected. What is separating them from Alexander is a single family parcel of land. Should that turn over, there is a potential connection there that you can drive it. It was built intentionally that way. He and his wife own a piece of property adjacent to Hillside. It is bounded by Hillside Road and by Wilson. It's on the northern side of the creek. They have no immediate plans to develop that; it may become a factor of selling that off to pay for college tuition over time.

Mayor Montgomery closed the Public Hearing at 8:14 p.m.

Action: A motion by Mr. Houston, seconded by Mr. Carney, to approve the Statement of Reasonableness and the Rezoning request subject to staff recommendations was approved with Commissioners Herring, Carney, Houston and Abraham voting for the motion and Commissioners Dusenbury and Atkins voting against the motion. The property located at Alexander Street is further referenced by Iredell County Tax Map PIN's 4657-80-0716 and 4657-70-5651. The property was rezoned from R-5 (Single Family Residential-5) to RMX (Residential Mixed Use). (attachment)

10. Public Hearing to consider a Text Amendment to the Mooresville Zoning Ordinance.

Mayor Montgomery opened the Public Hearing at 8:21 p.m.
Mr. Brown presented the request. There was no public comment.

TA-2011-02 Chapter 6.7.1(7), Garages

Mayor Montgomery closed the Public Hearing at 8:27 p.m.

Action: A motion by Mr. Abraham, seconded by Mr. Herring, to approve the Statement of Reasonableness and the following Text Amendment to the Mooresville Zoning Ordinance subject to staff recommendations was unanimously approved.

- 1. TA-2011-02 Chapter 6.7.1(7), Garages – The approved text amendment will modify and allow greater flexibility for garages in the Detached House Building Form. (attachment)**

11. Review of Curtis Pond Infrastructure.

This agenda item was continued at the January 3 Board meeting to March 7.

Mr. Gambill said the Letter of Credit has been received. He's hopes to talk with the attorney for the bonding company this week. We have no information on the second bond.

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Action: A motion by Mr. Carney, seconded by Mr. Abraham, to table this agenda item until the information is available was unanimously approved.

12. Change Order #6 – Rocky River Wastewater Treatment Interim Plant Expansion.

This agenda item was continued at the February 21 Board meeting to March 7.

Change Order #6 to the Pizzagalli Construction Company contract in the amount of \$339,157 is for electrical modifications to accommodate plant expansion, new power feed for the interim plant expansion and future projects and to correct electrical discrepancies in the contract documents. The changes would save the Town approximately \$580,000 in future expansion costs with some minor changes to the interim plant expansion to accommodate the wet weather equalization expansion. This change order will increase the contract amount from \$10,351,327 to \$10,690,484.

CH2M Hill will pay 20% (\$22,451.40) of the omissions related to the electrical modifications in the form of a credit on their contract. They will continue to stand behind the work they have done for the Town.

Action: A motion by Mr. Carney, seconded by Mr. Herring, to approve Change Order #6 to the Pizzagalli Construction Company contract in the amount of \$339,157 contingent on a signed letter of credit from CH2M Hill was unanimously approved. (attachment)

13. Award of Contract – Talbert Road/Highway 150 Intersection Improvements.

Consider awarding a construction contract to Sealand Contractors Corporation for a unit price amount not to exceed \$234,614 for the Talbert Road (NC 1116)/NC Highway 150 Intersection Improvements. This project will consist of a new dedicated left turn lane on northbound Talbert Road as well as other ancillary improvements to the intersection. This project is funded through a CMAQ grant that is reimbursable at 100% of the total project cost. NCDOT has reviewed all applicable bid documents and has authorized the Town to award the project.

Action: A motion by Mr. Carney, seconded by Mr. Herring, to award a construction contract to Sealand Contractors Corporation for a unit price amount not to exceed \$234,614 for the Talbert Road/Highway 150 Intersection Improvements with a construction duration of 120 days was unanimously approved. (attachment)

14. Award of Contract – Edgemoor Sewer Rehabilitation Project.

Consider awarding a construction contract to AM-Liner East, Inc. for a unit price amount not to exceed \$213,950 for the Edgemoor Sewer Rehabilitation Project. This project will consist of Cured in Place Pipe and manhole rehabilitation for approximately 2,000 linear feet of 18-inch gravity sewer near Edgemoor Street.

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Action: A motion by Mr. Herring, seconded by Mr. Dusenbury, to award a construction contract to AM-Liner East, Inc. for a unit price amount not to exceed \$213,950 for the Edgemoor Sewer Rehabilitation Project with a construction duration of 90 days was unanimously approved. (attachment)

15. Resolution of Consideration for Annexation.

Consider adopting a Resolution of Consideration and map identifying areas under consideration for future annexation by the Town. Adoption will extend the Resolution of Consideration for a two-year period to 2013. The area of consideration is bound to the north by the Annexation Boundary Agreement adopted by Mooresville, Troutman and Statesville in 2007. Eastern, western and southern boundaries are the unincorporated areas of Iredell County south of the adopted Annexation Boundary Agreement. The adoption of this Resolution of Consideration is required by State Statutes in the event the Board of Commissioners should elect to pursue an involuntary annexation within the boundaries of the area of consideration for the duration of the resolution.

Action: A motion by Mr. Abraham, seconded by Mr. Herring, to adopt the Resolution of Consideration for Annexation and map was approved with Commissioners Herring, Carney, Atkins, Houston and Abraham voting for the motion and Commissioner Dusenbury voting against the motion. (attachment)

16. Consider accepting the offer of dedication to the town that area designated as Swift Arrow Road for use as a public right-of-way as recorded in Book 53, Page 19, of the Iredell County Register of Deeds Office on the condition that the North Carolina Department of Transportation accept the transfer of such right-of-way from the Town to the NCDOT and grade, improve and maintain such right-of-way. This offer of dedication is made per the recorded plat on the condition that such dedication will become effective “only after the area dedicated as a public right-of-way is graded in a condition suitable to the Town of Mooresville as an acceptable public right-of-way.” Such area will be graded, improved, and maintained by the North Carolina Department of Transportation and will require board action transferring such right-of-way to the North Carolina Department of Transportation.

Consider transferring the right-of-way dedicated to the Town and designated as Swift Arrow Road as recorded in Book 53, Page 19, of the Iredell County Register of Deeds Office to the North Carolina Department of Transportation who will be responsible for grading, improving, and maintaining such right-of-way. This road will be constructed by NCDOT to connect Morrison Plantation Parkway to Brawley Middle School. This approval will authorize the Mayor to execute all documents necessary to transfer such interests the Town has in the property to the North Carolina Department of Transportation.

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Mr. Gambill said NCDOT has said they will pave the road as a way of access to Brawley Middle School off of Morrison Plantation Parkway. The question is curbing, guttering and sidewalks. Mr. Abraham talked with Judge Collier and he was not aware of any discretionary funds that the state might have and that DOT was running out of money. He said he would take another look at it. Mr. Abraham and Mr. Carney talked with Kenny Miller with the Iredell-Statesville schools. He is in agreement with the walkability and the issue of curb and guttering. He said the school system would split the cost with the Town. Mr. Rase said based on the unit prices from NCDOT the estimate is \$31,500. If we retain ownership of the right-of-way under the Town of Mooresville, we can use Powell Bill funds. Mr. Rase suggested giving NCDOT a right of entry for the remainder of the construction of the road.

Action: A motion by Mr. Carney, seconded by Mr. Abraham, to accept the dedication and transfer the right-of-way to NCDOT with the condition of an agreement that would allow a cost sharing between the County and Town and permission of DOT to put in the curb, gutter and sidewalks was unanimously approved. (attachment)

17. New Business.

A. Appoint nominating committee for MI-Connection Board of Directors

Action: A motion by Mr. Herring, seconded by Mr. Dusenbury, to appoint the Cable Strike Team of Commissioners Atkins, Carney and Herring to the nominating committee for the MI-Connection Board of Directors was unanimously approved.

B. Stormwater

Mr. Rase would like to have a member of the Board serve on the selection committee for the consulting firm selection for a feasibility study. He sent proposals out on January 26, 2011. There are two consultants that are very qualified.

Action: A motion by Mr. Carney, seconded by Mr. Herring, to appoint Commissioner Dusenbury and Commissioner Abraham as alternate to the selection committee to choose a consultant for the Stormwater Utility Feasibility study was unanimously approved.

C. Personnel Freeze

Commissioner Dusenbury made the motion to enact a hiring freeze as of tonight for one month except for emergency public safety personnel. He withdrew his motion.

Action: A motion by Mr. Carney, seconded by Mr. Atkins, to withhold any job offers unless it is pertinent to life, safety or trash pickup until the March 21 Board meeting was unanimously approved. The Manager was asked to have the positions that are currently available and open for discussion as well as any major equipment purchases between now and June 30 of this year for the March 21 meeting.

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18. Closed Session - G.S. 143-318.11

- A. Property Acquisition – G.S. 143-31a8.11(a)(5)
John Howard – 151 East Moore Avenue
Norfolk Southern – Center Avenue
Opal Sims – Cornelius Road**
- B. Consult with Attorney – G.S. 143-318.11(a)(3)**
- C. Personnel – G.S. 143-318.11(a)(6)**

Action: A motion by Mr. Atkins, seconded by Mr. Carney, to go into closed session to discuss property acquisition, personnel and consult with attorney was unanimously approved.

MINUTES FOR THE CLOSED SESSION HAVE BEEN RECORDED AND SEALED UNTIL PUBLIC INSPECTION WILL NO LONGER FRUSTRATE THE PURPOSE OF THE CLOSED SESSION.

19. Following the closed session, the Board returned to open session.

Action: A motion by Mr. Herring, seconded by Mr. Carney, to approve a budget amendment appropriating fund balance and approving the offer proposed by Norfolk Southern Railway Company to purchase the Depot property in the amount of \$155,190 on the condition that the Town obtain an acceptable survey showing ownership by Norfolk Southern and the receipt of Exhibit A showing a description of the property and approve an earnest money deposit of \$15,000 to accompany this offer was unanimously approved.

Action: A motion by Mr. Herring, seconded by Mr. Abraham, to adjourn the meeting was unanimously approved.

The meeting adjourned at 10:38 p.m.

Janet Pope
Town Clerk

Chris Montgomery
Mayor